

**IN THE NSW CIVIL AND ADMINISTRATIVE TRIBUNAL
Administrative and Equal Opportunity Division**

File Number: 1510239

Tom Lonsdale
Applicant

AND

The University of Sydney
Respondent

AFFIDAVIT OF OLIVIA ALEXANDRA PERKS

On *13 July 2015*, I Olivia Alexandra Perks, c/- Office of General Counsel, University of Sydney, K07 – Margaret Telfer Building, The University of Sydney, New South Wales, say on oath:

- 1 I am employed as the Director, Legal Services at the University of Sydney ('**University**') and am authorised to make this affidavit on the University's behalf.
- 2 I believe that the information contained in this affidavit is true and correct.
- 3 I have held the position of Director, Legal Services since August 2014, which I perform in addition to my continuing role as Senior Solicitor (Corporate and Commercial). I have held that role since January 2006. Throughout the term of my employment at the University I have held a current unrestricted New South Wales Practising Certificate. My position is located within the University's Office of General Counsel ('**OGC**'), which is an independent professional service unit of the University. It is headed by the General Counsel, Mr Richard Fisher AM.
- 4 In my role as Senior Solicitor (Corporate and Commercial), I am responsible for providing legal services to the University. I provide legal advice to the Senate, the Chancellor, the Vice-Chancellor, senior executives and other officers of the University. I also assist the University to identify and manage legal risks, and I coordinate the engagement of external legal services. As Director, Legal Services I am responsible for managing the general operations of the OGC, including in respect of staffing arrangements and knowledge management systems. In collaboration with the other Senior Solicitors in the OGC, I support the General Counsel in ensuring the effective engagement of the OGC with internal and external stakeholders.

Olivia Perks


Role of the University's Office of General Counsel

- 5 All solicitors within the OGC report to the General Counsel, who in turn reports to the Vice-Chancellor, who is the University's principal executive officer¹. The General Counsel's reporting line to the Vice-Chancellor is administrative in nature. The Vice-Chancellor does not in any way supervise the legal work performed by the OGC.
- 6 My responsibilities within the OGC include co-ordination of continuing legal education activities and the renewal of practising certificates for lawyers within the OGC.
- 7 On the basis of my responsibilities and experience within OGC, I am aware that:
- (a) lawyers within the OGC are, first and foremost, officers of the court. They are expected to comply with the ethical and professional standards of conduct required of the legal profession including, relevantly, the obligation to provide independent, honest and professional legal advice to the University;
 - (b) the OGC is not co-located with any other professional service provider or academic unit or faculty within the University. Access to the OGC requires a staff security card with appropriate coding or, in the case of the General Counsel's office, a key;
 - (c) legal files are requested from the University's Archives and Records Management Services unit by administrative staff within the OGC and, on creation, are kept in a secure environment within the OGC's office. Access to physical and electronic legal records is restricted to staff with the appropriate level of authority;
 - (d) the OGC is the primary point of contact for the University's external regulators, and for the service of subpoenas;
 - (e) Ms Kristen Migliorini is an employee of the OGC and holds a current New South Wales Practising Certificate. Ms Migliorini is employed as a solicitor within the OGC and reports to the General Counsel;
 - (f) Ms Caterina Cosentino is the Legal Practice Director of Cosentino Pty Ltd, an incorporated legal practice in New South Wales. She has an unrestricted New South Wales Practising Certificate. Ms Cosentino has been engaged by the OGC as a Consultant Solicitor since March 2011.

Background to the NCAT application

- 8 On 29 September 2014, the Applicant filed an application for access to documents under the *Government Information (Public Access) Act 2009* ('the GIPA Act'). A copy of the application is attached and marked **OAP 1**.

¹ *University of Sydney Act 1989*, subsection 12(3).



9 The Applicant's request was expressed as follows:

'Please supply details of research funds, scholarships, agreements and contracts between pet food companies and the University of Sydney, its staff and students.

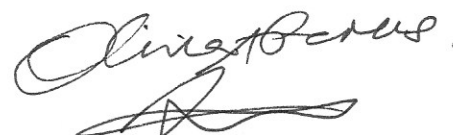
Where possible, please group the contributions into categories:

- (a) *Capital contributions for buildings, laboratories, library endowments, etc;*
- (b) *Current account funding for research projects, lecturer salaries, textbooks etc;*
- (c) *Contributions in kind including student excursions, guest lectures, product supply, teaching materials, teaching aids, etc.*

Such agreements will for the most part be with the Veterinary Faculty and Centre for Veterinary Education. Other departments of the University may have ties with pet-food companies.

Please supply copies of correspondence, email messages and memoranda that relate to the arrangements entered into by individuals and the University.'

- 10 On 11 November 2014, the University gave the Applicant notice of its decision under the GIPA Act. A copy of the decision is attached and marked **OAP 2**.
- 11 The University decided that some of the information was already available to the Applicant. Sponsorship by pet-food companies of events held by the Faculty of Veterinary Science is acknowledged in the public material relating to that event. Three examples of such public material are attached and marked **OAP 3**.
- 12 After consulting with Royal Canin Australia and Hill's Pet Nutrition Pty Ltd, the University decided to refuse to provide access to the other information requested by the Applicant, due to an overriding public interest against its disclosure.
- 13 On 2 December 2014, the Applicant filed an application for internal review of the University's decision. A copy of the review application is attached and marked **OAP 4**.
- 14 On 2 February 2015, the University gave the Applicant notice of its review decision. After consulting again with Royal Canin Australia and Hill's Pet Nutrition, the University decided to release some of the information that had not previously been released. The University decided to refuse to provide access to other information requested by the Applicant, due to an overriding public interest against its disclosure. A copy of the review decision is attached and marked **OAP 5**.
- 15 The Applicant subsequently sought a review by the NSW Information Commissioner. The Office of the Information Commissioner was satisfied that that the University's decision was justified, and made no recommendations against the review decision. A copy of the report from the Office of the Information Commissioner, dated 15 April 2015, is attached and marked **OAP 6**.



Client legal privilege

- 16 I am aware that the University has declined to provide access to a number of documents on the grounds of a conclusive presumption against disclosure of information that would be privileged from production in legal proceedings on the ground of client legal privilege (legal professional privilege).
- 17 The University identified a legal advice file, 2012/15434, as being relevant to the Applicant's request. That file was generated by the OGC in response to a request for advice from the Dean of the University's Faculty of Veterinary Sciences, Professor Roseanne Taylor, on 5 November 2012. Her request concerned a proposed sponsorship arrangement with Hill's Pet Nutrition and other pet food and veterinary suppliers to support various activities in the Faculty. The Dean has delegated authority from the University's Senate to approve acceptance of sponsorship from third parties in accordance with clause 4.5 of the *University of Sydney (Delegations of Authority – Administrative Functions) Rule 2010* (as amended).
- 18 The University has a signed confidential sponsorship agreement, titled 'Memorandum of Understanding – Sponsorship', with each of Hill's Pet Nutrition Pty Ltd and Royal Canin Australia. The contract term specified in each of these agreements is three years.
- 19 At the request of the Dean, the Business Manager of Veterinary Clinical Services, Mr Keith Merchant, was involved in implementing the OGC's advice, and was responsible for having the agreements signed. In my experience, it is common for Deans to rely on the support of their Faculty staff when carrying out administrative activities.
- 20 The documents on the legal file (including file notes, emails and draft memoranda of understanding) were prepared for the dominant purpose of providing or receiving legal advice about the sponsorship arrangements.
- 21 The University has considered whether it would be appropriate to waive privilege in those documents, and concluded that it would not. To the best of my knowledge, the University has not waived privilege in those documents.

Public interest against disclosure

- 22 I am aware that the University has declined to provide a number of documents on the grounds that the information contained in those documents is subject to an overriding public interest against disclosure. During its consultation processes, the University received two letters from Hill's Pet Nutrition Pty Ltd, outlining its views regarding the Applicant's request for access to information.

Olivia Banks



- 23 On 11 November 2014, the University received a letter from Hills Pet Nutrition setting out its submission against disclosure of the documents. A copy of the letter is attached and marked **OAP 7**. It relevantly states:

'The information within the contents of the memorandum concern identifying information which is of commercial value to, and concerns the business and financial affairs of, Hill's.

The subject matter (which includes value amounts and supporting obligations) also concerns a proposed arrangement which if provided to third parties would substantially damage the value of the arrangement.

The information within the documents were also provided on the basis that the information would remain confidential.

Disclosure of this information would:

- (a) *destroy and/or diminish the competitive commercial value of the subject matter of the information (given the considerable investment in both time and funds);*
- (b) *reveal the deliberation between two parties who are negotiating a competitive commercial arrangement which would ultimately prejudice the outcome of the process and as well as the business, commercial and financial interests;*
- (c) *have an adverse effect on our affairs and prejudice supply of such information to the University; and*

which in all cases, would not advance the public interest.

For the reasons set out above, it is ultimately our view that non-disclosure significantly outweighs the public interest for disclosure.'

- 24 On 8 January 2015, the University received a letter from Hills Pet Nutrition setting out its submission concerning the proposed redaction of the documents. A copy of the letter is attached and marked **OAP 8**. It relevantly states:

*We agree with the University's proposed preliminary redaction assessment (**Redacted Information**) and in addition provide you with further background information supporting the decision to redact that information sought to be disclosed under the Access Request. Our submission below is based on Section 14(2) of the GIPA Act having regard mainly to paragraphs (b) and (c) of Item 4 (Business interests of agencies and other persons).*

Consistent with the proposed decision regarding the Redacted Information, separately, we ask that you redact:

- (a) *the name [REDACTED] with the tax invoices, within the MOU in the "Sponsor" box and in handwriting under the signature block and on the cover page of the email; and*
- (b) *the name [REDACTED] within the MOU in the "Sponsor" box and in handwriting under the signature block; and*

Oliver Berne


(c) the name [REDACTED] on the cover page of the email.

Submission

The Redacted Information discloses the nature of the sponsorship arrangement between Hill's and the University which is commercially valuable to Hill's and concerns Hill's business and commercial interest (for completeness we also note that it is understood that the Redacted Information is confidential, protected by an obligation of confidence).

For example, the Redacted Information discloses the whether (sic) or not certain events are subject to exclusivity and reveals its (sic) plans and strategies of Hill's in relation to its sponsorship arrangements. This information can be identified on both pages of the letter dated 5 March 2014 [REDACTED]


[REDACTED] This information is integral to Hill's business given it forms a significant part of our marketing and promotional strategy.

The Schedule (which contain the commercial terms) to the terms and conditions was privately negotiated and agreed, not by public tender. Hill's has a number of sponsorship arrangements with other universities [REDACTED] which are confidential and the disclosure of the terms of one arrangement would have an adverse effect on another arrangement. For example, counterparties would be able to seek terms similar to that obtained by the University.

