

**NSW CIVIL AND ADMINISTRATIVE TRIBUNAL**

**Division: Administrative and Equal Opportunity Division**  
**Applicant: Craig Azshion**  
**Respondent: NSW Ombudsman**  
**File Number: 1610123**

**Affidavit of Craig Azshion**  
**Affirmed May 2016**  
**Filed as the Applicant**

**On May 2016 I, Craig Azshion , citizen of 2/28 Kindilan Place Miranda NSW; to the best of my ability and capacity solemnly affirm:**

- 1 I am the applicant in the above matter.**
- 2 I make this affidavit for the accompanying Submission and Response of the Applicant too the Respondents Submission as directed by Dr Lucy on 26 April 2016.**
- 3 That all in content is fact and truth.**

**Affirmed at:**

**Signature of deponent:**

**Name of Witness:**  
**Address of Witness:**  
**Capacity of witness:**

**As a witness, I certify the following matters concerning the person who made this affidavit(the deponent):**

- 1 I saw the face of the deponent.**
- 2 I have confirmed the deponents identity using the following identification document:**

**Signature of Witness:**

Mr Craig Azshion  
2/28 Kindilan Place  
Miranda NSW 2228  
20 May 2016

The Registrar  
Administrative and Equal Opportunity Division  
NSW Civil and Administrative Tribunal  
PO Box K1026  
Haymarket NSW 1240

Megan Smith  
Legal Counsel / NSW Ombudsman  
Level 24, 580 George Street  
Sydney NSW 2000

**To The Registrar and M Smith**

Administrative and Equal Opportunity Division  
File no: 1610123 – Azshion v NSW Ombudsman  
Hearing Date: 8 June 2016 2pm

In accord with directions by Dr J Lucy on 26 April 2016 is enclosed:

- Affidavit ov Craig Azshion affirmed May 2016.
- Response to Respondents Submission by M Smith / Legal Counsel NSW Ombudsman.

**From**  
**Craig Azshion**  
**Applicant**

## NSW CIVIL AND ADMINISTRATIVE TRIBUNAL

**Division: Administrative and Equal Opportunity Division**

**Applicant: Craig Azshion**

**Respondent: NSW Ombudsman**

**File Number: 1610123**

### Submission and Response of the Applicant

#### **A Background and Summary of Application**

**1/ My GIPA application for a letter and a declaration/providing of information is relevant to NSW Ombudsman case no: S/2015/51.**

**2/ My first GIPA application was to Ombudsman NSW dated 23-11-2015. *Tab 1.***

**3/ That GIPA application was responded by the case officer Mr Kimber Swan/ Senior Investigation Officer (Policy and Legal) Police Division. 30 November 2015. *Tab 2.***

**Fact is: Omitted and contrary to both the affidavit and submission of the Respondent - Ombudsman NSW firstly declined the application citing only Section 19 and Schedule 2 of GIPA. Contrary to the submission of the respondent part D 16 17 18 , I the applicant never requested under GIPA Section 19.**

**4/ My second application was to the same case officer. 14-12-2015. *Tab 3.***

**I restructured my original application citing GIPA Sections 73(2); 74 and Section 80(i); (g).**

**5/ NSW Ombudsman responded via Ms Jo Flanagan. 21 December 2015. *Tab 4.***

**The application was rejected citing GIPA Section 43 and Schedule 2.**

**Informed was my rights to appeal the decision.**

**Further provided was advice that I seek directly too NSW Police with a, police file number LM11404010.**

**6/ I requested a Internal Review to Professor John McMillan Acting Ombudsman. 14-1-2016. *Tab 5.***

**7/ NSW Ombudsman responded via Deputy Ombudsman Chris Wheeler. 22/1/2016. *Tab 6.***

**The application was deemed invalid citing the same reason as provided by Ms Jo Flanagan and reaffirming Schedule 2.**

**In the internal review decision section; declared was that NSW Ombudsman has no discretion to release excluded information. In the close; informed, was that a external review can only review whether my application was valid, not whether any documents can be released.**

**8/ I forwarded to NCAT my application for a tribunal hearing. 10<sup>th</sup> February 2016. *Tab 7.***

9/ Acknowledgment received by NCAT. *Tab 8.*

10/ NCAT Case Conference. 26 April 2016. Before Dr Lucy.

**Directions:** NSW Ombudsman to file and serve submissions before 10<sup>th</sup> May and the applicant to respond by 24 May with a half day hearing set for 8 June 2016 2pm.

On this conference NSW Ombudsman represented by M Smith, informed that the letter requested was not even certain to exist.

M Smith argued that in the existence of the requested letter; that the letter remains belonging to NSW police.

*Tab 9.*

**Public Access Amendment Act 2012**

[37] Schedule 4, clause 6A. Regulations may declare part of an agency to be a separate agency.

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### **Groundings Held by the Applicant**

All of the here before with.

**Refer: *Tab 7.* Application to NCAT that was inclusive with document - My Request for Review S/2015/51. (Relevant to vindication)**

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NSW Ombudsman maintains justification to decline my GIPA requests citing s43 and Schedule 2.

I the applicant maintain a right under GIPA and in the authority of the Tribunal to obtain access to the document and be answered the information sought.

I maintain this right re-citing GIPA Sections:

*Tab 10.*

Part 1 – Preliminary. 3 Object of Act (1) (a) (b) (c)

*Tab 11.*

Part 2 – Open government information – general principles.

Division 1 – Ways of accessing government information

7 Authorised proactive release of government information (1) (4) (5)

(4) is relevant to GIPA sections 73 (2); 74 and 80(i).

