IN THE CIVIL AND ADMINISTRATIVE TRIBUNAL
Administrative and Equal Opportunity Division

File Number: 1510239

Tom Lonsdale
Applicant

AND

The University of Sydney
Respondent

APPLICANT'S ANNEXURES: SUMMARY AND RELEVANCE

1.) 2 September 2015 Directions Hearing concluded that the University of Sydney's three *possible* grounds for refusing access to the documents sought under the *Government Information Public Access Act* (GIPA) are:

a.) Legal Professional Privilege
b.) Commercial in confidence provisions
c.) Disclosure could found a breach of confidence action

2.) The Directions Hearing observed that the University of Sydney is presumed to be a 'Model Litigant' and thus bound by the NSW Government Model Litigant Policy for Civil Litigation.

3.) I was asked to summarise and indicate relevance of the Annexures L4 to L22 in Affidavit lodged 14 August 2015.

4.) I submit that the Annexures whether taken individually or collectively and or in conjunction with my 14 August 2015 Submission and Affidavit and 28 August 2015 Submission provide a true context in which to view the relevance and validity or lack thereof of the Respondent's Submissions.

5.) I submit that the Annexures whether taken individually or collectively and or in conjunction with my 14 August 2015 Submission and Affidavit and 28 August 2015 Submission provide accurate specific rebuttals and refutations of the Respondent's Submissions and Affidavits.

6.) In respect to items 4.) and 5.) whilst primarily being considered under GIPA, there are several other NSW and Federal Statutes and Regulations that apply.

7.) For purposes of this Submission, but without limitation as to relevance of other legislation or regulation, I refer to the various clauses of:

The *Government Information (Public Access) Act 2009* (GIPA Act)

12 Public interest considerations in favour of disclosure

(1) There is a general public interest in favour of the disclosure of government information.

(2) Nothing in this Act limits any other public interest considerations in favour of the disclosure of government information that may be taken into account for the purpose of determining whether there is an overriding public interest against disclosure of government information.

Note. The following are examples of public interest considerations in favour of disclosure of information:

(a) Disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance.

(b) Disclosure of the information could reasonably be expected to inform the public about the operations of agencies and, in particular, their policies and practices for dealing with members of the public.

(c) Disclosure of the information could reasonably be expected to ensure effective oversight of the expenditure of public funds.

(d) The information is personal information of the person to whom it is to be disclosed.

(e) Disclosure of the information could reasonably be expected to reveal or substantiate that an agency (or a member of an agency) has engaged in misconduct or negligent, improper or unlawful conduct.

And

Administrative Decisions (Judicial Review) Act 1977 (ADR)

4 Act to operate notwithstanding anything in existing laws

This Act has effect notwithstanding anything contained in any law in force at the commencement of this Act.

5 Applications for review of decisions

(1) A person who is aggrieved by a decision to which this Act applies that is made after the commencement of this Act may apply to the Federal

Court or the Federal Circuit Court for an order of review in respect of the decision on any one or more of the following grounds:

(a) that a breach of the rules of natural justice occurred in connection with the making of the decision;

(b) that procedures that were required by law to be observed in connection with the making of the decision were not observed;

(c) that the person who purported to make the decision did not have jurisdiction to make the decision;

(d) that the decision was not authorized by the enactment in pursuance of which it was purported to be made;

(e) that the making of the decision was an improper exercise of the power conferred by the enactment in pursuance of which it was purported to be made;

(f) that the decision involved an error of law, whether or not the error appears on the record of the decision;

(g) that the decision was induced or affected by fraud;

(h) that there was no evidence or other material to justify the making of the decision;

(j) that the decision was otherwise contrary to law.

(2) The reference in paragraph (1)(e) to an improper exercise of a power shall be construed as including a reference to:

(a) taking an irrelevant consideration into account in the exercise of a power;

(b) failing to take a relevant consideration into account in the exercise of a power;

(c) an exercise of a power for a purpose other than a purpose for which the power is conferred;

(d) an exercise of a discretionary power in bad faith;

(e) an exercise of a personal discretionary power at the direction or behest of another person;

(f) an exercise of a discretionary power in accordance with a rule or policy without regard to the merits of the particular case;

(g) an exercise of a power that is so unreasonable that no reasonable person could have so exercised the power;

(h) an exercise of a power in such a way that the result of the exercise of the power is uncertain; and

(j) any other exercise of a power in a way that constitutes abuse of the power.

