



Knightsbridge North Lawyers

Level 15, 9 Castlereagh Street
Sydney, NSW 2000

GPO Box 2450

Sydney NSW 2001

Phone: +612 9220 1104

Fax: +612 9012 0325

admin@knightsbridgenorthlawyers.com

30 June 2017

Mr Terry Lawler
Lawler Advisory ABN 67 288 181 429
PO Box 5021
Kahibah 2290

tlawler@lawleradvisory.com

Dear Mr Lawler,

Invalid purported exercise of power under section 227 of the ALRA in demands for information re Mr Richard Green, Ms Debbie Dates and Knightsbridge.

1. We refer to your letter dated 25 June 2017, though e-mailed today 27 June 2017.
2. At the same time we have received instructions from Mr Richard Green and Ms Dates who have been sent equivalent letters from you dated 20 June 2017 but with the additional attempt to compel an attendance to an interview, and purporting to dictate their legal representation.
3. We therefore act for Mr Green and Ms Dates in respect of these matters and deal with your demand under compulsion under pain of penalty, purportedly pursuant to section 227 of the *Aboriginal Lands Right Act* ('ALRA'), together, whether you like it or not.

Response on behalf of Mr Green, Ms Dates and Knightsbridge

4. We hereby inform you that Mr Green, Ms Dates and this firm **will not** be complying with your threat of compulsion under pain of penalty as your request is invalid on its face and for many reasons identified below, including that is in contempt of proceedings; subject to the priority of lien over documents, subject to joint legal professional privilege as discussed below.
5. For the avoidance of doubt, Mr Green and Ms Dates **will not** be attending any interview. Without derogating from invalidity of your request articulated herein, there is no requirement in section 227 of the *Aboriginal Lands right* that "the information that the Chairperson or other person is able to give in relation to those records" extend to the compulsion that that this information be provided by way of interview. Furthermore, you have no authority to determined who their legal representations shall be. To that end, should you require answers to questions you may have from Mr Green, Ms Dates or myself, please send these questions and we will attend to them.

Background

6. You were appointed administrator in 13 October 2016
7. One of your duties was to examine Knightsbridge and Advantage and legal authorities underlying arrangements entered into.
8. Knightsbridge took the initiative to contact you on your appointment, to come to you in Newcastle to discuss Awabakal's affairs. You dismissed that offer.
9. You then embarked on a campaign of libel against Knightsbridge, Advantage, Mr Green and Ms Dates.
10. You were corrected by correspondence and asked to retract your comments.
11. Instead of retracting statements made that were erroneous, you intensified these statements. It follows therefore that either two situations existed:
 - (a) You make libellous statements, based on proper and reasonable analysis of the material that you have available, such as Awabakal's records and conducted such interviews and enquiries as are relevant to satisfying yourself of the truth of these matters; or,
 - (b) You made the statements without a factual basis for doing so. When corrected, you decided to continue to amplify your false statements with malice.

If scenario 1 applies, you have full and complete information that you require and your notice is seeking information that is not genuinely required. To require that information would mean that you did not have sufficient information to make your allegations.

If scenario 2 applies, you exercised your functions for an improper purpose. As a result, your purported exercise of power is a nullity.

12. You engaged in proceedings against Knightsbridge and Advantage to remove the caveat that secured the outstanding fees. Moreover, you enlarged the proceedings seeking to make them pursuant to be full pleaded in a Statement of Claim rather than usual summons, and made Cross Claims against us.
13. The outstanding fees owed to Knightsbridge (being fees owed Jackson and Associates and Ms Kaur Bains of Counsel) were resolved to be approved on 28 October 2016 by the Board on advice from its new solicitors Dilby Dan in attendance at that meeting. The Board was advised that the fees were reasonable. You have never requested that these fees be assessed as being unreasonable.
14. You signed a statement of defence and statement of Cross Claim making specific allegations about what Knightsbridge had failed to do. In signing that statement you became personally liable. In filing a defence relying on an impunity under section 242, you were using that section as a cloak for fraud. That is you induced all, including the Court that the ordinary personal obligations which applied to prevent frivolous claims, when you knew they did not.

15. When filing that statement of defence and Cross Claim making allegations, it follows therefore that either two situations existed:

- (a) You make statements in court documents, based on proper and reasonable analysis of the material sufficient to do so, such as Awabakal's records and conducted such interviews and enquiries as are relevant to satisfying yourself of the truth of these matters; or,
- (b) You made the statements in a court document without a factual basis for doing so. In view of the seriousness of court proceedings and your swearing to the truth of the basis when you signed the statement of defence and cross claim, you did so falsely.

If scenario 1 applies, you have full and complete information that you require and your notice is seeking information that is not required. To require that information would mean that you did not have sufficient information to make your Statements in Court documents under oath.

