Council as a referral agency: Building work referrals for Dwelling houses

TECHNICAL GUIDELINE

The purpose of this technical guideline is to outline how building work referrals apply to new or extended Dwelling houses, including ancillary buildings and structures.

How is a referral for a Dwelling house triggered?

Assessment of Dwelling houses and ancillary structures is carried out against specific elements of both the Queensland Development Code and alternate building assessment provisions included in the *Brisbane City Plan 2014* (City Plan). Schedule 9, Part 3, Division 2 of the *Planning Regulation 2017* (the Regulation) outlines when Council is a referral agency for Dwelling house applications and where Council is required to assess development in its role as referral agency.

This means that where a Dwelling house application is assessed by a Private Building Certifier, they may be required to refer the application to Council for assessment of particular aspects of the development.

This technical guideline is relevant for referrals to Council as identified in the following tables in Schedule 9, Part 3, Division 2 of the Regulation:

Table 1 – Amenity and aesthetics
Table 3 – Design and siting
Table 8 – Building work for particular class 1 building relating to material change of use (new dwelling house)

More than one referral may apply to a single application, and there may be other referral requirements identified in other parts of the Regulation in addition to those listed above. Where more than one referral is triggered, the request is assessed by Council as a single consolidated response.

The following provides a summary of the relevant referral triggers and assessment provisions where Council is the referral agency.

Table 1 – Amenity and aesthetic impact

Section 1.7.4 of the City Plan includes a declaration for referral agency assessment of amenity and aesthetic impact.

For the purpose of Schedule 9, Division 2, Table 1 of the Regulation, building work for a building or structure which is a single detached class 1(a)(i) building, class 1(a)(ii) building comprising not more than 2 attached dwellings or a class 10 building or structure in a locality identified in Table 1.7.4 that does not comply with the acceptable outcomes in the codes identified in Table 1.7.4, is declared to:

a. have an extremely adverse effect on the amenity or likely amenity of the locality; or
b. be in extreme conflict with the character of the locality.

When this referral is triggered, Council is required to assess whether the building or structure will impact on the amenity or aesthetics of the locality, including, for example, whether the building or structure complies with a matter stated in City Plan that regulates impacts on amenity or aesthetics. This means that the assessment is carried out against the relevant codes listed in Table 1.7.4.

Table 1.7.4—Declared locality and building form for amenity and aesthetic referral agency assessment

Locality	Codes
Land in the following zones: Rural zone Rural residential zone Environmental management zone Low density residential zone Character residential zone and zone precincts Low–medium density residential zone and zone precincts Medium density residential zone Emerging community zone	Dwelling house code Dwelling house (small lot) code
Land in the Traditional building character overlay	Traditional building character (design) code
Land in a neighbourhood plan area	A relevant neighbourhood plan code to the extent provided

Table 3 – Design and siting

Schedule 9, Division 2, Table 3, Item 1 of the Regulation requires referral for a development application for building work that is assessable development if—

(a) the Queensland Development Code, part 1.1, 1.2 or 1.3 applies to the building work and, under the part, the proposed building or structure does not include an acceptable solution for a relevant performance criteria under the part; or

(b) under the Building Act, section 33, an alternative provision applies for the building work and, under the provision, the proposed building or structure is not of the quantifiable standard for a relevant qualitative statement under the provision; or

(c) all of the following apply—

(i) under the Building Regulation, section 6, the planning scheme includes a provision about a matter provided for under performance criteria P4, P5, P7, P8 or P9 of the Queensland Development Code, part 1.1 or 1.2;

(ii) the provision applies for building work;

(iii) under the provision, the proposed building or structure is not of the quantifiable standard for a relevant qualitative statement under the provision.

Section 1.6 of the City Plan details where building work is regulated under the planning scheme in accordance with sections 32 and 33 of the *Building Act 1975*. These provisions override specific performance criteria of the Queensland Development Code and are assessed by Council as either the assessment manager or the referral agency for a building development application.

The building assessment provisions in the planning scheme are identified in:

a. Table 1.6.1 for the assessment manager for a building development application
b. Table 1.6.2 for the Council acting as a referral agency for a building development application

Design & siting assessment - Table 3, Item 1(a)

Referral for Item 1(a) relates to non-compliance with MP1.1 or MP1.2 of the Queensland Development Code where the performance criteria are not overridden by the building assessment provisions in the planning scheme, i.e. where a proposed dwelling house does not comply with particular acceptable solutions of the Queensland Development Code, Council's assessment is carried out against the corresponding performance criteria.

