

# Filling and Excavation

## GUIDELINE

### Purpose

This document provides guidance about how works for filling or excavation are regulated. It explains the type of approval required and the relevant authority required to grant permission (either Council or a Private Building Certifier) under the relevant legislation.

Before commencing any work, you should consider the following legislative instruments:

- *Brisbane City Plan 2014* (City Plan)
- *Building Act 1975* (Building Act)
- *Building Regulation 2021* (Building Regulation)
- *Planning Act 2016* (Planning Act)
- *Planning Regulation 2017* (Planning Regulation)

### Development Assessment

Development for filling and excavation falls into three categories: accepted, assessable or prohibited. Legislation including the Building Regulation, Planning Regulation and City Plan define these categories of assessment that are used to determine whether a development permit is required or what type of development requires an assessment, prior to any works occurring.

Some development may be subject to more than one type of assessment under different legislation and require multiple development permits. Typically, Council is the assessment manager for development that is assessable under the City Plan, while building certifiers manage assessment that is required for building development applications under the Building Act.

During the development assessment process, you may need advice from a referral agency as specified in the *Planning Regulation 2017*. The *Planning Act 2016* outlines the process for obtaining this advice, however, it is advisable to engage a planning consultant or building certifier when such advice is required to assist in facilitating this process.

### Approval authority

If the development is either accepted or assessable, legislation outlines the appropriate authority to issue the building development permit or development permit for building work and/or operational work.

Council	Private Building Certifier
<ul style="list-style-type: none"> <li>✓ Development is assessable against the City Plan</li> <li>✓ Operational works for filling and excavation</li> <li>× Development that is considered accepted development under the City Plan.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Building work assessable against the building assessment provisions under the <i>Building Act 1975</i></li> <li>✓ Accepted development under the City Plan *Council still may be required to provide advice as a referral agency (i.e.: design and siting, amenity and aesthetics)</li> <li>× When the development application includes development other than building works (such as operational works) unless and until all necessary development permits are in place</li> </ul>

The complexity of identifying the different development and the level of assessment is usually dealt with by Private Building Certifiers. It is recommended that a certifier or planning consultant is engaged in relation to these types of requests.



## Development Permits

The Building Regulation and Planning Act outlines what type of permit is required for filling and excavation works (building work or operational work). The City Plan outlines what is assessable development (refer below for guidance), however, if the filling and excavation works are minor, the work may be prescribed accepted development, meaning that no development permit is required.

Building work	Operational work
<p>Filling or excavation activities are classified as building work when they are <u>directly related to, or incidental to</u> the building, repairing, altering, underpinning, moving or demolishing of a building or other structure located on or adjacent to the property. This also encompasses filling and excavation works that either <u>support or affect the stability</u> of the building or structure.</p> <p>To identify if the filling and excavation works are assessable development requiring a building work permit, refer to the legislation listed above.</p>	<p>Filling or excavation activities (excluding building work or plumbing and drainage work), that materially affects premises or the use of the premises, are classified as operational work. This includes activities carried out within, on, above or below premises.</p> <p>To identify if the filling or excavation works are assessable development requiring an operational work permit, refer to Part 5 of the City Plan.</p> <p>Please note: Other matters may require assessment such as interference with protected vegetation under the <i>Natural Asset Local Law 2003</i>.</p>

## Building Works

To determine whether the filling or excavation is classified as building work, consider your proposal in accordance with the following guidance:

