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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION PETRIE

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 1 MARCH 2012

AT 10.05AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

ASSISTANT COMMISSIONER: Thank you, please be seated.

MR WATSON: Commissioner, before we start any evidence there's something that I need to correct and I notice that Vanessa Mason is not here but her lawyer is. Yesterday, I believe it was yesterday, I put to her that at one stage leases were granted in respect of all of the blocks even though approval had only ever been granted at a Council meeting for Fullers Beach. Ms Mason, no doubt because I put it to her as though it was a fact, agreed with me. After that I discovered evidence which is at the end of Exhibit 1, in the last few pages, to the effect that a general meeting had approved those leases. What I put to Ms Mason was wrong. I unreservedly apologise for having put that to her. I hope it hasn't done any harm to her but nevertheless I'll make sure that it's corrected in any written submission which goes in. I can only put it down to inadvertence, I can assure you, Commissioner, it's not deliberate.

ASSISTANT COMMISSIONER: Yes. Well, that's noted. Thank you, Mr Watson.

MR WATSON: The next witness is Ron Medich.

ASSISTANT COMMISSIONER: Yes. Mr Medich, would you come forward please. Mr Medich, you've been called here to give evidence and you are - you may sit down. You are required to answer all of the questions asked of you. You may seek a declaration under section 38 of our Act, the effect of which is that nothing you say can be used against you in any civil, criminal or disciplinary proceedings. Do you wish to seek an order in those terms?

MR STITZ: He does, Commissioner.

ASSISTANT COMMISSIONER: Thank you, Mr Stitz. Mr Medich, the effect of this order is that nothing you say can be used against you, the only exception being is if it's found that you've breached the Act by providing false or misleading information or in some other way, otherwise it can't be used against you. Do you understand the effect of that?

MR MEDICH: Yes.

ASSISTANT 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 him during the course of his 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 HIM DURING THE COURSE OF HIS 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.

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ASSISTANT COMMISSIONER: Mr Medich, you're required to take an oath on the Bible or make an affirmation to tell the truth.

MR MEDICH: On the Bible.

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Yes, Mr Watson.

MR WATSON: Is your name, Ronald Medich?---Yes.

Mr Medich, have you ever been to Narooma?---Yes.

10 How many times have you been to Narooma?---A couple of times, a few times, yes. I can't tell you exactly.

When you went to Narooma was this during 2005?---Yeah, it would have been, yes.

And when you say a couple of times or a few times do you think it was at least two or, or more than two?---Oh, it's a fair while ago, a lot of things have happened, I just can't think exactly how many times I've been down there.

20

When you went to Narooma how did you get there?---I generally drove.

And when you went to Narooma who did you travel with?---Lucky Gattellari and I think Ron Binge one time.

What about Senad Kaminic?---Jeez, I can't recall that Senad ever went with me.

30 What did - - -?---He may have, I - - -

Sorry. Why did you go to Narooma?---Well, I went down to look at the properties that Lucky Gattellari and Ronnie Binge wanted to present to me.

Did you meet with people down there?---Yes, I did.

Did you attend any Wagonga Land Council meeting?---Yes. One of the reasons I went down there Gattellari said that they wanted to meet me and I, I went to a meeting and there was a lot of people, Council members at that meeting.

40

Did you, apart from going to the Council meeting, meet with members of the Executive of Wagonga separately or privately?---We had a, there was some men and we had dinner at one of, at that hotel down there.

Did you meet with a man named Ron Mason?---I think I met him, yes.

Did you meet with a man named Ken Foster, also known as KJ?---I can't recall that Ken - that I ever met him down there.

Who, who did you meet then?---Basically they were mainly talking to Lucky Gattellari.

Well, I asked you why you went to Narooma, you said to look at properties and I asked you if you met with people, you said yes. I then asked you if you went to the Land Council meeting, if we go back a step, who were the people that you met with at Wagonga?---I couldn't tell you who was at the table, there was probably a group of six guys. We all had dinner. Lucky
10 was, was talking to them, Gattellari.

And why were you meeting with them, why were you dining with them?
---Well, well, he was dealing with them.

Right. Well, why were you, why were you there?---Well, 'cause I'd gone down to see the land and we were staying at a motel.

Now- - -?---And we were having, that was about the only spot where you
20 can, you can have dinner that ah, he, he was going to.

Were you taken around and shown the properties?---Yes, I was.

And did a member of Wagonga travel with you to show you the properties?
---Yeah, someone came around with us.

Could that have been a man named Ron Mason?---I, I just can't, it was seven years ago and I just cannot remember who took, took us around at that time.

30 You are familiar with the name Ron Mason no doubt?---I am, I know who Ron Mason is. I'd met him before. He actually came to Sydney and had dinner with Gattellari after I decided I wasn't proceeding with any of those deals in Leichhardt.

All right. So you know who Ron Mason is?---Yes, I, I've met him before so I definitely know him.

Do you know who Ken Foster or KJ is?---I've met him before too.

40 And you had met him before you ever went to Narooma. Is that right?
---I believe that he was one of the guys when Ron Binge and Lucky Gattellari took me to see a property down at Botany, I believe that he was one of the people there but I can't be sure of that. And I think that's where I first met him.

Are you aware of Vanessa Mason?---Not really.

Mr Medich, are you aware that payments were made by Gattellari to Ron Mason?---I am not.

Well, have you been following the evidence in this inquiry?---Yes.

Are you aware that evidence has been adduced in this inquiry to the effect that payments were made by Gattellari to Ron Mason?---I do.

10 Now, before that evidence was adduced in this inquiry, were you aware that any payments had been made by Gattellari to Ron Mason?---Definitely not. Lucky Gattellari never ever told me he paid anybody any money.

All right. Mr Medich, are you aware that payments were made to Ken Foster by Gattellari?---I, I think that ah, once upon a time he did tell me he was a friend of his and that he did ah, help him out with, with some money, but that was down the track.

20 When you said once upon a time or down the track, are you able to put in broad terms a date upon that conversation with Gattellari? By reference to when you went to Narooma was it before or after?---No, it was after. He became a friend of his 'cause he used to come, I've even seen him come to Leichhardt.

You said that you were not aware of Vanessa Mason but have you been following the evidence in this inquiry to the extent that you're aware that a person by that name was called to give evidence?---Yes. I've seen, I've seen the transcript.

30 And so you would know that at one time she was the chairperson and at another time the CEO of Wagonga?---Not, not when I was, I only went down there a few times, I didn't deal with the people.

All right. Well, I'm only asking you about your knowledge about her various roles if you've looked at the transcript?---I have no knowledge of her roles at all until this inquiry.

Are you, are you aware of payments being made to Vanessa Mason?---Not at all.

40 Are you aware that there is evidence in this inquiry of a payment made by you directly from your bank account directly into the account of Vanessa Mason?---Yes, I do.

Well, when you say that you're not- -?---No, hang on, I didn't know who that, what actually happened with that, Lucky Gattellari came with, with a guy to Leichhardt, right, to my office in Leichhardt. This is well down the track when I'd already ceased to have anything to do with that Council or any Aboriginal land deal. And what actually happened, he brought this guy

in and asked me if I wanted to have a share in an oyster lease, right, and, and, and he offered me, he wanted \$20,000, I can't remember whether it was for a 10 per cent share or a 20 per cent share of that oyster lease. And he, and that particular guy, don't ask me his name, was in my office, right. I said, "I'm not interested, Lucky." He said, "Look, I need 20,000 and, and ah, please buy a share in it, it's a good deal." I said, "I'm definitely not interested." So to cut a long story short, he, he actually said, "Can you give me a loan?" And I gave him a loan. I said I wouldn't give him 20 so he asked for 10 which he said he'll, he'll return to me in two weeks, which he never did.

You've used the word he variably there?---That, that's Gattellari I'm talking about.

Gattellari asked you for the loan?---Yes.

Well how did you give him the loan?---I think the secretary did a transfer in the office.

20 Right. From where to where?---I'm not sure where that, that money went to.

So it was just a transfer made you say without your input at all except for approving it?---Well, well the secretary in the office Lucky knew 'cause all my secretaries came from Gattellari and they were contracted out at that particular time.

30 And these secretaries had the ability to draw without your input - - -?---No, no, no.

- - - by way of a password or a code - - -?---No, no, no, no. What happens is I sign a form which I did. And it was for \$10,000.

All right. So you signed a form and to whom was the \$10,000 to be paid? ---I don't know, I can't, I can't recall.

And you can't remember - - -?---I assumed it was to Lucky Gattellari.

40 You cannot remember the name of the person who you've described as "a guy"?---Well if you mention some names I might, but I definitely, he came to my office in Leichhardt.

Ron Mason?---No.

Ken Foster?---None of those names.

Ron Mason Junior?---None of those.

Vanessa Mason?---No.

Was the guy an Aboriginal?---He didn't look like an Aboriginal.

Are you aware that we have evidence in this inquiry from Ron Mason himself, that within minutes of meeting Gattellari he asked Gattellari for what he called a loan and that Gattellari agreed to give it to him? Are you aware of that?---I don't understand that question.

10 Well are you aware that Ron Mason as soon as he met Gattellari asked Gattellari for a loan and Gattellari agreed? Do you know about that?
---When's this?

2005, probably in about March?---Absolutely not. I don't know about any loans to any of them. They were all friends of Gattellari's. You know he bought, when I went down there they all seemed friendly. He was friendly with them because Gattellari first brought things to me he said he'd been talking to other developers, he told me, when he and Ron Binge came, came first talked to me about it.

20 Well we've got some evidence that Mr Mason himself agrees that he asked for a loan from Gattellari, Gattellari agreed to give it to him. And it seems to be within a matter of days Mr Mason, as chairperson of Wagonga was promoting and supporting your joint venture, the joint venture of the Medich Group?---I, I think what you've got to realise is they were trying to get me interested, Gattellari and them were trying to get me interested. They needed my money.

30 Well - - -?---They were all working together. Because at that time, that was around a time when they were going to disband these councils and they never had any money and they were desperate to do deals. I wasn't even sure I wanted to do a deal. It was Gattellari and them that were trying to convince me to do a deal down there.

40 Well at some stage or another they succeeded in obtaining your interest. You put your name and money behind a joint venture with Wagonga didn't you?---That was not, I don't believe that was a binding agreement anyway because I wasn't happy with that agreement. And it wasn't even dated and there was supposed to be a meeting later on that we were supposed to go to Wollongong with them and meet and I ended up pulling the plug on the whole deal, because I was not happy with it.

When did you say, when do you say that you pulled the plug on the whole deal?---When, when we were in Jeffrey Hinde's office and Gattellari asked me to sign it in there because he said he'll get some other developers or whatever to do it.

All right. Well at some stage or another - - -?---When we were in Jeffrey Hinde's office, you know, the solicitor.

At some stage or another you were interested in doing a deal with Wagonga must have been captured because you did sign a joint venture agreement didn't you?---That was a joint venture agreement which I said I didn't date it because I said I'm not happy with this agreement, we have to make changes to the agreement.

10 You signed it didn't you?---I did sign it, but under, Gattellari was well, well knew that I wasn't happy with that agreement and we have to renegotiate it down there.

Why did you sign it then?---Because he said that he would lose faith, you know, down there if I didn't sign that and give the cheque and then we'll meet them down in, I actually wanted them to come to Sydney and he said no, they wouldn't come to Sydney we'll all have to go to Wollongong to meet with them. I ended up not going down there and I pulled the plug and I wanted my money back. I'm the one that wanted to pull the plug on, on
20 the whole deal.

Are you saying that you were unwillingly brought into the joint venture?---I, I wasn't happy with that document because what, what originally happened and, and, and this, this is a fact, they wanted to use my solicitor to, to do the whole transaction. I said, "You can't do that, they've got to be represented, you know, by a solicitor and this thing has to go to the New South Wales Aboriginal Land Council for approval."

30 Thank you. Are you saying that you were or were not willing to enter into this deal?---No, I pulled the plug on the deal.

You signed, do you say, the joint venture agreement under some duress?
---No. I don't even believe that was legal 'cause I made a lot of crossings out on it, it wasn't dated and we were to have a meeting in Wollongong where the people from, from that Land Council were supposed to go to Wollongong 'cause they refused to come to Sydney. I actually requested that they come to Sydney.

40 Mr Medich, we've got some evidence in this inquiry that within it seems like minutes of meeting Gattellari, Ron Mason asked him for a loan, Gattellari agreed to give it and within days of that, Ron Mason was supporting a joint venture put forward in the name of The Medich Group. Are you aware of that evidence?---Well, I'm not, look, Gattellari was handling that. Which, which agreement are you talking about?

I suspect that that question could be answered yes or no. Were you aware of that evidence?---Yeah, there was an agreement.

I'm not sure that that's an answer but I'll let it go. If the witness could be shown Exhibit 1. Now, before you open it I'll tell you that this is an exhibit, it's going to be available to you on paper as you've got there- -?
---Ah hmm.

- - -but it's also available on the screen and- - -?---Yep.

- - -particular pages will be shown to you. The reason why I'm showing this to you, Mr Medich, is because I want to squash once and for all, put to you that you are not telling the truth?---About what?
10

That you're a moving party behind the proposal of the joint venture with Wagonga Land Council. Do you accept that or not before we go further?
---Just a second. I don't, I don't understand the question.

The question is whether or not you accept this proposition, that you were an instrumental moving party driving the joint venture with Wagonga?---No.

Do you accept that?---I, I accept that I had an interest that I might do a deal down there subject to me doing all the checks and everything else which weren't done there. Now, when, when Ron Binge and Lucky Gattellari brought this deal to me it was not on the basis of doing a joint venture, it was on the basis of, that they were going to sell those lands, certain lands, if I was interested in buying them. That's, that's, that was when they first approached me, not to do a joint venture. Now, when they went down there and they were dealing with them, they said that the people on the Council and them said to get to that stage first of all to get approval from the New South Wales Aboriginal Land Council, they would, you'd have to do it like a joint venture and then when you know all the facts and everything about the particular parcels of land and if you decide to proceed, you may be able to do a purchase deal. Because to be honest with you, I never ever wanted to do a joint venture.
20
30

All right. Well, you see, I'm going to show you some documents now with the intention of proving that that last statement of yours regarding your intention on the joint venture is a lie. Would you look at page 60 of Exhibit - - -?---It's a lie? I'm not denying that, that, that, that- - -

Would you look at page 60 of Exhibit 1?---Page 60.
40

It's on the screen if you need to, if that's any help. Did you have a solicitor, Jeffrey Hinde?---Yes, I did.

Did you instruct Jeffrey Hinde to draw up this agreement?---Yes.

Do you see it's between Ron Medich Holdings Pty Limited, I take it that's your company?---Yes.

And you see that it's recited whereas (not transcribable) the parties intend to develop for subdivision a particular block of land?---Yeah.

Now, this was an agreement which you instructed your solicitor, Jeffrey Hinde, to prepare?---Yes.

Have a look at page 62?---Mmm.

10 The fourth clause suggests that the project was going to be managed by your company or your company's nominee. Do you see that?---Yes.

Well, Jeffrey Hinde wouldn't have been making this up, he would have been taking instructions from you, Ron Medich, on that clause, would he not?---No, but what I said to you before was - - -

20 Well, I think my question is a pretty simple one. Are you saying Mr Hinde made that up or are you accepting you gave him instructions to have the agreement drawn in this fashion?---He, he drew this in consultation. I, I told him that they had to get another solicitor, right.

Yes, thank you?---And it, you know, a guy called Eddie Neumann because what they wanted to do was, was to just get me to do an agreement - - -

Yes?--- - - - and this was the Council down there and Gattellari.

Have a look at page 64. Do you recognise your signature?---Yes.

Do you see it's witnessed by your solicitor, Jeffrey Hinde?---Yes.

30 Did you sign it under duress?---I didn't sign anything under duress.

Did you sign this under duress?---No, I did not.

Did you sign it of your own free will?---Yes, I did.

Do you now accept that you were a moving party behind the joint venture?
---I said I, I went into it to do a joint venture but I, I never ever wanted to do a joint venture.

