UNAUTHORISED STRUCTURES AND BUILDING WORKS

This publications intention is to provide general information only. Exemption from requiring a Building Permit does not exempt compliance with the Building Code of Australia (BCA), Australian Standards, Local Laws, Planning (Development) Approvals and Conditions, Governing Legislation and Statutory Provisions.

Note: The applicant/builder is responsible for obtaining all necessary approvals, consents, and licenses required by law.

What is Unauthorised Building Work?

Unauthorised structures and building works in Western Australia refer to construction activities that required a Building Permit but were commenced or completed without the necessary approvals in place. Unauthorised building work encompasses any "building work" activity that required a valid Building Permit but was initiated or finalised without obtaining one. This includes earthworks.

Engaging in unauthorised building activities is considered an offence under s.9 of the *Building Act 2011*, and significant penalties apply for breaches. Penalties prescribed for non-compliance under the *Building Act 2011*, start at $50,000 for a first offence, $75,000 for a second offence and $100,000 for a third or subsequent offence and 12 months imprisonment.

This information sheet provides a comprehensive overview of unauthorised structures and building works, including what constitutes them, the risks involved, and steps to rectify the situation.

Risks and Consequences

Engaging in unauthorised building activities can lead to the following:

- **Legal Implications:** Offenders may face legal action and penalties.
- **Inherited Responsibility:** If you purchase a property with unauthorised buildings or structures, you inherit legal responsibility for them.
- **Safety Hazards:** Unauthorised structures may pose safety risks to occupants and neighbouring properties.
- **Property Value Impact:** Unauthorised structures can negatively affect property values.
- **Increased Application Costs:** The cost of applying for retrospective approvals is significantly higher than the cost of obtaining a Building Permit before commencing construction work. Be prepared for application costs up to three times greater than the normal Building Permit fees.
- **Voided Insurance:** It's important to note that insurance coverage for structures built without proper permits and approvals may be voided. This means that in the event of damage or accidents, you may not receive compensation, leaving you financially liable.

Recognising Unauthorised Building Work

The Shire of Denmark is unable to issue retrospective Building Permits for unauthorised works. Recognition of such works typically involves a separate approval process through Building Approval Certificate (BA13) and Certificate of Building Compliance (BA18) applications, along with a site inspection.

General Information and Checklist Requirements for Building Approval

Do I need Retrospective Development Approval?

Retrospective Development Approval may potentially be required for your existing structure. If you are unsure of whether or not the structure requires Development Approval, please contact the Shire's Development Services Team on 9848 0300. It's crucial to note that if the Development Approval application is unsuccessful, the retrospective building approval application will be refused.

Where to from here?

Retrospective Building Approval Application Requirements

For a retrospective building approval application, the following documents are typically required:

- Completed and signed BA13 - Building Approval Certificate application (available here: FORM 1).
- Completed and signed DS3 Form - Application for a Certificate of Building Compliance (BA18). Depending on the scale of the unauthorised works, this may have to be issued by a WA registered private building surveyor. (Available at Denmark Shire Administration Office)
- All documentation, plans, reports, and details listed on the checklist below, as well as any additional items requested. For all licensed services/utilities such as gas, plumbing, and electrical, you must submit the relevant compliance and safety certificates issued by the Department of Energy, Mines, Industry Regulation and Safety (DEMIRS). If these certificates cannot be obtained, a WA Statutory Declaration signed by a licensed contractor in the relevant field, stating that all installed services comply with the governing legislation, must be submitted with your application. This is a mandatory requirement.
- Payment of all applicable fees and levies (please refer to the below fee schedule).

Note: This list is not exhaustive, and additional information may be requested during the application process.

BUILDING ACT FEES, BUILDING SERVICES LEVY and BCITF PAYMENTS

(Refer to the Building Act Fees – *DEMIRS/Building and Energy*)

Building Construction Industry Training Fund (BCITF) - **For all work $20,000 and above in total value.**

0.2% of the estimated value of construction

Building Services Levy - 0.274% of the estimated value, but not less than $123.30

Application Fee for a Building Approval Certificate - 0.38% of the estimated value, but not less than $110.00

Application Fee for a Certificate of Building Compliance - flat rate of $220.00

Payment is required to be made prior to issuing of any compliance certificates or scheduling of your site inspection.

