

Referral agency design and siting advice for buildings and structures

Purpose

This document is intended for industry professionals to assist with referral agency applications as alternatives to the City Plan and QDC (Queensland Development Code) provisions.

This document discusses typical aspects of a referral application.

While there are many types of referral applications under the *Planning Regulation*, for the design and siting of housing these are generally restricted to single detached class 1 and 10 buildings on the same lot.

Site cover and building setbacks

Site cover

The City Plan defines 'site cover' as the portion of a site covered by buildings and structures attached to the buildings (e.g. carports), calculated to the outer most projections and expressed as a percentage (%).

The term does not include any structure or part of a structure included in a landscaped open space area such as a gazebo or shade structure, a basement car park located wholly below ground level, or eaves and sun shading devices.

Building setbacks

A setback is the minimum distance a building or other structure must be set back from a property boundary of the lot. It is measured from the outer most projection of a building or structure to the boundary line.

Setback requirements will depend on where your property is located. Setbacks can be determined by:

- City Plan
- Queensland Development Codes
- Previous development approvals
- Separate legal acts.

For most properties, the City Plan will provide the building setbacks.

Information on how to obtain a copy of a previous development approval may be obtained from our [pdonline service](#) or contacting the City's Planning Enquiries on 07 5582 8708.

Specific development types

This section is provided as guidance to the City Plan performance outcomes that may be relevant to a referral application.

Open carport

General

- Design and use of materials should be compatible with and similar to those of the main dwelling
- Carport meets QDC open carport definition
- 350mm square masonry design or equivalent piers are used.

Setbacks

- Maximum width at front boundary of 6 metres; and 7.2 metres between outermost projections (fascia)
- Front setback of 150mm were incorporating a gutter to outermost projection
- Side setbacks of 500mm to outer most projection
- Carports should be built to boundary or setback 5.4m to avoid vehicles overhanging outside the property boundary.

Height

- 3 metres to the top of the fascia for a hip, dutch gable or parapet roof design
- 3 metres 'mean' to the top of the fascia for a skillion roof design
- 3.5 metres to the top of the ridge line for a gable roof design.