40 Look at page 65 of Exhibit 1. Do you recognise this as a copy of a document which was prepared on your instruction?---I think Lucky Gattellari prepared that document.

Well, in any event it says that at the foot it was to be signed by Ron Medich. Did you sign it?---Ah, yes, I believe I did.

Now, you didn't sign it under duress?---No.

And you'll see that it was an appointment of Gattellari as a property consultant in places including Narooma, do you see that?---Ah, yes.

Right. Now would you go to page 66 of Exhibit 1?---Yeah.

Do you see that this is the document which I think you complain of because it is undated?---Ah, yeah.

10 Do you see that it's between Ron Medich Developments Pty Limited, Gattellari - - -?---Yeah.

- - - and Binge on one part?---Yes.

Is Ron Medich Developments Pty Limited one of your companies?---It is.

You'll see that it was changed, that the participating company was changed from Ron Medich Holdings Pty Limited to Developments, do you see that? ---Yes.

20 Who instructed that change to be made?---Well, I, I don't know how that, that got, got in there because it was the wrong company.

Well, sorry, which was the wrong company, Ron Medich Developments Pty Limited?---No, Holdings.

All right. So did you draw to somebody's attention that the wrong company had been put in there?---Yeah, that's correct.

30 This is the document which you say you entered unwillingly?---I didn't say I entered the document unwillingly.

Or reluctantly?---I, I said to you that I never had an intention of doing a joint venture. Like when, when they original brought the deal to me they said you can purchase the properties. They needed money and if you like any of the sites you could purchase them.

Well, do you see your - - -?---Now, now, now, I explained this to you before - - -

40 Yes, so you needn't say it again. If you look there you'll see initials, are they yours next to that alteration to the title of the company?---I - yes.

Now if you look down at recital C you'll see that the Medich Group, I take it you acknowledge that that's you, the Medich Group and Wagonga have determined to carry out development of the joint venture site as joint venturers. I thought you said just a moment ago that you never wanted to enter a joint venture?---No, no, no, no. I told you about this. That we were going to renegotiate this because I was not happy with this. Now, I hadn't

done my final, worked out whether I was even proceeding with this at this stage, right, because there's a lot of - you, you, what, you have to go into a lot of work to work out whether the thing is even a feasible project. Now, Gattellari, Binge and the people down at Wagonga were telling me that Isabel Street property will sell like hotcakes and there was a demand for it and they were telling me certain prices that you, you will get. Now, when, when, when this document was signed it was in Jeffrey Hinde's office and I told him in there I, that I, I don't really want to sign this because I don't think I will proceed. Gattellari said to me he wanted me to sign it because if I don't, that he might get somebody else to do it but if I just knock it out like that he said he doesn't think the people will deal with him down there. That's - - -

All right?--- - - - that's what he said to me. Now - - -

Thank you. Look at page 81?---Sorry, can, can I just finish that?

No. It's not - - -

20 ASSISTANT COMMISSIONER: I think you've finished, Mr Medich?
---Oh, well.

I mean it's - we understand the point you're making.

MR WATSON: It's not the point you're making, the point you've tried to make about 20 times, we understand it, Mr Medich but look at page 81 of Exhibit 1, clause 6.8, "The Medich Group shall be paid a fee of" and it was eight per cent but changed to nine per cent - - -?---Yes.

30 It's up on the screen if you need to look at it?---Yeah.

Are they your initials in the - - -?---Yes. I'm sure I remember it, yep.

Tell me this, at this time when you're saying this isn't a binding agreement, this is not something I want to enter who was it who negotiated the alteration from eight per cent to nine per cent?---Well that was done between Jeffrey Hinde and their solicitor in consultation with me.

40 But why were you consulting with them if you didn't want to enter it? Why didn't you say don't bother changing it because I'm not entering it?---There was, there was other problems with this agreement. When, when - - -

No, we're not worried about them at the moment. I'm looking at clause 6.8. Why, if it is true that you were unwilling or reluctant to enter this agreement, why were you also in negotiations over whether the management fee would be eight or nine per cent?---The only reason we were trying to change this document if it ever did proceed, but I can tell you at that time in that office in my own mind I probably already decided I was not proceeding

with this agreement because when I, when I, when they gave this agreement I was not happy that Lucky Gattellari's name was on that document and Ronnie Binge. They're not putting any money in, they're not doing anything and they told me that the Aboriginal Land Council probably won't deal with me if their names are not on there. That's what they told me.

Was this document signed by you?---It was.

10 Have a look at page 106. Is that your signature?---Yeah, it looks like it.

You didn't sign it under duress?---I keep explaining, I told you that this document was signed and - - -

At Eddie Neumann's office?---In, not in Neumann's office, in Jeffrey Hinde's office.

Thank you. Neumann was there however?---I don't think he was.

20 Well how did you negotiate the eight to nine per cent?---I think he was, he had him on the phone.

Have a look at page 105?---Yep.

Do you see Mr Neumann's signature?---Yep.

And the signature of Ronald James Mason, chairman. Do you see that?---Yep.

30 All right. Do you think that they were there with you at the time when the execution of the document?---They might have done it separately. I just can't think now who was there.

Have a look at page 116?---Ah hmm.

You'll see that this is a copy of minutes of a meeting on 26 May?---Hang on, 116.

If you look at the screen it's probably easier?---Yes.

40 And if you then go through and if you find page 118, that'll be put on the screen, the coordinators report for June and May, 2005. And then you'll see on page 120 a reference to land development joint venture. Do you see that?---Yes.

And the coordinator I want to suggest to you that at this time it's Ken Foster, says this, "I have been informed that both Ron Medich and Lucky Gattellari will be in attendance to give a detailed report to members."---Yep.

I'm not sure that your evidence fits as I understood it you were saying that you executed a document but you never wanted to enter a joint venture, you didn't want to enter an agreement where Gattellari and Binge were involved. You didn't really want to - - -?---No, no.

- - - enter an agreement at all, but here if this note of Mr Foster is right, you're coming with Gattellari to Narooma to give a report to the members of Wagonga. What would it have been about?---No, just one second. Which, wasn't there two agreements? I'm talking about the final
10 agreement. I've think you've got me confused here, you know. Which is the agreement, the last one when I ended up pulling out of the whole deal?

I think if you just answer the questions it'll be better. What I'm trying to do is put together a fit. Why if you were not wishing to enter a joint venture not willing to enter an agreement with Gattellari, why would there be a note then by the coordinator that you're going to come to town with Gattellari to talk about a joint venture with Wagonga?---Hang on.

MR STITZ: I object.
20

ASSISTANT COMMISSIONER: On what basis?

MR STITZ: It can only be the author of that document's intention or belief, not his.

MR WATSON: It's a business record.

MR STITZ: So?

30 MR WATSON: I press the question.

ASSISTANT COMMISSIONER: Yes. I think the question is fair.

THE WITNESS: I beg your pardon?

MR WATSON: I mean, you went to Wagonga Land Council meetings?
---I told you I only went to Wagonga once and, and, and I was in front of the whole, but I think that was early in the piece.

40 All right. Well, this may well be the meeting. You'll see that it's headed, Land Development Joint Venture. Do you see that? So it's talking about a joint venture?---Mr Watson, I- - -

No, sorry, just answer my question. Does it say, Land Development Joint Venture, yes or no?---Well, it's quite obvious it does.

Thank you. Now, if you look at it, the person who made the note is saying that you're coming to town to speak on the joint venture with Lucky Gattellari. Do you see that?---Yes, I do.

How could that be if it's true?---No, hang on, 'cause it- - -

10 How could it be if it's true that you were A, not willing to enter a joint venture, B, not willing to enter any sort of agreement with Gattellari, and C, uncertain of whether you wanted to do any business at all with Wagonga, that you would be going to talk to them about it?---I, I think we're, we're, we're confused here. I am totally- - -

20 I'm asking you to answer my question and in the absence of you answering my question directly I'm going to ask the Commissioner to draw an inference adverse. I'm going to ask you the question again. How, if it is true that you said you weren't willing to enter a joint venture, you weren't willing to enter a venture with Gattellari, that you could be going down to Wagonga at this time to talk to the Wagonga people about a joint venture? How could that be so?---Well, I don't think it was at this time. I'm talking about when that final agreement was done. What date was that, you know?

All right. I'll- - -?---I'm confused here. I think there was two- - -

I've given you the opportunity to answer. It's all right, Mr Medich, we'll move on. Look at page 124?---No, no, I've just asked that question. I am confused.

30 Look at page 124. Do you see that this is a letter from Craddock Murray and Neumann?---(NO AUDIBLE REPLY)

And you'll see what they're doing there is telling Wagonga, we're sending our bill to Ron Medich's solicitors?---Yes.

And then if you look at the next page 125- - -?---Yes.

- - -you'll see that that's exactly what they do?---Yes.

40 They send a letter to Jeffrey Hinde enclosing a bill. Now, if we look at the bill we'll get an impression about what was going on?---Yes.

And we can put dates on certain events on the basis of this bill?---Yep.

You'll see on page 126 Neumann is instructed by his client on 21 March. Do you see that?---Hang on. Right.

Then you'll see that by 31 March he's speaking to Jeffrey Hinde and to Gattellari?---Just one second, hang on. Yes.

I should have pointed out that on 24 March he was reviewing a draft agreement?---Right.

Then you'll see that on 11 April he's drafting himself a joint venture agreement?---Yep.

On 12 April he's finalising it, all the time in contact with Mr Hinde?
---Who- - -

10 Do you see that?---Who is that?

This is Eddie Neumann?---Yep.

Over the page, 127, 15 April- - -?---Ah hmm.

- - -there's a conference with his client, that's Wagonga- - -?---Yep.

- - -Lucky Gattellari, Ron Binge and you and Hinde by telephone?---Right.

20 If you go down further you'll see 21 April, 2005, conference by telephone with Hinde and Medich?---Ah hmm.

28 April, telephone to Hinde and Medich?---Right.

Do you see that? I could go on. I mean at the foot of the page, 1 June, 2005, conference with Medich and Hinde?---Yep.

Do you see all of that?---Yes.

30 Now, it seems that on 17 April, 2005, Mr Neumann had an attendance on his client and Ron Binge amending the contract and signing the contract?
---Yep.

Do you see that?---Yes.

Right. So we can put a date on certain things happening here and we know that, so it appears, the contract was signed according to this maybe as early as 17 April, 2005 but we also know that as late as 1 June, 2005, the last entry on this bill, you and your solicitor Mr Hinde were still talking to Mr
40 Neumann?---Yes.

What were you talking to him about?---I, I told Jeffrey - 'cause see, what happened was Jeffrey Hinde pointed out an important fact to me, he asked me are you going to do this because he, he didn't think that this would be a viable development, right, 'cause he's had a bit of experience with these areas. I've never, ever been to these areas and he actually suggested to me in that office that I should speak to real estate agents, you know, down at, at Narooma and Batemans Bay because he didn't think that it would be viable

to do this subdivision and I, and I did do that. I think I spoke to three or four agents, I think I - and I went down there and I spoke to them, right.

Well, so you're still investigating the transaction at that late stage, June 2005?---Yes, because, because Gattellari and the people on, on that Land Council told me that it would be a good deal and a viable proposition. I didn't really know that area, I've never ever done developments outside the area and that - and when I did that, that is when I wanted out of the whole thing and, and I instructed Jeffrey Hinde to try to get a rescission, you know,
10 of the document, right, and I wanted my money back.

Have a look at page 193?---And I, and don't hold me to dates 'cause I can't remember what those dates were.

Have a look at page 193?---Ah hmm.

Do you see that this is on the letterhead of the Medich Property Group?
---193. Yes.

20 Have a look at the letter. It's really in two parts. The first is - I should draw to your attention it's signed by Gattellari?---I don't know anything about this.

Oh, really?---Really, I don't.

Well, I did show you a letter that you said you had signed and dated 12 April, 2005 which - - -?---12 April.

- - - appointed Mr Gattellari as a consultant working for you for a
30 substantial rate of pay in respect of property development in areas including Narooma. Do you need to see that letter again?---Yeah, show me. This is a forgery because there's no way he had any authority to do this.

All right. So it's a forgery?---And, and - - -

That's a pretty serious allegation?---Well, it is because I don't know anything about this letter.

Is page 65 of Exhibit 1 a forgery?---Page - - -
40

Well, it's a document which you said you signed?---Which, which one is it?

It'll come up on the screen. It's dated 12 April, 2005?---We already been through that one.

Yeah. Well, that one's not a forgery?---No.

Right. Okay. So when Gattellari was appointed by you and you agreed to pay him \$140,000 per annum as a property consultant, in respect of full-time work and relating to the area of Narooma did you or did you not give him some authority to negotiate on your behalf?---I don't know about this.

What, the letter on page 65?---No, this one on 193.

All right. Okay. You don't know about it.

10

ASSISTANT COMMISSIONER: Yes. But Mr Watson's asked you a general question. Didn't you give Lucky Gattellari some authority to negotiate on your behalf as a property developer?---Yes, he was, he was doing that all the time.

You'd appointed him as - - -?---Because I, because I, I never went down there, he, he was the one that was dealing with everybody.

20

Yes?---Keeping the records and doing everything. I, I never had any involvement in any of that - - -

Because he - - -?--- - - - except to go down and seek if I thought there was a deal in, in the property. I had to do my homework on them eventually.

But generally Mr Gattellari was acting as your property consultant?---Yes, he was.

Yes.

30

MR WATSON: Now, you'll see that the letter on page 193 of Exhibit 1 is in two parts. The first is an offer to purchase the property at Isabel Street. You've, you know of the property at Isabel Street, don't you?---Yes, I do.

And did you wish to purchase it outright for development purposes?---Originally I, that was the only basis I spoke to people about it.

40

All right. So let's look at it now. So there's nothing untoward in respect of the first part which says that you want to purchase the property at Isabel Street, when I say you, Medich Property Group, that you wanted to purchase it outright. That would be something you must have discussed with Gattellari, do you think?---I did not discuss it with Gattellari.

So he's just acting as a rogue bull, just doing anything he wants?---No, no. Well, he might be, because, because he told me the only way you can approach this going forward on his consultations with that Land Council was you have to do a joint venture and then it has to go to the New South Wales Aboriginal Land Council for approval, I think it's called a 40D, and then he said- - -

Thank you. It's not an answer to my question but I think you answered it, you said, as I understand it, you don't know whether or not you discussed this with Gattellari?---No, because I, I could have signed that letter, why wouldn't he give it to me?

Well, do you deny discussing this with Gattellari?---I don't ever recall him discussing this with me or, or, or giving him authority to put a letter in like this.

10

The second part of the letter he refers to Fullers Beach and it's the same thing, offering for a purchase of the whole property at Fullers Beach. Do you see that?---Yes, and I wasn't interested in that property.

All right. So do you have any recollection of talking to Gattellari about that?---No.

20 He was, he was just operating out on his own?---He obviously was, because, 'cause what I want, want to say to you is that the only property that I might have had an interest down there would have been the Isabel Street property. That would be the only one I might have had an interest in subject to doing all due diligence and homework.

All right. Well - - ?---Now, could I just finish that?

No. Have a look at page 207 of Exhibit 1?---Two hundred and - -

30 This is a letter by Jeffrey Hinde. You'll see that it actually doesn't have an addressee on it but in handwriting, which I think you'll agree is Mr Hinde's, it's to Mr R Medich - - ?---Ah hmm.

- - -and Mr L Gattellari and the fax number is your fax number at Leichhardt. Is that right?---Ah, just a second. Yes, I think it is.

Yeah. Now, he discusses certain things there about the joint venture agreement?---Yes. Oh, hang on. Do you want me to read it?

Well, yes. Just read the first paragraph?---Yeah.

40 He was seeking your permission to extend the time in which Wagonga could lodge the papers with the New South Wales Aboriginal Land Council?---Ah, yes.

You gave those instructions, didn't you?---Yes, he, he, he told me to do that.

