

Unauthorised Construction

What to do if building work has started or been completed without approval

THE SHORT VERSION

If building work that required a Building Permit has been started or completed without one, the work is unauthorised. The Shire can not issue a Building Permit after the event. A separate pathway may be available, generally involving a BA13 Building Approval Certificate and a BA18 Certificate of Building Compliance application.

WHAT COUNTS AS UNAUTHORISED BUILDING WORK?

Unauthorised work can include structures, additions, alterations, conversions and other building work that should have received approval before work commenced. In some circumstances, earthworks associated with building work may also be considered unauthorised, particularly where the work involves changes to existing ground levels.

THE IMPORTANT BIT

An exemption from needing a Building Permit is not the same thing as permission to ignore the NCC, Australian Standards, Building Regulations, Planning requirements, local laws, Health approvals or any other relevant legislation. The owner remains responsible for obtaining all required approvals and consents and remains responsible for any compliance issues associated with the work.

WHY DOES IT MATTER?

FOR THE OWNER

- Legal responsibility can pass to a new owner if unauthorised work is discovered after purchase.
- Unapproved work may create safety, structural, fire, health or property-boundary issues.
- Insurance cover may be affected where a structure or work was not lawfully approved.
- Future sale, refinancing or development can become more complicated.
- Retrospective approval generally costs more and requires more evidence than approval before construction.

FOR THE BUILDING

- The Shire needs evidence that the completed work complies with the building standards that apply.
- Hidden construction may need to be exposed or otherwise verified.
- Structural engineering will be required where additions, alterations or conversions affect structural integrity.
- Unapproved electrical, plumbing and gas work needs appropriate compliance evidence.
- Bushfire, energy efficiency, waterproofing, access and other requirements may apply depending on the work.
- For a complete unauthorised dwelling, certification by a WA registered independent Building Surveying Contractor is required.

PENALTIES CAN BE SERIOUS

Section 9 of the Building Act 2011 prohibits building work unless a Building Permit is in effect or an exemption or other statutory exception applies. Penalties of up to \$50,000 for a first offence, \$75,000 for a second offence, and \$100,000 plus 12 months imprisonment for a third or subsequent offence may apply. Other provisions of the Act may also apply depending on the circumstances.

FOUND SOMETHING YOU DIDN'T BUILD?

If you purchase a property and later discover an unauthorised structure, do not assume the previous owner is still responsible. Ownership can bring responsibility for the building. Contact the Shire before altering, extending, demolishing or relying on the structure.

What happens next?

The retrospective approval process, in plain English

THE PROCESS IN 6 SIMPLE STEPS

1 Identify Tell us what was built, when, and whether a Building Permit was obtained.	2 Check Confirm the Building and Planning requirements that apply to the existing work.	3 Document Prepare plans, certificates, engineering and other evidence.	4 Apply Lodge the BA13 and DS3 application forms and all supporting documents.
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THEN WE ASSESS IT

5 Assess The Shire reviews the application and may request more information or site access.	6 Resolve If compliant, the Building Approval Certificate can be issued. If not, remedial work or modifications may be required before approval.
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BUILDING AND PLANNING ARE SEPARATE

Retrospective building approval does not automatically resolve Planning matters. Depending on the development, a Planning approval or other planning advice may be required as well. Where Planning approval is required, the planning matter must be resolved before the retrospective building approval can be finalised. If the required Planning approval is refused, the retrospective building approval cannot proceed.

DON'T APPLY FOR A 'RETROSPECTIVE BUILDING PERMIT'

There is no ordinary Building Permit that can be issued retrospectively for work that has already been completed. The relevant pathway for Class 1 and Class 10 buildings or incidental structures is generally a Building Approval Certificate (BA13), supported by a Certificate of Building Compliance (BA18).

WHAT IS A DS3?

The Shire of Denmark uses Form DS3 as its local application form for a BA18 Certificate of Building Compliance associated with retrospective building work. The DS3 should be lodged with the BA13 and all required supporting documentation.

WHAT IS A BA13?

A BA13 is an application for a Building Approval Certificate. For Class 1 and Class 10 buildings or incidental structures, it can be used to obtain approval for previously unauthorised building work where the work can be demonstrated to comply with the applicable building standards.

WHAT IS A BA18?

The BA18 is the Certificate of Building Compliance. It identifies the applicable building standards and is completed by the Shires's Principal Building Surveyor.

A SITE INSPECTION IS PART OF THE PROCESS

The Shire may inspect the completed work to help determine whether the construction, materials and details can be verified. An inspection does not automatically mean the work is compliant. Additional documentation, opening-up of concealed work, testing, engineering or remedial work may be required.

What will we need from you?