(5) is relevant in that my request for an internal review was addressed correctly -

Schedule 4 Interpretive provisions

1 Definitions “principal officer”.

“government information” means information contained in a record held by an agency.

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In the respondents submission:

**D Legislation referred to by the applicant**

19&20. The only counter that my right to access under sections 73 (2); 74 and 80 (i) is that they are irrelevant because they seek my application is invalid, doing such in their anchor standing of protection under section 43 and Schedule 2.

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**In the respondents submission:**

**C Relevant legal principals and facts**

**12 Section 43 and Schedule 2 of the GIPA recognise:**

**The respondent then recites a section from Commissioner of Police (NSW) v Barrett (No2) [2016].**

**That application is incomparable with mine as the GIPA specific requests are as different as night and day. In that case however it is to note point 22 –**

**[The weighing of the balance required by s13 is to be made in accordance with the principles set out in s15. These principles are:**

**(a) Agencies must exercise their functions so as to promote the object of this Act.]**

**C 13 [It has previously been held that the words “relating to a function” of an agency should be applied generously]**

**Schedule 4 Interpretative provisions**

**1 Definitions**

***function* includes a power, authority or duty.**

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**In the respondents submission.**

**B Relevant legislation**

**9; 10; 11 are where further reference defence is held under GIPA Section 43 and Schedule 2.**

**I request to present a oral offence too the validity in my application, done in reference to the Respondents Submission Tab 5 point 23 – Deputy President Hennessy in Bennett –v- Vice Chancellor University of New England [2000] NSWADT8.**

**The same with the views ov Judicial Member Montgomery S ; 23 November 2007, found in same Tab 5, points 25 and 27.**

**The same with the views ov Judicial member Montgomery S ; 25 August 2008, found in Tab 6 ov the Respondents Submission; points 19 and 20 (which are chronologically found between points 11 and 12).**

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**Refer: Tab 6.**

**Revealed is that the Acting Ombudsman declared that NSW Ombudsman has no discretionary power to release excluded information.**

**Tab 12.**

**Schedule 2 Excluded information of particular agencies**

**first paragraph: (unless the agency consents to disclosure)**

**Tab 13.**

**Schedule 1 Information for which there is conclusive presumption of overriding public interest against disclosure**

**6 Excluded information (1);(2);(3). (1) [other than information that the agency has consented to the disclosure of.]**

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I recognised that the 8 June Hearing is primarily to determine if my application is valid or invalid, held currently as invalid by NSW Ombudsman under s43 and Schedule 2 of GIPA. That in a precise NSW Ombudsman regards the requests invalid because the information sought is excluded information.

Before filing my NCAT application I learnt that the Information Commissioner has no legal juris to enforce a instruction for a agency to produce a document but that NCAT has such authority. *Tab 6* establishes that the Deputy Ombudsman provided me with misinformation in two critical areas. Firstly he informed that NSW Ombudsman has no discretionary powers regarding excluded information and secondly that no external review body could order the making avail ov documents.

Further became cause to question NSW Ombudsman.

Within its Submission of the Respondent. Declared was that the letter applied for; was not found in either paper or electronic form. A letter that by law had to be produced to the Ombudsman. The letter was declared to have been sent too the Ombudsman by Greg Edwards himself. *Tab 14 – (3<sup>rd</sup> paragraph final sentence) .*

That letter it is correct to assert would/should have been received by NSW Ombudsman long before I filed my complaint; there thus, before NSW Ombudsman commenced any action befitting action prescribed in Schedule 2.

I referenced the relevant letter in a request for copy, in my S/2015/51 initial complaint. *Tab 15.*

*Tab 16.*

A further two times I requested NSW Ombudsman for copy ov this letter.

In the two further responses from NSW Ombudsman, no reference to the mandatory letter was given.

*Tab 17.*

GIPA Part 2 Division 1 8 Informal release of government information.

*Tab 18.*

GIPA Part 4 (53) (2) Searches for information held by agency.

I should have been informed by NSW Ombudsman in the first opportunity to reference reply; that the letter requested was not in record.

The misinformation provided by the Deputy Ombudsman and the declaration that the letter is not within NSW Ombudsman records alters the base ov the 8 June Hearing. The tribunal must sett to ask serious tangent questions too NSW Ombudsman at the 8 June Hearing.

Questions that collaborate with GIPA -

Part 5 Review of decisions

111 Referral of systemic issues to Information Commissioner

112 Report on improper conduct

Part 6 Protections and Offences

117 Offence of directing unlawful action

118 Offence of improperly influencing decision on access application

120 Offence of concealing or destroying government information

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**Final Argument that the Tribunal recognises my application can be ordered as valid particularly in the request for copy of the letter from Greg Edwards Professional Standards Command to NSW Ombudsman.**

**Needed to be held in adjudication are my groundings of vindication found and stated in GROUNDS FOR APPLICATION (Tab 7) and that accompanying document.**

**Surely the Tribunal recognises that Section 43 is contrary in its instruction, this done not just at Section 43 but within numerous sections of GIPA.**

**A inflexible objective interpretation of Section 43 would I agree, standardly apply if the applicant was a third party and or the information sought was broad and as indirect as in example Commissioner of Police (NSW) v Barrett (No 2) [2016].**

**Tab 12 and 13 establishes that GIPA does declare flexibility in the request for excluded information. That the cited extracts fit and my stated and proven vindication align within Part 3 Object of the Act.**

**GIPA furthers itself and the position that excluded information should be held under the Object of the Act, and to determine in flexibility, access applications that apply too such.**

