

PUBLIC TRANSPARENCY POLICY



# Public Transparency Policy

(Adopted by Council 27 August 2024)

**PUBLIC TRANSPARENCY POLICY**

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## PUBLIC TRANSPARENCY POLICY

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### 1. PURPOSE

This policy fulfils Council's requirement to adopt and maintain a Public Transparency Policy under section 57 of the Local Government Act 2020 (the Act). This policy gives effect to the Public Transparency Principles outlined in section 58 of the Act.

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### 2. SCOPE

This policy applies to the Council and anyone carrying out delegated duties or functions of the Council including Councillors, staff, members of Delegated Committees or Advisory Committees, volunteers and those on work experience.

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### 3. PUBLIC TRANSPARENCY PRINCIPLES

Council commits to the following principles for Public Transparency as detailed within the Local Government Act 2020:

- (a) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of this Act or any other Act;
  - (b) Council information must be publicly available unless—
    - (i) the information is confidential by virtue of this Act or any other Act; or
    - (ii) public availability of the information would be contrary to the public interest;
  - (c) Council information must be understandable and accessible to members of the municipal community;
  - (d) Public awareness of the availability of Council information must be facilitated.
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### 4. HOW WILL COUNCIL APPLY THE PRINCIPLES?

#### 4.1 Decision making at Council Meetings:

- Will be undertaken in accordance with the Local Government Act 2020 (the Act), and the Governance Rules;
- Will be conducted in an open and transparent forum, with information available via Council reports;
- Will be informed through community engagement, in accordance with the Community Engagement Principles and the Community Engagement Policy; and
- Will be made fairly and on the merits, and where any person whose rights will be directly affected by a decision of Council, that person will be entitled to communicate their views and have their interests considered.

#### 4.2 Closed Council Meetings and Confidential Attachments

- Council will aim to as reasonably practicable, limit the number of decisions made at closed meetings of Council.
- Council practice where reasonably practicable is to have an open Council report with confidential attachments provided to Councillors.

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- If a decision or attachment is not made or made available to the public, this will only be undertaken when the matter involves confidential information as defined under s3 of the Act.

### 4.3 Council Information

Council delivers a range of services to residents, business and visitors to the municipality and our services and functions are documented. Council will publish information about Council services and administration activities on Council's website or will make available upon request.

#### **Documents** such as:

- Plans and Reports adopted by Council;
- Policies;
- Project and service plans;
- Grant application, tenders and tender evaluation material;
- Service agreements, contracts, leases and licences;
- Council leases, permits and notices of building and occupancy; and
- Relevant technical reports and / or research that informs decision making.

#### **Process information** such as:

- Practice notes and operating procedures;
- Application processes for approvals, permits, grants, access to Council services;
- Decision making processes;
- Guidelines and manuals;
- Community engagement processes;
- Complaints handling processes.

#### **Council records** will, at a minimum, be available on Council's website:

- Council and Delegated Committee meeting agendas and minutes;
- Reporting from Advisory Committees and Community Asset Committees in accordance with the Governance Rules;
- Audit and Risk Committee Performance Reporting;
- Details of Advisory Committees, Delegated Committees and Community Asset Committees;
- Terms of reference for Advisory Committees and Audit and Risk Committee Charter;
- Registers of gifts, benefits and hospitality offered to Councillors or Council Staff;
- Registers of Councillor attendance at Council Meetings, Delegated Committee Meetings and meetings arranged to brief Councillors.
- Registers of travel undertaken by Councillors or Council Staff;
- Registers of Conflicts of Interest disclosed by Councillors or Council Staff;
- Submissions made by Council to State or Federal processes;

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- Details of any Memorandum of Understanding entered into by Council that are not subject to confidentiality clauses;
- Registers of donations and grants made by Council;
- Registers of leases entered into by Council, as lessor and lessee;
- Register of Delegations;
- Register of Authorised officers;
- Register of Election campaign donations;
- Summary of Personal Interests; and
- Any other Registers or Records required by legislation or determined to be in the public interest.

Council will make available the following records for inspection:

- Register of interests until 24 October 2024;
- Written submissions to Council when invited through an engagement process in accordance with the Community Engagement Policy. These submissions, following the redaction of personal information, may also be made available on Council's website or attached to a Council report.
- Planning Permit Applications as required by the Planning and Environment Act 1987 up until the time that decision is made or any time for a review of a decision expires;
- Objections and submissions to planning permit applications up until the time that decision is made or any time for a review of a decision expires; and
- Objections and Submissions to planning scheme amendments up until the time the Amendment is finalised; and
- Summary of submissions received under Section 223 of the Local Government Act 1989 until its repeal.

