

**GREATER SHEPPARTON CITY COUNCIL**

# **FREEDOM OF INFORMATION POLICY**

Adopted by Council: xx xxxxx 2021

Next Review: April 2025



**Freedom of Information Policy**

<b>Code:</b>	37.POL11
<b>Version:</b>	1.1
<b>Business Unit:</b>	Governance
<b>Responsible Officer:</b>	Manager Corporate Governance
<b>Approved By:</b>	Chief Executive Officer
<b>Adopted By:</b>	Council on xx xxxxx 2021
<b>Next Review:</b>	April 2025

**DOCUMENT REVISIONS**

<b>Version #</b>	<b>Summary of Changes</b>	<b>Date Adopted</b>
<b>1</b>	<b>Policy first adopted.</b>	<b>21 June 2016</b>
<b>1.1</b>	<b>Minor updates to wording and minor revisions in light of legislative updates and introduction of professional standards.</b>	<b>xx xxxx 2021</b>

## PURPOSE

This policy sets processes to be followed when Council receives a request for documents under the *Freedom of Information Act 1982 (Vic)* (Act). It also contains information for members of public.

## OBJECTIVE

Council is an 'agency' for the purposes of the Act and is responsible for processing all freedom of information (FOI) requests in accordance with the Act. Processes in this policy have been developed to meet the requirements set out in the Act.

This policy may assist members of the public to make an FOI request to Council or to obtain a greater understanding of how Council will handle an FOI request.

## SCOPE

This policy applies to all staff, Councillors, contractors and volunteers of Council. Such persons acting on Council's behalf are expected to comply with this policy and are required to provide assistance to Council officers that process FOI requests.

## DEFINITIONS

Reference term	Definition
Act	The <i>Freedom of Information Act 1982 (Vic)</i> .
Agency	A department, council or a prescribed authority.
Applicant	A person who has made a request in accordance with the Act.
Document	As defined under the Act, includes a map, graph, drawing, photograph, label or other attachment, disc, tape, sound track, or film, as well as a document that has been hand written or typed. Information held on computer disk or in a database fits the definition of a document. This includes any copies, reproductions or duplications and any words, figures, letters or symbols which are capable of carrying a definite meaning to persons conversant with them.
FOI	Freedom of information.
FOI Officer	Refers to officers authorised by the Chief Executive Officer to make decisions in relation to requests received by Council.
Principal Officer	Council's Chief Executive Officer.

## POLICY

### 1. Publications available outside of FOI

#### Publications

Council publishes a number of newsletters, brochures and guides for residents, businesses and visitors.

For copies of any of these documents please email us at [council@shepparton.vic.gov.au](mailto:council@shepparton.vic.gov.au)

Full copies of Council Meeting Agendas or Minutes of Meeting can be found at <http://greatershepparton.com.au/council/governance/council-meetings/minutes-agendas>

### Studies, Strategies, Masterplans and Reports

Council often has several key strategic planning projects underway at any one time.

These range from consideration of proposed large scale developments to policy reviews and the development of planning guidelines.

To view copies of the strategies online, please refer to our website at <http://greaterShepparton.com.au/bpi/planning/strategic-planning/strategic-strategies-and-reports>

### Building Permits, Notices & Orders

Customers may inspect three public registers maintained by the Building Planning and Compliance Department. The first register captures all building permits and the second register records all occupancy permits. The third register contains all building notices and building orders issued. These public registers may be inspected free of charge at the Council Office located at 90 Welsford Street, Shepparton or by contacting the Building Planning and Compliance Department on (03) 5832 9730.

### Planning Applications & Permits

Customers may inspect a register containing advertised planning applications or track the progress of a planning application at: [www.greaterShepparton.com.au/bpi/planning](http://www.greaterShepparton.com.au/bpi/planning)

Customers can inspect all documents on an \*Open Planning File by contacting the Building, Planning and Compliance Department on (03) 5832 9730.

\*Open Planning File - A file is considered open:

- 60 days after issuing or refusing a permit;
- until the planning application is withdrawn; or
- until the matter is subject to review at the Victorian Civil and Administrative Tribunal (VCAT) or a decision is made by VCAT.

Once a planning file is closed, only the following documents from a planning file are freely available:

- permit or refusal
- signed delegate or Council report;
- VCAT decision
- planner's submission to VCAT; and
- Endorsed plans.

In addition to the above, Council may make other documents available to members of the public in accordance with its Public Transparency Policy or the Act.

## **2. Requests for Documents**

It is recommended that applicants contact Council's FOI Officer prior to submitting an FOI request.

FOI requests must be made in writing and lodged with Council, accompanied by the applicable application fee or an application to waive the fee (see 'Applicable Fees and Charges' below).

The Act requires applicants to state their request terms clearly enough for the relevant documents to be identified. If a request is not sufficiently clear, Council will assist the applicant to clarify their request to enable it to be processed. An FOI request will only be processed by Council once it is valid.