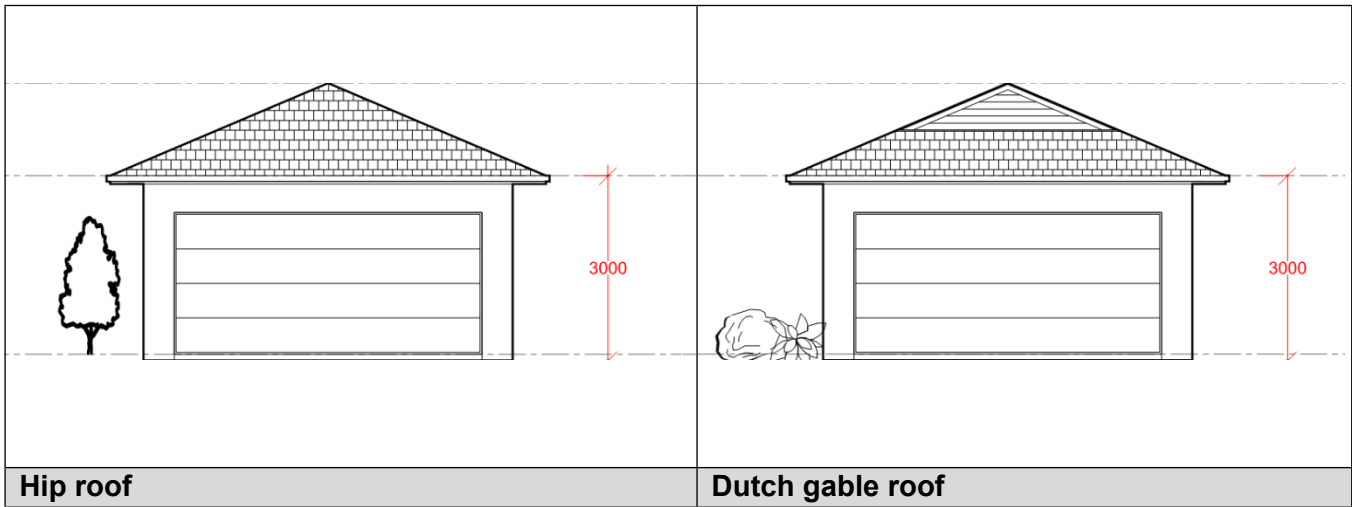
Carparking

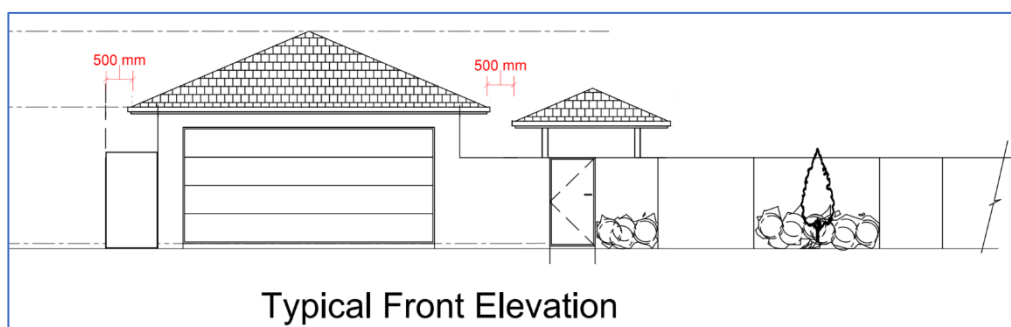
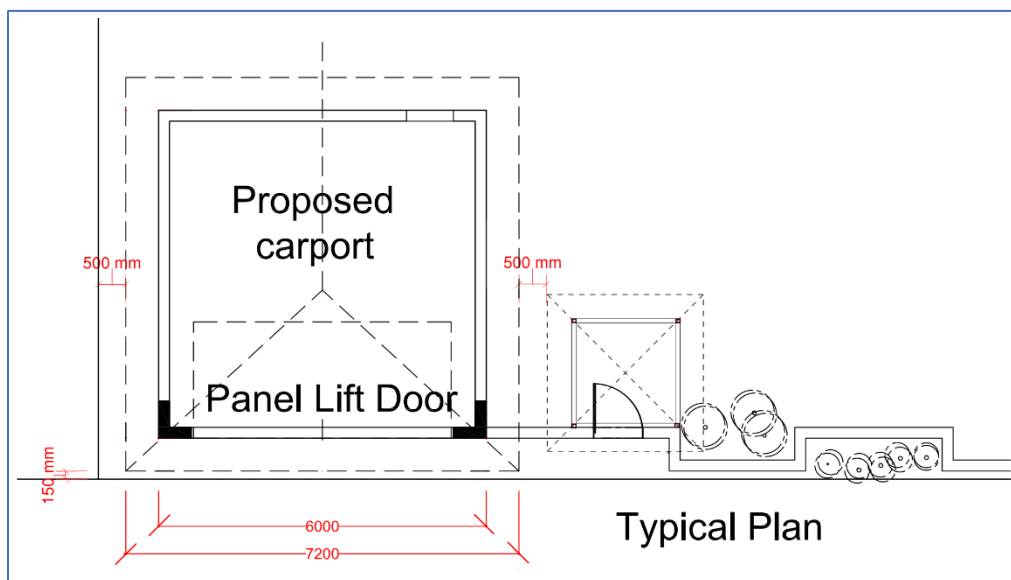
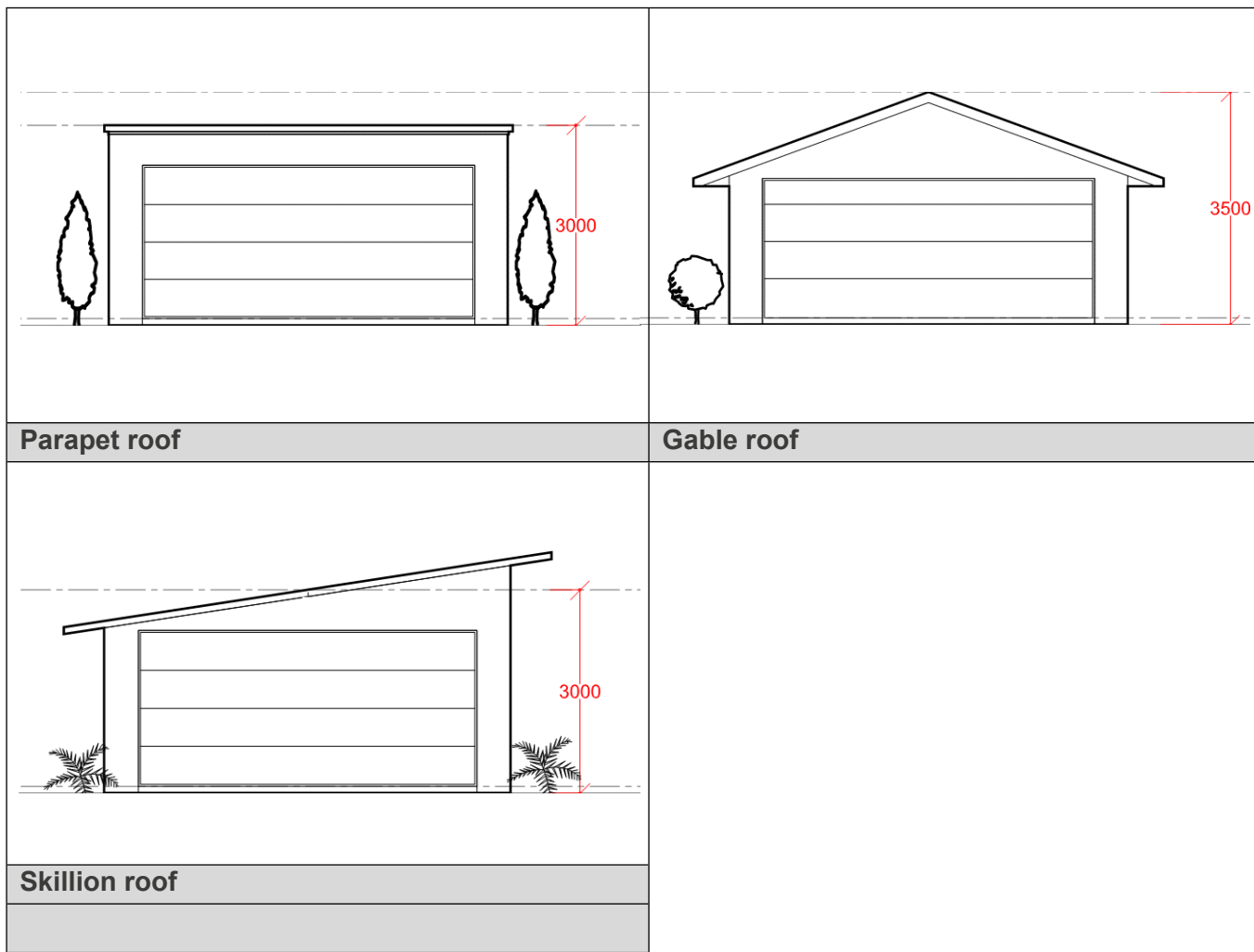
- Accessible from lawfully established vehicular cross over (VXO) or capability of complying
- Carport gradients are safe. While this is a building assessment provision for the assessment manager, the City will not provide referral advice where a slope exceeds 1:5 as a relevant matter.