Revealing the commercial terms of the Hill's sponsorship arrangement would effectively mean that any concessions or favourable terms that Hill's has provided to the University would be available to another university or third party in another bargain (such as whether Hill's sought exclusivity for a particular event and the corresponding price that it paid for those rights). Should this information be revealed to any other party it may also provide an opportunity for a pet food competitor to adopt a more advantageous sponsorship strategy to Hill's and offer terms which are more favourable.

For example, the tax invoices and the Schedule disclose the dollar amounts Hill's pays for certain sponsorship rights which could be used by a third party to outbid Hill's for the same rights or promote a bidding war. Additionally, the Schedule discloses the marketing strategy of Hill's. A third party pet food competitor could, for example, discern which areas Hill's markets and sponsors its products and use this information to unfairly develop a competing strategy (without investing and conducting their own research). Ultimately, third party competitors would obtain a commercial advantage which would prejudice Hill's.

Should the terms be made public the value of the commercial bargain that Hill's has struck with the University would be diminished. Disclosure would devalue the sponsorship arrangement and in the long term Hill's would need to reconsider the value of the

Oliver Beave


arrangement under its sponsorship arrangements with the University. Furthermore Hill's ability to negotiate any sponsorship arrangement in the future with the University or any other university would be prejudiced.

Ultimately disclosure of this information would destroy and/or diminish the commercial value of that information and would not advance the public interest. Alternatively, the information also concerns the commercial affairs and business interests of Hills and disclosure would not only prejudice Hill's but it would also prejudice the future collection and supply of Hill's products with the University and the corresponding information and benefits it receives under that arrangement.

- 25 To the best of my knowledge, the information that the University has refused to provide to the Applicant is not in the public domain and remains confidential.
- 26 I am aware that the Applicant has published two books promoting a raw food diet for pets: *Raw Meaty Bones Promote Health* (August 2001) and *Work Wonders: Feed Your Dog Raw Meaty Bones* (September 2005). Those books are available for purchase on the Internet, including on Amazon and eBooks. Copies of the website pages from those online sources are attached and marked **OAP 9**.

Signature: 

Sworn at: Sydney

Before me: 

I Andrew Hilton, a solicitor of the Supreme Court of New South Wales, certify the following matters concerning the making of this affidavit by the person who made it:

- (a) I saw the face of the person;
- (b) I have known the person for at least 12 months.




OAP 1

2014/7/112
need
1/10/14

Tom Lonsdale Veterinary Surgeon

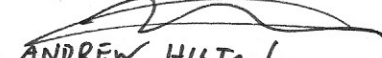
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E-mail: tom@rawmeatybones.com
Web: www.rawmeatybones.com

29 September 2014

Tim Robinson
FOI Coordinator
Archive A14
University of Sydney
NSW 2006

THIS IS THE ANNEXURE MARKED OAP1 REFERRED
TO IN THE ...AFFIDAVIT...
OF ...OLIVIA ALEXANDRIA PERKS...
SWORN ON THE ...13th...DAY OF ...JULY 2015...
BEFORE ME:


.....ANDREW H. LONSDALE.....
SOLICITOR / ~~JUSTICE OF THE PEACE~~

Dear Mr Robinson,

FOI Enquiry: Pet food company involvement with University of Sydney

Please find enclosed fee of \$30 for Freedom of Information enquiry.

Please supply details of research funds, sponsorships, agreements and contracts between pet food companies and the University of Sydney, its staff and students.

Where possible please group the contributions into categories:

- a.) Capital contributions for buildings, laboratories, library endowments, etc
- b.) Current account funding for research projects, lecturer salaries, textbooks, etc
- c.) Contributions in kind including student excursions, guest lecturers, product supply, teaching materials, teaching aids, etc

Such agreements will for the most part be with the Veterinary Faculty and Centre for Veterinary Education. Other departments of the University may have ties with pet-food companies.

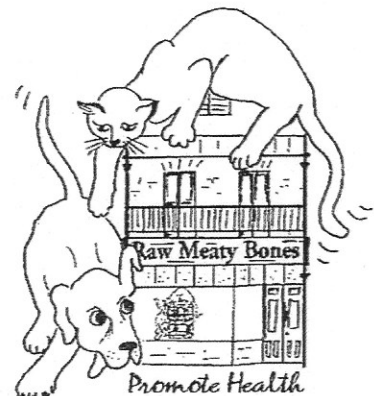
Please supply copies of correspondence, email messages and memoranda that relate to the arrangements entered into by individuals and the University.

Thank you for your assistance.

Yours sincerely,



Tom Lonsdale



Veronica Baxton - Rec. Mgr. 16932
Dr. Peter Higgins - looks after spay/neut etc in Vet. - 69471



Government Information (Public Access) Act 2009 ACCESS APPLICATION

Please complete this form to apply for formal access to government information under the *Government Information (Public Access) Act 2009* ("GIPA Act"). If you need help in filling out this form, please contact the Right to Information Officer on 9351 4263 or visit our website at www.sydney.edu.au/arms

1. Your details

Surname: LONSDALE Title: Mr/Ms/Dr/Prof

Other names: THOMAS

Postal address: P.O. Box 6096, Windsor D.C. Postcode: 2756

Day-time telephone: 02 4577 7061 Facsimile: 02 4577 7019

Email: tom@rawmeatylones.com

Staff or student number (University staff or students only)

I agree to receive correspondence at the above email address.

2. Government information

Please describe the information you would like to access in enough detail to allow us to identify it.

Note: If you do not give enough details about the information, the University may refuse to process your application.

PLEASE SEE ATTACHED

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Are you seeking personal information? Yes/ No (circle one)

Privacy

The information you supply on this form is required by the University to deal with your application. The information will not be disclosed except in accordance with the University's Privacy Policy. Questions regarding access or correction should be addressed to the Right to Information Officers. Further details at sydney.edu.au/arms/privacy

3. Form of access

How do you wish to access the information?

Inspect the document(s)

A copy of the document(s)

Access in another way (please specify)

4. Application Fee

I attach payment of the **\$30 application fee** by cash / cheque / money order (circle one) made out to the University of Sydney. (Note: please do NOT send cash by post)

5. Disclosure log

If the information sought is released to you and would be of interest to other members of the public, details about your application may be recorded in the agency's 'disclosure log'. This is published on the agency's website.

Do you object to this? Yes / **No** (circle one)

6. Discount in processing charges

If you are given access to the information sought, you may be asked to pay a charge for processing the application (\$30 / hour). Some applicants may be entitled to a 50% reduction in their processing charges. If you wish to apply for a discount, please indicate the reason:

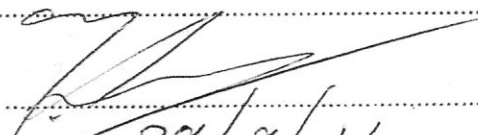
Financial hardship – (eg, full time student, a pension or Centrelink card holder or non-profit organisation).

AND / OR

Special benefit to the public – please specify why below:

IMMENSE PUBLIC SIGNIFICANCE

AND OF CONSIDERABLE PUBLIC INTEREST

Applicant's signature: 

Date: *29/9/14*

Please post this form to:

Right to Information
Archives and Records Management Services
c/- Archives A14
University of Sydney 2006

General information about the GIPA Act is available by calling the Office of the Information Commissioner on freecall 1800 194 210 or at its website: <www.informationcommissioner.nsw.gov.au>.

Office use only

Date application received:

File reference:

Government Information (Public Access) Act 2009

NOTICE OF DECISION

Applicant:	Dr Tom Lonsdale
File Ref:	2014/7112
Decision-maker:	Mr Alex Maitland, Group Secretary
Date of decision:	11 November 2014

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THIS IS THE ANNEXURE MARKED OAP2 REFERRED
TO IN THE ...AFFIDAVIT...
OF ...OLIVIA ALEXANDRA PERKS...
SWORN ON THE ...13TH DAY OF ...JULY, 2015...
BEFORE ME:

.....ANDREW HILTON.....
SOLICITOR / JUSTICE OF THE PEACE

1. Summary of access application

On 1 October 2014, we received your access application under the *Government Information (Public Access) Act 2009* (GIPA Act). Your request was expressed as follows:

“Please supply details of research funds, sponsorships, agreements and contracts between pet food companies and the University of Sydney, its staff and students.

Where possible please group the contributions into categories:

- a.) Capital contributions for buildings, laboratories, library endowments, etc*
- b.) Current account funding for research projects, lecturer salaries, textbooks, etc*
- c.) Contributions in kind including student excursions, guest lecturers, product supply, teaching materials, teaching aids, etc*

Such agreements will for the most part be with the Veterinary Faculty and Centre for Veterinary Education. Other departments of the University may have ties with pet-food companies.

Please supply copies of correspondence, email messages and memoranda that relate to the arrangements entered into by individuals and the University.”

I have understood the scope of your application to be for information concerning the Faculty of Veterinary Science (the Faculty), effective at the date of your application.

On 16 October 2014, the Manager Archives and Records Management Services notified you that the period for dealing with your application would be extended in order to consult with third parties.

2. Decision

I am authorised by the principal officer, for the purposes of section 9(3) of the GIPA Act, to decide your access application.

2.1 Reviewable Decision

I have decided :

- under section 58(1)(c) that some of the information is already available to you;
- under section 58(1)(d) to refuse to provide access to some of the information because there is an overriding public interest against its disclosure.

These decisions are reviewable under sections 80(d) and 80(f) of the GIPA Act.

In this Notice of Decision I will explain my reasons. To meet the requirements of section 61 of the GIPA Act, I need to tell you:

- (a) the reasons for my decision and the findings on any important questions of fact underlying those reasons, and
- (b) the general nature and format of the records containing the information you asked for, with reference to the relevant public interest considerations against disclosure (see the attached Schedule of Documents).

3. Searches for information

Under the GIPA Act, we must conduct reasonable searches for the government information you asked for in your application. A search was made of the University's records to find any information that falls within the scope of your application. The descriptions of the resulting registered files and documents were then examined for relevance to your application. One legal advice file, 2012/15434 was identified as being relevant. In addition, enquiries were made with the Faculty of Veterinary Science. The Faculty confirmed there was no paid research in the faculty funded by pet food manufacturers. Other records relating to your application were retrieved from relevant members of staff in the Faculty of Veterinary Science.

Sponsorship by pet food companies of events held by the Faculty of Veterinary Science is acknowledged in the published material relating to that event. The relevant pet food companies are Hill's Pet Nutrition and Royal Canin. The Faculty's website is freely available to the public, and contains information concerning sponsorship.

