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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION GREER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 23 MAY 2016

AT 2.05PM

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

THE COMMISSIONER: I think that's – now, sorry, start again.

<ROHAN JAMES TOBLER, on former affirmation

[2.05pm]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

40 [REDACTED]

THE COMMISSIONER: Thank you, Mr Henry. Yes, Mr Mack?

MR MACK: Mr Tobler, my name's Mr Mack, I represent the Registrar of the Aboriginal Land Rights Act. I've just got a few questions to ask you. I'll start with your affidavit. If the witness could be shown the affidavit that was tendered this morning.

THE COMMISSIONER: Yes. Exhibit G6.

MR MACK: G6. Thank you, Commissioner. Paragraph 21 of your affidavit, Mr Tobler. You'll see that you give evidence about – sorry, you say that you attended some training by the New South Wales Aboriginal Land Council. It was provided by them.---Yes.

Do you recall where that training was provided?---Tranby College.

10 Okay. And that's in Glebe?---Yes.

Yes. And that was solely on your duties under the Aboriginal Land Rights Act, is that correct?---I can't really remember. It was very substandard, very poor training. I don't remember much from that training session at all.

Okay. And what would you regard as adequate training under the Aboriginal Land Rights Act, if that was inadequate? Do you have any suggestions?---I don't know. I'm not a trainer.

20 All right. No worries. If I can take you to paragraph 13 of your affidavit. And this is where you state that you attended retreats in Wollongong, is that correct?---Retreats. I should have used a better word than that. But, yes.

All right. And can you recall receiving training there about conflicts?
---Conflicts?

Conflicts of interest?---Yes.

30 And can you describe what a conflict of interest is, to the best of your knowledge, sitting here now?---Something that you may derive a benefit from, that you may be making a decision on at the board level. Possibly something like that.

And is the concept of a pecuniary interest, is that related, to your understanding, of a conflict of interest?---Yes, definitely.

All right. At paragraph 29 of your affidavit, you mentioned that you were elected deputy chair of the Board.---Yes.

40 What did you understand the role of a deputy chair to be?---To step in when the chair was unwell or wasn't available to step in. And then also help her, help Cindy or the chair at the time, coordinate Board meetings and also membership meetings.

Okay. And did you do that with the chair at the time, Cindy?---Yes.

And what was your role in preparing for meetings?---Not preparing. I said we'd coordinate during the meetings.

During the meetings. So you didn't have any role in preparing the papers for the meetings or - - - ?---No.

All right. Paragraph 11. Sorry to make you jump around. I just want to take you to paragraph 9, 10, 11 of your affidavit. Can you see in paragraph 9 there, you state that you were a director of four other companies related to Gandangara?---Yes.

10 And your evidence was that you were a director of each of those four companies there?---Yes.

And you gave evidence earlier today, when you were having a look at a diagram under the heading "Original Structure". Do you recall that?---Yes.

And you were also a director of some other companies on that diagram?---Yes.

20 Yes. Okay. And at paragraph 10, you say you were not remunerated for your involvement in any way. You see that?---Yes.

I just want to ask you a few questions in relation to that statement. Were you ever reimbursed for any travel expenses?---No.

No. So the training you attended in Wollongong you paid for your travel down there by yourself?---Drove down, paid for paid, paid for the travel myself. The accommodation costs were covered by GLALC.

30 Okay. All right. And did you ever have – enter into – sorry, I withdraw that. Did you ever enter into any loan agreements with GLALC or any of its related entities?---No.

And did you ever – were you ever employed by GLALC or any of its related entities?---No.

Were any of your family members employed by GLALC or its related entities?---I had an ex-partner that was employed with GLALC.

40 All right. What was – when you say ex-partner, was she your partner at the time – sorry, were they your partner at the time of you being a director of GLALC or any of its related entities?---Partly. We separated in 2012, the end of 2012.

And, sorry, what position did, did they hold?---Oh, she started off as a cleaner and then ended up working in the medical centre on the front desk I think.

All right. And when you say she started off as a cleaner, does that mean she would have been employed by a Gandangara related entity or a cleaner for GLALC?---No, no. She was actually through, I think it was My Gateway. She was a trainee so she was a cleaner then she got her – was employed by My Gateway and then hosted by Gandangara and when she finished her traineeship then she was employed with – directly with Gandangara.

Okay. As a cleaner and – is that as a cleaner or in the other role you just mentioned?---She – as she grew.

10

As she grew. Can you tell the Commission her name?---Gail Thorne.

Gail Thorne. All right. Thank you, Mr Tobler. I just want to move onto paragraph 11 of your affidavit in relation to the Board papers that were produced at Board meetings and you say that at the end of a Board meeting they were stored in red folders, one for each member - - .---Yes.

- - - in shelves of the boardroom. See that?---Yeah.

20

Were you responsible for placing Board papers in those red folders?---No.

Who was?---My understanding was Tina Taylor or – Tina Taylor or Rachel Hextrel, whoever was Jack's EA at the time.

Okay. So at the end of Board meeting you would leave your Board papers on the table and somebody would put them in the red folder. Is that correct?---Yes, that's correct.

30

And to the best of your recollection how many red folders did you have, yourself personally?---Over my time there?

Yes.---I ended up – I filled two.

You filled two. All right.---I filled two, yeah. I didn't try to take two.

And to the best of your recollection the Board papers that were inside the folders were they contained in plastic sleeves or were they hole punched or both or neither, can you - - ?---What's the relevance in that?

40

I'll go onto that in a second.---I can't remember.

All right. That's fine. Mr Tobler, you can put that affidavit away now. I'll move onto another area. You recall telling the Commission your understanding of a pecuniary interest.---Yes.

Can the witness please be shown volume 8, page 47, and sorry, if you could go to page 48.---Yeah.

At motion 5.2 under the subheading Murrin Ngura Housing Limited. Do you see that?---Yeah.

At 5.2 under the note there it says that you had a – declared a pecuniary interest in Murrin Ngura or in, in something. Do you recall making that declaration?---Where?

10 At motion 5.2 you'll read, "The Board directs the CEO to allocate no more than \$2 million towards purchasing properties to be entered into the rent/buy program until the end of the fiscal year.---Yes, I declared an interest.

And what was your interest?---I believe my ex-partner at the time was at the top of the housing list and on the rent/buy, that could possibly be the rent/buy scheme.

All right. So you told the Board that your might have an interest through your partner. Is that - - -?---Yes.

20 All right. I just want to take you to another declaration of pecuniary interest that you were taken to earlier this morning. If the witness could be shown volume 9, page 183.---Thank you.

And at motion 1 you recall Counsel Assisting asking you a question about your understanding of this motion?---Yes.

And your evidence was that your understanding of that motion was that it was a declaration that Mr Johnson wasn't receiving any money for services not provided as a CEO, is that correct?---That's correct.

30 But it was your understanding that at the time Mr Johnson was being paid for his services as a CEO through Waawidji, is that correct?---At that time I'm not too sure.

Not too sure. All right?---So the question put to me was "What did I understand at that time there"?

Yes?---And my understanding was that there was – he was not providing any extra services that he was being paid for?

40 Yes. And by extra that assumes that there's something, there's some services there that are being provided?---No.

No. All right. So is it your understanding that at the time of that declaration that no services were being provided by Waawidji to GLALC or its related entities?---Outside of the services of being the CEO.

All right. So - - -

THE COMMISSIONER: Mr Tobler, see the question was in terms of what services were provided by Waawidji to your knowledge not Mr Johnson. So there's been this confusion before in respect of this particular issue. Did you know at the time of that motion that part of Mr Johnson's salary was being paid through Waawidji?---I couldn't say. I don't know.

You don't know. All right?---I don't know. But I'm not too sure why does it, why do I keep on getting asked the same question, Commissioner?

10 Well we're not – we don't assume Mr Tobler, that anybody here representing the various parties who have an interest in these proceedings don't have a reason for asking the question. Mr Mack is appearing for someone entirely different so we have to accept that they've got instructions to ask these questions?---Okay.

MR MACK: And did you understand at the time of that motion of 10 October, 2011, that Waawidji provided consultant services?---Did I - - -

To anybody? Not to GLALC but did - - -?---I don't know.

20

You don't know, all right?---It could have possibly, I don't know.

