

**Merri-bek Civic Centre**

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Locked Bag 10

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[merri-bek.vic.gov.au](http://merri-bek.vic.gov.au)**Merri-bek**  
City Council

Request Number: 583

Doc No: D24/184644

John Smith  
Pascoe Vale South

Delivered via 'Right to Know' website

Dear John Smith

**Your freedom of information request is unclear and requires clarification**

I refer to your Freedom of Information request first received on 18 November 2023. You submitted the following request:

*I am submitting a comprehensive request under the Freedom of Information Act 1982 for the disclosure of information concerning the Merri-bek City Council's discussions and actions on several key matters. Specifically, I am seeking access to:*

- 1. All correspondence, including emails, letters, and memoranda, exchanged between executives and councillors discussing the Gaza crisis.*
- 2. Records of meetings, minutes, or reports related to discussions and decisions made by the council regarding the Gaza crisis.*
- 3. All instances of antisemitic comments made by staff, executives, councillors, and residents, with details of the comments and actions taken by the council in response.*
- 4. Correspondence, including extracts from secure chat applications such as WhatsApp, between councillors, the CEO, and executives concerning the Gaza crisis.*
- 5. All correspondence, including emails, letters, and memoranda, discussing the decision to raise the Palestinian flag.*
- 6. Records of meetings, minutes, or reports related to the decision-making process and discussions leading to the raising of the Palestinian flag.*
- 7. Any communication between executives, councillors, and staff regarding the logistics, public response, and any associated costs of raising the Palestinian flag.*
- 8. Documents outlining the council's official stance, policies, or guidelines related to the display of flags, specifically the Palestinian flag.*

**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>		

9. All correspondence, including emails, letters, and memoranda, discussing the council's support for Hamas.
10. Records of meetings, minutes, or reports related to discussions and decisions made by the council regarding support for Hamas.
11. Any documentation outlining the council's stance or policies on supporting organisations, specifically Hamas.
12. 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.
13. All financial records related to security measures for the protection of staff and councillors who voted against the raising of the Palestinian flag.
14. Financials and time allocations related to the council's support for Hamas, including expenses covered by ratepayers.
15. Records of discussions or decisions made concerning Jewish residents and businesses in the municipality, including any financial implications.

You also stated the following:

*I understand that certain information may be sensitive or confidential, and I request that any redactions be clearly justified in accordance with the relevant provisions of the Freedom of Information Act. If possible, please provide the information in electronic format.*

*I appreciate your attention to this matter and look forward to a timely response within the statutory timeframe stipulated by the Freedom of Information Act. Should there be any fees associated with processing this request, please inform me in advance.*

### ***Clarification required***

I have examined the terms of your request and have determined that I require clarification to process your application. Section 17(2) of the Freedom of Information Act 1982 (VIC) (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. A specific date range is needed for your request
2. Council's understanding of your term 'executive' (point 1) needs to be confirmed
3. Further information is needed for point 12 to identify the documents you are seeking

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

1. A specific date range is needed for your request

A specific date range, including a start date and a finish date is needed for your request. My understanding of the start date range is 7 October 2023, when the current conflict in Gaza started. My understanding of the end date is 18 November 2023, when you submitted your request.

**Would you please confirm if my understanding of the specific date range of 7 October 2023 to 18 November 2023 is correct?**

2. Council's understanding of your term 'executive' (point 1) needs to be confirmed

I refer you to Council's website for the CEO and Executive Team, via the following link: [CEO and executive team \(merri-bek.vic.gov.au\)](https://www.merri-bek.vic.gov.au/ceo-and-executive-team)

My understanding of your term 'executive' is Cathy Henderson, CEO of Merri-bek Council, and the Directors of the 4 branches of Council who report directly to the CEO

**Would you please confirm if my understanding is correct?**

3. Further information is needed for point 12 to identify the documents you are seeking

For a request to be valid under Section 17 of the FOI Act, it must clearly identify the documents you are seeking. 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?**

***Further Information – No documents exist for points 9-11 and 14.***

I note you are seeking documents for Council's support of Hamas, or for supporting organisations, specifically Hamas for point 14. You have requested correspondence, emails, meeting minutes, policies, etc.

I have taken 'support' to mean any financial, material, practical or promotional assistance that uses the resources of Council or its Officers.

**Council does not support Hamas in anyway; therefore, no documents exist for points 9-11 and 14 for your request.**

***Information is available outside of the FOI Act for point 8***

In the interests of transparency, Council has published information on its website regarding Council's official policy relating to the display of flags. The Civic Flag Policy and the Civic Flag Policy 2020 – Community Flag Schedule are available via the following link: <https://www.merri-bek.vic.gov.au/my-council/strategies-policies-and-collected-data/policies-and-strategies/>

**Would you please advise me if this information satisfies point 8 of your request?**

*Information is available outside of the FOI Act for point 15*

Council is committed to providing public access to its information outside of the FOI Act. Council has published information on its website regarding its position on business with companies who manufacture, distribute or benefit from weapons used in war. This information has been approved for public release.

This information may provide you with the information you are seeking outside of the FOI Act, and can be accessed via the following link: <https://www.merri-bek.vic.gov.au/my-council/news-and-publications/news/council-makes-further-decisions-about-its-position-on-the-war-in-gaza/>

Would you please advise me if this information satisfies point 15 of your request?

*Information already provided outside of the FOI Act for points 2, 6 and 8*

I note that information has already been provided to you proactively outside of the FOI Act for points 2, 6 and 8. Further information has also been provided to you in this letter for point 8.

Would you please inform me if points 2, 6 and 8 of your request have been resolved?

**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.

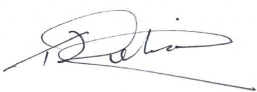
Please note that if you:

- 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. Please email us at [foi@merri-bek.vic.gov.au](mailto:foi@merri-bek.vic.gov.au) and quote F-583 by **Monday 20 May 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



Troy Delia  
FOI Officer

29 April 2024