Two examples of publically available information are the 2014 Partners in Veterinary Education Conference held in July 2014:

<http://sydney.edu.au/vetscience/partners/conference/index.shtml>

and the web pages concerning the University Veterinary Teaching Hospital:

http://sydney.edu.au/vetscience/veterinary_services/sydney/about_us/index.shtml

You may wish to undertake a further search of the Faculty public website to identify events where sponsorship has been provided by pet the pet food companies. Searching for "Hills" or "Royal Canin" in the search box at the top right of the website will provide details:

<http://sydney.edu.au/vetscience/>

As noted above, I have decided under section 58(1)(c) that this information is already available to you.

4. The public interest test

Under section 9(1) of the GIPA Act, you have a legally enforceable right to access the information you asked for, unless there is an overriding public interest against its disclosure.

Further, under section 5 of the GIPA Act, there is a presumption in favour of disclosing government information unless there is an overriding public interest against its disclosure.

To decide whether or not there is an overriding public interest against disclosure of the information you asked for, I applied the public interest test, which is set out in section 13 of the GIPA Act.

I applied the public interest test by:

- (a) identifying any public interest considerations in favour of disclosure;
- (b) identifying any relevant public interest considerations against disclosure;
and
- (c) deciding where the balance between them lies.

I did this in the way required by section 15 of the GIPA Act, which is:

- (a) in a way that promotes the objects of the GIPA Act;
- (b) with regard to any relevant guidelines issued by the Information Commissioner.
- (c) without taking into account the fact that disclosure of information may cause embarrassment to, or a loss of confidence in, the Government (as that fact is irrelevant);
- (d) without taking into account the fact that disclosure of information might be misinterpreted or misunderstood by any person (as that fact is irrelevant); and
- (e) with regard to the fact that disclosure cannot be made subject to any conditions on the use or disclosure of information.

4.1 Public interest considerations in favour of disclosure

Under section 12(1) of the GIPA Act, there is a general public interest in favour of disclosing government information. Section 12(2) of the GIPA Act sets out some examples of other public interest considerations in favour of disclosure. However, I am not limited to those considerations in deciding your application.

In my view the following public interest considerations in favour of disclosure apply when considering the documents in issue:

- The general public interest in favour of disclosure of government information.
- The public interest in knowing the about University relationships with commercial organisations.

4.2 Personal factors of the application

I can also take into account any personal factors of your application, under section 55 of the GIPA Act. I am not aware of any personal factors which are relevant to your request for access to information.

4.3 Public interest considerations against disclosure

When applying the public interest test, the only public interest considerations against disclosure that I can take into account are those set out in the table to section 14 of the GIPA Act. To show that they are relevant to the information you asked for, I need to consider whether they could reasonably be expected to have the effect outlined in the table.

The phrase "could reasonably be expected to" requires explanation as it is central to the considerations in the table to section 14. I have had regard to the following cases:

Flack v Commissioner of Police, New South Wales Police [2011] NSWADT 28 and *Attorney General's Department v Cockcroft* (1986) 10 FCR 180. In that case, Bowen CJ and Beaumont J explained that the words

"...require a judgment to be made by the decision maker as to whether it is reasonable, as distinct from something that is irrational, absurd or ridiculous, to expect that those who would otherwise supply information of the prescribed kind to the agency would decline to do so if the document in question were disclosed under the Act. It is undesirable to attempt any paraphrase of these words. In particular it is undesirable to consider the operation of the provision in terms of probabilities or possibilities or the like." [190]

Hayne J pointed out in *McKinnon v Secretary, Department of Treasury* [2006] HCA 45 that:

"...when their Honours said, as they did, that the words required a "judgment to be made by the decision maker as to whether it is reasonable, as distinct from something that is irrational, absurd or ridiculous," to expect certain consequences, they are not to be understood as having used the latter expression as a paraphrase of the former. Rather, they are to be understood, and have since been understood, as doing no more than drawing an emphatic comparison. To do more would have been, as their Honours correctly said, "to place an unwarranted gloss upon the relatively plain words of the Act". And the same approach should be taken to the expression "reasonable grounds" when it is used in s 58(5) of the Act." [61]

I am therefore of the view that the words "could reasonably be expected to" are to be given their ordinary meaning.

4.3.1 Conclusive presumption against disclosure – clause 5 of Schedule 1 of the GIPA Act

A number of the documents containing information in the scope of your application are of a kind covered by Schedule 1 of the GIPA Act. Section 14(1) of the GIPA Act states:

"It is to be conclusively presumed that there is an overriding public interest against disclosure of any of the government information described in schedule 1."

Clause 5 of Schedule 1 of the GIPA Act is as follows:

"5 Legal professional privilege

(1) It is to be conclusively presumed that there is an overriding public interest against disclosure of information that would be privileged from production in legal proceedings on the ground of client legal privilege (legal professional privilege), unless the person in whose favour the privilege exists has waived the privilege.

(2) An agency in whose favour legal professional privilege exists is required to consider whether it would be appropriate for the agency to waive that privilege before the agency refuses to provide access to government information on the basis of this clause.

(3) A decision that an agency makes under subclause (2) is not a reviewable decision under Part 5."

The information identified in the Schedule of Documents as being subject to Schedule 1 clause 5 are confidential communications between University officers and legal staff of the University's Office of General Counsel for the sole or dominant purpose of the provision of legal advice and attract a claim of legal professional privilege. The University's legal staff involved were Ms K Migliorini, Solicitor and Ms C Cosentino, Consultant Solicitor. Both held NSW solicitor's practicing certificates at the time of providing advice and their duties for the University included the provision of legal advice.

As required by the GIPA Act, I have given consideration to whether it would be appropriate for the University to waive its privilege. Given the commercial nature of the circumstances I do not consider that it would be appropriate to waive privilege.

4.3.2 Other public interest considerations against disclosure

4.3.2 (a) Responsible and effective government

Clause 1(g) of the Table at section 14 relevantly provides:

"There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects (whether in a particular case or generally):

- (g) found an action against an agency for breach of confidence or otherwise result in the disclosure of information provided to an agency in confidence.

4.3.2 (b) Business interests of agencies and other persons

Clauses 4(b) and 4(d) of the Table at section 14 relevantly provide:

"There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects:

- b) Reveal commercial-in-confidence provisions of a government contract,
- d) Prejudice any person's legitimate business, commercial, professional or financial interests."

4.4 Consultation

The information that you asked for includes information that is the commercial information of other organisations. The University was therefore required, under section 54 of the GIPA Act, to consult with those organisations.

4.5 Balancing the public interest test

I have considered the relevant public interest considerations in favour of and against disclosure of the information you requested. On balancing the considerations I find that the public interest lies in not releasing some of the information to you. That information falls under clause 5 of Schedule 1 of the GIPA Act and also under the considerations from the Table at section 14 of the GIPA Act set out in 4.3.2(a) and 4.3.2(b) of this notice.

The University is funded through many avenues and engages with the wider community, including the commercial sector, on many levels including sponsorship to support its activities.

Fundamental to my consideration of where the public interest lies is a balancing of the public need to be informed of University relationships with commercial organisations with the University's need for sponsorship, and maintenance of the University as a desirable business partner for the commercial sector.

The public is informed through the University's website of sponsorships with pet food companies and in this way I consider that the public interest in disclosing information about commercial relationships has been met.

The majority of the documents which fall within your request were provided in confidence and deal with sensitive information concerning confidential agreements. Some of the documents are agreements and also contain explicit clauses relating to confidentiality. Although confidentiality is not explicitly stated in all of the documents, nonetheless the documents were created, or provided in the expectation of confidentiality, and all have been treated confidentially by the University. Disclosure of confidential agreements and related correspondence could adversely impact on relationships with sponsors and disadvantage the University in future negotiations for sponsorship, by revealing confidential business arrangements. Release of the information could reasonably be expected to diminish confidence in the University as a business partner and this might lead to loss of sponsorship which would impact on the University's capacity to carry out some of its activities. For these reasons I find that the public interest lies in not releasing some of the information to you.

5 Access

Access to the information is provided in the form of pdf copies of the relevant documents. A Schedule of Documents has been attached identifying the material which has been withheld in reliance on Clause 5 of Schedule 1 of the GIPA Act and clauses 1(g), 4(b) and 4(d) of the Table in section 14 of the GIPA Act.

6 Disclosure log

If information that would be of interest to other members of the public is released in response to a formal access application, an agency must record certain details about the application in its 'disclosure log' (under sections 25 and 26 of the GIPA Act). I have decided that the information would be of interest to other members of the public and will therefore record the following details in our disclosure log, which is publicly available on our website:

- the date on which your access application was decided (that is, the date of this notice of decision)
- a description of the information that will be released to you
- whether that information is or will be available to other members of the public, and
- if so, how it can be accessed.

This decision is reviewable under section 80(m) of the GIPA Act (see part 7 of this notice for information about your review rights).

7 Review rights

If you disagree with any of the decisions in this notice that are reviewable, you may seek a review under Part 5 of the GIPA Act. Before you do so, I encourage you to contact Mr Robinson to discuss your concerns. His contact details are set out below.

You have three review options:

- internal review by another officer of this agency, who is no less senior than me
- external review by the Information Commissioner, or
- external review by the NSW Civil and Administrative Tribunal (NCAT).

You have 20 working days from the date of this Notice to apply for an internal review. If you would prefer to have the decision reviewed externally, you have 40 working days from the date of this Notice to apply for a review by the Information Commissioner or the NCAT.


To assist you, I have enclosed a fact sheet published by the Information and Privacy Commission (IPC), entitled *Your review rights under the GIPA Act*. You will also find some useful information and frequently asked questions on the IPC's website:

www.ipc.nsw.gov.au.

You can also contact the IPC on freecall 1800 IPC NSW (1800 472 679).

8 Further information

If you have any questions about this notice or would like any further information, please contact Mr Tim Robinson on 9351 4263.

A handwritten signature in black ink, appearing to read 'A Maitland'. The signature is written in a cursive style with a large initial 'A'.

Alex Maitland
Group Secretary

Schedule of Documents

Description of record that contains the information	No of Pages	Document Released	Relevant public interest consideration(s) against disclosure
Registered file 2012/14347 ADMINISTRATION & SUPPORT - Legal matters - Advice		No	Schedule 1 Clause 5
Email correspondence, Agreements,	59	No	Business interests of agencies and other persons – clauses 4(b) and 4(d) of the Table in section 14 Responsible and effective government - clause 1 (g) of the Table in section 14

You are here: [Home](#) / [University Veterinary Centre Sydney](#) / [About Us](#)

UNIVERSITY VETERINARY TEACHING HOSPITAL, SYDNEY



(http://sydney.edu.au/vetscience/veterinary_services/sydney/about_us/index.shtml)

The Sydney University Veterinary Teaching Hospital is acclaimed internationally for its exceptional health, care and welfare of animals. It is a general practice veterinary clinic, a referral centre for other vets to send complex cases and a teaching hospital for veterinary science students to learn the practical components of the veterinary profession.

