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Response from the Sea Country Alliance to the National Assessment Guidelines for Offshore Carbon Capture and Sequestration under the *Environment Protection (Sea Dumping) Act 1981* (Cth)

Introduction

On behalf of the Sea Country Alliance (**SCA**), we are pleased to put forward the following submission. The SCA is an alliance between Australia's Traditional Owners with responsibility for Sea Country that have come together to speak in unison. The formation of the Sea Country Alliance, following a national meeting of Traditional Owners in Darwin in November 2023, represents a step forward in realising our rights and responsibilities offshore.

All coastal state and territories of Australia are represented on the 56-member alliance, ensuring that the complexity of our diverse seas, oceans and coastal areas is recognised. The SCA has 47 Traditional Owner member corporations with statutory recognised responsibilities for Sea Country and 9 associate members which are Traditional Owner organisations with an interest in Sea Country issues.

Since its establishment., the SCA have engaged with many offshore statutory and regulatory review processes and are please to participate in the current review of the National Assessment Guidelines for Offshore Carbon Capture and Sequestration (**CCS**) under the *Environment Protection (Sea Dumping) Act 1981* (Cth) (the **Act**). In development of this submission, we have reviewed the following documents:

- Application form for a permit under the *Environment Protection (Sea Dumping) Act 1981* for dumping of carbon dioxide streams by carbon capture sequestration at sea (**Application**),
- Key differences between the Interim and Offshore Carbon Capture and Sequestration National Action List,
- National Assessment Guidelines for Offshore Carbon Capture and Sequestration under the *Environment Protection (Sea Dumping) Act 1981* (**NA Guidelines**),
- Offshore Carbon Capture and Sequestration National Action List under the *Environment Protection (Sea Dumping) Act 1981* (**NAL**), and
- Offshore Carbon Capture and Sequestration under the Sea Dumping Act in Australia factsheet (**Factsheet**).

As identified in the Factsheet, Australia is a party to the 1996 *Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter*, 1972 (the **London Protocol**).

As such, the NAL is a requirement of Annex 2 of the London Protocol to accept and assess applications for offshore CCS sea dumping permits.

Appropriately, the NAL for offshore CCS was jointly developed by the Department of Climate Change, Energy, the Environment and Water (**DCCEEW**) and CSIRO utilising a detailed scientific literature review. However, such a strict environmental science-driven approach to management of the offshore environment does not necessarily incorporate the offshore rights and interests of Traditional Owners. In this instance, there are indications that Traditional Owner rights offshore should be considered but these references are not explored in the overview documents or made clear in any of the associated materials.

To fully incorporate such consideration, this submission will examine:

- the nature of Traditional Owner rights in the offshore environment,
- the implementation of the Australia & New Zealand Guidelines for Fresh and Marine Water Quality (the **ANZ Guidelines**),
- application of the *Native Title Act 1993* (Cth) (**NTA**) and *Aboriginal and Torres Strait Islander Act 1984* (Cth) (**ATSIHPA**),
- interaction with the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC**),
- recent impactful jurisprudence, and
- implementation of free, prior and informed consent (**FPIC**).

To begin we will provide an overview of the establishment and breadth of Traditional Owner rights offshore.

Traditional Owner Rights in the Offshore Environment

Much recent commentary on the issue of Traditional Owners and Offshore Energy Projects has focussed on the issue of potential impact on the First Nations Cultural Heritage aspects of the offshore marine environment. It is important to continue to bear in mind that Traditional Owner interests in Sea Country are broader than this and extend to rights in respect of commercial, economic and social activities and the rights that First Nations peoples derive as the Traditional Owners of *their* Sea Country.

