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10 INDEPENDENT COMMISSION AGAINST CORRUPTION

15

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

20 OPERATION GREER

Reference: Operation E14/0362

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

30 ON MONDAY 9 MAY 2016

AT 10.17AM

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any person contrary to a Commission direction against publication  
commits an offence against section 112(2) of the Independent  
Commission Against Corruption Act 1988.

40 This transcript has been prepared in accordance with conventions used in  
the Supreme Court.

THE COMMISSIONER: Yes. This is a public inquiry into allegations concerning the Gandangara Local Aboriginal Land Council, the conduct of the Board of that Council and the conduct of the CEO at the relevant time, Mr Mark Johnson. Before I go any further, could I indicate that the  
5 standard directions that apply to all public inquiries apply to this inquiry until further notice. The Commission will hear the opening from Counsel Assisting and then after the opening I'll deal with the applications for leave to appear. Yes, Mr Henry.

10 MR HENRY: Thank you, Commissioner. This investigation concerns conduct involving the Gandangara Local Aboriginal Land Council which for convenience I'll refer to as GLALC. GLALC is a Local Aboriginal Land Council established under the provisions of the Aboriginal Land Rights Act 1983. It's area is in the southwestern part of Sydney around  
15 Liverpool.

Pursuant to sections 61 and 62 of the Aboriginal Land Rights Act each Local Aboriginal Land Council is to have a Board, the functions of which include directing and controlling the affairs of the Council in accordance  
20 with the Aboriginal Land Rights Act and the regulations under that Act and consistently with the Community Land and Business Plan of the Council.

Pursuant to section 78A of that Act a Local Aboriginal Land Council must employ a member of staff to exercise the functions of the Chief Executive  
25 Officer of the Council for the purposes of the Act including in particular the day-to-day management of the Council's affairs and the exercise of such functions of the Board as are delegated by the Board to the Chief Executive Officer.

30 Since at least 2007 GLALC has used companies registered under the Corporations Act for the conduct of its affairs, for example, Marumali, spelt M-a-r-u-m-a-l-i, Limited which was registered on 15 June, 2007 and Gandangara Employment and Training Services Pty Limited which was registered on 3 August, 2007. Pursuant to a resolution made by circular on  
35 29 March, 2010 GLALC undertook a restructuring process, as part of which it established subsidiary companies limited by guarantee. Those companies included GLALC Development Services Limited, which for convenience I'll refer to as GDS, Gandangara Management Services Limited, which for convenience I'll refer to as GMS, and Gandangara Transport Services  
40 Limited. It also included Gandangara Health Services Limited, Gandangara Future Fund Limited, which I'll refer to as GFF, and Gandangara Housing Services Limited.

45 Following the restructure there were a series of tiers. GLALC was the founding and only member of GDS. GDS was the founding and only member of GMS. GMS was the founding and only member of several other companies. Those companies included GFF, Gandangara Employment and

Training Limited, Gandangara Housing Services Limited, Gandangara Transport Services Limited and Gandangara Health Services Limited.

5 The latter company was the sole member of Marumali Limited. GMS provided services to other entities within the group of companies including GLALC. GMS also provided services to other Local Aboriginal Land Councils. GMS was also the only member of several purpose, special purpose vehicle companies established to develop the GLALC lands. One feature of the corporate group was that the same Director sat on the Board  
10 of GLALC and each other company.

The principal person of interest in the investigation is Mr Mark Johnson, who routinely went by the name of Jack Johnson. He was the Chief Executive Officer of GLALC between February 2007 and March 2014.  
15 Having said that, the period of time that will be the subject and focus at this public hearing commences in 2009. As Chief Executive Officer of GLALC, Mr Johnson was a public official as defined in section 3 (1) of the Independent Commission Against Corruption Act. A public official includes the person that services a public authority. And each Aboriginal  
20 Land Council is taken to be a public authority for the purposes of ICAC Act under section 248 of the Aboriginal Land Rights Act. As a member of staff of GLALC section 176 sub-section one of the Aboriginal Land Rights Act applied to Mr Johnson, and pursuant to that sub-section, he was obliged to firstly act honestly and exercise a reasonable degree of care and diligence in  
25 carrying out his functions under the Aboriginal Land Right Act and any other Act. Secondly, to act for a proper purpose in carrying out his functions under the Aboriginal Land Rights Act or any other Act. Thirdly, no use his office or position for personal advantage and fourthly not use his office or position to the detriment of an Aboriginal Land Council  
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This public hearing will focus on matters raised in four allegations and I shall address those matters by reference to the allegations in turn. With respect to allegation 1, section 78(B) sub-section (1) and sub-paragraph (3) of the Aboriginal Land Rights Act, which commenced on 1 July, 2007  
35 provides that a person who has an interest in or is an employee of or concerned in the management of a corporation that receives a benefit from the Council, must not be or continue to be employed as the Chief Executive Officer of a Local Aboriginal Land Council. As noted earlier Mr Johnson was employed as the Chief Executive Officer of GLALC between February  
40 2007 and March 2014.