Referral agency requests under Item 1(a) are more commonly known as 'siting variations' and Council's assessment is carried out against the following parts of the Queensland Development Code:

- MP1.1 - P6, P7 and P9 for a dwelling house on a small lot (under 450m^2)
- MP1.2 - P1, P2, P3, P6 and P7 for a dwelling house on a standard lot (450m^2 and over)

Design & siting assessment - Table 3, Item 1(b)

Referral for Item 1(b) relates to non-compliance with alternate building assessment provisions in the planning scheme that override P1, P2 and P3 of both MP1.1 and MP1.2 of the Queensland Development Code.

This referral usually applies to a dwelling house on a small lot or a house on a standard lot that has an approved building envelope or development footprint plan; and sometimes where located within particular neighbourhood plan (NP) areas.

Council's assessment is carried out against the performance outcomes contained in Items 10, 11 and 12 of Table 1.6.1 of the City Plan.

Assessment carried out against performance outcomes for Design and siting referral under Table 3, Item 1(b) for a Dwelling house on a small lot (less than 450m^2)

QDC MP 1.1 provisions (small lot)	Overriding provisions in City Plan (Dwelling house (small lot) code)	Overriding provisions in City Plan (neighbourhood plan [NP] codes & other overlay codes)
P1 – front setback & site cover	PO2 & AO2 – building envelope requirements PO5 & AO5 – street frontage setback PO13 & AO13.4 – car accommodation for steep sites PO17 & AO17.1 – car accommodation for adaptable housing	Traditional building character (TBC) (design) overlay code – PO1 & AO1.2, PO2 & AO2.1, PO11 & AO11.1 Forest Lake NP code – PO4 & AO4.1 Sherwood-Graceville district NP code – PO3 & AO3.3
P2 – side and rear setback & site cover	PO2 & AO2 – building envelope requirements PO6 & AO6 – side boundary setback PO7 & AO7 – rear boundary setback	Forest Lake NP code – PO4 & AO4.1 New Farm & Teneriffe Hill NP code – PO3 & AO3, PO6 & AO6

QDC MP 1.1 provisions (small lot)	Overriding provisions in City Plan (Dwelling house (small lot) code)	Overriding provisions in City Plan (neighbourhood plan [NP] codes & other overlay codes)
	PO12 & AO12.1 – car parking spaces PO17 & AO17.1 – car accommodation for adaptable housing	Sherwood-Graceville district NP code – PO3, AO3.4 & AO3.5
P3 – site cover	PO8 & AO8 – site cover	-

Assessment carried out against performance outcomes for Design and siting referral under Table 3, Item 1(b) for a Dwelling house on a standard lot (450m^2 or greater)

QDC MP 1.2 provisions (standard lot)	Overriding provisions in City Plan (Dwelling house code)	Overriding provisions in City Plan (neighbourhood plan [NP] codes & other overlay codes)
P1 – front setback & site cover	PO7 & AO7 – development footprint within an approved building envelope or development footprint plan	TBC (design) overlay code – PO1 & AO1.2, PO2 & AO2.1, PO11 & AO11.1 Forest Lake NP code – PO4 & AO4.1 Sherwood-Graceville district NP code – PO3 & AO3.3
P2 – side & rear setback and site cover	PO7 & AO7 – development footprint within approved BLE or DFP	Forest Lake NP code – PO4 & AO4.1 New Farm & Teneriffe Hill NP code – PO3 & AO3, PO6 & AO6 Sherwood-Graceville district NP code – PO1 & AO1.2, PO3, AO3.3, AO3.4 & AO3.5

Design & siting assessment - Table 3, Item 1(c)

Referral for Item (c) relates to non-compliance with planning scheme provisions that override the Queensland Development Code MP1.1 - P4, P5 and P8 for small lots, and MP1.2 - P4 and P8 for standard lots.

Council's assessment is carried out against the performance outcomes contained in Items 6, 7 and 8 of Table 1.6.1 of City Plan.

Assessment carried out against performance outcomes for Design and siting referral under Table 3, Item 1(c) for a Dwelling house on a small lot (less than 450m^2)

QDC MP 1.1 provisions (small lot)	Overriding provisions in CP2014 (Dwelling house (small lot) code)	Overriding provisions in CP2014 (neighbourhood plan codes)
P4 – height	PO2 & AO2 – building envelope requirements PO3 & AO3 – height (Low density residential [LDR] and Character residential [CR] zones) PO4 & AO4 – height (Low-medium density residential [LMR] zone) PO17 & AO17.1 – height for adaptable housing	Centenary suburbs NP code - PO1 & AO1 City west NP code – PO1 & AO1, PO2 & AO2 Forest Lake NP code - PO1 & AO1 Fortitude Valley NP code - PO1 & AO1.2 Ithaca district NP code - PO1 & AO1 Latrobe and Given Terraces NP code - PO1 & AO1, PO8 & AO8.2 Moreton Island settlements NP code - PO1 & AO1 New Farm and Teneriffe Hill NP code – PO1 & AO1 Newstead and Teneriffe waterfront NP code – PO1 & AO1 Nudgee Beach NP code – PO1 & AO1 Spring Hill NP code - PO1 & AO1, PO7 & AO7.2 River gateway NP code – PO1 & AO1.1, PO5 & AO5.1, AO5.2 & AO5.3, PO6 & AO6 Sandgate Road NP code - PO1 & AO1 West End–Woolloongabba district NP code - PO1 & AO1, PO6, AO6.1 & AO6.2
P5 – screening	PO9, AO9.1 & AO9.2 – built to boundary walls (amenity/privacy)	-