These broader set of interests have been frequently recognised judicially in Australia. The majority of the High Court in *Commonwealth v Yarmirr*, in the context of consideration of the existence of native title rights and interests in offshore areas, stated:

> What has been established is the existence of traditional laws acknowledged, and traditional customs observed, whereby the applicant community has continuously since prior to any non-Aboriginal intervention used the waters of the claimed area for the purpose of hunting, fishing, and gathering to provide for the sustenance of the members of the community and for other purposes associated with the community's ritual and spiritual obligations and practices. Members of the community have also used, and continue to use, the waters for the purpose of

> passage from place to place and for the preservation of their cultural and spiritual beliefs and practices.[1]

What is abundantly clear from this judicial authority and associated administrative practice is that Traditional Owners have interests which include:

> interests arising from […] cultural association with the [EMBA] including intangible dreaming lines, tangible manifestations of cultural heritage, his cultural connection to the relevant marine environment, interests in coastal areas that may be affected by any environmental incident.[2]

These interests have also been described as:

> hunting, fishing and gathering to provide for the sustenance of the members of the community and for other purposes associated with the community's ritual and spiritual obligations and practices.[3]

Subsequent to the decision *Commonwealth v Yarmirr*, the High Court considered the nature of native title rights and interests in the specific context of Sea Country in *Akiba v Commonwealth*.[4] In this matter the High Court made clear that a native title right to take resources for any purpose could include for commercial purposes.

The basis for native title rights including commercial rights in best described by one of the Traditional Owner witnesses, who gave evidence in the Federal Court in *Akiba* at first instance. Justice Finn in his judgment quotes Traditional Owner, Walter Nona, as saying:

> We always used things from the sea for trade or exchange for things we didn't have. … [W]hen money came we sold things from the sea for money to get things we needed. Selling things for money is new because money is new; but we always exchanged and traded things for what we needed. In that way, selling things for money is no different.[5]

This judicially endorsed statement from Walter Nona makes quite clear that rights and interests based in tradition can today have also a tangible contemporary commercial manifestation.

It is this broad class of interests, unique to Traditional Owners amongst the broader Australian community, that gives rise to the need for appropriate recognition under a reformed regulatory and policy framework.

Representative Institutions, Collective Rights and Negotiation Party Certainty

Traditional Owners' rights and interests in both land and Sea Country are collective rights, that is they are rights of a people. Individual rights can only exist as an element of the collective right. This principle is well recognised in international Law.

[1] *Commonwealth v Yarmirr* [2002] HCA 56; 208 CLR 1 per Gleeson CJ, Gaudron, Gummow, and Hayne JJ.
[2] *Santos NA Barossa Pty Ltd v Tipakalippa* [2022] FCAFC 193.
[3] *Commonwealth v Yarmirr* [2002] HCA 56; 208 CLR 1 per Gleeson CJ, Gaudron, Gummow, and Hayne JJ.
[4] *Akiba v Commonwealth*. (2013) 250 CLR 209.
[5] *Akiba v Queensland (No 3)* (2010) 204 FCR 1, 527.

The *United Nations Declaration on the Rights of Indigenous Peoples* (**UNDRIP**) clearly sets out Traditional Owner rights as collective rights in for example Articles 18 and 26. UNDRIP also provides (Art 18) that it is through *representative institutions* that collective rights are exercised.

These principles (collective rights and representative institutions) are also recognised in Australian Law. The NTA is a clear example. Native title rights, while possessed individually, are exercised as a collective right through representative institutions and structures. Thus, a proponent under the NTA has statutory certainty in dealing with a Prescribed Body Corporate (**PBC**). The proponent does not need to deal with the community of native title holders individually. In fact, any attempt to do so is ineffective under the NTA, which requires engagement through the relevant representative institution or pre-native title determination process.

Understanding who manages the rights is essential to understand with whom consultation must occur for any permit considerations under the NA Guidelines. At Annexure A, is a system of statutory recognition of Traditional Owner Representative Institutions (**TORI**) developed by the SCA and published in its June 2024 *Outline of Regulatory and Policy Reform Proposal*. This system is currently being advocated also in the context of reform to Commonwealth First Nations Cultural Heritage and Environmental laws. It is recommended that this system would be utilised in the context of these proposed reforms.

The absence of certainty regarding the application of such rights recognition to the offshore energy project environment is one of the regulatory deficiencies identified in recent jurisprudence. Remedying this shortcoming *must* be a basis of any reform proposal.

Free, Prior and Informed Consent

Also defined in UNDRIP, FPIC is central to the recognition of the cultural rights collectively managed by the TORI. The principle of FPIC contained within UNDRIP is broadly accepted as a principle of international law applicable to proponents engaging with Indigenous Peoples with respect to their traditional lands and other resources.