**GIPA Division 4 – Administrative review by Civil and Administrative Tribunal**

**This division extends from s100 too 112A. It would be fair to assert that a Committee representing NCAT would have been consulted, when in the compiling of GIPA.**

**If excluded information was mandatorily protected a section would have stated that the Tribunal has no authority, when in decisions regarding excluded information.**

**GIPA. Division 2 - Public interest considerations**

**13 Public interest test.**

**14 Public interest considerations against disclosure.**

**There is a extensive Table that categorises government information, done in weight against disclosure. Excluded information of a agency is not listed.**

**Tab 19.**

**I regard my application is further solidified with preparedness to receive the information and letter requested, within the compliances of section 73(2); 74 and 80(i) of GIPA.**

**All this, surely enhances all ground taken from NSW Ombudsman.**

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**Tab 20. Ombudsman submission to the Review of Police Oversight in New South Wales  
June 2015**

**Page 1. 4<sup>th</sup> paragraph. The Ombudsman declares the need to strengthen its efficiency and effectiveness.**

**Page 2. Paragraphs 1; 2 and 3 generally declares the Ombudsman regard, that a singular police oversight body without the Ombudsman [will result in less effective oversight.] Paragraph 2 entirely counters the course of action that which was suggested by NSW Ombudsman to me the Applicant. (Tab 4)**

**Page 7 1. Executive summary**

**Page 12/13 2. Principles of the current police oversight system in NSW**

**2.1. Framework for reforming the NSW Police Force**

**All the points in 2.1. enhance that the correct course of action too obtaining access and knowledge of the specific letter and if any other communications exist, is to be done by the applicant through NSW Ombudsman not directly.**

**Page 14 2.3. Representing the interests of the members of the public**

**Totally reiterates the view that NSW Ombudsman represents the public and specifically points to issues concerning managerial actions by NSW Police.**

**Page 15 2.4. Models for civilian oversight of police**

**First paragraph. Reference is made of the NSWPF's Professional Standards Command and the Ombudsman.**

**Point 4. Reference is made too Justice Wood view; that without the Ombudsman, there would be fewer opportunities to intervene early and enforce appropriate standards. This is specifically relevant to the requested letter and the declaration by NSW Ombudsman that it does not exist.**

**Page 18 3. Civilian oversight of complaints about police in practice**

**From page 18 through to page 30 constant reference is made to the importance of a collaborative relationship between the Ombudsman and NSW Police.**

**Page 20 3.1.3. The role of the Professional Standards Command.**

**(This is the Command where Greg Edwards works and is the command that is obliged to produce the letter in request as under Part 8A Police Act).**

**3.2. The roles and responsibilities of the Ombudsman**

**Generally it reaffirms a main role of the Ombudsman is to 'keep under scrutiny' the NSWPF's handling of complaints.**

**3.2.1 Requirement that police notify the Ombudsman of certain complaints.**

**This reaffirms that the letter in request is mandatory for the NSW Police to have sent to the Ombudsman.**

### **3.2.3. Ombudsman oversight of police complaint investigations**

Top of page 23. [In assessing the adequacy of police complaint investigations, we focus on whether police investigators complied with the legislative requirements set out in the Police Act, including:]

### **3.2.6. Working collaboratively with police**

Paragraph 1 states that work by the Ombudsman [includes regular liaison meetings between our staff and officers of the Professional Standards Command].

Paragraph 2 [Such links enable Ombudsman officers to make informal contact with investigating officers and Professional Standards Duty Officers to discuss the progress of matters and, where possible and appropriate, to facilitate quick resolution of complaints. In relation to straight forward complaints where informal resolution appears likely to avoid the need for a formal inquiry, we sometimes contact the relevant duty officer or senior officer to discuss options for resolving the complainant's concerns 'on the spot'].

Paragraph 3 further declares that senior Ombudsman staff meet with Professional Standards Duty Officers, Professional Standards Managers and commanders to discuss complaint handling issues.

Paragraph 4 declares that the above said meetings include developing strategies to respond to difficult complaints.

(This becomes significantly relevant due to the declared fact from NSW Ombudsman that the specific letter does not exist)

It is further stated that this course of action minimises the waste of limited NSWPF and Ombudsman resources and in doing [reduce the stress to complainant handlers and complainants and ensure that particularly difficult matters are handed in an equitable and consistent manner].

*Tab 20* establishes that in June 2015, the Ombudsman himself; regards, that the correct course of action by a member of the public in requests or complaint to the NSWPF is through the Ombudsman; not directly, as was advised by Ms Jo Flanagan and re-advised by the Deputy Ombudsman.

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In result that NSW Ombudsman has declared that the specific letter does not exist and that letter is mandatory by law; it surely is for the Tribunal to instruct NSW Ombudsman to make a direct inquiry to NSW Police Professional Standards Officer Greg Edwards regarding the actual of that letter.

If the letter does not exist then it be instructed for NSW Ombudsman to re-inform the applicant of such and to re-inform the Tribunal. If the letter exists, then NSW Ombudsman is to conduct a request to Greg Edwards on behalf of the applicant for a release of that letter and provide copy to itself; the applicant and the Tribunal.

Further to instruct NSW Ombudsman to make a similar inquiry to the NSWPF and the Professional Standards Command, to obtain whether there is any other letters; emails; faxes from NSW Police to NSW Ombudsman and or vice versa, that references the applicant and or S/2015/51 and if such exist to inform the applicant and Tribunal.

That a further Tribunal Hearing date is set.