During his tenure as Chief Executive Officer of GLALC Mr Johnson was the sole director and secretary of Waawidji Pty Limited, spelt W-a-a-w-i-d-j-i which I'll refer to going forward as Waawidji for convenience. He held  
45 50 percent of the shares in that company.

Mr Johnson's employment as the Chief Executive Officer of GLALC was pursuant to two agreements made between him and GLALC. The first had a

commencement or effective date of 26 February 2007 and a nominal expiry date of 31 May 2010. I'll refer to that contract as the 2007 employment contract. Mr Johnson's remuneration package under his 2007 employment contract was initially worth \$110,000 plus the statutory superannuation contribution of \$9,900. They're per annum figures. The \$110,000 remuneration package comprised the salary component of \$61,900 and an entitlement to reimbursement of vehicle expenses of \$22,100, accommodation expenses of \$15,600 and office equipment purchase and hire of \$10,400. The reimbursement components of Mr Johnson's remuneration package were to be paid upon the presentation of invoices by Waawidji. In addition Mr Johnson was entitled to reimbursement of work related expenses which were also to be paid in response to the presentation of invoices by Waawidji.

15 The 2007 employment contract also included provision for firstly a performance allowance of up to 15 percent of the total remuneration package paid as a one off payment.

Secondly, a remuneration package increment of 50 per cent of the bonus amount, payable during the ensuing contract year. And thirdly, a results bonus referable to Mr Johnson's performance rating and a surplus shown in GLALC's periodic and annual reports. By the operation of the remuneration package increment, ICAC calculates that by May 2010, which is the time at which the 2007 employment contract was due to expire, the total value of Mr Johnson's remuneration package would have been approximately \$136,000 plus superannuation per annum. At that time, Mr Johnson negotiates somewhat different arrangements. According to the minutes of the directors meeting of GLALC on the 2<sup>nd</sup> or 3<sup>rd</sup> of May, 2010, the board resolved to accept the new CEO contracts as tabled, effective as at 1 May, 2010, and authorised the chair to sign the contracts. The chair of the board at the time was Cinderella Cronan.

The contracts, plural, to which the board referred, were the second agreement Mr Johnson had with GLALC to act as its chief executive officer, which I'll refer to for convenience as the 2010 employment contract, and a separate agreement between GMS and Waawidji for Waawidji to provide Mr Johnson's services as the chief executive officer of GMS. I'll refer to that second contract, or separate agreement, as the 2010 Waawidji contract. The 2010 employment contract and the 2010 Waawidji contract each had a commencement or effective date of 1 May, 2010, and a nominal expiry date of 31 May, 2015. Mr Johnson's remuneration package, under his 2010 employment contract, was constituted solely by a salary component of \$80,000 plus superannuation of \$7,200 per annum.

45 There was also an entitlement to reimbursement of work-related expenses. Under the 2010 Waawidji contract, GMS agreed to provide to the contract CEO, which was Mr Johnson, a service fee component of \$100,000 plus superannuation of \$9,000. Again that's per annum. There was also an

entitlement to reimbursement of work-related expenses. The 2010 employment contract and the 2010 Waawidji contract each also provided for a performance allowance remuneration package increment and results bonus on the same bases as the 2007 employment contract. According to the  
5 minutes of a directors meeting of, among other entities, GLALC and GMS on the 10<sup>th</sup> of December, 2012, a resolution was passed terminating the 2010 Waawidji contract retrospectively, with the effect on 30 June, 2012. And that contract was replaced by three contracts between Waawidji and other  
10 entities in the Gandangara group of companies, namely Gandangara Health Services Limited, Gandangara Transport Services Limited, and Marumali Limited. I'll refer to those three contracts collectively as the 2012 contracts. The directors also authorised the chair, again at the time Ms Cronan, to sign the contracts on behalf of the board. Under the 2012 contracts, Waawidji provided Mr Johnson's services as chief executive officer of the respective  
15 entities, and each had a commencement effective date back-dated to the 1<sup>st</sup> of July, 2012, and a nominal expiry date of 31 May, 2015.

