



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923
Reference: 25/0200695

Dear [REDACTED]

Decision on Freedom of Information Access Application 25/0200695

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act) received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 19 May 2025.

Specifically, you are seeking:

"...Minister Steel's direction to the Heritage Council under s39 of the Heritage Act 2004 in relation to the provisional registration of the Early Kingston Shops and the ministerial brief and consultation report provided to the Minister prior to that direction..."

I am an Information Officer appointed under section 18 of the Act to deal with access applications made under Part 5 of the Act.

In accordance with section 40 of the Act, a decision on your access application must be made on or by 2 July 2025.

Searches Conducted

Comprehensive searches were conducted and nine documents containing information within the scope of your application were identified.

Decision on Access

I have included as **Attachment A** to this decision the schedule of relevant documents. The schedule provides a description of each document that falls within the scope of your application and the access decision for each of those documents.

I have decided to grant full access to one document relevant to your application.

I have refused access to eight documents.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as **Attachment B** to this letter.

Material Considered

In reaching my access decision, I have taken the following into account:

- the FOI Act, particularly sections 6, 17 and Schedule 2
- the content of the documents that fall within the scope of your request

Public Interest Considerations

My reasons for deciding not to grant access to certain documents are as follows:

Information Disclosure – Schedule 2 of the Act

The Act recognises the right of every person to obtain access, under its provisions, to government information (see section 7, the Act). As an Information Officer, I am required to allow access to information subject to the Act, unless, on balance, disclosure would be contrary to the public interest.

In assessing the public interest, I must apply the test outlined under section 17 of the Act which requires consideration of factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered cumulatively.

Factors Favouring Disclosure

In applying the public interest test, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2, 2.1(a)(i) – promote open discussion of public affairs and enhance the government’s accountability.
- Schedule 2, 2.1(a)(ii) – contribute to positive and informed debate on important issues or matters of public interest.
- Schedule 2, 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

Factors favouring Nondisclosure

In applying the public interest test, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2, 2.2(a)(xvi) – prejudice a deliberative process of government.

Deliberative Process of Government

The provisional registration of the Early Kingston Shops was extended from 27 May to 27 August 2025. This was an automatic three-month extension following the Minister for Heritage, Chris Steel MLA, directing the Heritage Council to undertake further consideration of the provisional registration.

Under the *Heritage Act 2004* (Heritage Act) once the Council provides the Minister with a report on the outcomes of public consultation, the Minister can direct the Council to further consider matters arising from the report, or issues relating to Council’s functions under the Heritage Act.

The Council will make a final registration decision before 27 August 2025. Documents identified in scope of your application are part of this ongoing decision-making process by the Council. These documents contain information relating to the current considerations of this deliberative process.

I have deliberated on how the release of this information would reveal reasons for government decisions and how principles of transparency and accountability would be served. Certain matters raised within these documents are currently under consideration by the Council.

I have decided, that as this information is subject to an active deliberative process and was prepared or communicated in the course of evaluating matters relating to the Council the premature release of this information may impede the effective completion, and prejudice the integrity, of these activities.

The deliberative process may also be prejudiced under section Schedule 2.2(a)(xvi) of the Act, by the release of these documents at this point in times it may cause undue disruption and reallocation of resources to deal with further public pressure.

Charges

In accordance with the *Freedom of Information (Fees) Determination 2018* no charges are applicable to this application, the number of pages to be released is below the minimum 50 page threshold.

Online Publication

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your original access application, this decision and documents released will be published in the EPSDD disclosure log no earlier than three days after you receive this decision. Your personal contact details will not be published.

You may view the EPSDD disclosure log at

<https://www.environment.act.gov.au/about-us/access-government-information/disclosure-log>

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in the disclosure log, or a longer period allowed by the Ombudsman.

For more information and the application form for Ombudsman review, please visit:

<https://www.ombudsman.act.gov.au/accountability-and-oversight/freedom-of-information/foi-complaints-and-reviews>

Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman

GPO Box 442

CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal

15 Constitution Avenue

GPO Box 370

CANBERRA CITY ACT 2601


Telephone: (02) 6207 1740

<http://www.acat.act.gov.au/>

Further Information

If you have any queries concerning the Agency's processing of your request, or would like further information, please email EPSDFOI@act.gov.au or call (02) 6207 1923 and ask for the EPSDD Information Governance team.

Yours sincerely


Bren Burkevics

Information Officer

Executive Group Manager, Environment, Heritage and Parks

27 June 2025