This acceptance is seen in a range of statements from international human rights organisations, the content of international Industry Standards, some national and regional legislation in some countries and government and corporate policy in many others.

Despite this broad acceptance of the principle of FPIC, it is frequently little understood and often ignored either through intent or ignorance. Existing research suggests that UNDRIP generally, and FPIC in particular, while acknowledged is often not given effect to because it is either seen as unworkable or misunderstood or both. Traditional Owners report that even where FPIC is said by proponents to be implemented the reality is somewhat different.

The requirements necessary to give effect to FPIC are that there is a process for agreement with the Representative Institution, of the relevant Traditional Owners, that satisfies the requirements of FPIC.

These requirements may be summarised as follows.

- Traditional Owners must be consulted on anything that will involve interference with their rights and interest. This is the requirement of **Prior** in FPIC.
- FPIC also requires that in consultation, Traditional Owners are provided full information about the project, how it is intended to be carries out and any alternative ways of carrying it out the. This is the requirement of **Informed** in FPIC.
- If new information is received after initial approval is given further consultation with Traditional Owners must be undertaken.
- The views of affected Traditional Owners must be articulated through **representative institutions** (as understood in UNDRIP) that are provided with adequate resources to participate in discussions on an equal basis.
- The **Consent** requirement within the principle of FPIC demands that the agreement of Traditional Owners is **freely given**. Relevantly this is usually understood as meaning that consent is given without the threat that a failure to give consent will be simply ignored. If this is the case, it gives rise to the possibility that consent is given to seek a 'least-worst outcome'. Consent in this context cannot be seen as "free".

Understanding the implications and consultation requirements for consideration of any projects and permits under the NA Guidelines will ensure appropriate consideration of Traditional Owners' rights in the offshore marine environment

Recent Jurisprudence

Recent decisions in the Federal Court have highlighted deficiencies in the way Traditional Owners' interests, including in relation to cultural heritage in Commonwealth offshore areas, have been considered in the context of offshore energy projects. It is useful to identify the nature of cultural heritage interests in offshore interests as described in these cases

In December 2022, the Full Federal Court[6] in *Santos NA Barossa Pty Ltd v Tipakalippa* [2022] FCAFC 193 ("*Santos FFC"*) affirmed a decision of Bloomberg J[7] of the Federal Court to overturn an approval by NOPSEMA under the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (**OPGGS Regulations**), of an offshore drilling Environment Plan (**EP**). The EP was submitted by Santos and related to the 'Barossa Basin' which lies offshore from the Kimberley and Northern Territory Coasts.

The OPGGS Regulations required a process of consultation with all people who have interests ("function, interest or activity") in both the immediately affected area of operations, and within the 'Environment that May be Affected' (**EMBA**).

The decision was based on the finding that Santos had not undertaken any or sufficient consultations with Traditional Owners who had interests in the area.

The Court at first instance found the interests of Mr Tipakalippa included interests arising from his cultural association with the EMBA. These included intangible dreaming lines,

[6] *Santos NA Barossa Pty Ltd v Tipakalippa* [2022] FCAFC 193 ("*Santos FFC"*).
[7] *Tipakalippa v National Offshore Petroleum Safety and Environmental Management Authority (No 2)* [2022] FCA 1121 ("*Tipakalippa*").

tangible manifestations of cultural heritage, his cultural connection to the relevant marine environment, interests in coastal areas that may be affected by any environmental incident (spill), and interests as someone who used the marine environment for fishing and other traditional and contemporary purposes.

The judgments both at first instance and on appeal[8] refer to and accept the following extract from the Appendix C of the EP as a summary description of those interests.

> Marine resource use by Aboriginal and Torres Strait Islander peoples is generally restricted to coastal waters. Fishing, hunting and the maintenance of maritime cultures and heritage through ritual, stories and traditional knowledge continue as important uses of the nearshore region and adjacent areas. However, while direct use by Aboriginal and Torres Strait Islander peoples [of] deeper offshore waters is limited, many groups continue to have a direct cultural interest in decisions affecting the management of these waters. The cultural connections Aboriginal and Torres Strait Islander peoples maintain with the sea may be affected, for example, by offshore fisheries and industries**.** In addition, some Indigenous people are involved in commercial activities such as fishing and marine tourism, so have an interest in how these industries are managed in offshore waters with respect to their cultural heritage and commercial interests.

