

Development Fact Sheet 9

Can I apply for a Non-Complying Development?

What is Non-Complying Development?

Non-Complying developments are listed in the Development Plan and are land uses which are ordinarily not envisaged or desired in a particular area. These uses will generally be inconsistent with the objectives and principles of the zone policy area that they are in, for example industrial developments in a residential zone or a new high rise building in a heritage policy area. Non-Complying development is not usually approved unless it is a special circumstance.

Can I apply for a Non-Complying development?

An Application can be made to the Council for a Non-Complying development if the Applicant believes that it has significant merit. The lodgment of a Non-Complying Application incurs a number of expensive fees. You should seek advice from the Council before preparing your Application.

What process will my Non-Complying Application follow?

The assessment process for a Non-Complying Development Application involves a number of steps. The first step is for the Council staff to undertake a preliminary assessment. From this, they will decide to either refuse the Application or proceed with a full assessment. If the Application is refused at this time the Applicant has no right of appeal against the decision. If the Application is allowed to continue there is no guarantee that it will be approved.

If the Council agrees to proceed with full assessment of the Application, a report called a Statement of Effect is required to be submitted. The Statement of Effect must

address certain criteria, as specified in the Development Regulations 2008. As it is a complex document it may be beneficial to engage the services of a planning consultant to prepare this for you.

The second step, if the Council decides to proceed with the assessment of the Application, is for the Council planner to undertake a full assessment of the development. After Council planners have assessed the Application, the Application may require public notification. After any submissions are received following the public notification period, the planner will write a report recommending either approval or refusal of the Application to the Council's Council Assessment Panel.

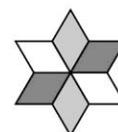
The third step is for the Application, staff recommendation and report to be considered at the Council's next available Council Assessment Panel meeting, where a decision will be made to support or refuse the Application. If the Council refuses the Application, the Applicant has no right to appeal the decision. If the Council supports the Application, then the State Commission Assessment Panel (SCAP), the state planning authority, must also make a decision on the development.

The fourth step is for the State Commission Assessment Panel to assess the Application. If the State Commission Assessment Panel does not support the Application it will be refused. If the Application is refused, the Applicant has no right of appeal. If the State Commission Assessment Panel approves the Application, a Decision Notification Form will be sent to the Applicant informing them of the approval and any conditions placed upon the development.

<http://onenpsp/sites/teams/upe/da/Shared Documents/Information Sheets/Development Fact Sheet 9 Can I apply for non-complying.docx>

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It should also be noted that if the Application is processed as a Category 3 development and third parties lodge representations in relation to the Application during the notification period and if the Application is approved, those third parties will have appeal rights to challenge the Council's decision.

The information provided in this Development Fact Sheet is intended as a general guide only and readers are encouraged to refer to the Norwood Payneham & St Peters (City) Development Plan and to seek professional planning advice if necessary. This information is subject to frequent updates and this version was last updated in June 2016. The latest version can be downloaded via the Council's website at www.npsp.sa.gov.au. For further information, please contact the Council's Urban Planning & Environment Department on 8366 4530.