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*Tab 21.*

**Part 4 – Access applications**

**Division 1 – Making an access application**

**42 Inclusion of additional information in applications**

**(c) any other information that the applicant thinks may be relevant.**

**Relevant to vindication:**

**As a Litigant in Person I was in The Supreme Court of NSW versus North Coast Area Health Service. This was from 2004 to 2007 heard before Justice David Kirby.**

**In subpoenaed records was a NSWPF record of an incident involving myself that took place in 1997. Within this record were numerous falsities stated by the two constables involved, who were both from the local area command - Mullumbimby. The falsities were in direct regard of the actions in the incident and falsely derogatory to my person. As the litigation was against the Area Health Service not NSW Police, I regard it highly probable this NSWPF record remains as was.**

**In mid April 2016 after a number of issues regarding a neighbour in the NSW Department of Housing complex (in that I presently reside); that has required a number of times me to call the local area command (Miranda Police); I presented an informal complaint to that Area Command, regarding the manner addressed towards me and the actions of the officers involved in the call outs.**

**In the informal complaint I briefed my actual, that I have been heavily involved in the cold case relevant to S/2015/51 and that I am presently in mid action before NCAT concerning the same matter.**

**The response was that The Chief Commander of the Area Command; Commander McGrath and a manager of Miranda Housing conducted an inspection of the complex and spoke directly to me. In the three way discussion regarding courses of action that can be taken; Commander McGrath in no context spoke “Oh it will follow you”. This was poignant as I distinctly recall the exact same words were stated back in 1997 by the conducting Doctor of the Area Health Service, spoken in context answer; that wherever I relocate “It will follow you”.**

**It is fair to assume that before the Commander attended the complex and upon reading my informal complaint, he in his authority conducted a NSWPF record search in subject of me.**

**I regard it fair to assume that Greg Edwards of the Professional Standards Command has done like.**

**This relevance I bring to the Tribunals attention as it befits the vindication I hold and collaborates with my assertion; that there is a high probability, that within the letter in contention are statements irrelevant to S/2015/51 and the cold case. That there are statements directly commenting about my person.**

**As prior declared, this is the principle of my prepared compromise in the release of the relevant letter.**

**It is also I regard for the Tribunal to have known.**

**The cold case relevant to S/2015/51 has a reward of \$250,000 for information. That I began my investigations because I firmly believed that one of the victims; four year old Evelyn Greenup was my daughter. That a long way into my investigations I remained in high probability that she was, with a now belief; that one of the siblings of Evelyn is a son or daughter of my conception.**

**That six months after presenting my information to the head of the cold case/ Strikeforce ANCUD; Detective Inspector Gary Jubelin; informed that the information is been taken very seriously and that he had forwarded its entirety directly to the Commissioner's Office. As well he declared ongoing investigations were been undertaken that directly involved the information I provided.**

**In November 2013 after a number of direct failures to respond from various Commands of NSW Police, I received a letter from the head of Homicide, Commander Willing. Declared was. The information I provided and the ongoing investigations were halted as it [could be argued not in the public interest].**

**All these facts cause much question at NSW Ombudsman's decision to not conduct an investigation concerning my complaints and the explanation as to why.**

**Objective reading of the Request for Review document must surely have The Tribunal in high questions; in why the Ombudsman refused to address any of the eight complaints by way of inquiry/ investigation at the relevant commands of the NSWPF. Objective reading of the response letter too me by Greg Edwards that held in the knowing of the standing of both the Detective in charge of the cold case and the head of Homicide; must surely have the Tribunal highly questioned at the substance vindication of Greg Edwards letter.**

**It only be since the Respondents Submission that I have been made aware, that the letter by Greg Edwards too NSW Ombudsman is not in NSW Ombudsman records despite Greg Edwards declaring he had forwarded such to NSW Ombudsman.**

**I contend in allegation that such is:**

**As result of the Request for Review document in which I utterly and completely laid out how false and ludicrous the explanations stated by Greg Edwards are; as to the vindication that he saw no wrong in any of the conduct/inactions or in any process by NSW Police towards me and that his overall conclusion; that the information I provided had no relevance or importance to any ongoing investigations was completely implausible when taken into account with the declarations made by the head of Strikeforce ANCUD and the head of Homicide.**

**As *Tab 20* 3.2.6. states. Regular meetings are held between NSW Ombudsman Senior staff and Senior Officers at The Professional Standards Command, to discuss 'difficult complaints'. That in a discussion between Kimber Swan / Senior Investigation Officer (Policy and Legal) Police Division and or Vince Blantch, who was the first person at NSW Ombudsman that I addressed my complaints (Vince Blantch is head of the Complaint Handler's Information Sharing and Liaison Group Committee); that he or both he and Kimber with Greg Edwards; belatedly recognised that the letter by Greg Edwards too me was as I deconstructed – ludicrous and badly flawed.**

**Having already closed the 'difficult complaint' that in meeting, discussion regarding the issue of the mandatory letter was raised and the possibility; that if it could be extracted out of the NSW Ombudsman records with such been done perhaps easily, because it was only in paper form at that time.**

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**Received on 10 May 2016 a B4 envelope addressed:**

**The Registrar  
Administrative and Equal Opportunity Division  
NSW Civil and Administrative Tribunal**

**File No: 1610123 – Azshion –v- NSW Ombudsman**

**For Tribunal Hearing: 8 June 2016 2pm**

**From:  
Craig Azshion  
Applicant**

**Signature:**

**Received on 20 May 2016, B4 envelope addressed to:**

**Megan Smith/Legal Counsel  
NSW Ombudsman  
Level 24, 580 George Street  
Sydney NSW 2000**

**From:  
Craig Azshion**

**Signature:**

**28 June 2016**

**To  
NSW Civil and Administrative Tribunal  
Administrative and Equal Opportunity Division  
Divisional Registrar**

**File No: 1610123  
Craig Azshion v Ombudsman NSW**

Here-with is request for copy ov the written decision made by Senior Member McTeer, upon the Hearing held on 8 June 2016.