Remuneration under the 2012 contracts reflected the amount payable under the 2012 Waawidji contracts at the time the 2012 contracts came into effect,  
20 with the three Gandangara entities paying a third each. The minutes of the directors meetings of May 2010 and December 2012 disclose that the resolutions to which I have referred were carried. They also disclose the directors who moved and seconded each resolution. According to the minutes of the May 2010 directors meeting, the resolution at that meeting  
25 was moved by Vicki Wade and seconded by John Dickson. It is alleged that those directors voted in favour of the resolution of the May 2010 board meeting. According to the minutes of the December 2012 directors meeting, the resolution of that meeting was moved by Rohan Tobler and seconded by John Dickson.  
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It is alleged that those directors voted in favour of the resolution of the December 2012 board meeting. Otherwise, the minutes do not disclose who of the board members present at each of the meetings voted in favour of the relevant resolutions. Only those directors who voted in favour of the  
35 resolutions are referred to in allegation one. Who voted in favour of the resolutions, and their reasons for doing so, will be the subject of investigation at this public hearing. It is alleged that those directors who voted in favour of the resolutions acted partially, in the sense of favourably to Mr Johnson, by agreeing to employment arrangements for Mr Johnson,  
40 pursuant to which his company, Waawidji, derived benefits.

By reason of the corporate structure to which I've referred, GLALC controlled, albeit indirectly, the companies with which Waawidji contracted and from whom Waawidji received benefits as part of Mr Johnson's  
45 employment arrangements and it is alleged the directors who agreed to the employment arrangements permitted Mr Johnson to continue as Chief Executive Officer of GLALC while these arrangements subsisted contrary to section 78B(1)(e) of the Aboriginal Land Rights Act.

Furthermore, an issue that will be the subject of inquiry in connection with Mr Johnson's employment arrangements will be the making of bonus payments for the financial year ended 30 June, 2011 totalling \$316,039 which were paid by GMS to Waawidji. It's alleged that Waawidji was not entitled to bonus payments totalling that sum under the 2010 Waawidji contract.

With respect to allegation 2, between July, 2011 and November, 2012 Mr Johnson authorised the transfer by GLALC of its funds to GFF. It is alleged that those payments were made in breach of section 176(1) and section 152(3) of the Aboriginal Land Rights Act. It's alleged that section 176(1) of the Act was breached because in authorising the transfers Mr Johnson acted to the detriment of GLALC. It is also alleged that in authorising the transfers he did not act honestly and exercise a reasonable degree of care and diligence and he did not act for proper purpose in carrying out his function under the Aboriginal Land Rights Act.

With respect to section 152(3) of the Act that subsection prescribes the purposes for which funds in the bank account of a Local Aboriginal Land Council may be applied. Between July, 2011 and November, 2012 those purposes were firstly, the acquisition of land by the Council where that acquisition has been approved in accordance with the Aboriginal Land Rights Act; secondly, to meet expenditure incurred by the Council in the execution of administration of the Aboriginal Land Rights Act; and thirdly, any other payments authorised by or under any Act.

It's alleged that those purposes did not include payments authorised by Mr Johnson by GLALC of its funds to GFF by way of gift or loan. ICAC has evidence that between 20 July, 2011 and 12 November, 2012 Mr Johnson authorised the transfer of \$4.97 million from GLALC to GFF. The transfers were not in the interests of GLALC. The funds comprised some of the proceeds of sale of Gandangara Estate Stage 2, a 39 lot residential subdivision undertaken by GLALC.

Prior to making the funds transfers from GLALC to GFF Mr Johnson on behalf of GLALC sought and received legal advice about whether GLALC could move funds to GFF and if so on what terms. In substance the legal advice was to the effect that GLALC could not gift or donate funds to GFF. However, GLALC could lend funds to GFF pursuant to a members resolution so long as the loan was secured and made on commercial terms. The funds transfers from GLALC to GFF authorised by Mr Johnson were unsecured and otherwise not on commercial terms. It's alleged that Mr Johnson knowingly authorised transfers of funds from GLALC to GFF firstly, contrary to legal advice; secondly, contrary to a resolution of the directors of GLALC; and thirdly, contrary to a resolution of GLALC members.

