



Non-Complying Development

Non-Complying Development

The list of Non-Complying forms of development are shown in the Development Plan.

In most cases, if Council is the relevant authority, then the concurrence of the State Planning Commission (SPC) must be sought.

If the SPC is the relevant authority, then it in turn must seek the concurrence from both the Local Council and the Minister for that approval to become effective.

While the mechanism exists for a development approval or consent to be granted to a Non-Complying form of development, the process should not be taken lightly.

It may be that you feel that the proposal may have substantial merit even though it is Non-Complying. If this is the case you are able to lodge a development application to the relevant authority.

If concurrence is not issued the application will be refused.

Process

Sufficient plans and information must be lodged, together with the initial Statement in Support (see below) to enable Council's Assessment Panel (CAP) to determine whether it will proceed with an assessment of the application.

Please note that the decision to proceed with the assessment of an application should not be construed as an indication of support, but that processing of the application will commence and the formal planning assessment will begin.

A Statement of Effect (see below) is then requested before any further action is taken.

Once the Statement of Effect is received then the following is undertaken by the relevant authority;

- Public notification (Category 3 Development)
 - Third parties have an opportunity to lodge a written representation to the relevant authority and may appear before the CAP.
- Referral of the development application to any specified Government Departments (if required)

Depending on whether there is a need to modify the application or if further negotiations are required, CAP will then consider the application and make a decision.

Information Required

Statement in Support

A brief Statement in Support, outlining the reasons why the proposed development should proceed, notwithstanding that it is listed as being Non-Complying should be lodged as soon as possible.

Council will then consider whether to proceed with assessing the application or whether it will refuse to assess the application further.

Statement of Effect

Should the CAP decide to proceed with the assessment of the application you will be required to lodge a Statement of Effect on the proposal which describes:

- the nature of the development and its locality
- the provisions of the development plan relevant to the proposal
- the extent to which the proposal complies with the provisions of the relevant Development Plan
- the anticipated social, economic and environment effects on the locality
- any other relevant matters.

This Statement is best prepared by a suitably qualified Planning Consultant.

Timing

It is difficult to give an accurate time-frame of how long it will take to process a Non-Complying application given the various processes required.

In most cases allow for a 6 month processing period.

The Decision

If the CAP or the SPC resolves not to proceed with an assessment of the development application or refuse a Non-Complying application, there are no rights of appeal for the applicant.

Third parties that are involved in the development application (representors) do have appeal rights.

The Information Guide is intended to assist applicants to submit applications which are complete, well prepared, and can be processed efficiently. The information provided is intended as a general guide only and applicants are encouraged to refer to the District Council of Yankalilla Development Plan and to seek professional advice if necessary.