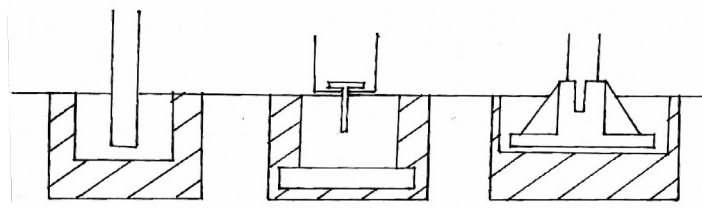
<u>Filling or excavation</u> – incidental to building work	<u>Filling or excavation</u> - affecting stability of building
<p>Works that may be incidental to building work include filling or excavation where:</p> <ul style="list-style-type: none"> <li>the carrying out of the building work is the primary purpose of works;</li> <li>the filling or excavation is secondary to the purpose for the works; and</li> <li>the filling or excavation gives cause too or is necessarily associated with the building, repairing, altering, underpinning, moving or demolishing of the building or structure.</li> </ul> <p>Filling or excavation may be building work where the works are:</p> <ul style="list-style-type: none"> <li>not the primary purpose of the building work;</li> <li>the building works cannot be undertaken without the filling or excavation occurring;</li> <li>the filling or excavation is within close proximity to the building works;</li> <li>there is a physical connection between the filling or excavation and the building or structure;</li> <li>the timing of the filling or excavation is dependent on the building work; and</li> <li>the filling or excavation is shown on plans associated with the proposed building work.</li> </ul>	<p>Works that may affect the stability of the building work include filling or excavation where:</p> <ul style="list-style-type: none"> <li>the carrying out of the building work is proposed within the 'zone of influence' of the building or structure; and</li> <li>the filling or excavation is within close proximity of the building or structure.</li> </ul> <p>It is important to consider any previous building or structure on the land in the above.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>Underpinning works below an existing building;</li> <li>Installing rock anchors for an existing wall or under an existing building; and</li> <li>Filling or excavation which may interfere with an existing retaining wall.</li> </ul>

Refer to Appendix A for scenarios of when a building work permit and/or operational works permit may be required.

**Appendix A – Scenarios relating to building development permits and/or development permits.**

**SCENARIO A:**

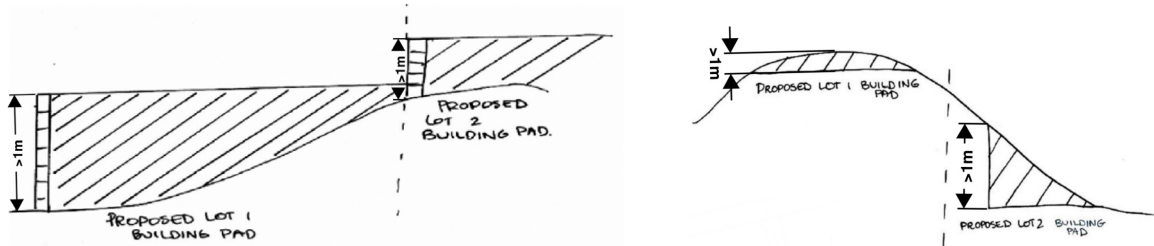
Excavation associated with construction of building footing identified on approved building works drawings.



**Considered to be incidental to building works.**

**SCENARIO B:**

Cut or fill over 1 metre on land for the creation of a building pad and where the changed ground level is identified on the plans of a development approval (i.e. for flood immunity).



**Generally regarded as operational works and will typically include a condition of the development approval for the lodgement of an operational work application.**

**SCENARIO C:**

Fill over 1 metre on land for the creation of a building pad and where the changed ground level is **not** identified on approved building works plans or any development approval.

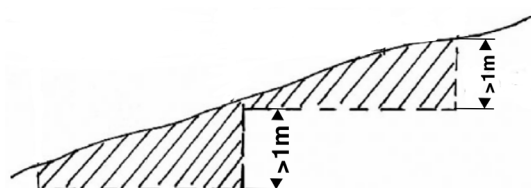


NOTE: If the ground level is identified on approved building works drawing, works may be generally considered as incidental to building works.