On 11 July, 2011 there was a Board meeting of the directors of GLALC. Mr Johnson attended. At the meeting the directors of GLALC resolved that all funds surplus to the operating needs of GLALC shall be loaned to GFF on a commercial loan basis secured by a charge registered with ASIC.

5 Having so resolved they also resolved that the loan be interest only at the RBA cash rate for a period of 30 years and in the event that GLALC were wound up, forcibly amalgamated, placed under administration, removed from being able to be beneficial remedial to the Aboriginal members of GLALC the loan would be forgiven.

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I'll refer to the resolutions of the GLALC directions – directors I'm sorry, on 11 July, 2011 collectively as the Board resolution. On 27 July, 2011 there was an ordinary meeting of the members of GLALC. At that meeting the members of GLALC resolved to adopt the Board resolution. That

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adoption I'll refer to as the members resolution.

On 10 October, 2011 at a meeting of the Directors of GLALC the Directors of GLALC delegated to Mr Johnson authorisation to ensure that all surplus funds are lent to GFF in line with the Board resolution and the members

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resolution.

Between 20 July, 2011 and 26 June, 2012 Mr Johnson authorised transfers totalling \$4.01M and that's of the previously mentioned 4.97 to which I've referred from GLALC to GFF. None of those transfers complied with the

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Board resolution or with respect to the transfers after 27 July, 2011, the members resolution. Assuming that the transfers were loans, at the very least they were unsecured. In addition at the times of the transfers the terms up which the transfers were made were not recorded. And at those times it is alleged Mr Johnson knew that the transfers did not comply with the Board

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resolution and after 27 July, 2011 the members resolution.

Between 13 September, 2012 and 12 November, 2012 Mr Johnson authorised transfers totalling \$960,000, again that's of the previously mentioned 4.97M from GLALC to GFF. It's alleged that this was contrary

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to a compliance direction issued by the Registrar of the Aboriginal Land Rights Act under section 235 sub-section (2) of that Act. I'll refer to the compliance direction to which I've just referred as the compliance direction. It's also alleged that Mr Johnson knew that it was contrary to the

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compliance direction.

On 31 August, 2012 the Registrar issued the compliance direction. It was addressed to GLALC for the attention of Mr Johnson. The compliance direction required GLALC within 28 days to rescind the Board resolution and the members resolution or decide that the resolutions were not to be

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implemented or further implemented or amend the resolutions so as to satisfy the Registrar that the amended resolutions complied with the Aboriginal Land Rights Act.

Pending this, GLALC was required not to implement or further implement the Board resolution or the members resolution. In addition in the event of rescission of the Board resolution and the members resolution GLALC was required to demand repayment by GFF of monies paid pursuant to either of those resolutions or satisfy the Registrar that all such paid amounts were authorised by resolution that complied with the Aboriginal Land Rights Act.

10 September, 2012 the Board of GLALC resolved to rescind the Board resolution. It resolved for GLALC to enter into two loan deeds and a security deed with GFF. And it ratified prior acts of any director or authorised representative of GLALC in connection with what was described as the first loan.

On 19 October, 2012 the Registrar issued a letter noting GLALC's non-compliance with the compliance direction. Notifying GLALC of his intention to issue a further compliance direction, requesting an undertaking and reserving his right to commence proceedings in the Land and Environment Court.

At some time between 10 September, 2012 and 1 November, 2012 GLALC and GFF executed two loan deeds. One of the deeds was dated 1 July, 2011 and provided for an unsecured two year loan from GLALC to GFF. Of \$4,825,550M. The other deed was dated 1 July, 2012 and provided for an unsecured two year loan to GLALC to GFF of \$4,043,296M. Following the compliance direction between 13 September, 2012 and 12 November, 2012 Mr Johnson authorised the transfers to which I have referred totalling \$960,000 from GLALC to GFF. It is alleged the members resolution was neither rescinded nor amended and that no decision was taken by the members not to implement it. It is further alleged that the transfers from GLALC to GFF authorised by Mr Johnson between 13 September, 2012 and 12 November, 2012 were in breach of the compliance direction and Mr Johnson knew it.