The Hospital has undergone substantial redevelopment including the purchase of more than \$6 million of imaging and diagnostic equipment making it an international state-of-the-art facility.

The advanced range of specialist services include:

- 24 hour emergency services and intensive care.
- Canine and feline medicine & surgery.
- Advance imaging, 16 slice CT, MRI, Digital Radiology & Ultrasound.
- Specialist referral services, medicine, surgery and diagnostic imaging.
- Neurology, ophthalmology & dermatology.
- Physiotherapy.

Make an appointment
(02) 9351 3437

(http://sydney.edu.au/vetscience/veterinary_services/sydney/about_us/contact.shtml)

© 2002-15 The University of Sydney. Last updated: 22 September 2014

ABN: 15 211 513 464. CRICOS number: 00026A. Phone: +61 2 9351 2222.

Authorised by: Dean, Faculty of Veterinary Science.

KEY SPONSOR



Hill's Pet Nutrition proudly supports the small animal Veterinary Teaching Hospitals at Sydney and Camden by providing a range of pet foods to our many thousands of hospitalised patients each year.

IN THE NEWS

Golden Labrador retriever
Stitch recovering after surviving
backyard bite from death adder
([Read Article](#))

PUPPY PRE-SCHOOL

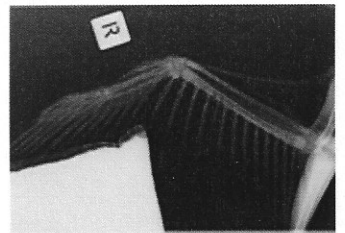



[Enrol Now!](#)

HOSPITAL EVENTS

[Checkout Past Events](#)

DIAGNOSTIC IMAGING



THIS IS THE ANNEXURE MARKED OAP3 REFERRED
TO IN THE AFFIDAVIT
OF OLIVIA ALEXANDRA PERKS
SWORN ON THE 13th DAY OF JULY 2015
BEFORE ME:

ANDREW HILTON
SOLICITOR / JUSTICE OF THE PEACE

You are here: Home / Veterinary Services / Events / Pet Health Check

2010 UNIVERSITY OF SYDNEY PET FAIR



(http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/DrChrisBrown_Cat.jpg)

to spend a day out with their pets and to take advantage of all the terrific activities and free entertainment on offer. Dogs, cats, birds, bunnies, ferrets and even a pet chicken streamed through the gates and were enjoying the sunny day out as much as their owners. With Hills onboard as the major sponsor there was non-stop action with the NSW Police Dog demonstrations, Psycho's Flyball, dog behaviouralist Steve Austin, the La Perouse snake man, a petting zoo and the Best Pet competitions. Celebrity vet Dr Chris Brown had the challenging job of choosing the winners of the Best Pet competition. All the entrants were incredibly worthy of first prize but unfortunately there could only be one winner.

On Sat, 28th Aug Sydney University Veterinary Teaching Hospital hosted the biggest annual Pet Fair to date with record numbers in attendance, perfect weather and some help from fun-loving media personality, Bondi Vet's Dr Chris Brown.

Thousands of Sydney animal lovers and families came along

2010 PROGRAM

2010 Pet Fair Program

EXHIBITORS

List of 2010 Pet Fair Exhibitors ([pdf](#))

SPONSORS

Sponsored by HILLS



View photo gallery at the bottom of this page.

Best Pet competition winners:

- **Cutest pet:** Isabella Niven and her pet chicken 'Porridge'
- **Pet most like its owner:** Ian Moore and English Sheepdog 'Dee'
- **Best dressed:** Yasmine Stansbury and dog 'Skye'
- **Best pet trick:** Victoria Fernandez and dog 'Minnie'

Pet owners took full advantage of the free pet health checks on offer performed by final year veterinary science students under the supervision of the Hospital's certified veterinarians. For the students this was an invaluable, hands-on practical experience that will assist with their preparation for becoming qualified veterinarians.

Other highlights included the prestigious Cat Show, wildlife and exotic pet displays, sausage sizzle, face painting, a giant jumping castle, a raffle with fabulous prizes and there was a great deal to spoil the animals with from the many stalls selling or giving away pet products.

Pet Fair organiser Craig Lord said, *This year the Pet Fair was our most successful yet, it just keeps getting bigger and better. It was great to see so many Sydneysiders enjoying a day out with their pets.*

All images are courtesy of photographer Cynthia Sciberras

Click on image to enlarge it



(http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/Craig.jpg) (http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/Yasmine.jpg) (http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/Isabella.jpg)

Craig Lord,
Dr Chris Brown,
Natascha Koepsel

Yasmine & dog Skye-
winner of best dressed

Isabella & Porridge -
winner of cutest pet



(http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/Cutestpet.jpg) (http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/lookalike.jpg) (http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/Vetstudents.jpg) (http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/Sugar.jpg)

Cutest pet
competition



Ian Moore & dog Dee
winner of the
look-a-like competition



(http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/Vetstudents.jpg) (http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/Sugar.jpg) (http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/VetsChoice.jpg)

Dr Chris Brown &
vet students



Winner of 'Vet's Choice'
cat competition
Sugar & Dr Chris Brown



Police Dog Demonstrations



Eclectus parrot



(http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/Police.jpg) (http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/parrot.jpg) (http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/AliraGraham.jpg)



MC Prof Paul Canfield



Alira Graham having her face painted

(http://sydney.edu.au/vetscience/veterinary_services/sydney/images/2010/pet_fair/AliraGraham.jpg)

FACULTY OF
VETERINARY
SCIENCE



THE UNIVERSITY OF
SYDNEY

Partners In Veterinary Education Conference 2014

JULY 17-18, 2014

ESSENTIAL SKILLS FOR PRACTICE SUCCESS: KEEPING YOUR PRACTICE ON THE SHARP EDGE OF THE EDUCATIONAL ROUNDABOUT

PROFESSOR ANDREW DART
VETERINARY STUDENT INTERNSHIP PROGRAM COORDINATOR

This year's conference will again be held at the Veterinary Science Conference Centre in Sydney. As a Partner in Veterinary Education, you are warmly invited to attend to hear from leading professionals and meet and network with colleagues and Faculty staff.

We would like to thank to our sponsors Provet, Hill's Pet Nutrition, IDEXX and Royal Canin for making free continuing education available to our educational partners

In response to requests from many practitioners, we have created a program aimed at addressing some of the new challenges in veterinary practice. Hopefully, in reading the outline of this program, you will see presentations that will address challenges in your practice, not only in terms of hosting undergraduate students but in ensuring the members of your team are working in an environment that optimises the outcomes of the team. We have incorporated some real and common challenges that practitioners have shared with us in feedback. There should be something for everyone in the practice at this year's conference.

We are fortunate to have Professor John August from Texas A & M University, who is this year's Evelyn Williams Visiting Scholar, and Emeritus Professor Paul Canfield as key note speakers. Both are eminent clinical scholars in their own fields and both boast a keen and proven track record in teaching and mentoring junior clinical veterinarians over many years.

Once again, there is no cost to our Partners in Veterinary Education to attend this conference or dinner. Last year's dinner was a notable event and this year's dinner and after dinner speaker should be a gold medal winner with a

few surprises thrown in along the way. We are particularly grateful to our major sponsor Provet who have been supporting us from the very first conference in 2003 and to our other generous sponsors Hill's Pet Nutrition, Royal Canin and IDEXX.

This year the conference has boldly gone where no other veterinary conference has gone and the Faculty and Sponsors challenge you to move outside your comfort zone to enter an ethereal world where satisfaction and pride come from inspiring others to achieve their best.

REGISTER BY 30 MAY

Register online before 30 May:
sydney.edu.au/vetscience/partners/conference

For more information, contact:

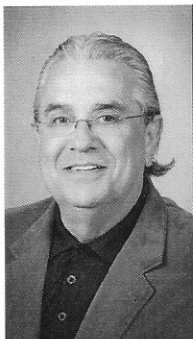
Melanie Robson
T +61 2 9351 3550



8:00am	Conference registration opens
8:30am	<p>Facilitating effective small-group discussions <i>Professor John August– Evelyn Williams Visiting Scholar, Texas A&M University</i></p> <p>Small-group discussions provide important opportunities for students and veterinarians opinions, debate ideas, and reflect critically on their understanding of the subject being facilitated. Facilitators must have exceptional skills in planning, questioning, active listening, reinforcement, and summarizing. How can we create an environment of the large classroom is very different from that of the teaching hospital and practices expected to express opinions and communicate effectively with clients and clinicians. How do we as veterinarians and other important professionals make this and other important transitions in their early career development?</p>
9:30am	<p>How does the profession adapt to the diversity of backgrounds in the emerging global veterinary workforce? <i>Professor Michelle Lincoln: Deputy Dean of Health Sciences, University of Sydney</i></p> <p>Veterinary practice has effectively adapted to the change from a male to a female dominated workforce in the past few decades. We are now experiencing an increase in graduates from international backgrounds. Many of these students will end up staying in Australia and entering the local workforce. How can we create a changing environment?</p>
10:30am	Morning tea
11:00am	<p>Managing student diversity in clinical learning environments - some insights and stories <i>Eva King: PhD candidate, University of Queensland</i></p> <p>Veterinary students who come from non-English speaking backgrounds can find clinical learning environments challenging. Equally, it can be challenging for clinicians who are tasked with supervising these students. How can we create a culturally and linguistically diverse learning environment that ensures effective learning takes place?</p>
12:00pm	<p>Preparing a presentation for veterinary audiences <i>Professor John August– Evelyn Williams Visiting Scholar, Texas A&M University</i></p> <p>At some time, most of us are asked to give a lecture to students or our peers. Today's learning experience that is interactive and entertaining. How do we prepare a presentation that captures the interest, and achieves the desired learning outcomes in this age of short attention spans?</p>
1:00pm	Lunch
2:00pm	<p>Tips on really effective feedback for student interns struggling with their clinical performance <i>Doctor Grahame Felletti: Educational consultant to the Faculty of Veterinary Science, University of Sydney and Dr. John Baguley: Registrar Veterinary Practitioners Board of NSW</i></p> <p>As outlined in earlier sessions, today's students come from different cultural backgrounds and have different approaches and motivations for becoming veterinarians, thus making traditional feedback approaches less effective. In addition to being unhelpful for students who perform poorly, traditional feedback methods can be demotivating for students who are lifelong learners.</p> <p>This session provides new perspectives and strategies for empowering students and creating a feedback culture. It will adopt a combination of tips, video-examples and practical exercises to demonstrate the effectiveness of feedback. Extramural supervisors will be invited to reflect on their use of feedback with not only interns' clinical performance, but also their own status as lifelong colleagues and mentors.</p>
3:30pm	Afternoon tea
4:00pm	Closing remarks

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3:30pm	Afternoon tea
4:00pm	Closing remarks

SPEAKER INFORMATION



PROFESSOR JOHN AUGUST
Texas A&M University

John August received his pre-veterinary education at Eastbourne College in Sussex, England. In 1973, he graduated with honors from the Royal Veterinary College at the University of London, and became a member of the Royal College of Veterinary Surgeons.