All right. I'll move on. I want to take you to the Board meeting of 10 December, 2012, and you recall you were asked questions on that earlier today. And there is a reason why I keep coming back to this, I'm not doing it for my entertainment. Can you recall at this meeting and this is the meeting where you moved motion 4 and I'll just get it up on the screen, 10 December, 2012, volume 9, page 279. And you'll see at the top of that page motion 4 that there's mention of GMS Limited and Waawidji and contracts
30 being replaced to the separate entities. Do you recall at this meeting whether or not Mr Johnson declared an interest in Waawidji?---I don't recall.

You don't recall, all right. Can I take you to a box of documents that I'll hand up to you now. And for the transcript this is ICAC identifier E14/0362/29/67. And I just want to take you to two sets of documents in this box. And you'll see, Mr Tobler, you can identify on the side there that's it's got your name on the box. Can you see that?---Yes.

40 All right. If I could ask that Mr Tobler opened the box and there's two sleeves there with the yellow tab. I first want to go to the second yellow tab. And the front page of that is an agenda for 10 December, 2012, is that correct?---Yes.

And there's some handwriting there in pink highlighter, red pen and paper. Do you see that?---Yeah.

Is that your handwriting?---Looks like it.

And does that refresh your memory at all about whether Mr Johnson made a declaration at that meeting about an interest in Waawidji?---No, I can't see how the handwriting would do that.

All right.---Mmm. These documents would have been nice before we got fined in the courts.

10 All right. I want to take you to one other set of documents, if that be placed back in its plastic sleeve.

THE COMMISSIONER: Mr Mack, do you want that particular page that you've shown Mr Tobler marked for identification?

MR MACK: Yes, please.

THE COMMISSIONER: That should be MFI 3.

20 **#EXHIBIT MFI 3 - BOARD MEETING AGENDA OF THE GLALC ,
GDS, GMS, GTS, GHS, M, GFF & ORS DATED 10 DECEMBER 2012
WITH HANDWRITTEN MARKINGS**

MR MACK: Commissioner, I might return back to that general topic at the end of it.

THE COMMISSIONER: Yes.

30 MR MACK: And if Mr Tobler can be taken to the other plastic sleeve with the yellow tab on it. And you'll see, Mr Tobler, that's got a date of 18 January, 2013. And that says it's a Monday, 18 January, 2013.---Yeah.

I want you to accept from me that 18 January, 2013 was a Friday, and not a Monday, and that should be 18 February, 2013. Can you accept that from me? I want you to assume that. And I want you to identify the handwriting on the front of that document. Is that your handwriting?---Possibly, yes.

40 And there's two words there. What are those two words?---I don't know what the first one is. The second one's "pecuniary interest".

All right. And is there an agenda item there about a pecuniary interest?---I wouldn't be able to – I can't even remember the meeting.

All right, well - - -

THE COMMISSIONER: Just have a look at the agenda. Is there anything there in relation to pecuniary interest?---Not that I can see.

MR MACK: All right. Can I ask you to take those documents out of the plastic sleeve, and there's one document in particular I want to take you to, which has a tab on the top of it. I think the small green tab.---There you go. He's declared one, hasn't he?

What's the title of that document?---"Declaration of Pecuniary Interest".

10 All right. And there's a set of dates in that declaration. Could you just tell the Commission those dates?---9 October, 2007. 22 October, 2008. 12 October, 2009. 11 October, 2010. 11 October, 2011. 18 February, 2013. That I'm the sole director of Waawidji Proprietary Limited, ABN compliant, yeah.

THE COMMISSIONER: What was the one before 18 February, 2014?
---11 October, 2014.

Thank you.

20 MR MACK: Sorry, can I just clarify that? It says 2014 on that document.
---Ah, sorry.

THE COMMISSIONER: There was one 11 October, 2010.---And 11 October, 2011.

Thank you.

30 MR MACK: I'll ask that that particular document be marked for identification. Mr Johnson's representatives might want to go through these documents as well, so I'm in the Commission's hands.

THE COMMISSIONER: Yes, MFI 4.

**#EXHIBIT MFI 4 - DECLARATION OF A PECUNIARY INTEREST
BY MARK JOHNSON**

40 MR MACK: Can I ask that Mr Johnson – oh, sorry, Mr Johnson. I should ask, do you recall – sorry, Mr Tobler. Do you recall Mr Johnson making a declaration or speaking about that declaration at the meeting on 18 January or 18 February, 2013?---I don't recall.

Could Mr Tobler please be shown volume 8, page 47. Sorry, that's, sorry, I'll withdraw that. Could Mr Tobler please be shown volume 9, page 282.

THE COMMISSIONER: It's on the screen as well, Mr Tobler.

MR MACK: And these are the minutes from 18 February, 2013, do you see that, Mr Tobler?---Yeah.

And you're noted as attending?---Yes.

All right. Could Mr Tobler be shown motion 17. And if you could just read motion 17, please, Mr Tobler?---"The Board receives notes and accepts a pecuniary interest declaration lodged by the CEO, Mark Jack Johnson with regards to his interest in Waawidji Pty Ltd".

10

And do you recall that motion being moved at that meeting of the - - -?---No, I don't.

All right. And there's also a motion there in relation to Ms Cronan, motion 18, similar - - -?---Yeah.

Do you recall that motion being put?---No.

20 And do you recall what Ms Cronan's pecuniary interest was that she had to declare?---No, I don't.

All right. Mr Tobler, are you able to say why motion 17 from 13 February, 2012 differs from the motion I showed you earlier at volume 9, page 183, and I can take you back to volume 9, page 183, if you need. But if you could just before going back there you'll note that this says "The Board receives notes and accepts a pecuniary interest declaration lodged by the CEO, Mark Johnson with regards to his interest in Waawidji?---I don't, I don't see what the difference is.

30 You don't see what the difference is. So what I'm trying to establish, Mr Tobler, is that that declaration in that box I took you to was made between the point in time where the contracts were split between the subsidiaries and following that there was a declaration made which I just took you to, do you accept that?---(No Audible Reply)

Sorry, I'll start again. I'm confusing you?---You've got me all over the place.

40 I'm confusing you. I understand that?---Yeah.

I'll try and step through it just give me - - -?---Is there a particular thing that you're after?

What I'm trying to understand from you is why Mr Johnson made a declaration in completely different terms on 18 February, 2013 to his prior declarations as noted in the minutes?---I have no idea.

All right?---I don't know.

All right. Thank you. They're my questions.

THE COMMISSIONER: Anyone else have any questions of Mr Tobler?

MR DOCKER: I do, Commissioner.

10

THE COMMISSIONER: Mr Chee at the back.

MR STEWART: I'm sorry, your Honour. I just have a few questions. I'll be a lot shorter than - - -

THE COMMISSIONER: Sorry, Mr Stewart, go on.

MR STEWART: Mr Tobler, my name is Stewart and I'm the legal representative for Ms Cronan. I just want to ask you some questions in relation to the two meeting in January, 2012?---Yes.

20

Do you recall there was the first meeting on 20 January, 2012 when Mr Johnson was suspended and I believe - - -?---I was - - -

[REDACTED]

But you were aware that he'd been suspended?---I found out over the phone the next day, I think, or, I can't remember but I found out over the phone.

30 Okay. And then subsequently there was another meeting a week later on 27 January, 2012?---Yeah.

And you gave some evidence today that you attended the office on that day?---Yes.

And that you were there with Ms Cronan?---Yes.

Do you also recall being shown Exhibit G4 which was a set of text messages from Mr Filewood?---I don't recall.

40

Right?---In relation to this meeting on 27 January, is it the position that you and Ms Cronan were the only two in the office, only two Board members in the office?---The only two Board members, yes.

And see I'd suggest – you said in your evidence that everybody was on the phone at once, all on the phone at once all together.---My memory is – look to, to not guess. I know we spoke to each individual Board member except for the two that we couldn't contact by phone.

I'd suggest to you that Ms Cronan spoken to some members of the Board and you spoke to the other members of the Board individually in relation to getting a reply to the text messages that had been sent out.---That, that could be possible, yes.

10 Yes, I – oh, in relation to the report from Mr Mero, you were unable to say whether you'd seen the report between – sorry, I withdraw that – before 27 January, 2011?---I couldn't recall.

You couldn't recall?---Yeah.

Yes, thank you. I have no further questions.

THE COMMISSIONER: Yes, Mr Chee.

10 MR CHEE: Mr Tobler, I appear for Ms Gloria Provest. I'm going to ask you a few questions about a meeting of the Board in relation to Mr Johnson's expenses at which Ms Provest was upset. You've a fairly good recollection of that meeting don't you?---Not, not a fairly good but it sticks in my mind, yes.

All right. You've given an explanation that she was upset because she was disgruntled over something that happened at work. That's right?---Yes, that's my understanding, yes.

