

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S DEPARTMENT

**Group 2**

**Program 1.3**

**Question No. 139**

**Senator Singh asked the following question at the hearing on 24 February 2014:**

- 1) Will Native Title respondent funding be reinstated to existing native title claims or will it only apply to new claims?
- 2) How many Native Title claims are currently outstanding?
- 3) How many respondents are mining companies?
- 4) How many respondents are other large corporations?
- 5) How many respondents are individual land owners?
- 6) What is the criteria for allocating funding to Native Title respondents?
- 7) How much does each Native Title respondent get allocated? What percentage of the cost of the case for the respondent?
- 8) How many Native Title claims were settled without the funding to respondents?
- 9) How will funding respondents encourage parties to settle Native Title claims?

**The answer to the honourable senator's question is as follows:**

- 1) Native title respondent funding is available for both existing and new claims.
- 2) According to the Register of Native Title Claims, 427 applications were on foot as at 31 December 2013.
- 3, 4, 5) Information regarding respondent participation is not generally available to the department unless it is providing respondent funding to a particular respondent. The department is not able to identify respondents by category.
- 6) The criteria for allocating funding to Native Title respondents is as outlined in Part 4 of the *Native Title (Assistance from Attorney-General) Guideline 2012* (see Federal Register of Legislative Instruments number F2014C00002).
- 7) There is no fixed amount that each native title respondent is allocated. Each application is assessed on a case-by-case basis, in line with the guideline and the department's 'Assessment of costs' document. It is not possible to determine the percentage of the cost of the case that the funding represents for the respondent.
- 8) The department is not able to advise the number of claims settled without government funding.
- 9) The scheme facilitates native title respondents' fuller participation in native title claims by assisting with reasonable costs. The scheme guideline focuses on the efficient and effective resolution of native title claims. In determining whether to approve a grant of legal financial assistance, the department considers, amongst other things, whether the applicant's participation in the inquiry, mediation, proceeding, agreement or dispute will enhance the prospect of a mediated outcome (guideline, s 4.6(1)(d)).