If scenario 2 applies, you are exercise your functions for an improper purpose. As a result your purported exercise of power is a nullity, and abuse of the processes of the court punishable by criminal contempt proceedings, charges for perjury etc.

16. Since the proceedings with Knightsbridge and Advantage have commenced, further proceedings have been brought by Sunshine.
17. Your purported exercise of power under section 277 was the result of the proceedings. It did not occur when you were appointed in October 2016 and notwithstanding your express direction to give consideration of these issues. The purported exercise of power occurred as a collateral means for obtaining information foreign to and in contempt of the process of the court.

The invalid exercise of power

18. We now attend to the invalid exercise of power:

18.1 Neither Ms Dates, Mr Green or myself are the Chairperson to whom section 227 is addressed.

On 20 July 2016, a new Board was elected. On 5 August 2016, Ms Theresa Dargin-Towers was elected Chairperson.

18.2 Neither Ms Dates, Mr Green or myself are "other person[s] who has possession or control of any records of the Council" to which section 227 requires in order to operate

- 18.2.1 The records of the Council are at the offices of the Awabakal Local Aboriginal Land Council. You do not allege that those records have been **stolen** by Mr Green, Ms Dates or by Knightsbridge. It follows therefore that neither Mr Green, Ms Dates or by Knightsbridge have "possession or control of any records" as the necessary pre-condition to the operation of section 277.
- 18.2.2 To the extent that Mr Green and Ms Dates did possess personal copies of documents, these copies of documents have been provided to this firm for the purposes of providing evidence in the current proceedings. They have no possession or control of any document that could possibly be construed as records of the Council and as a result, there is no

enlivenment of any provision to provide information about documents they do not possess or control.

18.2.3 By reference to the definition of 'records' in section 4 of the ALRA:

18.2.3.1 all copies of 'contracts' are in your possession and have been exhibited to the affidavits served on you on 15 June 2016:

18.2.3.2 All copies of minutes are in your possession and have been exhibited to the affidavits served on you on 15 June 2016;

18.2.3.3 Otherwise draft agreements, correspondences, and items 6 and 7 of your letters are not 'records' of the Council even if they were currently possessed by Mr Green or Ms Dates which they are not.

18.2.4 This firm has its own files relating to Awabakal as its client. Knightsbridge's legal files that it is compelled to maintain, are not records of Awabakal. As is sworn the affidavits of Mr Green, Ms Dates and Ms Bakis, Awabakal maintained its own copy of documents that related to the legal affairs of Awabakal. Indeed, this firm has provided assistance to you solicitors identifying documents and the file where relevant documents identified by them are or were maintained. You have free and unfettered access to those records and we assume that in commencing and maintaining litigation, you have satisfied yourself as to the adequacy of such records.

18.2.5 The items you identify by your demands for information are not 'records' of the Council in respect of which section 277 allowed you to (validly) seek information in respect of. Draft agreements, correspondence and answers to question 7 about individuals are not 'records' of the Council.

18.2.2 Knightsbridge has since 9 September 2016, offered Awabakal, all our records we created or come into possession regarding work as solicitors for Awabakal, on the payment of the outstanding fees. These fees being approved by the Board on 28 September 2016 on the recommendation of its solicitors, Dilby Dan.

18.2.3 Knightsbridge has and continues to claim a lien on those documents pending payment. We note that you only just paid Dilby Dan, after 9 months, because you required their cooperation in the Knightsbridge/Advantage proceedings, having been served documents which raise issues concerning Dibly Dan.

18.2.4 Knightsbridge would also be entirely pleased to release those documents to you on the satisfaction of the outstanding plus legal costs incurred to date in the collection of the outstanding amounts in proceedings currently before the NSW Supreme court. Indeed should you pay these outstanding amounts presently, we will waive all but Counsel fees to date and cap them with the result that if you therefore pay \$68,000 to our account, we will immediately provide you with our files and discontinue the proceedings.

18.2.5 Until the proceedings for the recover of fees are complete, we require our documents for the purposes of the litigation.

19. The purported exercise of power under section 227 does not override Knightsbridge's lien

As said above, you simply cannot use the power in section 277 to overcome your obligations for outstanding fees and have a legal right to retain such as our lien. Again, it is simply a matter of paying the outstanding fees and discounted legal costs in recovery to date to have our lien released.

20. The purported exercise of power under section 227 is in contempt of current proceedings and contemplated proceedings.

- 20.1 Your lawyers can no doubt advise you on the extensive case law on the invalid collateral use of administrative power to subvert the processes of the Court. In its current form, your demand is entirely overlapping and attempts to supplant the current proceedings on foot.¹
- 20.2 It is noted that you have used the processes of the Court in order to have issued subpoenas the Sunshine Group of companies and you have thereby enjoyed the benefits of the Court's processes.

