

Subject: FW: Privileged & confidential: Standing Committee on Public Administration, Inquiry into Private Property Rights

From: Graeme Gammie
Sent: Friday, 31 July 2020 2:40 PM
To: Penman, Lisa
Subject: RE: Privileged & confidential: Standing Committee on Public Administration, Inquiry into Private Property Rights

Dear Ms Penman

Thank you for your email.

By way of definition and clarification, if a person seeks to make a change on the land title register relating to the ownership of the land within the register or any interest in it then they must do so in accordance with the provisions of the *Transfer of Land Act 1893* (TLA). The prescribed fee for lodgement of such is \$178.20.

The nature of the interests that I am referring to here are broadly those that relate to the sale and purchase of land. For example, a transfer, mortgage, discharge of mortgage, caveat, lease, sublease, easement or covenant are the main interests recorded.

In the case where an agency is seeking to protect an interest in the land which it has by virtue of its own legislation then the process of registering a new interest on a certificate of title is governed by the relevant legislation administered by the agency. However, that process follows same process as is contained in the TLA. The relevant legislation would first have to enable the lodgement of a document at the land registry whether that be in the form of a caveat, notification, memorial or other instrument as set out in the legislation. By way of example, *Heritage Act 2018* provides for the lodgement of a memorial on a title when the Minister for Heritage enters a place in the State Register (of heritage places). The purpose of the memorial is to alert owners and/or people who may be interested in acquiring the property that it is entered in the State Register, the reasons for its entry, and the Heritage Council will need to be consulted on any proposed changes to the place. The Heritage Council pays the normal document lodgement fee to Landgate when it lodges its memorial. Likewise, if the property is removed from the State Register, the Heritage Council will lodge a document to lift the memorial and pay the lodgement fee.

The general caveat provisions comprised in the TLA are not used for the purpose of protecting interests created under other legislation. This is primarily because the legislation creating the interest must also have a provision in it enabling registration of a document specific to protecting that interest. The cost of lodgement of the document supporting that interest is applicable prescribed fee for lodgement of instruments which currently stands at \$178.20. The registration of an interest on the certificate of title may not be undertaken by the agency who has the interest itself. Rather, the legislation may require an affected party to lodge the relevant document at Landgate.

I hope this assists with your question, but please don't hesitate to contact me if you need anything further

Kind regards

Graeme

Graeme Gammie | Chief Executive
Landgate
1 Midland Square, Midland WA 6056
w landgate.wa.gov.au