(3) The ground specified in paragraph (1)(h) shall not be taken to be made out unless:

(a) the person who made the decision was required by law to reach that decision only if a particular matter was established, and there was no evidence or other material (including facts of which he or she

was entitled to take notice) from which he or she could reasonably be satisfied that the matter was established; or

(b) the person who made the decision based the decision on the existence of a particular fact, and that fact did not exist.

6 Applications for review of conduct related to making of decisions

(1) Where a person has engaged, is engaging, or proposes to engage, in conduct for the purpose of making a decision to which this Act applies, a person who is aggrieved by the conduct may apply to the Federal Court or the Federal Circuit Court for an order of review in respect of the conduct on any one or more of the following grounds:

(a) that a breach of the rules of natural justice has occurred, is occurring, or is likely to occur, in connection with the conduct;

(b) that procedures that are required by law to be observed in respect of the conduct have not been, are not being, or are likely not to be, observed;

(c) that the person who has engaged, is engaging, or proposes to engage, in the conduct does not have jurisdiction to make the proposed decision;

(d) that the enactment in pursuance of which the decision is proposed to be made does not authorize the making of the proposed decision;

(e) that the making of the proposed decision would be an improper exercise of the power conferred by the enactment in pursuance of which the decision is proposed to be made;

(f) that an error of law had been, is being, or is likely to be, committed in the course of the conduct or is likely to be committed in the making of the proposed decision;

(g) that fraud has taken place, is taking place, or is likely to take place, in the course of the conduct;

(h) that there is no evidence or other material to justify the making of the proposed decision;

(j) that the making of the proposed decision would be otherwise contrary to law.

(2) The reference in paragraph (1)(e) to an improper exercise of a power shall be construed as including a reference to:

(a) taking an irrelevant consideration into account in the exercise of a power;

(b) failing to take a relevant consideration into account in the exercise of a power;

(c) an exercise of a power for a purpose other than a purpose for which the power is conferred;

(d) an exercise of a discretionary power in bad faith;

(e) an exercise of a personal discretionary power at the direction or behest of another person;

(f) an exercise of a discretionary power in accordance with a rule or policy without regard to the merits of the particular case;

(g) an exercise of a power that is so unreasonable that no reasonable person could have so exercised the power;

(h) an exercise of a power in such a way that the result of the exercise of the power is uncertain; and

(j) any other exercise of a power in a way that constitutes abuse of the power.

(3) The ground specified in paragraph (1)(h) shall not be taken to be made out unless:

(a) the person who proposes to make the decision is required by law to reach that decision only if a particular matter is established, and there is no evidence or other material (including facts of which he or she is entitled to take notice) from which he or she can reasonably be satisfied that the matter is established; or

(b) the person proposes to make the decision on the basis of the existence of a particular fact, and that fact does not exist.

And

Model Litigant Policy for Civil Litigation

Introduction

1.1 This Policy has been endorsed by Cabinet to assist in maintaining proper standards in litigation and the provision of legal services in NSW. This Policy is a statement of principles. It is intended to reflect the existing law and is not intended to amend the law or impose additional legal or professional obligations upon legal practitioners or other individuals.

1.2 This Policy applies to civil claims and civil litigation (referred to in this Policy as litigation), involving the State or its agencies including litigation before courts, tribunals, inquiries and in arbitration and other alternative dispute resolution processes.

1.3 Ensuring compliance with this Policy is primarily the responsibility of the Chief Executive Officer of each individual agency in consultation with the agency's principal legal officer. In addition, lawyers, whether in-house or private, are to be made aware of this Policy and its obligations.

1.4 Issues relating to compliance or non-compliance with this Policy are to be referred to the Chief Executive Officer of the agency concerned.

1.5 The Chief Executive Officer of each agency may issue guidelines relating to the interpretation and implementation of this Policy.

1.6 This Policy supplements but does not replace existing Premier's Memoranda relating to Government litigation, in particular Premier's Memoranda nos. 94-25, 97-26, and 95-39.