Their Honours later note in relation to those interests:

> Mr Tipakalippa's and the Munupi clan's interests in the EMBA and the marine resources closer to the Tiwi Islands are immediate and direct. Furthermore, they are interests of a kind well known to contemporary Australian law. Thus, interests of this kind, which arise from traditional cultural connection with the sea, without any proprietary overlay, are acknowledged in federal legislation, such as, for example, the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth), and have been considered by the courts.[9]

Their Honours further pursue the matter at [74]:

> By these references to the Heritage Protection Act, we are not intending to suggest that the Heritage Protection Act was applicable to Santos' proposed drilling activities. Rather, we refer to that Act to make it clear that the law recognises the kind of interests that Mr Tipakalippa contends required Santos to consult with him and the Munupi clan. Reference to the Heritage Protection Act demonstrates that by this Act the federal Parliament has expressly contemplated the protection of areas of the sea from activities harmful to the preservation of Aboriginal tradition. The Parliament has done so without requiring the existence of particular proprietary interests; rather requiring only the existence of a connection by Aboriginal tradition.[10]

Similar views have been expressed by the High Court, in the context of consideration of the existence of native title rights and interests in offshore areas, when the majority of the Court in *Commonwealth v Yarmirr* stated:

[8] Santos FFC per Kenny and Mortimer at [39].
[9] *Ibid* at [68].
[10] *Ibid* at [74].

> What has been established is the existence of traditional laws acknowledged, and traditional customs observed, whereby the applicant community has continuously since prior to any non-Aboriginal intervention used the waters of the claimed area for the purpose of hunting, fishing and gathering to provide for the sustenance of the members of the community and for other purposes associated with the community's ritual and spiritual obligations and practices. Members of the community have also used, and continue to use, the waters for the purpose of passage from place to place and for the preservation of their cultural and spiritual beliefs and practices.[11]

What is abundantly clear from this review of judicial authority is that Traditional Owners have interests which include (per Santos FFC) "interests arising from […] cultural association with the EMBA including intangible dreaming lines, tangible manifestations of cultural heritage, his cultural connection to the relevant marine environment, interests in coastal areas that may be affected by any environmental incident".

These interests have also been described (per *Yarmirr*) as "hunting, fishing and gathering to provide for the sustenance of the members of the community and for other purposes associated with the community's ritual and spiritual obligations and practices".

Consideration of the EPBC

Permit applications for Offshore CCS under the Act are required to consider any requirements also created under the EPBC. In turn, in some circumstances explored below, this requires consideration of Indigenous cultural heritage values.

The EPBC is primarily engaged with respect to the nine protected matters, also referred to as Matters of National Environmental Significance (**MNES**), and also with respect to Commonwealth land and actions by a Commonwealth agency. The nine MNES are:

- world heritage properties, national heritage places, wetlands of international importance (Ramsar wetlands);
- listed threatened species and ecological communities;
- migratory species protected under international agreements,
- Commonwealth marine areas;
- the Great Barrier Reef Marine Park;
- nuclear actions; and,
- water resources in the context of coals seam gas or large coal mining development.

In relation to each of the MNES, the EPBC creates a range of offences for taking an action that will have or is likely to have a "significant impact" upon the respective MNES (EPBC, Part 3).

Regarding world and national heritage places, the EPBC establishes a process whereby a place can be listed as a National Heritage Place by the Minister on the advice of the Australian Heritage Council based on its Indigenous heritage value. Pursuant to the

[11] *Commonwealth v Yarmirr* [2002] HCA 56; 208 CLR 1 per Gleeson CJ, Gaudron, Gummow, and Hayne JJ.

definition contained in EPBC s 528, the definition of Indigenous heritage value utilised for these purposes draws on the significance attached to the place by "Indigenous persons".

Two other aspects of the EPBC of particular significance to the protection and management of cultural heritage, relate to "Commonwealth marine areas" under EPBC s 24 and "Commonwealth land" under EPBC s 26. As noted above, the EPBC operates to regulate any action that may have an impact on the environment of an MNES (including a Commonwealth marine area) or Commonwealth land.