His professional interests include feline internal medicine, distance education, mentoring and faculty development, the effective use of educational technology in the classroom to promote learning, and lecturing internationally in Latin America to foster the regional development of feline medicine as a clinical specialty.

PROFESSOR MICHELLE LINCOLN
The University of Sydney



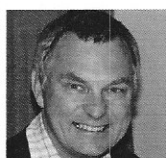
Professor Michelle Lincoln is the Deputy Dean in the Faculty of Health Sciences at the University of Sydney. In her previous role of Associate Dean Learning and Teaching she led innovative curriculum development in undergraduate allied health courses in the faculty.

DOCTOR JOHN BAGULEY
Veterinary Practitioners Board of NSW



John is the Registrar of the Veterinary Practitioners Board of NSW. John joined the University of Sydney Faculty of Veterinary Science in 2003. He coordinated their Professional Practice Program and taught in a variety of areas including practice management, ethics and law. John's research interests in veterinary practice management and education continue despite his move to the Veterinary Practitioners Board in 2012.

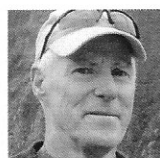
PROFESSOR EMERITUS PAUL CANFIELD
DVSc PhD GradCertEdStud, FANZCVSc FRCPath MRCVS



Paul is currently Professor Emeritus in the Faculty of Veterinary Science, University of Sydney. From 1980 and until his retirement in 2010, he was Professor in Veterinary Pathology and Clinical Pathology and Director of

Veterinary Laboratory Diagnostic Services in the University of Sydney's Faculty of Veterinary Science. He has over 200 publications in the disciplines of veterinary clinical and anatomical pathology and has successfully supervised over 17 postgraduate students.

DOCTOR GRAHAME FELLETTI
University of Newcastle



Dr Feletti is a retired consultant in higher and professional education. He was a university student from 1964-78, and then an academic for 40 years until 2011. Grahame has held numerous academic positions in arts, science and health professions disciplines in Australia, USA and New Zealand. Grahame's professional interest is in rejuvenating teaching and learning for the professions - so that teachers and students gain from their interaction as colleagues.

FACULTY OF
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REGISTER BY 30 MAY

HOW TO REGISTER

Register online before 30 May:

sydney.edu.au/vetscience/partners/conference

For more information, contact:

Melanie Robson

T +61 2 9351 3550

OAP 4

2014/8813

Tom Lonsdale Veterinary Surgeon

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Windsor Delivery Centre
NSW 2756
Australia

Phone: +61 2 4577-7061
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E-mail: tom@rawmeatybones.com
Web: www.rawmeatybones.com

2 December 2014

TK 5/12/14

TIM ROBINSON | Manager
Archives and Records Management Services
THE UNIVERSITY OF SYDNEY
Archives A14 | The University of Sydney | NSW | 2006

Dear Mr Robinson,

11 November 2014 GIPA decision ref: 2014/7112

Please find enclosed cheque for \$40

Please conduct an internal review.

Yours sincerely,

Tom Lonsdale



THIS IS THE ANNEXURE MARKED OAP4 REFERRED
TO IN THEAFFIDAVIT.....
OFOLIVIA ALEXANDRA PERKS
SWORN ON THE13th DAY OFJULY..... 2015
BEFORE ME:

.....ANDREW HILTON
SOLICITOR / JUSTICE OF THE PEACE

Government Information (Public Access) Act 2009

NOTICE OF DECISION

Applicant:	Dr Tom Lonsdale
File Ref:	2014/8813
Decision-maker:	David Pacey, Secretary to Senate, The University of Sydney
Date of decision:	2 February 2015

1. Background 1

2. Decision 1

3. Searches for information 1

4. The public interest test 2

4.1 Public interest considerations in favour of disclosure 2

4.2 Public interest considerations against disclosure 2

4.3 Consultation 4

4.4 Balancing the public interest test 4

5. Access 5

6. Charges 5

7. Review rights 5

8. Further information 5

THIS IS THE ANNEXURE MARKED OAP5 REFERRED
 TO IN THE AFFIDAVIT
 OF OLIVIA ALEXANDRA PERK?
 SWORN ON THE 13th DAY OF JULY 2015
 BEFORE ME:



ANDREW HILTON
 SOLICITOR / JUSTICE OF THE PEACE

Notice of Decision for Internal review for Dr Tom Lonsdale

1. Background

On 11 November 2014 the University of Sydney made a decision in relation to your request under the *Government Information (Public Access) Act 2009* ('the GIPA Act') for access to information ('the initial decision'). Your request was for "details of research funds, sponsorships, agreements and contracts between pet food companies and the University of Sydney, its staff and students" and "copies of correspondence, email messages and memoranda that relate to the arrangements entered into by individuals and the University."

The initial decision was to refuse access to the information you sought. Access was refused to some information on the grounds of an overriding public interest against disclosure, and to other information on the basis that the information was already available to you. A copy of the initial decision is attached.

On 5 December 2014 you requested the University conduct an internal review of the initial decision.

2. Decision

I am authorised by the principal officer, for the purposes of section 9(3) of the GIPA Act, to make this decision.

I have decided, under s58(1)(a) of the GIPA Act, to release some of the information that has not previously been released by the University.

I have decided, under s58(1)(d) of the GIPA Act, to refuse to provide you with access to some of the information sought because there is an overriding public interest against its disclosure.

These decisions are reviewable decisions. Please see part 7 of this Notice for information concerning your review rights.

In this Notice of Decision I will explain my reasons. To meet the requirements of section 61 of the GIPA Act, I need to tell you:

- (a) the reasons for my decision and the findings on any important questions of fact underlying those reasons, and
- (b) the general nature and format of the records containing the information you requested, with reference to the relevant public interest considerations against disclosure (see the attached Schedule of Documents).

3. Searches for information

Under the GIPA Act, reasonable searches must be made for the information requested. I note that you have previously been advised of the two pet food companies with whom the Faculty of Veterinary Science has sponsorship arrangements, namely Hill's Pet Nutrition Pty Ltd and Royal Canin.

Notice of Decision for Internal review for Mr Tom Lonsdale

In addition to the enquiries made in dealing with the initial application, enquiries have been made with the University's Research Analytics and Compliance Manager and no research funding from pet food manufacturers identified.

Some information identifying sponsors of events and activities by pet food companies is made available through the University's website. This information is freely available to the public. Accordingly, I have not included that information again in this decision.

The records that are the subject of this decision are those in the attached Schedule of Documents.

4. The public interest test

Under section 9(1) of the GIPA Act, applicants have a legally enforceable right to access the information sought, unless there is an overriding public interest against its disclosure.

Further, under section 5 of the GIPA Act, there is a presumption in favour of disclosing government information unless there is an overriding public interest against its disclosure.

To decide whether or not there is an overriding public interest against disclosure of the information you requested, I applied the public interest test, which is set out in section 13 of the GIPA Act.

I applied the public interest test by:

- (a) identifying any public interest considerations in favour of disclosure
- (b) identifying any relevant public interest considerations against disclosure, and
- (c) deciding where the balance between them lies.

I did this in the way required by section 15 of the GIPA Act, which is:

- (a) in a way that promotes the objects of the GIPA Act
- (b) with regard to any relevant guidelines issued by the Information Commissioner
- (c) without taking into account the fact that disclosure of information may cause embarrassment to, or a loss of confidence in, the Government (as that fact is irrelevant)
- (d) without taking into account the fact that disclosure of information might be misinterpreted or misunderstood by any person (as that fact is irrelevant), and
- (e) with regard to the fact that disclosure cannot be made subject to any conditions on the use or disclosure of information.

4.1 Public interest considerations in favour of disclosure

I rely on the public interest considerations in favour of disclosure set out in part 4.1 of the initial decision. I note your role as a veterinary practitioner, however, I have not identified any personal factors which should be taken into consideration regarding this application.

4.2 Public interest considerations against disclosure

Notice of Decision for Internal review for Mr Tom Lonsdale

4.2.1 Conclusive presumption against disclosure – clause 5 of Schedule 1 of the GIPA Act

Some of the information you requested is contained in confidential email exchanges between University staff members that were sent for the dominant purpose of obtaining or providing legal advice. Documents of this nature are covered by Schedule 1 of the GIPA Act. Section 14(1) of the GIPA Act states:

“It is to be conclusively presumed that there is an overriding public interest against disclosure of any of the government information described in schedule 1.”

The information identified in the Schedule of Documents as being subject to Schedule 1 clause 5 attracts a claim of professional legal privilege. These are confidential communications between University officers and legal staff of the University’s Office of General Counsel for the sole or dominant purpose of seeking or providing legal advice. The University’s legal staff identified in the communications, Ms K Migliorini and Ms C Cosentino, held NSW solicitor’s practicing certificates at the time of providing advice and their duties for the University included the provision of legal advice.

I have given consideration to whether it would be appropriate for the University to waive its privilege. Having regard to the content and the nature of the communications, I have decided it would not be appropriate to waive privilege.

4.2.2 Other public interest considerations against disclosure

When applying the public interest test, the only public interest considerations against disclosure that I can take into account are those set out in the table in section 14 of the GIPA Act.

I consider the relevant clauses of the Table to be:

Clause 1(g) which relevantly provides as follows:

“There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects (whether in a particular case or generally):

1(g) found an action against an agency for breach of confidence or otherwise result in the disclosure of information provided to an agency in confidence”

and

Clauses 4(b) and (d) which relevantly provide as follows:

“There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects:

- b) reveal commercial – in- confidence provisions of a government contract
- d) Prejudice any person’s legitimate business, commercial, professional or financial

Notice of Decision for Internal review for Mr Tom Lonsdale

interests.”

The University has sponsorship relationships, with 2 pet food organisations. The details of those relationship arrangements are contained in Memoranda of Understanding, having been determined through private negotiation. A majority of documents within the scope of your application contain sensitive information concerning the negotiations and were created on a basis of confidentiality.

The confidential nature of these communications and agreements is made explicit in the general terms of the Memoranda of Understanding which describe mutual obligations of confidentiality. The final arrangements set out in the Schedule to the Memoranda of Understanding include commercially sensitive information such as financial commitments.