Well, hold on, this is extending the time in which it might have the effect of making the joint venture binding, that's the same joint venture which you

said you never wanted to enter, especially if it involved Gattellari and Binge?---No, I said- - -

10 You said- - -?---No, hang on. I said in the final agreement I was, I was never ever going to have them in my final agreement if I decided to proceed. Now, even if, if I'm entering into that joint, I had not completed my due diligence at that stage and I'm the only person that, that hired someone to go and check out those properties, a surveyor by the name of Steven Conroy. And I paid the moneys to do these things. They never ever paid for anything.

Have a look at page 280 of Exhibit 1?---Two hundred and what?

280, 280?---Am I finished with this letter here?

20 Yes. Page, go to page 280. Do you see this is dated 10 May, 2006, we're into the next year, and that you're writing to Westpac confirming that companies associated with you are in negotiations of development of projects in, amongst other places, Narooma. Do you see that?---Um- - -

You can see that, Mr Medich, you've had time to read that?---Just a second. I'm just thinking about it. Hang on.

What's there to think about? It's only you writing to Westpac?---I don't understand this letter.

30 Well, certainly I don't understand it in the context of your evidence that you wanted to terminate your relationship with Wagonga and any joint venture at- - -?---I had terminated it.

All right. Okay. Well I'm going to suggest to you that that's wrong?--- Well I'm suggesting to you that that, I definitely terminated it when I told you it's terminated.

All right?---And I, Gattellari must have asked me to do this letter for some reason.

40 Just, now let's try and put a motive behind Gattellari. Why would he say I want you to write a false letter to Westpac at Bankstown on behalf of two companies associated with you, Ron, and I want you to put in there quite falsely that your interested or your companies are interested in projects in Narooma? What, was it just a bad practical joke?---Just a second. Am I dealing with Westpac? What is the reason for this letter? I don't understand it.

Well it's obviously you told us, Gattellari put you up to typing it as some kind of practical joke on Westpac at Bankstown?

MR STITZ: Objection, that's not what he said.

MR WATSON: Well - - -?---That's rubbish.

All right. Okay?---Don't insult me will you.

At last we've agreed on something. What's Gattellari's motive for getting you to write this letter then if it's not a practical joke?---I don't know the reason for this letter. What is the reason for this letter?

10

All right?---I don't even understand this letter.

All right?---Did I sign this letter?

Have a look at page 297. This seems to be a letter by your solicitor, Jeffrey Hinde, to the solicitor acting for Wagonga?---Right.

20

And he's referring to correspondence which are passed between them and he says in the first paragraph, Thank you for the opportunity of discussing this matter with you. That's the joint venture involving four blocks of land. Do you see that?---(NO AUDIBLE REPLY)

Well surely you see that?---Yes.

And you see this is dated 21 July, 2006?---Ah hmm.

30

Were you keeping it a secret from your solicitor, Jeffrey Hinde that you had wanted to get out or had already terminated the joint venture? Because he seems to think it's on foot doesn't he?---He might have been dealing with Gattellari. I don't understand it. Just a second, thank you. This is to do with some lease or other.

It's the joint venture agreement involving four blocks of land, one of which was Fuller Beach. Do you see that?---(NO AUDIBLE REPLY)

Oh come on, you've had plenty of time Mr Medich?---Hang on.

It says - - -?---Just one moment I'm trying to read it.

40

I'm coming to the rest of the letter, it's just - - -

MR STITZ: I object. He wants to read the letter, let him read the letter without being spoken over.

ASSISTANT COMMISSIONER: Mr Watson, I think at this stage let him read the letter because I would like to ask him some questions once he has as well?---Yes, I've read it.

MR WATSON: Now first of all you'll see it's your solicitor writing to the solicitor for Wagonga about the joint venture. That's in the first paragraph?---Yes.

Had you kept it a secret from Jeffrey Hinde - - -?---No, because, because I believed that Lucky Gattellari was continuing to use him for anything that he was going to do after that.

10 All right. Well have a look at the second paragraph, You will know, he says, the solicitor, the parties involved are Ron Medich Developments Pty Limited. That's your company isn't it?---Yeah, it is.

Well so that doesn't seem to be that your solicitor Mr Hinde is writing on behalf of Gattellari alone. He seems to be writing on behalf of you?---He's not writing on my behalf. I don't even know why he would have put that in, because I was not, I was out of it at this time.

20 Have a look at the last sentence of that paragraph?---I've just told you I was out of it.

Great. The last sentence, In effect I act for those three parties in this matter described collectively as the Medich Group. What is Hinde lying?---Certainly he was dealing with Lucky Gattellari and I'm telling you he was still using him as a solicitor afterwards, right.

Look at the second last paragraph?---After I was completely out of this.

30 Right. Look at the second last paragraph, We look forward to the opportunity of a conference, which I will attend on behalf of the Medich Group. So Gattellari and Hinde now are conspiring are they?---Well Mr Watson, if that was the case then why didn't I go and what happened, if that is the case.

All right?---I, I'd like to ask.

Commissioner, did you wish to ask a - - -

40 ASSISTANT COMMISSIONER: Yes. Mr Medich, it seems to me from this letter and from other documents that you and your group, the Medich Group, did continue to be involved in negotiations about the joint venture for some time after it was first mooted in March 2005. This is July 2006. Now, I'd like just to give you an opportunity to respond to this. This seems totally contrary to the evidence you've given that you never wanted to enter the joint venture, you withdrew from it as soon as you could, I understand that to be your evidence?---No, when I decided I was going to completely withdraw it was when we were in that office, in the solicitor's office, I didn't like that agreement and I told Gattellari, he wanted me to sign the

agreement in the office, it was not dated, right, and we were going to end up in Wollongong - - -

Yes, I know all of that, you've said all of that?--- - - - and on dates, I don't know, you know, how the dates worked but - - -

Well, you've just read this letter?---Yeah.

10 This letter suggests that your solicitor on behalf of you and others was stilling trying to take forward the joint venture agreement in July 2006, do you see that?---Yes.

Yes. So are you saying that in writing this letter Mr Hinde was acting completely without or contrary to your instruction?---He was dealing with Lucky Gattellari subsequent. Now, look, on times and dates I'm just not sure, you know. All as I know is I was pulling out of the whole thing and I did pull out of it and when that actually happened - - -

20 Was he - excuse me, was he acting on your instructions when he wrote this letter?---No, I don't think he was. I, he might have been acting under Lucky Gattellari's instructions because I think he, he was working with him and he used to see him personally. What, can I just read this email at the back?

No, could you please look at the letter?---Look - - -

30 You'd agree, wouldn't you, the letter on its face says that the Medich Group and Gattellari are still interested in the joint venture?---I was not interested in the joint venture. Now, look, on the dates, when did I call for rescission of the thing and I wanted my money back? Have we got a letter on that?

MR WATSON: We do, we're going to come to it?---When is that - - -

ASSISTANT COMMISSIONER: Mr Watson - - -?--- - - - 'cause you've me totally - - -

Mr Medich, please, could you keep quiet for a minute. Yes, Mr Watson, please continued.

40 MR WATSON: Would you look at page 306 of Exhibit 1, it'll be on the screen. You can see that it's on the Medich Group letterhead and you can see at the foot that it's signed by Lucky Gattellari for the Medich Group? ---Where, where, where, what is this?

On the screen, if you look - - -?---Yeah.

- - - at the screen it'll be fine. If you go back to the letterhead, the top of the page shows Medich Property Group and it's addressed to Terry Curley. Then at the foot of the page it's got the signature of Gattellari. Now, the

reason why I show you that is that we've got a much better copy of it at page 307, the next page, but this one is the copy so it doesn't have the letterhead or the signature of Gattellari but it's the same letter. Now, if you look at that, that's page 307 - - -?---Mmm.

- - - of Exhibit 1, you'll see that it's addressed to Terry Curley, we've got information that he was a solicitor acting for Wagonga. You'll see that it's dated 30 August, 2006 and you'll see that it's addressed to the chairperson and members of Wagonga. Do you see that?---Yes, I do.

10

Now, to be fair to you would you like to read the whole of it before I ask you any questions about it?---Yeah, I would.

Yes. Well, I'll allow you to do that. Could you read it to yourself and tell me when you're finished?---Oh, hang on, can I just get it back a little bit. Ah, yes.

Now, you'll see that this is a letter put forward by Gattellari for the Medich Group?---Right.

20

And you would have noticed that what it was doing was making specific offers to pay large sums of money to Wagonga in respect of a particular property which we in this inquiry have called Fullers Beach, do you see that?---Yes.

Did you give Gattellari the authority to make that offer?---I did not.

So he was just acting on his own?---He was.

30 For (not transcribable) property development?---That's right.

He was, as you know it, not in a position himself to fund any of this? ---Right.

And so Gattellari is just putting it on your letterhead knowing he could not honour the offer even if it was accepted?---I, I don't know what he was trying to do but I was out of it and I was never interested in that property.

40 All right. Could you look at, and this is getting close to the time of the rescission, would you look at the letter at page 312 of Exhibit 1?---312.

You'll see that it's sent by Jeffrey Hinde to Terry Curley and it's dated 6 February, 2007?---Right.

But you'll see in Mr Hinde's rather distinctive handwriting he sent it to the attention of Ron Medich to the fax number of your office at Leichhardt. Do you see that?---Um- - -

Do you, do you see that?---(NO AUDIBLE REPLY)

No, sorry, I'm asking you a specific question because I want to establish you got a copy of this. You'll see at the top handwriting?---Yeah.

Mr Hinde's distinctive handwriting- - -?---Yes.

- - -addressed, Attention Medich, at the number of your office in Leichhardt. Correct?---Yeah.

10

You got this letter in other words?---(NO AUDIBLE REPLY)

You got this letter in other words?---It appears that I have, yes.

Now read it?---"We now, we are now instructed that our client"- - -

To yourself---?- - -"accepts the need to rescind the agreement. We request you prepare a relevant Deed of Rescission." Yes.

20

Now, you got this letter from Mr Hinde, you must have been outraged when you read the first paragraph suggesting that Hinde was saying you were disappointed with the result. That's a lie. Where did Hinde get that from? ---I don't know because I, I was, I was never proceeding with the development.

All right?---And I decided to pull out of the development.

And, and I think you're saying that Hinde was acting in, as a kind of- - -? ---I don't even know this Terry Curley.

30

Well- - -?---I've never even heard of him.

Well, you have now. If you have a look at it, you said I thought that Hinde, he and Gattellari had gone off on their own. Is that right, that's what you were telling us?---Well, Gattellari used to see him by himself when I wasn't even there.

40

Have a look at the third paragraph. Where would Mr Hinde have got that information from?---I wanted the agreement rescinded. He was talking to, to, to the ah, their solicitors.

But hold on, where would he have got the information from about the only party on the Medich side would be the company as trustee for the Captain Cook Trust. Where could he have got that information from if he wasn't speaking to you?---Well, the information is not correct. Our client requested the only party on our side will be Ron Medich as trustee of the Captain Cook Trust. That was never involved in it. I don't even understand it.

Well, then have a look at the next page, page 313 of Exhibit 1. You'll see it's a letter by Mr Hinde addressed to you and sent to the fax number at Leichhardt and it's regarding Wagonga. And this is a longer letter but I want you to read it. It's nearly two pages, and at the end of it I'm going to put a series of questions to you and suggest that it contradicts what you have been saying all morning. If you read it to yourself?--- Oh, hang on can I just get that back a little bit.

10 Have you finished reading it?---Yes.

That letter must be a tremendous shock to you?---No, it's not because what we wanted to do, I think Jeffrey drafted that letter so that we can get our money back, because they were arguing that they didn't want to give us our money back.

20 So well Jeffrey must have drafted it on the instruction of somebody. Was that somebody you?---It would have, no, that was his decision to make, Jeffrey Hinde made that decision, 'cause I told him I wanted, wanted my money back. It took a long while to get my money back.

Well - -?---And in the end wash I don't think I got it back.

30 But reading the letter it must be a tremendous shock to you that what Mr Hinde said and I'll draw your attention to the fact he's writing to you not Wagonga something about getting money back, it must be a tremendous shock as to what he said because it's quite contrary to what you've been saying this morning isn't it?---No, because I definitely pulled out of the subdivision. I couldn't tell you what dates, what particular dates that happened.

As I understand it your evidence from the start has been you were reluctantly drawn into it. You never wanted to enter a joint venture?---No, hang on, sorry - - -

40 You didn't want to enter an agreement which - -?---Sorry, that's not true. I wasn't reluctantly drawn in, I looked at these developments to see if I wanted to do any of them. They wanted me, you know to do it. They needed someone, an investor to come down and do the developments. And they all tried to get me to do the developments.

Would you say now that you were quite happy to enter the joint venture? ---No, in the end wash I never ever wanted to do a joint venture.

Right. Okay?---I stick by that. I never ever really wanted to do a joint venture because those things, there's too many problems with them.

Well I wonder why you just corrected me, but I have put to you that I thought your evidence was that you were reluctant to enter a joint venture. Are you agreeing with me or are you disagreeing with me?---No, what I said to you earlier, if my memory serves me right, that they told me that was the only way to get to a stage where you may be able to purchase any block that you're interested in.

So you entered that arrangement reluctantly?---Yes.

10 Ah, yes.

ASSISTANT COMMISSIONER: Well done Mr Watson, well done.

MR WATSON: Now you'll see this letter on page 313, it's by Mr Hinde and it's not addressed to Wagonga trying to get money back, it's addressed to you Mr Medich. Do you see that?---Yeah.

20 Do you see that it's sort of a little bit different to your account, it says that what happened was that it was Wagonga who insisted that the joint venture be prepared by their solicitor, Neumann. Do you see that? Oh sorry, I should go back a step – I'll withdraw that. Do you see it starts by saying that Mr Hinde initially prepared a joint venture? I've shown you that document?---Yes.

Now, Mr Hinde was your solicitor - - -?---Yeah, I, I agreed with that.

- - - and he was preparing a joint venture, good?---Yeah, I agreed with that.

30 Then it says that Wagonga insisted that Neumann draw up the document, do you see that?---Mmm.

You accept that now?---I told them they had to get a solicitor.

All right. Well, no doubt they accepted your legal advice then?---They originally, they originally were prepared to accept the people on that Land Council and were prepared to accept me doing an agreement. I was not prepared that - - -

40 ASSISTANT COMMISSIONER: Mr Medich, you've already told us that? ---Yeah.

There's no repeat it again. We understand that.

MR WATSON: If you look at the fourth paragraph, it's a short one, it says, or commences with the words "On this basis" do you see that?---Yeah.

What did Mr Hinde mean when he was writing to you saying we accepted the joint venture agreement. I thought you were saying all along that you

didn't?---I was not, no, I wanted to get that joint venture agreement changed.

Well - - -?---After it was, after it was signed I was not happy with that joint venture agreement.

10 Look at the next paragraph. According to Mr Hinde Wagonga was doing nothing but he was following it up and pursuing the registration. Do you see that?---Well, I think that had to happen before he can present it to, to the New South Wales Aboriginal Land Council.

Exactly, but it seems to be that Mr Hinde was behind driving to try and get this deal through?---No, no. I, I already explained to you that Lucky Gattellari wanted to continue with this himself.

So - - -?---I think I explained that to you - - -

20 Yes, well, why didn't this - - -?--- - - - because, because if I had have just knocked the thing back flat he was out on his A, he was going to look for other developers and continue himself.

All right. Well, look at page 314. You'll see in the fourth last paragraph Mr Hinde says this, "You can rest assured that I share your frustrations in this matter." What did he mean by that?---I don't know.

It's the opposite of what you've been saying?---No, no. Mr Watson, I just told you the only way Gattellari could have continued on - - -

30 Sorry, stop, I know you said that. Have a look at that, that sentence from Mr Hinde is exactly the opposite of what you've been saying. Mr Hinde is under a, you would say, misconception that you were frustrated because the deal didn't go through, according to you you never wanted the deal to go through?---The reason he would have put that in, 'cause he wanted to get my money back I assume, you know.

Well, why is, why is he writing to you about it then?---Well, he would have, he would have been writing to them, it's the same thing.

40 You see, the point is in fact the truth is you didn't want your money back, your \$20,000 deposit back because you wanted to bind them to the agreement but it was Mr Heard, a solicitor, who insisted that the Wagonga Council pay it back?---That is not true.

