

MAROONDAH CITY COUNCIL
FREEDOM OF INFORMATION
A GUIDE FOR APPLICANTS

1. How to Make an Application

1.1 The Application must be in writing and addressed to:

*Freedom of Information Officer
Maroondah City Council
PO Box 156
RINGWOOD VIC 3134*

- 1.2 The document required must be specified or, if unable to do so, sufficient detail must be given to enable the document to be located.
- 1.3 An application fee of \$24.40 (twenty-four dollars and forty cents) must accompany the request.
- 1.4 The application should indicate the form, in which access is required,
i.e. view original under supervision; or
View copies; or
Copies to be sent
and also include details of the applicant's name, address and telephone number for contact purposes.

NOTE

There may be additional charges levied for access in accordance with the Freedom of Information regulations.

You will be advised within 45 days of the date of receipt your application whether the request has been refused or granted.

A standard request form is attached as **Appendix 1**.

2. Classification of Request

- 2.1 THE FOI Officer will determine whether your request can be dealt with under the FOI Act. Generally speaking, a request will be deemed to be capable of being dealt under FOI if:-

- (a) access is not permitted under any other legislation;
- (b) access has not been provided prior to the FOI (Amendment) Act;
- (c) the request is not of a kind that has been routinely provided prior to the enactment of the FOI (Amendment) Act.

2.2 If your request falls outside the scope of the FOI Act, the FOI Officer will notify you of the manner in which the request is being treated, providing reasons and the contact name and number of the Officer now handling the request.

3. Handling Freedom of Information Requests

3.1 The FOI Officer will locate the documents for which access is sought. It may be necessary for the Officer to contact you at this stage in order to clarify your request.

- (a) An example of the form used by the FOI Officer to access documents from areas of Council is attached as **Appendix 2**

3.2 Once the documents have been located, the FOI Officer will make a decision regarding access to the documents. Such decision will be forwarded to you within 45 days of receipt of the application.

3.3 Refusal to grant access to documents may occur if:-

- (a) the documentation contained information that is exempt from disclosure. (*Refer to Section 12 – Exempt Documents*)
- (b)
 - (i) the request is made by or on behalf of a person who, on at least one previous occasion, has made a request for access to the same information; and
 - (ii) the request was refused and the tribunal confirmed the decision; and
 - (iii) there are not reasonable grounds for making the request again.
- (c) the work involved in processing the request would substantially and unreasonably divert the resources of Council from its other operations having regard to the resources that would have to be used -
 - in identifying, locating or collating the documents; or
 - in examining the documents or consulting with any person or body in relation to the request; or
 - in making of the document; or
 - in notifying any interim or final decision on the request.

3.4 Refusal to grant access will not occur until:-

- (a) you have been given written notice -
 - (i) stating an intention to refuse access;
 - (ii) providing information that would assist the making of the request in a form that could be approved;
 - (iii) identifying an officer with whom you may consult, with a view to making the request in a form that would remove the ground for refusal; and
- (b) you have been given a reasonable opportunity to consult.

3.5 Where access is refused, notice in writing will be given:

- (a) stating the findings of any material questions of fact, referring to the material on which the findings were based and the reasons for the decision;
- (b) stating the name and designation of the person giving the decision;
- (c) where access is given to a document with deletions, stating that the document is a copy of a document from which exempt matter has been deleted;
- (d) informing you of -
 - (i) your right to apply for a review of the decision;
 - (ii) the authority to which the application for review should be made; and
 - (iii) the time within which the application for review must be made; and
- (e) where the decision is to the effect that the document does not exist or cannot be located, you will be informed of your right to complain to the Ombudsman.

3.6 Where access is to be granted you will be notified:-

- (a) where access is to be granted;
- (b) when access is to be granted;
- (c) the form of access to be provided;
- (d) charges to be paid prior to access;
- (e) instructions on how to pay charges; and
- (f) the name and designation of the contact officer.

4. Access to Personal Documents

- 4.1 Personal records are those documents relating to the personal affairs of a person. They will not generally include documents that relate to matters other than those of a purely personal nature.
- 4.2 Applicants wishing to access personal documents held by Council relating to themselves in accordance with the Freedom of Information Act, must submit their request in writing to the FOI Officer.

NOTE

Application under Freedom of Information should only be made when there is no other administrative arrangements in place for accessing documents.

