

MINOR BUILDINGS THAT MAY NOT REQUIRE A BUILDING APPROVAL

Background

The Local Government (Miscellaneous Provisions) Act 1960 requires that any structure or building requires a building approval from the relevant Local Government. These provisions, do however, include any structure, no matter how minor it is, such as a mailbox or TV antenna.

These structures are often not clearly defined in the Building Code of Australia, but when constructed they generally do not have any impact on the amenity of the area, nor do they have any negative consequences for safety or security of persons generally.

Statutory Environment

Section 374 of the Local Government (Miscellaneous Provisions) Act 1960 requires that a person seek a building approval prior to commencing with any building or amendment, alteration, extension or enlargement of a building.

Since it is inconceivable that the City would receive a building licence for every type of “building” or “structure”, and in the absence of any clear definition of building or structure, the City’s Building Surveyor may waive the requirement for a building licence for minor structures in certain circumstances.

Such as:

- 1.1 They are generally objects which when constructed, do not have any impact on the amenity of the area, nor do they have any consequences for the safety or security of persons generally.
- 1.2 In instances where the attention of the City will be drawn to minor structures which are either substandard in appearance or construction or may present a hazard to persons or property. Where that occurs, it is proposed that building surveyors may then enforce the Local Government (Miscellaneous Provisions) Act 1960 without regard for whether a minor structure has a building licence or not.
- 1.3 Equally there may be circumstances where minor structures have been constructed in breach of Planning or Health Law and again such minor structures will not be the subject of this exemption. (NB: Health issues include ensuring that structures are correctly setback from effluent disposal systems).
- 1.4 It is not proposed to require Building Surveyors to report to Council where a building surveyor has informed an applicant that the building is a minor structure and no formal application will be required but Building Surveyors will be required to make a file-note of each and every such contact. Where Building Surveyors are requested to make an inspection of a proposed building that would be classed as a minor structure, then that would automatically require a building licence application so as to at least ensure that the City does receive some revenue in return for the energies expended by the Building Surveyor. It is suggested that that is a matter left to the discretion of the Building Surveyor in question.

Examples of what may be considered as buildings or structures that may not require approval are as follows;

On property where a dwelling is already constructed within the "Residential" or "Rural Residential" zones of the City of Mandurah Town Planning Scheme No 3 or land within the "Rural", "Urban Development" or "City Centre" zone being used for residential purposes, "minor structures" may include: (NB: This does not apply to properties with boundaries abutting a canal)

- (a) A shed, cubby house and minor outbuilding less than 10 square metres in floor area;
- (b) Pergolas, including a pergola covered in battens (with gaps no less than the width of the batten), and those covered in shade cloth with an aggregate area of not more than 20 square metres;
- (c) Shade sails made from pervious cloth, with an aggregate sail area of not more than 20 square metres.

Subject to the following:

- (i) only one shed or cubby house with an area of not more than 10 square metres, and a pergola or shade sail having an aggregate area of not more than 20 square metres being erected on the property;
- (ii) the finished floor level of such minor structure is no more than 300mm above the existing ground level of the property it is being constructed on;
- (iii) sheds and cubby houses not exceeding 2.1 metres in height above the existing ground level at their highest point;
- (iv) pergolas not exceeding 2.4 metres in height above the existing ground level at their highest point;
- (v) shade sails, including the supporting poles not exceeding 3.5 metres in height above the existing natural ground level at their highest point;
- (vi) any such construction must observe proper boundary setbacks in accordance with the City of Mandurah Town Planning Scheme No 3, but in no case less than 1 metre from a side or rear boundary;
- (vii) any such structures are located at the rear of any existing dwelling on the land. For the avoidance of doubt, no minor structures are to be permitted within the standard setback to a street frontage.

Existing ground level means: The ground level of land after the construction of a dwelling and any retaining walls.

On any zoned land within the Scheme Area of the City of Mandurah Town Planning Scheme No 3, minor structures will include:-

Single tier retaining walls 500mm or less in height subject to:-

- (i) the wall being constructed out of concrete or masonry or some other durable material approved by the Building Surveyor. (NB: timber is not considered a durable material);
- (ii) the wall being constructed to the specification of the relevant manufacturer and/or supervising engineer;
- (iii) the construction and design where relevant be in accordance with an appropriate Australian Standard;

