

## LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

## WRITTEN QUESTION

Mr. Higgins to the Treasurer:

**NTIDF investment in now-defunct NT Beverages**

1. Is it true that, at all times between 1 July 2017 and 30 October 2019, Ms Jodie Ryan was the Northern Territory Government representative on the Board of Directors of the Northern Territory Infrastructure Development Fund Limited (**NTIDF**)?
2. Is it true that it was regular practice for one or more representatives of the Northern Territory Department of Treasury and Finance to be present at regular board meetings of the NTIDF Board of Directors?
3. Were representatives of the Department of Treasury and Finance present at the NTIDF Board of Directors Meeting that took place on 1 December 2017?
4. Were representatives of the Department of Treasury and Finance present at the NTIDF Board of Directors Meeting that took place on 19 February 2018?
5. Is it true that the final decision on the initial \$9.2 million investment by the NTIDF in a senior secured convertible note in NT Beverages at the amount of \$9.2 million took place at the 19 February 2018 NTIDF Board of Directors meeting?
6. Did the Northern Territory Government representative on the NTIDF Board of Directors, Ms Jodie Ryan vote in favour of the initial \$9.2 million investment in NT Beverages?
7. Was the Treasurer of the Northern Territory, either directly or through an adviser or intermediary, asked for an opinion on whether the NTIDF should proceed with the initial \$9.2 million investment in NT Beverages?
8. In a report to creditors dated 22 January 2019, the administrators appointed to oversee the voluntary administration of NT Beverages (**22 January Creditors Report**), Ferrier Hodgson (the **Administrators**), have reported that as at June 2017 NT Beverages had reported a \$6.5 million loss and a \$13.9 million deficiency in working capital; is this true and, if so, was Ms Jodie Ryan or the Treasurer of the Northern Territory aware of this circumstance prior to the approval of the initial \$9.2 million investment by NTIDF in NT Beverages?
9. In the 22 January Creditors Report, the Administrators stated they understand that as at 26 February 2018, it is their understanding that NT Beverages' 'ability to continue as a going concern was contingent upon obtaining the aforementioned NTIDF funding package'; is this statement correct and was this understanding shared by Ms Jodie Ryan and the Treasurer of the Northern Territory at the time?
10. What party or parties conducted due diligence concerning the contemplated investment by NTIDF in NT Beverages? What was the nature of the engagement with that party or parties and what information was requested by those parties of NT Beverages?
11. In conjunction with Question 10 above, what due diligence information was provided to the party or parties conducting due diligence concerning the contemplated investment by NTIDF in NT Beverages in late 2017?
12. What agreement, if any, was there concerning the uses to which NT Beverages could put the funds invested in the entity by NDIF to; for instance, was there a restriction on the funds being used to increase compensation or pay bonuses in any form to executives or members of the board and did the Northern Territory representative on

the NTIDF Board of Directors or the Treasurer of the Northern Territory suggest such an agreement?

13. In relation to Question 12, was there any agreement requiring NT Beverages to put the money to a specific use; for example, to pay outstanding debts, taxes or delinquent superannuation obligations and did the Northern Territory representative on the NTIDF Board of Directors or the Treasurer of the Northern Territory suggest such an agreement?
14. The 22 January Creditors Report states that in July/August 2018, NTIDF paid an additional \$401,000 to NT Beverages; did the Northern Territory representative on the NTIDF Board of Directors or the Treasurer of the Northern Territory approve of that decision?
15. As to Question 14 above, was the Northern Territory representative on the NTIDF Board of Directors or the Treasurer of the Northern Territory made aware of the purpose of such an additional contribution?
16. The 22 January Creditors Report states that on 3 September 2018, NTIDF provided final funding of \$98,700; did the Northern Territory representative on the NTIDF Board of Directors or the Treasurer of the Northern Territory approve of that decision?
17. As to Question 16 above, was the Northern Territory representative on the NTIDF Board of Directors or the Treasurer of the Northern Territory made aware of the purpose of such an additional contribution?
18. Has the Northern Territory Government registered its interest as a secured creditor with the Administrators?
19. If the answer to Question 18 is yes, will the Northern Territory Government be requesting that the Administrators pursue a civil claim against former directors of NT Beverages?
20. What additional action, if any, has the Northern Territory Government taken concerning the NTIDF investment in NT Beverages; for example, has a referral been made to either Police or the Independent Commissioner Against Corruption for investigation for potential criminal or regulatory offences, including but not limited to, fraud and trading while insolvent?

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## Answers

1. This is correct. Ms Jodie Ryan was the Northern Territory Government's representative on the NTIDF Board. Ms Ryan undertook this position as the Under Treasurer at the time the NTIDF was established, and continued as government's representative upon her appointment as Chief Executive, Department of the Chief Minister.
- 2-4. An official from the Department of Treasury and Finance did regularly attend NTIDF Board meetings, purely as an observer. The Department of Treasury and Finance did not have an ability to veto investments, or to influence the decisions of the NTIDF Board.
- 5-6. Questions relating to the specific matters discussed at NTIDF Board meetings and the decisions of the NTIDF Board are a matter for the NTIDF Board.
7. No. Under the structure of the NTIDF, all investment decisions were made at arm's length from government.

Government had no ability to dictate which projects the NTIDF invested in, and no ability to veto investments.

**8-11.** The Treasurer was not aware of the specific financial position of NT Beverages. The NTIDF's collective decision to invest in NT Beverages was made at arm's length from government.

The Investment Manager's understanding of NT Beverage's financial position at the time it recommended and ultimately executed the investment is a matter for Infrastructure Capital Group.

The Investment Manager, Infrastructure Capital Group, was responsible for developing and recommending all investments, including undertaking appropriate due diligence. Questions regarding the specific due diligence undertaken are a matter for the Investment Manager.

**12-17.** Under the structure of the NTIDF, all investment decisions, including the subsequent decisions to invest additional funds in NT Beverages, were made at arm's length from government.

The Treasurer had no involvement in relation to approving the initial investment or any further funding, and had no involvement in any agreement concerning how the NTIDF's investment in NT Beverages was to be applied.

**18-20.** The Northern Territory Government is a unitholder in the NTIDF. The NTIDF is a secured creditor, and has registered its interest with the Administrators.

The NTIDF Trustee and Administrators are working towards achieving the best outcome for secured creditors in the circumstances.

The Northern Territory Government is not a direct investor in NT Beverages.

Specific questions relating to the activities of NT Beverages are a matter for the former directors and management of NT Beverages and more recently the Administrator, since the business has gone into voluntary administration.