Landscape

- Fencing is 50% open type construction with offsets of 600mm from the road front boundary to allow for the inclusion of landscaping over a minimum 50% of the length of the frontage.
- Plantings immediately behind any existing frontage fence over a minimum 50% of the length (of that fence), capable of achieving a maximum growth height of 2.5 metres to 4 metres at maturity.

Maximum height is measured from natural ground level, not the finished ground level or slab height.





Gatehouses

- Minimum separation of 500mm between the outermost projection of the gatehouse and open carport so that both buildings are sited individually and not structurally attached or connected.
- Minimum separation of 500mm between the outermost projection of the gatehouse and a side property boundary.
- Maximum height proportionate with any adjoining, but separate open carport.
- Minimum road front setback clearance of 150mm at the front property boundary to ensure that any gutter is contained wholly within the site.
- Use of colours and materials similar to those used for the main dwelling.

Discretion may be given should the scale of the detached dwelling support the consideration of a larger gatehouse.

Enclosed garage

- Accessible from lawfully established vehicular cross over (VXO).
- Design and use of materials should be compatible with and similar to those of the main dwelling.
- Where within 1.0 metre of a side boundary the maximum wall height is 3.0 metres.
A height increase may be considered up to a maximum mean (average) height of 3.5 metres with a total height not exceeding 4.5 metres above natural ground level with a letter of non-objection from the affected neighbour.
- A total length not exceeding 9 metres along or parallel to a side or rear property boundary.
- Not within front setback without special planning reasons and justification.

Domestic storage sheds

- Must be ancillary to a dwelling on the same lot.
- Not within road frontage or waterway setback
- Minimum 150mm setback to side property boundary for maintenance purposes such as weed control.
- Domestic storage shed is included within the calculation for 'Site cover' as defined by the City Plan.
- Area and height to comply with Amenity and aesthetic declaration.

Open roofed patios

An open roofed patio for recreational purposes is not generally supported within a road setback clearance area. Whilst Council may support an open carport for car parking purposes within this setback area, an open roofed patio or bali hut may be visually detrimental to the amenity of the streetscape.

Patio referral agency applications within 1.5m side boundary setback will benefit from a neighbours letter of non-objection <https://www.goldcoast.qld.gov.au/files/sharedassets/public/v/6/pdfs/forms-amp-applications/neighbours-comments.pdf>

Fencing

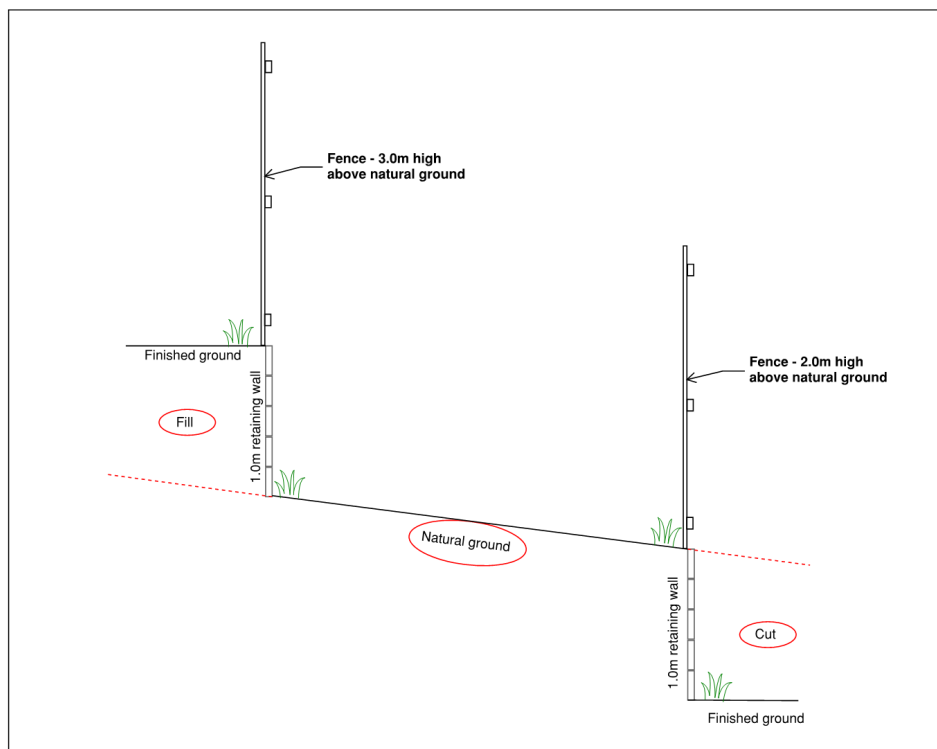
Fencing of a residential lot is generally permitted to a maximum height of 2 metres above natural ground level.

