

## QUESTION ON NOTICE

No. 836

asked on Wednesday, 24 May 2006

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MS LEE LONG ASKED THE MINISTER FOR NATURAL RESOURCES, MINES AND WATER (MR PALASZCZUK)—

QUESTION:

With reference to water licences in Queensland—

Were water licences, including those held by farmers and primary producers, automatically converted to “Tenants in Common” titles on 1 July 2005 even if the land they were connected to prior to that date was held as “Joint Tenants”; if so, why were water titles not issued in the same tenancy as that of the land title that the water title derived from?

ANSWER:

The conversion of water entitlements to tradable water allocations is effected through Resource Operations Plans (“ROP”) that are prepared to implement Water Resource Plans. The ROP contains a schedule that specifies the details of each conversion to a water allocation, including the details of the ownership of each allocation.

It is, of course, recognised that joint holders of converting entitlements might wish to hold their water allocation differently from the default holding provided in the legislation. For this reason, the statutory provisions allow for the converting entitlement holders to specify the way in which they wish to have their interests recorded. This is done by giving notice to the Department of Natural Resources, Mines and Water prior to the final ROP.

Entitlement holders are given ample opportunity to consider their position and to give this notice to the Department in a timely manner.

Firstly, at the time when the draft ROP is released for public comment, the converting entitlement holders are sent individually prepared information packs specifically covering their proposed allocation, with advice to seek legal advice as warranted. The information includes advice as to the default tenancy in common, and provides the particular form on which the holders are required to give notice of any modification to the holding of the allocation.

Secondly, the public notice of the Draft ROP, in which submissions about the draft are invited, includes advice to converting entitlement holders to contact the Department about the way in which their interests in the proposed allocation are to be recorded on the Register.

The latter measure is a safety net that operates in particular for those entitlement holders who might not have received the individually presented information, as is likely to be the case if they had not updated their contact details with the Department.

Upon the commencement of the ROP, each water allocation in the schedule is registered on the Water Allocation Register, which is the “water” equivalent of the Land Titles Register.

For allocations that are held by joint parties, the *Water Act 2000* provides specifically that the holding will be registered as Tenants in Common in equal shares, by default, unless the holders give prior notice to the Department of their requirement to hold the allocation differently.

The rationale for this default position is principally that the holders of converting entitlements do not necessarily have interests in the land, to which the converting entitlement attaches, registered on the Land Title Register. It is also recognised that a water allocation does not attach to land, so that it is not imperative for joint holders to hold the allocation in the interests that equate to their land interests. Therefore the Department could not simply equate land ownership with ownership of the new water allocations.

It is acknowledged that some converting entitlement holders may miss the opportunity to specify their interests in their allocation differently from the default position. However, the Department does all that it reasonably can to ensure that all such holders are informed of the arrangements and their options.