

Unauthorised Building Work

What is an Unauthorised Building?

Building works that have been undertaken without first having the appropriate Building Permit issued. Building works include the construction or alteration of a building not exempted by the Building Regulations 2012. Building work also includes the construction of retaining walls greater than 500mm high, swimming pools and spas (including above ground/ portable/cabinet style units).

How do I know if a building has the necessary approval?

To check a building on your property has an approval, contact the City's Customer Services staff to arrange a search of City's records. This search will confirm what building work has obtained approval from the City.

To obtain this information, you must be the current owner of the land or have written consent from the current owner. There is a charge to retrieve this information from the archives. A Customer Services Officer will be able to assist in determining the appropriate fee. Contact Customer Services on (08) 9550 3777.

What are the legal requirements?

It is an offence under the *Building Act 2011* to undertake building work without first having obtained a Building Permit from the relevant Permit Authority (City of Mandurah). A breach of this requirement carries a penalty of up to \$50,000 for a first offence and penalties of up to \$100,000 and 12 months imprisonment for subsequent offences.

The Act does provide the ability for an owner to make application to the City in respect to unauthorised building work. This application requires similar but perhaps more specific documentary evidence than a normal building permit application. This process helps those owners who were honestly unaware that they had bought a property with an unauthorised structure on it and wish to legitimise the structure.

Notwithstanding that an owner may seek an approval for unauthorised building work, the City may still choose to take legal action as provided under the *Act* to ensure that the unauthorised building work obtains approval or is removed. The City may choose to take legal action in instances such as when it considers that an owner is flagrantly disregarding the requirement to obtain a building permit prior to commencing building work, or if an owner does not ensure that all the information for approval is provided in a timely manner.

What should you do if you have unauthorised building work on your property?

If you own a property that has unauthorised building work carried out on it, please submit the relevant application (as described below). The City will then assess the building against the relevant legislation and respond accordingly.

If you are considering purchasing a property, it is recommended that you request written evidence (such as a copy of the approved plans) from the current owner to show that all buildings on the property have the relevant building approval from the Local Government.

What Application do I need to get an Approval?

To obtain an approval, applicants must submit to Council's Building Services Section an "Application for Building Approval Certificate (BA13)".

Applications are preferred to be submitted electronically. On the City of Mandurah website click the "I want to" button, then the "Building Lodgements" link. Alternatively, a hard copy application may be submitted for those without access to electronic documents.

What documents need to be submitted with my Application?

Applicants for Building Approval Certificate must submit one set plans demonstrating how the structure complies with the Building Code of Australia and will generally include:

- A Certificate of Building Compliance (BA18) issued by a suitably qualified and registered Building Surveyor. To locate a Building Surveyor, you may check the register at the Building Commission, the Australian Institute of Building Surveyors or a web search.
- Site plan at a minimum scale of 1:200 indicating the location of all existing buildings (including any retaining walls) and the non-approved building(s) including setback dimensions from property boundaries, original natural ground level and finished levels of floors and surrounding ground levels referenced to a datum point. (Please note, for low lying properties, levels must reference Australian Height Datum).
- Where a building is located close to a property boundary, or if the setback of a building to a boundary is critical, a survey prepared by a licensed surveyor confirming the location of the lot boundaries and setbacks to the unauthorised building(s) will be required at the discretion of the City.
- If the property is not connected to sewer, indicate the location and setback of the effluent disposal system to any building on the property and to property boundaries. For properties connected to sewer, plans are to be endorsed or works specified by the Water Corporation and forwarded together with this application.
- Floor plans of each floor and elevations of all sides and relevant sections.
- Method of construction including structural member sizes and spacing and cladding details.
- Footing and slab details including confirmation of the installation of a water proof membrane and termite protection when required to satisfy the requirements of the Building Code of Australia.
- Drawings and a certificate endorsed by a professional engineer confirming that the building has been inspected and is structurally sound and where applicable, does not affect the structural integrity of any other existing building.
- Details showing the buildings compliance with the energy efficiency provisions of the Building Code of Australia (where appropriate).



Note: other specific information may be required following assessment of your plans by the Building Surveyor.

What fees need to be paid?

Refer to scheduled fee information for the amount to be paid on submission.

Important Notes:

An application for planning approval or to install or alter an effluent disposal system may also be required. This will be determined as part of the assessment.

Where an application is submitted that proposes any variation to the City's Town Planning Scheme, the Residential Design Codes or Local Planning Policy, an application for Development Approval will also be required to be submitted and approval obtained before the building application is able to be determined. Submission of these applications does not guarantee that your application will be approved. Different and additional fees apply to these development applications.

For further information, please contact Building Services Section on 9550 3777