Once a valid FOI request is made, Council will conduct a thorough and diligent search, with the process of the search and the outcomes recorded. All correspondence and communications with the applicant will be managed by the FOI Officer.

### **3. Applicable Fees and Charges**

The charges applicable for processing an FOI request are fixed in accordance with regulations made under the Act.

#### Application fee

The application fee for making an FOI request is set by the Act and is reviewed annually in July each year. The fee will be listed on Council's website.

Payment of the application fee will be accepted by cash, eftpos, cheque, money order or other methods approved by Council. In accordance with section 17(2B) of the Act, an applicant may request that the application fee is reduced or waived. With any application for Council to reduce or waive the application fee, an applicant must also provide Council with evidence of hardship such as a copy of their current concession card.

#### Access charges

Section 22 of the Act and the *Freedom of Information (Access Charges) Regulations 2014* (Vic) set out the charges that can be levied for the provision of documents. The key charges are available on Council's website or upon request by contacting the FOI Officer.

### **4. Access to documents**

Applicants have the right to request access to any document which is in the possession of Council, but access is subject to any applicable exemptions under the Act.

The Act allows for requested documents to be withheld where they are considered to be exempt from disclosure. The FOI Officer will consider, subject to the provisions of the Act, whether each document within the scope of the FOI request is exempt and decide whether it should be released in full, released with exempt material redacted (released in part), or withheld.

Council may be required to consult with third parties prior to making a decision concerning the release of relevant documents. Third parties may also need to be notified of a decision to release documents and their review rights.

Where it is proposed to release documents containing the personal or business information of a third party, Council may not provide the FOI applicant with a copy of the documents until the review period of 60 days has elapsed. Sometimes this can be avoided if the third party consents to release or an applicant advises Council that this information is not being sought.

If a requested document does not exist, has been destroyed, or cannot be found, despite a thorough and diligent search, this will be communicated to the applicant in the decision letter.

## 5. Access to documents

A document can be regarded as exempt if (among other things):

- it is an internal "deliberative process" type document and its release would be contrary to the public interest (exempt under section 30 of the Act);
- it would be privileged from production in legal proceedings on the ground of legal professional privilege (exempt under section 32 of the Act);
- it concerns the personal affairs of a person other than the applicant where disclosure would be unreasonable in the circumstances (exempt under section 33 of the Act);
- it is information communicated in confidence to Council (exempt under section 35 of the Act); or
- its release would disadvantage Council or another organisation commercially (exempt under section 34 of the Act).

## 6. Decision letter

Council will provide an applicant with a notice of decision in relation to each request. If the FOI Officer decides not to release a document or part of a document, or decides that access should be deferred or that no documents exist, the applicant will be advised of the findings on material facts, the reasons for the decision, the name and designation of the FOI Officer and details of the applicant's review rights.

## 7. Victorian Information Commissioner

Where an applicant is dissatisfied with the FOI Officer's decision not to release all or part of a requested document, the applicant has 28 days from receipt of the notice of decision to lodge a request for a review. The review is conducted by the Office of the Victorian Information Commissioner.

If the document does not exist or cannot be found after a thorough and diligent search, or if the response to an FOI request has been delayed, the applicant has the right to complain to the Victorian Information Commissioner. A complaint must be made within 60 days of the action or conduct occurring.

## 8. Review by the Victorian Civil and Administrative Tribunal

If a decision is made to disclose a document that contains the personal or business information of a third party, the third party may have 60 days from the date of receiving notice of Council's decision to apply to VCAT for a review. An applicant's access to the documents will be deferred until the expiry of that review period, or if a review is sought, until VCAT makes a decision in relation to the matter.

Decisions of the Victorian Information Commissioner can be appealed to VCAT.

## 9. Amendment of Personal Records

Under section 39 of the Act, an individual or, in the case of a deceased person, the next-of-kin, is entitled to request in writing the correction or amendment of any information pertaining to the individual's own personal affairs that has been previously released to that person.

A request for amendment of personal records must be made in writing in accordance with section 40 of the Act.

## RELATED POLICIES AND DIRECTIVES

- Information and Records Management Policy 49.POL1
- Privacy Policy 37.POL12
- Public Transparency Policy 37.POL16

## RELATED LEGISLATION

- *Freedom of Information Act 1982*
- *Freedom of Information (Access Charges) Regulations 2014*
- *Health Records Act 2001*
- *Local Government Act 2020*
- *Public Records Act 1973*
- *Privacy and Data Protection Act 2014*

## REVIEW

This Policy will be reviewed by the Manager Corporate Governance in conjunction with the Executive Leadership Team. Reviews will take place within six months of each general election, however additional reviews may be undertaken as required.

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**Peter Harriott**  
**Chief Executive Officer**

**Date**