Further restrictions also apply to:

- corner lots
- swimming pool fencing
- waterfront fencing
- oceanfront fencing
- title and contract restrictions
- development approval conditions.

Where the Queensland Development Code allows a 2.0m combined height of fences and retaining walls, height is measured above the natural ground surface, which is the level on the first day the lot was created. This can be researched from the original building plans which may include ground contours.

Finished ground level is the level at the completion of landscaping excluding the footing. The example below shows how a fence height can change based on natural ground.



Should the combined height of a fence and retaining wall exceed two metres above natural ground level, both a building approval and subsequent *Referral Agency Assessment Application* are required.

Further information regarding fencing, may be obtained on Council's website <https://www.goldcoast.qld.gov.au/Planning-building/Building-applications/Domestic-building-works/Minor-domestic-building-works/Residential-fencing>

Retaining walls

The construction of a retaining wall exceeding 2 metres in height above natural ground level within a setback clearance area of non-waterfront land requires a *Referral Agency Assessment Application* together with a *Development Permit for Building Work* from a Private Building Certifier.

For the construction of a retaining wall within a waterfront setback clearance area, this height is reduced to a maximum of 1 metre above natural ground level before an application is required.

Retaining walls of any height are not supported within the Oceanfront setback.

Specific conditions given by the City for subdivision (reconfiguration) approval may further limit the height of retaining walls, the original subdivision approval needs to be obtained to determine any specific condition relating to a height for the retaining wall.

Refer also to the City's retaining wall webpage which includes a link to our retaining wall guidelines:

<https://www.goldcoast.qld.gov.au/Planning-building/Building-applications/Domestic-building-works/Minor-domestic-building-works/Retaining-walls>

General Referral issues

Neighbours letter of non-objection

This is requested where the referral may impact on the neighbouring property causing complaint to the City.

A standard letter of non-objection is available here: <https://www.goldcoast.qld.gov.au/files/sharedassets/public/v6/pdfs/forms-amp-applications/neighbours-comments.pdf>.

This is not a mandatory requirement, however without this, the application lodged must be documented sufficiently to support any review of the City's decision.

Providing a letter of non-objection does not guarantee approval, assessment is against the relevant performance criteria.

Amenity and aesthetic declaration

The following issues are detailed in the City's Amenity and Aesthetic declaration.

- Class 10 building size
- Class 10 building constructed without a house
- Shipping containers, railway carriages, truck and van bodies and the like
- Relocated home
- Solar panels
- Solar collector buildings
- Additional food preparation spaces.

Details are within the declaration available here: <https://www.goldcoast.qld.gov.au/files/sharedassets/public/v/1/pdfs/brochures-amp-factsheets/amenity-and-aesthetic-declaration.pdf>

Additional food preparation spaces are discussed further for clarification.

This item was included in 2024 responding to questionable building approvals where multiple dwellings use erroneous room labels to disguise the use as houses. This creates poor amenity outcomes, while complaints place an unfair burden on the City at the expense of ratepayers.

The declaration is intended to ensure designs with multiple kitchens maintain the amenity and use as a single dwelling.

It is noteworthy a secondary dwelling is not captured by this requirement.

Example.