**From:  
Craig Azshion  
Appellant**

**Received on 28<sup>th</sup> June 2016:**

**Envelope addressed to: NSW Civil and Administrative Tribunal  
Administrative and Equal Opportunity Division  
Divisional Registrar**

**From: Craig Azshion  
Appellant**

**Signature/Stamp:**

16 August 2016

**To**  
**Administrative Review Officer**  
**NSW Civil and Administrative Tribunal**

Seek review by NCAT: The decision by Ombudsman NSW to not conduct a investigation into the complaints by me against NSW Police.

Date presented documents/complaints too Ombudsman NSW: 30<sup>th</sup> June 2015.  
(*Tab 1*)

Date Ombudsman NSW informed their decision to not conduct any investigation: 23 July 2015. (*Tab 2*)

Note: Not informed ov internal review process until 26<sup>th</sup> August 2015.

Date requested internal review: 7<sup>th</sup> September 2015. (*Tab 3*)

Date Ombudsman NSW reaffirmed their decision:  
12<sup>th</sup> November 2015. (*Tab 4*)

Explanation/Cause for the here-with application been lodged outside the time allowed:

The first time I became aware ov NCAT was 23 December 2015. That was in result ov Ombudsman NSW rejecting my GIPA application. (*Tab 5*)

I reiterate. Prior the time ov Ombudsman NSWs' GIPA decision, I had no knowledge ov NCAT or the correct process ov submitting a appeal. Note: Ombudsman NSW failed to inform any external avenue ov appeal regarding my complaints against NSW Police..

Provided is copy ov letters sent to and received from Lee Evans MP – Chair Committee on The Ombudsman, The Police Integrity Commission and The Crime Commission. (*Tab 6*) These were sent in the immediate ov been informed the internal review decision made by Ombudsman NSW. Those letters essentially were requests as to what - are there any government bodies to lodge a appeal. The replies failed to bring into my attention the administrative body NCAT.

I filed a GIPA application to NCAT on 10 February 2016.

File number: 1610123. This application came to a head on 8 June 2016. The application is still in motion as I am in wait for a copy ov the written decision handed down on the 8<sup>th</sup>. I am in the intending decision to appeal with a requested preference to merge that appeal inside this application Hearing.

Note: In the GIPA application a discovery was made that furthers my complaint against Ombudsman NSW.

**From  
Craig Azshion**

**Contact address:  
Mr Craig Azshion  
2/28 Kindilan Place  
Miranda NSW 2228**

Seeking review on the grounds that:

The failure to not conduct any inquiry/investigation into any of the eight complaints is a gross failure in decision making.

Any objective reading of the first forwarding of complaints (Tab 1) followed by the review application (Tab 3) must surely have immediately recognised; that a severe error of judgement has been made by Ombudsman NSW.

**Received on 16-8-2016:**

Administrative review application by Mr Craig Azshion.

Applicant: Mr Craig Azshion

Respondent: Ombudsman NSW

**Signature/Stamp:**

## Notes in prep for 27<sup>th</sup> October 2016 Hearing

Remain stayed in Privacy and Personal Information Protection Act 1998.

Submission by Ombudsman Legal Council is flawed in that the legal counsel Megan Smith stated that I only cited Section 7 of the ADR Act 1997. This I must correct with the fact that I filed at the Conference Hearing Section 7;8&9.

Main argument held by the Legal Council is that the PPIP Act 1998 has no enabling juris as there is no relevance to this Act with any of the decision process taken upon by the Ombudsman.

It is however the PPIP Act 1998 Sect 4 is totally relevant:

4 Definition of "personal information"

(1) In this Act,

"personal information" means information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

I must stay in the argument that the relevant database is the Ombudsman database; that is full of opinion determined by the Ombudsman all from information provided by me that included a letter from NSW Police (Edwards) too me not too the Ombudsman as would be then arising from Part 8A Police Act 1990.

This is relevant as PPIP Act 1998 Sect 4 3 Personal Information does not include any of the following

(h) information about an individual arising out of a complaint made under Part 8A of the Police Act 1990.

Argument standing concerning the letter from Edwards:

The letter never declares the letter to be made under Part 8A of the Police Act 1990. The letter states that he has forwarded a letter to the Police Integrity Commission and Ombudsman NSW in accord with Part 8A.

From both the GIPA conference Hearing and the GIPA Hearing it was discovered that Ombudsman has no record of a letter from Edwards to the Ombudsman as is in accord and mandatory with Part 8A Police Act 1990.

I welcome the Ombudsman Legal Counsel to re-stand on the argument held by thee at the GIPA Hearing. That argument was essentially grounded on the basis that the legal counsel conducted a electronic data search of all the data of 2051## specifically done so to locate the letter in subject and that upon

completion of that search no finding of the relevant letter was found with the council maintaining that this did not mean that the letter was not there.

The letter to me from Edwards is a decision determination letter. It does not provide general information or personal information it only states his erroneous determination on a course of events and decisions conducted by persons within NSW Police.

PIIP Act 1998 Sec 4 (3) (h) would only be relevant in context of a letter from Edwards to the Ombudsman as in accord with Part 8A Police Act 1990 and in such was part of the Ombudsman database.

