

Council toolkit for standard conditions of consent

Standard conditions of consent

August 2022



Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Contents

- About this toolkit.....4**
 - Overview 4
 - Guidance material..... 5
- Schedule of work 2022 6**
- How the portal orders the conditions in a notice of determination.....8**
 - Development type..... 8
 - Development stage 9
 - Standard and prescribed conditions library 10
 - Standard conditions sets..... 10
 - Bespoke condition library 11
 - Tagging conditions..... 12
- Bespoke conditions toolkit..... 14**
- Council logo..... 15**

About this toolkit

This toolkit will help councils create and upload their bespoke libraries of conditions for different types of development onto the NSW Planning Portal within a reasonable timeframe.

Key elements of this toolkit include:

- setting a deliverable guideline for councils
- understanding how the portal orders the conditions of consent on a notice of determination
- identifying the appropriate stages of development to which the condition applies
- establishing a tagging convention.

Overview

The [Environmental Planning and Assessment Regulation 2021](#) (EP&A Regulation) has been amended to prescribe a standard format notice of determination on the NSW Planning Portal.

New features have been added to the portal to support the Regulation amendments. This includes a standardised format for notice of determinations and 2 libraries of shared conditions – one for prescribed conditions (mandatory) and standard conditions (best practice) and another for councils' bespoke conditions:

- **Prescribed conditions** are those mandated under the EP&A Regulation. Councils must use these conditions for relevant development types.
- **Standard conditions** are optional best-practice conditions drafted by the department in consultation with industry professionals. Councils can choose to use these conditions.
- **Bespoke conditions** are developed by the consent authority for site-specific issues or to reflect the unique character of their area. Council can choose to use these conditions.

Having the conditions of consent in a single location will allow councils to generate a notice of determination directly through the portal.

Councils will have existing conditions of consent that may need to be reviewed and updated in accordance with the guide to writing conditions of consent. We acknowledge this may be a significant task and this toolkit has been developed to help councils review their conditions libraries and prepare these conditions for upload onto the NSW Planning Portal in a 'council conditions library'.

Guidance material

We have updated the [guide to writing conditions of consent](#) (PDF, 408 KB) and provided additional information on the department's [website](#).

The changes will be introduced following the release of the regulation and a transitional period will provide time for councils to prepare. Training and support will be available to council staff to aid with the transition.

Tip

Start reviewing council's bespoke conditions against the department-released standard conditions to consider what matters are not addressed by the standard conditions.

Schedule of work 2022

Table 1. List of work and deliverables for the department and councils

Department to deliver	Anticipated completion	Actions for council
- Revised residential standard conditions released on the department's website and included on the portal - Updated guide to writing conditions of consent - Standard format notice of determination approved by the Planning Secretary - EP&A Regulation change – requires councils to use the notice of determinations on the portal. The Regulation amendment has a deferred commencement until 28 November 2022 - New standard conditions on department's website for 3 months for final comments/feedback: - demolition standard conditions - contamination standard conditions - mixed use standard conditions - change of use standard conditions - food and drink standard conditions	September 2022	- Make note of the changes and supporting information - Review residential standard conditions against similar council conditions - Review the new standard conditions against similar council conditions - Start using the toolkit to format bespoke condition content considering standard and prescribed conditions for duplication - Consider formulating a tagging convention

Department to deliver	Anticipated completion	Actions for council
• Training on bespoke conditions • Training on portal changes including administration and officer functions • Sandbox for councils to practice in a test environment	September 2022	• Book and attend a training session on developing bespoke conditions of consent • Participate in training on bespoke conditions • Book to participate in training on the portal • Participate in training on the portal • Book to practice in sandbox environment once training on the portal is completed
• Portal changes active – council can insert bespoke conditions • Initial check in with council	October 2022	• Aim to have bespoke conditions uploaded onto the portal related to: – residential – demolition – mixed use – change of use – food and drink • Attend the check in session with a progress update or an outstanding issue
• Second check in with council • Second set of conditions included on the planning portal	November 2022	• Aim to begin uploading or be in the process of finalising uploading bespoke conditions related to other planning matters onto the portal • Attend the check in session with a progress update or an outstanding issue
• Third check in with council	December 2022	• Aim to have all remaining bespoke conditions uploaded onto the portal • Ensure staff are prepared for the transition to using the portal to complete determinations • Attend the check in session with a progress update or an outstanding issue

How the portal orders the conditions in a notice of determination

The conditions in the portal have been coded to appear in a particular order. This is so that when similar determinations are made, council officers, applicants, certifiers, planners, builders, developers and anyone else holding an interest in reading the notice of determination will generally find the same conditions in roughly the same location.

The notice of determination is in a standard format, with conditions ordered by development type and then by development stage.

