



FREEDOM OF INFORMATION

What is Freedom of Information (FOI)?

Since 1982 Victoria has had an Act of Parliament called the *Freedom of Information Act*. It gives people a right to obtain information held by Ministers, state government departments, local councils, most semi-government agencies and statutory authorities, public hospitals and community health centres, universities, TAFE colleges and schools.

The *Freedom of Information Act* not only gives people the right to request documents relating to their personal affairs but people can also request information about any of the activities of a government agency.

The Act also gives an individual the right to request that incorrect or misleading information held by an agency about that individual be amended or removed. The term 'agency' is used throughout the *Freedom of Information Act* but for the purposes of this document the term Council is used to mean Colac Otway Shire.

What type of information is available?

You have the right to apply for access to documents which are held by a Council covered by the *Freedom of Information Act*. This applies to both documents created by the Council as well as those supplied to the Council by an external organization or individual. The type of documents which you can apply for access to are:

- those relating to your own personal affairs, regardless of the age of the documents; and
- documents held by Council which are not older than 1 January 1989.

It is not only documents in paper form that are accessible. The term 'document' covers a broad range of media including maps, films, microfiche, photographs, computer printouts, tape recordings and video tapes and electronic media. You may apply to the Council for a copy of the document or you may request

access to the document.

Is there any information held by the Council not available?

Not all information is automatically made available in response to a request for it.

The *Freedom of Information Act* sets out a number of situations in which a Council may refuse a person access to the documents he or she has requested. The main situations are requests for documents which affect the personal affairs of another person; which are commercially confidential; which would undermine law enforcement; or which contain information supplied in confidence. 'Personal Affairs' also includes the name and/or address of somebody who is not the applicant. For example, where an applicant may wish to know the name and address of a complainant, this may be considered to be exempt material under section 33 of the Act.

Who makes the Decision?

The initial decision on any request is made by the Council's Freedom of Information Officer. If you do not agree with the decision made by that officer, a request can be made to the Freedom of Information Commissioner to have that decision reviewed.

How long does it take?

Once the council has received your application for access to documents it holds and the fee is paid (or waived), it must respond in writing within 45 days outlining its decision. If the Council refuses you access to the documents you sought, you can appeal to the Freedom of Information Commissioner for review but you must do this within 28 days of the date of the letter sent to you.

The Freedom of Information Commissioner contact details are:

Phone: 1300 842 364

Web: www.foicommisioner.vic.gov.au

Mail: PO Box 24274, Melbourne Vic 3001

CUSTOMER SERVICE OFFICES

2-6 RAE STREET COLAC OR 69 NELSON STREET APOLLO BAY

PO BOX 283 COLAC

PH: (03) 5232 9400

How do I request information from the Colac Otway Shire Council?

These are the steps you need to take:

Before lodging your request, it is recommended you contact Council's FOI Officer on 03 5232 9416 and discuss what you are asking for.

Some information is available for public inspection and can be supplied without the need for an FOI request. A list of the types of documents available for public inspection are listed on Council's website. An example of the types of information that do not require an FOI application include:

- Council Minutes and Agendas
- Councillor Allowances
- Senior officers remuneration by range
- Conflict of interest
- Council leases
- Planning and building permits
- Planning Scheme amendments
- Occupancy and temporary permits
- Dog and cat registrations

If an FOI request is required, Council's application form can be posted, faxed or emailed to you.

The application must be made in writing to allow staff time to process your application, as what you are asking for may not be readily available. For this reason, you cannot contact Council and expect to see documents immediately. You must send or deliver an application and wait for Council to write back to you. Your application should state very clearly the specific information that you are requesting.

Some of the material you are asking for may require considerable research, or may be held at a location other than the Colac Otway Shire Council Office. This is why it is necessary that you are very specific to assemble it all. For example, if you ask for A and B and this is found, then you realize you meant to ask for C and D, it will be necessary to start with a new application. Careful consideration needs to be given at the start to ensure that the application you are lodging covers everything that you require.

After completing the form or letter, send it (with the \$27.90 fee) to the Freedom of Information Officer, Colac Otway Shire, PO Box 283 Colac 3250 or deliver to the Customer Service Centre in Colac or Apollo Bay.

CHARGES

There is a fee of \$27.90 for the FOI application and this must be enclosed with your request form. If the money is not received with the application, the FOI Officer will contact you for the payment and the 45 day period will not commence until both the money and application are received.

There is a provision in the Act for waiver of the fee on the grounds of hardship and using this provision, sighting of a Commonwealth Pension or Commonwealth Health Card would be necessary.

The Act also provides that Council may charge \$20 per hour for 'search time' taken to locate the documents, as some requests involve a considerable amount of material, particularly where some of the documents go back to 1989 as these are not held within the office and must be retrieved from off-site storage.

If it is estimated that the search time will exceed \$50, you will be contacted and a deposit may be required. Once payment of the deposit is received the 45 day response period will commence.

Photocopying of documents costs 20c per A4 copy. Other documents (such as large maps, photographs etc) will be charged at cost. Copies of plans may not be able to be provided due to copyright restrictions.

Inspection time is charged at \$5 per quarter hour or part thereof. Applicants may inspect original documents under supervision of Council staff.

These charges are another reason why applicants should think carefully before completing the form to specify just what they are asking for, particularly with regard to timeframes. This prevents charges being incurred for search time and photocopying of documents, particularly old documents which may not be of interest, but because of the wording of the request have been located, copied and charged for.