

Curtin University of Technology

Department of Planning

Faculty of Built Environment, Art and Design

ENVIRONMENTAL PLANNING LAW 413/512

TUTORIAL 5 - DEVELOPMENT CONTROL ISSUES

General Scope of Topic

Development Control Issues; R-Codes; Building and Other Controls

Topic

1. Explain by reference to the Development Control provisions in any of the City of Belmont TPS 14, the City of Canning TPS 40 or the City of Swan TPS 9, or the Model Scheme Text, the means by which local governments seek to ensure through their planning schemes that development is not commenced or carried out without planning approval.
2. If development is commenced or carried out without prior planning approval, explain by reference to the provisions of one of the Schemes mentioned above and the provisions of the Planning and Development Act 2005:
 - (a) What remedies would be available to the local government to enforce compliance with its Scheme?
 - (b) What steps you would need to take in order to compel compliance with the Scheme, assuming that the developer fails to comply with any written notice or direction issued by the local government?
 - (c) Assuming you have forced compliance with the Scheme and terminated the unlawful development, and assuming that the development is half completed, what course is open to the landowner and developer at that time to obtain planning approval and make the development lawful?
3. Explain the means adopted to give force and effect to the R-Codes in relation to residential development under local government planning schemes.

Explain the provisions in the P&D Act 2005, the R-Codes Statement of Planning Policy, and one of the planning schemes referred to above.
4. Assuming you act for a landowner who wishes to commence development of a building as soon as possible.
 - (a) Is it possible to apply for a building licence before planning approval has been given and if you believe it is, explain your reasoning for that conclusion?
 - (b) Can a building licence be obtained once a building has been erected without a building licence first having been issued? Explain your reasoning.
 - (c) If a landowner manages to obtain a building licence and carries out the building in accordance with the building licence, but does not have a planning approval required under the relevant local government scheme, does the issuing of the building licence make the development lawful for all purposes including planning purposes? Explain the reasoning behind your answer.