- 4.3 Once the application has been searched by the FOI Officer, you will be advised of the decision to grant or refuse access. If access to the document(s) is granted, and you are seeking access to original documents, you will be requested to contact the FOI Officer to arrange a mutually convenient time to view the documents.

NOTE

No charges are to be made for the viewing of personal files however, a charge will be applied for the provision of 10 or more copies supplied under the Act. In addition, charges may be incurred if the request is not routine in nature. Applicants will only be granted free access to the same personal document once every 12 months.

- 4.4 Prior to viewing personal documents, you will be required to provide proof of identity.
- 4.5 Access will be under the supervision and control of the FOI Officer and a member of staff from the responsible area.
- 4.6 A summary of the document may be made under supervision and copies may be taken if requested.
- 4.7 If access to a requested document is refused, partly refused or deferred, you will be notified of the decision by the FOI Officer. You may apply for an internal review of the decision.

NOTE

A standard request form is attached as **Appendix 3**.

5. Request to Amend Personal Documents

- 5.1 A person is entitled to request the correction or amendment of any part of a document which contains information relating to their personal affairs where they believe that information is inaccurate, incomplete, out of date or misleading. This request is to be made in writing to the FOI Officer on the appropriate pro forma.
- 5.2 If the request is granted, the correction or amendment may be a notation added to the appropriate record, but must not have the effect of deleting or expunging the information to be correct or amended nor of destroying the document.
- 5.3 The FOI Officer will notify you of the decision not later than 30 days after receipt of the request and arrange a time to view the amendment.
- 5.4 If the request is refused, you may apply for an internal review of the decision within 28 days after the day on which notice of the decision was given, provided that the initial decision had not been made by the Chief Executive Officer. If the internal review reaffirms the decision you may apply to the Victorian Civil & Administrative Tribunal for a review of the latter decision.

NOTE

A standard request form is attached as **Appendix 4**.

6. Handling Requests Where Documents Sought are Partially Exempt

- 6.1 When a request is processed and documents are found to be partially exempt the following procedures will apply.
 - (a) Where the applicant has indicated either in writing or verbally that he/she is prepared to accept access with exempt material deleted, access is to be granted and the applicant advised that the document is a copy of a document from which exempt matter has been deleted.
 - (b) Where no indication as above is given, the applicant is advised that the document(s) is/are exempt in their present form, but access could be granted with information deleted.
 - (c) If the applicant subsequently indicates that he/she is prepared to accept access in the amended form, access will then be granted.

7. Issue and Payment of Accounts

- 7.1 The FOI Officer will calculate costs according to the Government regulations.
- 7.2 Where but a fee is payable before the documents are forwarded, the FOI Officer will arrange for an account to be issued.
- 7.3 In the letter notifying you that you may view the documents requested, you will be informed that the account is to be paid prior to access. Payment is to be made by cheque or money order made payable to Maroondah City Council and mailed to:

***Freedom of Information Officer
Maroondah City Council
PO Box 156
RINGWOOD VIC 3134***

8. Where Deposit is Required

- 8.1 Where charges exceed \$50.00 a deposit will be required before proceeding with the case.
- 8.2 The FOI Officer will notify you that a deposit is required prior to the case proceeding. In his letter the FOI Officer shall:
- (a) enquire as to whether you wish to proceed with the request;
 - (b) inform you that the request will be deemed to have been received when the deposit is paid.
 - (c) state the name and designation of the officer who calculated the charge;
 - (d) inform you of your right to apply for a review of the charge;
 - (e) inform you of the time within which you may apply for a review; and
 - (f) inform you where to send the application for review.
- 8.3 Where requested, the FOI Officer will advise you of practicable alternatives for altering the request or reducing the charge.
- 8.4 The deposit is to be in the form of a cheque or money order and made payable to Maroondah City Council and mailed to:

***Freedom of Information Officer
Maroondah City Council
PO Box 156
RINGWOOD VIC 3134***

- 8.5 At the completion of the retrieval and preparation of the case, the FOI Officer will calculate the balance of the charges to be paid.