### 4.4 Privacy

When a document contains personal information, the personal information will be redacted prior to being made available on Council's website, unless it is required to be made public in accordance with relevant legislation or the principles of natural justice. In the case that the personal information is to be disclosed, the person will be advised, usually via a privacy collection notice, before it is published.

### 4.5 Council Information Not Available

- 4.5.1 Some Council information may not be made publicly available. This will only occur if the information is confidential information or if its release would be contrary to the public interest or not in compliance with the Privacy and Data Protection Act 2014.
- 4.5.2 "Confidential information" is defined in section 3 of the Local Government Act 2020 (the Act). It includes the types of information listed in the following table:

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Type	Description
Council business information	Information that would prejudice the Council's position in commercial negotiations if prematurely released.
Security information	Information that is likely to endanger the security of Council property or the safety of any person if released.
Land use planning information	Information that is likely to encourage speculation in land values if prematurely released.
Law enforcement information	Information which would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person if released.
Legal privileged information	Information to which legal professional privilege or client legal privilege applies.
Personal information	Information which would result in the unreasonable disclosure of information about any person or their personal affairs if released.
Private commercial information	Information provided by a business, commercial or financial undertaking that relates to trade secrets or that would unreasonably expose the business, commercial or financial undertaking to disadvantage if released.
Confidential meeting information	Records of a Council and delegated committee meetings that are closed to the public to consider confidential information
Internal arbitration information	Confidential information relating internal arbitration about an alleged breach of the Councillor code of conduct.
Councillor Conduct Panel confidential information	Confidential information relating to a Councillor Conduct Panel matter
Confidential information under the 1989 Act	Information that was confidential information for the purposes of section 77 of the <i>Local Government Act 1989</i>

4.5.3 Council may decide, in the interests of transparency, to release information to the public even though it is confidential under the Act. However, this will not happen if release is contrary to law, in breach of contractual requirements, or if releasing the information is likely to cause harm to any person or is not in the public interest to do so.

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**5. PUBLIC INTEREST**

When considering possible harm from releasing information, Council will focus on harm to the community or members of the community. Potential harm to Council will only be a factor if it would also damage the community, such as where it involves a loss of public funds or prevents Council from performing its functions.

Information that might be withheld because it is contrary to the public interest may include:

- internal working documents that have not been approved or submitted to Council, especially where their release may mislead the public;

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- directions to Council staff regarding negotiations in contractual or civil liability matters, where release may damage Council's capacity to negotiate the best outcome for the community,

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### 6. HUMAN RIGHTS CHARTER

This policy has been reviewed against and complies with section 13 of the *Charter of Human Rights and Responsibilities Act 2006*, as this policy aligns with and provides for the protection of an individual's right not to have their privacy unlawfully or arbitrarily interfered with. It is also in line with section 18 which recognises a person's right to participate in the conduct of public affairs.

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### 7. NON COMPLIANCE WITH THIS POLICY

If a member of the community wishes to question a decision about the release of information, this should be raised directly with the officer handling the matter in the first instance. If still not satisfied and would like to contest the decision, this can be reported by contacting Council's Freedom of Information Officer on (03) 5220 7111 or email [enquiries@gplains.vic.gov.au](mailto:enquiries@gplains.vic.gov.au)

If Council's response is not satisfactory, the concerns can be raised directly with the Victorian Ombudsman's office on (03) 9613 6222. Or via the website - [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au).

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### 8. RESPONSIBILITIES

Golden Plains Shire Council Councillors and Staff are required to promote and facilitate access to Council information in accordance with this policy:

Party/parties	Roles and responsibilities	Timelines
Council	Champion the commitment and principles for public transparency through leadership, modelling practice and decision-making.	Ongoing
Senior Management Team	Champion behaviours that foster transparency and drive the principles through policy, process and leadership. Monitor implementation of this policy.	Ongoing
Full Management Team	Manage areas of responsibility to ensure public transparency, good governance and community engagement is consistent with this policy.	Ongoing
All Staff	Public transparency is the responsibility of all employees as appropriate to their role and function. All staff respond to requests for information and facilitate provision of information in consultation with their manager and in alignment with the policy.	Ongoing
Coordinator Governance & Risk	To oversee implementation of this policy.	Ongoing
Governance & Risk Specialist	To implement this policy and conduct periodic reviews to drive continuous improvement.	Ongoing

