



Public Transparency Policy

DRAFT

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1. PURPOSE

1.1 The Public Transparency Policy:

- 1.1.1 is a requirement of section 57 of the *Local Government Act 2020* (**Act**);
- 1.1.2 has been developed to ensure Golden Plains Shire Council gives effect to the public transparency principles outlined in section 58 of the Act; and
- 1.1.3 describes what, and how, Council information is publicly and freely available to the community.

1.2 This policy supports Council in its ongoing drive for good governance and the importance of open and accountable conduct and sets out how Council information is to be made publicly available.

2. SCOPE

2.1 This policy applies to Councillors, Council members of staff, contracted service providers, volunteers and those on work experience.

3. POLICY STATEMENT

3.1 Council is committed to the principles of public transparency and commits to making all Council information publicly available, except where the information is:

- 3.1.1 'Confidential Information' as defined under section 3(1) of the Act, unless Council has determined by resolution that the information should be made publicly available;
- 3.1.2 Confidential by virtue of any other Act; or
- 3.1.3 Such that making it publicly available would be contrary to the public Interest.

A definition of 'Confidential Information' under the Act and examples of where the public availability of information would be contrary to the public interest are provided at clause 4.3.2 (Confidential Information Table) and in clause 6 (Definitions Table) of this policy.

4. PROCEDURES

4.1 Decision making at Council Meetings:

- 4.1.1 Will be undertaken in accordance with the Act and the Governance Rules;
- 4.1.2 Will be conducted in an open and transparent forum, subject to the provisions of the Act and Governance Rules;
- 4.1.3 Will be informed through community engagement, in accordance with the

Community Engagement Principles and the Community Engagement Policy; and

- 4.1.4 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 Council Information

Council information includes but is not limited to:

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; and
- Guidelines and manuals.

4.3 Council Information Not Available

- 4.3.1 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*.

- 4.3.2 “Confidential information” is defined in section 3 of the 2020. It includes the types of information listed in the following table:

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>

4.3.3 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.

4.4 Public Interest Test

4.4.1 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;
- 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,
- correspondence with members of the community, where release may inappropriately expose a person's private dealings.

4.5 Other ways to Access this information

- 4.5.1 Community requests for Council information not available on Council's website are to be directed to the relevant Council officer or Council's Freedom of Information Officer.
- 4.5.2 The *Freedom of Information Act 1982* provides an individual's right of access to documents that Council holds. Council is committed to, where possible, proactive and informal release of information in accordance with the Freedom of Information Professional Standards issued by the Victorian Information Commissioner. Read more at www.ovic.vic.gov.au.
- 4.5.3 A list of available information is provided in the Part II Statement (**Statement**) published on Council's website in accordance with the *Freedom of Information Act 1982*. The Statement requires government agencies and local councils to publish a number of statements designed to assist members of the public in accessing the information it holds.

If you can't find the information you require, please contact Council's Customer Service team for assistance by phone: (03) 5220 7111 or by email: enquiries@qplains.vic.gov.au.

5. RESPONSIBILITIES

Roles and Responsibilities

- 5.1 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	To oversee implementation of this policy.	Ongoing
Governance & Legal Services Officer	To implement this policy and conduct periodic reviews to drive continuous improvement.	Ongoing

Compliance, monitoring and review

- 5.2 A periodic review of this policy will be undertaken to ensure any changes required to strengthen or update the policy are made in a timely manner ensuring the policy:
- aligns with relevant legislation, government policy and Council’s requirements/strategies/values;
 - is implemented and monitored; and
 - is reviewed to evaluate its continuing effectiveness.

Records Management

- 5.3 Council must maintain all records relevant to administering this policy in accordance with the *Public Records Act 1973*.

6. DEFINITIONS OF TERMS OR ABBREVIATIONS USED

Terms and definitions

Term	Definition
<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"> • <i>the quality of a service provided, an action taken, or decision made by Council or its contractor</i> • <i>a delay or failure in providing service, taking an action, or making a decision by Council or its contractor</i>
<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 Act).</i>
<i>Confidential Information</i>	<p><i>Confidential information is defined in the Act as meaning the following:</i></p> <ul style="list-style-type: none"> • <i>Council business information, being information that would prejudice the Council's</i>

	<p><i>position in commercial negotiations if prematurely released;</i></p> <ul style="list-style-type: none"> • <i>security information, being information that if released is likely to endanger the security of Council property or the safety of any person;</i> • <i>land use planning information, being information that if prematurely released is likely to encourage speculation in land values;</i> • <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> • <i>legal privileged information, being information to which legal professional privilege or client legal privilege applies;</i> • <i>personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;</i> • <i>private commercial information, being information provided by a business, commercial or financial undertaking that—</i> <ul style="list-style-type: none"> ○ <i>relates to trade secrets; or</i> ○ <i>if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;</i> • <i>confidential meeting information, being the records of meetings closed to the public under section 66(2)(a) of the Act;</i> • <i>internal arbitration information, being information specified in section 145 of the Act;</i> • <i>Councillor Conduct Panel confidential information, being information specified in section 169 of the Act;</i> • <i>information prescribed by the regulations to be confidential information for the purposes of this definition;</i> • <i>information that was confidential information for the purposes of section 77 of the Local Government Act 1989.</i>
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<p><i>Contrary to the Public Interest</i></p>	<p><i>There is no definition in the Act 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"> <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> <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> <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> <i>• where the information is subject to a secrecy provision in another Act; or</i> <i>• where its disclosure would impede the administration of justice generally, including procedural fairness; or</i> <i>• where its disclosure would prejudice intergovernmental relations or otherwise affect relations with other governments; or</i> <i>• where its disclosure would prejudice or otherwise affect the conduct of investigations, audits or reviews by Council or integrity bodies; or</i>
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	<ul style="list-style-type: none"> • <i>where its disclosure would prejudice the deliberative process of government; or</i> • <i>where its disclosure would prejudice the effectiveness of testing or auditing procedures.</i> <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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7. RELATED LEGISLATION AND DOCUMENTS

7.1 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

8. HUMAN RIGHTS STATEMENT OF COMPATABILITY

8.1 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.

PUBLIC TRANSPARENCY POLICY

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NOTES:	<p>Policy documents are amended from time to time, therefore you should not rely on a printed copy being the current version. Please consult Council's Policy page on the Golden Plains Shire Council website to ensure that the version you are using is up to date.</p> <p>Available at:</p> <p>https://www.goldenplains.vic.gov.au/residents/my-council/about-council/council-policies</p>