QDC MP 1.1 provisions (small lot)	Overriding provisions in CP2014 (Dwelling house (small lot) code)	Overriding provisions in CP2014 (neighbourhood plan codes)
	PO14, AO14.1, AO14.2 & AO14.3 – screening windows, decks etc.	
P8 – parking	PO12 & AO12.1 – parking	Spring Hill NP code - PO4 & AO4.1

Assessment carried out against performance outcomes for Design and siting referral under Table 3, Item 1(c) for a Dwelling house on a standard lot (450m^2 or greater)

QDC MP 1.2 provisions (standard lot)	Overriding provisions in CP2014 (Dwelling house code)	Overriding provisions in CP2014 (NP & other codes)
P4 – height	PO2 & AO2 – height (LDR, CR zones) PO3 & AO3 – height (LMR zone) PO7 & AO7 – approved BLE/DFP	Centenary suburbs NP code - PO1 & AO1 City west NP code - PO1 & AO1, PO2 & AO2Forest Lake NP code - PO1 & AO1 Fortitude Valley NP code - PO1 & AO1.2 Ithaca district NP code - PO1 & AO1 Latrobe and Given Terraces NP code - PO1 & AO1, PO8 & AO8.2 Moreton Island settlements NP code - PO1 & AO1 New Farm and Teneriffe Hill NP code - PO1 & AO1 Newstead and Teneriffe waterfront NP code – PO1 & AO1 Nudgee Beach NP code - PO1 & AO1 Spring Hill NP code - PO1 & AO1, PO7 & AO7.2 River gateway NP code - PO1 & AO1.1 Sandgate Road NP code - PO1 & AO1 West End–Woolloongabba district NP code - PO1 & AO1, PO6, AO6.1 & AO6.2
P8 – parking	PO4 & AO4 - parking	Spring Hill NP code - PO4 & AO4.1

Table 8 – Building work for particular class 1 building relating to material change of use (new Dwelling house)

Schedule 9, Part 3, Division 2, Table 8 of the Regulation requires referral for a development application for building work that is assessable development under Schedule 9, Part 1, Section 1 of the Regulation, if—

(a) the building work is for—

(i) a class 1(a)(i) building; or

(ii) a class 1(a)(ii) building made up of not more than 2 attached dwellings; and

(b) a material change of use that relates to the building work—

(i) is for a residential purpose in a residential zone; and

(ii) would have required a development permit if schedule 6, part 2, section 2(2) did not apply for the material change of use

This referral relates to new Dwelling houses that were assessable development under City Plan, however, cannot be made assessable in accordance Schedule 6, Part 2, Section 2(2) of the Regulation.

Council's assessment is carried out against the relevant provisions of City Plan that would have applied to the assessment of the application as a material change of use, if Schedule 6, Part 2, Section 2(2) of the Regulation was not relevant (i.e. assessment is carried out against the relevant Dwelling house code and any neighbourhood plan or overlay codes identified as assessment benchmarks in Part 5 of City Plan).

Referral for building work relating to material change of use:

