

# CITY OF BELMONT

## Unauthorised Development

### Application for Development Approval

Date of Publication 30/09/2020

#### Unauthorised Developments

Unauthorised developments are developments which have already commenced or been carried out without the proper authorisation from Local Government. If no action is taken by the owner/applicant to rectify an unlawful development, heavy penalties may apply and result in prosecution. The Council has the power to approve development applications under Clause 8.4 of Local Planning Scheme No.15:

#### *“8.4 Unauthorised Existing Developments*

*8.4.1 The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.”*

*8.4.2 Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.”*

The Council is able to approve an existing development or use of the land that would otherwise comply with the Scheme. Alternatively, if the development or use breaches the Scheme and is not brought into compliance, Council in addition to issuing a refusal decision may undertake further action until the development conforms to the provisions of the Scheme.

Please be aware, that even though an application for development (planning) approval may be submitted, there is no guarantee that it will be approved. Each application is assessed on its merits, and any objections received against the application will be taken into consideration.

If development approval is granted, the development will be approved from a planning legislative aspect only. Building legislative requirements must also be met for structures. Failure to address the building legislative requirements may result in the structure having to be removed and/or prosecution being initiated.

#### Assessment of Applications for Development Approval for Unauthorised Development

When assessing an application for development approval for an unauthorised development, the following criteria is required to be addressed:

- Compliance with the City’s Local Planning Scheme No. 15, Local Planning Policies and any other relevant planning legislation.
- Does the use accord with the zoning of the property?
- Does the development have a detrimental visual impact upon a locality?
- Does the development have any adverse impact upon occupants of adjacent properties in the locality?

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If development approval cannot be issued by the City then the unapproved works may have to be removed. The granting of development approval does not exempt the person who undertook the work from compliance penalties.

If the City has identified that development approval is required, but the person who undertook the development without approval (or current landowner) fails to lodge an application then serious fines and penalties may apply as the result of prosecution. If found guilty of an offence pursuant to the *Planning and Development Act 2005* the penalty is \$200,000 with an applicable daily penalty of \$25,000. For businesses the penalty is \$1,000,000 (5 x \$200,000) with an applicable daily penalty of \$125,000 (5 x \$25,000).

### **Applications for Development Approval for Unauthorised Developments**

The following information needs to be submitted:

- **Application for Development Approval Form** completed and signed by **all landowners** (registered on the certificate of title) of the land; or is accompanied by a letter of authorisation signed by all landowners of the land.
- MRS Form 1 (only to be used in instances where development is proposed on or abutting land that is Reserved under the Metropolitan Region Scheme).
- Current copy of the **Certificate of Title** (no older than 6 months). *Note: This is required to confirm ownership details and to check for caveats and memorials that may affect the proposed development. Available for purchase from Landgate ([www.landgate.wa.gov.au](http://www.landgate.wa.gov.au)).*
- **Fee**– refer to Schedule of Planning Fees. Note: penalty fees apply for unauthorised development. The fees for unauthorised developments applications are higher than normal as there is an additional cost, by way of penalty, enforced for such application. This is a State Government requirement that the Council is obligated to enforce and will under no circumstance be waived.
- **Plans** – Please refer to development application checklist for information required on plans.

### **Lodgement of Applications for Development Approval for Unauthorised Developments**

Please note fees must be paid in full upon lodgment with the City. Applications can be lodged using one of the following methods:

- **In Person**  
City of Belmont Civic Centre  
215 Wright Street  
Cloverdale WA 6105
- **By Post**  
City of Belmont  
Locked Bag 379  
Cloverdale WA 6985
- **Online**  
Applications can be lodged online. Refer [www.belmont.wa.gov.au](http://www.belmont.wa.gov.au).