The obligation

2. The State and its agencies must act as a model litigant in the conduct of litigation.

Nature of the obligation

3.1 The obligation to act as a model litigant requires more than merely acting honestly and in accordance with the law and court rules. It also goes beyond the requirement for lawyers to act in accordance with their ethical obligations. Essentially it requires that the State and its agencies act with complete propriety, fairly and in accordance with the highest professional standards.

3.2 The obligation requires that the State and its agencies, act honestly and fairly in handling claims and litigation by:

a) dealing with claims promptly and not causing unnecessary delay in the handling of claims and litigation;

b) paying legitimate claims without litigation, including making partial settlements of claims or interim payments, where it is clear that liability is at least as much as the amount to be paid;

c) acting consistently in the handling of claims and litigation;

d) endeavouring to avoid litigation, wherever possible. In particular regard should be had to Premier's Memorandum 94-25 Use of Alternative Dispute Resolution Services By Government Agencies and Premier's Memorandum 97-26 Litigation Involving Government agencies;

e) where it is not possible to avoid litigation, keeping the costs of litigation to a minimum, including by:

i) not requiring the other party to prove a matter which the State or an agency knows to be true; and

ii) not contesting liability if the State or an agency knows that the dispute is really about quantum;

f) not taking advantage of a claimant who lacks the resources to litigate a legitimate claim;

g) not relying on technical defences unless the interests of the State or an agency would be prejudiced by the failure to comply with a particular requirement and there has been compliance with Premier's Memorandum 97-26;

h) not undertaking and pursuing appeals unless the State or an agency believes that it has reasonable prospects for success or the appeal is otherwise justified in the public interest. The commencement of an appeal may be justified in the public interest where it is necessary to avoid prejudice to the interest of the State or an agency pending the receipt or proper consideration of legal advice, provided that a decision whether to continue the appeal is made as soon as practicable; and

i) apologising where the State or an agency is aware that it or its lawyers have acted wrongfully or improperly.

8.) **L1** Hill's 2013-2015 proposal for partnership

L2 Proposal for partnership with Royal Canin

L3 Murdoch, Hill's Sponsorship Agreement 1/1/13 to 31/12/15

The Respondent accepts 'there is an argument that it [L1, L2 and L3] is relevant' and consequently I make no further comment at this stage.

9.) L4 ***Raw Meaty Bones: Promote Health*** was first mentioned as a matter of relevance in the 13 July 2015 Sydney University Perks Affidavit and University Submission. The reference sought to mischaracterise the book and thus to mislead the Tribunal when in fact the book represents 389 pages of peer reviewed evidence that should be read in conjunction with the reviews and testimonials of three former Directors of the University of Sydney, Centre for Veterinary Education (Dr Tom Hungerford OBE, Dr Douglas Bryden AM and Dr Michelle Cotton) Mr Oliver Graham-Jones FRCVS and Associate Professor Richard Malik as indicated in 14 August 2015 Applicant's Affidavit 23 to 28.

10.) I submit that the entire book should be read by the University vets and their lawyers for as Dr Bryden says:

> Congratulations on the publishing of an important book which, if I may say, has some bite in it. Every graduate and undergraduate veterinarian should read the book for it has the potential to challenge the things they believe to be true, and gives them the wonderful opportunity to step back from themselves and to look more dispassionately and more deeply at the science they practise and to realise how important it is to listen carefully to others who may have a pearl of wisdom to share.

In many and various ways, the book shows the University and its teaching, and now its lawyers, to be part of a massive intellectual, scientific and financial fraud in breach of the GIPA Act, ADR Act and Model Litigant Policy.

11.) The University in its Submission 61 makes the outrageous slur that the Tribunal should question:

> the applicant's motives for making the access application. The University notes that the Applicant has a commercial interest in promoting a raw food diet for pets, and that he has published two books on the subject. Those books are available for purchase on the Internet, including on Amazon and eBooks: Perks [26] and OAP 9.