In operation then the EPBC will operate to regulate any action that has an impact on the environment of these areas. The "environment" at s 528 of the EPBC is defined as including:

(a) ecosystems and their constituent parts, including people and communities; and
(b) natural and physical resources; and
(c) the qualities and characteristics of locations, places and areas; and
(d) heritage values of places; and
(e) the social, economic and cultural aspects of a thing mentioned in paragraph (a), (b), (c) or (d).

It is apparent this definition of the "environment" of a Commonwealth marine area and Commonwealth land is sufficient to include cultural heritage.

Both the EPBC and ATSIHPA apply in Commonwealth waters (Commonwealth marine areas under the EPBC). ATSIHPA operates in the same fashion as it does in an onshore context (including its potential protection of intangible cultural heritage discussed below) and does not require separate consideration. Similarly, there a specific NTA future act procedures applicable to offshore areas (NTA s 24NA). These procedures are essentially part of the "provide an opportunity for comment" class of future acts.

Cultural and Spiritual Guidelines

In development of the Low Levels for Incidental Associated Substance (**IAS**), the NA Guidelines direct applicants to the ANZ Guidelines. Consideration of Traditional Owner rights is explicitly acknowledged in the ANZ Guidelines as providing 'authoritative guidance on the management of water quality for natural and semi-natural water resources in Australia and New Zealand.'[12]

A key aspect within the ANZ Guidelines is the consideration of cultural and spiritual values within the aquatic environment. Here it is recommended that values consideration should be undertaken 'to guide water quality planning in a way that considers cultural and spiritual values and protects the intellectual property of the indigenous knowledge holder.'[13] Specifically, identifying that:

> Appropriate up-front and ongoing engagement of relevant indigenous people is a key element of the process, particularly with regard to ensuring the proper

[12] https://www.waterquality.gov.au/guidelines/anz-fresh-marine.
[13] https://www.waterquality.gov.au/anz-guidelines/guideline-values/derive/cultural-values.

identification, free prior informed consent, prioritisation and consideration of cultural and spiritual values throughout the water quality planning process.[14]

The proceedings sections on establishment of the right people to speak for Country and the manner in which their rights should be respected through FPIC, provides the framework through which the requirements of the ANZ Guidelines can be managed.

Conclusion

The extent of regulation afforded under the Act is broad, including specific activities in Commonwealth and most state/territory waters, but not waters within the limits of a state/territory. As such, it is important that consistency is applied with the statutory requirements of other marine affecting legislation.

Consideration of Aboriginal and Torres Strait Islander cultural heritage and engagement with Traditional Owners is required under the EPBC, ATSIHPA, NTA and state and territory jurisdictions. It is also indicated, albeit through a close reading of the Guidelines, in reference to adherence to the ANZ Guidelines and EPBC requirements.

Throughout the Guidelines, the lack of appropriate recognition of Traditional Owner rights at law, of cultural heritage controls and the of collective nature of cultural heritage, is alarming. It is essential that any permit process in the offshore environment require consultation and FPIC with the relevant TORI.

Revision of the overarching engagement mechanisms must be undertaken to ensure that First Nations communities have decision making control and are afforded appropriate rights recognition in the associated processes. This will effectively enforce international and commonwealth expectations of Traditional Owner engagement and agreement making in the marine environment.

The SCA members look forward to progressing these essential recommendations in the National Assessment Guidelines.

Yours faithfully,

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Co-Chair

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[14] https://www.waterquality.gov.au/anz-guidelines/guideline-values/derive/cultural-values.

Glossary

Act	*Environment Protection (Sea Dumping) Act 1981* (Cth)
ANZ Guidelines	Australia & New Zealand Guidelines for Fresh and Marine Water Quality
Application	Application form for a permit under the *Environment Protection (Sea Dumping) Act 1981* for dumping of carbon dioxide streams by carbon capture sequestration at sea
ATSIHPA	*Aboriginal and Torres Strait Islander Act 1984* (Cth)
CCS	Carbon Capture and Sequestration
DCCEEW	Department of Climate Change, Energy, the Environment and Water
EMBA	Environment that May be Affected
EP	Environment Plan
EPBC	*Environment Protection and Biodiversity Conservation Act 1999* (Cth)
Factsheet	Offshore Carbon Capture and Sequestration under the Sea Dumping Act in Australia factsheet
FPIC	Free, Prior and Informed Consent
IAS	Incidental Associated Substance
London Protocol	*Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter*, 1972
MNES	Matters of National Environmental Significance
NA Guidelines	National Assessment Guidelines for Offshore Carbon Capture and Sequestration under the *Environment Protection (Sea Dumping) Act 1981*
NAL	Offshore Carbon Capture and Sequestration National Action List under the *Environment Protection (Sea Dumping) Act 1981*
NTA	*Native Title Act 1993* (Cth)
OPGGS Regulations	*Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (Cth)
PBC	Prescribed Body Corporate
SCA	Sea Country Alliance
TORI	Traditional Owner Representative Institutions
UNDRIP	*United Nations Declaration on the Rights of Indigenous Peoples*