To release details of the negotiations, and the final arrangements would be a breach of the confidentiality and trust that sponsors place in the University when participating in negotiations and entering into agreements. Disclosure of confidential internal communications, communications with sponsors and commercially sensitive information would have an adverse effect on the capacity of the University to manage current sponsorships, and negotiate future sponsorships, as the sponsors’ commercial information would be revealed to other commercial entities, operating within the same competitive environment. This disclosure would most likely disadvantage the sponsors by diminishing the value of the negotiated commercial arrangements. This would have the effect that current and potential future sponsors, would most likely be disinclined to have sponsorship dealings with the University which would adversely impact on the University.

The University publically acknowledges sponsors at events and through its website, in accordance with agreements entered into and accordingly I consider the public interest in understanding the sources of funding for University activities is met.

Minor parts of some of the documents covered by your application contain information about other individuals. That information is the names, signatures and contact details of third parties and are outside the scope of this application.

4.3 Consultation

I have consulted again with the organisations whose business information is concerned with the application.

4.4 Balancing the public interest test

I have considered the public interest considerations in favour of and against disclosure of the information you sought. I note the agreements with the pet food companies are not of the kind required to be made publically available under GIPA, and that even if they were of that kind, matters which are commercial in confidence are not required to be made public.

On balance, I find that the public interest lies in not providing access to commercially sensitive information concerning agreement negotiations and the final arrangements entered into by the University with pet food companies.

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5. Access

Access to the released information is provided in the form of pdf copies of the relevant documents. In accordance with section 74 of the GIPA Act, the documents have been redacted to remove information in respect of which there is an overriding public interest against disclosure or which is personal identifying information not relevant to the application.

6. Charges

There is no charge for this internal review.

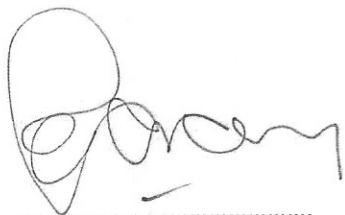
7. Review rights

If you are dissatisfied with the decisions in this notice, you may seek a review. To assist you, I have enclosed a fact sheet published by the Information and Privacy Commission (IPC), entitled *Your review rights under the GIPA Act*. You will also find further information and frequently asked questions on the IPC's website: www.ipc.nsw.gov.au.

If you wish, you can also contact the IPC on freecall 1800 IPC NSW (1800 472 679).

8. Further information

If you have any questions about this notice or would like any further information, please contact Mr Tim Robinson on 9351 6391.



.....
David Pacey

Secretary to Senate

Notice of Decision for Internal review for Mr Tom Lonsdale

Schedule of Documents

Doc	No of Pages	Description of Record that contains the Information	Release	Relevant public interest consideration(s) against disclosure
1	3	Letter: 5 March 2014 Ms Ines Borovic, Marketing and Sales Manager, Centre for Veterinary Science to Hill's Pet Nutrition Pty Ltd	Withhold	Responsible and effective government - clause 1(g) Business interests of agencies and other persons - clauses 4(b) and (d)
2	8 pages	Invoices to Hill's Pet Nutrition and Royal Canin, July and Sept 2013	Release in Part	Business interests of agencies and other persons - clauses 4(b) and (d)
3	10 pages	Memorandum of Understanding Sponsorship: University of Sydney and Royal Canin 2013	Release in part	Responsible and effective government - clause 1(g) Business interests of agencies and other persons - clauses 4(b) and (d)
4	11 pages	Memorandum of Understanding Sponsorship: University of Sydney and Hill's Pet Nutrition Pty Ltd 2013	Release in part	Responsible and effective government - clause 1(g) Business interests of agencies and other persons - clauses 4(b) and (d)

Notice of Decision for Internal review for Mr Tom Lonsdale

5	2 pages	Email: 29 April 2013 10:09 Royal Canin to Mr K Merchant, Business Manager Veterinary Clinical Services, Ms R Taylor, Dean Faculty of Veterinary Science	Withhold	Responsible and effective government - clause 1(g) Business interests of agencies and other persons - clauses 4(b) and (d)
6	5 pages	Email: 7 March 2013 6:26 Mr K Merchant, Business Manager Veterinary Clinical Services to Ms R Taylor, Dean Faculty of Veterinary Science	Withhold	Responsible and effective government - clause 1(g) Business interests of agencies and other persons - clauses 4(b) and (d)
7	3 pages	Email: 7 March 2013 10:53 Mr K Merchant, Business Manager Veterinary Clinical Services to Ms R Taylor, Dean Faculty of Veterinary Science	Release in part	Responsible and effective government - clause 1(g) Business interests of agencies and other persons - clauses 4(b) and (d)
8	5 pages	Email: 7 March 2013 2:27 Ms S Matthew, Lecturer, Faculty of Veterinary Science to Mr K Merchant, Business Manager Veterinary Clinical Services cc Ms S Matthew, Lecturer, Faculty of Veterinary, Mr P Higgins, Lecturer, Faculty of Veterinary Science, Ms R Taylor, Dean Faculty of Veterinary Science	Release in part	Responsible and effective government - clause 1(g) Business interests of agencies and other persons - clauses 4(b) and (d)

Notice of Decision for Internal review for Mr Tom Lonsdale

9		6 pages	Email: 22 February 2013 Mr K Merchant, Business Manager Veterinary Clinical Services to Royal Canin cc Ms R Taylor, Dean Faculty of Veterinary Science, Ms S Matthew, Lecturer, Faculty of Veterinary, Ms C Ritchard, Hospital Manager, University Veterinary Teaching Hospital, Camden	Withhold	Responsible and effective government - clause 1(g) Business interests of agencies and other persons - clauses 4(b) and (d)
10		5 pages	Email: 5:22 26 November 2012 Ms R Taylor, Dean Faculty of Veterinary Science to Hill's Pet Nutrition Pty Ltd	Withhold	Schedule 1 Clause 5 Responsible and effective government - clause 1(g) Business interests of agencies and other persons - clauses 4(b) and (d)
	Documents from Legal File 2012/15434				
11		8 pages	Email: 5 November 2012 12.14 Ms K Migliorini to Ms C Cosentino	Withhold	Schedule 1 Clause 5
12		2 pages	File Note	Withhold	Schedule 1 Clause 5
13		8 pages	Email: 13 November 2012 12.52 Ms R Taylor, Dean Faculty of Veterinary Science to Ms C Cosentino	Withhold	Schedule 1 Clause 5
14		2	Email: 5 November 2012 3.43 Ms K Migliorini to Ms C Cosentino cc Ms O Perks	Withhold	Schedule 1 Clause 5

Notice of Decision for Internal review for Mr Tom Lonsdale

	pages			
15	2 pages	Email: 7 November 2012 12.15 Ms R Taylor, Dean Faculty of Veterinary Science to Ms K Migliorini cc Ms C Cosentino	Withhold	Schedule 1 Clause 5
16	3 pages	File Note 12 November 2012	Withhold	Schedule 1 Clause 5
17	8 pages	Email: 13 November 2012 12.52 Ms R Taylor, Dean Faculty of Veterinary Science to Ms C Cosentino	Withhold	Schedule 1 Clause 5
18	14 pages	Email: 19 November 2012 1.28 Ms C Cosentino to Ms R Taylor, Dean Faculty of Veterinary Science	Withhold	Schedule 1 Clause 5
19	8 pages	Email: 20 November 2012 5.49 Ms R Taylor, Dean Faculty of Veterinary Science to Ms C Cosentino	Withhold	Schedule 1 Clause 5
20	22 pages	Email: 21 November 2012 11.19 Ms C Cosentino to Ms R Taylor, Dean Faculty of Veterinary Science	Withhold	Schedule 1 Clause 5
21	12 pages	Email: 21 March 2013 12.42 Mr K Merchant, Business Manager Veterinary Clinical Services to Ms C Cosentino cc R Taylor Dean Faculty of Veterinary Science	Withhold	Schedule 1 Clause 5
22	13 pages	Draft Memorandum of Understanding	Withhold	Schedule 1 Clause 5
23	25 pages	Email: 30 August 2013 10.17 Mr K Merchant, Business Manager Veterinary Clinical Services to Ms C Cosentino cc Vetsci Assistant, Grace Lei Zhang, Natascha Koepsel, Senior Project Officer, Faculty of Veterinary Science, Colleen Ritchard, Hospital Manager, University Veterinary Teaching Hospital, Camden, Joanne Moon, Veterinary Hospitals Finance Officer	Withhold	Schedule 1 Clause 5

OAP 6

THIS IS THE ANNEXURE MARKED OAP 6 REFERRED TO IN THE AFFIDAVIT OF OLIVIA ALEXANDRA PERKS SWORN ON THE 13th DAY OF JULY 2015 BEFORE ME:



information and privacy commission
new south wales

ANDREW HILTON
SOLICITOR / JUSTICE OF THE PEACE

Review report under the
Government Information (Public Access) Act 2009

Applicant: Mr Tom Lonsdale
Agency: University of Sydney
Report date: 15 April 2015
IPC reference: IPC15/R000067
Keywords: Government information - legal professional privilege - found an action for breach of confidence - reveal commercial in confidence provisions - prejudice business interests

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Summary

1. Mr Tom Lonsdale (the Applicant) applied for information from the University of Sydney (the Agency) under the *Government Information (Public Access) Act 2009* (GIPA Act).
2. The Agency decided to provide access to some information and decided to refuse access to some other information.
3. The Information Commissioner is satisfied that the decision of the Agency is justified and makes no recommendations against the decision. We refer the Agency to our recommendation at paragraph 53, with respect to dealing with future applications in which third party consultation takes place.

Background

4. On 29 September 2014 the Applicant applied under the GIPA Act to the Agency for access to the following information:
 - a. details of research funds, sponsorships, agreements and contracts between pet food companies and the University of Sydney, its staff and students; and
 - b. copies of correspondence, email messages and memoranda that relate to the arrangements entered into by individuals and the University.
5. In its decision issued on 11 November 2014, the Agency decided that some information was already available to the Applicant and refused to provide access to some other information because of an overriding public interest against its disclosure.
6. On 5 December 2014, the Applicant requested an internal review of the initial decision.
7. On 2 February 2015, the Agency made a decision under section 58(1)(a) to release some information that had not previously been released, and under section 58(1)(d) decided to refuse access to some other information because there is an overriding public interest against its disclosure.
8. In seeking a review of the decision by the Information Commissioner, the Applicant confirmed that he seeks full disclosure of the information which is the subject of his request.

Decisions under review

9. The decision under review is the Agency's internal review decision to refuse access to some of the information sought.