Development type

Development type is the broad category the development will fall into. These include :

- demolition work
- remediation work
- building work
- subdivision work
- land subdivision (where subdivision work is not involved)
- strata subdivision
- change of use (where building work is not involved).

Depending on the complexity of the development, if there was demolition and building work proposed, the portal will allow:

- the establishment distinct development types and apply multiple development types to a single determination
and
- the duplication conditions across multiple development types so council can holistically consider the conditions that apply.

Councils should be consistent in their use of development types on the notice of determinations.

The portal will not prevent duplicate conditions on an individual notice of determination. If 2 development types have been selected and they both contain the same general condition such as approved plans and documents, the portal considers these as different conditions, and it is up to the officer to separate or amalgamate the condition as required.

The portal will not support the bulk upload of conditions. Each condition that may apply to more than one development type, such as a condition for approved plans and documents, should be uploaded separately under

each relevant development type. This makes the condition available for when any one development type is selected.

Tip

If a condition could be applied to multiple development types, this condition will need to be duplicated in the portal under each development type. Be mindful of the context of the condition when doing so.

Development stage

Each development type has different stages that conditions can be best applied. All conditions categorised under a development type are further categorised under a development stage. Alphabetised department prescribed and standard conditions will be followed by alphabetised council bespoke conditions for each development stage.

Table 2. Development stages for each development type

Development type	Development stage
All development types	• General conditions • Other
Demolition work	• Before demolition work commences • During demolition work • On completion of demolition work
Remediation work	• Before remediation work commences • During remediation work • On completion of remediation work
Building work	• Before issue of a construction certificate • Before building work commences • During building work • Before issue of an occupation certificate • Occupation and ongoing use
Subdivision work	• Before issue of a subdivision works certificate • Before subdivision work commences • During subdivision work • Before issue of a subdivision certificate • Ongoing use for subdivision work
Land subdivision (where subdivision work is not involved)	• Before issue of a subdivision certificate
Strata subdivision	• Before issue of a strata certificate

Development type	Development stage
Change of use (where building work is not involved)	Ongoing use for change of use

Some conditions may be suited to more than one development stage (for example, completion of landscaping condition). Sometimes, it may be best to require that landscaping is completed before the issue of an occupation certificate. At other times, it may be more appropriate to have landscaping completed during occupation and ongoing use of the development. The portal will support both options, but it is up to the officer to ensure the most appropriate condition is selected.

Tip

Similar conditions should have similar condition titles so they may be easily linked together. For example, 'Erosion and sediment control plan' and 'Erosion and sediment controls in place' occur at different development stages but clearly relate to the same subject.

Standard and prescribed conditions library

The department has established a library for department conditions. Prescribed conditions are mandatory and listed in Part 4 Division 2, Subdivision 1 and 2 of the [EP&A Regulation 2021](#)

These include standard conditions for:

- Conditions available on the planning portal
 - residential
- Conditions for release 2 on the portal website
 - demolition –
 - mixed-use development
 - food and drink
 - change of use
 - biodiversity credits.

Once these conditions have been released, council will be given time to review their conditions against the standard conditions and the [updated guide to writing conditions of consent](#), before uploading their bespoke conditions into the portal.

Standard conditions sets

The department has collaborated with industry professionals to create a series of standard conditions. The standard conditions have been drafted to provide coverage over many types of development, expanding on the standard conditions for residential development released in May 2021.

When preparing conditions for council's bespoke condition library, consider starting with conditions of a particular theme of development and comparing these to any standard conditions that may also apply.

After reviewing conditions for residential development, you can apply standard conditions to different types of work, including building work, demolition work, subdivision work, remediation work, vegetation removal, strata and change of use, where appropriate.

While standard conditions are being developed to cover the most common development scenarios, further work remains for consent authorities to address matters that are not included in the standard conditions.

Bespoke condition library

The department will add and maintain the prescribed and standard conditions libraries within the portal for councils to use as required. Council will need to upload and maintain their own bespoke conditions library into the portal, along with some essential information for each condition.

Organising council's bespoke conditions library in the portal is important to get the best user experience. Each condition should be reviewed against prescribed and standard conditions to reduce duplicate conditions. It should also be reviewed against the [guide to writing conditions of consent](#).

Collate the following information for each individual bespoke condition before uploading the condition to the portal:

- Development type – the type/s of development to which this condition may apply
- Development stage – when the condition appears on the notice of determination, e.g., before building work commences
- Title of condition – a clear description of the condition content using consistent language for similar condition titles
- Condition text – the development requirements written with regard to the guide to writing conditions of consent
- Condition reason – the reason why the condition is important to the development
- Relevant tags – tags will enable conditions to be grouped in different ways, and easily searched.

