**Post permit timeframes**

Guidance for assessing planners



# Endorsing documents to discharge planning permit conditions and assess secondary consent requests in a timely manner is critical to allowing permit holders to commence the approved use or development.

This document provides guidance for planners regarding statutory timeframes for permit condition discharge and secondary consent assessments.

# Prescribed time for permit-related actions

Under Section 149(1)(d) of the Planning and Environment Act 1987, a permit holder can apply to the Victorian Civil and Administrative Tribunal (VCAT) if a responsible authority does not decide on a planning permit condition within the prescribed time.

Regulation 54 of the Planning and Environment Regulations 2015 outlines that the prescribed time is 30 days, which starts on the day the specified body receives the action request.

This means that responsible or referral authorities should decide on a document lodged for endorsement within **30 days** of receiving it.

# Deciding on permit-related actions

When a condition discharge or secondary consent request is sought by a permit holder, the responsible or referral authority must decide to:

* **Approve and endorse** the relevant plans or documents.
* **Refuse** to approve or endorse the relevant plans or documents – the authority must state why the plan or document has been refused.

When these requests are refused, a permit holder may request a review of that decision to VCAT. This request can be made under Section 149(1)(a) of the *Planning and Environment Act 1987*.

# Incorrectly lodged documents

A permit holder may lodge documents or amendments that include more substantial changes than what can be approved under these pathways. For example, endorsement documents or secondary consent amendments that include changes that that contradict planning permit conditions cannot be approved. As outlined in *Westpoint Corporation Pty Ltd v Moreland CC [2005] VCAT 1049* substantial changes to a permit should be assessed under Section 72 of the Act.

In this instance, a responsible or referral authority may:

* **Withdraw the request** and transfer to an amendment application under Section 72 of the Act with the written agreement of the permit holder, or
* **Refuse to approve or endorse the documents**. A refusal must be accompanied by grounds outlining why the request has been refused.

If a request is transferred to a Section 72 amendment, a permit holder may need to complete additional tasks. The prescribed time then starts on the day the permit applicant completes the application form.

It is not appropriate to allow a request for a permit-related action made under the wrong pathway to remain undecided indefinitely. Where feasible, the specified body should decide within the prescribed time.

# Using discretion when assessing

Planners should balance the amount of extra information required to complete their assessment with a decision to refuse to approve or endorse. If only minor changes or inclusions are needed, it may be more efficient to quickly request this information from a permit holder rather than issue a refusal.