



Planning circular

PLANNING SYSTEM

Circular	PS 25-001
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Related	Nil

Best practice consultation of draft conditions of consent prior to determination

Overview of this circular

In August 2024, the NSW Government established a new multi-agency Housing Taskforce to expedite the assessment and determination of housing development applications and to address impediments to post consent requirements.

The Housing Taskforce has undertaken engagement with industry and local councils to determine how to accelerate the carrying out of development as approved under a development consent to increase housing supply.

This engagement has provided an opportunity to improve consultation with applicants with respect to the drafting of conditions of consent.

Application of this circular

This circular applies to Part 4 of the Environmental Planning and Assessment Act 1979 development applications.

Applicant's review of draft conditions of consent as best practice

The Environmental Planning and Assessment Act 1979 authorises consent authorities to impose conditions on a consent.

This circular advises as best practice councils should provide the draft conditions of consent to the applicant, where the application will result in 30 or more dwellings, for the applicant's review prior to determination.

The applicant should be provided seven days to review the draft conditions of consent and provide the council with their feedback before determination. Councils are to consider the applicant's feedback before issuing a Notice of Determination.

Providing draft conditions for review will reduce the number of incorrect and impractical conditions, avoiding the need for modification applications or potential costly appeals to the Land and Environment Court to address conflicting conditions, minor errors, and sequencing issues.

To avoid an impact on assessment timeframes, it is best practice for councils to provide consultation on draft conditions concurrently during the assessment process rather than starting the consultation after assessment and before determination. This increases transparency during the assessment process and reduces the need for potential modifications to consents or appeals.

It is ultimately a matter for the council to exercise their discretion in imposing conditions of consent, following any consultation with the applicant on draft conditions of consent.

This circular notes that the Department of Planning, Housing and Infrastructure introduced standard conditions of consent and standard format of notices of determination with the intent to speed up assessment timeframes, provide greater consistency and certainty and make development consents easier to navigate.

Further information on the standard conditions of consent is available at:

<https://www.planning.nsw.gov.au/policy-and-legislation/planning-reforms/standard-conditions-of-consent>

Further information

Department of Planning, Housing and Infrastructure circulars are available at:

[planning.nsw.gov.au/circulars](https://www.planning.nsw.gov.au/circulars)

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Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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