All right?---They know that I withdrew on it because at one stage they were talking to me, they're going to sue me if I, if I pull out of it.

Have a look at page 314 in the second last and third last paragraphs. There's some real discussion where about the potential even to sue Eddie Neumann for letting you down?---Ah - - -

That's bizarre in light of what you've been telling us was the true position?
---Ah, you know why that happened? It was to do with his account and there an argument over costs and everything else because when I insisted that they had to get another, their own legal people to advise them, they can't do a deal with my solicitor, they wanted me to pay their legal fees, right, and when I got their bill there was a big argument about their bill because we - also there was things on there I believe on, on, on a bill that was there that I wanted wiped out and there was an argument over that between Jeffrey Hinde and Eddie Neumann from my memory.

All right. Well, let's just lock this down. We've got that letter from Mr Hinde, it must have been to your relief this deal is over, it's rescinded, no more dealings with Wagonga, is that right?---Like I said to you, I was out of this - what, what date is this letter?

20 It's dated 7 February, 2007?---I was well out of everything before then. I know that.

You wanted nothing to do with Wagonga, is that right?---With Wagonga?

Yeah, Wagonga down at Narooma, they're the local land council?---Yeah. On those land deals I was out of - - -

30 No, please, please, Mr Medich, just focus, it's simple. Did you or did you not want to continue negotiating with Wagonga?---About what?

Well, not about buying a car from them. I'm talking about property development, any surprises that I'd be talking about that? We've been going for an hour and a quarter?---The only thing - - -

40 Were you kaput, over, finished with Wagonga or were you continuing to talk to them?---The only thing that I can - look, I'm not sure but there was, I, I, I did want to deal - well, the only thing that I ever did with the Aboriginal people was the funeral fund, it's the only thing I decided to proceed with, all the land and everything I looked at - - -

Oh, focus, please, we're on Wagonga. Did you want to continue with Wagonga or were you finished, had you wiped your hands of Wagonga? This is at the time you got this letter from Mr Hinde?---I don't believe I was involved in anything after that.

Well, just tell us. You got the letter from Mr Hinde who says to you that it's all over, here's the history of it. Do you- - -?---Which letter are you referring to?

The one at page 313- -?---Can I have a look at that again?

- - -dated 7 February, 2007?---See, the problem, Mr Watson- - -

No, stop. You've been given the opportunity to read it?---Yep.

I'm now going to ask you a question?---All right. Ask me the question. I don't know.

10

By the time you got that letter from Mr Hinde everything with Wagonga had ended. Is that right?---Now, see, you're asking me on dates and things about the timing of when these things happened. Listen, a lot happened to me over the, the seven years when all this was going on and I cannot line up dates and, and things that happened. Alls I know is I exited the whole thing and I never did anything to do with them on land. That's what I do know.

Right. Okay. Was it before or after this letter from Mr Hinde that you exited- -?---I, I- - -

20

- - -from Wagonga?---Are you talking about land deals?

Yes?---I believe I was out of it then but I'm not sure what Gattellari was doing 'cause he was continuing on I believe with them on his own, you know.

Yeah, well, what I want you to do is have a look at page 355 of Exhibit 1 and see whether you can explain the existence of that document dated 11 September, 2007, in light of your evidence?---Yes. Gattellari wanted me to give him that letter so he can go and continue on and do whatever he likes.

30

All right. So that's your signature?---Yes, it is.

Not signed under duress?---No.

You signed it freely?---Yes, I did.

And are you an honest man, Mr Medich?---I am.

40

So this was an honest letter I take it?---(NO AUDIBLE REPLY)

This was an honest letter I take it?---Yes, because I wanted to make it quite clear to him that he wouldn't be using Jeffrey Hinde or anyone else in any dealings that he, he did.

Good. That's not the whole of the letter. Is it an honest letter in all its parts or is it a dishonest letter in any part?---I believe at that time we were dealing with, also with the Boomerang Funeral Fund.

Is it an honest letter or is it a dishonest letter in any part?---(NO AUDIBLE REPLY)

It's a pretty easy question, isn't it?---Alls I was trying to relate to him- - -

Is it an honest letter or is it a dishonest letter in any part?---Well, he, he was still dealing- - -

10 Is it an honest letter or is it a dishonest- - -?---I just said- - -

- - -letter in any part?---What's the current agreement?

It's your letter, Mr Medich, not mine?---Well, I'm asking you a question. What is the current letter?

Is it an honest letter or is it a dishonest letter in any part?---Well, alls I was trying to relate to them is that I'm not involved in it and they can deal with him.

20

You're not involved in it, it says here that it's been confirmed that Gattellari is authorised to act on my behalf, he has the power to make decisions and enter into arrangements between Wagonga and myself, the Medich Group. It means the opposite of that doesn't it?---No because we got, I believed we were dealing with them on the Boomerang Funeral Fund.

Oh come on. What were you dealing with a Land Council about a funeral fund?---Yes, because the members we all, they were involved in it. Gattellari went down there as, we went to all the Land Councils to try to get

30

members for that particular find. Really, is that your answer? Doesn't it make more sense that you're authorising Gattellari to act on your behalf or the Medich Property Group's behalf in respect of decisions, arrangements, including the current arrangement?---No, there was no arrangements. I was out of it well before that. And that's the truth.

Well why did you sign that letter, it seems to say the opposite?---He wanted me - - -

40

MR STITZ: I object. I object to that (not transcribable)

MR WATSON: I'll withdraw that. Why did you sign that letter?

MR STITZ: I object.

ASSISTANT COMMISSIONER: To what? To which question?

MR STITZ: The fairness of the line, sorry, the fairness of the line of these questions. My friend is well aware that the (not transcribable) to be found at page 322, which was signed by Vanessa Mason on 8 June, 2007, well before this document at 355.

MR WATSON: That's my point. Thank you.

ASSISTANT COMMISSIONER: Yes.

10 MR STITZ: And he's saying, so in other words the property deals are finished and Mr Medich is explaining what this document relates to.

MR WATSON: Well explain what this document relates to Mr Medich, to be fair to you? That's the question they want, your side wants asked. What does this document relate to?---The only thing I can think of is that we were dealing with, the only other dealings we had with them, and I didn't do any dealings with them, it was Gattellari and who else was trying to round up members for the Boomerang Funeral Fund which we started. See I don't know these dates and when that all started.

20

Well I'll show you a document, it's a company search in respect of the Boomerang Funeral Fund Pty Limited?---Yep.

You'll see that that was a business registered or starting on 23 November, 2006?---Yes.

And you'll see if you turn over the page the director, the only nominated direction is Ronald Medich, that's you. Do you see that?---Yes.

30 And you'll see that the share structure is that that was owned by, if you look down in the members, a company called Waterview Developments Pty Limited. Do you see that?---Yes.

Ever heard of that company?---Yes, I have.

And another company Ron Medich Properties Pty Limited?---Yes.

40 That's one of your companies. Is Waterview Developments Pty Limited one of your companies?---Yes, it is. Waterview Developments, no, that's not one of my companies.

Well it's a company which you used as a vehicle in Wagonga didn't you? ---No. That's one of Gattellari's companies. That's not my company.

But you used it because you wanted to segregate your assets - - -?---No, no, I have never - - -

- - - for matrimonial purposes?---Rubbish.

All right?---I never, that is total rubbish, sir.

What I want to suggest to you is that there has been a bit of total rubbish here this morning and it's come from you in suggesting that you were a reluctant participant in the joint venture and not really behind it and that you were attempting to withdraw from it. What I want to suggest to you is that you were in it and driving it right throughout?---No, that is not true.

10 I want to suggest to you that it continued under the vehicle Waterview Developments Pty Limited at your direction because you wanted to use that vehicle to segregate those assets from your matrimonial property?---That is total rubbish, Mr Watson.

I tender the search of, search of - - -?---Total, total rubbish.

- - - Boomerang Funeral, Boomerang Funeral Fund Pty Limited.

20 ASSISTANT COMMISSIONER: Yes, the ASIC search in relation to Boomerang Funeral is Exhibit 14.

**#EXHIBIT 14 - ASIC HISTORICAL COMPANY FOR
BOOMERANG FUNERAL FUND PTY LTD**

MR WATSON: Just excuse me, Commissioner. Okay. You say you're out of Narooma and no interest in it. Is that so?---Out at Narooma?

30 Out of Narooma, out of Wagonga, no interest in dealing with them. Is that right?---(NO AUDIBLE REPLY)

I'll withdraw that. Could the witness be shown Exhibit 2, and in this instance, page 294?---Page 294.

A moment ago I showed you the search for- - -?---Mmm.

40 - - -the Boomerang Funeral Fund Pty Limited and you would have noticed that the registered office was at a firm called Signum, S-I-G-N-U-M, Advisers?---Yes.

Now, if you look at page 294 you'll see that a Mr David Gurney, G-U-R-N-E-Y- - -?---Yes.

- - -of Signum Advisers has sent you an email on 25 March, 2010, regarding your accounts and tax return?---Right.

Now, Gurney is your tax adviser, is he, or accountant?---Yes, he is.

Yes. And so could you explain item 7 on page 294 of Exhibit 2?---Um, options, I don't understand that word, options.

You don't understand the word options?---Yeah, well, normally- - -

Do you understand the word Narooma?---(NO AUDIBLE REPLY)

Do you understand the word Wagonga?---Um, yeah, I do, but- - -

10

Well, what does that entry relate to?---I don't know.

You don't know. Why would- - -?---Options, normally with shares you have options.

Why would Mr Gurney at Signum Advisers be writing to you in respect of your 2009 accounts and tax return queries and asking you about Wagonga? ---I have no idea.

20 No idea?---You'll have to ask him.

Well, I mean, can you suggest anything, could, are you saying that- - -? ---Well, options are normally related to shares, aren't they?

All right?---Like, it doesn't make sense, that, that sentence.

All right. Well- - -?---I don't understand that at all to be honest.

30 All right. Well, is it the word options that you don't understand in that sentence? Why was he writing to you about Wagonga or Narooma at all? Forget the word options?---Well, he may have wanted to know, you know, about the, 'cause we spent moneys and everything down there and to what, what the situation was with it, 'cause that wouldn't have been relating to 2009 accounts, when was that?

Well, that's exactly what it was relating to if you look at it?---Oh, it is, yeah.

So can you explain it?---I can't. You're going to have to ask him.

40 Right. Are you going to give us a try?---I've got no idea.

No idea?---I'm not going to give it a try.

Do you know we've spoken before of this man, Ken Foster?---Ah hmm.

Did you know that he's come along and said that he was, while in a key position at Wagonga as coordinator, during the time that Wagonga was deliberating on dealings with The Medich Group, that he was receiving

payments from the Boomerang Funeral Fund Pty Limited. Did you know that he said that?---No.

Could you explain that?---I wasn't running the Boomerang Funeral Fund, Lucky Gattellari was.

Well, you were the sole director?---Well, I wasn't running it.

10 Well, you were the sole director, you owned it, 100 per cent of it, didn't you?---Yeah. No, no, sorry, I did not. Gattellari owned 20 per cent of it.

All right. You owned 80 per cent of it?---I owned 80 per cent.

You were the sole director?---Yes.

20 You had responsibilities to the reporting authorities. What do you understand about Mr Foster if he said that, and this is 2005, before the fund was incorporated, he said that he was being paid by it for, for work. Do you know anything about that?---Nothing.

You mentioned before you knew Ron Binge?---I personally did not handle any of the running of any of these things. Everything was handled by Gattellari and when the Boomerang office, there was an office in Liverpool, he employed staff, we were paying rent, everything was handled by him and there was, certain Aboriginal people were hired to work in that office and there was people that were going out to all the Land Councils trying to get people interested in the funeral fund.

30 Tell me this, you, you did say you knew a man or met a man called Ron Binge?---Yes.

Did you hear about Mr Binge's evidence about payments to Ron Mason and Ken Foster?---Ah, no, what was that?

He said that payments were made into the accounts of Ron Mason and Ken Foster for "research" or "to help the joint venture process through the Land Councils" or "to help finalise the joint venture". Do you know anything about that?---No, I don't 'cause I wasn't handling any of that.

40 All right. Well, that leads me into this. Did Binge come and speak to you about this project?---He came with, with Lucky Gattellari.

So the three of you met and discussed the project?---Well, what happened was - and they told me that he was already dealing with other developers, they did say that and, and Lucky Gattellari was the bloke doing all the talking and he was being backed up by Ronnie Binge and he said that, yeah, they might, that there's a lot of Aboriginal land councils could be disbanded

and a lot of them didn't have any money and they might be interested in doing land deals or joint ventures, that's what he told me.

At that time did Gattellari or Binge or both of them say words to the effect that those sorts of deals could be brought about if side or secret payments were being made to the executives of the land councils?---Definitely not. That's - - -

10 Really? That was never said, nothing like that?---No.

Well, you see, that's what the suggestion is and I've got to say now, Mr Gattellari he said that they had a discussion in those sorts of terms with you but the expression butter up was used. Do you deny that?---I totally deny that. I've never heard that word buttered up ever used in my life.

Well, could I take you to the events of 8 April, 2005. You know about that because the police became involved?---Yes.

20 You know that Gattellari himself had no money?---I don't know that, no.

Well, what about Binge? Did he appear to be holding money?---No.

You know on 8 April, 2005 Binge and Gattellari were pulled over in a car with a very large amount in cash?---Yes.

You know that on that day they had been at your home in Point Piper?---Ah, yes, that's correct.

30 You know that on that day they had been parked outside your home in Point Piper and were pulled up by the police in the same street in which you live? ---Yes, that happened after they left my premises.

Yes. And it was only a few minutes after they left your premises?---Yes.

They were still in the same street?---The police found - it's not clear to me, either one cheque for \$20,000 made out to Wagonga or four cheques for \$5,000 each made out to Wagonga. Can you explain those?---Yeah, I gave them to, to him.

40 They were - - -?---Just a second, what was the amount first?

It was either one cheque for \$20,000 or four cheques for \$5,000 each? ---Yes.

Whatever it was it was \$20,000 in total as a cheque or cheques?---Yes.

You gave Gattellari and Binge that cheque or those cheques, sorry, do you know whether it was four cheques or one?---I don't to be honest.

All right. But you did give them the \$20,000 by way of cheque or cheques to pay as holding deposits in respect of the four separate blocks of land in the Wagonga Land Council, is that right?---I think I gave that to him before that night, the four cheques - the cheques and, and some, and money.

In any event, you gave him the cheques to bind as a deposit the four blocks of land in the Wagonga Land Council, is that so?---Yes.

10 You also gave Gattellari and Binge a large amount of cash in a paper bag?
---No, I didn't give it to him in a paper bag.

Right. How did you give it to them?---I, I think I just gave him in, in a, in a shopping bag or something or other.

All right?---But I think, no, I think what, what happened is that I gave some of the money to them either - - -

20 The day before?---Or two days before I think it was, I can't - - -
Whatever it - - -?---I don't think it was the day before.

Whatever it was it was cash and it was \$50,000, whether it was given in one payment or two?---Yes.

And it was in a shopping bag?---No, because I, I gave him one lot of cash on a different day - - -

30 Right?--- - - - and then that night I gave him 30,000.
All right. Okay. Well, 50,000 in total?---Yeah.

You knew they were going down to Narooma and that's why you gave them the cheques?---No, the reason, the reason they came to my house on that day was a large decision and they rang me late, I wasn't at my office, and they said that they needed some more money because they were going to go to another area either on the way down or on the way back and they needed to place deposits.

40 All right. Why cash?---'Cause I looked at, I looked at land all over the place.

Why cash?---Why cash?

Why cash?---I'll tell you why because they didn't know how much those deposits were going to be.

Well why couldn't you give them a signed cheque?---What a blank cheque signed?

Yes?---I wasn't prepared, I wasn't going to do that.

All right?---And he, he actually wanted the cash because he said that he wasn't sure how much they'll be wanting for the deposits and I think some of the land was at Nowra and there was another area as well.

