

**Senate Standing Committee on Education and Employment**

**QUESTIONS ON NOTICE  
Additional Estimates 2013-2014**

**Agency - Fair Work Building & Construction**

**Department of Employment Question No. EM0499\_14**

**Senator McKenzie provided in writing.**

**Question**

**FWBC - Victorian Desalination Plant**

In relation to the Victorian Desalination Plant project:

- Did the agency receive any advice on the reasonable prospects of success on taking a prosecution?
- When was this advice sought?
- When was this advice received?
- From whom was advice sought?
- Did the agency advise Thiess Degremont that there was insufficient evidence to support a successful prosecution? Why?
- Does the Director believe that there is enough evidence to take a prosecution?

**Answer**

FWBC sought advice on reasonable prospects of success for possible contraventions of s 421 and s 50 of the *Fair Work Act 2009* from Clayton Utz Solicitors. The advice was sought on 29 June 2011. This advice was received on 19 July 2011.

At the time, Senior Counsel Justin Bourke and Barrister Robyn Sweet agreed with the advice that there was a reasonable prospect of success.

FWBC is unaware of any advice given to Thiess Degremont on whether there was insufficient evidence to take a prosecution.

This is currently the subject of an internal inquiry.

The Director has sought legal advice on this matter.