With respect to allegation 3, ICAC has evidence that between 17 May, 2010 and 23 December, 2010 GLALC paid tax invoices totalling \$70,568.58 for services provided for the benefit of Deerubbin spelt D-e-e-r-u-b-b-i-n Local Aboriginal Land Council, which for convenience sake I'll refer to as DLALC not GLALC.

The manner in which that came about is as follows. In an email to Kevin Cavanagh, chief executive officer of DLALC, on 6 June, 2009, Mr Johnson offered GLALC support and assistance to DLALC. Mr Cavanagh accepted the offer. Following this, on the 8<sup>th</sup> of September, 2009, at a DLALC board meeting, Mr Johnson, in his capacity as chief executive officer of GLALC, addressed the directors of DLALC about land claims and the possible development of land. At the meeting, the directors of DLALC resolved to instruct GLALC to lodge land claims for DLALC, and for GLALC to investigate and map all claimable Crown land within the DLALC area, at a

cost of \$112 per land claim. On the 23<sup>rd</sup> of December, 2009, Mr Johnson, again in his capacity of chief executive officer of GLALC, emailed Mr Cavanagh a retainer letter. The letter, which was dated 8 December, 2009, was on Waawidji's letterhead and signed by Mr Johnson. It provided for  
5 DLALC to retain Waawidji to develop, prepare for sale and manage the sale of 10 lots of land at Hazelbrook, which was in the DLALC area.

It also provided that Waawidji would be paid a success fee of \$5,000 per lot, GST exclusive, from the sale proceeds of each lot, and that Waawidji would  
10 arrange for a commercial loan from GLALC for sale costs. Mr Cavanagh signed the letter and emailed it back to Mr Johnson on 23 December, 2009. Subsequently, as previously mentioned, GLALC paid tax invoices for the benefit of DLALC. The services related to the development and sale of the Hazelbrook lots. Amounts paid to third persons by GLALC for the benefit  
15 of DLALC were recorded in GLALC's accounts as loans made by GLALC to DLALC. According to the audited GLALC financial statements for the year ended 30 June, 2011, as at that date a loan of \$422,973 was owing by DLALC to GLALC and its controlled entities. There is evidence to suggest that the entire amount of the \$422,973 loan was payable by DLALC to  
20 GLALC. That evidence is a GLALC balance sheet as of 31 October, 2013, which appears to have been generated as part of GLALC's management accounts.

However, by the 1<sup>st</sup> of May, 2012, the amount owing by DLALC to GLALC  
25 and its controlled entities had become the subject of dispute. For its part in the development and sale of the Hazelbrook lots, Waawidji was paid a total of \$55,000 by DLALC in accordance with the retainer letter to which I have referred, that is \$50,000 plus GST. It is alleged that the payment by GLALC of tax invoices for the benefit of DLALC was not in DLALC's  
30 interests. Rather, it was to the detriment of GLALC and contrary to section 176, subsection 1, subparagraph D of the Aboriginal Land Rights Act. Nor was it for a purpose prescribed by section 152, subsection 3 of the Aboriginal Land Rights Act. It is also alleged that at the time at which DLALC retained Waawidji, Mr Johnson knew, firstly, that DLALC did not  
35 have the funds to develop and sell the Hazelbrook lots. Secondly, that he could cause GLALC to fund the development and sale of the lots for DLALC.

And thirdly, that if GLALC did this, Waawidji would get paid as per the  
40 retainer letter. It is alleged that this is what in fact occurred. That is, Mr Johnson caused GLALC to fund DLALC's development, and as part of the arrangement Waawidji got paid. It is alleged that Mr Johnson used his position as chief executive officer of GLALC to make an arrangement with DLALC, pursuant to which Waawidji benefited. ICAC also has evidence  
45 that between 30 July, 2010 and 4 March, 2011, GLALC paid tax invoices totalling \$6,598.10 for services provided for the benefit of La Perouse Local Aboriginal Land Council, not GLALC.

