



## TEST BEFORE YOU INVEST'S FREQUENTLY ASKED QUESTIONS OBTAINING RETROSPECTIVE APPROVAL OF ILLEGAL WORKS

In NSW, obtaining retrospective approval for illegally built works, such as a freestanding rear studio built without permission, follows a formal process. Here's an outline of the steps:

### 1. Engage a Planning or Building Professional

You should engage a qualified architect, town planner, or certifier who can assess the situation, review the relevant planning controls, and determine if retrospective approval is feasible.

### 2. Lodge a Building Information Certificate (BIC) Application

A **Building Information Certificate** is typically the first step. This certificate provides assurance that the council won't take enforcement action to demolish the illegal structure for a period of seven years, provided it is structurally sound and doesn't present safety risks.

- The application should include detailed plans and documentation of the structure.
- The council will likely conduct an inspection to assess the condition of the works and check for any breaches of the Building Code of Australia (BCA) or planning regulations.

### 3. Lodge a Development Application (DA)

If the structure does not meet planning regulations (for example, it exceeds height limits or encroaches on setbacks), a **retrospective Development Application (DA)** may be required. This DA must outline the works completed and seek approval for them to remain as built.

- The DA process is similar to applying for approval for new works and may involve public notification, especially if neighbours are affected.
- Council may request modifications to the building if it does not comply with local planning rules, or they may impose conditions for approval.

### 4. Compliance with Building Codes

If structural or safety concerns are identified, you may be required to provide certifications or undertake remedial work to bring the structure up to the required standard. In some cases, this may involve obtaining a building certifier to issue compliance certificates for aspects such as fire safety, structural integrity, or waterproofing.



## 5. Pay Penalties (if applicable)

Council may impose penalties or fines for building works undertaken without permission, but this varies depending on the nature and extent of the breach.

## 6. Outcome

- **Approval:** If the DA is approved and the building complies with safety and planning standards, it can remain legally.
- **Refusal:** If the council refuses approval, the property owner may be required to modify or demolish the non-compliant parts of the building.

### Additional Considerations:

- **Heritage or conservation areas:** If the property is in a heritage or conservation area, more stringent controls may apply.
- **Private Certifier involvement:** In some cases, a private certifier can assist with rectifying works and providing a BIC.

This process can be complex, so it's advisable to work with professionals experienced in dealing with council regulations to guide you through the steps and maximise the chances of securing retrospective approval.

### Need Personalised Advice? We're Here to Help!

*If you require further advice or tailored guidance for your specific situation, feel free to book a consultation with one of our experienced professionals. Our team can provide you with expert insights and practical solutions to ensure you're making the most informed decisions. Contact us today at [www.testbeforeyouinvest.com.au](http://www.testbeforeyouinvest.com.au) to schedule a consultation.*

### Disclaimer

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