

**Merri-bek Civic Centre**  
90 Bell Street  
Coburg Victoria 3058  
T: (03) 9240 1111  
PO  
**Postal Address**  
Locked Bag 10  
Brunswick Victoria 3056  
  
[merri-bek.vic.gov.au](http://merri-bek.vic.gov.au)



Request Number: 583  
Doc No: D24/264467

John Smith

Delivered via 'Right to Know' Website

Dear John Smith

### Your freedom of information response is unclear and requires further clarification

I refer to your Freedom of Information response received on 20 May 2024. On 29 April 2024, you were asked to clarify the following three points of your original request:

1. A specific date range
2. Council's understanding of your term 'executive' (point 1)
3. Further information for point 12 to identify the documents you are seeking

You were also asked to advise if the information already provided to you for points 2, 6, 8 and 15 and the additional information provided for points 8 resolved these parts of your original request.

Your response on 20 May 2024 is as follows:

#### 1. Specific Date Range:

*To provide a clear timeframe for my request, I specify the period from 7 October 2023 to the present date. This extended period should cover all relevant communications and actions.*

#### 2. Definition of 'Executive':

*My reference to 'executive' includes Cathy Henderson (CEO of Merri-bek Council) and the Directors of the four branches who report directly to the CEO. The directors are:*

### Merri-bek Language Link

Italiano	Italian	9280 1911	Türkçe	Turkish	9280 1914	普通话	Chinese (Simplified)	9280 0750
Ελληνικά	Greek	9280 1912	Tiếng Việt	Vietnamese	9280 1915	<b>National Relay Service:</b>		
عربي	Arabic	9280 1913	पंजाबी	Nepali	9280 0751	13 36 77 or <a href="http://relayservice.com.au">relayservice.com.au</a>		

Chief Executive Officer (CEO): Cathy Henderson

Director of Business Transformation: Sue Vujcevic

Director of City Infrastructure: Anita Curnow

Director of Community: Eamonn Fennessy

Director of Place and Environment (Acting): Phillip Priest

### 3. Systems and Platforms:

The search for relevant documents should include all digital and electronic systems utilised by the Council. These systems include but are not limited to:

- Content Manager (formerly TRIM)
- Microsoft Exchange
- Microsoft Teams
- OneDrive
- Network Shares
- CRM Systems (such as Pathway)
- Communication platforms (WhatsApp, iMessage, SMS)
- Any calls or call recordings

Please ensure that all devices (mobiles, computers, etc.) that have logged into any Council accounts (such as Microsoft 365) are included. If these devices have accessed or stored Council information, they fall within the scope of this request.

### 4. Councillors:

The search should include records involving all current councillors. The Merri-bek City Council consists of:

- North-East Ward:
  - Annalivia Carli Hannan
  - Adam Pulford
  - Sue Bolton
  - Helen Pavlidis-Mihalakos
- North-West Ward:
  - Oscar Yildiz
  - Helen Davidson

- Angelica Panopoulos
- Monica Harte
  
- South Ward:
- Lambros Tapinos
- Mark Riley
- James Conlan

#### 5. Scope of the Request:

Please ensure that all emails sent directly to councillors, as well as any personal emails or documents created or saved on Council devices, are included. This encompasses all communications related to the specified topics, regardless of the platform used.

#### 6. Specific Items of Interest:

Please ensure that searches cover:

- Correspondence and decisions regarding the Gaza crisis.
- Discussions and decisions related to the raising of the Palestinian flag.
- Any support for Hamas, including potential breaches of the Criminal Code Act 1995 and Division 102.
- Security measures for the protection of staff and councillors who opposed the flag-raising.
- Discussions and decisions concerning Jewish residents and businesses.
- Instances of antisemitic comments made by staff, executives, councillors, and residents, with details of the comments and actions taken by the council in response.
- Financial records related to security measures for the protection of staff and councillors who voted against the raising of the Palestinian flag.
- Financials and time allocations related to the council's support for Hamas, including expenses covered by ratepayers.

#### 7. Public Disclosure and Support for Palestine:

Given the publicly disclosed support for Palestine and its potential funding and backing by Iran, I request all relevant communications and documents. This is essential for understanding how these align with Council's policies and actions.

### Request for Evidence of Searches:

*To ensure transparency, I request evidence of the searches conducted and the criteria used for each system mentioned above. This includes logs or reports generated from the searches to verify the thoroughness and scope of the inquiry.*

*I trust these clarifications address the issues raised and facilitate a comprehensive search and processing of my FOI request. I look forward to your timely response within the statutory timeframe stipulated by the Freedom of Information Act.*

### Points sufficiently clarified

You have addressed the specific date range. The date range 7 October 2023 to the present date, where present date is the day after your request is deemed valid.

