

Supplementary Questions for NTSCORP

26 October 2016 Hearing

1. Could you provide specific details to identify the water sharing plan of July 2016 that Ms Hariharan referred to in her evidence on page four of the transcript?

The water sharing plan that was referred to in evidence by NTSCORP Limited on page four of the transcript, was that of the Murray and Lower Darling Regulated Rivers Water Sources 2016 No. 366 (NSW) (**Murray and Lower Darling Water Sharing Plan**). The water sharing plan for the Murray and Lower Darling was made in 2003, commenced in 2004. The plan was subsequently replaced on 1 July 2016, and is due for extension or replacement in July 2026.

Native title rights are provided for under Division 2 of the Murray and Lower Darling Water Sharing Plan as 'Requirements for water for basic landholder rights' which includes domestic and stock rights at Section 18 and native title rights at Section 19. Currently, the Murray and Lower Darling water sharing plan states at Section 19 that 'At the commencement of this Plan, there are no native title rights in these water sources. Therefore, the water requirements for native title rights are 0 ML/year.'

Upon becoming aware of the commencement of the plan, NTSCORP Limited wrote to the Department of Primary Industries - Water requesting that the plan be amended to reflect the Barkandji Peoples native title rights and interests recognised by the Federal Court on 16 June 2015 in the Barkandji Traditional Owners #8 Determination.

There are three other water sharing plans which, may overlap with the Barkandji Peoples native title determination including the *Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011* and the *Water Sharing Plan for the NSW Murray Darling Basin Fractured Rock Groundwater Sources 2011* and the *Water Sharing Plan for the NSW Murray Darling Basin Porous Rock Groundwater Sources 2011*. These plans do not include recognition of the Barkandji People nor provides for any allocation of water for their native title rights.

Further the *Water Management Act 2000* (NSW) (**WMA**) at section 55(1) that *a native title holder is entitled, without the need for an access licence, water supply work approval or water use approval, to take and use water in the exercise of native title rights*. As such the request to amend the water sharing plans to reflect the Barkandji People's native title right to water is consistent with Section 55 of the WMA.