21. The purported exercise of power under section 227 seeking information from witnesses and potential witnesses, i.e. Mr Richard Green and Ms Debbie Dates is also invalid as a contempt of current proceedings and contemplated proceedings².

22. The purported exercise of power under section 227 is invalid for unreasonableness

- 22.1 We refer to the fact that this firm approached you immediately upon your appointment as an Administrator and sought an audience with you to review the matters concerning Awabakal. You will recall that you dismissed our approach. These matters are the subject of evidence in the current recovery proceedings.
- 22.2 We also refer to the fact we have served you with three lever arch folders of evidence on 15 June 2017 which contained therein:
- Draft copies of contracts that you request;
 - Briefing papers;
 - Board minutes;
 - File notes and e-mails.
- 22.3 You also have the sworn evidence of Mr Green, Ms Dates and Ms Bakis for Knightsbridge in significant detail. You will have every opportunity cross examine these persons in the proceedings as we will have to cross examine your witnesses and your goodself.

¹ *DCT v De Vonk* (1995) 133 ALR 303; *Hamilton v Oades* (1989) 155 CLR 486; *Huddart Parker v Moorehead* (1908-9) 8 CLR 330 per Griffith CJ; *Melbourne Steamship Co Ltd v. Moorehead* (1912) 15 CLR 333; *Brambles Holdings Ltd v Trade Practices Commission and Bannerman* (1980) 44 FLR 182; *Pioneer Concrete Vic v Trade Practices Commission* (1982) 43 ALR 449; *Saunders v Federal Commissioner of Taxation* (1988) 88 ATC 4349; *Hammond v The Commonwealth* (1982) 152 CLR 188

² *Watson v Commissioner of Taxation* [1999] FCA 1796;

- 22.4 As a result of the evidence served on you, you have a considerable extra advantage than would otherwise apply. The affidavits give evidence of conversations that took place in the context of which documents were created and decisions taken.
- 22.5 In the case of the Sunshine litigation, we are currently taking instructions from Mr Green and Ms Dates and they have provided us with information that they had on the matter. You can expect as party to these proceedings to similarly be provided with extensive affidavit material and annexures.
- 22.6 As you know, after dismissing Knightsbridge's attempt to communicate with you and discuss the matters concerning the LALC, you embarked upon a campaign of falsehood and libel against this firm, and Mr Green and Ms Dates.
- 22.7 Your refusal to pay outstanding fees and thereby become possessed of all Knightsbridge's files is a product of bad faith and not a result of bona fide believe in the factual and legal allegations you claim in litigation you have instigated. The mere lack of commerciality in already having spent \$160,000 of Awabakal's money to defend against the enforcement of fees less of than \$28,000, is of such disproportion as of itself to evidence bad faith. This figure will now multiply as you are required to put on evidence to defend a case that is objectively unmaintainable.
- 22.8 The irresistible inference is that one reason why you ask for this information now, is having pursued litigation that the evidence exposes your allegations as false, you face the prospect of a personal costs order on an indemnity basis. Fishing for information to save yourself is an invalid use of administrative power for an unreasonable purpose.

23. The purported exercise of power under section 227 is invalid as an extraneous use of power

- 23.1 We refer to this ground of invalidity, your libel to this firm, its principal, Advantage Property Experts, Ms Dates and Mr Green. You have been put on notice that we will be bringing litigation in libel and defamation against you personally.
- 23.2 As you have full and unfettered access and control over Awabakal's records, your attempt to obtain a copy of Mr Green's, Ms Dates' and Knightsbridge's records to seek out other documents that you may not have to avoid pending proceedings against you personally is an extraneous use of power.
- 23.3 You have falsely asserted that Ms Dates, Mr Green and Knightsbridge engaged in fraudulent activity. We refer you to the affidavit evidence served including the annexures of the relevant correspondence. Having raised this believe, the purpose of pursuing a criminal investigation is an operative purpose that is beyond the permissible purposes of section 277. It invalidly attempts to subvert the protections of the criminal law³.
- 23.4 In the current proceedings we are seeking costs against you personally and on an indemnity basis. We are asking the Court that your protection under section 242 of the ALRA does not apply where you have acted in excess of your authority, maliciously or for your own self-interest (being the continuation of fees and keeping the Awabakal community out of its self-governance for a year whilst you embarked upon a patently unmaintainable defence to recovery proceedings).