30 You've also given evidence that she was out to get Jack for some reason. That's right?---Yes.

Those are two different explanations.---Well, the thing with community and this is maybe something I'm not too sure if the Commission understands is that because community we're all entwined and know each other somehow or another and both my partner and Jack's partner at the time worked at the same place as Gloria and Gloria didn't receive a, a promotion that she thought she deserved and she was blaming Jack's partner for that and that was the, that was the story going through community so that's why she come into the, the meeting so disgruntled.

40 You didn't say this before when you were asked the question by Counsel Assisting as to why she was upset. You're making this up aren't you? ---Excuse me, making this up?

You did – you were asked why she was upset by Counsel Assisting. The answer that you're giving now is quite different?---No it's not. It's in more detail.

THE COMMISSIONER: Did you assume did you that the reason Ms Provost seemed upset was because she didn't get this promotion?---She was - - -

No, I'm – what I'm trying to ascertain is did your assumption about what she was upset about come about because of your knowledge of this background or did she say something at the meeting that caused you to draw that conclusion?---She might – no, I assumed that from what happened during that day from the information I was given is why - - -

10

Right. So not from anything that she said?--- - - - is why she acted the way she did in the Board meeting.

But not from anything she said?---Not from anything she said directly.

MR CHEE: Mr Tobler, how long have you been a Board member at GLALC?---Since 2007.

20 That makes you one of the most experienced Board members there. Is that right?---I wouldn't make it – I wouldn't say I'm an experienced Board member. I had a lot to learn and I still have a lot to learn. I'm not a solicitor or an accountant. I'm a carpenter.

But in – sorry, I didn't mean to cut you off. Have you finished?---Yeah.

But in terms of time at the Board you've been there – you're one of the longest-standing Board members. That's right isn't it?---That's correct, yes.

30 And Ms Provost is – was fairly new to the Board.---I can't recall how long she'd been on the Board for.

It certainly wasn't as long as you.---No.

40 So it would be true that she was fairly new and she perhaps didn't know what was going on. That's right?---Yeah. I, I would believe that if that's what she had said in the meeting but she was acting so erratically and slapping the table and cutting off the Chair, myself and the other Board members when we tried to discuss the issue that I thought from someone who held quite a high level in Government that that behaviour, you know, you wouldn't expect it from someone with her experience.

THE COMMISSIONER: Sorry, this occurred when you were discussing what issue? Sorry, what issue was it that you were discussing when she behaved this way?---She started this from the minute we started the Board meeting.

No, but a moment ago you said that it was the way that she was behaving while you were discussing the issue.---While we were trying to - - -

What issue were you discussing?---Well, we were trying to discuss the expenses.

Right.---We hadn't even got to expenses by that stage.

MR CHEE: Sorry, just to clarify, Mr Tobler. You said that you hadn't yet gotten to this point - - - ---We hadn't got to the point of the expenses and she'd already started to act erratically.

10

Well, I'd suggest to you that she was upset about the issue of expenses and that you said to her that she was only new and that she didn't know what was going on.---No, that's incorrect.

In your evidence earlier you mentioned that the issue of the horse float had been discussed prior. That's correct, isn't it?---Yes.

So you had discussed the issue of Mr Johnson's claims for expenses prior to this meeting. That's right?---No.

20

So you're saying that the horse float wasn't an expense that was discussed previously?---No, that's not the question you asked. You asked me if we discussed the expenses prior to this meeting, and we hadn't.

But one of those expenses was a horse float.---That's right.

And you had discussed the horse float.---No. Are you asking whether we discussed the horse float, the idea of the early intervention program? Or are you asking whether we discussed the expenses first?

30

I'm suggesting - - -

THE COMMISSIONER: The subject matter of the discussion, I think, Mr Chee, is the horse float.

MR CHEE: Right.

THE COMMISSIONER: But my understanding is that the witness gave evidence that they had previously discussed the idea of an early intervention program in schools.

40

MR CHEE: Right.

THE COMMISSIONER: I think that's right, isn't it, Mr Tobler?---Yes, it is, commissioner.

MR CHEE: I'd like to suggest to you that at that meeting concerning the expenses you said to Ms Provest not only that she was new, that she didn't

know what was happening, but also the issue of expenses had already been discussed.---That's incorrect, because we hadn't seen, we had not had line of sight on the expenses until that night, unless it had been brought up in the finance committee, which I was unaware of. That was the first time we had seen the expenses. So for Gloria, for Ms Provest to say that is incorrect, because nobody had seen the expenses prior to that night.

Could it have been that it was discussed prior to her attending that meeting?
---No, because it wasn't tabled till we all sat down together.

10

Lastly, you've said something about her reputation in the workplace.
---Mmm.

Have you seen her at work?---I have friends at work who have put in bullying/harassment claims towards her.

THE COMMISSIONER: That was not really responsive to the question. I take it you haven't seen Ms Provest operating a workplace environment.
---No.

20

MR CHEE: On what basis, then, do you say that she has – and I think your evidence was she'd been bullying people continuously in the workplace.
---Yeah. That's her community reputation.

Where did you get this understanding from?---Hey? From community members that worked with her.

Could you name those people?---No, I'm not going to name them.

30 THE COMMISSIONER: Were they any members of the Gandangara community?---No.

What, they're people from outside your community, are they?---Outside.

MR CHEE: I suggest to you that that evidence, about her bullying people continuously at work places, is false. Do you agree with that?---No.

There's no basis for you to make that claim. You've never seen it happen. That's right?---Haven't seen it happen, no.

40

And it's just an underhanded smear to her good reputation and character. Do you agree with that?---No.

That's my questions.

THE COMMISSIONER: Mr Tobler, do you remember Mr Johnson saying anything about using the horse trailer to transport bodies of people back to

their communities where they were being buried?---No, I don't recall. I don't recall anything like that.

Sorry, who was next, Mr Stewart you, anyone else?

MR STEWART: I only had those few questions, Commissioner.

THE COMMISSIONER: Yes, that's all right. Yes.

10 MR DOCKER: I think me.

THE COMMISSIONER: Yes, Mr Docker.

MR DOCKER: Thank you, Commissioner. Mr Tobler, my name is Sean Docker, I appear for Mr Johnson?---Oh, yeah.

I just want to ask you a few questions about the process in meetings of passing resolutions. And the, the resolutions went up on the overhead projector, well the overhead, the screen on the wall?---Yes.

20

And is it correct that there was a sort of a template for minutes of meetings that were started with and the resolutions were filled in as the meeting went on?---Yeah. So there was the basic template and you can see through the documents. Yeah, they all looked the same. And some time there would be wording (not transcribable) and that would go through and often the Board members would debate the wording or want the wording changed and it would be done on the go and then we'd vote on the motion, you know, you know first and second and then carried or declined, so - - -

30 Right. Now if I could just ask Mr Tobler to be given volume 8, please. And page 245.

THE COMMISSIONER: It's also on the screen?---Yeah.

MR DOCKER: And you recall that this is the meeting where there was -- you were asked some questions about this earlier and this is the meeting where there was a discussion about what should be Mr Johnson's overall salary?---Yes.

40 And you were asked a question about whether you'd made any comparisons between with the salary of CEO's of other Local Aboriginal Land Council's?---Yes.

And you said something to the effect of, we were not an ordinary LALC? ---We weren't your average LALC, no.

What did you mean by that?---We were quite, and this is not a blight on any of the other LALC's that are working hard but we were very progressive.

We were quite large, we had a lot of subsidiary companies that delivered a lot of services. I mean we injected over \$26 million of non-tax paying money into our community in services. We were quite different and different to the point where we were supporting other LALC's to be able to do the same thing.

And if I could just ask you to turn to page 120 in that volume, or you may. You can see there that's there's minutes of a meeting of the GLALC Board on 10 November, 2008?---Yeah.

10

And there's, you're listed as being in attendance, you see that?---Yes.

And Stephen Wright, the Registrar is listed as being a visitor?---Yeah.

Do you recall him visiting a meeting at that time?---I don't, I don't recall the meeting at all. I do, do recall that for a while there that we were well supported by NSWALC and the Registrar and that our, you know, our rating increased to the point where as per your rating your funding increases. So we were at the maximum point, I think by 2008 or '09. I think I put it in my affidavit that we'd increased. So, yeah.

20

So, funding from whom?---From NSWALC.

And do you recall GLALC being described as a leading LALC by the Registrar?---We were often, not directly that night, but we were often quite praised and we got a lot of, there was a lot of good media attention on us. And, yeah, we got a lot of praise at the start, yeah.

