Public Transparency Policy

1. Purpose

This purpose of this Policy is to:

1.1 give effect to the Public Transparency Principles;

1.2 describe the ways in which Council Information will be made publicly available;

1.3 specify which Council Information will be made publicly available as of course; and

1.4 describe the categories of Council Information that may be unavailable to the public.

This Policy is adopted under section 57 of the Act.

2. Policy objectives

The objective of this Policy is to formalise Council's support for transparency in its decision-making processes and availability of Council Information and to achieve the purpose stated in Part 0 of this Policy.

3. Scope

This Policy applies to Councillors and Officers.

4. Definitions

In this Policy, the following words and phrases mean:

"Act" means the *Local Government Act 2020*.

"Chief Executive Officer" includes an Acting Chief Executive Officer.

"Closed Meeting" means a Meeting that is closed to members of the public.

"Community" means the residents and ratepayers of, and visitors to, the Municipal District and may, depending on the context, refer to all of those people or to particular subsets of those people.

"Confidential Information" means confidential information as defined in section 3(1) of the Act.

"Council" means Bass Coast Shire Council.

"Council Information" means all documents and other information held by Council.

"Council Offices" means the offices of Council located at 76 McBride Avenue, Wonthaggi.

"Council Website" means Council's website at www.basscoast.vic.gov.au

"Governance Rules" means the governance rules adopted by Council under section 60 of the Act, as amended from time to time.

"Health Information" means health information as defined in section 3(1) of the *Health Records Act 2001*.

"Meeting" means a meeting of Council or a Delegated Committee.

"Municipal District" means the municipal district of Council.

"Officer" means a member of Council staff, and includes the Chief Executive Officer.

"Personal Information" means personal information as defined in section 3(1) of *the Privacy and Data Protection Act 2014.*

"Pubic Transparency Principles" means the public transparency principles set out in section 58 of the Act and reproduced in Part 5 of this Policy.

"Requestor" means a person making a request to access Council Information under and in accordance with this Policy.

5. Responsibility for this Policy

5.1 The Chief Executive Officer is responsible for the application and operation of this Policy.

5.2 The Chief Executive Officer may, from time to time, authorise another Officer or Officers to fulfil any of the Chief Executive Officer's functions and duties under this Policy.

5.3 Where another Officer is or other Officers are authorised under clause 5.2, any reference in this Policy to the Chief Executive Officer is to be read as a reference to that Officer or those Officers.

6. Public Transparency Principles

6.1 The Public Transparency Principles are set out in section 58 of the Act as follows:

6.1.1 Council decision-making processes must be transparent, except when Council is dealing with information that is confidential by virtue of the *Local Government Act 2020* or any other Act.

6.1.2 Council Information must be publicly available, unless:

a) the information is confidential by virtue of the *Local Government Act 2020* or any other Act; or

b) public availability of the information would be contrary to the public interest.

6.1.3 Council Information must be understandable and accessible to members of the Municipal District.

6.1.4 Public awareness of the availability of Council Information must be facilitated.

6.2 Council will give effect to and implement the Public Transparency Principles in accordance with this Policy.

7. Council Decision-Making Processes

7.1 Council will ensure that the decision-making processes that it adopts are transparent and open to the Community so that the Community is provided with an opportunity for meaningful engagement with Council and its decision-making processes.

7.2 Without limiting the generality of clause 7.1 Council's decision-making processes will:

7.2.1 be conducted in accordance with the Act and the Governance Rules;

7.2.2 unless considering Confidential Information, be conducted in a forum that is open to, and accessible by, the Community; and

7.2.3 be informed by the:

a) views of those members of the Community whose rights and interests will be directly affected by the decision; and

b) responses, if any, to any process of community engagement conducted by Council in respect of the decision, whether in accordance with its Community Engagement Policy or otherwise.

7.3 Further details of Council's decision-making process can be found in Chapter 1 of the Governance Rules.

8. Availability of Council Information

8.1 All Council Information will be made available to the public, unless the:

8.1.1 Council Information is Confidential Information; or

8.1.2 Release of the Council Information is assessed by the Chief Executive Officer as being contrary to the public interest.

8.2 A list of the categories of Council Information which will generally, subject to this Policy, be made available either on the Council Website, at the Council Offices or on request is set out at Appendix 1 to this Policy.

9. Publications

Council publishes a range of newsletters, reports and handbooks for residents, businesses and visitors to the Municipal District. These publications are available on the Council Website, at the Council Offices or on request to Council.