³ John Currie v. Deputy Commissioner of Taxation, Federal Court of Australia, V724 4 October 2000

- 23.5 It is relevant to note that you have taken action, contrary to the ARLRA, to:
- (a) suspend Mr Warren Towers as a member without legal authority for doing so and without giving him a right to be heard on a complaint put in writing and on notice;
 - (b) refuse to send notices of the monthly meetings (that you are required by section 229 of the ALRA) to any person (18 identified) associated with the Dates family at the community meeting on or about 26 June 2017;
 - (c) attempt to remove Ms Candy Towers (the daughter of Ms Dates and until recently a senior officer with Awabakal), who became aware of the meeting and attended notwithstanding your refusal give her notice of the meeting, because she defended a proposed motion from Saun Gordon that Ms Debbie Dates and Mr Richard Green “be expelled for what they have done”, referring to your false representations to Mr Saun Gordon⁴;
 - (d) made fraudulent claims to commonwealth and state government agencies regarding the “redundancies” of Ms Candy Towers and Ms Tamarra Towers (being the daughters of Ms Dates) where the real reason you dismissed them was the fear that they were providing information about the exorbitant expenditure of Awabakal’s money on malicious litigation that you did not want the community to know; and,
 - (e) you attempts to dictate to Ms Dates and Mr Green who their lawyers will be and specifically excluding this firm from acting for them, being consistent with excluding this firm from any community meeting for the sole reason that Knightsbridge has the knowledge and information to expose the falsehoods you have been promulgating in the fraud on the Awabakal community that you are participating⁵.
- 23.6 There is no other inference available other than consistent with the submissions made to the Minister on 28 July 2016 and 2 August 2016, of the improper purpose to thwart the democratic rights of the Awabakal community in exercising their right of self-governance.⁶
- 23.7 Demanding this information now in an attempt to bolster unmaintainable litigation that is now clear on the evidence just served, to save yourself personally from an adverse indemnity costs order, is an invalid use of administrative power for an extraneous purpose.
- 23.8 We will be writing to your solicitors shortly to raise with them that your conduct above (para 23.5) is an attempt to interference and intimidate witnesses in the current proceedings such that if no satisfactory undertaking is provided, you provide grounds to raise a contempt charge within the current proceedings in the Supreme court, rather than

⁴ The significance of Mr saun Gordon in the campaign to use false information to pervert the democratic self governance of the LALC is full articulated in the evidence just served upon you.

⁵ The significance of the fraud on Awabakal involving the former Registrar and the misleading accounts of PFKLawler, are make issues in the proceedings and referred to in the evidence exhibited.

⁶ The purposes of the ARLA set out in section 3 of the ARLA which identifies: “(b) to provide for representative Aboriginal Land Councils” and by sub-section (d) the purpose is to manage land, assets and investments “by” those LALCs. In *NSWALC v Alan Jones* (1998) 43 NSWLR 300, and *Darkinjung Pty Ltd v Darkinjung LALC* (2006) 203 FLR, the courts identify that the ALRA’s purpose is to provide a system of self-governance for Aboriginal people.

the Land and Environment Court or NCAT where we are instructed to bring proceedings on behalf of the Dates Family.

24. Invalid Source of Power

- 24.1 In whatever forum the opportunity of challenging your authority arises, we will also seek to challenge the validity of your appointment and its extension by the Minister.
- 24.2 Our position that is extensively articulated in our submissions to the Minister on 28 July 2016 and 2 August 2016, regarding the appointment of you as an Administrator, that her appointment of you as Administrator is invalid. This is strengthened by your association with PKF Lawler, the auditors, who acted contrary to the interests of their client, Awabakal, in producing reports designed to improperly manipulate the self-governance and democratic processes of Awabakal.
- 24.4 The events since your appointment have further supported the agenda of interfering with the democratic process statutorily provided to the Awabakal community. Your unlawful suspension of Mr Warren Towers, and your deliberate omission to provide notices of meeting to at least 18 members of the Dates family, is further evidence of this unlawful agenda. The Minister has no lawful power to abuse her authority by appointing an Administrator to alter Awabakal's democratic process and self-governance.

25. Conflict of interest

- 25.1 In the light of the proceedings brought by Sunshine, you are placing Awabakal in a position where it cannot present the best defence possible. It also follows that duplicate legal expenses are being incurred by Awabakal in using Chalk and Behrendt to run a defence on the same matters that Knightsbridge is defending and which simultaneously defends Awabakal.
- 25.2 In view of your alienation of Ms Dates, Mr Green and Knightsbridge by your incompetent campaign of libel and your conduct identified in paragraph 23.5, those with the best and most direct knowledge of relevant events are not assisting Awabakal for the reasons we outline in this letter. Moreover, you attempt to conceal from the Awabakal community the \$160,000 already paid to Chalk and Behrendt (and this is before they have been served with evidence) amongst other frivolous legal expenses (e.g. Osborne Law for the personal and unauthorised legal expenses of the interim CEO, Sophie Anna) are referable only to objective that you preserve your personal benefits.
- 25.3 You are requested therefore to resign your appointment as an Administrator.
- 25.4 Should you not resign your appointment or fail to notify the Minister of your conflict, then this will be a further and additional ground for invalidating your purported exercise of power.