It is alleged that Mr Johnson authorised the payment of those invoices. It is alleged that the payment of the invoices by GLALC was not in the interests and contrary to – not in the interests of GLALC I should say, and contrary to section 176(1)(d) of the Aboriginal Land Rights Act. It is also alleged  
5 that those payments were not for a purpose prescribed by section 152(3) of the Aboriginal Land Rights Act. There was also expenditure by GMS of funds for the benefit of Walgett Local Aboriginal Land Council. That expenditure will be examined to the extent that it occurred with funds originating from GLALC.

10 With respect to allegation 4, as noted earlier Mr Johnson’s employment as the Chief Executive Officer of GLALC was pursuant to two agreements made between Mr Johnson and GLALC. The 2010 employment contract is the relevant employment contract for the purposes of this allegation.  
15 According to clause 7.1 of the 2010 employment contract GLALC was obliged to reimburse Waawidji all amounts as prescribed in part 6 of schedule 1 of the contract upon presentation of monthly invoices by Waawidji. Waawidji was not a party to the 2010 employment contract. In any event, there were no amounts prescribed in part 6 of schedule 1 of the  
20 contract so in any view Waawidji was not entitled to any payments from GLALC under clause 7.1.

Under clause 7.2 of the 2010 employment contract one of Mr Johnson’s additional benefits was a right to reimbursement of broadly speaking work-related expenses. The clause read as follows, “Upon presentation of copies  
25 of actual receipts at the commencement of each calendar month the employer”, which was GLALC, “shall reimburse within seven days from receipt of such invoices all expenses as the employee,” Mr Johnson, “reasonably and properly incurs in carrying out the required duties including  
30 without limiting the generality of the foregoing all as follows, work-related travel, accommodation, vehicle hire and transport, meals, telephone, IT communication, fuel, office supplies, all professional association costs, all professional education and training costs, and incidental expenses.” Under clause 7.2 of the 2010 employment contract Mr Johnson was entitled to be  
35 reimbursed by GLALC for reasonable expenses properly incurred in the course of carrying out his duties as Chief Executive Officer of GLALC upon presentation of receipts.

As noted earlier, at the same time that the 2010 employment contract was  
40 made Waawidji entered into the 2010 Waawidji contract for the provision of the services of Mr Johnson as the Chief Executive Officer of GMS. Under clause 7.1 of the 2010 Waawidji contract the additional benefits comprised entitlements to reimbursement of work-related expenses incurred by Mr Johnson. The clause read as follows, “Upon presentation of copies of  
45 actual receipts at the commencement of each calendar month the service contract provider,” which was GMS, “shall reimburse within seven days from receipt of such invoices all expenses as the contract CEO,” that is Mr Johnson, “reasonably and properly incurs in carrying out the required

duties including without limiting the generality of the foregoing all as follows, travel expenses, accommodation, vehicle hire and transport, meals, telephone, IT communication, fuel, office supplies, all professional association membership costs, all professional education and training costs, and incidental expenses.” Under clause 7.1 of the 2010 Waawidji contract Waawidji was entitled to be reimbursed by GMS for reasonable expenses properly incurred in the course of Mr Johnson carrying out his duties as Chief Executive Officer of GMS upon presentation of receipts.

Waawidji had no entitlement under the 2010 Waawidji contract to payments from GLALC. Each of the 2012 contracts contained clause 7.1 in the same terms as clause 7.1 of the 2010 Waawidji contract. Waawidji had no entitlement under the 2012 contracts to payments from GLALC. Reimbursement claims under the 2010 employment contract had to be approved by the Finance Manager of GLALC. In the relevant period up to February, 2011 that person was Ms Karen Maly, spelt M-a-l-t-b-y. She was succeeded by Mr Shalesh Gundar, spelt S-h-a-l-e-s-h G-u-n-d-a-r, in March, 2011 and he held the Finance Manager position until early 2014. Oversight responsibility of Mr Johnson’s performance as the Chief Executive Officer and the financial affairs of GLALC ultimately rested with the Board of GLALC.

ICAC has evidence that between 7 June, 2010 and 24 June, 2014 GLALC paid Waawidji a total of \$229,256.20. It is alleged that Waawidji was not entitled to these payments from GLALC and that from May 2010 Mr Johnson knew that Waawidji was not entitled to payments from GLALC.

It is also alleged that during the same period Mr Johnson or Mr Johnson on behalf of Waawidji mainly claimed and was reimbursed more than once for the same expense by GLALC on multiple occasions and it is alleged that he or he on behalf of Waawidji mainly claimed and was reimbursed by GLALC for personal as opposed to business expenses which he or Waawidji was not entitled to be reimbursed.