Case Law

Akiba v Commonwealth (2013) 250 CLR 209
Akiba v Queensland (No 3) (2010) 204 FCR 1, 527
Commonwealth v Yarmirr [2002] HCA 56; 208 CLR 1
Santos NA Barossa Pty Ltd v Tipakalippa [2022] FCAFC 193
Tipakalippa v National Offshore Petroleum Safety and Environmental Management Authority (No 2) [2022] FCA 1121

Annexure A Traditional Owner Representative Institutions

The existence and recognition of TORIs is essential to give effect to the collective rights contained in the UNDRIP. Collective rights in UNDRIP includes the right self-determination, land rights and the right to protect and enjoy cultural heritage. The Commonwealth Government recognises its obligations as a party to UNDRIP to give effect to these rights.

Statutory recognition of a TORI will also greatly facilitate and expedite the process of approvals for proponents wishing to undertake land based or land-related activities.

The issue is complicated because, in some parts of Australia, there is yet to be established any organisation that can be credibly recognised as a TORI. In this area an authoritative mechanism to identify the relevant Traditional Owners with whom a proponent can engage is necessary. This is discussed further below.

The model described below is being advocated also in the context of proposed reforms to Commonwealth First Nations cultural heritage and environment laws. It may have potential additional application to a range of land based and land related statutory contexts.

At this stage though, the proposal is still a draft policy proposal being advocated by Traditional Owner organisations and has no official status with the Commonwealth Government.

The TORI system would provide statutory recognition for a range of existing Traditional Owner organisations created or recognised by existing statute as described below.

Traditional Owner Representative Institutions include:

a. Prescribed Body Corporate and Registered Native Title Body Corporate under the *Native Title Act*.
b. Other Statutory Organisations or Organisations currently created or recognised by statute:
    - Aboriginal Land Councils under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).
    - Anangu Pitjantjatjara Yankunytjatjara
    - Maralinga Tjarutja Council
    - Noongar Regional Corporations
    - Victorian Representative Aboriginal Parties
    - The Aboriginal Land Council of Tasmania
    - Native Title Representative Bodies

Where there is no relevant Traditional Owner representative institution in relation to a project, it is proposed that a body comprising First Nations expertise and experience would have a function to provide advice on who the appropriate Traditional Owners are to engage with and provide consent or otherwise for the project. The name First Nations Cultural Heritage Council is the "working name' for this proposed body. The Council would proceed in the following manner:

c. Where there is no existing TORI but there is a registered Native Title Determination Application over the project area, the Council would identify the registered claimants under that application as the relevant Traditional Owners.

d. Where there is no Registered Native Title Claimant or TORI, the Council could seek advice from:

   - Native Title Service Providers (who cover the affected area or object)
   - Indigenous cultural heritage councils or committees
   - Statutory Aboriginal organisations such as the NSW Aboriginal Land Council and Local Aboriginal Land Councils
   - Other relevant state and territory government bodies or entities
   - Traditional Owner groups identified in previous assessments.

   Having obtained the advice the Council considered necessary; the Council would identify the relevant Traditional Owners for the project area. The Council may identify more than one individual or more than one 'group' for the purposes relevant to any particular project. The identification would only be for the purposes specific to the project in question. The identification of relevant Traditional Owners would not constitute a 'standing determination'.

A proponent engaging with either the relevant TORI or the relevant Traditional Owners as identified by Council would be considered to have engaged with the appropriate Traditional Owners for the purposes of applicable legislation.