26. Practical Considerations

- 26.1 As you know, comprehensive affidavits have been served by Mr Green, Ms Dates, Mr Faraj and myself in the proceedings upon you.
- 26.2 These affidavits encompass the vast bulk of the documents you have requested.

Items 1, 2 and 3.

- (a) These affidavits have exhibited the matters identified in your **Item 1**.
- (b) These affidavits have exhibited the matters identified in your **item 2 and 3**, save for Sunshine.
- (c) You have used the processes of the Court to have issued Subpoenas to the Sunshine Group of Companies and have therefore access to those documents which are amongst the category that you seek.
- (d) The affidavits to come in the Sunshine litigation will comprise the rest.
- (e) Moreover, you have unfettered access and control over Awabakal's documents that were, as sworn by Mr Green, Ms Dates and Ms Bakis, the same as those provided. Consequently, what you are really asking for is *another copy* of what you already have. If however, you do not have sufficient documentation and information to bring proceedings and are now asking for this information to avoid the cost consequences sought against you personally, then you must discontinue the proceedings forthwith and bear the cost consequences. Furthermore, you must inform the Minister that the proceedings were fraudulently brought and resign immediately.

Items 4 and 5,

- (a) Trust Account Statements were requested by the CEO you appointed with the assistance of Mr Saun Gordon, for Knightsbridge to provide to the auditors, PKF Lawler.⁷ These were provided to them.⁸
- (b) These trust accountant details also include authorisations, save for Sunshine which was in the earlier year.
- (c) The Sunshine authorisations were provided to your solicitor in correspondence⁹ and are exhibited to the affidavits¹⁰. Any remaining authorisations regarding Sunshine will come exhibited in the Sunshine proceedings.

Items 6

This information is already available in the Awabakal proceedings.

⁷ Exhibited at page 888-889 of Exhibit DB-4 is a copy of that email by Mr Russell.

⁸ page 890-896 of Exhibit DB-4 is a copy of Knightsbridge's email to Ms Harrison, dated 27 April 2017 containing trust statements and authorisations.

⁹ E-mail Knightsbridge to Jason Behrendt, 21 June 2017, 9.10am

¹⁰ Exhibited at page 22 of Exhibit DB-4

Items 7

These are all matters that will be evidence in the Sunshine proceedings and otherwise are not information relating to the records of ALALC.

27. Adoption of legally available procedure for seeking better particulars before responding.

- 27.1 As you know, Mr Green, Ms Dates and Knightsbridge hereby seek to enliven the procedure established by His Honour Burchett J in *One Tel v Deputy Commissioner of Taxation* [2000] FCA 270 where a request for reasons that is hereby attached will permit us to better understand the parameters of the enquiries and more adequately respond to the obligations (if they are any, which we deny) imposed by your demand.
- 27.2 Once you have replied, we can then reconsider our ultimate position or challenge your authority as being an invalid exercise of power. As a state body, applying and adhering to the standards of a model litigant, we have a reasonable and legitimate expectation that you will act accordingly.
- 27.3 We look forward to your prompt reply so that we can reconsider our position according to law.
- 27.4 In addition to reasons required for the purposes of assessing our position under law referred to above in accordance with the *One Tel* procedure, we also seek reasons pursuant to r 59.9(1) of the Uniform Civil Procedure Rules 2005; section 62 of the Civil and Administrative Tribunal Act 2013 (NSW) and at common law given the significance of your request to the impairment of our rights arising from collateral procedures contrary to those of the Court.¹¹
- 27.5 If you do not provide a satisfactory statement of reasons as requested, we will use the inadequacy as an error of law and ground for judicial review and set aside your demand.

Yours Faithfully

KNIGHTSBRIDGE NORTH LAWYERS



Despina Bakis
Solicitor

¹¹ Reasons for decision at common law where interests are affected: Hill J in *Canwest Global Communications Corporation v Treasurer of the Commonwealth* (1997) 147 ALR 509; *Mcraith v Institute of Chartered Accountants in Australia* [2003] NSWSC 208, Dowd J.

