

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
BUDGET ESTIMATES 2014-15

Finance Portfolio

Department/Agency: Finance

Outcome/Program: 2/2.2

Topic: Application of section 207C of EPBC Act 1999

Senator: Ludlam

Question reference number: F58

Type of question: Hansard, F&PA Committee, Page 51, 29 May 2014

Date set by the committee for the return of answer: Friday, 11 July 2014

Number of pages: 1

Question:

Senator LUDLAM: I recommend it. It is a gorgeous part of the world. Can you take on notice for us, or if you happen to have it to hand in your folder, how that advice and that letter from 2000 squares with section 207C of the EPBC Act, which was obviously introduced in 1999? Section 207C, which is about the sale or lease of Commonwealth land containing critical habitat, appears to be retrospective. Can I get a sense from you, please, whether you have examined that issue in the light of that letter that you tabled for us?

Mr Owens: We have not examined specifically whether section 207C would apply to a transfer of land made some 35 years before the act. We have received no advice that that or any other legislation would be retrospective in that way. But it is not something we have looked at, to be honest.

...

Mr Owens: To correct my statement before, we have looked at this question that you raised about section 207C. The advice to us is that the legislation does not apply retrospectively to the 1964 transfer. That is the advice we have. We will take on notice whether we can make that available.

...

Senator Ronaldson: We will take on notice whether we can provide it to you, not whether we will provide it to you.

Answer:

The legal advice referred to in the November 2000 letter from the Department of Finance to the WA Department of Transport did not address implications arising from section 207C of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (*the EPBC Act*) to the Point Peron land transfer.

Finance has not obtained specific legal advice regarding section 207 of the *EPBC Act*, which deals with the sale or lease of Commonwealth land containing critical habitat. However, Finance understands that it is not possible to apply the legislation retrospectively so section 207 of the EPBC Act cannot be used to apply a covenant to the 1964 Point Peron land transfer.

Finance understands that the Mangles Bay Marina Development proposal will need to be assessed under the EPBC Act to ensure all relevant environmental impacts are considered.