How to write a condition of consent, including the title, text and reason are addressed in [guide to writing conditions of consent](#). Advice is provided below to assist in identifying the development type, stage and any tagging requirements. We recommend you take a staged approach for uploading bespoke conditions concurrently with the release of department standard conditions.

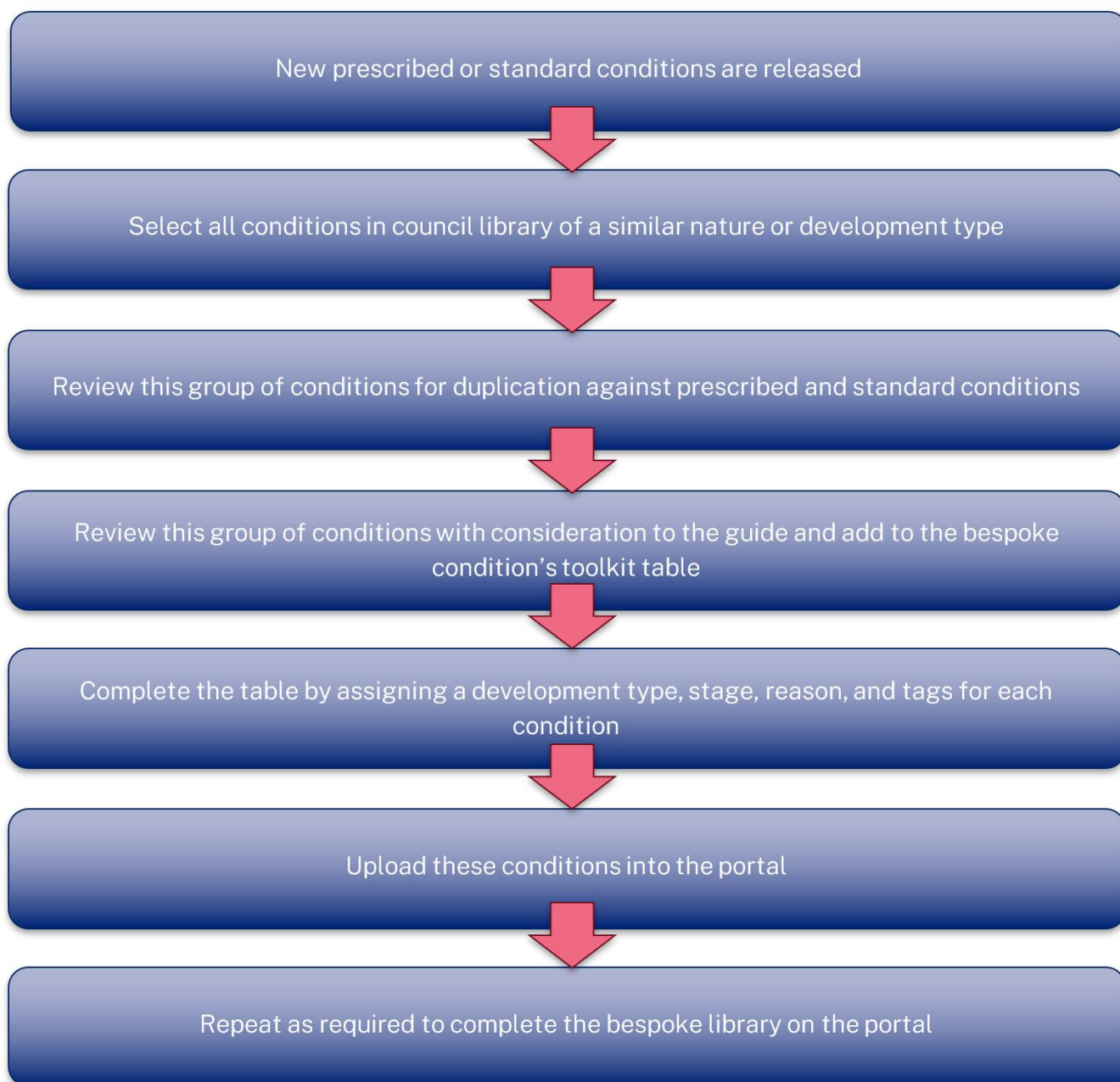


Figure 1. Process to review council conditions and insert conditions into the bespoke library in the NSW Planning Portal

Tagging conditions

The new tagging feature on the portal will provide the ability to quickly search for a single condition or a set of related conditions. Use tagging to group conditions by a common development category or subject.

Before uploading bespoke conditions into the portal, establish an intuitive and considered tagging convention. The convention should be used by a conditions administrator entering the conditions onto the portal and by development assessment officers applying conditions of consent to the notices of determination. While there is

no limit on the number of tags that can be applied to a condition, it is up to council to determine what tags should be applied to each bespoke condition.