REQUEST FOR REASONS FOR THE DECISION(S)

The issue of demand for information to Ms Dates

In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates:

1. What considerations did you take into account in issuing a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates?
2. For each of the considerations you took into account, what weight did you place on each consideration?
3. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, did you take into account that she had provided evidence in the Supreme court Proceedings you are party and annexed material in the three lever arch folders entitled 'Plaintiff's Tender Bundle'?
4. If the answer to question 3 is no, why not?
5. If the answer to question 3 is yes, what weight did you give that consideration before you decided to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates?
6. In making a decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, did you take into account that you were to report to the community on or about 27 June 2017?
7. If the answer to question 6 is yes, what weight did you give that consideration before you decided to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates?
8. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates Did you take into account that Ms Dates was not sent a notice of the proposed meeting?
9. If the answer to 8 is yes, what weight did you give that consideration before you decided to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates?
10. If the answer to 8 is no, why not?
11. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates Did you take into account that Ms Dates and at least 18 other members of the Dates/Towers family were also not sent a notice of the proposed meeting?
12. If the answer to 11 is yes, what weight did you give that consideration before you decided to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates?
13. If the answer to 11 is no, why not?
14. What factual evidence or factual considerations did you take into account in determining that Ms Dates was a person who has in her possession or control of any records of the Council?

15. For each of the factual considerations you took into account in determining that Ms Dates was a person who has in her possession or control of any records of the Council, what weight did you give each factor?
16. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, did you take into account that Mr Warren Towers was suspended by you from being a member of the land council and able to participate in the community meeting?
17. If the answer to 16 is yes, what weight did you give that consideration?
18. If the answer to 16 is no, why not?
19. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, did you take into account the Court procedures available in the proceedings either in respect of the recover proceedings against Knightsbridge and Advantage or in the proceedings involving Sunshine?
20. if the answer to 19 is yes, what weight did you give that consideration?
21. If the answer to 19 is no, why not?
22. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, did you consider the Court procedures are inadequate?
23. If the answer to 22 is yes, what weight did you give that consideration?
24. If the answer to 22 is no, why not?
25. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, did you take into account that you have informed her in the community meeting (or otherwise) that she has committed, conspired, participated or was otherwise involved in a fraud?
26. If the answer to 25 is yes, what weight did you give that consideration?
27. If the answer to 25 is no, why not?
28. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, did you take into account that her protections provided by the criminal or civil rules of the court would be comprised by your demand?
29. If the answer to 28 is yes, what weight did you give that consideration?
30. If the answer to 28 is no, why not?
31. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, what informal alternatives did you take into account for the provision of information that you require?
32. For each of these alternatives considered in answer to question 31, what weight did you give each of these alternatives?
33. If the answer to 31 is no, why not?

34. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, what sources did you consider gave you the power to:
 - (a) compel attendance to give that information verbally at an interview before you;
 - (b) compel attendance to give that information verbally at an interview before you and at a time and place convenient to you
35. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, for each of the identified items of information you demand information, in what way did you consider information on each such item related to the function performed by you as Administrator?
36. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, for each of the identified items of information you demand information, in what way did you consider information on each such item related to the function performed by you as Administrator related to the current proceedings?
37. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, for each of the identified items of information you demand information, in what way did you consider information on each such item related to the function performed by you as Administrator that related to the current proceedings was not otherwise available to you through the processes of the Court?
38. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, for each of the identified items of information you demand information, in what way did you consider information on each such item related to the function performed by you as Administrator that related to the current proceedings, what considerations did you take into account in determining that requiring such information from Ms Dates was more convenient than obtaining such information through the Court process?
39. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, for each of the identified items of information you demand information, did you address whether the information you had in the records of the Awabakal Local Aboriginal Land Council provided you that information?
40. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, for each of the identified items of information you demand information, what deficiencies did you have in the records of the Awabakal Local Aboriginal Land Council?
41. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, did you consider that Ms Dates **stole** documents from the Awabakal Local Aboriginal Land Council and thereby deprived you as the Administrator of the information and records as they relate to the functions of the council performed by you as the Administrator?
42. If the answer to 41 is yes, what evidence and factual basis existed for this consideration(s) in making your decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates?
43. If the answer to 41 is no, on what basis do you believe that information possessed by Ms Dates was or is "records" of the Land Council?

45. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, for each of the items that you seek information, in what way did you consider for each those items you list to be 'records' of the Land Council to which information could be given?
- 45, In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates, for each of the items that you seek information that relates to a 'record' of the Land Council to which information could be given, in which way did you consider it related to the functions of the Council being performed by you as Administrator?

REQUEST FOR REASONS OF DECISION(S)

The issue of demand for information to Mr Green

In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green:

1. What considerations did you take into account in issuing a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green?
2. For each of the considerations you took into account, what weight did you place on each consideration?
3. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green Did you take into account that he had provided evidence in the Supreme court Proceedings you are party and annexed material in the three lever arch folders entitled 'Plaintiff's Tender Bundle'?
4. If the answer to question 3 is no, why not?
5. If the answer to question 3 is yes, what weight did you give that consideration before you decided to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green?
6. In making a decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green, did you take into account that you were to report to the community on or about 27 June 2017?
7. If the answer to question 6 is yes, what weight did you give that consideration before you decided to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green?
8. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green Did you take into account that Mr Green was not sent a notice of the proposed meeting?
9. If the answer to 8 is yes, what weight did you give that consideration before you decided to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green?
10. If the answer to 8 is no, why not?
11. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green Did you take into account that Mr Green and at least 18 other members of the Dates/Towers family were also not sent a notice of the proposed meeting?
12. If the answer to 11 is yes, what weight did you give that consideration before you decided to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green?
13. If the answer to 11 is no, why not?
14. What factual evidence or factual considerations did you take into account in determining that Mr Green was a person who has in her possession or control of any records of the Council?