10 All right. Well do you think it might have been Nowra and Narooma?---No, I thought all that was somewhere else.

So you just give them \$50,000 in cash, you weren't so silly as to give them an open cheque, just give them \$50,000 in cash - - -?---No, hang on - - -

- - - in respect of properties that you can't even tell us where they were?
---No, just a second. Some of the money they were going to be using for accommodation and other expenses, you know, down there. They also said that anybody that was taking him to the land they have to pay their expenses and that was for a period of time, it wasn't just for them.
20

Right. So you gave them cash. Did it cross your mind that they may be paying cash as bribes to people?---No.

Did it cross your mind that they may be making secret or side payments to people in cash?---No.

No. Well why did you give them the cash then?---As I told you I didn't have a cheque. They came, came up there at the last moment and (not transcribable) said did not know what the amount of the cheque was. So are you saying I should have given him a blank cheque with my signature on it?
30

Well you've just given them \$50,000 in cash, but you can't identify the properties?---Probably if I had all the information I probably could identify them. I saw all those properties eventually.

Do you remember when Sergeant Toovey spoke to you, he came to your home?---Yes.

Did you tell him the truth?---What do you mean?
40

Did you tell him the truth?---About what?

Did - well a policeman comes to your front door did you tell him the truth or what would you do just play a practical joke on him? What did you do? Did you tell him the truth?---Yes, I told him I did give him the cash and I explained that.

This is what Sergeant Toovey says is the substance of the conversation. He

said that you Mr Medich had given \$23,000 in cash to Gattellari on the previous day and a further \$30,000 on the day. The money was to be a deposit for a land development at Narooma and Nowra with the Aboriginal Land Council?---Yeah.

Now what we know is that you gave cheques for the deposits at Narooma. What cash deposits were to be made on which blocks of land at Narooma? ---I believe on the four blocks that Gattellari wanted to run with.

10 But you gave him cheques, the \$5,000 which would bind that agreement? ---He told me that they wanted an increased amount.

You haven't said before. They wanted an increased amount. Who?---Well, well apparently at that Land Council they didn't have any money, you know, to even pay their wages and whatever he was telling me.

Well but that's not your problem. I mean these are deposits for land. He's talking to you about they can't pay their wages?---Well what he was saying they wanted an increased deposit.

20

Well are you saying that you gave Gattellari money with a view to meeting a shortfall in wages of Wagonga?---No. I'm not saying that at all. I'm just saying - - -

Well why did you say that before?--- - - - that they wanted a larger deposit.

Well what was it for?---Well for those lands and also for – I don't even know the break up of the amounts. I didn't handle those transactions.

30 But what was it for?---It was for deposits on land.

But why did you bring up this thing about they could not even pay their wages? Why did you say that?---Because he told me that.

All right. Well what made you think that you should be paying cash money because they couldn't pay their wages at Wagonga?---It was a refundable deposit.

40 What made you think that you should pay more because Wagonga could not pay its wages?---Lucky Gattellari told me that's what they wanted to do.

Well what was that to do with you? Why would you pay that money? ---Well does it make any difference what the deposit amount is?

Well yes it does actually, there was a written agreement which is in evidence which suggests that there would be a \$5,000 deposit. That was signed on behalf of Wagonga and it was signed on behalf of you. The point is why were you - - -?---It's my understanding - - -

- - - giving this extra money for deposits?---Okay. There's one thing I haven't told you here. When he arrived on that - - -

I'm sure that's right?--- - - -when he arrived on that night he actually asked me for 50,000 and not 30,000. I said I haven't got it.

10 All right. Well you knew that over a period of two days you'd given him \$53,000 in cash and he wanted yet another 20?---I actually thought I'd given him in actual fact 20 and 30, but if they say it was 23, I'll say it was 23. But to my mind I only gave him 20.

I notice the time - - -

ASSISTANT COMMISSIONER: Yes.

MR WATSON: - - - but I, I don't, sorry, I didn't notice the time until now and now I do. Sorry.

20 ASSISTANT COMMISSIONER: Yes. We'll adjourn for 15 minutes.

SHORT ADJOURNMENT

[11:40am]

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Watson.

30 MR WATSON: Mr Medich, in respect of the issue about the cash, do you remember that there was an earlier occasion when you came here and gave evidence in a private session?---Yes.

I think it was the first time we met. On that occasion you have said that you could explain the payment of the cash - I withdraw that. Commissioner, I seek relief from a suppression order in respect of the evidence of Ronald Medich taken on 4 November, 2011 before Commissioner Ipp.

ASSISTANT COMMISSIONER: Yes. Being satisfied that it's in the public interest I remove the suppression order in respect of that evidence.

40

SUPPRESSION ORDER REMOVED IN RESPECT OF THE EVIDENCE OF RONALD MEDICH TAKEN ON 4 NOVEMBER, 2011 BEFORE COMMISSIONER IPP

MR WATSON: The transcript has been amended to remove irrelevant references or other material, we're quite happy if requested to do so to show

the whole transcript to the lawyers representing Mr Medich so they can confirm that for themselves.

10 Mr Medich, really what I want to - sorry, Mr Medich, really what I want to put to you in general terms is that on the previous occasion when you were asked to explain why you would get \$50,000 in cash your evidence was that it was to be given to Gattellari so that he and Binge could use it for living expenses?---No, I actually - I, I remember I said I thought that it was for that but I couldn't remember at the particular time. You, you - well, whoever was there, you know, pressured me and I just couldn't think of what it was for but, but since then I can recall.

Now, could the witness be shown Exhibit 3, Commissioner. Mr Medich, you may know that Mr Gattellari is currently in custody and I want you to assume that at the time that he was taken into custody the police collected a large number of documents from his home?---Right.

20 And that the documents which I'm showing you which are Exhibit 3 - - -? ---Right.

- - - are the, are amongst the documents that the police took. I want to show you, they're numbered in the top right-hand corner, if you just look at them for me, you'll see that the first page has got a list of payments to people. Can you remember Gattellari showing you these pages?---I've never, ever seen any, anything from Lucky Gattellari.

30 You've never seen anything from him?---He's never, ever given me, you know, any, any list of payments or anything on, on anything to do with the Aboriginal Land Councils.

Well, I want to suggest to you that in fact that he showed you some of these documents, showed you because you've requested a tally be kept of payments made by him to various people?---No, he's never, ever showed me any of these documents, I've never, ever seen them.

And - - -?---He, he was running the thing and he kept his own records.

40 And that what he did was he - if you flick through them, he showed you these from time to time to show you payments which had been made to individuals?---No, that's not true.

Mr Medich, remember I was asking you about Kenny Foster?---Yes.

Are you aware that Gattellari at one stage paid his rent?---No.

Are you sure of that?---Yes.

You see, we had a, we had a man come here, a man, Mr Potter?---Yes.

He wasn't a young man but he seemed to be with, to be in his senses and he, he recounted an occasion, the best date we can put on it is about May 2005, when he said that men came into his real estate agency looking to pay rent on an apartment for Mr Foster, he knew Mr Foster, he knew Gattellari because he had an interest in boxing, and he's also identified that a third man there was you?---Well - - -

10 Do you remember anything about this?---No, I don't.

Never been into Whale Coast Realty?---Whale Coast Realty, yes, I have been to Whale Coast Realty.

Why?---'Cause I think when I went back down there to check on, on pricing I went into that real estate, that was one of the, I went to two, I think in Narooma and I went to two to Batemans Bay and that was - when, when I finished doing that eventually was the reason I decided I wasn't going to proceed with that Isabel Street subdivision.

20 Did you ever go into Whale Coast Realty with Gattellari?---Not that I can recall.

Did you ever go into Whale Coast Realty with Ken, KJ Foster?---That, that's in Narooma isn't it?

Yes?---I can't even think that I ever met him in Narooma and I didn't even realise that he was on the Council there to the best of my knowledge.

30 You've heard of Vanessa Mason and we've discussed earlier this morning the payment directly from your account. I want to suggest to you - - -? ---Just, just one moment. Are you sure that - I loaned that for Lucky Gattellari.

Well, could the witness be shown Exhibit 8?---That would have been done by my secretary in my office which was one of Lucky's girls.

If you have a look at this, this is work carried out by a forensic accountant - - -?---Ah hmm.

40 - - - and what he was able to, to do was trace certain money going from certain places into certain accounts by collecting documents from banks and the like?---At what page?

I'm just going to take you eight pages in after tab 40?---Eight pages in.

I'm so sorry, it's tab 41. It's behind tab 41 and if you go in to the eighth page. It's on the screen if it's any help to you?---Oh, okay.

You'll see that that's a computer generated document, there's evidence that Mr Lockley got this from a bank and it related to a particular transaction so that if you then turn over the next page he was able to - sorry, he was able to trace the details back into this account which is your NAB Gold banking account and you can see an entry on 6 April?---Yes.

You can see that there's a payment to Emandem Enterprise Pty Limited of \$2,000?---Right, yes.

- 10 A debit to your account. Now, I won't take you to the detail of it but I want you to assume we, Mr Lockley has proved that there was a corresponding payment into Emandem Pty Limited of \$10,000. That's the transaction?
---But I lent that money to Lucky Gattellari and in my office there would be a sheet that, that he would have got the secretary and I would have signed that so I don't know where he sent it but it was lent to him.

I tender the transcript of the compulsory examination of Ron Medich.

- 20 ASSISTANT COMMISSIONER: Yes. That amended transcript is Exhibit 15.

#EXHIBIT 15 - AMENDED TRANSCRIPT OF EVIDENCE GIVEN BY MR MEDICH IN COMPULSORY EXAMINATION

MR WATSON: Thank you, Commissioner. That's the examination of Mr Medich.

- 30 ASSISTANT COMMISSIONER: Yes. Does anybody seek to cross-examine Mr Medich? All right. If not, do you want to ask him anything, Mr Stitz?

MR STITZ: Just a quick one, Commissioner.

ASSISTANT COMMISSIONER: Yes.

- 40 MR STITZ: Mr Medich, I just want to ask you a question about the evening of 8 April, that being the evening where Mr Gattellari and Mr Binge were pulled over?---Yes.

Now, you were asked some questions by Counsel Assisting in relation to a cheque or possibly four cheques?---Yes.

Now, what I'd like to do is just read to you from the statement of the police officer by the name of Gene Hill dated 14 October, 2011 wherein he says at paragraph 19, I assume it's a he, "The brown paper bag also contained a cheque for \$20,000 made out to the Aboriginal Land Council."?---Yes.

Does that assist you, Mr Medich, in recalling whether or not it was a cheque or four cheques?---I think it was only one cheque.

No further questions.

ASSISTANT COMMISSIONER: Thank you, Mr Stitz. Mr Watson, may this witness now be excused?

MR WATSON: Yes, certainly.

10

ASSISTANT COMMISSIONER: Yes.

MR WATSON: Thank you, Commissioner.

ASSISTANT COMMISSIONER: Mr Medich, you are now excused from further attendance.

THE WITNESS EXCUSED

[12.07pm]

20

MR WATSON: Commissioner, I call Vivienne Mason.

ASSISTANT COMMISSIONER: Yes. You are Vivienne Mason?

MS MASON: Yes.

30

ASSISTANT COMMISSIONER: Please take a seat. Ms Mason, you have been called here to give evidence and you are required to answer all of the questions asked of you. You may seek a declaration under section 38 of the Act, the effect of which is that nothing you say here can be used against you in future proceedings. Do you understand the effect of such an order?

MS MASON: Yes.

MS McGLINCHEY: Commissioner, the witness does seek a declaration and she will take an affirmation.

40

ASSISTANT COMMISSIONER: Thank you, Ms McGlinchey. Mrs Mason, the effect of this order is that nothing you say can be used against you in any civil, criminal or disciplinary proceedings, however that protection does not apply if it's found you've breached the Act by providing false or misleading information.

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 her during the course of her 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 HER DURING THE COURSE OF HER 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.

ASSISTANT COMMISSIONER: Could the witness be affirmed, please.

ASSISTANT COMMISSIONER: Yes, Mr Watson.

MR WATSON: Is your name Vivienne Mason?---Yes.

10 Could the witness be shown Exhibit 1, page 47. Now, Mrs Mason, it's available in paper form or on a screen. You'll see on the screen next to you that there is a copy of it, whichever you wish to use. If you look at that page 47 of Exhibit 1, that's a letter sent by you or signed by you. Do you see that?---Yes.

It's dated 4 March, 2005, and addressed to Gil Saunders. Ms Mason, how did it come to pass that you sent that letter?---I had telephone conversations with Gil.

Did he ask you to send that letter?---Yes.

20 Did he tell you why?---He wanted to know if we'd be interested in developing some of our vacant crown land.

And did he tell you that he would be bringing developers with him?---Yes.

30 Then did he tell you their identity, their names?---I, I knew their identity because I spoke to Gil before and 'cause I'd known him a lot of years and he said there's some developers and I said, "Yeah, what about them?" And he said, "If you're interested in developing your land can we come down?" And I said, "Yes." So he came down on a Saturday to Narooma with Ronnie Binge and, and Lucky Gattellari. And I took them over to the Land Council office and we discussed land that possibly could, a potential for development. So on doing that I said, 'cause Gil asked me where Ronnie was and I said, "He's over at the hotel. He can show you where the land is", 'cause I wasn't too sure where it was.

Pausing there Ronnie who was in the hotel is Ronnie Mason?---Yes.

40 Go on?---So after that like I hadn't heard from Gil for ages and he said, "Are you going to invite me down for a meeting?" And I said, "Yes, we'll invite you down to a meeting."

Now Mr Ronnie Mason has told us that within, what seems like minutes, of meeting Gil Saunders in a pub he was told by Gil Saunders that Gattellari was the kind of man who would give you a loan if you needed money. Did you hear that evidence from Ronnie Mason?---Yeah, I think I did, yeah.

Did Gil Saunders say anything like that to you about Gattellari?---No.

Did Ronnie Mason tell you about that before you heard it in evidence here in this inquiry?---No.

Did you seek any loans from Gattellari personally?---Once.

Why would you do that?---Well I needed to fix me car and I was stuck, I wanted to get home and the first time I ever done anything like that and I rang him up and borrowed \$400.

10 I mean Mrs Mason in hindsight it was the wrong thing to do because - - -?
---I know it was.

Did you think that these people, Gattellari and Binge, they would come into town and spreading money around trying to get favourable deals from the Land Council?---No.

Well what did you think they were doing when you borrowed \$400?---I didn't, that was ages after this meeting and he always said if you need money just ring me and I don't do that, but - - -

20 The he being Gattellari?---Yeah.

I mean what did you think he meant when he's saying things like if you need money you just ring me?---Yeah, well I don't know, I wasn't interested at that stage.

Well that's good, but what did you think he meant by it? Was he trying to influence you?---I was, I was a bit apprehensive.

30 As time went on decisions were made in the Land Council which tried to put together a deal with Gattellari and the Medich Group. You're aware of that?---Yes.

And you've been here when I think several witnesses have agreed that those agreements were very favourable to the Medich Group and very unfavourable to the Land Council. Some people have agreed with that proposition?---Yeah, well I'm not too sure.

40 All right. Did you know whether for example if there was any financial or property development or real estate investigation carried out on behalf of the Land Council?---I think Caddey Searl and Jarman might have done something.

The?---They're valuers.

They're valuers. They did something but it was much later wasn't it?---I'm not too sure.

In any event Gattellari had made it plain to you that you as one of the decision makers down there at Wagonga, if you needed money you only had to contact him and you would get it?---Yes.

Did anybody else tell you that they'd received a similar approach from Gattellari?---No.

10 And you may have been here while evidence has been given, but it seems rock-hard and solid that payments were made into Ronnie Mason's account by Gattellari. You've seen that?---Yes.

And into Kenny Foster's account by Gattellari?---Yes, I've seen that.

And into Vanessa Mason's account by- - -?---Yes, I've seen that too.

Were they telling you that that was going on at the time of the decision? ---I didn't know that was going on, sorry, I didn't know.

20 These sorts of payments, you would understand from your own dealings with Gattellari, were payments which he was willing to make to try and acquire a favourable deal for him and his cohort. Is that right?---I don't know what he was doing.

