



Minister for Transport; Planning

Our ref: 72-21404

Hon Adele Farina MLC
Chair
Standing Committee on Public Administration
lcpac@parliament.wa.gov.au



Dear Ms Farina

INQUIRY INTO PRIVATE PROPERTY RIGHTS

Thank you for your correspondence dated 5 September 2019 regarding the Inquiry into Private Property Rights. The position regarding the Transport Portfolio is as follows: -

Public Transport Authority (PTA)

The PTA does not offer the opportunity of, nor create, any private property rights when allowing third parties to use or access its land. If access is provided to land it is facilitated by the provision of a licence. When the licence term ends, or the licence is terminated, this occurs within the terms of the licence and compensation is not payable.

Main Roads Western Australia

Main Roads has more than 280 licences, leases, permits and the like in relation to land acquired for future roads and land owned in freehold by or vested in the Commissioner of Main Roads for operational purposes. Main Roads enters into licences, leases, permits and the like using either the powers of the *Main Roads Act 1930* or powers delegated to the Executive Director Finance and Commercial Services under the *Land Administration Act 1997*. None of Main Roads' licences, leases, or permits create in the holder of that licence or authority a private property right, or give rise to a right of compensation. Additionally, all of Main Roads' licences and leases include 6-month break clauses to ensure the rights of the State are protected.

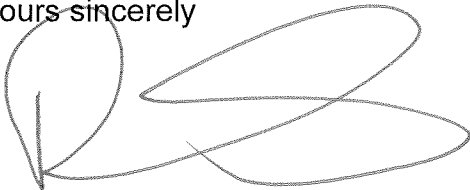
Department of Transport

For the sake of completeness all the relevant legislation that the Director General assists the Minister for Transport to administer is set out on the attached Schedule. It will be noted that it is only the lease of a public jetty, under the *Jetties Act 1926*; the lease of Land under the *Marine and Harbour Act 1981* and the right to display 'optional' number plates under the *Road Traffic (Vehicles) Act 2012* that give rise to private property rights. In the event that a right is terminated without just cause the right holder may pursue its remedies at common law.

Department of Planning, Lands and Heritage (DPLH)

DPLH is involved with issuing a range of land-based licences and authorities under the terms of various statutes it administers. In relation to DPLH's role in administering the *Planning and Development Act 2005*, this does not typically involve the issue of licences or other authorities that create property rights.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a series of loops and a long horizontal stroke.

**HON RITA SAFFIOTI MLA
MINISTER FOR TRANSPORT; PLANNING**

Encl.

15 OCT 2019

Standing Committee on Public Administration - Inquiry into Private Property Rights

Government issued licences and authorities that are issuable under Transport and Planning Portfolio areas of responsibility