10. Accessibility of Council Information

10.1 Council Information will be made available on the Council Website, at the Council Offices and/or on request.

10.2 Council will, to the extent possible, facilitate access to Council Information by:

10.2.1 making Council Information available in accordance with this Policy;

10.2.2 endeavouring to make Council Information accessible electronically and in hard copy, where requested; and

10.2.3 endeavouring to convert Council Information to different accessible formats where necessary for members of the Community for whom:

a) English is their second language; or

b) Disability requires an alternative means of access to be provided.

10.3 Where a request is made for access to Council Information that is not on the Council Website or otherwise available at the Council Offices, the Chief Executive Officer will:

10.3.1 review the request;

10.3.2 assess whether the Council Information requested is Confidential Information, or its release would be contrary to the public interest; and

10.3.3 notify the Requestor of the outcome of that assessment.

10.4 If the Council Information requested is assessed under clause 10.3 as not being Confidential Information, or its release is assessed as not being contrary to the public interest, the Council Information will be provided to the Requestor.

10.5 The Council Information will be provided to the Requestor by email unless the:

10.5.1 Requestor seeks access in a different form, including by reference to the matters stated in clause 10.2.3, in which case the Council Information will be provided in that form, unless it is impracticable to do so; or

10.5.2 Chief Executive Officer, having regard to the nature of the Council Information requested, determines that the Council Information should be provided in a different form, such as by inspection.

10.6 Council will provide such support to the Requestor as it considers reasonable to ensure that the Council Information provided is understood by them.

10.7 If, under clause 10.3, the Council Information requested is assessed as being Confidential Information, or its release is assessed as being contrary to the public interest, the Requestor will be advised:

10.7.1 that the request has been denied;

10.7.2 of the reasons for the request being denied; and

10.7.3 of alternative mechanisms by which they may seek access to the Council Information (eg by making a request made under the *Freedom of Information Act 1982*).

10.8 Any request for access to Council Information by way of an alternative mechanism under clause 10.7.3 will be assessed according to the process applicable to it.

10.9 Where:

10.9.1 Council Information requested is assessed under clause 10.3 as being Confidential Information, or its release is assessed as being contrary to the public interest; but

10.9.2 it is practicable for that Council Information to be provided with deletions so that it is suitable for release to the Requestor; and

10.9.3 the Chief Executive Officer believes that the Requestor would want the Council Information in that format,

the Council Information will be provided in that format.

11. Council Information that is Not Available

Some Council information may not be made publicly available. This will occur if the information is Confidential Information, or its release would be contrary to the public interest.

11.1 Confidential Information

11.1.1 What constitutes Confidential Information is set out in section 3(1) of the Act and includes information within the following categories:

Type	Description
Council business information	Information that would prejudice 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, if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.
Confidential meeting information	Records of Council and Delegated Committee meetings that are closed to the public to consider confidential information.
Internal arbitration information	Information provided to, or produced by, an arbiter for the purpose of an internal arbitration process, other than the findings and the reasons.
Councillor Conduct Panel information	Information: • provided to, or produced by, a Principal Councillor Conduct Registrar, for the purposes of an application to form a Councillor Conduct Panel; or • provided to, or produced by, a Councillor Conduct Panel for the purposes of conducting a hearing, other than a decision or reasons for a decision; or • comprising any part of a statement of reasons or other document under the control of a Councillor Conduct Panel that the Councillor Conduct Panel determines contains confidential information.

Type	Description
Confidential information under the 1989 Act	Information that was confidential information for the purposes of section 77 of the *Local Government Act 1989*.

11.1.2 In the interests of transparency, Council may, by resolution, determine to release information to the public even though it is Confidential Information.

11.1.3 A decision under clause 11.1.2 will generally only be made if Council, on the advice of the Chief Executive Officer, is satisfied that releasing the Confidential Information would not:

a) be inconsistent with any legal or contractual obligation;

b) cause disadvantage to any person, including Council; and

c) otherwise be contrary to the public interest.

11.2 Contrary to the Public Interest

11.2.1 Council Information will not be made publicly available if doing so would be contrary to the public interest.

11.2.2 When assessing whether making certain Council Information publicly available would be contrary to the public interest, the Chief Executive Officer will have regard to, among other things:

a) the sensitivity of the Council Information;

b) whether the Council Information comprises a draft, or otherwise is no longer current; and

c) any adverse effect that releasing the Council Information would have on the effectiveness of Council's decision-making processes.

