

LOT 97 HESTIA WAY, SAN REMO - BUILDING LICENCE

1203. Dr S.C. Thomas to the Parliamentary Secretary representing the Minister for Local Government and Regional Development; Fisheries; the Kimberley, Pilbara and Gascoyne

In response to the answer received to Question on Notice No. 855, I ask -

- (1) What was the basis of the appeal and why was it upheld?
- (2) Why was the City of Mandurah not in breach of its requirement under administrative law when it did not enforce the direction issued under 401(1)(A) of the *Local Government (Miscellaneous Provisions) Act 1960* on 26 April 1990?

Mr M.P. MURRAY replied:

1. The property was sold to new owners in 1991.  
  
The new owners were served with a notice under section 401(1)(b) in June 2002, some 11 years after purchasing the property. The new owners were not aware that the previous owner had departed from the approved plans and specifications.  
  
The basis of the appeal to the Minister was that it would be unfair to punish the new owners for something which they did not cause or contribute to. In making his decision to uphold the appeal, the Acting Minister was mindful that the City was aware of the situation for some twelve years before it decided to serve a notice for the departure from the approved plans and specifications.
2. The direction of 26 April 1990 was issued under section 401(1)(a) of the Local Government (Miscellaneous Provisions) Act 1960. The wording of section 401(7) of the Local Government (Miscellaneous Provisions) Act 1960 enabled any further enforcement action to be at the discretion of the City.