30

And was it your understanding that was because of the matters you raised, such as the services you were providing and the - - - ?---Yeah, I think it was, and the way that were going about things and being progressive.

All right. So if we could just come back to page 245, please, Mr Tobler. And just in relation to motion 2. I think you've been asked about this motion before, the one where the CEO contracts were approved, accepted. Do you see that?---Yes.

40

If the actual contracts were not there at the meeting, would you have noticed?

THE COMMISSIONER: Well, Mr Docker, we've been through this. It's a hypothetical. He's said a number of times he doesn't remember. Where are we going with this?

MR DOCKER: Well, Commissioner - - -

THE COMMISSIONER: See, you can't make a submission to the effect that the documents must have been there because the minutes say so and

because people might have been surprised, had they known the documents were there, for the minutes to reflect that they were not. I mean, I don't know. I don't know what proposition springs from this. Can you tell me what it is that you want to put at the end of the day?

MR DOCKER: Well, firstly, Commissioner, the minutes are a contemporaneous record.

10 THE COMMISSIONER: That's all they are. They're not necessarily accurate. And that's the problem we've been having all the way along. A number of witnesses have said that these Board minutes are not necessarily representative of their recollection of the meetings. So the problem is accuracy. That's what it is. So whether or not this witness says, "If they weren't there, would I be surprised?" I can't do anything with that. What am I supposed to find as a result of that expression of apprehension?

MR DOCKER: Could I just come back to something that just fell from you, Commissioner, a moment ago.

20 THE COMMISSIONER: Yes.

MR DOCKER: When it said that the minutes are not accurate, that is a comparison between the recollection of the witnesses now, as they sit in the box, and what's in the minutes.

THE COMMISSIONER: Well, not necessarily. And I didn't say that they were inaccurate. I said the issue is their accuracy.

MR DOCKER: Yes.

30 THE COMMISSIONER: That's the issue. And a number of witnesses have said that they definitely did not see contracts at that meeting. It wasn't a question of recollection. A number of them have said, "If I'd seen a reference to Waawidji, it would have made me sit up and take notice." Now, at the end of the day, I've got to decide whether or not these minutes are reliable in relation to that specific issue. And what I want to know is, how does it help me if this witness says, "I would have been surprised if they weren't there," when clearly in the minutes it says that they were? I just don't know how that helps me. Because it's an expression of a
40 hypothetical.

MR DOCKER: Well, Commissioner, I didn't ask him whether he was surprised. I asked him whether he would have noticed if the contracts were not there. And then what can flow from that, if I'm permitted to ask him more questions on this topic, is that if he would have noticed and he would have said something about the terms of the resolution or, at the next meeting, about the accuracy of the previous minutes.

THE COMMISSIONER: That wasn't the question I recall you asking but anyway, go ahead.

MR DOCKER: Mr Tobler, just asking you to come back to motion 2 and if you could just read it for me and tell me when it's finished – when you're finished.---Yeah.

10 If the new CEO contracts were not in fact tabled at the time that the motion was put and voted on would you have noticed?---I, I can't – for me I can't recall at that time but I can comment that I know the likes of Vicki Wade who is quite intelligent and Cindy Cronan would have definitely not - - -

MR HENRY: I object to this. This is just speculation.

THE COMMISSIONER: Well, you can't speak for other people, Mr Tobler.---I'm just - - -

And I come back to the - - -?---Okay.

20 - - - form of the question, Mr Docker. It's exactly what I said was not helpful. To say if something happened then would you have noticed just doesn't go anywhere and look, with respect to Mr Tobler he's – actually what he said is more contemporaneously than 2010 or any time in between. What he's actually said in his affidavit is that three copies of the contracts were tabled in relation to the salary being split three ways. He said nothing about two contracts being tabled in relation to the initial arrangement. So again, he just – he simply can't help us on this topic.

30 MR DOCKER: Commissioner, one needs to bear in mind in my submission that there are – the issue of whether or not the contracts were actually tabled at a meeting has a certain significance in these proceedings.

THE COMMISSIONER: Well, I understand it does. I appreciate it does.

MR DOCKER: I'm sorry, can I – could I just finish what I was saying please.

40 THE COMMISSIONER: It's not helping me, Mr Docker. If someone says I don't remember something how does it help me to put hypotheticals to the witness? That's what I don't understand.

MR DOCKER: Well, I, I just explained the submission that I wanted to put and the questions that I wanted to ask about it.

THE COMMISSIONER: And you can put them again but it won't make any difference. You see I'm becoming a bit concerned about the length of this inquiry. I referred at the beginning to the standard directions. I don't know if anybody has read them but the standard directions say quite clearly

that if somebody asks a question in cross-examination there is no need to repeat it and the problem is that we're getting a lot of repetitious questions that don't go anywhere. Now, there is no presumption of regularity, Mr Docker, if that's what you're trying to establish. Just because the minutes say something it doesn't mean that it happened and just because someone says, you know, if they were there I would have noticed that doesn't establish that they were there. So can we go to something more productive.

10 MR DOCKER: As the Commissioner pleases. Mr Tobler, you've been taken in your evidence today to the two contracts which are dated in May, 2010 haven't you?---I'm sorry.

Well, let me, let me say, let me just put it to you another way. You understood now as you sit there in the witness box that as a result of the two contracts that were accepted at this meeting on 3 May, 2010 that Mr Johnson's salary was split between two contracts?---Yes.

20 Right. It's right isn't it that going back – taking yourself back to May, 2010 it didn't matter to you whether Mr Johnson's salary was split between himself and Waawidji?---It wasn't an issue to me.

All right.---I, I mean the – coming from the construction game, people get paid through different types of forms so it didn't arise as an issue to me as long as we were paying him what we agreed to pay him and, and it was legal that, you know, so that's, you know, it wasn't an issue.

30 Thank you. Now if Mr Tobler could please be provided with volume 10 and volume 20?---Sorry, what page?

Volume 10, page 118 and volume 20, page 250. Mr Tobler, just starting with the minutes of the meeting of 30 October, 2012 on page 118 of volume 10. Do you have that in front of you?---Yes.

And motion 2 relates to what's called the representation letter requested by Lawler's?---Yes.

40 Do you recall this meeting, sorry, withdraw that. Do you see that the auditors Lawler's are present?---Yes.

And do you recall them being present at this meeting?---I do. I recall the meeting when the Lawler's were present and, yeah, I do.

And if you look down at motion 3 you can see there that's there's a reference to a request by Lawler's that they meet the Board in Canberra?---Yes.

Do you have any recollection of that happening?---Yes, I do. We, we rejected it and we addressed, I mean we would address our, our upset with

Lawler's yet to give us an opinion on our audit considering in that we'd been receiving unqualified audits for the last two or three years from, from them. So, yeah, the Board wasn't very happy with Lawler's at that time.

And you said earlier that you felt forced into approving the signing of the representation letter, is that an accurate - - -

MR HENRY: Well I object. There's an issue about what was the representation letter?

10

THE COMMISSIONER: Yes, I know. You better take him the particular letter, Mr Docker, because I don't know that he understands what it is.

MR DOCKER: Okay. If you could just please turn then to page 250 of volume 20?---Yeah.

Is this the letter that you understand that motion 2 and the minutes relates to?---I'm not sure. I know this was the letter though that we were – I felt we were forced into having to sign.

20

Right?---That we felt coerced into.

And who did you feel was coercing you?---I felt Lawler's were. They were hanging, hanging our audit over the top of our head to sign this letter. And we were in fear of being put into administration and that's what exactly had happened. All our work from that we'd done from 2007 went down the drain.

30

And do you recall this letter being discussed in a meeting of members of the Board in a side room when there was a general meeting of members occurring at Liverpool TAFE?---That's, that's the pressure we were put on because we had to table it. We had to table our end – our report before the AGM meeting so we had a side meeting at Miller TAFE and we went through the letter and we, we knew – we just – we signed it hoping that, you know, we would get our unqualified audit so we could continue to operate.

And can you say what it was about the letter – I'm sorry, I withdraw that. And is it your recollection that the letter was signed at that side meeting? ---Yes.

40

All right. Now, where's the, the box of material Mr Mack had.

THE COMMISSIONER: Mr Tobler, a moment ago you said that you'd been receiving unqualified audits for some years. Is that right?---Yes.

And was that from Lawlers?---Yes.

And was this letter that you've referred to that you signed under protest, was that at the end of the number of years where you'd received unqualified audits or was it somewhere towards the beginning?---No, it was at the end.

