

**Internal referrals and permit conditions**

Factsheet

This document is for internal referral departments to support drafting planning permit conditions. This document should be read in conjunction with DTP’s document Writing Planning Permits, May 2023.

# Permit Conditions

Permit conditions are part of the approval and must be complied with. Conditions may be placed on a permit by council (including recommendations from internal referral departments), VCAT or an external agency.

# What conditions can be placed on a permit?

Conditions may be:

* Endorsement conditions
* Compliance conditions

## Endorsement Conditions

Endorsement conditions specify things to be done or documents to be approved before starting a use or development allowed under the permit. These conditions require assessment from the planning department, internal referral departments, or external referral parties.

The information required to approve a permit condition must be completed to the satisfaction of council. Information about undertaking post-permit assessment has been outlined within a separate document. For guidance regarding approving and endorsing plans, please refer to section 7 of Writing Planning Permits.

## Compliance Conditions

Compliance conditions include operational, mandatory, starting and expiry conditions. These require ongoing compliance, but do not involve further assessment. Compliance conditions could require a specific action to be done or could stop a permit holder from using or developing a site in a certain way. For some conditions, council may request evidence of compliance.

Examples of compliance conditions include:

* paying a development levy before construction starts
* concealing building services from public view
* operating a business during specified opening hours
* maintaining landscaping on an ongoing basis

For further guidance on permit condition categories, please refer to section 1.3.2 of Writing Planning Permits.

# Considerations for drafting conditions

Conditions must be written clearly so the permit holder understands what is required. Case law has determined certain factors for permit conditions, which include:

## Conditions must:

* be related to the planning permission being granted
* fulfil a planning purpose and be reasonable
* accurately convey its intended effect
* avoid uncertainty and vagueness
* not regulate land use if the permit granted is for development
* not defer the resolution of a key issue.
* include a timeframe for compliance with the condition where this is appropriate, such as:
  + before the development begins
  + before the approved land use begins
  + before the building is occupied
  + before a building permit is issued.

## Conditions can:

* grant an approval subject to changes
* facilitate or restrict an activity associated with use
* impose time limits
* require an action at a certain time
* incorporate plans and reports into the permit approval
* require action to be taken external to the land
* facilitate legal agreements.

For guidance on drafting effective conditions, please refer to section 4 of Writing Planning Permits and the example model conditions provided in Appendix. 2.

# Can applicants challenge permit conditions?

After receiving the permit, applicants may request a review of permit conditions with VCAT.

An application to review permit conditions must be lodged within 60 days of the notice of decision or permit being issued.

# Still have questions?

If you have any questions regarding this information or other planning matters, please reach out to council for further assistance.