THE COMMISSIONER: Thank you Mr Henry. The allegations into which this public inquiry is being conducted are the following: One, that between April 2010 and March 2014, members of the Gandangara Local Aboriginal Land Council Board partially exercised their official functions by agreeing to employment arrangements with Mark Johnson under which his company, Waawidji Pty Limited derived benefits from the Gandangara Board, Gandangara Aboriginal Land Council or its associated entities, contrary to section 78 (b) sub-section 1 (e) of the Aboriginal Land Rights Act.

Secondly, that between March 2011 and April 2013 Mark Johnson dishonestly and partially exercised his public official functions as the Chief Executive Officer of the Gandangara Aboriginal Land Council by authorising the transfer of the GLALC funds to Gandangara Future Fund Limited on unfavourable terms to the detriment of GLALC and contrary to

the provisions for sections 152 and 176 sub-section (1) of the Aboriginal Land Rights Act.

5 And thirdly that between 2009 and 2013 March Johnson partially exercised his public official functions as the Chief Executive Officer of the GLALC by authorising the payment of the GLALC funds for the benefit of Deerrubbin , Walgett and La Perouse Local Aboriginal Land Councils on unfavourable terms to the detriment of GLAC contrary to the provisions of sections 152 and 176 sub-section (1) of the Aboriginal Land Rights Act and  
10 in part for the benefit of his company, Waawidji Pty Limited.

And Fourthly that between 2010 and 2014 Mark Johnson dishonestly exercised his public official functions as the Chief Executive Officer of the GLALC by claiming the provision of benefits from GLALC or it's  
15 associated entities for himself or his company, Waawidji Pty Limited, including money to which he knew was not lawfully entitled.

I will take application for leave to appear. Who wishes to go first?

20 MR DOCKER: My name is Sean Docker, I seek leave appear for Mr Johnson.

THE COMMISSIONER: Yes, Mr Docker.

25 MR LEGGAT: Commissioner, that leave is opposed. Mr name is Leggat.

THE COMMISSIONER: Yes, Mr Leggat. I appear with another junior, Mr Jarrod Mack, for the, the Registrar of the Aboriginal Lands Act.

30 THE COMMISSIONER: All right.

MR LEGGAT: Commissioner, we have prepared some witness submissions.

35 THE COMMISSIONER: Yes.

MR LEGGAT. We're in a position to provide those my learned friend Mr Docker and to Counsel Assisting and to yourself. Given the confidential nature of these submissions we would seek a suppression order and if  
40 appropriate an order under section 112 - - -

THE COMMISSIONER: Yes, well - - -

45 MR LEGGAT: - - - restricting the publication.

THE COMMISSIONER: Until further notice I'll order that the submissions to be provided on the application is suppressed from publication pursuant to section 112 of the Act.

5 **UNTIL FURTHER NOTICE I'LL ORDER THAT THE  
SUBMISSIONS TO BE PROVIDED ON THE APPLICATION IS  
SUPRESSED FROM PUBLICATION PURSUANT TO SECTION 112  
OF THE ACT**

10 THE COMMISSIONER: Mr Leggat, do you want to hand those up now?

MR LEGGAT: Yes, certainly.

15 THE COMMISSIONER: May I suggest that we take that the main  
applications, I'll take a short adjournment and allow Mr Docker to have a  
look at those submissions, Council Assisting and myself and then we'll  
decide what course to follow after that.

MR LEGGAT: Thank you, Commissioner.

20 THE COMMISSIONER: Thank you. Mr Docker I'll just stand your  
application down until further notice. Thank you.

25 MR DOCKER: May it please the Commission, I prepared a note on the  
matter as well. Could I hand it - - -

THE COMMISSIONER: Oh, certainly, yes.

MR DOCKER: I seek the same order under section 112.

30 THE COMMISSIONER: Yes. Your submissions, Mr Docker, are similarly  
suppressed from publication under section 112 of the Act. Thank you.

MR DOCKER: Thank you.

35 MR WATSON: Commissioner, Watson, solicitor, I seek to appeal on  
behalf of Gandangara Local Aboriginal Land Council.

THE COMMISSIONER: Thank you, Mr Watson.