Well, come on, think about it, we're in the real world?---Yeah, I know we're in the real world but I'm not used to all this sort of business stuff and I don't know what went on.

30 There was a little bit of evidence, I'm not sure how it even ended up, but at one stage Ronnie Mason said that he thought you, Vivienne Mason, may have put an advertisement in a newspaper calling for expressions of interest in respect of developments. Did you do that?---I can't remember doing that.

That's the evidence.

ASSISTANT COMMISSIONER: Thank you. Does anyone seek to question this witness?

MR HARRIS: Commissioner, if I may? Harris.

40 ASSISTANT COMMISSIONER: Yes, Mr Harris. You'll have to come forward to one of the microphones.

MR HARRIS: Ms Mason, as you may know, my name is Harris. I'm representing Vanessa. I just wanted to clarify, was it your role in the Wagonga Local Aboriginal Council to prepare the minutes of the meetings? ---Sometimes I did.

Sometimes, but during- - -?---Yeah.

Yeah. And, and to type them up as well as that?---Yeah.

Yes. All right. Thank you very much.

ASSISTANT COMMISSIONER: Thank you. Nothing?

MR STITZ: Sorry, may I just very briefly?

ASSISTANT COMMISSIONER: Yes.

10

MR STITZ: Might the witness be shown Exhibit 3. Ms Mason, my name is Stitz and I appear for Mr Medich?---Yes.

Okay. You're just about to be handed another bundle. Now, just before you start flicking through it, you just gave some evidence that Mr Gattellari was good enough to lend you \$400 for the repair of your vehicle. Is that correct? ---Yes.

And that's the only time anything like that has ever occurred?---Yes.

20

So I take it you recall the amount that he lent you very clearly?---\$400.

MS McGLINCHEY: Commissioner, could I just rise to say that this witness doesn't give any evidence at all to do with Mr Medich. She hasn't been asked any questions about Mr Medich and it's really, I find it very hard to understand why Mr Medich's legal representative should be asking her any questions at all. It can't possibly go in to his client's interest.

30

ASSISTANT COMMISSIONER: Yes, Mr Stitz. What's your interest in this witness's evidence?

MR STITZ: The entry that Mr Gattellari makes in respect of that sum and it's directed at Mr Gattellari, not at this witness. I'm not seeking in any way to attack (not transcribable) this witness.

ASSISTANT COMMISSIONER: So I suppose you're saying your clients interest is in Mr Gattellari's credibility?

40

MR STITZ: Yes.

ASSISTANT COMMISSIONER: And that's the basis on which you want to ask about this?

MR STITZ: And his record-keeping.

ASSISTANT COMMISSIONER: Yes, yes. All right. I'll allow it.

MR STITZ: Can you turn to page 8, please, of that bundle, please, Ms Mason. Now, if you go down the left-hand, the seventh asterisk down you see an entry, "Viv's car"?---Yes, I do.

And it says \$1,200.

MR WATSON: 12,000.

MR STITZ: Sorry.

10

ASSISTANT COMMISSIONER: It actually says 12,000.

MR STITZ: Even worse than I thought, \$12,000.

MR WATSON: What do you mean, that wasn't said to be for repairs?

ASSISTANT COMMISSIONER: As I understand the evidence about that, that's for the car that was given to Ron Mason and that Vivienne may have used. That's not for repairs Mr Stitz.

20

MR STITZ: (not transcribable) you've reminded me of that, thank you, Commissioner. I have no further questions.

ASSISTANT COMMISSIONER: Thank you Mr Stitz. Ms McGlinchey, do you want to ask anything?

MS McGLINCHEY: Yes, I do. Mrs Mason, you've been asked questions about the loan from Mr Gattellari?---Yes.

30

And you said that you did receive that, that money from Mr Gattellari?
---Yes.

Did the receipt of that money influence you at all in how you voted on the Land Council?---No. No.

Other witnesses have been asked questions about, about Wagonga and how, how it was controlled and who optimally had control of that land council and I think it was suggested that, that Wagonga Land Council was run pretty much for the benefit of the Mason family?---Ah hmm.

40

So I just want to ask you some questions about the Wagonga membership and how that, how that all works. All right. Can you just tell me what the requirement for membership of the Land Council is?---18 year old Aboriginal adult that lives in the area, has got an association with the area.

Okay. So would, would I be fair to say that your family has a strong association with the area?---That's my family's country. We come from

there, that's our land. And our country extends from Kernell in the south to Biripi in the north.

And when you talk about your family are you talking about Ron's family and your - - -?---Yes.

Both of your families are all from that area?---Yes. Yes.

10 So do you have any way of estimating how many people you would call your family?---Every one of, every black person on the coast.

So do you agree with me that the fact that there's many people in the Wagonga Land Council that are your relatives - - -?---Yes.

- - - is due to the fact that that's where you live and that's where you come from?---Yes.

20 Aside from your family are other Aboriginal people encouraged to join the Land Council?---Yes.

Right. And how is that done to your knowledge?---When we know any families who have got children turning 18 we encourage them to come in and fill out membership forms as well as electoral voting forms and the rest of it. And you know, we try and encourage the young ones to get involved so that our oldies can have a rest.

You've been involved in the Land Council for a very - - -?---29 years.

30 And would you say in that time that you've been, the Land Council has actively sought membership or is it - - -?---Yes, we have.

Just in relation to how the meetings are advertised and held. We've heard some evidence that the fact that there's going to be a meeting needs to be, is required to be advertised - - -?---Yes.

- - - in the local paper?---Yes.

And you always do that - - -?---Yes.

40 - - - to your knowledge when you've had some responsibility for that? ---Yes.

Is there any other way that you advertise meetings?---Yes. We drop letters around into the local members mailboxes with meeting notices and information about any courses that are coming up if they're interested or work opportunities, we sort of just put them in the letterbox to mail out to every one of our members that live in Sydney and interstate. It costs us

\$120 each time we do a mailout and it's, you know, we just don't have the funds.

So do you mean that you physically walk around or drive around yourself?
---Yes.

You and who else?---Me usually.

10 All right. Okay. And is that to encourage people to come to meetings?
---Yes.

How many members do you have?---We've got about 140 last count.

And how many active members would you say that you have realistically?
People who come to meetings (not transcribable)?---I'll be realistic, about 15.

20 Now you are required by the requirements of the Land Act (not
transcribable) Act to advertise meetings?---Yes.

Are you required to circulate resolutions of meetings?---No.

Do you try to let the membership generally know about resolutions as they happen?---At the next meeting, they get copies of the minutes.

30 How are members elected to the executive? How does that happen?---It
was done at an Annual General Meeting, which everyone got notices of and
it was put in the local paper. (not transcribable) membership to elect
executives.

So any - - -?---Now, today its changed. We operate under a board of
directors.

40 Because of the incorporation?---Yes, it's in the Act that - it's been amended
to say that we have a board of directors. Those board of directors that are -
are elected every two years in an annual general meeting which the
returning officer is a member of New South Wales Aboriginal Land Council
and you have to attend at least two general meetings that year to be eligible
to sit on that board or to vote.

So unless you've turned up for two meetings you can't be put forward as an
executive member?---No.

And I think you'd say that sometimes its been a difficult sort of (not
transcribable) - - -?---Very difficult.

- - - to get people involved?---Very difficult.

Now, would it be fair to say that housing and employment are - well, would you like to explain the - are they, are they issues in the community?

---Housing and unemployment - what are they?

Well, I don't know?---We don't get houses in Narooma for Aboriginal people and there is no employment in Narooma for Aboriginal people unless they're employed by the Land Council or the medical centre.

10 And you have - the Land Council has significant land holdings, is that correct?---We've got about 3 million, \$4 million assets in, in land. Most of its zoned open spaces so we can't do anything with it, it's been sitting there for 25 years and we still haven't done anything to it.

One of the witnesses yesterday said that land councils tend to be asset rich and cash poor?---That's right.

Would that be fair to say with Wagonga?---That's right, yeah.

20 Is, is it possible to just sell that land to alleviate some of the problems?---It is possible. Through the Land Rights Act we can dispose of land and there's a process that we have to go through, we have to advertise it, go through meetings, we have to get a 40D certificate from New South Wales Aboriginal Land Council and if we don't, well, we don't - can't sell it.

Now, when Mr Gattellari came around and was presenting some options to you, what was your initial reaction to his suggestions?---Well, here was finally an opportunity.

30 To do what?---To develop some of our properties, maybe get some houses for our mob and employment. We also had great dreams of setting up scholarships, sporting scholarships, education scholarships, yeah. So it looked really attractive at the time.

So that the aims of doing it looked attractive, did it appear to you that Mr Gattellari might have been a person who could assist you doing that, bringing those dreams to life?---He was a good salesman.

40 Did he present to you as someone who had some runs on the board doing this sort of thing?---Well, Gil told me that Gandagara and (not transcribable) local Aboriginal land council were in the process of developing some of their property, properties with Gattellari.

All right. Now, just briefly, the Land Council does receive some recurrent funding?---\$130 annually from New South Wales Aboriginal Land Council

Do you mean \$130,000?---Yeah.

Okay. Is it the case that that funding is earmarked for certain purposes?

---Yes. You have to submit a budget and we have to sort of abide by the budget, if we need to amend it we have to get approval and then - - -

And would broadly speaking the categories of the budget be salaries, insurance - - -?---Yeah, vehicle maintenance.

And vehicle maintenance?---Office equipment.

10 Would it be possible for say well, I'm just going to go and use that money to get a valuation or to engage a property consultant, would that be possible?
---No way.

There'd be some feedback from the Land, the New South Wales Land Council (not transcribable)?---We just don't have the money.

Do you have any other sources of funding?---No.

You receive some project money to do certain projects?---Yes.

20 And again, that money is earmarked for certain projects?---Yes.

Other than there's no other money coming in to the Council?---No.

Okay. So it has been suggested here that your Land Council at different stages in this process should have engaged such professionals as valuers, property consultants, real estate agents, various people such as that. Do you say that there was any funds to do that?---No.

30 And have you in the past approached the New South Wales Lands Council for money for exactly those purposes?---Yes.

And what's been the result of that?---No, they didn't have funding either.

Nothing further, thank you.

ASSISTANT COMMISSIONER: Thank you, Ms McGlinchey. Yes, Mr Watson, may this witness be excused?

40 MR WATSON: Yes.

ASSISTANT COMMISSIONER: Thank you, Ms Mason?---Thank you.

You are now excused.

THE WITNESS EXCUSED

[12.30pm]

MR WATSON: Commissioner, that ends all witnesses except for some witnesses concerned with what I might call corruption prevention. It's my intention only to call evidence from those people in terms of general schemes, things which might be done. Their evidence will not be used to base an adverse submission to any of the people who have given evidence so far. So it may well be that their representatives would like to go. Now, assuming that to be the case, may I raise now this subject, written submissions.

10 ASSISTANT COMMISSIONER: Yes.

MR WATSON: Could I respectfully proffer this as an idea, that there be written submissions provided to you, Commissioner, by me first in two weeks, by any other party who wishes to address you two weeks after that, but also that there be a direction that those written submissions not exceed 40 pages in length and that, I don't think it needs to be said, that they not be put forward in a miniscule type script. I won't ask for that direction to be made, but only because I hope it doesn't need to be made. Now, other people may want to be heard upon the length of time and the length of the submissions but that's what I would out forward.

ASSISTANT COMMISSIONER: Yes. Well, unless anybody has any objection, that is the normal time that's allowed, so if Mr Watson's submission could be in by Friday fortnight, which is 16 March, any other submissions in response by two weeks following that, 30 March. And what's the length you've suggested?

MR WATSON: I suggested 40 pages.

30 ASSISTANT COMMISSIONER: 40 pages. Yes, I think that should be adequate for anyone to represent their, the interest of their clients in a matter of this kind. So yes, I'll make those orders. It's also normal to make a suppression order in respect of submissions because they are only submissions and not the findings of the commission, so I make a suppression order under section 112 in relation to any submissions and they will be circulated only for the purpose of counsel, not obviously for publication further.

40 **SUPPRESSION ORDER UNDER SECTION 112 IN RELATION TO ANY SUBMISSIONS AND THEY WILL BE CIRCULATED ONLY FOR THE PURPOSE OF COUNSEL, NOT OBVIOUSLY FOR PUBLICATION FURTHER**

MR WATSON: And could (not transcribable) tell those who are not represented here at the moment of that direction?

ASSISTANT COMMISSIONER: Yes, thank you. Yes, Mr Stitz?

MR STITZ: Commissioner, would you just excuse me while I speak to Counsel Assisting?

ASSISTANT COMMISSIONER: Yeah, sure.

MR WATSON: Just excuse us.

10 MR STITZ: Commissioner, there might be some confusion as to what has taken place at a different time (not transcribable) a different inquiry. I'd just be seeking, well, I will try and clarify that as best I can. It might be, Commissioner, that that gives rise to some application but I can't say that at this point in time.

ASSISTANT COMMISSIONER: All right. That's fine. Thank you, Mr Stitz. Yes, Mr Watson, do you want to call the- - -

MR WATSON: Yes, may I call Julie van Agten from the New South Wales
20 Aboriginal Land Council.

ASSISTANT COMMISSIONER: Yes.

MR STITZ; Might, might I be excused from this?

ASSISTANT COMMISSIONER: Yes, you may be excused, Mr Stitz.

MR HALSTEAD: Commissioner, I'll ask to be excused as well.
30

ASSISTANT COMMISSIONER: Yes, yes, Mr Halstead. Yes. You're Ms van Agten?

MS VAN AGTEN: I am, yes.

ASSISTANT COMMISSIONER: Just take a seat. Ms van Agten, in view of the nature of the evidence that you are to give I don't think a section 38 order is necessary or comes into effect.

40 MR WATSON: I certainly hope not.

ASSISTANT COMMISSIONER: So I won't offer that to you. You are required to take an oath on the Bible or make an affirmation.

MS VAN AGTEN: An oath, please.

ASSISTANT COMMISSIONER: Yes. Could the witness be sworn, please.

ASSISTANT COMMISSIONER: Yes, please take a seat.

MR WATSON: Ms van Agten is represented?

MS SKYRING: Ms Skyring.

10 MR WATSON: And leave has already been granted.

ASSISTANT COMMISSIONER: That's right.

MR WATSON: Are you Julie van Agten?---I am.

And for five years now you've been the director of the commercial unit of the New South Wales Aboriginal Land Council?---That's correct.

20 Now, we asked you or the Commission asked you to prepare a kind of report which sets out details of matters which the New South Wales Aboriginal Land Council is doing and attempting to do in respect of the circumstances where a local Land Council is in possession of valuable real estate, ripe for development. Is that right?---Yes.

Now, I pass to you a statement dated 28 February, 2012, which you've signed which is a response to the Commission's request in that regard? ---That's correct.

30 Now, I tender that, Commissioner.

ASSISTANT COMMISSIONER: Yes. The statement of Ms van Agten will be Exhibit 16.

#EXHIBIT 16 - STATEMENT OF MS VAN AGTEN DATED 28 FEBRUARY 2012

40 MR WATSON: Is Mr Scott here in the room?---He is.

And he's (not transcribable) evidence? I'm sorry, Mr Scott, could you identify yourself? Thank you. I just wondered whether you could come in a little closer. I want Mr Scott to hear the evidence because I'm going to ask him some very general questions after you?---Ah hmm.

Ms van Agten, can I just take you through some of the aspects of your report. Over the years the New South Wales Council has been looking at the very poignant problems posed amongst local Aboriginal Land Councils which

it's been said here today are sometimes cash poor and asset rich?---That's correct.

And because of that, and especially if we're talking about Land Councils which are on the coast, some of the land within those Land Councils' ownership and control is potentially very valuable to developers?---That's correct.

10 And the problem has presented itself over the years, say first of all on the part of predatory developers taking advantage of Land Councils. That's been a problem?---There's certainly been a history of that, yes.

And then, I wish not to be insulting, but also a problem created by a corresponding lack of sophistication amongst the decision-makers at the Councils themselves?---There's a lack of capacity often with Land Councils in terms of some of those decision-making processes.