It is the Ombudsman database that is the object of cause under PPIP Act 1998 ss 52;53;55.

## 52 Application of Part

(1) This Part applies to the following conduct:

- (a) The contravention by a public sector agency of an information protection principle that applies to the agency,
- (b) The contravention by a public sector agency of a privacy code of practice that applies to the agency
- (c) The disclosure by a public sector agency of personal information kept in a public register.

(2) A reference in this Part to conduct includes a reference to alleged conduct

## 53 Internal review by public sector agencies

(1) A person (the applicant) who is aggrieved by the conduct of a public sector agency is entitled to a review of that conduct.

## 55 Review of conduct by Tribunal

(1) If a person who has made an application for internal review under section 53 is not satisfied with

- (a) the findings of the review, or
- (b) the action taken by the public sector agency in relation to the application the person may apply to the Tribunal for a review of the conduct that was the subject of the application under section 53.

52 (1) (a) I need to check the Ombudsman charter principles

**12<sup>th</sup> October 2016**

The Registrar  
Administrative and Equal Opportunity Division  
NSW Civil and Administrative Tribunal  
PO Box K1026  
Haymarket NSW 1240

Ms Megan Smith  
Legal Counsel  
Ombudsman NSW  
Level 24 580 George Street Sydney NSW 2000

**Administrative and Equal Opportunity Division  
File no 1610504 – Azshion v Ombudsman NSW  
Hearing date – Thursday 27 October 2016 10am**

To Registrar and Ms Smith

Enclosed by way of lodgement and service is reply to submissions filed by Ombudsman NSW that were in accord with the directions made by Senior Member Perrignon on 23 September 2016.

**From  
Craig Azshion**

**12<sup>th</sup> October 2016**

**To  
Ms Megan Smith  
Legal Counsel  
Ombudsman NSW**

**Ref no: GI/2016/2**

The 23rd September conference hearing I regarded there be no need for me to file and serve any response to your directed submissions. I require to correct that decision.

Enclosed is my filed and served response to your submissions.

**From  
Craig Azshion**

## NSW CIVIL AND ADMINISTRATIVE TRIBUNAL

**Division:** Administrative and Equal Opportunity Division

**Applicant:** Craig Azshion

**Respondent:** Ombudsman NSW

**File number:** 1610504

**Hearing Date:** 27<sup>th</sup> October 2016 10AM

### **Response to submissions and application for dismissal:**

I informally filed and served my legislative position at the 23rd September 2016 conference hearing:

- Civil and Administrative Tribunal Act 2013 section 30
- Administrative Decision Review Act 1997 (ADR Act) s7; 8; 9
- Privacy and Personal Information Protection Act 1998 (PPIPA) ss 52; 53; 55

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Ombudsman NSW has filed a application for dismissal under the Civil and Administrative Tribunal Act 2013 (NSW) s 55(1) (b).

Ombudsman NSW regards my application is misconceived and/or lacking in substance with their summary for dismissal been - The Tribunal does not have jurisdiction to hear and decide my application.

Refer: Ombudsman submission Part B point 5 (found on page 4).

### **Relevance to my ADR application is the end ov PPIPA 55:**

[The person may apply to the Civil and Administrative Tribunal for an administrative review under the Administrative Review Act 1997 of the conduct that was the subject of the application under section 53].

**Context to section 53** is found in my 16th August 2016 ADR application.

Tab 4: Ombudsman internal review decision

Tab 3: Application to Ombudsman for internal review.

Tab 2: Original decision made by the Ombudsman.

Tab 1: Application for investigation against the NSWPF.

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Points 6; 7; 8 and 9 ov the Ombudsman submission essentially argues that the Ombudsman has breached no part ov PPIPA with point 8 citing [if such a breach had occurred my internal review application had to be made under PPIPA s53].

I recognise that the Ombudsman (to my knowledge thus far) has not breached PPIPA under the extracts presented in the Ombudsman submission.

However I do have cause and defence for The Tribunal to examine the original and internal review decisions by the Ombudsman. I affirm this cause and defence due to falsity; failures; misleading conclusions and declarations that are found all throughout the decision making process conducted by Ombudsman NSW.

Refer: (Tab 4) Part 2

Senior Member Perrignon 23<sup>rd</sup> conference hearing summary.

He asked - If my application under PPIPA was because I felt grieved by the administrative review conducted by the Ombudsman.

I answered: Yes.

I depth my 16th August ADR application with that summary and the following enabling jurisdiction and documented evidence:

*(Tab 1)*

**PPIPA 1998 Sect 4**

**Sect 4 Definition of “personal information”**

“personal information” means information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

**PPIPA 1998 Sect 4 3**

**Personal Information does not include any of the following**

**(h)** information about an individual arising out of a complaint made under Part 8A of the Police Act 1990

Section 4 3 has no traction within my ADR application:

Such becomes enhanced inside the relative facts ov the decision process conducted by the Ombudsman that includes -

A verbal declaration by the initial investigative officer that: At no time did he make any inquiries to the NSWPF concerning the contents ov the documents I presented to Ombudsman NSW.

Secondly: Attained at the 8<sup>th</sup> June GIPA Hearing.

The Ombudsman has no letter from the NSWPF regarding my complaints despite a lettered declaration from the NSWPF that such had been forwarded to the Ombudsman.

This requirement is mandatory by law under Part 8A Police Act 1990.

Refer: (Tab 3) 25th September 2014

*(Tab 2)*

**Police Act 1990**

**125 Relationship with Police Integrity Commission Act 1996**

(5) A complaint to the extent that it is investigated by the Commission, cannot be dealt with as a complaint under Part 8A of the Police Act 1990 and for that purpose is taken not to be a police complaint except as directed by the Commission either generally or in any particular case or as directed by the regulations.