Pearls of wisdom, thus far, it seems have been wasted on the University administration, vets and lawyers. (see Matthew 7:6)

12.) In case the University, its administrators, vets and lawyers have not yet grasped the seriousness of the junk pet-food fraud and how they therefore, whether individually or collectively, are in breach of GIPA, ADR and Model Litigant Policy they should read *Raw Meaty Bones: Promote Health* as a key piece of evidence before the Tribunal.

13.) L5 *Work Wonders: Feed your dog raw meaty bones.* The book was first mentioned as a matter of relevance in the 13 July 2015 University Perks Affidavit and University Submission. The book is an 'easy reader' designed for quick lay access to the practical aspects of feeding pets and the devastating health, economic and environmental costs of the junk pet-food/veterinary alliance. I do not rely on this book in the NCAT Proceedings and the Respondent may accordingly choose not to read the book.

14.) L6 Oral Disease in Cats and Dogs. This annexure encapsulates the 1991 blowing of the whistle on the junk-pet food fraud and the mass poisoning of pets by vets. That despite the clear unmistakable implication that vets should not torture animals to death the University has treated such information with contempt. This document provides clear evidence as to how disclosure of ALL of the University's secret junk pet-food documents will assist the public in obtaining redress for ongoing malfeasance and failure of fiduciary responsibilities as per the various clauses of GIPA, ADR, Model Litigant Policy and other pieces of NSW and Federal Legislation.

15.) L7 Australian Veterinary Association (AVA) Newsletter as with L6 the Respondent should address the implications contained in this Annexure.

16.) L8 Pandemic of Periodontal Disease: A malodorous condition 1992 video presentation attended by Sydney University vets Drs David Church, Jill Maddison, Richard Malik and associated vets Drs Ralph Mueller, Sonya Bettenay and Rick Le Couteur. The Respondent should be aware that Associate Professor Richard Malik learnt from and responded appropriately to the information presented. The video represents further evidence as to why University secret deals with junk pet-food interests should be made public and hence shine a light into massive illegality.

However, given the length of the video and poor recording quality, I do not rely on the video as evidence in the Tribunal.

17.) L9 Preventative Dentistry. This 1993 Annexure was commissioned by Dr Douglas Bryden AM the Director of the Sydney University Post Graduate Committee in Veterinary Science, now called the Centre for Veterinary Education. The document contains essential information, including legal advice, for ALL vets. Of course the information contained therein is true and accurate and it must be assumed that Dr Bryden and the University published it as such. I intend to rely on this document at the forthcoming NCAT hearing as it calls into question several aspects of the University's secret deals that I believe should be made public under the provisions of the various pieces of legislation.

18.) L10 Professor Colin Harvey correspondence. Professor Harvey was at the pinnacle of vet dental science when he endorsed my views in 1993. I believe the University of Sydney needs to justify secret deals in direct conflict with the advice of Professor Harvey 22 years ago.

19.) L11 Diet and disease in companion animals. Associate Professor David Watson of the University of Sydney largely endorsed my views, even though utilising old misdirected evidence and influenced by a junk pet-food functionary. The University cannot honestly resile from the position adopted by its former employee.

20.) L12 Nomination for the College Prize of the Australian College of Veterinary Scientists. Associate Professor Richard Malik is a world renowned veterinary educator, scientist and thinker. The Respondent should either accept Professor Malik's recommendations or be prepared to say why he is wrong and why junk pet-food secret deals are right and should be kept secret.

21.) L13 Dr Douglas Bryden AM Director of Sydney University PGCVS (1987-2000) seconded the College Prize nomination. He wrote:

> Through his work as a veterinary practitioner Dr Lonsdale has identified a problem, researched the aetiology and the pathogenesis, introduced therapeutic and preventive procedures, and addressed, head on, what he saw to be a moral issue for the profession. In short he has changed a paradigm and guided his profession in a more thoughtful and proper course of action.

By contrast the University seeks to mislead and deceive the Tribunal with various ploys in a devious attempt to keep its junk pet-food deals secret. The University and its lawyers need to show cause or, by preference, meet their obligations under the Model Litigant Policy.

22.) L14 Correspondence with Dr Michael Spence Vice-Chancellor Sydney University, with the Senate and the Chancellor. In the absence of evidence to the contrary it appears that the Vice-Chancellor's Office intercepted and destroyed vital mail intended for the Fellows of

the Senate informing them of the junk pet-food fraud. As Principal Executive Officer Dr Spence has a *prima facie* case to answer. I intend to raise this matter at the NCAT Hearing.