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**9. DEFINITIONS**

<b>Term</b>	<b>Definition</b>
<i>Council</i>	<i>Golden Plains Shire Council</i>
<i>Complaint</i>	<p><i>An expression of dissatisfaction with:</i></p> <ul style="list-style-type: none"> <li>• <i>the quality of a service provided, an action taken, or decision made by Council or its contractor</i></li> <li>• <i>a delay or failure in providing service, taking an action, or making a decision by Council or its contractor</i></li> </ul>
<i>Closed Meetings</i>	<i>When Council resolves to close the meeting to the general public, in order to consider a confidential matter regarding issues of a legal, contractual or personnel nature and other issues deemed not in the public interest.</i>
<i>Transparency</i>	<i>A lack of hidden agendas or conditions, and the availability of all information needed in order to collaborate, cooperate and make decisions effectively. Importantly, “transparency” is also human rights issue: the right to have the opportunity, without discrimination, to participate in public affairs (s.58 of the Local Government Act 2020).</i>
<i>Confidential Information</i>	<p><i>Confidential information is defined in the Local Government Act 2020 (the Act) as meaning the following:</i></p> <ul style="list-style-type: none"> <li>• <i>Council business information, being information that would prejudice the Council’s position in commercial negotiations if prematurely released;</i></li> <li>• <i>security information, being information that if released is likely to endanger the security of Council property or the safety of any person;</i></li> <li>• <i>land use planning information, being information that if prematurely released is likely to encourage speculation in land values;</i></li> <li>• <i>law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;</i></li> <li>• <i>legal privileged information, being information to which legal professional privilege or client legal privilege applies;</i></li> <li>• <i>personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;</i></li> <li>• <i>private commercial information, being information provided by a business, commercial or financial undertaking that—</i></li> </ul>



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	<ul style="list-style-type: none"> <li>• <i>relates to trade secrets; or</i></li> <li>• <i>if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;</i></li> <li>• <i>confidential meeting information, being the records of meetings closed to the public under section 66(2)(a) of the Act;</i></li> <li>• <i>internal arbitration information, being information specified in section 145 of the Act;</i></li> <li>• <i>Councillor Conduct Panel confidential information, being information specified in section 169 of the Act;</i></li> <li>• <i>information prescribed by the regulations to be confidential information for the purposes of this definition;</i></li> <li>• <i>information that was confidential information for the purposes of section 77 of the Local Government Act 1989.</i></li> </ul>
<p><i>Contrary to the Public Interest</i></p>	<p><i>There is no definition in the Local Government Act 2020 as to when the public availability of information would be contrary to the public interest. Council will determine this on a case by case basis.</i></p> <p><i>Some examples of where the public availability of information would be contrary to the public interest are as follows:</i></p> <ul style="list-style-type: none"> <li>• <i>where disclosure of the information would divulge any information or matter communicated in confidence by or on behalf of a person or a government and be reasonably likely to impair the ability of Council to obtain similar information in the future; or</i></li> <li>• <i>where its disclosure would be reasonably likely to have a substantial adverse effect on the economy of the municipal district, including but not limited to, revealing consideration of a contemplated movement in rates, fees, charges, interest charges or other levies, the sale or acquisition of land or property by the council, urban re-zoning, the formulation of land use and planning controls and the formation of imposts; or</i></li> <li>• <i>where it would disclose instructions issued to, or provided for the use of guidance of, Council officers on the procedures to be followed or the criteria to be applied in negotiation, including financial, commercial and labour negotiation, in the execution of contracts, in the defence, prosecution and settlement of cases, and in similar activities relating to the financial property or personnel management and assessment interests of Council; or</i></li> <li>• <i>where the information is subject to a secrecy provision in another Act; or</i></li> <li>• <i>where its disclosure would impede the administration of justice generally, including procedural fairness; or</i></li> <li>• <i>where its disclosure would prejudice intergovernmental relations or otherwise affect relations with other governments; or</i></li> <li>• <i>where its disclosure would prejudice or otherwise affect the conduct of investigations, audits or reviews by Council or integrity bodies; or</i></li> <li>• <i>where its disclosure would prejudice the deliberative process of government; or</i></li> <li>• <i>where its disclosure would prejudice the effectiveness of testing or auditing procedures.</i></li> </ul> <p><i>These are examples only and not exhaustive of the circumstances in which the public availability of information would be contrary to the public interest.</i></p>

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**10. RELATED LEGISLATION AND DOCUMENTS**

- 10.1 **Strategic Documents, Policies or Procedures**  
*Community Engagement Policy (To be adopted)*  
*Governance Rules*  
*Freedom of Information Procedure*  
*Freedom of Information Part II Statement*  
*Information Privacy Policy*  
*Information Privacy Procedure*

**Legislation**

- Freedom of Information Act 1982*  
*Health Records Act 2001*  
*Local Government Act 1989*  
*Local Government Act 2020*  
*Privacy and Data Protection Act 2014*

**11. DOCUMENT INFORMATION**

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