A family living area has a small 1500mm long bar area (including a sink) and fridge installed, this is not captured by the declaration as the bar area does not have cooking appliances or the capability for these to be installed. Cooking appliances would normally consist of an oven/cooktop in a typical kitchen.

A garage at the front of a house is proposed to be converted to a bedroom with its own separate kitchen including a pantry, dishwasher and oven space, the garage has a bathroom, separate entry and no interconnection with the main dwelling.

This is caught by the declaration and would need to clearly show how the proposal will remain as a single dwelling not affecting the amenity of the area or be refused.

Determinants the City may use in assessing these referrals are:

- Additional food preparation space is not connected with areas able to be used as bedroom/s and bathroom/s, in isolation from the main dwelling; simply, a secondary dwelling is not created regardless of room labels.
- All building areas are connected and likely to remain connected, i.e. not separated by doors that are easily locked, or separate buildings.
- Accessible through the dwelling internally.
- Statutory declaration from the owner on use to confirm the use as a single dwelling.
- Additional laundry or capability from water supply/drainage points is not proposed.

If resolved the City may include a notification on the property record noting the property is not to be used for other than a single detached dwelling.

Building within a waterfront setback (canals and waterways)

For residential lots adjacent to a canal or waterway, the City designates a specific waterway setback clearance area in which the scale and design of proposed buildings and structures are assessed both for aesthetic and hydrological reasons (e.g. flooding).

In general terms, any assessable building work undertaken within a waterfront setback clearance area such as a swimming pool or a deck which, inclusive of balustrading exceeds 1 metre in height above natural ground level, will require a *Referral Agency Assessment Application*.

Any works being assessed by the City will need to show how the waterfront amenity and view are to be maintained, this may be through the use of lightweight open structures.

Generally, enclosed buildings should avoid being in the view lines to maintain the waterway environment or will need to be justified against PO13 of the Coastal erosion hazard overlay code.

Further information on an applicable waterway setback refer to the City's Development in the waterway building setback guideline online: https://www.goldcoast.qld.gov.au/files/sharedassets/public/v/1/pdfs/brochures-amp-factsheets/waterways_guideline.pdf

Easements and infrastructure

Buildings and structures requiring a *Referral Agency Assessment Application* will not be permitted within a registered easement without the written permission of the easement beneficiary. Easements can be searched online including Titles Queensland: <https://www.titlesqld.com.au/title-searches/>

Where the easement benefits the City and we are the referral agency for building near service this permission is requested by indicating 'Division 3, Table 7 Item 1 of the QDC under Section 4 of the *Referral Agency Assessment Application* form upon which the easement stakeholder will be contacted and any relevant requirements obtained.

Refer also to our Building over or near sewer infrastructure guideline:

<https://www.goldcoast.qld.gov.au/files/sharedassets/public/v/1/pdfs/brochures-amp-factsheets/building-over-or-near-sewer-infrastructure-guidelines.pdf>

Information regarding the location of public infrastructure within a site may be obtained by undertaking a *Search Request* with the City, or using our open data website.

Knock down rebuild projects in flood affected areas

The City receives numerous complaints for homes that are demolished and rebuilt leaving only a few walls or a slab in place.

In many of these complaints the owners rely on an incorrect building approval to construct.

Once the City receives a complaint, significant time and costs are involved for all involved to remedy, often with poor outcomes.

Simply, there is no scenario where leaving a slab or a few walls standing provides an argument for not considering the impacts of flood.

Given the significance of these issues the City will be escalating our response and consider forwarding non-compliant issues to the QBCC (Queensland Building and Construction Commission) where a Building Certifier is involved.

Some of the confusion relates to the interplay between planning and building provisions, specifically whether the reconstruction of an existing house is a MCU (material change in use) or remains as building work only. This is important as it guides the assessment provisions. These approaches are discussed briefly below to provide simplistic clarification.

Building work approach

A rebuilt house that maintains the original building scale of use and intensity is not an MCU, rather this is building work requiring assessment against *the Building Regulation* s8(b) flood triggers.