You have addressed the definition of Executive. Please note, Joseph Tabacco was the Director Place and Environment up to 3 May 2024. Philip Priest was the Acting Director from 6 May to 31 May 2024, and Victoria Hart is the Acting Director from 3 June to 24 June 2024. The FOI search will include these Officers as well.

### Further Clarification required

I have examined the terms of your clarified request and have determined that I require further clarification to process your application. Section 17(2) of the FOI Act requires that a request for access to documents contain sufficient information concerning the documents to which access is sought to enable an officer to identify the relevant documents. Without further clarification it may not be possible to identify all the documents which you are seeking to access to.

In its present form, I consider that your request does not meet the requirement provided for in section 17 of the FOI Act because:

1. Further information is still required for point 12 of your original request to identify the documents you are seeking.
2. Please advise if the information already provided to you for points 2, 6, 8 and 15 and the additional information provided for points 8 resolved these parts of your original request.
3. Please advise if 'security measures for the protection of staff and councillors who opposed the flag raising', under point 6 of your response, is a new point of your request.
4. Please advise if 'Given the publicly disclosed support for Palestine and its potential funding and backing by Iran, I request all relevant communications and documents. This is essential for understanding how these align with Council's policies and actions', under point 7 of your response is a new point of your request.

This means we cannot start processing your request until you give us more information about your request.

1. Further information is still required for point 12 of your original request to identify the documents you are seeking.

Point 12 of your request was for 'Information related to the awareness and consideration of potential breaches of the Criminal Code Act 1995 and Division 102 in the council's support for Hamas.'

Officers are still unclear if you are seeking information or documents. For a request to be valid under Section 17 of the FOI Act, it must clearly identify the documents you are seeking. My understanding is that your request is for information, rather than documents. My understanding is that you are seeking information outside of the FOI Act.

**Would you please confirm if my understanding is correct? If my understanding is incorrect, would you please provide further information to identify the documents you are seeking?**

2. Please advise if the information already provided to you for points 2, 6, 8 and 15 and the additional information provided for points 8 resolved these parts of your original request.

Information has already been provided to you for the Civic Flag Policy, Council decisions made concerning Jewish residents and businesses, Council reports and minutes regarding Council's position on Gaza and the raising of the Palestinian flag.

**Would you please inform me if this information satisfies points 2, 6, 8 and 15 of your original request? If this information does not satisfy your request, would you please provide further information to identify the documents you are seeking?**

3. Please advise if 'security measures for the protection of staff and councillors who opposed the flag raising', under point 6 of your response, is a new point of your request.

I note point 13 of your original request is for 'All financial records related to security measures for the protection of staff and councillors who voted against the raising of the Palestinian flag'

I am unclear if your request for 'security measures for the protection of staff and councillors who opposed the flag raising', under point 6 of your response, is a new point of your request.

**Would you please advise me if '*security measures for the protection of staff and councillors who opposed the flag raising*' is a new point to your request or a duplicate of point 13 of your original request?**

4. Please advise if 'Given the publicly disclosed support for Palestine and its potential funding and backing by Iran, I request all relevant communications and documents. This is essential for understanding how these align with Council's policies and actions', under point 7 of your response is a new point of your request.

I am unclear if point 7 of your response is a new point of your request.

**Would you please advise if this is a new point of your request? If this is a new point of your request, would you please provide further information to identify the documents being sought.**

### **Further information - statutory timeframes commence once a valid request is received**

Until the application is clarified, a valid request does not exist under section 17 of the FOI Act and therefore the statutory timeframe to process the application has not commenced.

When clarification of the terms is received a search for documents relevant to the request will commence. Once the search is complete you will receive a further letter which will inform you of the requirement to pay a deposit towards the access charges applicable to the request.

Under section 25 of the FOI Act, if a decision is made not to grant access to a document on the basis that it is an exempt document and/or it contains irrelevant material, Council is only required to provide you with an edited copy of that document (i.e. with the exempt material removed), if you have indicated that you would wish to receive an edited copy.

**Please inform me if you wish to receive edited copies of documents that would otherwise be exempt.**

Please note that if you:

- Fail to begin consulting with Council to clarify your request; or
- Fail to provide an amended request; or
- Fail to otherwise make the request compliant with section 17 of the FOI Act

within 21 days from you receiving this notice, Council may refuse to comply with your request.

### **What you need to do**

Please clarify your request so we can process it. Please email us at [foi@merri-bek.vic.gov.au](mailto:foi@merri-bek.vic.gov.au) and quote F-583 by **Wednesday, 10 July 2024** to clarify the terms of your request.

If we do not hear from you by this date, we may close your request without processing it. If we close your request without processing it, you will need to make a new request if you wish to access the documents.

Yours sincerely



Saskia Hunter  
FOI Officer

19 June 2024