

Thursday 23 February 2017

## Investigation into the conduct of a former chief executive officer and members of the board of the Gandangara Local Aboriginal Land Council

### ICAC FINDINGS

The ICAC found that Mark Johnson engaged in serious corrupt conduct by:

- from about June 2010, continuing to act as chief executive officer (CEO) of Gandangara Local Aboriginal Land Council (GLALC) despite knowing that his company, Waawidji Pty Ltd, was receiving benefits from GLALC by way of deposits of funds into the Waawidji bank account (which totalled \$107,023.28 between June and December 2010) and knowing that, under section 78B(1)(e) of the *Aboriginal Land Rights Act 1983* (the ALR ACT), that he was not entitled to continue to be employed as the CEO of GLALC because he was a person who had an interest in a corporation that received a benefit from GLALC
- on 14 occasions, between 30 June 2011 and 12 November 2012, improperly favouring Gandangara Future Fund (GFF) by authorising the transfer of funds totalling \$5,370,000 from the GLALC trust account to GFF knowing that he did so contrary to legal advice he had obtained that any transfer of funds from GLALC to GFF had to be by way of a commercial loan secured by a charge. He authorised 13 of the 14 transfers, totalling \$4,970,000, knowing that they did not comply with the GLALC board resolution of 11 July 2011, authorised 12 of the transfers, totalling \$4,670,000, knowing that did not comply with the GLALC members' resolution of 27 July 2011, and authorised three of the transfers, totalling \$960,000, despite knowing that his actions contravened the ALR Registrar's compliance direction of 31 August 2012
- improperly exercising his official functions as GLALC CEO to arrange the payment by GLALC invoices, totalling \$70,568.58, to fund Deerubbin Local Aboriginal Land Council's development for sale of 10 lots at Terrace Falls Road in Hazelbrook, in order to ensure that the lots could be sold so that Waawidji would benefit by receiving \$5,500 (inclusive of GST) for each lot sold.

### ICAC RECOMMENDATIONS

The ICAC is not of the opinion that the advice of the Director of Public Prosecutions should be obtained with respect to the prosecution of Mr Johnson.

### CORRUPTION PREVENTION

The Commission has not made any corruption prevention recommendations in this report. The evidence obtained during the course of this investigation will help to inform the ICAC's forthcoming report on the governance of Local Aboriginal Land Councils.

### BACKGROUND

The Commission's investigation began after it received reports in 2014 under section 11 of the *Independent Commission Against Corruption Act 1988* from the minister for Aboriginal Affairs, the CEO of the NSW Aboriginal Land Council and the ALR Registrar that included allegations that personal expenses incurred by Mr Johnson were paid for by GLALC, that there was a fundamental breakdown in basic internal control and oversight by the GLALC board and management in relation to loans of over \$7.5 million made by GLALC to GFF, and that there had been possible breaches of the ALR Act.

The Commission held a public inquiry, as part of the investigation, over 19 days in May and June 2016. Former Commissioner the Hon Megan Latham presided at the public inquiry, at which 23 witnesses gave evidence. The report is available on the ICAC website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).  
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