And at all the stages at which you'd received unqualified audits you had presumably brought yourself within the terms of the audit to allow yourself to receive funding for the following year?---That's correct.

10 Well, why was this year different to any other year?---I don't know and some of the issues that Lawlers was raising was dated back, you know, many years and the confusion to us as Board members given that we were not professional Board members we were elected community members is that we'd had a CEO that, you know, had an allegation against him and then who had been cleared by a person we trust and also ICAC. We'd been receiving unqualified audits so we had this build-up of trust.

Well, I just want you to stick to the subject.---Sorry.

20 We're talking about unqualified audits. We're not talking about any complaint in relation to what services might have been offered to DLALC. This was about the accounts of GLALC coming within the terms of the audit.---Yes.

Right. So you're saying that this had happened on a number of occasions, the Board had brought itself within the terms of the audit so it could receive funding for each successive year and this was just one of those occasions at the end of that process.---Yes.

30 Is that right?---Yes, that's correct.

Now, but there was nothing special about this year as opposed to any other year that you brought yourselves within the terms of the audit?---Yeah, we didn't do anything different to my knowledge.

Can you tell me why it was that the Board or sorry, can you tell me whether or not any members of the board expressed concerns about the fact that you seemed to be receiving unqualified audits on a regular basis?---Unqualified. Unqualified means that we - - -

40 Yes, I understand but can you tell me whether any member of the Board ever expressed any concern about the fact that you'd been through this process a number of times?---No. I mean I thought it was a good thing to get unqualified audits and the Board members were proud that we were able to achieve that every year.

No, I appreciate that but you seem to be saying that you were having ongoing issues with the auditors.---No, no. We had no problem with the auditors up until this stage and that's why we were, we were - - -

All right. I misunderstood you.---Sorry.

This is the first time you'd had an issue with Lawlers?---Yeah. We, we had been using Lawlers - - -

All right.---- - - for a long time and - - -

10 All right.--- - - - and they were saying that everything was going well, we were operating the right way and then all of a sudden we had an issue on the last audit which then led to us being put into administration.

All right. Sorry, I understand. Yes, go on.

MR DOCKER: If I could just show you this document which I think is – it's not actually marked here but I think it's MFI4, Commissioner. I'm sorry, Mr Tobler, I have to hand you the whole thing because we have to keep it in order.---Okay.

20 There's one plastic sleeve which I have moved a little bit north of the others. If you can open - - -.---This one?

That one, yeah. And you can – this is MFI4. It's got the agenda for the – for a meeting which says 18 January, 2013 but I think you accepted in questions from Mr Mack that it was probably the 18 February, 2013 meeting and you said earlier that this is – that it was your handwriting on the agenda. That's right isn't it?---Yes.

30 Now - - -

THE COMMISSIONER: Is this MFI 3 that he's looking at?

MR DOCKER: 4, I think, Commissioner.

THE COMMISSIONER: MFI 4?

40 MR DOCKER: Yes, 4. And now if you could just look at the bundle of documents in that sleeve, Mr Tobler. And just look at the last document. ---Is that the delegations?

Yes.---Yes.

And you can see that there's a list of delegations or draft delegations to the CEO.---That's correct, yeah.

Is it your recollection that when the Board was giving delegations to the CEO, the Board was provided with a hard copy of the proposed delegations?---Yes.

And is that an example of it?---Yes.

And if I could just ask you to turn to page – if you just leave that open, but if the witness could be shown volume 10, beginning with page 124. You can see here these are – I accept that these minutes are not signed, but these are minutes of the meeting of 18 February, 2013. Can you see that?---Yeah.

So that's the same meeting.---Yeah.

10

And if I just ask you to go to motion 16 on page 127. And you read that to yourself.---Yes.

And you can see that there's a reference in the motion to deleting items 9 and 25. Do you see that?---Yeah.

What do you understand that to be referring to?---Just removing the delegations. I don't know, removing delegations 9 and 25.

20

That is in the hard copy document that you've got there?---Yeah.

And is it your recollection that each of the Board members got one of these documents?---I don't recall. But, yeah.

But would it have been on the screen, in any event?---It would have been on the screen.

Right.---We all received the same packs, so - - -

30

Commissioner, I don't know if that's part of MFI 4 or - - -

THE COMMISSIONER: Sorry, if what's part of MFI 4?

MR DOCKER: The document with the draft delegations. Or whether that should be - - -

THE COMMISSIONER: MFI 3 was the agenda and MFI 4 was the declaration of pecuniary interests. So that hasn't been marked as yet. The declarations have been marked as I understand it.

40

MR DOCKER: Could that be marked, please.

THE COMMISSIONER: Yes, MFI 5.

#MFI 5 - DELEGATIONS – MOTION 4

MR DOCKER: Now if those documents could be returned. And Mr Tobler could he please be given volume 9 and asked to go to page 301?---Yeah.

Now if I could ask you to go motion 5 on page 303?---Yeah.

Sorry, I'm sorry. Firstly to page 301. Do you recall the meeting where the Board resolved that Mr Johnson had been overpaid \$57,000?---Vaguely, yes.

10

Do you recall, just coming to the visitors on page 301, do you recall any of those people being there?---I don't recall, no.

Do you know who Tony Young is?---No, I don't.

If that could be returned please. And the witness could be shown volume 41, page 14?---Yeah.

20

Now you were asked about this letter before lunch. You understood in February, 2014 that Mr Long was the administrator?---Yes.

And he'd been in for approximately six months by then?---Yes. Yeah, from memory, yeah.

And did you understand that he had conducted an investigation into Mr Johnson's expenses claims?---Not until, not until this point, no.

30

But at the point that this issue came up at the meeting, had you understood that?---Yes.

And so did you understand that the – if you just go to pages, sorry, 10 to 13, you're familiar with those four pages of spreadsheets, aren't you, you were shown them earlier today?---Yeah.

And did you understand them to be the expenses that Mr Long was questioning?---Yes.

40

And they were the only ones that he was questioning, you understand it?---Yes.

You said earlier in your evidence that you referred to other expenses that were owing to Mr Johnson at the time, do you recall saying that?---Yeah. I remember vaguely at the meeting that there was expenses outstanding for travel that Jack had incurred, a kilometre, from memory a kilometre allowance or whatever that Jack had incurred that was owing to him.

Do you remember anything else about it?---That's what I sort of vaguely remember.

Do you remember there being a concern about the cost, the administrators costs, the cost of the administrator?---The cost of – of course, yeah, we were concerned about that.

And what was that concern?---It was costing way too much. It was eating up all, all our hard earned money.

That's all my questions. Thank you, Commissioner. Thank you, Mr Tobler.

10

THE COMMISSIONER: Anyone have any further questions of Mr Tobler, no. Yes, thank you, Mr Tobler, you can step down, you're excused?--- Thank you.

THE WITNESS EXCUSED

[3.16pm]

MR HENRY: Commissioner, the next witness is Mr Ingrey and I'll ask Mr Fitzpatrick to call him and question him.

20

THE COMMISSIONER: Yes.

MR FITZPATRICK: If Mr Ingrey could come forward.

THE COMMISSIONER: Yes. Just come forward Mr Ingrey. I just want to explain if you are unfamiliar with the procedure here. Have you been in the room today?---

30 MR INGREY: Just after lunch.

THE COMMISSIONER: All right. Well I need to explain that the Commission operates in the following way. The questions that are asked of you by anyone in this room they must be answered truthfully even if the answers should implicate you in some form of wrong doing. You don't have the option of refusing to answer the question on that basis. But I can make an order under section 38 of the Act which protects you from the use of your answers against you in civil or criminal proceedings. It doesn't protect you however if we should form the impression or arrive at the view that you've deliberately given false or misleading evidence. Because in that event we would be entitled to use your answers against you under a prosecution under the Act. Do you understand that?

40

MR INGREY: Yeah.

THE COMMISSIONER: Do you want the benefit of the order?

MR INGREY: No, it's fine. I understand. Yes, sorry, the order, yes, I understand, yeah.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED

THE COMMISSIONER: Do you wish to be sworn or affirmed, Mr Ingrey?

MR INGREY: Affirmed.

THE COMMISSIONER: Affirmed. Thank you. Is it Ingry, or Ingrey?

MR INGREY: Ingrey.

THE COMMISSIONER: Thank you.

THE COMMISSIONER: Yes, Mr Fitzpatrick.