Agency	Address	Description	Does the licence or authority create a private property right?	Legislative head of power	Does the restriction or cancellation of the licence and authority gives rise to a right of compensation?	How is the quantum of compensation determined, and the process for determining it?
DoT	140 William Street, Perth	Mooring licence	No	Western Australian Marine Act 1982 - s.65	No	N/a
DoT	140 William Street, Perth	CEO may exempt person or vessel from closure of waters	No	Western Australian Marine Act 1982 - s.66	No	N/a
DoT	140 William Street, Perth	Licence to run a vessel hire & drive operation	No	Western Australian Marine Act 1982 - s.54	No	N/a
DoT	140 William Street, Perth	Licence to hire out hire-and-drive vessel	No	W.A. Marine (Hire and Drive Vessels) Regulations 1983 - reg 4	No	N/a
DoT	140 William Street, Perth	Certificate of competency	No	Western Australian Marine Act 1982 - s.9 + s.13	No	N/a
DoT	140 William Street, Perth	Safety manning exemption	No	W.A. Marine (Certificates of Competency and Safety Manning) Regulations 1983 - reg 28A	No	N/a
DoT	140 William Street, Perth	Certificate of survey	No	Western Australian Marine Act 1982 - s.24 + s.26	No	N/a
DoT	140 William Street, Perth	CEO may exempt vessel if compliance unreasonable/impractical	No	Western Australian Marine Act 1982 s.115A	No	N/a
DoT	140 William Street, Perth	CEO may licence person as compass adjuster	No	Western Australian (Adjustment of Compasses) Regulations 1983 - reg 5	No	N/a
DoT	140 William Street, Perth	On-demand booking service authorisation	No	Transport (Road Passenger Services) Act - s.31	No	N/a
DoT	140 William Street, Perth	Regular passenger transport services authorisation	No	Transport (Road Passenger Services) Act - s.63	No	N/a
DoT	140 William Street, Perth	Licence to erect or construct or maintain or use a jetty	No	Jetties Act 1926 - s.7 (see also s.13 as to Ports)	No	N/a
DoT	140 William Street, Perth	Misc authorities to use govt facilities	No	Jetties Act 1926 - s.5	No	N/a
DoT	140 William Street, Perth	Lease of a public jetty	Yes	Jetties Act 1926 - s.6	Yes, if there is a breach of contract	Negotiation/Court
DoT	140 William Street, Perth	Lease of land	Yes	Marine and Harbours Act 1981	Yes, if there is a breach of contract	Negotiation/ Court
DoT	140 William Street, Perth	Permission to park vehicle on Dept land	No	Marine and Harbours (Departmental Areas) Regs 1998 - reg 3	No	N/a
DoT	140 William Street, Perth	Permission to drive/ride vehicle on Dept land	No	Marine and Harbours (Departmental Areas) Regs 1998 - reg 4	No	N/a
DoT	140 William Street, Perth	Permission for vessel to enter/remain in reserved/prohibited waters	No	Marine and Harbours (Departmental Areas) Regs 1998 - reg 6	No	N/a
DoT	140 William Street, Perth	Permission to have animal on Dept jetty	No	Marine and Harbours (Departmental Areas) Regs 1998 - reg 7	No	N/a
DoT	140 William Street, Perth	Permission to install or operate fuelling structures	No	Marine and Harbours (Fuelling) Regs 1985 - reg 3	No	N/a
DoT	140 William Street, Perth	Licence to park in the Perth parking management area	No	Perth Parking Management Act 1999 - s.9	No	N/a
DoT	140 William Street, Perth	Accreditation for railway operators	No	Rail Safety National Law (WA) Act 2015 - s.69	No	N/a
DoT	140 William Street, Perth	Registration for managers of private railway sidings	No	Rail Safety National Law (WA) Act 2015 - s.86	No	N/a
DoT	140 William Street, Perth	Minister's exemptions from provisions	No	Rail Safety National Law (WA) Act 2015 - s.203	No	N/a
NRSR	L6, 2 Mill Street, Perth	National Rail Safety Regulator's exemptions from provisions	No	Rail Safety National Law (WA) Act 2015 - s.205	No	N/a
DoT	140 William Street, Perth	Licence to pilot shipping	No	Shipping and Pilotage Act 1967 - s.9	No	N/a
DoT	140 William Street, Perth	Pilotage exemption certificates	No	Shipping and Pilotage Act 1967 - s.9	No	N/a
DoT	140 William Street, Perth	Exemption from regulation provisions	No	Shipping and Pilotage Act 1967 - s.12	No	N/a
DoT	140 William Street, Perth	Registerable vessels to be registered if in navigable waters	No	Navigable Waters Regulations 1958 - reg 45B	No	N/a
DoT	140 William Street, Perth	Recreational skipper's ticket	No	Navigable Waters Regulations 1958 - reg 47C	No	N/a
DoT	140 William Street, Perth	Exclusive use of berth at public Jetty (Port of Perth)	No	Navigable Waters Regulations 1958 - reg 57	No	N/a
DoT	140 William Street, Perth	Licences for certain public vehicles	No	Transport Co-ordination Act 1966 - s.20 (also s.33, s.42C, s.43, s.47AA, s.47B)	No	N/a
DoT	140 William Street, Perth	Ministerial exemptions from provisions	No	Transport Co-ordination Act 1966 - s.19	No	N/a
DoT	140 William Street, Perth	Governor in Council may exempt from s.34	No	Transport Co-ordination Act 1966 - s.34	No	N/a
DoT	140 William Street, Perth	Minister may permit deviations from aircraft licence	No	Transport Co-ordination Act 1966 - s.43B	No	N/a
DoT	140 William Street, Perth	Minister may permit deviations from ferry licence	No	Transport Co-ordination Act 1966 - s.47AB	No	N/a
DoT	140 William Street, Perth	Minister may declare provisions don't apply to certain ships	No	Transport Co-ordination Act 1966 - s.47A	No	N/a
DoT	140 William Street, Perth	Licence to act as driving instructor	No	Motor Vehicles Drivers Instructors Act 1963 - s.6	No	N/a
DoT	140 William Street, Perth	Exemption from Act provisions	No	Motor Vehicles Drivers Instructors Act 1963 - s.14	No	N/a
DoT	140 William Street, Perth	Licences (etc.) to drive a motor vehicle on a road	No	Road Traffic (Authorisation to Drive) Act 2008 - s.4	No	N/a
DoT	140 William Street, Perth	A vehicle licence is required for a vehicle of a prescribed class	No	Road Traffic (Vehicles) Act 2012 - s.4	No	N/a
DoT	140 William Street, Perth	Permit for driving unlicensed vehicle	No	Road Traffic (Vehicles) Act 2012 - s.13	No	N/a
DoT	140 William Street, Perth	Accreditation to certify vehicles	No	Road Traffic (Vehicles) Act 2012 - s.44	No	N/a
DoT	140 William Street, Perth	Regs can provide for CEO exemptions from regs made under s.132(2)(b)	No	Road Traffic (Vehicles) Act 2012 - s.133	No	N/a
DoT	140 William Street, Perth	CEO exemptions from a reg provision	No	Road Traffic (Vehicles) Regs - reg 462	No	N/a
DoT	140 William Street, Perth	Minister's declaration that a provision does not apply	No	Road Traffic (Vehicles) Regs - reg 457	No	N/a
DoT	140 William Street, Perth	Right to display certain vehicle number plates	Yes, if there is a sale.	Road Traffic (Vehicles) Act 2012 - s.136	Yes, if there is a breach of contract. Possibly not where cancellation follows charges remaining unpaid.	Negotiation/court