Once a tagging convention has been established, we recommend councils share this with council officers using the portal to help them locate appropriate condition sets when preparing notices of determination through the portal.

For this feature to be effective, it is important to capture all conditions that may be applied.

When searching for a condition by a tag, all conditions that have been grouped under that tag will appear. The search can be narrowed by applying multiple tags in the search bar.

For example, where some conditions are tagged as 'single dwelling' and others as 'detached residential', not all applicable conditions will be located unless the user searches both tags separately.

Tip

When establishing a tagging convention, consider using a range of tags for each condition to allow for a quick search. This might include:

- terminology from the Standard Instrument, such as 'dwelling house', or 'residential flat building'
- subject matter, such as 'heritage' or 'bush fire'
- building type or classification, such as 'detached dwelling', or 'class 1a'

Use the following table to help establish a tagging convention with consideration of the different ways conditions can be grouped together. Add data to the table as appropriate. Consider these tags when thinking about how to locate conditions for a particular development type and share the final version of your tagging convention table with anyone applying conditions of consent.

Table 3. Example tagging convention table

Standard Instrument terminology	Subject matter	Building type or classification
Dwelling House	Heritage	Class 1a
Residential Flat Building	Bush fire	Detached dwelling
Add data	Add data	Add data
Add data	Add data	Add data
Add data	Add data	Add data
Add data	Add data	Add data
Add data	Add data	Add data

Bespoke conditions toolkit

Complete the following table as an important preparation step before transferring council's bespoke conditions into the portal.

Table 4. Sample bespoke conditions information table

Development type	Development stage	Condition title	Condition text	Condition reason	Tags that apply	Review ¹
SAMPLE Building work	SAMPLE Before issue of a construction certificate	SAMPLE Car parking details	SAMPLE Before the issue of the relevant construction certificate, written evidence prepared by a suitably qualified engineer must be obtained that demonstrates, to the certifier's satisfaction, the plans for parking facilities comply with the relevant parts of AS 2890.1:2004 Parking Facilities - Off-Street Carparking and < INSERT PART(S), SECTION(S) OR CLAUSE(S)> of Council's relevant development control plan (in force as at the date of determination of this consent).	SAMPLE To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP	SAMPLE • Parking • Traffic • AS 2890 • Subdivision • Residential Flat Building • Commercial • Industrial • Mixed use	SAMPLE Review completed Duplicate to existing standard conditions
Add data	Add data	Add data	Add data	Add data	Add data	Add data
Add data	Add data	Add data	Add data	Add data	Add data	Add data
Add data	Add data	Add data	Add data	Add data	Add data	Add data

¹ Review against [guide to writing conditions of consent](#) and the prescribed and standard conditions

Council logo

Council must provide the department with a copy of the council logo to be placed on the notice of determination.

The Logo must be 1070 pixels by 265 pixels, which is approx. 20 cm by 5 cm.

Image format should be JPEG or PNG.

The logo should be sent to epanning.support@planning.nsw.gov.au before council has access to the updated features in the portal

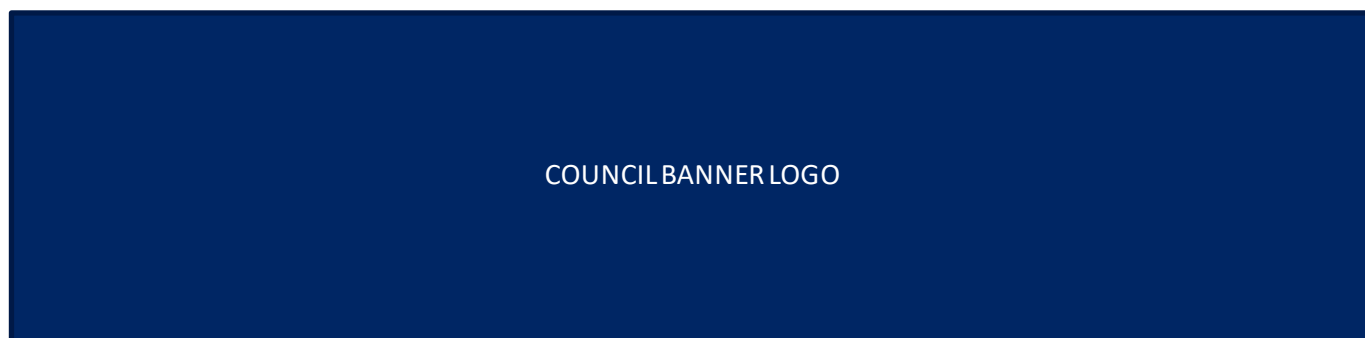


Figure 2. Actual size allocated for council banner logo