11.2.3 Without limiting clause 11.2.2, factors that might lead to a decision that the release of Council Information is contrary to the public interest might include whether release would be likely to:

a) disclose Personal Information or Health Information;

b) disclose information or opinions of a preliminary nature such that they might:

(i) mislead the Community with respect to Council's position on a matter; or

(ii) have a substantial adverse effect on the economy of the Municipal District;

c) prejudice discussions or negotiations between Council and any other party, in relation to a contract, legal proceedings or any other matter;

d) impair or otherwise impact on:

(iii) Council's ability to obtain information in future that is similar in nature to the Council Information;

(iv) negotiations with respect to employment arrangements for Officers; or

(v) defence, prosecution and settlement of legal proceedings; or

e) impact on the reasonable allocation of Council's resources, including in responding to requests for Council Information that are assessed by the Chief Executive Officer as being frivolous, vexatious or repetitious in nature.

12. Public Awareness of Availability of Council Information

Council will ensure public awareness of this Policy and the availability of Council Information by:

12.1 publishing this Policy on the Council Website;

12.2 making this Policy available for public inspection at Council's offices;

12.3 converting this Policy to such accessible formats, having regard to clause 10.2.3, as the Chief Executive Officer determines; and

12.4 ensuring that all Officers:

12.4.1 are aware of this Policy and its effect; and

12.4.2 direct members of the Community to this Policy when access to Council Information is sought.

13. Human Rights Charter

This Policy has been assessed against the Charter of Human Rights and Responsibilities Act 2006 as being consistent with that Act and, in particular, as promoting the rights of members of the Community:

13.1 not to have their privacy interfered with (section 13); and

13.2 take part in public life (section 18), by having the opportunity to:

13.2.1 participate in the conduct of Council's affairs; and

13.2.2 have access to Council and Council Information.

14. Dissatisfaction with the Application of this Policy

14.1 If a Requestor is dissatisfied with Council's application of, or believes that Council has acted inconsistently with this Policy, they can report their dissatisfaction to Council's Executive Manager Governance & Finance.

14.2 If the Requestor believes that the matter remains unresolved, it can be reported to the Victorian Ombudsman.

15. Application of this Policy

15.1 This Policy applies to all Council Information, except Council Information which is made available, or is otherwise accessible, under another Act (other than an Act which refers to this Policy).

15.2 Without limiting the generality of clause 15.1, this Policy does not apply to Council Information which is:

15.2.1 required to be made available under the *Planning and Environment Act 1987*;

15.2.2 required to be made available under the *Building Act 1993*; or

15.2.3 otherwise required to be made available on payment of a fee or charge.

16. Monitoring, Evaluation and Review

Council will review this Policy periodically to ensure that it continues to reflect the expectations of the Community with respect to the availability and accessibility of Council Information.

17. Responsibility for this Policy

Responsible Manager:	Executive Manager Governance & Finance
Date Adopted:	19 August 2020
Date of Next Review:	July 2022

For the purposes of clause 8 of this Policy, the following Council Information will generally, and subject to this Policy, be made available either on the Council Website or on request by a member of the Community.

1. **Documents such as:**
   - Plans and Reports adopted by Council;
   - Council Policies;
   - Project and Service Plans;
   - Service Agreements, Contracts, Leases and Licences; and
   - relevant technical reports and/or research that inform Council's decision-making.
2. **Process information such as:**
   - application processes for approvals, permits, grants, access to Council services;
   - decision-making processes;
   - Guidelines and Manuals;
   - Community Engagement Processes; and
   - Complaints Handling Processes.
3. **The following Council Information will be available on Council's website:**
   - Meeting Agendas;
   - Minutes of Meetings;
   - Audit and Risk Committee Charter;
   - Terms of Reference for Delegated Committees;
   - Gift Registers for Councillors and Council Staff;
   - Travel Registers for Councillors and Council Staff;
   - Registers of Conflicts of Interest disclosed by Councillors and Council Staff;
   - Registers of Leases entered into by Council;
   - Register of Delegations;
   - Register of Authorised Officers;

- Register of Election Campaign Donations;
- Summary of Personal Interests; and
- any other Registers or Records required by the Act or any other Act.

Approval

Adopted by Council at its meeting held on	Date 19 August 2020
Signed by the Mayor Brett Tessari 	

Revision History

Date	Version	Revision Description	Administered
23 November 2022	1.1	No updates recommended	Council Officers
11 December 2024	1.2	No substantive changes. Administrative update of council positions to reflect the new organisation structure.	Council Officers