



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 18/01178

Dear [REDACTED]

Freedom of information request: Housing and Homelessness Summit - Photographs

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 15 January 2018 (the Request).

The Request sought access to documents relating to the Housing and Homelessness Summit (the Summit) of 17 October 2017, specifically:

“any notes or documents, including photographs of the whiteboards and full transcripts of them (excluding correspondence or any document that is Cabinet in Confidence) prepared by PWC, the Directorate or Minister Berry’s office in relation to the Housing & Homelessness Summit”

I understand that initial searches identified a large volume of material that appeared to fall within the scope of the Request and that in telephone discussions on 12 February 2018, your Office agreed that the Request be processed in two parts as follows:

- **Part 1:** photographs of whiteboards taken at the summit, and
- **Part 2:** all remaining documents within scope.

On 13 February 2018 your Office confirmed your agreement to an extension of time to determine Part 1 of the Request until 20 February 2018.

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

Decision on access

As outlined above, this decision relates to Part 1 of the Request only.

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

- Act
- content of the documents that fall within the scope of your request, and
- *Information Privacy Act 2014*.

I have identified five documents that fall within the scope of Part 1 of the Request as set out in the schedule of documents at [Attachment A](#).

In relation to those documents, it is my decision to:

- grant unconditional access to three documents (reference numbers 2, 3 and 5) under section 48 of the Act, and
- grant partial access to two documents (reference numbers 1 and 4) under section 50 of the Act, with deletions applied to information that I consider would be contrary to the public interest to disclose.

I am satisfied that any photographs of Summit attendees or participants engaging in discussions and workshops are beyond the scope of Part 1 of the Request.

My access decisions are detailed further in the following statement of reasons and as outlined in the schedule of documents at [Attachment A](#). The documents released to you are enclosed with this letter.

Partial access – documents 1 and 4

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 (see section 17, the Act).

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

In relation to the documents identified as falling within the scope of Part 1 of the Request, section 17 applies as follows.

Firstly, I am unable to identify any factors favouring disclosure of the deleted information, in accordance with schedule 2, section 2.1 of the Act.

I have considered the nature of information provided through the YourSay webpage site dedicated to the ACT Government Housing Strategy and the forums which it provided for open discussion, government accountability, informed debate and the provision of contextual or background information. I also note that further information on the outcomes of the Summit have been released by the Government.

I am not satisfied that disclosure of the deleted information could reasonably be expected to further advance these matters as it is limited to the personal information of specific Summit participants.

Further, there is no information before me that the Summit participants were advised that their individual participation would be disclosed or used for broader communication purposes. There is no evidence of any agreement to such use or disclosure.

I am therefore satisfied that disclosure of the personal information of individual Summit participants could reasonably be expected to prejudice the protection of an individual's

right to privacy under the *Human Rights Act 2004*. This is a factor favouring nondisclosure under Schedule 2.2 (ii).

In balancing these matters I am satisfied that, on the information available, disclosure of the personal information of individual Summit participants would be contrary to the public interest.

In reaching this view, I also note the operation of Schedule 1 of the Act which deems specific categories of information as contrary to the public interest to disclose. These provisions apply unless the information identifies corruption or the commission of an offence by a public official or that the scope of a law enforcement investigation has exceeded the limits imposed by the law. Where Schedule 1 applies, the balancing process required by section 17 of the Act is displaced and does not apply.

Section 1.4 of Schedule 1 specifically exempts from release information that if disclosed would unreasonably disclose sensitive information about any individual. For these purposes 'sensitive information' is defined by the *Information Privacy Act 2014* and relevantly includes personal information that is about an individual's political opinions (ss 14 (a)(ii)) or philosophical beliefs (ss 14 (a)(v)).

The information identified for deletion falls within the meaning of personal information about individual Summit participants and I am satisfied that when considered collectively with the information released, would involve the unreasonable disclosure of sensitive information.

Having reached that view, I consider that section 1.4 of Schedule 1 to the Act applies to deem release of this information contrary to the public interest.

Accordingly, documents 1 and 4 identified in the schedule of documents at Attachment A are released in part under section 50 of the Act with material deleted that would be contrary to the public interest to release.

Online publishing – disclosure log

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the disclosure log from three days after the date of my decision. Your personal contact details will not be published.

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.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: ombudsman@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
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601

Telephone: (02) 6207 1740

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

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact EPSDFOI@act.gov.au or call 6207 1923 and ask for the Information Management Team.

Yours sincerely



Carolyn O'Neill
Information Officer
Environment, Planning and Sustainable Development Directorate

19 February 2018