9. Waiving of Application Fees and Charges for Access

- 9.1 Charges shall be waived if the request is a routine request for access to a document.
- 9.2 Charges, other than charges for the reasonable costs incurred in making copies of documents or written transcripts of the words recorded or contained in a document, shall not be made if -
- (i) the applicant's intended use of the document is a use of general public interest or benefit; or
 - (ii) the applicant is a Victorian Member of Parliament; or
 - (iii) the request is for access to a document containing information relating to the personal affairs of the applicant.
- 9.3 Charges should be waived if the applicant is impecunious and the request is for access to a document containing information relating to their personal affairs.
- 9.4 An application fee may be waived or reduced if the payment of the fee would cause hardship to the applicant.

10. Request for an Internal Review

- 10.1 A request for an Internal Review of a decision must be made within 28 days after receiving notification of the original decision.

NOTE

A standard request form is attached as **Appendix 5**.

- 10.2 The Review decision will be made and conveyed to you in writing within 14 days of receipt of your request for the Review.
- 10.3 If the Internal Review affirms the initial decision or fails to allow unconditional access, you will be informed of your right of appeal to the Victorian Civil & Administrative Tribunal.
- 10.4 The right of an Internal Review does not exist if the initial decision on a request for access was made by the Chief Executive Officer. In such a case, you may only appeal directly to the Victorian Civil & Administrative Tribunal within the prescribed 60 day period.

11. Victorian Civil & Administrative Tribunal

11.1 Section 50(2) provides that you may apply to the Tribunal for review of -

- (a) a decision refusing to grant access to a document;
- (b) a decision deferring the provision of access to a document;
- (c) a decision as to the amount of a charge that is required to be paid before access to a document is granted;
- (d) a decision not to specify a document in the statement under section 7; or
- (e) a decision to disclose a document, to disclose a document contrary to the applicant's view, or not to amend a record.

11.2 Unless Section 10.4 applies, you are not entitled to apply to the Tribunal for review of a decision unless -

- (a) you have made an application for an internal review in relation to a decision; and
- (b) you have been informed of the result of the review or a period of 14 days has elapsed since the day on which you made the application.

11.3 An application to the Tribunal must be made within 60 days from the day on which written notice of a decision on a request or a review is furnished to you.

12. Exempt Documents

Internal Working Documents

Under Section 30 of the Act, a document is exempt if its disclosure -

- (a) would disclose matter in the nature of opinion, advice or recommendation prepared by an officer or member of the Council, or consultation or deliberation that has taken place between Officers, members of the Council, or an Officer and a member of the Council, in the course of the deliberative processes involved in the functions of the Council; and
- (b) would be contrary to the public interest (see ***Disclosure Contrary to Public Interest Section 36***).

This does not apply by reason only of purely factual material contained in the document and any use of this section must be accompanied by a statement of the public interest considerations on which such a decision was based. Further, the section does not apply to a document brought into existence more than ten years ago.

Law Enforcement Documents

According to Section 31, a document is an exempt document if its disclosure would:

- (a) prejudice the investigation of a breach of the law or prejudice the enforcement or proper administration of the law in a particular instance;
- (b) prejudice the fair trial of a person or the impartial adjudication of a particular case;
- (c) disclose, or enable a person to ascertain the identity of a confidential source of information in relation to the enforcement or administration of the law. (This would ensure the protection of a person lodging a complaint against noisy dogs or the use of an incinerator).
- (d) disclose methods or procedures for preventing, detecting, investigating or dealing with matters arising out of breaches or evasions of the law the disclosure of which would prejudice the effectiveness of those methods or procedures; or
- (e) endanger the lives or physical safety of persons engaged in the enforcement of the law or persons who have confidential information in relation to the enforcement or administration of the law.

Notwithstanding these provisions, the section does not apply to any document that is -

- (a) a document revealing that the scope of a law enforcement investigation has exceeded the limits imposed by law;
- (b) a document revealing the use of illegal methods or procedures for preventing, detecting, investigating or dealing with matters arising out of breaches or evasions of the law;
- (c) a document containing any general outline of the structure of any programme adopted by an agency for investigating breaches of or enforcing or administering the law;
- (d) report on the degree of success achieved in any program adopted by an agency for investigating breaches of or enforcing or administering the law;
- (e) a report prepared in the course of routine law enforcement inspection or investigations by an agency which has the function of enforcing and regulating compliance with a particular law other than the criminal law;
- (f) a report on a law enforcement investigation where the substance of the report has been disclosed to the person who, or the body which, was the subject to the investigation -

if it is in the public interest that access to the document should be granted under this Act.