CLASS 1 & CLASS 10 BUILDINGS CHECKLIST

1.	**Building Approval Certificate and Certificate of Building Compliance Applications, including;** • Accurate estimated value of building work (including GST) *(Building Regulations 2012 Schedule 1, Clause 1, 2 and 3).* • Builders details and signature.	☐
2.	**Building Construction Training Fund Levy (CTF)** • Completed Construction Training Fund Levy Form (CTF) if works exceed $20,000 or CTF receipt and proof of payment.	☐
3.	**Compliance Certificate Application Fees and Levies** • Application Fees plus associated State levies must be paid at time of lodgement of the application	☐
5.	**Planning / Development Approval** • Planning Approval or written advice issued by the Shire of Denmark Planning Department for the proposed development (if applicable).	☐
6.	**All Construction Details** • All materials, spans, lengths, spacings, types, finishes, cladding, hardware, fixings, specifications, etc. With reference to each applicable BCA clause and/or Australian Standard. BAL construction schedule/compliance if required.	☐
7.	**Site Plan (1:200 scale @ A3), including:** • Street names, lot number, and title reference to the site. • The size and shape of the site including property boundaries, their dimensions, and all existing buildings and structures to be clearly shown. • Include Soil Classification as per BCA and AS 2870 • Include Wind Rating as per BCA and AS 4055 • A feature / contour survey of the site showing a datum point, contour lines (500mm intervals), spot levels and relative levels of the site. • Show all finished floor levels (FFL) including ground levels. • Include setback distances from the property boundaries and distance away from other existing buildings, structures and waste system on the property. Must be clearly indicated. • Height and extent of earthworks. • Existing sewer connections or waste system, stormwater drains or easement locations. • Location and sizes of waste disposal system. • Location and heights of stabilised embankments or retaining wall/s – if applicable. • Clearly indicate the North point.	☐
8.	**Elevations (1:100 scale @ A3) including:** • All elevations showing all measurements. • Existing ground level at the wall and at the boundary, including ground (NGL) and finished floor levels (FFL). • Roof pitch.	☐
9.	**Cross Sectional View (1:50 scale @ A3) including:** • One or more sections, transverse, longitudinal showing all measurements. • Finished ground level. • Type of floor structure e.g., concrete footing, slab or frame. • Roof frame details.	☐

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Building Work Including Additions/Alterations and/or Conversions

Ensure the presence of minimum facilities (e.g. Shed to Habitable Dwelling Conversion): toilet, shower or bath, separate wash basin, separate kitchen sink, facilities for food preparation and cooking, separate laundry trough, and space for a washing machine (can be detached).

1. **Verify and detail the concrete slab - BCA 2019 V2 A1 Part 3.2.5**
   Must be constructed to AS2870 standards.
   Must be certified by a structural engineer as suitable for dwelling use.
   Must provide evidence of a plastic membrane or waterproofing.
   Must be elevated 100-150mm above the surrounding ground level.
   Must have adequate surface water drainage.

2. **Verify and detail minimum ceiling heights - BCA 2019 V2 A1 Part 3.8.2**
   Minimum 2.4 meters for habitable rooms (e.g. bedroom).
   Minimum 2.1 meters for non-habitable rooms (e.g. laundry, bathroom, hallway, toilet).

3. **Verify and show natural light and ventilation in all habitable rooms**
   Window area must be equal to 10% of the floor area. BCA 2019 V2 A1 Part 3.8.4.
   Ventilation as per the BCA 2019 V2 A1 Part 3.8.5.

4. **Verify and show all boundary encroachments - BCA 2019 V2 A1 Part 3.7.2.7**
   Minimum 900mm wall to side and/or wall to rear boundary.
   Minimum 450mm eave to boundary.

5. **Verify and ensure timber or steel framed construction meets Australian Standards.**
   Additions/Alterations to a dwelling must be certified by a structural engineer.

6. **Evidence of a complying termite barrier under the concrete floor and around the perimeter – BCA 2019 V2 A1 Part 3.1.4 and AS3660.1**

7. ☐ **Obtain Energy Efficiency Certification in line with BCA requirements (if required)**

8. ☐ **Obtain DEMIRS certificates of compliance and/or safety for electrical, plumbing, and gas.**

9. ☐ **Verify compliance with standards for stairs, landings, barriers/balustrades - BCA 2019 V2 A1 Part 3.9**

10. ☐ **Install compliant hardwired smoke alarms as per BCA 2019 V2 A1 Part 3.7.2**

11. ☐ **Comply with AS 3959:2018 if within a Bushfire Prone Area.**

Structural Engineering Certification

Your plans, details and specifications may need to be certified by a registered Structural Engineer, however not all retrospective construction requires Engineering Certification. Contact the Shire's Development Services Team and you will be advised whether certification is required.

This document is intended as a guide only to assist applicants. For any further information please contact the Shire of Denmark.

Please note, additional information may be requested upon assessment of your application.

Flowchart: Retrospective Building Approval Process

Step 1: Identify Unauthorised Work

- Check if your structure was built without a permit.
- Confirm whether it requires retrospective approval.

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Step 2: Confirm Additional Approvals

- Contact the Shire to check if **Retrospective Development Approval** is required.
- If Development Approval is needed, **apply first**—building approval cannot proceed without it.

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Step 3: Gather Required Documentation

✅ **BA13 - Building Approval Certificate Application**
✅ **Form DS3** (available from Denmark Shire Admin) **BA18 - Certificate of Building Compliance Application**
✅ **Plans & Drawings** (site plan, elevations, cross-sections, etc.)
✅ **Engineering Certification** (if modifications/additions/alterations affect existing structural integrity)
✅ **Electrical, Plumbing, Gas Safety Certificates** (if applicable)
✅ **Bushfire Compliance (AS 3959:2018)** (if in a bushfire-prone area and if required)
✅ **Other Supporting Reports** (e.g., Energy Efficiency Certification)

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Step 4: Submit Application & Pay Fees

💰 **Application Fees & Levies** must be paid before processing.

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Step 5: Shire Assessment & Request for Further Information

📌 The Shire will review the application and may request additional details.

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Step 6: Site Inspection by Shire Officers

🔍 A site visit will be conducted to verify compliance.

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Step 7: Approval or Required Modifications

✔️ If compliant, a **Building Approval Certificate is issued**.
❌ If **not compliant**, modifications or remedial work may be required.

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Step 8: Final Certification & Completion

🏠 Once approved, the structure is formally recognised, ensuring legal compliance and insurance validity.