

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
SUPPLEMENTARY BUDGET ESTIMATES 2013-2014

Finance Portfolio

Department/Agency: Department of Finance

Outcome/Program: 2/2.2

Topic: Property – Point Perron

Senator: Ludlam

Question reference number: F37

Type of question: Hansard F&PA Committee, Page 120 – 122, 19 November 2013

Date set by the committee for the return of answer: Friday, 17 January 2014

Number of pages: 2

Question:

Senator LUDLAM: I refer to matters that I have put on notice and had some responses. I put a set of questions to the Department of the Environment relating to a 170-hectare parcel of land at Point Peron, south of Perth in Western Australia. The environment department, as is proper, referred me to Finance. The 170-hectare parcel of land at Point Peron was transferred from the Commonwealth to the state of Western Australia on the condition that it was preserved as a reserve and used only for recreation and parklands. Are you aware of that precinct?

Mr Smith: Legal advice was obtained in 2000.

Senator LUDLAM: By whom?

Mr Smith: By the Department of Finance and Administration.

Senator LUDLAM: Has that ever been put into the public domain?

Mr Smith: I could not say whether it has or not.

Senator LUDLAM: I am not asking you to do it tonight; would you take on notice whether that legal advice has been made public.

Mr Smith: I will take it on notice and search, but I am not sure I will be able to find out for sure.

Senator LUDLAM: I am not asking you to table it tonight, but you should at least know whether it is a public document or not. Anyway, you have undertaken to take that on notice. What was the trigger for that advice being sought?

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Senator LUDLAM: Has the Western Australian government approached the Commonwealth to alter its original agreement, or is it your contention that they would not need to?

Mr Smith: In 2000 they approached the government and the government responded in a letter that said we had no legal rights.

Senator LUDLAM: Could you table a copy of that letter for us?

Mr Smith: I do not have a copy with me, but I will take that on notice.

Answer:

A copy of the letter dated 30 November 2000 from the then Department of Finance and Administration to the Western Australian Department of Transport is provided at Attachment A. The legal advice referred to in the letter has not been made public.



Reference: DPG00/00105
Contact: Sue Baker
Telephone: 02 6215 2328
e-mail: sue.baker@dofa.gov.au

Mr Cleve Flottmann
Manager - New Development
Department of Transport
PO Box 402
FREMANTLE WA 6959

Dear Mr Flottman

**MANGLES BAY MARINA SITE - POINT PERON, ROCKINGHAM,
WA**

I refer to your letter of 3 March 2000 and apologise for the delay in providing a final response to you.

This Department recently took legal advice on the Commonwealth's position as previous owner of the land. The advice we have received is to the effect that the Commonwealth, as previous owner, does not have any continuing binding legal rights in relation to the use of the land in issue. In particular, we have been advised that the Commonwealth does not have any legal right as previous owner to require the Point Peron land to be kept as a reserve.

As previous owner, the Commonwealth makes no objection to the conversion to freehold of the Point Peron land referred to in your letter. Of course, this Department has not made any review of whether the carrying out of your proposal will come within any of the provisions of the *Environment Protection and Biodiversity Conservation Act 1999*. Nothing said in this letter should be taken to provide a clearance - if any - required under that Act.

In light of this advice, we have not liaised with other interested parties in the Commonwealth as envisaged in our interim letter to you of 21 September 2000.

I hope this clarifies the Commonwealth's position in relation to this matter.

Yours sincerely



Sue Baker
Director
Public Interest Estate
Portfolio Management Branch
Property Group
30 November 2000