40 MR WATSON: With Mr Limm of my office.

THE COMMISSIONER: Yes, that application is granted.

45 MS HUGHES: Commissioner, Hughes, solicitor. I seek leave to appear on  
behalf of Mr Ian Edwards.

THE COMMISSIONER: Yes, Ms Hughes. That application is granted.  
Did you say for Mr Edwards?

MS HUGHES: Mr Ian Edwards, yes.

THE COMMISSIONER: Thank you. Yes?

5 MR CHALMERS: Yes, good morning, Commissioner.

THE COMMISSIONER: Yes.

10 MR CHALMERS: Chalmers, solicitor.

THE COMMISSIONER: Yes, Mr Chalmers.

MR CHALMERS: I seek leave to appear for Ms Kiera Edwards.

15 THE COMMISSIONER: Thank you, Mr Chalmers. That leave is granted.

MR CHEE: Commissioner, Chee, C-H-E-E, solicitor.

20 THE COMMISSIONER: Yes, Mr Chee.

MR CHEE: I seek your authorisation to appear on behalf of Ms Gloria Provest.

25 THE COMMISSIONER: Thank you, Mr Chee. That leave is granted.

MR HARRIS: Commissioner, Harris.

THE COMMISSIONER: Yes, Mr Harris.

30 MR HARRIS: Seeking leave to appear for Dennis Thorne.

THE COMMISSIONER: Thank you, Mr Harris. That leave is granted.

35 MR HARRIS: Thank you, Commissioner.

MR EKSTEIN: Morning, Commissioner. Ekstein's my name. I seek leave to appear for Ms Karen Maltby.

40 THE COMMISSIONER: Ms Maltby. And, sorry, could you just spell your name for the record?

MR EKSTEIN: E-K-S-T-E-I-N.

45 THE COMMISSIONER: Thank you, Mr Ekstein. That leave is granted.

MR EKSTEIN: Thank you, Commissioner.

MS SWIFT: Your Honour, my name is Swift, S-W-I-F-T, and I seek leave to appear for Mrs Vicki Wade.

5 THE COMMISSIONER: Thank you, Ms Swift. That leave is granted.

MR STEWART: Yes, good morning, Commissioner. Stewart, solicitor. I seek leave to appear for Ms Cronan.

10 THE COMMISSIONER: Thank you, Mr Stewart. That leave is granted.

MR STEWART: Thank you, Commissioner.

MR SHAW: Commissioner, Shaw. I seek leave to appear for Misses Kelli and Randall.

15 THE COMMISSIONER: Yes, thank you, Mr Shaw. That leave is granted.

MR SHAW: Commissioner.

20 MS McENIERY: Commissioner, Ms McEniery. That's spelt M-C-E-N-I-E-R-Y. I seek leave to appear for Mr Mervyn Donovan.

THE COMMISSIONER: Yes, thank you, Ms McEniery. That leave is granted. Anyone else?

25 MR LEWIS: Morning, Commissioner.

THE COMMISSIONER: Yes.

30 MR LEWIS: Lewis is my name.

THE COMMISSIONER: Yes, Mr Lewis.

MR LEWIS: Seek your authorisation to represent Alfred Sing.

35 THE COMMISSIONER: Thank you, Mr Lewis.

MR LEWIS: Thank you.

40 THE COMMISSIONER: That leave is granted.

MR LEWIS: Thank you, Commissioner.

45 MR DUNNE: Commissioner, my name is Dunne. I seek authorisation to appear on behalf of Dorothy Shipley.

THE COMMISSIONER: Yes, thank you, Mr Dunne. That leave is granted. Does that conclude the applications? Yes, thank you. The time's 11

o'clock. I'm wondering if we should, in the light of the volume of the material, take an adjournment of 40 minutes and resume at 20 to 12.00? Yes, thank you.

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**SHORT ADJOURNMENT**

**[10.58am]**

10 THE COMMISSIONER: Yes, could I just indicate that for the purposes of hearing further submissions on the application by the Registrar in relation to Mr Docker's appearance, the Commission will have to go into private session. Could I ask all members of the public and any legal practitioners and other persons present who don't have a direct interest in the outcome of this argument to leave the hearing room and could I indicate that we will  
15 probably take the luncheon adjournment, so your attendance is not required here before 2.00pm. Thank you.

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**LUNCHEON ADJOURNMENT**

**[12.21pm]**