20 And then to be blunt about it, a third category of problem which stems from the potential that people within the Land Councils could be corrupted by the conduct of predatory developers?---There's been that potential certainly the past, yes.

I've read your statement and you can assume that it will be considered in the Commission and it's, could I say it goes into a great deal of detail about the kind of protection that could be put in place- -?---Mmm.

30 - - -at Local Council level to at least remove as much as problems stemming from those three areas that we've just discussed, the predatory developers, the corruption and the lack of sophistication. What I want to ask you is, what more can be done beyond this? Where do you think that the New South Wales Council can improve the way that it looks after these issues - and if it's something which is not covered in the current budget I wish you to indicate that to be so?---I think there's been some very significant positive changes that have come about the amendments to the legislation that came into effect on 31 March, 2010. The New South Wales Aboriginal Land Council was in a position where it was invited to the table to discuss what legislative changes should be made in order to address some of those fairly serious issues and, and the Minister at the time, in their wisdom, engaged in conversation around that and the New South Wales Aboriginal
40 Land Council ran regional forums across the state to engage with local Aboriginal land councils and talk about what that legislative reform should look like and what the practical application of that legislation would be. There was then a policy that was developed by New South Wales Aboriginal Land Council consistent with those proposed legislative changes and I'm of the view that that's gone a very significant way to addressing a number of these issues and protecting land councils from the sort of behaviour and approaches that have been made to them previously by developers that didn't necessarily have the best intentions in mind. Further

to that, what the New South Wales Aboriginal Land Council has also done, because the legislation is quite prescriptive and difficult for most people to understand in turn the policy that's been written is written, needed to be written in similar language, there are a number of resources that have been developed by the New South Wales Aboriginal Land Council in terms of trying to provide additional guidance and support to land councils and people, third parties and developers wanting to in land dealing activities with land councils so that there's comprehensive information there in plain English that can be easily understood. The New South Wales Aboriginal
10 Land Council goes to lengths to encourage land councils to discuss land dealing, proposed land dealing activities with the commercial unit early in the piece. We're particularly encouraging land councils to discuss options that are available to land councils and consider all those options and get good advisers on board who are appropriately qualified and experienced valuers, property development people et cetera, so that they are much better placed to understand what the opportunities are there for them in terms of their land dealings, what resources are out there available sort of in the public domain terms of property specialist and, you know, financiers et
20 cetera and what we're attempting to achieve is to get that dialogue happening early before a particular land council gets wed to a particular developer or a particular consultant so they can explore all the options available to them. It is certainly an issue that it's come up in these proceedings, the capacity of land councils to afford to engage those type of specialists.

I was going to ask you about that and we've heard the evidence from Mrs Mason only 30 minutes ago that - - -?---That's right.

- - - even if Wagonga had wanted to do so they had insufficient funds to
30 engage specialists?---Yeah. Look, the New South Wales Aboriginal Land Council does have limited financial resources in terms of the sort of assistance that it can provide and given that the New South Wales Aboriginal Land Council is also the approving body at the end of the day we need to be very careful in terms of the guidance that is provided and the advice that is provided such that we don't compromise our position as the approving body. In the, in the last two year period in order to find a balance between, you know, that guidance and advice and then the approval function that NSWALC has, NSWALC has actually funded a project called, that
40 we've called the Property Development Assistance Programme where we've engaged somebody who has got property experience and is a CPA and has business experience such that they can be available, made available to land councils as a resource and we've kind of put some Chinese walls in place so that that can be done on the basis that it doesn't compromise our role as the approving body. Now, our capacity to fund that longer term is very questionable and it's likely that we're not going to have funds to be available to provide that sort of assistance into the future.

This person who sounds multi-skilled wouldn't come cheaply?---No, no.

And is that person, I don't know whether it's a male or a female, is that person being inundated with work and - -?---They have been and there have been a number of land councils that that person has provided assistance to over the past two years. There are still some continuing sort of inherent capacity issues though with land councils across the state such that a number of the projects that have been discussed have not yet come to fruition so it's a frustration area in which we work where we're trying to provide and build capacity within these communities but it comes at a cost and - yeah.

Well you've spoken about some of the advice which would be available to a local council before it, before an application ever got off the ground?---Ah hmm.

Is it the case that the New South Wales Council is encouraging the local councils to come to it and get this advice?---Absolutely. It terms of some of the legislative requirements, some of the changes that were made in, in March 2010 changed a few fundamental requirements in terms of meeting notices and essential information that needed to be communicated to members in the form of notices. And it also made some fundamental changes in terms of mandatory requirements for the passing of resolutions. And because a number of Land Councils rarely deal in land dealing matters, they're not really expected necessarily to, to understand and be capable of, you know, meeting the requirements, the prescriptive requirements of the legislation and so we, we acknowledge that there's a support process that we need to provide to Land Councils in order to guide them through that process. So in practical terms for example, if a Land Council talks to us early in the land dealing matter, gives us an understanding of what it is that they're attempting to achieve and how they're proposing to go about that land dealing, and if they want to draft their meeting notices and draft their proposed resolutions, we encourage them to send them to us, we can review them and if they're not compliant for some reason we can provide feedback such that they can be amended so that they are compliant. So it means that the limited resources that Land Councils apply to putting expensive ads in the paper and running meetings and, and you know, going to great lengths to the members to attend and achieve quorum to pass, you know, valid resolutions, we provide that, that support network to them so that ideally they only need to hold the meeting once and they pass appropriate resolutions and we provide them guidance in terms of what sort of information, essential information they should be providing to their members so that the members can be expected to, to fully understand the, the proposed land deal and transaction, the risk that might be relating to that transaction, how those risks can be best managed and mitigated, with a view to land dealings, engaging in land dealing activities that, that will in fact deliver the benefits to communities that, that's being sought.

You've touched on there one of the things which has been running through my mind during this inquiry, and that is that although you may have a membership of 100 or 1,000 people - - -?---Ah hmm.

- - - typical of these kinds of things when the meetings are held only a very small proportion turns up. For important transactions which might mean the sale of substantial property within the Land Council are there currently any requirements that the whole of the membership, not just those who turn up to the meeting, the whole of the membership be informed? And if not, do
10 you think they should be?---I think that would put Land Councils in an absolutely impossible situation. There are benefits that relate to being a member of a local Aboriginal Land Council. One of the major benefits being housing because Aboriginal housing has not really been catered for adequately by, you know, the government, more broadly. Land Councils have got a very heavy burden in terms of attempting to provide housing for their members and so often people are drawn to the membership of a Land Council for those sort of reasons, so they can get access to housing. The housing is often provided at a fairly low level and it never really meets the needs. Land Councils struggle to provide other benefits to members and I
20 I guess human nature is if you can't see a direct relationship between membership and benefits to you personally, sometimes membership participation wanes. And so if you were to require 100 per cent participation and voting in land dealing transactions I think you'd just cripple Land Councils.

I wasn't suggesting that. What I was really talking about is the possibility that say for example there's a substantial property within a Land Council and it was proposed to be sold that simply that the whole of the membership be informed. Do you think there should be an idea that at least if there's a
30 big decision in respect of the alienation of a property that the whole of the membership should be informed?---Um - - -

Surely there are records of the members accompanied by records of their addresses?---Yeah. Look, Land Councils have moved to a different way of communicating meeting notices to their members. The legislation provides for a couple of different methods by which Land Councils can call meetings. They can place an ad in, in the local paper and, and advise their members that they're proposing to hold a meeting for a specific purpose and, and, and articulate, I guess the essentials are that they articulate what they're
40 proposing to do with particular land and they need to identify that land, they need to articulate how and which they propose to deal with that land, so whether they're selling it, developing it, et cetera, and they need to also tell their members that they're proposing to make a decision at that meeting. Where you've got membership, members that are living in that immediate area and are likely to read that local newspaper and get visibility of that proposed land dealing, that can be quite effective, but in other areas where there's limited circulation with the papers or you know, people don't read the newspaper, Land Councils have, a lot of them have moved to a situation

where they actually write out to their members and, and post a letter to them, and that's probably a more effective way of communicating. I don't know there's any, any easy answer to getting the participation up though.

I looked at the, your Website to see whether or not there was Web access to the Local Council people and I noticed of 119 Local Councils only half a dozen have their own Websites?---Mmm, that's right.

10 But that may be just going a bridge too far to suggest that there be a kind of Internet connection at this early stage?---Well, in an ideal world, I mean, as Ms Mason said, there's \$130,000 in funding that's provided to Land Councils and often that is the only income that they get and they've got to provide administrative services, their reporting requirements back to the New South Wales Aboriginal Land Council, their staff costs, and that money doesn't go very far as all, so having a Website set up and, you know, maintaining that Website with current information is probably beyond the, the reach of most Land Councils at this point.

20 I opened this inquiry on the basis that the structure of Wagonga was typical, that on one side there was an Executive, an elected Executive, and on the other side there was a Management, and I've looked at the legislation and I see that a person in a position of CEO, that's a mandatory position under the legislation. So it seems to me that there may be some role for some kind of compulsory minimum qualification of Executives, the chairperson or treasurer- - -?---Mmm.

- - -or secretary on one hand- - -?---Mmm.

30 - - -some sort of minimum qualification, and I'm not talking about a university degree, on the other side for the CEO?---Mmm.

Do you have any views about that?---It's probably not a question that I'm well-placed to answer, but depending on what those minimum qualifications may be, I mean you may knock out half the, or more of the CEO's that are currently holding those positions.

40 I want you to know this is an amateur's intrusion?---And you may, yeah, I mean, there may be difficulties in attracting CEO's with those requisite mandatory qualifications into those positions. There is corporate governance training that the New South Wales Aboriginal Land Council does provide to CEO's and to boards that go some way in educating some of the people that hold or the people that hold these positions and providing them with an understanding of what their core responsibilities are and, and the manner in which they should, you know, meet those responsibilities.

Does the New South Wales Council check that the Local Councils have undertake appropriate basic probity checks in respect of land deals?
---When you, sorry, can you repeat that question for me?

I'm concerned about the position where you might have a Local Council which is being approached by, let's assume- - -?---A Local Aboriginal Land Council do you mean?

Local Aboriginal Land Council- - -?---Right, yeah.

- - -is being approached by a predatory developer with less than pure motives?---Mmm.

10

And are there basic probity checks that you would recommend or would you check up on them?---We, we encourage Land Councils most certainly to do their own due diligence, undertake a due diligence process in terms of who the, who the developer is, what capacity they've got perhaps to deliver what they're proposing to deliver and NSWALC often does its own due diligence check and, and, and look into information that's publicly available to try and ascertain that the people that Land Councils are dealing with are in fact capable of running the sort of projects that are being proposed. So we don't just rely, I mean we, we encourage Land Councils to engage specialists or

20 engage solicitors, particularly to do those sort of, those checks, but in the absence of it being obvious to us that that's been done, we, we do often undertake our own.

20

See, I don't want you to comment upon the particular facts in this inquiry but just generally – if you'll assume that developers were coming forward and putting a proposal to a local Aboriginal Council which was used through a \$2 corporate vehicle, that would be a potential disaster. You'd agree with that I suppose, right?---We're not shy in raising concerns with land councils about particular transactions and where we've got a high level

30 of co-operation from a number of land councils around New South Wales which is very positive we can have that sort of dialogue and we can have the dialogue early in the piece before a land development application comes to us. So often we'll have discussions with land councils about what's been proposed, what may be of issue to the New South Wales Aboriginal Land Council you know if what was being proposed was actually formally put to us in the form of an application and we put on the radar for them early in the piece what those issues are and guide them in terms of how they might address some of those issues.

30

40 What if matters came before the New South Wales Council and if it came obvious or at least it was a high level of suspicion that a particular land deal was inappropriate or corrupt, what does the land, New South Wales Council do or what can it do?---Well, if we suspect there is corruption with the CEO has an obligation to be reporting that to ICAC so there's certainly a - - -

40

There's been corruption in land deals at least since Kane killed Adam, Abel, what if it's found out subsequently that a deal has gone through and it seems as though it may have been a product of a corrupt arrangement or at least

inappropriate in some sense. Is there something then that can be done to set the transaction aside, something that could be done by the New South Wales Council?---There are no provisions within the Legislation that mean that if it is found subsequently that a transaction has been progressed and it's not compliant with the Legislation or it's been done without NSWALC approval it can in fact be unwound and it's a fairly significant change with the Legislation in 2010.

10 It seems as though the 2010 amendments go a long way to try to protect as best it can against these kinds of problems?---Look, I think that's certainly true, I don't think the Legislation is perfect just yet but it is very much better and one very significant change to it if I might just detail that just quickly, developers and third parties wishing to deal with land councils are now very much on notice that the onus and responsibility to understand the Legislation sits with them. So if, for example, a developer were to approach a CEO or a chair of an organisation now and receive undertaking from them that the deal is going to proceed and they rely on those undertakings and they spend money you know doing some research and pulling together reports that you would normally spend money on prior to lodging a
20 development application. If that were to now be the case and the developer finds later on the membership had not approved it or the New South Wales Aboriginal Land Council has not approved that transaction well they've got no right of redress back to those individuals and they can't, I don't believe they can sue the council and they can't seek damages and that's a fundamental shift from the Legislation prior to that and a number of developers have successfully sued local Aboriginal Land Councils on the basis that the undertakings they were given, they felt that they could rely on them and they did in fact rely on them. So the Legislation now affords Land
30 Councils much more protection in terms of that.

Can you just excuse me for a moment. Thank you. That's the examination of Ms van Agten.

ASSISTANT COMMISSIONER: Yes.

MR WATSON: I was then going to – oh sorry.

ASSISTANT COMMISSIONER: Yes, thank you Ms Van Agten. You're not excused.---Thank you.

40

THE WITNESS EXCUSED

[12.59PM]

MR WATSON: I was wondering if I may call Mr Scott, Geoff Scott, just briefly.

ASSISTANT COMMISSIONER: Yes. You're Mr Scott? Mr Scott, will you take an oath or make an affirmation?

MR SCOTT: An oath, Commissioner.

ASSISTANT COMMISSIONER: Could the witness be sworn please.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Watson.

MR WATSON: Mr - you're Geoff Scott?---I am.

And, sorry, could you tell me your position?---I'm the CEO of the New South Wales Aboriginal Land Council

10

And you've heard Ms van Agten give her evidence?---Yes.

I was going to ask you first of all is there anything you wanted to say or comment upon about that evidence?---No, I think Ms van Agten covered the issues well. There are a view points. The voidance, the provisions in 2010 went a long way to correcting the issues of the past, we have a review on again this year which we're looking at that legislative change and how I think that that's working so it's an opportunity in the next six months to do that. But I think she put forward some of the real tension points and issues we still have in terms of the lack of skill base and experience in land dealings. Most people are elected to a board, they turn up Thursday night and get caught up on the basis of being a properly elected person on the board, to then take on land dealings is quite a task and actually getting people's skills in the area's a major challenge for us and it will continue to be.

20

I can see an outsider or an amateur like me making a suggestion like I made may cause more problems than offer solutions?---I think you're making suggestions which are quite valid. We have to try and skill our people up and that. We try to provide training for CEOs and board, and they're required to give board, each, every board member that gets elected is required to undergo governance training within six months or they're disqualified, we provide those issues. But Ms van Agten actually went through some tension points, some issues which create tension between NSWALC and the local land councils given our many competing roles, being a funder, the regulator, the trainer, the underwriter but the system is working - in saying that the system is much, much better than it was and I think the evidence will show you that this one didn't get through because it wasn't, it wasn't up to speed.

30

40

Well, the 2010 amendments seem to be the key here?---Yeah.

Has extra funding been given to you by the government?---No.

Well, if it's - - -?---Could I make a point? In every series of amendments going back since I've involved in the land council system we have sought the government to conduct a financial impact study on the amendments going forward and been refused on every occasion. The only comment

going forward is that it will cost the government nothing. It doesn't, it costs the land council system. That then prevents us from providing benefits and the sort of issues we're talking about now about providing more training, more support to actually get people's skills and provide benefits to members. Most of our resources now are tied up in - or a lot of them in regulation which has to be done but - - -

10 You see, it seems to me as though there'd be quite substantial compliance costs or additional compliance costs associated with the kind of way in which Ms van Agten was suggesting that the New South Wales Council would look at these deals. Are you saying that you haven't received additional funding to meet those additional compliance costs?---the funding from the New South Wales government or any government to the New South Wales Land Council ceased in 1998. We support the whole network now off our own resources and our own investments and the tensions and pressures and the demands are increasing every day, as they are in everybody.