Retrospective applications need evidence — not just a sketch

CORE APPLICATION REQUIREMENTS

- ☐ Completed BA13 – Application for Building Approval Certificate.
- ☐ Completed DS3 – Application for a Certificate of Building Compliance.
- ☐ Accurate estimated value of the unauthorised building work, including GST.
- ☐ Planning approval or written advice confirming Planning approval is not required.
- ☐ All available plans, drawings, specifications, photographs, invoices, receipts and other evidence that helps establish what was constructed.
- ☐ Site plan showing boundaries, existing and unauthorised structures, setbacks, levels, waste system, stormwater, easements and relevant site features.
- ☐ Elevations showing dimensions, heights, ground levels, roof form and materials.
- ☐ Cross-sections showing floor, footing, wall and roof construction and other relevant details.
- ☐ Structural engineering where required, particularly for additions, alterations, conversions or work affecting structural integrity.
- ☐ Evidence for electrical, plumbing and gas installations, including relevant compliance or safety certificates.
- ☐ Bushfire construction information where the property is in a designated Bushfire Prone Area and the work is subject to bushfire requirements.
- ☐ Energy-efficiency information where required by the applicable building standards.
- ☐ Any other reports, certificates, testing or evidence requested during assessment.

THE HARD PART: WHAT YOU CAN'T SEE

If a slab, footing, tie-down, framing connection, termite barrier, waterproofing or other critical component is concealed, the Shire may need other evidence to verify compliance. This can include a signed WA statutory declaration, photographs taken during construction, engineering assessment, testing, documentation from the original builder, or controlled exposure of concealed work.

DON'T GUESS THE CONSTRUCTION

A statement such as 'the builder said it was done to code' is not usually enough to demonstrate compliance. The more evidence you can provide about how the work was actually constructed, the easier it is to assess.

COMMON EXAMPLES

STRUCTURAL / BUILDING

- Unapproved shed, garage, carport or patio.
- Addition or extension to an existing dwelling.
- Internal alterations that affect structure or building classification.
- Conversion of a shed or other non-habitable building into habitable accommodation.
- Unauthorised retaining or earthworks associated with building work.

SERVICES / SAFETY

- Unapproved electrical, plumbing or gas installations.
- Missing or non-compliant smoke alarms.
- Unverified waterproofing or wet-area construction.
- Bushfire construction that cannot be demonstrated.
- Alterations that affect stairs, barriers, windows, exits or other safety provisions.

IF YOU ARE CONVERTING A SHED OR OTHER NON-HABITABLE BUILDING

A retrospective approval does not make a non-habitable building suitable for habitation by itself. A conversion to a dwelling or other habitable use can trigger requirements for structure, ceiling heights, natural light and ventilation, sanitary facilities, energy efficiency, waterproofing, termite management, fire safety, smoke alarms, bushfire construction and other applicable provisions. Structural engineering may also be required.

Fees, outcomes & avoiding the problem

The cheapest retrospective approval is the one you never need

RETROSPECTIVE APPLICATIONS COST MORE

A retrospective application has additional assessment and certification requirements and attracts higher statutory charges than a standard Building Permit application. Current WA charges for a Building Approval Certificate for unauthorised work include a 0.38% application fee based on the value of the unauthorised work, subject to the prescribed minimum, and a Building Services Levy of 0.274%, subject to the prescribed minimum. A Construction Training Fund levy may also apply where the current threshold of \$100,000 total estimated construction value is exceeded.

CURRENT FEE INFORMATION CHANGES

Fees and levies are prescribed and can change. The figures above are a guide to current statutory charges. Always check the current WA Building and Energy fee schedule and the Shire's adopted Fees & Charges before lodging an application.

WHAT CAN THE OUTCOME BE?

IF THE EVIDENCE SUPPORTS COMPLIANCE

- The Shire can progress the BA13/BA18 process.
- A Building Approval Certificate and Certificate of Building Compliance can be issued for the unauthorised work.
- The approved record provides a formal basis for the existing building work.

IF COMPLIANCE CANNOT BE DEMONSTRATED

- Further information may be requested.
- Engineering, testing or opening-up may be required.
- Remedial or rectification work may be required.
- The application may be refused if the work cannot be brought into compliance.

BEFORE YOU BUY A PROPERTY

- Ask whether existing buildings, extensions, patios, garages, sheds, pools and other structures have the required approvals.
- Do not assume an old structure is approved simply because it appears on a property listing or has been there for many years.
- Ask the Shire whether there are building approvals, certificates or other records for the work.
- If you are buying a property with suspected unauthorised work, investigate it before signing rather than assuming you can fix it later.

BEFORE YOU BUILD

- Check the Building and Planning requirements before work starts.
- Obtain the Building Permit before commencing work where one is required.
- Use appropriately licensed trades for electrical, plumbing and gas work.
- Keep plans, engineering, photographs, certificates and invoices throughout construction.
- Do not make substantial changes to approved plans without checking whether an amendment or new approval is required.

Need more help?

For Building and Planning Approval and/or application questions, please contact the Shire's Development Services Team.

Shire of Denmark • (08) 9848 0300 • info@denmark.wa.gov.au

Useful links

[Shire of Denmark – Planning & Building Information](#)

[WA Building Commission – Building approvals and forms](#)

[Construction Training Fund – CTF levy](#)

GUIDE ONLY This information sheet is a plain-English guide to unauthorised building work and retrospective approval. It does not replace the Building Act 2011, Building Regulations 2012, NCC, applicable Australian Standards, Planning legislation, approvals or project-specific advice. Additional information may be requested during assessment.