

## QUESTION TAKEN ON NOTICE

### SUPPLEMENTARY BUDGET ESTIMATES HEARING : 17 October 2016

#### IMMIGRATION AND BORDER PROTECTION PORTFOLIO

#### (SE16/010) - Resettlement - Programme 1.5: IMA Offshore Management

Senator McKim, Nick (L&CA 49/50) asked:

Senator McKIM: Is the department currently working on a resettlement plan?

Mr Pezzullo: As I have already indicated in evidence, and as Mr Dutton, the Prime Minister and others have indicated, we are working actively with a number of potential third country resettlement locations, as well as our partners in PNG, and Nauru for that matter I should add, on the resettlement of those found to be owed protection in either PNG or in Nauru.

Senator McKIM: Which is the overwhelming majority of people in both.

Mr Pezzullo: It is a very significant proportion, yes.

Senator McKIM: Which countries are you in discussion with?

Mr Pezzullo: I am not at liberty to disclose that.

Senator McKIM: On what basis are you refusing to answer that question?

Mr Pezzullo: It would not be in the public interest and I would, through the minister, seek advice from the minister. Certainly my advice to her would be that it would not be in keeping with interests of Australia's foreign relations to disclose those specific negotiations. I am willing to seek, through the minister, a public interest immunity claim.

Senator McKIM: I think you will have to do better than simply make the claim. I think you would need to substantiate, in fact, why.

Mr Pezzullo: I understand how to make a claim.

Senator Cash: I think the secretary has just articulated what the basis for that claim would be. I would endorse the secretary's comments.

Senator McKIM: Neither of you have yet actually articulated why you believe that it would not be in Australia's interests.

Senator Pratt interjecting—

Senator McKIM: I would give you the opportunity to do that now, considering you are refusing to answer questions from a senate committee.

CHAIR: We went through this with Operation Sovereign Borders many committee's ago, when sovereign border first started, and the committee then accepted the reason. This, perhaps, is not directly sovereign borders—

Mr Pezzullo: Chair, I would contend that it is an extension of both claims made by former Minister Morrison and by Minister Dutton. Through Minister Cash, I am very willing to and, indeed, inclined to go through the minister to Minister Dutton for him to, if he feels it required, add to his previous claim of public interest immunity. The harm would be in the general area of infringement and harm to our foreign relations. I will use that as a summary to address Senator Pratt's interjection. Obviously, a PII claim would go to those matters in more detail in its written form. The question has just been asked and I am invoking immunity, as it were, on the run. Minister Dutton would have to consider that as the substantive minister. I think I heard Minister Cash say that she was sympathetic to it.

CHAIR: Perhaps the easiest way to deal with this is to take it on notice and the claim can come through later. I am satisfied and satisfied from the time when we dealt with this in some length when General Campbell was in charge and made the claim. I accept that other senators may not

have been here but I am happy to deliberate upon that when it is made. I think the easiest way is to take it on notice at the moment and come back and we will deal with that.

Mr Pezzullo: Thank you for your counsel, Chair.

CHAIR: To me it is an open and shut case.

Senator KIM CARR: It is a requirement to state reasons.

Mr Pezzullo: Yes.

Senator Cash: We will take it on notice at this stage and see what we can come back to you with. It may well be that the minister determines that it will be a public interest immunity claim based on what you heard Senator Macdonald say. I will take it on notice and make enquiries with the minister's office.

Senator McKIM: To be clear, Senator Cash, you are committing to come back to this committee with an argument that seeks to substantiate your public interest immunity claim?

Senator Cash: No, I said we will take it on notice to see what the minister would like to do in the event that there is a public interest immunity claim or, alternatively, if we are able to provide you with further information. But I cannot provide you with that information at the table at this point in time.

*Answer:*

The Department is unable to provide a response to these questions as the answers derive from information subject to the Public Interest Immunity claim made by the Hon Peter Dutton MP, Minister for Immigration and Border Protection on 17 October 2016.

The letters to the Clerk of the Senate, signed by Minister Dutton and Senator the Hon Michaelia Cash, Minister for Employment, Minister for Women, Minister Assisting the Prime Minister for the Public Service was tabled with the Chair of the Committee and the Clerk of the Senate on Friday, 21 October 2016.