20 Well, this is an opportunity to say what it is that you think you need from the New South Wales government because we're asking for evidence about what needs to be done to improve this circumstance. Are you suggesting that there should be government funding to meet these matters?---I think there should be a degree of acknowledgment about the increased resourcing and funds required to do the job properly but we're dealing with government. I mean, often extra funds comes with a conditional arrangement for a government which may not be acceptable but that's the (not transcribable) of the government.

30 Could you just excuse me for a moment, Mr Scott. I'm not talking about this inquiry, I'm not talking about Wagonga, I want to keep this abstract? ---Yeah.

There's bound at times to be some either bad or perhaps incompetent person involved in activities at a local Aboriginal land council level. What can be done in terms of either disciplining that person or holding them accountable or removing them from positions?---Are we talking about officers within the system, be it the board member or staff member?

40 Well I'm talking about it generally. I've called one part the executive and the other part management?---Yeah. There is a fairly, a fairly prescriptive governance regime now imposed on all board members and all, all staff. There are, there are punitive provisions, there are misbehavioural provisions, there are disqualification provisions, there are employment provisions, if any of those are breached. And if part of the job here, and it's a, it's a task split between NSWALC and the registrar of the legislation about exercising those and putting those in place. They are there.

Do they meet, they're sufficient in your view?---They're quite prescriptive and, well you have to know that there's an issue before you can act. That's part of the problem, yeah.

So far have they proved sufficient or do you believe they need tightening up?---Well there's a balance in how far we put our fingers into an autonomous body, but to date we need sufficient evidence to be able to act. At times we have suspicions and we have rumours (not transcribable) evidence, it's not enough to actually move on someone, you can't find it.
10 Now we're not asking we have sort of star chamber powers to do things, but I think it's a discussion around how we can actually take that on would be beneficial. If we don't think a Land Council is operating properly and there's suspicion around it, we do a risk profile on every Land Council every three months and we adopt the risk management approach to most of these actions. Our most significant way of voicing that I think and making it clear to the local Land Council is through our fund issues, you know, they'll be taken off funding, they'll be put on different arrangements, they'll be (not transcribable) put in place. There's a whole range of measures in that.

20

So this could apply to the entire membership not just the executive and the management?---No, the members have, the only governance arrangement for a member is that if the rest of the members come to the view that they have acted detrimentally, detrimentally to the interest of the Land Council, they can be suspended. That is the only one.

Well is that a problem?---In some cases members can disrupt issues and disrupt the council significantly, but we've got to look at, if we were to move to have any other governance arrangements how do we oversight
30 22,000 members. We've got to think that through how you actually do that. But the Land Council members have significant decision making powers especially around land dealings and on housing issues and on leasing issues, so, yeah.

Well at the moment is there anything that you see as being potentially a step forward in terms of further controls over general membership as opposed to executive and management?---I think there's a real difference here . Prior to 2007 when the new governance arrangements came in with boards and you know statutory CEO's, statutory responsibilities (not transcribable) the
40 governance provisions there were none. The members made every decision. The change in the system over the four years now has been significant and on the whole handled fairly well. We still have our recalcitrants or problems as with any system, but on the whole it's, it's much, much better.

Things since 2010 seem to be on the way up provided you've got sufficient funds to meet the additional compliance skills?---It is. There were two significant changes, the 2007 amendments were the governance ones when the boards came in, additional governance rules around the boards, staff,

CEO's, misbehaviour provisions, (not transcribable) provisions. And in 2010, then they worked on the land dealing provisions and that came in then. That's got a long way to do it, we haven't got it right yet. I think there's still a few areas like to talk about, but yeah, I think they've been much better.

Thank you. That's, that's all I was going to ask Mr Scott. I wonder whether he might be excused.

10 ASSISTANT COMMISSIONER: Yes, thank you very much for your attendance. You are now excused Mr Scott?---Thank you.

THE WITNESS EXCUSED

[1:08pm]

MR WATSON: The final person I'd like to get some evidence from, it's Andrew Smith, he's the CEO of the Worimi Local Aboriginal Land Council. I don't think Mr Smith's under any problem that would warrant a section 38 certificate. We want to bring him forward to show how this job can be done very well.

ASSISTANT COMMISSIONER: Yes. Mr Smith, do you want to take an oath on the Bible or make an affirmation? Which one? You can either swear on the Bible or make an affirmation?

MR SMITH: I'll swear on the Bible.

MR WATSON: Are you Andrew Smith?---I am.

And you're the CEO for Worimi Local Aboriginal Land Council?---That's correct.

How long have you been in that position Mr Smith?---Just over six years.

10

You made a statement Mr Smith, I've just shown a copy of it to you there now. I tender that Commissioner.

ASSISTANT COMMISSIONER: Yes, Mr Smith's statement is Exhibit 17.

#EXHIBIT 17 - STATEMENT OF MR ANDREW SMITH DATED 1 MARCH 2012

20

MR WATSON: ICAC came to you to discuss with you things that you had put in place Worimi had put in place, I'll call them general governance principles in respect of the conduct of a local Aboriginal Land Council with developers. Is that right?---That's correct.

The statement touches upon that issue. Is that right?---Yes.

The reason why they came to you was because Worimi itself had been involved in some very, very substantial developments.---Yes.

30

Multi-million dollar developments in fact, may be billion dollar developments. Is that right?---That's correct.

And they involved for example, exploitation of sand fields and the like for mining and, is that so?---Extraction, yes.

Well, it might well be that Worimi has got an advantage in the sense that it's got perhaps, more valuable assets than other local Aboriginal Land Councils.---Absolutely, land councils are by virtue of location open up to various opportunities that they can take advantages of – unfortunately a lot of our brother and sisters in other areas don't have those same opportunities by location.

40

So to get a picture of it, Worimi is up just north of Newcastle?---And Port Stephens, Nelson Bay, that's correct.

And I think I suppose anybody's has driven past that way can't help but notice some of the - - -?---You can't miss our sand dunes, no.

No that's - - -?---The largest in the southern hemisphere.

Mr Smith I was going to ask you some questions, did you hear the discussion from Ms van Agten and Mr Scott about what's happened. Is there any comment you'd like to pass upon that?---In relation to the land dealings or members or which bit?

10 The sort of things that we've just discussed, whether it's been land dealings or whether it be members or the like or, things which you think might be able to improve the system?---It is very hard for NSWALC to play an advocacy role because they are a regulatory body and they have to be very careful about advice that they give and they certainly do their best to direct and suggest options that we might that, having considered because of our lack of skill and expertise in land developments. I don't have a land development background, I don't have a town planning, marketing in land or anything along those lines. I guess what I do have is a moral and integrity to make sure that we get it right, you go into it for the right reasons, that is community, then you can certainly come out the other end
20 all the better for it. I think the land dealings bill as an Aboriginal Land Council the assets rich cash poor statement is very true and correct, I heard you mention that earlier and being able to get access to those resources to utilise them to spend on valuers and all that sort of stuff, it's certainly not easy. The Land Dealings Bill, I guess, you've got an Aboriginal community, the Act services the purpose for which it was created, that is, to return land back to Aboriginal people but it comes with a whole stack of rules and regulations and legislations and policies and governances and a whole range of stuff and as Aboriginal people we've got about 50,000 different tiers of permits, authorisations, approvals and stuff that we've got
30 to go through as opposed to main stream but the reality is we're incorporated under the Aboriginal Land Rights Act and we can't escape that. We are an autonomous to a small degree, we have certain liberties that we can take up opportunity with but the reality is, we are governed by the Act and that provides great difficulties at times. Our Land Dealings – the Land Dealings Legislation and the flow chart that is provided to us is so tall that I use it to measure the height of my kids but again, you play the game to get through the hoops to get the end result and I guess it's the end result that you're trying to achieve that you've got to keep your focus on. As large land holders I was saying earlier there are three kinds of land holders. There
40 are government organisations, such as local governments for essential services and national parks and so forth. Then you've got your property developers who sell, who like Lancom and Daracom and places like that that tend to have a wealth of land and you see them out and there and about developing making a dollar and living these lifestyles that are in the eyes of Aboriginal people certainly something of great desire. Then you have Aboriginal Land Councils that have the land and ours is a community based organisation that the land is there it provide opportunity and benefit to the community, it's not to provide opportunity benefit to any one individual and

that's where I think, unfortunately, we might lose a bit of sight of that but how we amend the Act, how do we keep our members accountable and our board and certainly our staff, that's a million dollar questions, I don't know if I really answered to be honest but - - -

MR WATSON: Well, I think if I could summarise your answer it was this, that although the regulatory, you correct me if I'm wrong, although the regulatory regime is tough and detailed, you don't want to see it loosened, you don't want to see it tightened but you don't want to see it loosened. Is that right?---Yes.

And then I understood the rest of your answer to say that there was an incredible tension about the way that this land may be currently held by certain people on trust for many generations to come but also the needs of the present generation who could look quite rightly enviously at other people who have suitable housing?---That's correct.

So that I think in the end, if I could summarise your evidence, Mr Smith, it's that this is a really hard question, it's really very hard?---That is, it's an extremely difficult question. Housing is a major issue with our people. We have over 300 members and I guess people say that being Aboriginal in today's society, the myth is that you get more.

Some people say that, Mr Smith?---I'm here to suggest that that's actually true, you get more legislation, more compliance, more governance and more rules and boxes that you have to tick to get, to get somewhere, to get ahead. We only have 18 houses ourselves and we're a multi-million-dollar organisation. Certainly we don't have that sort of capital in the bank, we're generating that income over a 70 to 100-year period, we've got sustainability in our community. And certainly we don't want to move towards social housing, we want to develop home ownership and create empowerment. And that's what the Land Council and the Act is designed for, it's to create, to provide those steps and opportunities for people to empower themselves, not through the empowerment of immediate gain, because that only leads to breaching those compliance matters to achieve that goal.

Well, you see, what you're telling me is that there are a number of tensions. We are here through this Commission looking through the prism of trying to prevent corruption- -?---Yes.

- - -now and in the future. Is there anything that you can say about that, is there anything more that could be done, anything that is presently a problem which could be corrected?---I've always said that even the best locks won't keep out the best crooks. How you, and it comes down to the individual seed of a person and it's ultimately the person's moral integrity and, you know, corruption is just a perversion of those things. There have been a number of attempts in, in the past, prior to the legislative changes to the land

dealings in 2010, we're identifying that the Act has an element of bondage, so to speak, people have tried to remove assets from out under the Act and that has unfortunately led to breaches and a whole number of things, but I guess throughout- - -

When you say people tried to remove it, are you talking- -?---Well- - -

10 - - -the government, developers or the local Aboriginals?---Well, I think Land Councils wanting to seek real autonomy and independence have sought to try and create opportunities to, to move outside of those regulatory bodies and governance principles and see them have to jump through a million hoops and want to make their own decisions in relation to that, and certainly by following the guidelines that are in place you can make your own decisions, it's just a very long journey to go through. How do we, how do we, how do we stop corruption? The only thing that we, that we can do, that we do at the Worimi Land Council is, and the reality is, it's, it's a bit of a toothless tiger to be honest, we write policies, we, we provide governance training and we, we put it out there to our members and out board and out staff that you will be held accountable to the highest degree possible by law
20 if you bring this organisation into disrepute through your actions. So we have conflict and misbehaviour policies that they endorse and, and again having said that, the reality is through all of the evidence and witnessing that I've seen over the past, well, gee, I've been, I've been part of it since I was 12 when it came out in 1983, I haven't really ever seen one true accountability placed upon anybody as a, as a, as a consequence of their actions. And that's, at some stage in time, when does somebody have to be made example of to send the message that this won't be tolerated any more.

30 Thank you, Mr Scott?---Okay.

Commissioner, that's all I have, thank you for coming.

ASSISTANT COMMISSIONER: Mr Smith, can I just ask you, you say you have 300 members?---Yeah.

40 Do a lot of them come to the meetings?---Well, there's been a real pendulum swing in relation to just even Aboriginality lately and that's something that our elders are - we're trying to work through and that is that I guess being Aboriginal, it's a lifestyle, it's a culture, it's who you are, it's what you know, it's your connection, your family, spirituality and a whole range of things. Through I guess a watering down of processes, people have come out of the woodwork and said well, my great uncle's auntie somewhere was Aboriginal so that makes me Aboriginal and we're going through this process. We've got a lot of members who - there, there are three types of members - well, there are four types of members to be honest. There are those members that are trying to find that connection and don't really become active because they still feel that sense of separation so there's an element of that. There are those members that are - I might

reduce that to three, let me go back to three. There are those members that are active and then there are those members that are not active - oh, and I apologise, the fourth one of those members that become members because of the myth that if they become a member they'll get a car and a house and, and when they've realised that that's not the truth and that we'll place the stepping stones in front of you to empower your own life, we'll provide you with training and employment opportunities and all of that sort of stuff, they tend to then pull away. But we can't remove them off the roll so the, the extraordinary meeting for land dealings requires that we have a quorum of
10 10 per cent of the voting members of which our is 270 of those 300 so we have to have 27 people in the room. We would average anywhere around the 50 plus mark and we need 80 per cent of those bloody members present to actually pass a resolution that the land dealing goes ahead. Now, we can send out all the mail and we can put, we can skywrite it in the air but if they're not interested they won't come because if it's not a resolution that says there's going to be home ownership or housing or a car, then a large percentage of them just won't turn up and, you know, all bar turning up with the sheriff and saying well, if you don't turn up we're sending a summons, they're not going to, they don't come so its quite difficult, it's a difficult
20 process but we have a large active - I mean, we, we're obliged to hold four meetings every year for the members, including an AGM. At each of those we'll average around 50 but when we hold our Christmas party we'll get 200.

One of the things, the features of membership is that once enrolled as a member you're always a member?---Always a member, yeah, and even though we get returned mail 10 million times and it's costing us six, 700 bucks every time we do a postage - - -

30 Should there be some sort of, in your opinion, renewal of that so that every five years the - - -?---Absolutely. They would, that, that's a good suggestion, thank you, I'll take that up, there should be, absolutely there should be a renewable - - -

I'm not sure it's got anything to do with ICAC but Mr Scott's here so he can listen?---Well we have people on the roll that have been on there for 20 years that have, that have on interest in participating, they've got their nose out of joint for one reason or another. They're still, you know, still amicable and friendly and that, but they say, no I'm just not interested no
40 more cuz, and you don't see them. And they don't want to participate and you can't take them off the role and that then proves difficult for us because while we're not actively seeking membership because of what we're actually doing out there that's creating, you know, media tension and stuff, people want to become more involved on some level, but then that puts the onus on us to make sure we get 10 per cent of those voting members in the room. So we actually say to them, are you sure you want to be a voting member? Please think about that. Are you going to turn up to meetings? Are you actually going to support and be active and come along and get

involved, because if they don't then we're now on the back foot scrambling, trying to get those numbers in the room.

ASSISTANT COMMISSIONER: Thank you very much for that Mr Smith. You are now excused?---Thank you.

THE WITNESS EXCUSED

[1:23pm]

10

MR WATSON: Finally, Commissioner, could I tender a statement made by Paul Williams, the CEO of Ngambri Local Aboriginal Land Council.

ASSISTANT COMMISSIONER: Yes, that statement will be Exhibit 18.

**#EXHIBIT 18 - STATEMENT OF PAUL WILLIAMS DATED 13
FEBRUARY 2012**

20

MR WATSON: That's all of the evidence in this public inquiry.

ASSISTANT COMMISSIONER: All right. Well thank you very much for that Mr Watson. And this inquiry is now adjourned.

AT 1.24pm THE MATTER WAS ADJOURNED ACCORDINGLY

[1:24pm]

30