



E-MAILED
02/10/19

Hon Peter Tinley AM MLA

Minister for Housing; Veterans Issues; Youth; Asian Engagement

Our Ref: 73-08740

Your Ref: A776144

Hon Adele Farina MLC
Chair, Standing Committee on Public Administration
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005



Dear Ms Farina

Adele,
Thank you for your letter dated 5 September 2019 regarding the Standing Committee on Public Administration – Inquiry into Private Property Rights.

Your correspondence requests further information in relation to the above inquiry, specifically regarding the recognition of the property rights of government issued licences and authorities that are issued under my portfolio.

In this regard, the activities of the Department of Communities, in its capacity as the Housing Authority, relate to the issue of two types of approval or licence, as outlined below.

Development approvals

Development approvals are issued by the Housing Authority under delegation from the Western Australian Planning Scheme (WAPC) where a region scheme is in effect. This delegated authority applies only to applications where they are:

- Undertaken by, or on behalf of, the Housing Authority;
- Proposing construction of housing being no greater than two storeys and ten dwellings; and
- In strict compliance with the applicable local planning scheme.

There are only limited circumstances where an enduring encumbrance is applied to the property associated with the development approval process, being; notifications on title related to aircraft noise, road and rail noise, and the use of a dwelling for aged or dependent persons. These conditions align with the provisions of the WAPC's State Planning Policy 5.1 – Land Use Planning in the Vicinity of Perth Airport; State Planning Policy 5.4 – Road and Rail Noise; and State Planning Policy 7.3 – Residential Design Codes Volumes 1 and 2 respectively.

Any issues of non-compliance are related to the head powers of the *Planning and Development Act 2005* and the applicable region scheme under which the delegation was made.

Building permits

The Housing Authority has delegation as a Permit Authority, pursuant to the Western Australian *Building Act 2011*. These permits are limited to the construction of buildings or incidental structures that are owned or occupied, or under control of, the Housing Authority.

Additional information

Other activities of the Housing Authority which may have an effect on private property rights include:

- Creation of land in the form of freehold or strata titles which are approved by the WAPC (*Planning and Development Act 2005, Strata Titles Act 1985*);
- On occasion applying a caveat to reflect a financial interest, or a memorial on title in recognition of site constraints, such as contamination (*Planning and Development Act 2005, Contaminated Sites Act 2006*); and
- Entering into leases or commercial arrangements by agreement with a landowner (*Housing Act 1980*).

Beyond the above, the Housing Authority does not have any additional powers or activities that can be restricted, cancelled or give rise to compensation to private property owners.

Thank you for bringing this matter to my attention. If you have any further queries in relation to Housing Authority activities, please contact Ms Lauren Aitken, Strategic Planner, at the Department of Communities by telephone on (08) 9222 4832 or by email at (Lauren.Aitken@communities.wa.gov.au).

Yours sincerely



HON PETER TINLEY AM MLA
MINISTER FOR HOUSING

- 2 OCT 2019