



**MINISTER FOR TOURISM; RACING AND GAMING; SMALL BUSINESS;
DEFENCE ISSUES; CITIZENSHIP AND MULTICULTURAL INTERESTS**

Our Ref: 70-17163

Hon Adele Farina MLC
Chair
Standing Committee on Public Administration
Legislative Council Committee Office
18-32 Parliament Place
WEST PERTH WA 6005



Dear Ms Farina

INQUIRY INTO PRIVATE PROPERTY RIGHTS

I refer to your correspondence dated 5 September 2019 seeking information on all government-issued licences and authorities issuable under my portfolio areas of responsibility, in respect to the recognition of property rights. I apologise for the delay in responding to your request and thank you for allowing me a short extension.

In relation to the Small Business portfolio, the Small Business Development Corporation (SBDC) has advised that, although unlikely to confer property rights within the Inquiry's scope, it provides the following two authorities in its normal course of business:

- On behalf of the Government of Western Australia, the SBDC's Business Migration Centre is responsible for approving State nomination to applications for provisional and permanent business visas. Without this State nomination, prospective business migrants are unable to apply for a business visa from the Federal Department of Home Affairs to move to Western Australia.
- Under section 25C of the *Commercial Tenancy (Retail Shops) Agreements Act 1985*, the Small Business Commissioner must issue a certificate to a person who may, under this Act, make an application, referral or submission to the State Administrative Tribunal (SAT) if satisfied that:
 - the matter is unlikely to be resolved with the assistance of alternative dispute resolution (as provided by the SBDC);
 - it would not be reasonable to commence an alternative dispute resolution proceeding in respect of the matter; or
 - alternative dispute resolution has failed to resolve the matter.

Without exploring what private property legally encompasses, the SBDC considers that neither a State nomination for a business visa nor the issuing of a SAT Certificate would confer a private property right in a legal sense.

I can further advise that in relation other portfolios under my responsibility, there is nil to report for this Inquiry.

The Department of Jobs, Tourism, Science and Innovation has advised that there are currently no government-issued licences and authorities which are issuable under its portfolio areas of responsibility. The Department has noted however that the Standing Committee's request is broad, and may be relevant to some approvals or consents that the Department issues under State Agreements or Development Agreements. Clarification of the intent of the Committee's request may assist with this. State Agreements and Development Agreements do not fall under my portfolio responsibilities for your information.

Yours sincerely



HON PAUL PAPALIA CSC MLA
MINISTER FOR SMALL BUSINESS

26 SEP 2019