Conclusive presumption against disclosure

10. The only public interest considerations against disclosure that can be considered are those in schedule 1 and section 14 of the GIPA Act.
11. Section 14(1) of the GIPA Act provides that government information described in Schedule 1 to the GIPA Act is to be conclusively presumed to give rise to an overriding public interest against disclosure. For information for which a conclusive presumption, such as legal professional privilege from clause 5 of

Schedule 1 is established, there is no requirement to apply the public interest test set out in section 13 of the GIPA Act.

Legal professional privilege – clause 5 of Schedule 1

12. In order for client legal privilege to attach to the information, each element of client legal privilege must be satisfied. The essential elements of client legal privilege are:
 - The existence of a client and lawyer relationship;
 - The confidential nature of the communication or document; and
 - The communication or document was brought into existence for the dominant purpose of either:
 - enabling the client to obtain, or the lawyer to give legal advice or provide legal services, or
 - for use in existing or anticipated litigation.
13. This is further explained in the IPC Fact Sheet - Legal Professional Privilege available at www.ipc.nsw.gov.au
14. We have examined the information described at items 10-23 in the schedule of documents attached to the notice of decision. We confirm it contains the essential elements of legal professional privilege in circumstances in which the dominant purpose of the documents was either to enable the client to obtain or for the lawyer to provide legal advice or legal services to the Agency.
15. Under clause 5(2) of Schedule 1 to the GIPA Act, an Agency must consider whether it is appropriate to waive privilege before it decides to refuse access under clause 5(1).
16. On page 3 of the notice of decision, the Agency determined that it would not be appropriate to waive privilege in relation to the material. This is a decision available to the Agency to make and is not reviewable under the GIPA Act.
17. We conclude that the Agency's decision to refuse access to the information at items 10-23 on the basis of legal professional privilege is justified.

The public interest test

18. Turning now to the balance of information in the schedule of documents, the Applicant has a legally enforceable right to access the information requested, unless there is an overriding public interest against disclosing the information (section 9(1) of the GIPA Act). The public interest balancing test for determining whether there is an overriding public interest against disclosure is set out in section 13 of the GIPA Act.
19. The general public interest consideration in favour of access to government information set out in section 12 of the GIPA Act means that this balance is always weighted in favour of disclosure. Section 5 of the GIPA Act establishes a presumption in favour of disclosure of government information.
20. Before deciding whether to release or withhold information, the Agency must apply the public interest test and decide whether or not an overriding public interest against disclosure exists for the information.
21. Section 13 requires decision makers to:
 - a. identify relevant public interest considerations in favour of disclosure,

- b. identify relevant public interest considerations against disclosure,
 - c. attribute weight to each consideration for and against disclosure, and
 - d. determine whether the balance of the public interest lies in favour of or against disclosure of the government information.
22. The Agency must apply the public interest test in accordance with the principles set out in section 15 of the GIPA Act.

Public interest considerations in favour of disclosure

23. In its notice of decision, the Agency acknowledged the presumption in favour of disclosing government information at section 5 of the GIPA Act and relied upon the public interest considerations in favour of disclosure set out in part 4.1 of the initial decision.
24. These include the general public interest in favour of disclosure of government information provided at section 12(1) of the GIPA Act and the public interest in knowing about the University's relationships with commercial organisations.

Public interest considerations against disclosure

25. In order for the considerations against disclosure set out in the table to section 14 of the GIPA Act to be raised as relevant, the Agency must establish that the disclosure of the information *could reasonably be expected to have the effect* outlined in the table.
26. The words "could reasonably be expected to" should be given their ordinary meaning. This requires a judgment to be made by the decision-maker as to whether it is reasonable, as distinct from irrational, absurd or ridiculous, to expect the effect outlined.
27. In its notice of decision the Agency raised three public interest considerations against disclosure of the information, deciding that its release could reasonably be expected to:
- a. found an action against an agency for breach of confidence or otherwise result in the disclosure of information provided to an agency in confidence (clause 1(g) of the table to section 14 of the GIPA Act);
 - b. reveal commercial-in-confidence provisions of a government contract (clause 4(b) of the table to section 14 of the GIPA Act); and
 - c. prejudice legitimate business interests (clause 4(d) of the table to section 14 of the GIPA Act).
28. I will discuss each of these considerations in turn.

Consideration 1(g) – found an action against an agency for breach of confidence or otherwise result in the disclosure of information provided to an agency in confidence

29. Clause 1(g) of the table at section 14 states:

There is a public interest consideration against disclosure if disclosure of the information could reasonably be expected to found an action against an agency for breach of confidence or otherwise result in the disclosure of information provided to an agency in confidence (whether in a particular case or generally).

30. To show that this is a relevant consideration against disclosure, the Agency must establish:
- a. the information was obtained in confidence; and
 - b. disclosure of the information could reasonably be expected to found an action against an agency for breach of confidence; or
 - c. otherwise result in the disclosure of information provided.
31. In raising this public interest consideration against disclosure the Agency needs to ensure the information is in fact confidential.
32. Once satisfied that the information is confidential, the agency should then turn its mind to what constitutes a breach of confidence. A breach of confidence arises out of an unauthorised disclosure of, or other use of information, which is subject to an obligation of confidentiality.
33. in its notice of decision, the Agency states that:
- details of its sponsorship arrangements with two pet food organisations are contained in Memoranda of Understanding, which were reached through private negotiation;
 - a majority of documents within the scope of the application contain sensitive information about the negotiations and were created on a basis of confidentiality;
 - the confidential nature of these communications and agreements is explicit in the terms of the Memoranda, which describe mutual obligations of confidentiality; and
 - to release details of the negotiations and final arrangements would be a breach of the confidentiality and trust that sponsors place in the Agency when participating in negotiations and entering into agreements.
34. In the course of this review, we examined the Memoranda and communications related to their negotiation and confirm that they contain confidentiality clauses, which in all likelihood would be breached should they be disclosed.
35. We are satisfied the elements of this consideration are met and that this is therefore a relevant consideration against disclosure of the information.

Consideration 4(b) – reveal commercial-in-confidence provisions of a government contract

36. Clause 4(b) of the table at section 14 states:

There is a public interest consideration against disclosure if disclosure of the information could reasonably be expected to reveal commercial-in-confidence provisions of a government contract.

37. We refer to the Agency's points at paragraph 33 above with respect to the confidential nature of information which fall within the scope of this request.
38. Having inspected the material in question, we are satisfied that it is reasonably expectable that release of the information would reveal commercial in confidence provisions of a government contract.

Consideration 4(d) – prejudice legitimate business interests

39. Clause 4(d) of the table to section 14 of the GIPA Act provides:

There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to prejudice any person's legitimate business, commercial, professional or financial interests.

40. Person is defined in Schedule 4(1) to the GIPA Act as including an agency. It can also include a corporation, pursuant to section 21 of the *Interpretation Act 1987*.
41. For this consideration to apply, the Agency must:
 - a. identify the relevant legitimate interest; and
 - b. explain how the interest would be prejudiced if the information was disclosed.
42. Our view is that the relevant meaning of "legitimate" for the purposes of this consideration is its ordinary meaning, that is genuine and not spurious.¹
43. The notice of decision states that:
 - disclosure of confidential communications with sponsors and commercially sensitive information would have an adverse effect on the capacity of the Agency to manage current sponsorships and negotiate future sponsorships, as the sponsors' commercial information would be revealed to other commercial entities, operating within the same competitive environment;
 - disclosure would most likely disadvantage sponsors by diminishing the value of the negotiated commercial arrangements; and
 - this would have the effect that current and potential future sponsors would most likely be disinclined to have sponsorship dealings with the Agency, which would adversely impact the Agency.
44. We are satisfied that if the information is disclosed that prejudicial consequences for both the sponsors' and the Agency's interests are reasonably expectable. We therefore find this is a relevant consideration against disclosure of the information in question.

Consultation with third parties

45. Pursuant to section 54 of the GIPA Act, the Agency consulted with the companies whose business information is captured by the application.
46. The purpose of third party consultation under this section is to ascertain whether the person (or in this case, company) has an objection to disclosure of the information and the reasons for the objection. The Agency must take any third party objection into account in making its decision as to whether there is an overriding public interest against disclosure of government information.
47. During the course of this review, we inspected the consultation correspondence.
48. The notice of decision would benefit from including an explanation as to the reliance on the outcome of the consultation process in carrying out the public interest test.

¹ Macquarie Dictionary 6th ed, October 2013

Balancing the public interest

49. The GIPA Act does not provide a set formula for weighing individual public interest considerations or assessing their comparative weight. Whatever approach is taken, these questions may be characterised as questions of fact and degree to which different answers may be given without being wrong, provided that the decision-maker acts in good faith and makes a decision available under the GIPA Act.
50. In weighing up considerations for and against disclosure, the Agency noted that the agreements with pet food companies are not of the kind to be made publicly available under the GIPA Act and that even if they were, commercial-in-confidence provisions of a contract are not required to be made publicly available.
51. We refer the Applicant to the IPC's Knowledge Update on Government Contracts for further information about the GIPA Act's requirements for certain contractual information to be made publicly available.

Recommendations

52. The Information Commissioner is satisfied that the decision of the Agency is justified, pursuant to section 97 of the GIPA Act, and makes no recommendations against the decision.
53. Pursuant to section 92 of the GIPA Act, the Information Commissioner recommends that in dealing with future applications when the Agency consults with relevant third parties, it include the details of the consultation and any reliance on the outcome of such consultation in its notice of decision as required by section 61 of the GIPA Act.

Review rights

54. Our reviews are not binding and are not reviewable under the GIPA Act. However a person who is dissatisfied with a reviewable decision of an agency may apply to the NSW Civil and Administrative Tribunal (NCAT) for a review of that decision.
55. The Applicant has the right to ask the NCAT to review the Agency's decision.
56. An application for a review by the NCAT can be made up to 20 working days from the date of this report. After this date, the NCAT can only review the decision if it agrees to extend this deadline. The NCAT's contact details are:

NSW Civil and Administrative Tribunal
Administrative and Equal Opportunity Division
Level 10, John Maddison Tower
86-90 Goulburn Street,
Sydney NSW 2000

Phone: 1300 006 228

Website: <http://www.ncat.nsw.gov.au>

Completion of this review

- 57. This review is now complete.
- 58. If you have any questions about this report please contact the information and Privacy Commission on 1800 472 679.

Elizabeth Tydd
Information Commissioner



Hill's Pet Nutrition Pty Limited (ABN 86 003 954 550)
Level 14, 345 George Street
Sydney NSW 2000
Australia

11 November 2014

Attn: Tim Robinson, Manager
Archives and Records Management Services
The University of Sydney
Sydney NSW 2006
Australia

By email: tim.robinson@sydney.edu.au

Dear Tim

Freedom of Information request

We are writing to you on behalf of Hill's Pet Nutrition Pty Limited (**Hill's**) regarding an access to information request by a third party under the Government Information (Public Access) Act 2009 (NSW) (**GIPA Act**).

