

UNAUTHORISED BUILDING WORK

What are the Legislation requirements?

It is an offence under the Local Government (Miscellaneous Provisions) Act, (The Act), to undertake building work without first having obtained a building licence from the Local Government. A breach of this requirement carries a penalty of up to \$50,000 and a daily penalty of \$5,000 for each day the offence occurs.

An amendment to the Act which came into effect on 1 July 2008, now provides an ability for an owner to make application for a "Building Approval Certificate" in respect to unauthorised building work. This application requires similar but perhaps more specific documentary evidence than a normal building application. The benefit of this new legislation is that the Local Government can now efficiently deal with unauthorised building work where in the past Local Governments have not had the legal capacity. This now in particular will help those owners who were really unaware that they had bought a property with an unauthorised structure on it.

Notwithstanding that an owner may now seek a Building Approval Certificate for unauthorised building work, the Local Government may still choose to take legal action such as that provided under sections 374 and 401 of the Act to ensure that the unauthorised building work obtains a Building Approval Certificate or is removed. The Local Government may choose to take such other legal action in instances such as when it considers that an owner is flagrantly disregarding the requirement to obtain a building approval prior to commencing building work, or if an owner does not ensure that all the information for a building approval certificate is provided in a timely manner.

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

If you are concerned that a building on your property or a property you are considering to buy does not have the necessary approval, you are advised to contact the Customer Services staff of City of Mandurah to arrange a search of City's records for all building approvals issued to that property. This search will confirm what building work has obtained a building approval from the City.

In order to obtain this information you must be the current owner of the land or have consent in writing from the current owner. There is a charge to obtain this information which will depend on the level of information you are seeking. A Customer Services Officer will be able to assist in the amount of the fee once it is clarified what amount of information is available and what is needed. Contact Customer Services on ph9550 3777.

What should you do if you do have un-authorised building work on your property?

If you own a property that does have unauthorised building work carried out on it, then please submit an "Application for Building Approval Certificate" together with the relevant plans, documents and fees. The City will then assess the building against the relevant building, planning and environmental health legislation and respond accordingly.

If you are considering purchasing a property, then it is recommended that you request written evidence from the current owner that all buildings on the property have the relevant building approval from the Local Government before settling on the property.

How will the City deal with unauthorised building work?

On receipt of an "Application for Building Approval Certificate", the City's Building Surveyor will undertake an assessment and if found that the building complies with all relevant building, planning and environmental health legislation, a Building Approval Certificate will be issued to the owner.

If the City's Building Surveyor does not receive suitable documentation or finds that the unauthorised building does not comply with the relevant building, planning or health legislation, written advice will be sent to the owner advising of what work needs to be carried out or what information needs to be submitted in order to enable the issue of a Building Approval Certificate. If this work or information is not carried out within a reasonable time, the City will determine to refuse the application. If you receive such a Notice, you would have a right to make an application to the State Administrative Tribunal to seek a review of the City's decision to refuse the application.

Enquiries

Should you have any further queries in respect to this issue, please contact a Building Surveyor from the Building Services section at the City of Mandurah on 9550 3749.