- (iv) the retaining wall does not undermine or impose a surcharge load onto any other structure on any property;
 - (v) the wall being at least 6 metres from a canal wall.
 - (a) Fences of 1.8 metres or less in height subject to:-
 - (i) the fence not being within the minimum setback to a street alignment specified in Table 1 of the Statement Planning Policy (“the R Codes”).
 - (ii) the fence having been constructed of such materials and to a height as are acceptable under the City of Mandurah’s Local Planning Policy No 1-Part F, Consolidated Local Laws and Development Services Working Practices DES-WP7, but in no instance more than 1.8 metres in height.
- NB:** Refer to the City’s Local Planning Policies and Consolidated Local Law in respect to suitable fencing.
- (b) One letterbox within the front setback area within the property boundary, not more than 1.2 metres in height. A letter box may be at a higher level where incorporated into a fence that complies with the City’s Fencing Policies and Local Laws.
 - (d) One satellite dish or microwave antenna having a diameter not greater than 1.0m or a surface area not exceeding 0.8m² subject to:
 - (i) **On a pitched roof**
No part of the satellite dish or microwave antenna extends above the apex or ridgeline of the part of the roof that it is placed on and it is suitably screened from the primary street;
 - (ii) **On a flat roof**
No part of the satellite dish or microwave antenna extends greater than 1.5m above the roof or nearest adjacent parapet and is setback at least 3m in from every edge of the roof;
 - (iii) **Ground mounted**
No part of the satellite dish or microwave antenna (or its supporting structure if applicable) extends greater than 3.5m above the finished ground level and is setback behind the primary street setback line and at least 3m from rear, side and secondary street boundaries except where specified below;
 - (iv) The satellite dish and microwave antenna being installed in accordance with the manufacturers specifications and so as not to impair the structural integrity of any existing building to which it is attached; and
 - (v) The operation of the satellite dish and microwave antenna is not to affect the reception of surrounding radio and television appliances.

NB: Greater setback requirements from side and rear boundaries:

Greater setbacks from boundaries are required for properties such as canal properties, properties that abut a foreshore or reserve, rural and rural residential lots, properties that have a landscape or other buffer, or a prescribed building envelope. Applicants will be required to ensure that the proposed setback of a satellite dish or microwave antenna is suitable by contacting the City’s Development Services prior to its erection.

- (e) A television aerial/antenna which does not exceed 3 metres above the peak of the roof (when mounted on the roof), or an aerial/antenna, mast or flagpole which does not exceed 3.5 metres above the natural ground level (when mounted on the ground), subject to:
- (i) No part of the aerial/antenna, mast or flagpole being closer than 3 metres from any side or rear boundary except where specified below;
 - (ii) The aerial/antenna being installed in accordance with the manufacturers specification and so as not to impair the structural integrity of any existing building to which it is attached; and
 - (iii) The operation of the aerial/antenna not affecting the reception of radio and television appliances.

NB: Greater setback requirements from side and rear boundaries:

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- (f) Water tanks that do not exceed 92000 litres on residential properties zoned R5 or lower and 2500 litres on properties zoned R5 to R60 subject to:-
- (i) the base of the tank being mounted at the finished ground level or within 300mm above the finished ground level on a purpose built stand;
 - (ii) the sand pad supporting the tank being of suitable dimension, properly compacted and being stabilised to ensure prevention of any slip or erosion to the specification of the relevant manufacturer or supervising engineer;
 - (iii) the base of the tank not being below ground level;
 - (iv) must observe proper boundary setbacks in accordance with the City of Mandurah Town Planning Scheme No 3;
 - (v) the tanks being filled with water immediately to the manufacturers or supervising engineer's direction
 - (vi) The maximum height of the tank above the finished ground level on residential properties zoned R5 or lower is 3 metres and on properties zoned R5 to R 60 is 2.1 metres.

The following practice was endorsed by Council, at its November 2002 Ordinary Council meeting.

The City's Building Surveyor may determine that the obligation under the Local Government (Miscellaneous Provisions) Act 1960 to obtain a building licence may not be required for what are often things which are not clearly defined in the Building Code of Australia on the basis that:

- 1. They are generally objects which when constructed, do not have any impact on the amenity of the area, nor do they have any consequences for the safety or security of persons generally.**
- 2. In instances where the attention of the City will be drawn to minor structures which are either substandard in appearance or construction or may present a hazard to persons or property. Where that occurs, it is proposed that Building Surveyors may then enforce the Local Government (Miscellaneous Provisions) Act 1960 without regard for whether a minor structure has a building licence or not.**
- 3. Equally there may be circumstances where minor structures have been constructed in breach of Planning or Health Law and again such minor structures will not be the subject of this exemption. (NB: Health issues include ensuring that structures are correctly setback from effluent disposal systems).**
- 4. It is not proposed to require Building Surveyors to report to Council where a Building Surveyor has informed an applicant that the building is a minor structure and no formal application will be required. Where Building Surveyors are requested to make an inspection of a proposed building that would be classed as a minor structure, then that would then seem automatically to require a building licence application so as to at least ensure that the City does receive some revenue in return for the energies expended by the Building Surveyor. It is suggested that that is a matter left to the discretion of the Building Surveyor in question.**