MR FITZPATRICK: Thank you, Commissioner. Thank you, Mr Ingrey. You are the Chief Executive Officer of the La Perouse Local Aboriginal Land Council?---Yes. That's correct.

10 And you've been involved with the La Perouse Council since around 2007, is that correct?---As a Board member, yes, since 2007, yeah.

So what positions have you held with the Council?---Since around 2003 I was a volunteer and after that I've done Cultural Heritage work. In 2007 I acting as a CEO for a couple of months when I went from coordinator to the CEO's role. And then was elected to the Board in the AGM of 2007.

And did you step down from the Board to take on the CEO position?
---Yeah.

20

And when was that?---September, 2007.

Yes. So you've been CEO since 2007?---No, I was there for a couple of months in 2007, I was a Board member from 2007 to 2011 where I stepped down as a Board and took up the Acting CEO's role while the Board recruited and successfully in the recruitment in December, 2011.

Thank you. And when did you first meet Mr Jack Johnson?---It would've been around 2009. It might've been a bit earlier at a regional forum.

30

In what context did you meet him there?---So the New South Wales Aboriginal Land Council has Chairs and Deputy Chairs and CEO's of each Land Council come together and meet on to discuss a particular topic and Sydney/Newcastle region would come together and network with one another.

And did that encounter lead to a relationship between the La Perouse Council and the Gandangara Council?---Yeah, we knew what Gandangara – we knew – we were aware of Gandangara's successes and like other Land Councils we had a relationship but it wasn't until 2009, April, 2009 when Jack presented to our Board.

40

Sorry, Mr Johnson presented to the Board in early 2009?---April, 2009, yeah.

And what was – how did that come about?---So the Board in March, 2009 discussed the, the success of Gandangara, the issue around land claims. I think it was the Chairperson at the time that (not transcribable) discussion

and then following that the Board resolved to invite Gandangara and Jack out to present at our next Board meeting.

What are you referring to when you describe the success of Gandangara?
---So their success. So from where – when Gandangara came out of administration had limited staff and the new Board and staff being the CEO was able to build it up and provide services. They done recently land dealings and were effective with land claims and negotiations from, from what I recall.

10

Can the witness please be given volume 24, document commencing at page 4 please. Mr Ingrey, the document is on the screen. You can use the hard copy of you prefer. There's an email from you on 20 November, 2009 and towards the bottom of the page.---Yeah.

The subject is request from La Perouse.---Yeah.

Do you recall reaching out to Mr Johnson at that time?---Yeah, as per the email.

20

And there were two topics that you raised. One was inviting him to speak at an event.---Yeah.

And then you also were asking about some policy and procedure documents.---Yeah.

30

At the bottom of the page there's a freestanding paragraph where you say, "I'd like to catch up with you for a yarn and get some advice on my ideas and plans for La Perouse and general discussion re land rights in New South Wales".---Yeah.

Was that – did that spring from the previous interactions that he'd had with you and La Perouse or was this some new - - -?---It could possibly be from the, the Board meeting that he attended and the ongoing – whether there was ongoing communication between Jack and the then CEO.

Thank you. And you mentioned La Perouse was – or members of the Council had an awareness of the successes of Gandangara.---Yeah.

40

Was there a sense of wanting to learn from or model the - - -?---Well, we wanted to understand how they were able to, to be successful in, in the short amount of time and obviously like, like a poor – we were a poor performing Land Council at the time and we wanted to be able to move forward.

What did you mean by – what do you mean by a poor performing Council?
---Well, we had no funds or limited funds. We had limited operations. We had one, one staff member or 1.5 fulltime employees and we had – our office at the time had mismatched furniture, a computer system that didn't –

a computer that didn't work and a phone system that didn't work and we were really struggling to survive if, if I could explain it like that.

If you could turn forward in the volume please to page 8. The numbers are in the bottom right-hand corner or look at them up on the screen.---Yeah.

These are Board minutes. There's a date in the top right-hand corner - - -? ---Yeah.

10 - - - 17 February, 2010.---Yeah.

And beginning at the top of the second page there's a heading as I reads it Land Deals.---Yeah.

And there's a bullet point the Gandangara Model.---Yeah.

Now, is this your handwriting, did you take the minutes of - - -?---No.

20 Do you know who took the minutes of - - -?---The previous CEO.

Because this is – but you were a Board member at this time?---I was the Deputy Chair.

The Deputy Chair. Thank you. What was being discussed as the Gandangara model for land deals?---I'm not sure if I was at the meeting at the time but from my understanding is the land dealing, how Gandangara was able to, to utilise its land or Gandangara LALC was able to utilise its assets, we wanted to go into that, into that direction as well.

30 Did you have an awareness of how they did that?---What was the date of this meeting, sorry?

This is February of 2010.---We, we would have had some idea, yes, more than likely.

And the text then reads, "Follow up. Invite Jack to a Board meeting". ---Yeah.

40 And you say he had attended in 2009 so was that - - -?---That's correct.

The next document that I wanted to show you was at page 13 of this volume and this is another email from you and it's to Mr Johnson. The copy recipients here, are there other Board members of the La Perouse Council? ---There was a Chairperson at the time and the email for the, the Land Council office.

Thank you. There's an attachment to this document which is entitled – which pointing to the email is LPLALC Land Asset Strategy Documents.

---Yeah.

Why are you providing this to Mr Johnson?---So just for general advice. I think we were looking at a number of parcels of land that we would divest. There they are up on the screen. It was a document that we put together and we were just seeking advice back from, from Gandangara on the likelihood of it and just sharing our aspirations with them as well and, yeah, we were openly considering – the Board was openly considering creating a similar structure to Gandangara.

10

What did you understand to be the structure of Gandangara?---So subsidiary companies, special purpose vehicles that could undertake projects to protect the liability of the – protect any assets of, of the Land Council itself and pretty much, yeah. So special purpose vehicles.

You mentioned earlier the difficulties that your office had.---Yeah.

The physical environment of the office.---Yeah.

20 There came a time when you sought Gandangara's assistance with that. Is that right?---Yeah.

That is seen in an email chain that commences at page 25 of this bundle. There's – it begins with an email from Marcia Ella-Duncan who was - - -? ---Ah hmm.

- - - a Board member?---The Chair, yeah.

30 The Chair. By this time the Chair?---Yeah.

Thank you. And there's reference in this email to – in the third full – I apologise. I just want to draw your attention to you're copied as a recipient on that.---Sorry?

Sorry, on Ms Ella-Duncan's email - - -?---Okay. Yeah, yeah. I see, yeah.

You see her email.---Yeah.

40 There's – in the third volume – sorry, the third paragraph of this email reads, "I know we have got GLALC and SAS working on some of our priority land and corporate structure matters in response to our request. It's very much appreciated. However, our IT situation has become intolerable". ---Yeah.

This led to Gandangara assisting in a financial way with - - -?---Yeah.

And can you explain what happened?---So in this particular instance I think our computer was quite old and I think we received it second-hand from the

New South Wales Aboriginal Land Council some years before and we would go days without a computer or a telephone and it just got to a point that our organisation could no longer operate on the computer we had and we didn't have funds to purchase a new computer so we asked Gandangara for assistance.

10 And what did they do?---Replace the computer, I believe, at that time. It's 2010. The best of my recollection is they replaced the computer. Eventually they helped us with our own system, and we were able to piggy-back off their server, their actual server, so we could have an IT system.

And do you recall them assisting by purchasing office furniture in addition to - - - ?---Office furniture was supplied, yeah. And that expense went onto a loan account that La Perouse eventually paid for.

And that was a loan from the Gandangara council to the La Perouse council?---Well, it was from Gandangara SASL. I'm not too sure what particular entity.

20 Was it of any interest to you which entity provided the loan?---Maybe the CEO at the time would have had that interest or knew those details, but at the time I didn't.

Was it a common thing for one Local Aboriginal Land Council to borrow money from another?---Not to my recollection. No, it was something new, I think. But it wasn't uncommon for another LALC to help another LALC out.

30 What other forms would that sort of help take?---Not in my experience, but I understand there might be other LALCs out there that would share administration and share staff and borrow staff. And one LALC would bear that cost over the other LALC.

THE COMMISSIONER: So like a shared services agreement? That kind of thing?---I wouldn't even think there was an agreement. It was just one Land Council staff member going to another LALC and sitting down and helping the administration of their Aboriginal Land Council.

40 MR FITZPATRICK: And you mentioned that the loan was ultimately repaid.---Yeah.

And do you know when that occurred?---Between 2012 and – mid-2012 and I think the last payment was finalised, or settled the last payment with the administrator.

