

COMMENTARY 1.0 WAMA Office

LEGAL ADVICE OBTAINED BY THE DEPARTMENT

REFERENCE: Article published in the West Australian December 13, 2010 "Crackdown on mooring sales"

The article states:

" New legal advice obtained by the department means that moorings that had been selling privately for up to \$30,000 in the Swan River can now be sold for no more than \$5000 - the value of their chains and buoys. Selling a mooring privately will soon become illegal with mooring licence holders automatically losing their moorings if they no longer own a boat."

"The tightened regulations have been brought into force in the Swan and Canning rivers but Department of Transport navigational safety compliance manager Ray Buchholz said the rules would eventually be extended to cover an estimated 4500 private moorings Statewide.

The department could no longer turn a blind eye to the illegal practice of owners sub-letting their moorings and the department was keen to end the use of moorings as investments.

Mr Buchholz said if nothing was done to enforce the regulations the department feared river moorings could be selling for up to \$100,000 in the next boom. Boat owners unable to buy a mooring have been paying mooring licence holders rents starting at \$30 a week." (*End of newspaper article.*)

Comments and Questions

In December 2010 there was no proclaimed change to the Mooring Regulations 1998. The Department appears to have re-interpreted the existing regulations that had been in operation since 1998.

The following questions need to be clearly answered by the Department.

What is the '**New legal advice**' obtained by the department? Will the department release that new legal advice to the public for assessment? If the legal advice is not released why will it not be released?

What is the authority under which the Department could restrict the sale price of mooring apparatus which is classified as private or personal property?

Under what authority is the following statement made? "Selling a mooring privately will soon become illegal with mooring licence holders automatically losing their moorings if they no longer own a boat."

What is the statutory or regulatory authority that determined that the subletting of moorings is illegal?

On what basis was it determined that a mooring in the Swan or Canning River could sell for up to \$100,000 in the next boom?

How does a weekly rental of \$30 relate to a mooring sale price of \$30,000?

WAMA Office June 2015