For building work the Building Act 1975 sections 61, 80 and 81 carry key information for the certifier to consider.

Section 61 is a discretionary provision for the building certifier to consider if the general safety and structural standards will not be at risk if alterations are carried out to the earlier provisions.

The QDC MP 3.5 table 1 assists when alterations become additions, by providing a 50% limit on additions to an existing building without considering flood.

Section 81 has the opposite effect, where additions exceed 50% of the volume, the certifier needs to consider applying the requirements to the whole building, including existing work.

The building certifier needs to consider:

- Are the work alterations? Can earlier building assessment provisions safely be applied for an existing building?
- If additions are these less than 50% floor area¹, does QDC MP 3.5 need to be applied?
- If greater than 50% volume does all or part of the building need to comply with building assessment provisions?

¹Building Act floor area definition for a building, means the gross area of all floors in the building measured over the enclosing walls other than the area of a verandah, roofed terrace, patio, garage or carport in or attached to the building.

The original building must exist to allow any concession, there is no advantage to leaving a few walls standing and calling it an addition; rather this is a new building.

Material change of use (MCU) approach

A MCU includes a material increase in the intensity or scale of the use of the premises.

Indicators of a material increase in the intensity or scale of the use of the premises may include changes to height, floor area, number of rooms (particularly bedrooms), and requires a comparison exercise. If there is a material increase in the intensity or scale of the use, a planning approval (development permit) may be required.

A MCU can occur as accepted or assessable development. To remain as accepted development, development must comply with all relevant assessment benchmarks, including the Flood overlay code, before assessing as building work.

For example, a rebuilt house with 3 extra bedrooms and additional carparking below the flood level is an MCU requiring assessment against the City Plan Flood overlay code.

If the development does not meet City Plan requirements including the Flood overlay code, a development application is required to obtain planning approval (development permit) for the MCU.

The building approval must not be granted until the MCU development permit is given, and then must be consistent with that development permit.

For an MCU that is accepted development (not requiring a development permit), section 85 of the *Building Act 1975* requires the building certifier to include a notice about any requirements the building must comply with to be categorised as accepted development; ideally these would be clearly stated on the decision notice.

Example

Owner A demolishes their house and after checking the flood level learns they have to reconstruct with floor levels 1.0m higher than the previous dwelling to comply with the Flood overlay code. They are questioning why their neighbour Owner B didn't have to comply.

Owner B had already been through the building process, however had left two walls standing, calling this an addition and believing they didn't need to raise the floor level.

The building approval Owner B has for this work may be voidable due to non-compliance with the Flood overlay code, missing the planning application/referral and failure of the building certifier to address sections 81 and 85 of the *Building Act 1975*. This will have resale and insurance implications for the life of the building and compliance action by the City if a complaint is received.

'As constructed' development

'As constructed' development includes buildings and structures that already exist before a *Referral Agency Assessment Application* is made to Council. Whilst many of these forms of development can be approved on a case-by-case basis, Council is not obliged to approve non-complying development and any Referral Response given may be either annotated for approval with amendment or otherwise refused.

Additional Information

Additional information regarding the Referral Agency Assessment process may be obtained from Council's website.

Disclaimer

The City is not liable to any person under any circumstances whatsoever arising by virtue of a claim for breach of warranty (express or implied), tort (including negligence), strict liability or otherwise for actual, incidental, contingent, special or consequential damages, lost profits or revenues arising directly or indirectly or out of (but not restricted to) any claim arising out of the inaccuracy of any information contained in these notes.

Any person investigating any issues addressed in this document should seek their own independent legal, technical and professional advice and consult the City on specific matters relating to their property and any constraints thereon.

This information is intended as the minimum design and siting requirements acceptable to the City and should not be relied upon as the sole document upon which to propose development. The applicant is strongly encouraged to seek their own independent legal, technical and professional advice regarding their proposal and specific circumstances.

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