

Standard conditions of development consent

The NSW Department of Planning and Environment is introducing standard conditions for development consent. This document answers frequently asked questions about the conditions.

Why is the department introducing standard conditions of consent?

In 2018 and 2019, we heard from councils and industry about the following key issues with conditions of development consent and the criteria for good conditions (Table 1):

Table 1. Key issues and criteria for good conditions

Key issues with conditions	Criteria for good conditions
Lack of specific criteria in conditions	Use specific and clear language
Superfluous or too many conditions	Give criteria for a clear and enforceable outcome
Conditions related to issues that should be resolved prior to determination	Include reasons for imposing a condition
Ambiguous standards make conditions difficult to implement and the timeframes for satisfying them are unclear	Do not include duplicate or irrelevant conditions
Conditions that were related to a separate development or conditions unrelated to the development	Logically order conditions according to development stages

Standard conditions of consent will reduce approval timeframes, improve consistency and certainty across council areas, make development consents easier to navigate, and free up councils to focus on more complex aspects of development assessment and compliance.

What are the standard conditions?

The department has prepared standard conditions of consent for local and regionally significant development. They are best-practice conditions that councils and planning panels should use to improve clarity, certainty and consistency across council areas. They give the best examples of conditions of consent and apply to multiple types of development.

Councils and planning panels will still be able to prepare **bespoke** conditions to site-specific issues that are not addressed by the standard conditions.

We have also introduced a standard format for development consents (notices of determination).

In line with changes to the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation), councils will need to prepare development consents on the [NSW Planning Portal](#) using the standard forms for notices of determination.

Why are standard conditions important?

A more effective and efficient planning system can retain and attract new investment, support the construction sector and encourage investment in new housing. This is a critical part of the NSW Government's response to keeping people in jobs and ensuring the economy recovers from the COVID-19 pandemic.

We are working with our stakeholders to reduce assessment times and make it easier to navigate the planning system and invest in NSW.

To which developments will the standard conditions apply?

The previous version of the residential conditions was released in May 2021. The department has since revised the [standard conditions for residential development](#) so they cover more types of development. These conditions can also be applied now to different types of work, including building work, demolition work, subdivision work, remediation work, vegetation removal and change of use, where applicable.

What matters are addressed in the residential conditions?

The standard residential conditions cover general matters, including approved plans and supporting documentation as well as matters that need to be undertaken at the various stages of the development process:

- before the issue of a construction certificate
- before the commencement of building work
- while building work is being carried out
- before the issue of an occupation certificate
- during occupation and ongoing use.

We have organised the conditions in this standard format as many consent authorities already use this structure in their development consents (notices of determination). The standard format will help to deliver consistent development consents across NSW.

Will the conditions be mandatory?

No. However, we encourage councils and planning panels to use the standard conditions in every development consent, where relevant. This will help give builders, developers, investors and certifiers who work across multiple local government areas certainty and consistency.

Will the department develop standard conditions for other development types?

Yes. The department has been working in consultation with stakeholders to establish standard conditions for other types of development. The department is currently finalising standard

conditions for mixed use, change of use, food and drink premises and demolition. The final version will be made available on the NSW Planning Portal and on the [website](#).

[View](#) the draft mixed use, change of use, food and drink premises and demolition conditions of consent.

How can consent authorities manage site-specific issues?

Consent authorities will be able to impose bespoke conditions of consent to address issues that relate to a particular development site and that the standard conditions do not address. These site-specific conditions should be consistent with the standard conditions.

The [Guide to writing conditions of consent](#) will help consent authorities prepare appropriate, well-structured and legally enforceable conditions and development consents. It will also help those who interact with the planning system – from builders and developers to home renovators and landowners – understand more about conditions of consent.

What changes is the department making to the NSW Planning Portal?

We have updated the NSW Planning Portal to include the standard conditions of consent and the standard format for notices of determination. From September 2022, the standard conditions for residential development will be available on the portal. Consent authorities will also be able to prepare development consents in the standard format through the portal from this date.

Councils will also be able to include their bespoke conditions on notices of determination through the portal.

Councils and planning panels will be required to prepare development consents in the standard form on the NSW Planning Portal when the EP&A Regulation starts on 30 June 2023.

This will give councils and planning panels time to prepare for the changes.

Councils are encouraged to review their library of conditions and add their bespoke conditions into the NSW Planning Portal before 1 June 2023.

When will the standard conditions go live?

Consent authorities can use the standard conditions for residential development now. The conditions are available on the [website](#).

The standard residential conditions will be available on the NSW Planning Portal from September 2022. The department will roll out standard conditions for other development types on the portal in early 2023.

Is there guidance to support the standard conditions?

The [Guide to writing conditions of consent](#) will help consent authorities prepare appropriate, well-structured and legally enforceable conditions and development consents. It will also help those who interact with the planning system – from builders and developers to home renovators and landowners – understand more about conditions of consent.

We have also prepared the *Standard Conditions Toolkit* to help councils upload and maintain their own conditions on the portal. Read the [Standard Conditions Toolkit](#).

It is standard practice for councils to include advisory notes in their notices of determination. These give applicants more information about their responsibilities. However, as advisory notes do not form part of the determination, they will now be included in a separate document that will accompany any notices of determination prepared through the portal. The *Conditions of Development Consent: Advisory Note* document will be linked to the template for notices of determination.

Councils will have the option of attaching a separate document of extra advisory notes to the notice of determination if they consider it necessary.

Will the department provide training in how to use the standard conditions?

Yes. We will provide training to all councils in the second half of 2022 on:

- using the portal to prepare notices of determination
- using the portal to insert bespoke conditions

We will also make a test environment available on the portal so that councils can test the features of the system.

The department will contact councils to arrange training.

Will the department regularly update standard conditions?

Yes. We will regularly review the standard conditions, considering relevant case law and changes in legislative requirements. We will also update the standard conditions from time to time to address other changing circumstances or to reflect best practice.

More information

For more information about standard conditions, [visit](#).