Documents Affecting Personal Privacy

A document is an exempt document if its disclosure would involve the unreasonable disclosure of information relating to the personal affairs of any person, including a deceased person (Section 33(1)).

Where a request is made by a person for access to a document containing information relating to the personal affairs of any person and Council decides to grant access to the document, the FOI Officer should if practicable notify the person who is the subject of that information (or in the case of a deceased person, that person's next-of-kin) of the decision and of their right of appeal against the decision (section 33(3)).

Documents Relating to Trade Secrets, etc.

A document is an exempt document if its disclosure under this Act would disclose information acquired by a Council from a business, commercial or financial undertaking, and -

- (a) the information relates to trade secrets or other matters of a business, commercial or financial nature; or
- (b) the disclosure of the information would be likely to expose the undertaking to disadvantage (Section 34(1)).

In deciding whether disclosure of information would expose an undertaking to disadvantage the Council may take account of any of the following considerations:

- (a) Whether the information is generally available to competitors of the undertaking;
- (b) Whether the information would be exempt matter if it were generated by a Council;
- (c) Whether the information could be disclosed without causing substantial harm to the competitive position of the undertaking; and
- (d) Whether there are any considerations in the public interest in favour of disclosure which outweigh considerations of competitive advantage to the undertaking; and
- (d) Any other considerations which in the opinion of the Council are relevant (section 34(2)).

Prior to making a determination as to whether the disclosure of information would expose an undertaking to disadvantage the Council shall notify the undertaking which has supplied the relevant document or documents that council has received a request for access to the document and seeks the undertaking's view as to whether disclosure should occur. Where Council, after consultation, decides to disclose the document it must notify the undertaking of its rights to make an application for review of the decision.

Finally under this section, a document is an exempt document if -

- (a) it contains a trade secret of an agency that would if disclosed under this Act be likely to expose the agency to disadvantage;

- (b) it contains the results of a scientific or technical research undertaken by an officer of the Council and -
 - (ii) the disclosure of the results of an incomplete state would be reasonably likely to expose a business, commercial or financial undertaking unreasonably to disadvantage; or
 - (iii) the disclosure of the results before the completion of the research would be reasonably likely to expose the agency or the officer of the agency unreasonably to disadvantage.

Documents Containing Material Obtained in Confidence

Section 35(1) (b) of the Freedom of Information Act provides that a document is an exempt document if its disclosure would divulge any information or matter communicated in confidence by or on behalf of a person or a government to a Council and the disclosure of the information would be reasonably likely to impair the ability of an agency or a Minister to obtain similar information in the future.

Disclosure Contrary to Public Interest

A document of a Council is an exempt document if (section 36(2)) -

- (a) its premature 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 rezoning, the formulation of land use and planning controls and the formation of imposts; or
- (b) its disclosure would be contrary to the public interest by reasons that it would disclose instructions issued to, or provided for the use of guidance of, officers of a Council 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 personal management and assessment interest of the Council.

Council Documents

Finally, Section 38A provides that a document is an exempt document if it is -

- (a) the official record of a closed meeting other than the official record under section 89(3) of the Local Government Act 1989 in the minutes of the meeting of the reason for closing a meeting to the public;
- (b) a document which has been prepared for, or will be used for, consideration of any matter by the Council at a meeting that is likely to be a closed meeting of the Council;

- (c) a document that is a copy of or contains an extract from, a document referred to in paragraph (a) or (b);
- (d) a document the disclosure of which would involve the disclosure of any deliberation or decision of a closed meeting or of a meeting that is likely to be a closed meeting;
- (e) a document that is ancillary to, associated with or accompanying a document referred to in paragraph (a), (b), (c), or (d).

This section does not apply to a document that was submitted to a closed meeting for consideration or is proposed to be so submitted if it was not brought into existence for the purpose of submission for consideration by a closed meeting.

FREEDOM OF INFORMATION

REQUEST FOR ACCESS TO DOCUMENTS

To: Freedom of Information Officer
Maroondah City Council
PO Box 156
RINGWOOD VIC 3134

Under the Freedom of Information Act 1982, I wish to gain access to the following document(s):

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Form of Access: (Tick where appropriate)

- I request copies of the document(s) to be forwarded by mail.
I request an inspection of the original document(s).
I am prepared to inspect copies of the document(s) where the provision of originals would interfere unreasonably with the operations of the Maroondah City Council.