*(Tab 3)*

7<sup>th</sup> January 2013 letter to Detective Inspector Gary Jubelin Strikeforce  
ANCUD

This letter establishes:

That I met with Detective Inspector Jubelin on 28<sup>th</sup> November 2012.

That I was affirmatively informed that the ongoing investigation was relevant and inclusive to information within the Detail.

That the Detail was before the Commissioner.

30<sup>th</sup> July 2013 letter from me to Police Commissioner.

This letter establishes:

That I delivered a 72 page document to Police Headquarters on 22<sup>nd</sup> May 2012.

That I made direct correspondence to the Commissioner's Office after making contact with NSW Police.

**1 November 2013** letter from M Willing  
Detective Superintendent  
Commander  
Homicide Squad

This letter establishes:

In a position and opportunity to declare such; the Commander made no declaration that what I had provided to Strikeforce ANCUD was of minimal assistance to the investigation.

In context of questions I have sought be answered regarding Strikeforce ANCUD the Commander summarised his response with [not be in the public interest].

**19<sup>th</sup> September 2014** letter to Customer Assistance Unit NSW Police

This is the letter Greg Edwards referenced in the determination to making his decisions.

**25 September 2014** letter from Greg Edwards Professional Standards Manager.

This is the letter that I completely laid to waste in my Tab 3 pages 4-6 16<sup>th</sup> August 2016 ADR application.

This letter establishes:

In no part does Greg Edwards reference the Commissioner's Office.

[Your letter was forwarded to the State Crime Command for assessment].

A declaration by Greg Edwards that he submitted his reasons for decision to the NSW Ombudsman and Police Integrity Commission.

Refer: Top of previous page.

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*(Tab 4)*

Further enhanced grounding for a ADR is the following sections of Administrative Decisions Tribunal Act (ADT Act 1997) and PPIPA.

**ADT Act 1997**

**Chapter 1 Preliminary**

**3 Objects of Act** (a) (ii); (b); (f); (g)

**PPIPA 1998**

**Part 2 Information protection principles**

**Division 1 Principles** 11(a);

12 (c); (d)

15 (1) (a); (2);

16

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**Concluding into the first of my ADR application:**

*(Tab 5)*

**Section 39 of the ADR Act 1997**

**Inter-relationship between Tribunal and Ombudsman**

(1) (c); (d)

(3)

(5) (a); (b); (c); (d)

40 (4) (b)

That The Tribunal President take seat at the ADR Hearing so to examine the decision of the Ombudsman to not investigate any or all of my eight complaints against the NSWPF.

Upon that review.

If The President finds with the opinion of The Tribunal that correct juris under Section 39; Is to make a recommendation to The Ombudsman, for a re-examination into my eight complaints, then that determination be forwarded to The Ombudsman.

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*(Tab 6)*

**Interpretation Act 1987**

**Regard to be had to purposes or objects of Acts and statutory rules**

**33.** In the interpretation of a provision of an Act or statutory rule, a construction that would promote the purpose or object underlying the Act or statutory rule (whether or not that purpose or object is expressly stated in the Act or statutory rule or, in the case of a statutory rule, in the Act under which the rule was made) shall be preferred to a construction that would not promote that purpose or object.

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**Received on 12<sup>th</sup> October 2016 a B4 envelope addressed to:**

Ms Megan Smith  
Legal Counsel  
Ombudsman NSW

From:  
Craig Azshion

**Signature/Stamp:**

**Received on 12<sup>th</sup> October 2016 B4 envelope addressed to:**

The Registrar  
NSW Civil and Administrative Tribunal  
Administrative and Equal Opportunity Division

Ombudsman NSW -v- Craig Azshion  
File Number: 1610504  
Hearing Date: 27<sup>th</sup> October 2016 10AM

From: Craig Azshion

**Signature/Stamp:**

19<sup>th</sup> October 2016

**To**  
**The President**  
**NSW Civil and Administrative Tribunal**

**Administrative and Equal Opportunity Division**  
**Ombudsman NSW -v- Craig Azshion**  
**File No: 1610405**  
**Hearing Date: 27<sup>th</sup> October 2016 10AM**

In foresee I have brought this Hearing to your attention.  
That it be correct that such be done in endeavour to expediate the decision  
process needed by The Tribunal in result; that I have filed and served a  
submission for the Hearing that partly stands inside -

**Section 39 of the Administrative Decision Review Act 1997**  
**Inter-relationship between Tribunal and Ombudsman**

**(1) (c); (d)**

**(3)**

**(5) (a); (b); (c); (d)**

**40 (4) (b)**

Pursuit under this section is for The Tribunal President that is enabled within  
Section 39(5) (c); (d) - too conduct a review ov decisions regarding eight  
complaints against NSW Police within a dossier ov documentation I presented  
to Ombudsman NSW. That from that review a recommendation from The  
President be forwarded to the Ombudsman for the Ombudsman to re-examine  
the eight complaints and self-review the present decision to not conduct any  
form ov inquiry or investigation.

---

I regard it fair that your attention is immediately had as to the subject matter ov  
1610405. The core ov this matter is the Bowraville sacrifices. This is a high  
profile media story with coverage having been conducted by 60 Minutes;  
Australian Story; Living Black and is also widespread on the internet.  
This case directly brought about change to the double jeopardy laws within  
NSW. In no possible understatement the dossier I presented to Ombudsman  
NSW is EXTREMELY politically potent with least to say; that the above media  
nexic is extremely embroiled and has been de-woven.