To your knowledge, was the La Perouse council ever provided with supporting documentation of the equipment that was purchased by Gandangara?---I believe we would have seen the invoice. I'm not too sure

in this particular instance, but later on, post-August 2011, we were shown invoices and we authorised the purchase of particular items.

For the assistance of the witness, be shown page 127 of the volume. This is a tax invoice for office furniture, and the address is the La Perouse LALC, I presume, Land Council.---Yeah.

10 The description of the items here, is that consistent with the things that were purchased by Gandangara for La Perouse?---I believe so. And I think if we go back over the asset register at La Perouse at the moment, they'll match that, or some of the furniture would match that. But I recognise on-site office furniture, the company.

Thank you. You also mentioned SASL.---Yeah.

20 What was SASL, do your knowledge?---So, SASL was, the way that it was explained to us, they wanted to create an alliance of Sydney-based Land Councils. So following the amendments in 2007, the regional Aboriginal councils were abolished. And to try and fill that void, an alliance of Aboriginal Land Councils in the Sydney area were to come together and share resources or expertise with one another, and potentially create an Aboriginal economy.

If I could show the witness page 30 of this volume 24.---Yeah.

These are minutes of a Board member of 23 November, 2010.
---Yeah.

30 Or, sorry, draft minutes. You see your name as an attendee?---Yeah.

And there's about halfway down the page heading "Presentation - - -?
---Yeah.

- - - Corporate structure Jack Johnson"?---Yeah.

There's then a resolution in the box?---I see it, yeah.

40 Where there's a resolution to engage SASL to provide operational services?
---Yeah.

Was that something different to what you've been talking about with the concept of a broader structure for Aboriginal Land Council's to - - -?---Well that's what SASL was about so at the time I believe Deerubbin was on Board, Gandangara and they were coming together and there was discussion about LaPa joining up into that which was known for us as SASL disarrangement.

Did La Perouse end up joining up SASL?---Not that I'm aware, not the, a company, no. Not that I'm aware of.

Do you recall why that happened?---I don't recall why we didn't.

The La Perouse Council ended up adopting at least some of the corporate structure that Gandangara had?---Yeah.

10 There's at page 49 of the bundle?---Yeah.

This is an email from Mr Leon Filewood?---Yeah.

You had occasion to meet him?---Yeah, yeah.

Who was he representing?---Gandangara.

And in this email which is dated 23 June, he mentions attending a LaPa Board meeting?---Yeah.

20 And he attaches ASIC Certificates of Registration for certain companies?---Yeah.

And those follow in the bundle. There's LaPa LALC Development Services Limited, La Perouse Future Fund Limited, and La Perouse Management Limited?---Yeah.

Now so those companies were registered for the Land Council?---Yeah.

30 And how were they used?---The only one used was La Perouse Management Services, the others didn't trade. La Perouse Management Service between July 2013 to June 2014 employed two or three people and there was a contract or a service agreement between La Perouse LALC and La Perouse Management Services to undertake some work, the work that those employees done.

40 What was the role of LaPa LALC Development Services intended to be?---It just sat there as a company. And there was discussion at that time that this potential structure could stay as a representative organisation if anything was to happen to the Aboriginal Land Rights Act.

Why was there any concern about something happening to the Act?---Well in 2009 if I recall correctly. The New South Wales Aboriginal Land Council at the state wide conference and I think the Registrar at the time gave presentations about the potential amalgamation of Local Aboriginal Land Councils. Where, where they referred on many occasions to this "A Super LALC" concept. And at La Perouse because of our situation we were concerned that we would be absorbed by a bigger LALC, a bigger neighbouring LALC and secondly, leading up to the 2011 election it was

quite well known that the Liberal Government will more than likely be elected and there was some real concern in the community about a Liberal Government and its intention for the Aboriginal Land Rights Act because the last time they were in power was under the Greiner Government and in the late - - -

10 THE COMMISSIONER: Sorry are you talking about a State election in 2011?---A State election in 2011. And the Greiner Government the last time Liberals were in power they were to abolish the New South Wales Aboriginal Land Council and the Land Rights Act. So there was genuine concern and fury in the community as La Perouse what would represent us, what would there would be left a black hole similar to the ATSIC Commission, no one said ATSIC was abolished. No one thought it would. And there's concerns out there is what happens if Parliament moves on the Aboriginal Land Rights Act. So this was – this structure was supposed to survive the Aboriginal Land Rights Actually.

20 MR FITZPATRICK: And there's a company registered which included the words Future Fund in its name.---Yeah.

What was the intention behind the creation of that company?---To create a Future Fund similar to what the Australian government had. And a Future Fund, so anything La Perouse management saved, any surplus funds, would sit in the Future Fund and would be available for our members to continue to operate as a representative company.

And was that ever implemented or used?---No, no.

30 Okay. LMS, which you refer to as being the operating company, entered into some agreements with the Gandangara Management Services company.---Yeah.

Find the first of those at page 56 of this volume. And that's a load deed. ---Yeah.

Dated in July 2011.---Yeah.

You're familiar with this document?---Yeah.

40 It's signed by Ms Cronan and Mr Johnson for – this is on page 63. For Gandangara Management Services and Ms Ella Duncan and Ms Tinbrey for La Perouse.---Yeah.

And those were both directors or a director - - - ---Of La Perouse Management Services, yeah.

And were those office holders of the La Perouse Council as well?---Yeah.

There was also, then, a services agreement or a service agreement between GMS and LPMS?---Yeah.

Sorry, I'm adopting my own abbreviation.---You're right.

Sorry. What do you call it? LAPMS?---LMS.

LMS?---La Perouse Management Services.

10 That's in volume 25 at page 25. 25. 2-5 at 2-5.---Between La Perouse LALC and Gandangara Management Services?

I apologise. So it's the Land Council and GMS.---Yeah, Gandangara, yeah. Yeah.

And what was the Land Council contracting with GMS for?---So the GMS, it was the sale of land, to assist us with the sale of land.

20 And how did they assist?---So we were able to use – so Gandangara had consultants, and we were able to use their consultants who, at the time, yeah, they would work on La Perouse matters and they were Gandangara consultants.

Was it also the case that SASL was engaged for a role with development projects?---I don't think we signed an agreement with SASL.

30 Back to volume 24 at page 72, there are some Board minutes. Sorry, did you understand SASL to be a Gandangara company? Or was it - - - ?---No, at the time, from my recollection, it was where both Gandangara and Deerubbin were - it was a company or an arrangement between those two. And we generally understood SASL as the arrangement, or the partnership, of the three Land Councils, yeah.

THE COMMISSIONER: Do you know, who were the consultants that GLALC made available to you through this agreement?---So, there was Dixon Capital and Arben. And if we needed – because it's the divestment of land, where we would – they would assist us with the engagement and payment of a real estate agent, I believe, yeah.

40 MR FITZPATRICK: Sorry, in this document, which are Board minutes from 10 August, 2011.---Yeah.

On page 75, it's (not transcribable), there's the first column is the agenda item. The second column reflects discussion and conclusions. Then there are resolutions and actions, and there's a responsibility given in the last column.---Yeah.

And those headings are found for the benefit of others on page 73. Item 4.2 identifies land dealings Hill 60 in Jennifer Street.---Yeah.

There's a – in the resolutions box there's a delegation for SASL/GLALC CEO to have authority to take action for the development of Hill 60.

---Yeah.

And what, what actions was – and that's Mr Johnson who is being identified there.---Yeah.

10

What actions was he going to be taking?---Well, we were, were to – we set up Hill 60 Stage 1 potentially if our – if property that the LALC owned was transferred for development – transferred to our own company for, for a development and from what I recall SASL and Gandangara was assist us to get to that stage.

There's a further delegation referring to SASL on page 77. It's item 4.4. ---Yeah.

20

This appears to relate to a service agreement of some sort in respect of accounting, LMS reporting, compliance and budgeting.---Yeah.

- - - and budgeting.---Yeah.

What was SASL's role for the La Perouse Council in those areas?---So we were going to ask SASL to help us with our – what it says there, you know, our budgeting and, and pretty much our accounting services, our (not transcribable) compliance reporting as well but we ended up entering into the service agreement with Gandangara Management Services, directly with Gandangara Management Services not SASL.

30

I see. There's an email which appears to reflect the dealings between SASL and the La Perouse Council at page 102. The email at the bottom of that page - - -?---Yeah.

- - - is from you.---Yeah.

Where you indicate acceptance of an offer for SASL to assist - - -?---Yeah.