I enclose an application fee of \$24.40 which is payable in respect of this request and I understand that I will be supplied with a statement of further charges if appropriate.

Name: Mr/Mrs/Miss/Ms

Address:
.....Postcode

Telephone No: Business.....
Home.....

Signature:

Date:

Application Fee Received..... (Receipt No)

**FREEDOM OF INFORMATION
REQUEST FOR ASSISTANCE TO LOCATE DOCUMENTS
(GENERAL)**

To:
From: FOI Officer
Date:
File:
Subject: FOI Information Request - General

The following request for access to documents held by Council has been received.

Requested by: _____ **Date request received:** _____

Documents required:-
.....
.....
.....

Council is required, under the provisions of the Freedom of Information Act, to identify **all** documents in its possession relevant to the request. Access to those documents must then be granted, unless an exemption from release is claimed.

As the probable originating area for this information, your comments are sought with regard to the provision or refusal of access to these documents. Any claims for exemption under the Act must be supported by the relevant Department and reasons given.

The records on the enclosed file appear to be those sought however, if there are any other documents relevant to the request please identify them and attach to this request.

Due to the time constraints imposed by legislation, could you please forward such documents , together with your comments, to Peter Tully. If an extension of time is required, please contact Peter.

Freedom of Information Officer

Comments by Originating Area
(If sufficient space, attach papers)
.....
.....
.....

Signed:
Date:

FREEDOM OF INFORMATION

REQUEST FOR ACCESS TO PERSONAL DOCUMENTS

To: *Freedom of Information Officer
Maroondah City Council
PO Box 156
RINGWOOD VIC 3134*

Under the Freedom of Information Act 1982, I wish to gain access to the following document(s):

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Name:

Employee Number (if applicable):

Address:

Contact Telephone Number:

Signature:

Date: / /

FREEDOM OF INFORMATION

**REQUEST FOR ASSISTANCE TO LOCATE DOCUMENTS
(PERSONAL)**

To:
From: *FOI Officer*
Date:
File:
Subject: *FOI Information Request - Personal*

The following request for access to documents held by Council has been received.

Requested by: _____ **Date request received:** _____

Documents requested:-

.....

.....

.....

Your comments are sought with regard to the provision or refusal of access to the document(s). Any claim for exemption under the Act must be accompanied by reasons for refusal.

Where the requested documents contain information of a medical or psychiatric nature which may be detrimental to the physical or mental health of the applicant, Council's Medical Officer shall make a decision on access.

Due to the time constraints imposed by legislation could you please forward the documents, together with your comments, to Peter Tully. If an extension of time is required, please contact Peter.

Freedom of Information Officer

Comments by Originating Area
(If insufficient space, attach papers)

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Signed: _____ **Date:** / /

FREEDOM OF INFORMATION

REQUEST FOR AMENDMENT OF PERSONAL RECORDS

To: *Freedom of Information Officer
Maroondah City Council
PO Box 156
RINGWOOD VIC 3134*

This is a request under Section 39 of the Freedom of Information Act 1982.

Name: *(in full)*

Address: *(to which Notices may be sent)*

I claim that the document(s) described below contain information relating to my personal affairs that is *inaccurate, incomplete, out of date or misleading.
(*Please specify which applies throughout the report).

The document(s) containing the information is/are:

.....

You gave me access to the document(s) under the Freedom of Information Act on
...../...../.....

I believe the following information contained in the document(s) is *accurate, incomplete, out of date or misleading.

.....
.....
.....

The information is *inaccurate, incomplete, out of date or misleading because (set out the reasons why you believe the information is inaccurate, incomplete, out of date or misleading).

.....
.....
.....

The information should be amended by (set out the amendments you wish to have made to the document(s)).

.....
.....
.....

Signature of Applicant:

Date: / /

FREEDOM OF INFORMATION

REQUEST FOR INTERNAL REVIEW

To: Chief Executive Officer
Maroondah City Council
PO Box 156
RINGWOOD 3134

Pursuant to Section 51 of the Freedom of Information Act 1982, I request that you review the decision not to grant my request for access to the following documents.

The decision to refuse access was given in a letter addressed to me date _____ a copy of which is attached.

I submit the following comments in response to the reasons for refusing access:-

Name:
Address:
Telephone No:
Signature:

Date: / /