

NATIVE TITLE — YINDJIBARNDI CLAIM

824. Hon MICHAEL MISCHIN to the Leader of the House representing the Attorney General:

I refer to the answers provided on 1 and 2 November from the Attorney General and the Minister for Aboriginal Affairs about the government's decision not to appeal the Yindjibarndi native title claim decision.

- (1) Will the Attorney General provide a detailed chronology of his involvement in the decision-making process leading to the decision not to appeal the Yindjibarndi judgement; and, if not, why not?
- (2) With regard to the decision not to appeal, which the Attorney General claimed was made “on or about 11 October 2017”, was a record made of the decision; and, if so, by whom and how?
- (3) With reference to the Attorney General's answer of 1 November, which other ministers were involved in the decision, what was the extent of their involvement, and which ministers argued for or argued against an appeal?
- (4) On what basis does the Attorney General claim that a minister's reasons for refusing to appeal a decision are subject to legal professional privilege rather than any legal advice he received?
- (5) Given that the Attorney General was prepared on 28 August to tell the media about the Solicitor-General's “general conclusion” about the prospects of success in a constitutional challenge to the goods and services tax arrangements, why will the Attorney General not reveal the general conclusion of the Solicitor-General and the State Solicitor's Office—without the content of the reasoning—about the prospects of success of an appeal against the Yindjibarndi decision?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question.

- (1) No.
- (2)–(5) This decision was made by the Minister for Aboriginal Affairs, Hon Ben Wyatt, on advice from the State Solicitor's Office. The reasons not to appeal provided in that advice are subject to legal professional privilege. Similarly, this advice and the general conclusions are for the minister to disclose, not the Attorney General, as it falls under the minister's portfolio responsibilities.