40

- - - the following operations.---Yeah.

So did this – was this replaced by or overtaken by the arrangements with GMS?---It became the arrangement with GMS, yeah. We say SASL, Sydney Aboriginal Services, but it became the arrangement with GMS.

I see. In relation to the corporate structure issue which La Perouse adopted did it obtain legal advice on how to go about that and compliance with the relevant regulatory scheme?---Yeah. I think we were, I think we were

seeking legal advice or we may have sought it but I believe David Wing or Dixon Capital was, was – asked Baker & McKenzie to provide some advice specifically for La Perouse set up. We know Gandangara had some advice but we needed our own.

And did that eventuate, did - - -?---I don't recall. I'll have to, you know, yeah, I don't recall.

10 I'll show you volume 30 beginning at page 252. This is quite a long email chain. The beginning of it as it were is at page 262.---Ah hmm.

And that – the first email starts on 260 and it's from you to David Wing - - - ?---Yeah.

- - - with the subject, and this is at the bottom of that page 260, LPLALC legal advice for corporate structure.---That's right.

20 The next email is up that page is also from you indicating that LPLALC wishes to obtain legal advice and asking Mr Wing to – whether he can assist - - ----Assist.

- - - to obtain that. There's then some emails in relation to trying to schedule a time to talk. On page 257 there's a reference to – it then says at the bottom of the page an email from Mr Wing to yourself where it indicates that he attaches a copy of a paper.---Yeah.

30 Do you recall that, is that a document relating to the legal advice that Gandangara had obtained?---I believe – I think it was a paper about Gandangara's corporate structure that then we could use for Baker & McKenzie to provide advice based on that, but specifically to La Perouse.

And how did you come to be inquiring about Baker & McKenzie, you knew that they had assisted Gandangara?---Yep.

And you learnt that from Mr Johnson or Mr Wing?---No, just Gandangara generally, yeah. So yeah, maybe Jack or, or staff there, you know, Leon or whoever was there at the time.

40 Okay. Thank you. Was, were you or was, did you feel the La Perouse Council was advised by GMS or by any of these - - -?---No, I think we, we, we did, we did seek their advice on some things I suppose or, but I think the, the Board of La Perouse LALC is quite intelligent and, and, and quite experienced to be able to make their own mind up I think. But definitely Gandangara was a source of information for us.

THE COMMISSIONER: Mr Ingrey, just in relation to that, this was a corporate structure that you were setting up as a result of some misgivings about the future of Local Aboriginal Land Councils and you wanted to make

sure that any assets were saved from seizure I suppose in the event that the Land Councils were wound up?---Well, it wasn't so much about assets, it would allow that whatever the companies or just say La Perouse Management Services was, was the company that if the LaPa LALC was wound up, each member of LaPa LAL would sign up as a member of La Perouse Management Services.

10 Yes, so what you wanted to do was ensure that there was a corporate structure in place that was still able to deliver the services to the Aboriginal community?---Potentially, yeah.

And then your source of funding would presumably derive from whatever land claims you could market by way of land development. Was that the idea?---No.

20 No?---The, the ideas like, in our experience at La Perouse when we would be placed under administration the LaPa LALC plays a leading role in providing infrastructure, so our childcare service is there because it's on LaPa LALC land, our health centre is there because it's on LaPa land, our reserve, which has been there since 1870 permanently is there because LaPa LALC's there and there's a concern that if, if, if, if something happens to the Land Council, what's the future of our - - -

I see?--- - - - of our people.

30 Well, I'm just – what I'm trying to understand is whether it was a concern that had to do with quarantining assets away from the New South Wales Government in the event that they decided to abolish LALCs or whether it was a concern to do with being able to maintain and deliver services to the Aboriginal community through a separate structure?---So it was, well, we believe that if we were to, to, La Perouse Management Services want to build itself up to create services, that wouldn't stop, that service delivery would still – the, the, the idea of assets was thinking that was, so we weren't even thinking of it at that stage.

All right?---That was further down - - -

40 So it was about, it was primarily about preserving the services?---Yeah, and representation to our, for our people.

And just in relation to the legal advice that you had sought, was there any point in time when the Board considered discussing this issue with the Registrar of the New South Wales Aboriginal Land Rights Act so that you could receive some advice or guidance in relation to that structure from him?---Yeah, I think you would see that La Perouse Management Services only had limited trading, so we were hoping and our Board was quite cautious in moving forward with the structure until all the stakeholders like

the Minister's officer, the Registrar and NSWALC were comfortable with the arrangement.

So, at some stage you would have squared it away with the Registrar and the Minister if you were going to go down that path?---Ah hmm.

All right.

10 MR FITZPATRICK: Mr Ingrey, I'd like to show you a document at page 267 of volume 24.---Yeah.

And this is – you discussed earlier repayments and the financial terms between the La Perouse Council and Gandangara entities. The email exchanges between yourself and Mr Gundar.---Shalesh, yeah.

Shalesh. At the bottom of the page, he provides or he says he's providing an attachment, which is a reconciliation of loans. You asked for an Excel format.---Yeah.

20 And received it. That follows on page 268 through to 274.---Yeah.

The loan reconciliation indicates it's for the LaPa LALC and LMS.---That one there, yeah. So it was both – in this loan record, it seems like it was both put together. And then later on, sometime in late 2011, early 2012, we asked to itemise one for La Perouse LALC and one for La Perouse Management Services.

And did they start doing it that way?---Yeah.

30 And as a general proposition, La Perouse Council hasn't had an issue with the charges that it's received from - - - ---No. So we would know what we're getting charged and we'll ask for a reconciliation, like, every month. And we would look through it and make sure that it was correct and matched our records.

And the relationship between La Perouse and the GMS entity continued. The subsequent service agreements.---Yeah.

40 And those - - - ---Between, sorry, LMS and GMS? Or La Perouse Management Services and Gandangara Management Services? Or LaPa LALC and - - -

Well, perhaps we should look at them. Page 80 of this volume.---Yeah. La Perouse Local Aboriginal Land Council, yeah.

Yeah, so this one is GMS but the council.---Yeah, yeah. The council. So this one would have been specifically for the sale of land at Jennifer Street, and the costs associated with that. And I think land claims prior to that as

well. Land claims specifically that was lodged for La Perouse, or the work done for La Perouse.

And then there is then one you mentioned between GMS and LMS as a loan deed in volume 25 and page 15. And was this for a particular transaction or was this - - - ---That was for the arrangement between the service agreement. So there was a management fee, use of vehicle, computers, IT, phones, communication. Wages, I think, between 2013 to '14, between Gandangara Management Services and La Perouse Management Services.

10

Well, there's a March 2013 agreement at page 90 of this volume.---Yeah.

So this is the - - - ---La Perouse management. Yeah, yeah, with La Perouse Management Services and Gandangara Management Services.

By later in 2013, La Perouse sought to scale back the arrangement.---Yeah, yeah.

20 What was the reason for that?---So the original intention was that Gandangara was to assist us to build our capacity and once we started building our capacity that we would scale back and we will – so we had a strategy to, to, to operate independently once we built our capacity. So for example, you know, the – we outsourced accounting and financial services. We employed a finance officer and once he started building his skillset up he was able to transfer the work – we were able to scale back that type of service. We returned a vehicle because we no longer needed it and eventually we were able –we had the funds ourselves to, to, to pay for our operations.

30 Thank you. And perhaps if you can confirm that last point. In volume 25 at page 112 there's an email in which you're copied. It's from a Mr Ron Tinbrey.---Yeah.

Where there's a negotiation of a significant reduction of services from GMS - - -.---Yeah.

- - - because they need to do the financial work itself.---Yeah.

40 And that's what has occurred?---Yeah, because we wanted to be able to pull the service – like we were building our own capacity so we didn't need the service from Gandangara if we were doing it in-house.

Is there any ongoing relationship at this point?---No.

Okay. Commissioner, those are my questions.

THE COMMISSIONER: Thank you. We might try and finish with Mr Ingrey today if we can. Does anyone have any questions or Mr Ingrey? No? Mr Docker, any questions of Mr Ingrey?

MR DOCKER: No, I don't.

THE COMMISSIONER: Thank you, Mr Ingrey. You may step down. You're excused.---Thank you.

10

THE WITNESS EXCUSED

[4.01pm]

THE COMMISSIONER: Yes, we'll resume tomorrow at 10 o'clock. Thank you.

AT 4.01PM THE MATTER WAS ADJOURNED ACCORDINGLY

[4.01PM]

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