15. For each of the factual considerations you took into account in determining that Mr Green was a person who has in her possession or control of any records of the Council, what weight did you give each factor?
16. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green Did you take into account that Mr Warren Towers was suspended by you from being a member of the land council and able to participate in the community meeting?
17. If the answer to 16 is yes, what weight did you give that consideration?
18. If the answer to 16 is no, why not?
19. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green Did you take into account the Court procedures available in the proceedings either in respect of the recover proceedings against Knightsbridge and Advantage or in the proceedings involving Sunshine?
20. if the answer to 19 is yes, what weight did you give that consideration?
21. If the answer to 19 is no, why not?
22. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green Did you consider the Court procedures are inadequate?
23. If the answer to 22 is yes, what weight did you give that consideration?
24. If the answer to 22 is no, why not?
25. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green did you take into account that you have informed her in the community meeting (or otherwise) that she has committed, conspired, participated or was otherwise involved in a fraud?
26. If the answer to 25 is yes, what weight did you give that consideration?
27. If the answer to 25 is no, why not?
28. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green did you take into account that her protections provided by the criminal or civil rules of the court would be comprised by your demand?
29. If the answer to 28 is yes, what weight did you give that consideration?
30. If the answer to 28 is no, why not?
31. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green, what informal alternatives did you take into account for the provision of information that you require?
32. For each of these alternatives considered in answer to question 31, what weight did you give each of these alternatives?
33. If the answer to 31 is no, why not?

34. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green, what sources did you consider gave you the power to:
 - (a) compel attendance to give that information verbally at an interview before you;
 - (b) compel attendance to give that information verbally at an interview before you and at a time and place convenient to you
35. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green, for each of the identified items of information you demand information, in what way did you consider information on each such item related to the function performed by you as Administrator?
36. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green, for each of the identified items of information you demand information, in what way did you consider information on each such item related to the function performed by you as Administrator related to the current proceedings?
37. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green, for each of the identified items of information you demand information, in what way did you consider information on each such item related to the function performed by you as Administrator that related to the current proceedings was not otherwise available to you through the processes of the Court?
38. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green, for each of the identified items of information you demand information, in what way did you consider information on each such item related to the function performed by you as Administrator that related to the current proceedings, what considerations did you take into account in determining that requiring such information from Mr Green was more convenient than obtaining such information through the Court process?
39. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green, for each of the identified items of information you demand information, did you address whether the information you had in the records of the Awabakal Local Aboriginal Land Council provided you that information?
40. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green, for each of the identified items of information you demand information, what deficiencies did you have in the records of the Awabakal Local Aboriginal Land Council?
41. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green, did you consider that Mr Green **stole** documents from the Awabakal Local Aboriginal Land Council and thereby deprived you as the Administrator of the information and records as they relate to the functions of the council performed by you as the Administrator?
42. If the answer to 41 is yes, what evidence and factual basis existed for this consideration(s) in making your decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green?
43. If the answer to 41 is no, on what basis do you believe that information possessed by Mr Green was or is "records" of the Land Council?

45. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green, for each of the items that you seek information, in what way did you consider for each those items you list to be 'records' of the Land Council to which information could be given?
- 45, In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Mr Green, for each of the items that you seek information that relates to a 'record' of the Land Council to which information could be given, in which way did you consider it related to the functions of the Council being performed by you as Administrator?

REQUEST FOR REASONS FOR THE DECISION(S)

The issue of demand for information to Knightsbridge North Lawyers

In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis and Knightsbridge North Lawyers Pty Limited:

1. What considerations did you take into account in issuing a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis?
2. For each of the considerations you took into account, what weight did you place on each consideration?
3. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, did you take into account that she had provided evidence in the Supreme court Proceedings you are party and annexed material in the three lever arch folders entitled 'Plaintiff's Tender Bundle'?
4. If the answer to question 3 is no, why not?
5. If the answer to question 3 is yes, what weight did you give that consideration before you decided to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis?
6. In making a decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, did you take into account that you were to report to the community on or about 27 June 2017?
7. If the answer to question 6 is yes, what weight did you give that consideration before you decided to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis?
8. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates Did you take into account that Ms Dates was not sent a notice of the proposed meeting?
9. If the answer to 8 is yes, what weight did you give that consideration before you decided to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates?
10. If the answer to 8 is no, why not?
11. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates Did you take into account that Ms Dates and at least 18 other members of the Dates/Towers family were also not sent a notice of the proposed meeting?
12. If the answer to 11 is yes, what weight did you give that consideration before you decided to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Dates?
13. If the answer to 11 is no, why not?
14. What factual evidence or factual considerations did you take into account in determining that Ms Bakis was a person who has in her possession or control of any records of the Council?

