

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

**Program 1.5**

**Question No. 72**

**Senator Xenophon asked the following question at the hearing on 22 February 2011:**

**Senator XENOPHON**—Let us go to that decision. I question the logic. But was the decision [that the Cape York Land Council's test case funding application was not approved] made by departmental officers or by the Attorney-General?

**Ms Jones**—By departmental officers.

**Senator XENOPHON**—If it was made by departmental officers, was the Attorney-General informed prior to the decision being made?

**Ms Jones**—I would have to take that on notice, but the delegation to make decisions under that scheme is made to departmental officers, so it would be departmental officers.

**Senator XENOPHON**—In terms of the decision made, was it made after input or representations from other government departments? Can you provide us with the chain that led to the decision to reject the legal aid funding?

**Ms Jones**—We consulted within the department, as is usually the case with these types of applications, and arrived at the decision as a consequence of having those internal consultations. In terms of any consultations outside of the Attorney-General's Department, I would need to take that on notice and check on that.

**Senator XENOPHON**—On what date was the decision made to reject the legal aid funding?

**Ms Jones**—My briefing note gives me the date on which the Cape York Land Council was advised. I would need to check if that was the same date that the decision was made.

**Senator XENOPHON**—I have a letter here from Mr Peter Arnaudo, Acting First Assistant Secretary of the Social Inclusion Division of the Attorney's department, dated 8 November. Is that the date when there was formal notification of the decision?

**Ms Jones**—I would have to take that on notice and check. I do not have the exact information with me at present.

**Senator XENOPHON**—If you could take that on notice.

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

Indigenous test case funding is administered by the Indigenous and Community Legal Services Branch of the Commonwealth Attorney-General's Department. As outlined in Part 5 of the Indigenous Test Case Guidelines, delegates have been appointed within the Department to determine funding under the Indigenous Test Case Funding Sub-program.

The Attorney-General's Office was aware of the application from the Cape York Land Council for Indigenous test case funding. The Office was informed of the Department's decision on the same day as the Cape York Land Council was advised of the outcome of its application for funding.

Input or representations from other government departments were not made or considered as part of the Department's assessment of the Cape York Land Council's application for Indigenous test case funding. The Department of Families, Housing, Community Services and Indigenous Affairs and the Department of Prime Minister and Cabinet were advised of the application and the Department's decision regarding the Cape York Land Council's application.

The date on which the Department made the decision to reject the application for Indigenous test case funding was the same date on which the Cape York Land Council received formal notification of the Department's decision, that is, 8 November 2010.