

# Planning Fact Sheet 10



## 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 not encouraged within a particular area. These uses are inconsistent with the objectives and principles of the zone or policy area that they are in, for example industrial developments in a residential zone or intensive animal keeping in a flood zone. Non-Complying development is not usually approved unless it is a special circumstance.

### Can I apply for a Non-Complying development?

An application can still be made to Council for a Non-Complying development if the applicant believes that it has significant merit. The lodgement of a Non-Complying application incurs a number of additional fees. You should seek the advice of 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. When a Non-Complying application is made, Council staff undertake a preliminary assessment to determine whether they will decide to 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 of approval.

If Council agrees to proceed with full assessment of the application a report called a Statement of Effect is required to be submitted. This must be prepared by a qualified planner.

Non-Complying development applications will generally be given public notification which gives the public an opportunity to influence outcomes on development that may impact them or the community and environment more generally. Council will undertake the public notification process and will require the application to pay an appropriate fee to cover the cost.

If the Council decides to proceed with the application, the Council planner will undertake a full assessment of the development. After Council planners have assessed the application

they will write a report recommending either approval or refusal of the application to the Council Assessment Panel.

The application, staff recommendation and report to go to a Council Assessment Panel meeting, where a decision will be made to support or refuse the application.

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Should Council refuse the development, the applicant has no right to appeal the decision. If Council supports the application then the State Commission Assessment Panel (SCAP), the state planning authority, must also make a decision on the development.

The State Commission Assessment Panel then assess the application. If the SCAP does not support the application it will be refused. If the application is refused, the applicant has no right of appeal. If the SCAP 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.

If the application was given public notification, representors have the right to appeal an application if they are unhappy with the decision. The representor must lodge a notice of appeal to the Environment, Resources and Development Court within 15 days of when the decision was made.

## ***Further Information***

The above information is advisory and only a guide to give you a general understanding of the key issues associated with planning. For further information or assistance, please contact Council's Development Department on 8539 1414 or [planning@murraybridge.sa.gov.au](mailto:planning@murraybridge.sa.gov.au)