15. For each of the factual considerations you took into account in determining that Ms Bakis was a person who has in her possession or control of any records of the Council, what weight did you give each factor?
19. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, did you take into account the Court procedures available in the proceedings either in respect of the recover proceedings against Knightsbridge and Advantage or in the proceedings involving Sunshine?
20. if the answer to 19 is yes, what weight did you give that consideration?
21. If the answer to 19 is no, why not?
22. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, did you consider the Court procedures are inadequate?
23. If the answer to 22 is yes, what weight did you give that consideration?
24. If the answer to 22 is no, why not?
25. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis did you take into account that you have informed her in the community meeting (or otherwise) that she has committed, conspired, participated or was otherwise involved in a fraud, the misappropriation of Awabakal funds or engaged in fraudulent billing or improper behaviour as a solicitor?
26. If the answer to 25 is yes, what weight did you give that consideration?
27. If the answer to 25 is no, why not?
28. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis did you take into account that her protections provided by the criminal or civil rules of the court would be comprised by your demand?
29. If the answer to 28 is yes, what weight did you give that consideration?
30. If the answer to 28 is no, why not?
31. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, what informal alternatives did you take into account for the provision of information that you require?
32. For each of these alternatives considered in answer to question 31, what weight did you give each of these alternatives?
33. If the answer to 31 is no, why not?
35. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, for each of the identified items of information you demand information, in what way did you consider information on each such item related to the function performed by you as Administrator?
36. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, for each of the identified items of

information you demand information, in what way did you consider information on each such item related to the function performed by you as Administrator related to the current proceedings?

37. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, for each of the identified items of information you demand information, in what way did you consider information on each such item related to the function performed by you as Administrator that related to the current proceedings was not otherwise available to you through the processes of the Court?
38. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, for each of the identified items of information you demand information, in what way did you consider information on each such item related to the function performed by you as Administrator that related to the current proceedings, what considerations did you take into account in determining that requiring such information from Ms Bakis was more convenient than obtaining such information through the Court process?
39. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, for each of the identified items of information you demand information, did you address whether the information you had in the records of the Awabakal Local Aboriginal Land Council provided you that information?
40. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, for each of the identified items of information you demand information, what deficiencies did you have in the records of the Awabakal Local Aboriginal Land Council?
41. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, did you consider that Ms Dates **stole** documents from the Awabakal Local Aboriginal Land Council and thereby deprived you as the Administrator of the information and records as they relate to the functions of the council performed by you as the Administrator?
42. If the answer to 41 is yes, what evidence and factual basis existed for this consideration(s) in making your decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis?
43. If the answer to 41 is no, on what basis do you believe that information possessed by Ms Bakis was or is "records" of the Land Council?
45. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, for each of the items that you seek information, in what way did you consider for each those items you list to be 'records' of the Land Council to which information could be given?
45. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, for each of the items that you seek information that relates to a 'record' of the Land Council to which information could be given, in which way did you consider it related to the functions of the Council being performed by you as Administrator?
46. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, did you take into account that

Knightsbridge held a lien over documents relating to the Land Council which gave it legal right to retain that information?

47. If the answer to 46 is yes, what weight did you give that consideration(s)?
48. If the answer to 46 is no, why not?
49. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, knowing that Knightsbridge held a lien over documents relating to the Land Council which gave it legal right to retain that information, what considerations did you take into account as to why you would prejudice its legal right?
50. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, what considerations did you take into account as to paying the outstanding fees so as to release the documents held by Knightsbridge?
51. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis, whilst there was litigation of foot regarding the security it holds over Awabakal Local Aboriginal Land council ('Awabakal') documents, what considerations did you provide for the provision of alternative security sufficient for Knightsbridge to release its lien whilst litigation was pending?
52. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis at this time and soon after being sued by Sunshine Property Investments Group Pty Ltd and Sunshine Warners Bay Pty Ltd, did you consider that the information Ms Bakis could provide would be of assistance to Awabakal?
53. In making the decision to issue a demand pursuant to, or purportedly under the authority of section 277 of the Aboriginal Land Rights Act 1983 to Ms Bakis at this time and soon after being sued by Sunshine Property Investments Group Pty Ltd and Sunshine Warners Bay Pty Ltd, did you consider that without the information Ms Bakis could provide, Awabakal's ability to defend the litigation would be disadvantaged?