**From**  
**Craig Azshion**

**Received on 19<sup>th</sup> October 2016 a C5 envelope addressed:**

To  
The President  
NSW Civil and Administrative Tribunal

From  
Craig Azshion

**Signature/Stamp:**

Received on 15<sup>th</sup> November 2016:

A4 envelope addressed To: Ombudsman NSW

From: Craig Azshion

Internal Review Application: GI/2016/2

Signature/Stamp:

**14<sup>th</sup> November 2016**  
**Ref: GI/2016/2**

I spoke with Megan Smith from the Ombudsman Legal Counsel on 7<sup>th</sup> November. It was agreed in accord to decisions reached at the 27<sup>th</sup> October 2016 NCAT Hearing; to process directly into a internal review.

Reference is required from S/2015/51.

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**Application for Internal Review under the:**

**Privacy and Personal Information Protection Act 1998 (PPIPA)**

**Part 2 Information protection principles**

**Division 1 Principles 11(a)**

**15 (1) (a); (2)**

**16**

The Ombudsman letters I apply to have reviewed/amended are the letters from Kimber Swan dated 23 July 2015 and the letter from Kirsten Banwell dated 12/11/15.

Kimber Swans letter:

I responded with a letter to Kimber dated 23<sup>rd</sup> August 2015.

This letter I served upon Ms Smith at the 27 October NCAT Hearing highlighting the relevant parts ov Kimber's letter that I was dissatisfied with.

Kimber at some stage ov his review recognised the documentation I presented to the Ombudsman as [substantial]. It is full ov circumstantial evidence that is interconnected with documented evidence.

First cause ov my dissatisfaction is that in Kimbers letter he repeatedly cites that I phrased [beliefs] in the documentation I presented to the Ombudsman.

**Nowhere in any part ov the documentation presented do I use the word believe; belief or beliefs.** To cite this phrasing is not only completely wrong and false; it is ambiguous to the extent that it implies that what I presented to the Ombudsman had no substance fact or evidence in documentation.

Second cause of my dissatisfaction is d/ page 3 of Kimbers letter.

[In addition, you believe that there are “connections” between (what you allege are) fraudulent/rigged NSW lottery results and the sacrifice of Evelyn. You say that these connections are related to numerology.]

This is a gross false and a grossly ambiguous summation of the relevant lottery evidence I provided. Firstly Kimber allured that I defined the lottery evidence I presented as been a belief. Secondly nowhere did I phrase the word numerology or implied that my logic was founded in numerology.

Reference into the documentation relevant to the lottery connection can be found in Complaint 6 of my 30<sup>th</sup> June 2015 letter to the Ombudsman. There references and locates the layout that presents a sequenced pattern of lottery results directly referencing a synchronising of 666 numbers and other prime numbers directly connected to the Bowraville sacrifices. I concluded with probability calculations.

Third cause of my dissatisfaction is e/ page 3 of Kimbers letter. This is Kimbers chronology of my contact with NSW Police titled -  
*Your contact with NSW Police*

The cause of my documentation presented to the Ombudsman was to have the Ombudsman examine eight complaints against NSW Police that are all relevant to three unsolved murders. In this fact a chronology of my contact with NSW Police has to be accurate. There are three inaccuracies which include non reference to the first contact; a failure to reference the date of redirection contact I had with NSW Police and an ambiguous reference to my contact to Commander Superintendent Willing.

(I cite these on page 1 of my 23<sup>rd</sup> August 2015 letter.)

Fourth cause of my dissatisfaction is found in page 4 of Kimbers letter –

*Inspector Edwards response to your complaint.* Kimber summarises Edwards letter in three points that are essentially a correct analyse. Point 2 is effectually substantiated by Kimber despite the fact that what Edwards declared is totally false. I addressed this in my 23<sup>rd</sup> August letter (page 2) requesting Kimber in response, to declare the fact that nowhere in the documentation presented to the Ombudsman that included all correspondence to me from NSW Police was I instructed in an instruction as Edwards declared to have been given. Kimber in his 26 August letter did not address this.

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Kirsten Banwell letter dated 12/11/15.

Kirsten Banwell reply was as Acting Divisional Manager (Police) for the Acting Ombudsman. It was in response to my internal review application dated 7<sup>th</sup> September 2015.

Kirsten basically begins by referencing a statement by Kimber in a letter to me dated 26 August 2015 – [It is not enough to say you are not happy with my decision – you need to set out the reasons why you believe my decision is unreasonable.]

There is no rationale logic to reference this. Such would be if my internal review application was just that. Implying that my internal review application was such; is misleading and becomes ludicrous with any objective reading having immediately recognised, that it is nothing alike to a simple letter expressing dissatisfaction.

**The failure from Kirsten to address directly any of the issues/points in my analytical breakdown of Kimbers' review decision letter (23 July 2015) quantifies the degree and depth of false; misleading and inaccurate data that the Ombudsman holds within that Kimber letter; data that is in direct reference and consequence to my person.**

In summary:

PPIPA Division 1 Principles 11 (a); 15 (1) (a); 2; 16 - enable me to have addressed the areas within these two letters that I have sought to have reviewed. There is latitude in how the Ombudsman can acknowledge and address the causes that befit these sections of PPIPA.

I do understand there can be difficulty in both the acknowledgement and addressment however I seek and shall fore pursue to have both.

I regard the best conduct to a remedy is to convene at the Ombudsman office so to precise and have agreed the manner in which the relevant Ombudsman data can be rectified.

**From  
Craig Azshion**