23.) L15 correspondence with Professor Roseanne Taylor Dean of Vet Faculty. Professor Taylor's signature appears on several of the junk pet-food documents that the University refuses to disclose.

Professor Taylor should be prepared to justify to the Tribunal how her decisions benefit veterinary education, science and the wider public interest. If, as appears likely, she cannot justify her conduct then I believe she needs to make full disclosure of all of her decisions and make full unconditional apology for acting wrongly and improperly as per the provisions of the Model Litigant Policy.

24.) L16 Correspondence with Dr Hugh White, Director of the Centre for Veterinary Education. Dr White says the Centre for Veterinary Education need 'not act as conscience of the veterinary profession'. Knowingly, deliberately teaching false and harmful information and striking secret deals with the manufacturers of harmful junk products that maim and kill voiceless, defenceless animals appears to be acceptable to Dr White and the Centre for Veterinary Education. I believe he should front the Tribunal and justify his stance and the reasons he believes his deals should remain secret — or better that he admit and apologise for serial serious errors of judgement in accordance with the Model Litigant Policy.

25,) L17correspondence with Royal Canin a division of Mars Corporation the world's largest junk pet-food maker and sponsor of Sydney University secret deals. The Respondent and Mars need to show the Tribunal that the junk pet-food they promote and sell is suitable and safe for pet consumption by reference to objective trials. Inevitably they must fail and inevitably it's in the public interest that there should be full disclosure allowing the public to form a view as to the best course of action.

26.) L18 Correspondence with Hill's a division of Colgate-Palmolive and a prominent conspirator with the Respondent. The Respondent and Hill's need to justify their brainwashing of veterinary students, torturing of pets and fleecing of unsuspecting pet owners. If they can fabricate some sort of justification then maybe, just maybe the public deserve to be kept in the dark about the sinister junk pet-food deals. I intend to raise this matter in the Hearing.

27.) L19 the winning questionnaire in the 2014 Master Dog Breeders and Associates Most Supportive Vet Award reveals the up to date evidence of how Sydney University and its junk pet-food conspirators devastate the health of NSW pets. The University's sinister deals are thereby placed in context; the specific harm they do is brought into focus; the reason their disgraceful deals should be open to wide public scrutiny are prominently on display. The Respondent needs to show cause why, 24 years after the whistle was blown, it continues to

deceive students, pet owners and the wider community. The Respondent needs to show cause why its despicable deals should continue under a cloak of secrecy.

28.) L20 Three videos from the 2015 Royal College of Veterinary Surgeons election campaign. Each of the videos contributes reasons for insisting on disclosure of secret junk pet-food deals and reasons for stopping the mass poisoning of pets by vets. The videos also demonstrate veterinary support for 'legal proceedings against prominent companies, veterinary institutions and individuals in respect to breach of contract, animal cruelty, theft and deception'. For purposes of the Hearing I propose to limit my comments to Video 1 and its depiction of Sydney University and its junk pet-food paymasters Mars and Colgate-Palmolive.

29.) L21 video of the Science Death Experiment showing the ugly effects suffered by four dogs after just eight days forced to consume Hill's junk food. I propose to screen this video as evidence of unconscionable conduct by the Respondent in breach of GIPA, ADR and Model Litigant Policy.

30.) L22 Sydney University and the Mass Poisoning of Pets video reveals the slow torture, misery and distress following an eight year long diet of Mars Corporation junk food. This video is essential viewing for any administrator, vet or lawyer engaged in or contemplating a partnership with junk pet-food companies. I believe this video very well portrays the context and the specifics associated with junk pet-food cruelty and deception. I believe it to be essential viewing for NCAT. That the Respondent seeks to ban the video from the NCAT hearing bespeaks a callous indifference to the agony and suffering of the Respondent's victims.

I trust that NCAT will give appropriate weight to graphic evidence mandating immediate disclosure of all the Respondent's junk pet-food arrangements.

Tom Lonsdale, Applicant 11 September 2015