**May not be considered as incidental to building works and an operational works permit may be required. Another connection between the works may need to be demonstrated (i.e. zone of influence from any building work).**

**SCENARIO D:**

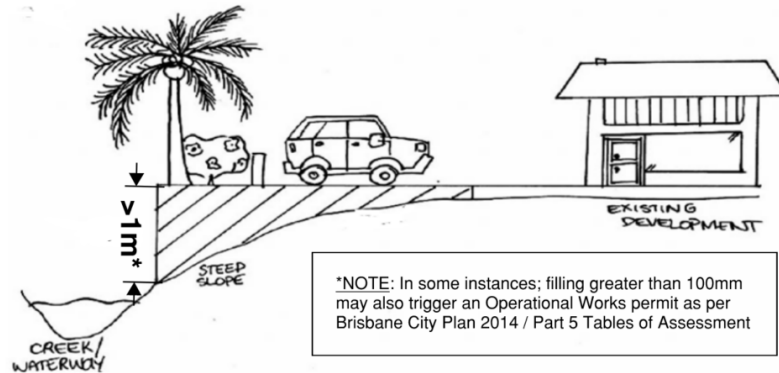
Excavation more than 1 metre below existing ground level to create a pad on a sloping site and where the changed ground level is **not** identified on approved building work plans or any development approval.



**Not considered to be incidental to building works and an operational works permit may be required. The primary purpose is the change to ground levels.**

**SCENARIO E:**

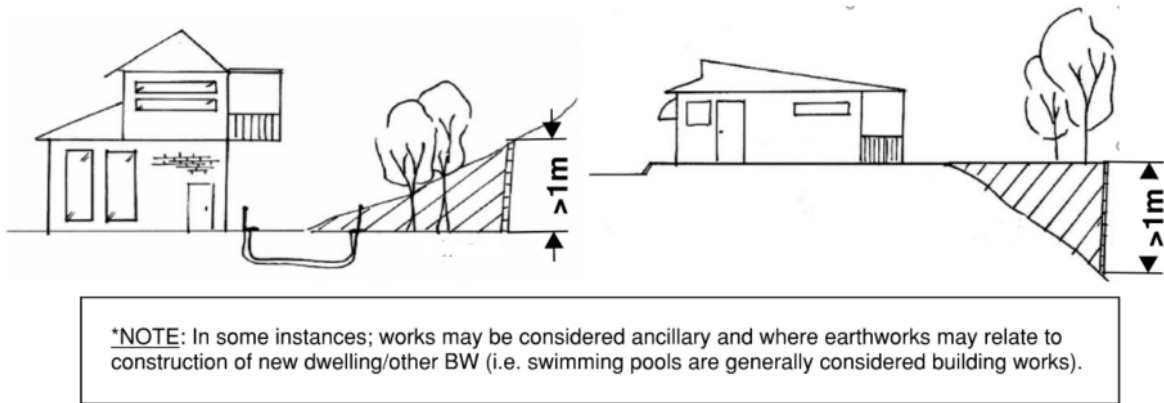
Fill over 1 metre on land to create a flood free area to benefit associated uses for a proposed building but not within direct proximity of the building works e.g. car park, vehicle turning area or garden.



**Not considered to be incidental to building works and an operational works permit may be required.**

**SCENARIO F:**

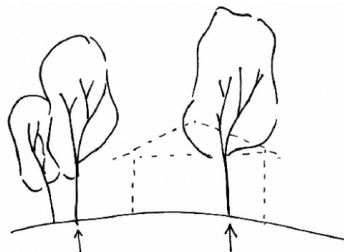
More than 1 metre of filling or excavation for completion of landscaping/levelling yard.



**Not considered to be incidental to building works and an operational works permit may be required.**

**SCENARIO G:**

Vegetation clearing prior to building work commencing.



**Not considered to be incidental to building works.**

**An operational works permit may be necessary if the vegetation clearing is assessable development.**

*NOTE: In some instances; a site or its immediate surrounds may identify protected vegetation under the Natural Assets Local Law 2003 (NALL) or the City Plan. You may require a permit to manage vegetation that is protected under NALL or the Planning Regulation 2017.*

To find out if your property has protected vegetation, you can [request a map and report online](#) or [contact Council](#).

### **Further information**

For more information about [Building Certification](#) please visit [www.brisbane.qld.gov.au](http://www.brisbane.qld.gov.au) and search for *Building Certification* or contact Council on (07) 3403 8888.

For more information about [Operational Works](#), please visit [www.brisbane.qld.gov.au](http://www.brisbane.qld.gov.au) and search for *Operational work and Council compliance assessment* or contact Council on (07) 3403 8888.