We refer to your letter on behalf of The University of Sydney (the **University**) addressed to [REDACTED] dated 16 October 2014 which sets out an access to information request (the **Access Request**) for documents concerning the University and pet food companies such as Hill's. We understand that in accordance with the Access Request you have identified the following documents concerning Hill's:

Document Description

Memorandum of Understanding – Sponsorship

Date

25 June 2014

We set out below our submission against disclosure of this document.

Document	Submission against disclosure	GIPA Act sections
Memorandum of Understanding – Sponsorship	<p>The information within the contents of the memorandum concern identifying information which is of commercial value to, and concerns the business and financial affairs of, Hill's.</p> <p>The subject matter (which includes value amounts and supporting obligations) also concerns a proposed arrangement which if provided to third parties would substantially damage the value of the arrangement.</p> <p>The information within the documents were also provided on the basis that the information would remain confidential.</p> <p>Disclosure of this information would:</p> <p>(a) destroy and/or diminish the competitive</p>	Section 14(2), Item 4

	<p>commercial value of the subject matter of the information (given the considerable investment in both time and funds);</p> <p>(b) reveal the deliberation between two parties who are negotiating a competitive commercial arrangement which would ultimately prejudice the outcome of the process and as well as business, commercial and financial interests;</p> <p>(c) have an adverse effect on our affairs and prejudice supply of such information to the University, and</p> <p>which in all cases, would not advance the public interest.</p>	
--	--	--

For the reasons set out above, it is ultimately our view that non-disclosure significantly outweighs the public interest for disclosure.

Should you wish to discuss our submission above further, please do not hesitate to contact us on the details below.

Kind regards,

[Redacted signature]

[Redacted]
Hill's Pet Nutrition
[Redacted]
[Redacted]

[Redacted]
Hill's Pet Nutrition
[Redacted]
[Redacted]



Hill's Pet Nutrition Pty Limited (ABN 86 003 954 550)
Level 14, 345 George Street
Sydney NSW 2000
Australia

8 January 2015

Attn: Tim Robinson, Manager & Anne Picot

**Archives and Records Management Services
The University of Sydney
Sydney NSW 2006
Australia**

By email: tim.robinson@sydney.edu.au & anne.picot@sydney.edu.au

Dear Mr Robinson and Ms Picot

Freedom of Information request – internal review

We are writing to you on behalf of Hill's Pet Nutrition Pty Limited (**Hill's**) regarding an access to information request by a third party under the Government Information (Public Access) Act 2009 (NSW) (**GIPA Act**).

We refer to your letter on behalf of The University of Sydney (the **University**) addressed to [REDACTED] dated 16 October 2014 and to your second letter dated 16 December 2014 to which this submission relates (the **Access Request**) for documents concerning the University and pet food companies such as Hill's.

We understand that in accordance with the Access Request you have provided for our consideration a redacted version (with red boxes) of the Memorandum of Understanding – Sponsorship dated 25 June 2014 and two emails from Rosanne Taylor both addressed to [REDACTED] in November 2012.

We agree with the University's proposed preliminary redaction assessment (**Redacted Information**) and in addition provide you with further background information supporting the decision to redact that information sought to be disclosed under the Access Request. Our submission below is based on Section 14(2) of the GIPA Act having regard mainly to paragraphs (b) and (c) of Item 4 (Business interests of agencies and other persons).

Consistent with the proposed decision regarding the Redacted Information, separately, we ask that you redact:

- (a) the name [REDACTED] with the tax invoices, within the MOU in the 'Sponsor' box and in handwriting under the signature block and on the cover page of the email; and
- (b) the name [REDACTED] within the MOU in the 'Sponsor' box and in handwriting under the signature block; and
- (c) the name [REDACTED] on the cover page of the email.

Submission

The Redacted Information discloses the nature of the sponsorship arrangement between Hill's and the University which is commercially valuable to Hill's and concerns Hill's business and commercial

interest (for completeness we also note that it is understood that the Redacted Information is confidential, protected by an obligation of confidence).

For example, the Redacted Information discloses the whether or not certain events are subject to exclusivity and reveals its plans and strategies of Hill's in relation to its sponsorship arrangements. This information can be identified on both pages of the letter dated 5 March 2014 [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] This information is integral to Hill's business given it forms a significant part of our marketing and promotional strategy.

The Schedule (which contain the commercial terms) to the terms and conditions was privately negotiated and agreed, not by public tender. Hill's has a number of sponsorship arrangements with other universities [REDACTED] which are confidential and the disclosure of the terms of one arrangement would have an adverse effect on another arrangement. For example, counterparties would be able to seek terms similar to that obtained by the University.

Revealing the commercial terms of the Hill's sponsorship arrangement would effectively mean that any concessions or favourable terms that Hill's has provided to the University would be available to another university or third party in another bargain (such as whether Hill's sought exclusivity for a particular event and the corresponding price that it paid for those rights). Should this information be revealed to any other party it may also provide an opportunity for a pet food competitor to adopt a more advantageous sponsorship strategy to Hill's and offer terms which are more favourable.

For example, the tax invoices and the Schedule disclose the dollar amounts Hill's pays for certain sponsorship rights which could be used by a third party to outbid Hill's for the same rights or promote a bidding war. Additionally, the Schedule discloses the marketing strategy of Hill's. A third party pet food competitor could, for example, discern which areas Hill's markets and sponsors its products and use this information to unfairly develop a competing strategy (without investing and conducting their own research). Ultimately, third party competitors would obtain a commercial advantage which would prejudice Hill's.

Should the terms be made public the value of the commercial bargain that Hill's has struck with the University would be diminished. Disclosure would devalue the sponsorship arrangement and in the long term Hill's would need to reconsider the value of the arrangement under its sponsorship arrangements with the University. Furthermore Hill's ability to negotiate any sponsorship arrangement in the future with the University or any other university would be prejudiced.

Ultimately disclosure of this information would destroy and/or diminish the commercial value of that information and would not advance the public interest. Alternatively, the information also concerns the commercial affairs and business interests of Hills and disclosure would not only prejudice Hill's but it would also prejudice the future collection and supply of Hill's products with the University and the corresponding information and benefits it receives under that arrangement.

Should you wish to discuss our submission above further, please do not hesitate to contact us on the details below.

Kind regards,

[REDACTED]

[REDACTED]
Hill's Pet Nutrition
[REDACTED]
[REDACTED]

[REDACTED]
Hill's Pet Nutrition
[REDACTED]
[REDACTED]

OAP 9

THIS IS THE ANNEXURE MARKED OAP 9 REFERRED TO IN THE AFFIDAVIT OF OLIVIA ALEXANDRA PERKI SWORN ON THE 13th DAY OF JULY 2015 BEFORE ME:

ANDREW HILTON
SOLICITOR AT LAW
JUSTICE OF THE PEACE

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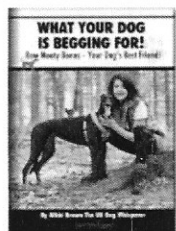
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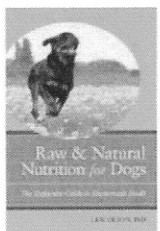
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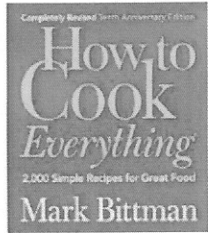
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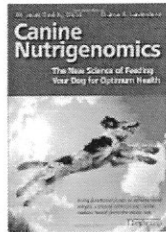
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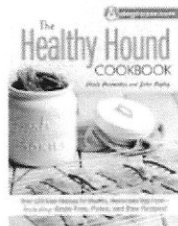
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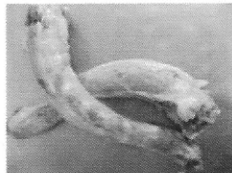
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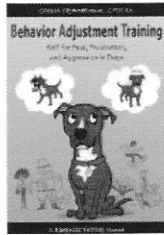
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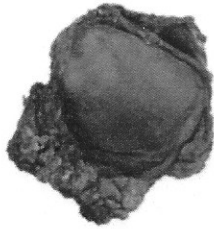
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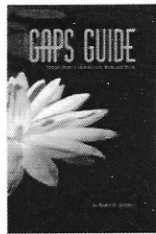


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Excerpt
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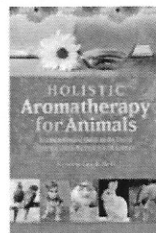
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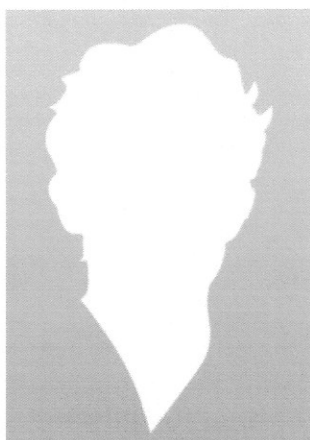
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In 1972 Tom Lonsdale graduated from the Royal Veterinary College, University of London. After working as a volunteer in Nairobi, Kenya he entered the London School of Economics to study social sciences. Tom hoped to find clues on how the veterinary profession could better serve the global community. But another ten years elapsed before the clues, always present, became obvious.

From 1975 to 1980 Tom worked in a number of veterinary practices in and around London. In 1980 he emigrated to Australia and the next year started the first of a small group of veterinary practices on the outskirts of Sydney.

By the mid 1980s Tom noticed that pets that had been brought to the veterinary practice as young animals were showing signs of premature aging and chronic ill-health – in particular the pets suffered from foul breath and rotting teeth and gums – directly attributable to a diet of processed food. A little extra thought led Tom to the realization that the veterinary profession was 'living a lie'. Instead of standing up for pets and their owners the profession had become a marketing arm of the pet food industry.

In 1991 Drs Breck Muir and Alan Bennet joined Dr Lonsdale in what became known as the Raw Meaty Bones Lobby. The three vets campaigned for a healthier diet for pets, an end to unnecessary dental procedures and an end to the veterinary profession's cooperation with the artificial pet food manufacturers – this, they argued, was the better way for the veterinary profession to serve the community.

In August 2001, with the help of two editors and a team of lawyers, the book, Raw Meaty Bones: Promote Health, was published.

The 'easy reader' Work Wonders: Feed your dog raw meaty bones was published in 2005

These days Tom lives on the outskirts of Sydney. He writes articles and gives talks to encourage people to take up the struggle for the benefit of pets, pet owners and the wider community.

There's a diet guide, TV shows, newsletters, books and articles at www.rawmeatybones.com



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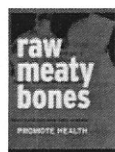
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