Scenario	Referral trigger
Residential zones where within the Dwelling house character overlay (Character residential, Low density residential, Low-medium density residential, Medium density residential, High density residential or Tourist accommodation zones)	New dwelling house where not complying with all AOs of the Dwelling house code or Dwelling house (small lot) code and no relevant overlay applies to the premises
Mt Coot-tha NP	New dwelling house on a lot less than 4ha where not in the Environmental management zone, Bushfire overlay or High ecological significance, High ecological significance strategic, General ecological significance or General ecological significance strategic sub-categories of the Biodiversity areas overlay
Nudgee Beach NP	New dwelling house where over 9.5m and where not within the Coastal hazard overlay
Sherwood-Graceville district NP	New dwelling house where not in the Traditional building character overlay or any other relevant overlay
West End-Woolloongabba district NP	New dwelling house where not in the Traditional building character overlay and not complying with acceptable outcomes AO3.1, or AO3.2, or AO5.1, or AO6.1, or AO6.2, or AO12 of the NP code
Water resource catchments overlay	New dwelling house in a residential zone
Potential and actual acid sulfate soils overlay Where involving filling or excavation if the natural ground level is less than 20m AHD	New dwelling house in a residential zone where the disturbance of land is equal to or less than 5m AHD, involving: - filling equal to or greater than 500m^3; or - filling equal to or greater than 0.5m average depth; or - excavation equal to or greater than 100m^3
Regional infrastructure corridors and substations overlay In the Gas pipeline 20 sub-category and involving filling or excavation resulting in a change of 1m or more in the vertical depth or height from the ground level or finished design level In the Oil pipeline 15m sub-category and involving filling or excavation, if resulting in a change of 1m or more in vertical depth or height from the ground level or finished design level	New dwelling house in a residential zone where not complying with all AOs in section A of the Regional infrastructure corridors and substations overlay code and all acceptable outcomes in the Filling and excavation code New dwelling house in a residential zone where not complying with all AOs in section B of the Regional infrastructure corridors and substations overlay code and all acceptable outcomes in the Filling and excavation code
Transport air quality corridor overlay Where within the Transport air quality corridor B sub-category Where within the Tunnel ventilation stack sub-category	New dwelling house in a residential zone where assessable development in the zone or neighbourhood plan New dwelling house in a residential zone with an increase in height, where assessable development in the zone or neighbourhood plan

Early referral agency responses

In some instances where Council is the assessment manager for the development application and referral agency for the building application, an early referral response may be given for Amenity and aesthetics and/or Design and siting. These referral responses are issued under section 57 of the *Planning Act 2016*.

Examples

The following examples provide an overview of the relevant referral triggers and/or assessment process for each scenario:

New 3 storey house on a standard lot, within the Low density residential zone and a 1m side boundary setback

Referrals triggered:

- Amenity and aesthetics for non-compliance with AO2 of the Dwelling house code
- Design and siting (Item 1(a)) for non-compliance with A2(a) of the QDC, MP1.2
- Design and siting (Item (c)) for non-compliance with AO2 of the Dwelling house code
- Table 8 for non-compliance with AO2 of the Dwelling house code

Council assessment undertaken against: Dwelling house code and P2 of QDC MP1.2

New house on a small lot within the Low-medium density residential zone and non-compliance with AO7 of the Dwelling house (small lot) code for crossover design

Referrals triggered:

- Amenity and aesthetics for non-compliance with an AO7 of the Dwelling house (small lot) code
- Table 8 for non-compliance with an AO7 of the Dwelling house (small lot) code

Council assessment undertaken against: Dwelling house (small lot) code

New house on a standard lot within the Low density residential zone complying with all acceptable outcomes of the Dwelling house code, within the Sherwood-Graceville district neighbourhood plan but not the Traditional building character overlay

Referrals triggered:

- Table 8 for new house in the neighbourhood plan area and no relevant overlay applies

Council assessment undertaken against: Dwelling house code, Sherwood-Graceville neighbourhood plan code

Carport within the side boundary setback of a house on a standard lot

Referrals triggered:

- Design and siting (Item 1(a)) for non-compliance with A2(a) of the QDC, MP1.2

Council assessment undertaken against: P2 of QDC MP1.2

New house in the Low density residential zone complying with all acceptable outcomes of the Dwelling house code and within the Water resource catchments overlay

Referrals triggered:

- Table 8 for new house within the Water resource catchments overlay

Council assessment undertaken against: Dwelling house code and Water resource catchment overlay code

Extension to a house on a standard lot within the Low density residential zone and non-compliance with AO1 of the Dwelling house code for a secondary dwelling exceeding 80m^2 in area

Referrals triggered:

- Amenity and aesthetics for non-compliance with AO1 of the Dwelling house code

Council assessment undertaken against: Dwelling house code

New house on a small lot within the Emerging community zone and non-compliance with side boundary setbacks of the Dwelling house (small lot) code

Development application required *with early referral triggered for:*

- Amenity and aesthetics for non-compliance with AO2 and AO6 of the Dwelling house (small lot) code
- Design and siting for non-compliance with AO2 and AO6 of the Dwelling house (small lot) code

Council assessment undertaken against: Dwelling house (small lot) code

More information

For more information visit Brisbane City Council, or phone Council on (07) 3403 8888.

Disclaimer: The content of this technical guideline has been prepared to assist customers to understand Council's role as a referral agency for building work for dwelling houses. This information is based on v27.00 of Brisbane City Plan 2014 and all relevant assessment criteria should be checked against the current version of the City Plan. Please also refer to Council's website for further information when a development application is required or contact a Private Building Certifier for more information specific to your project.