



D05 Non-Complying Development

What is a Non-Complying Development?

‘Non-Complying’ forms of development are listed in the Development Plan and are land uses which are not envisaged or encouraged within a particular area. These uses will generally be 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 a high rise building in a Residential Character Zone.

Non-Complying development is not usually approved unless it is a special circumstance.

The City of Charles Sturt Development Plan is available for viewing online. The zone and policy area of your property can also be searched for and determined at www.charlessturt.sa.gov.au. [Development – Development Information Guides – Zone and Policy Area Map Search](#).

Can I submit an application for a Non-Complying form of development?

Yes. The lodgement of a Non-Complying Development Application incurs a number of additional fees. You are encouraged to seek advice from a qualified planning consultant 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.

Step 1 – Lodging your application with a Statement of Support

The first step is to submit a Development Application (an “application”) with a brief **Statement of Support**. The **Statement of Support** should outline the reasons why you believe the proposed development should be considered by Council even though it is listed as a Non-Complying development.

From this, Council 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. An application proceeding to a full assessment has no guarantee that it will be approved.

Step 2 – Proceeding to assessment with a Statement of Effect

If the Council agrees to proceed with full assessment of the application, a report called a **Statement of Effect** must be submitted. The **Statement of Effect** must address how the proposal addresses all the relevant provisions and objectives of the Development Plan. It is a complex document and it is strongly recommended that you engage the services of a planning consultant to prepare the **Statement of Effect** on your behalf.

During the assessment process, the application may require **public notification**.

The application will be assessed on its merits against the provisions and objectives of the relevant Development Plan and a report subsequently prepared.

Step 3 – Decision; approval or refusal

The application will be considered at the Council Assessment Panel meeting, where a decision will be made to either 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, the state planning authority, must also make a decision on the development. There is no guarantee that the State Commission Assessment Panel will agree with Council's recommendation.

Step 4 – Concurrence from the State Commission Assessment Panel

The decision is forwarded to the State Commission Assessment Panel for concurrence.

If the State Commission Assessment Panel does not provide concurrence with the decision of the Council Assessment Panel, the application will be refused.

If the State Commission Assessment Panel concurs with the decision of the Council Assessment Panel, the application will be granted Development Plan Consent in the first instance.

How long does it take to get a decision?

A minimum of twelve weeks should be set aside for the assessment by Council of a Non-Complying Development Application.

PLEASE NOTE: The State Commission Assessment Panel may take an additional ten weeks to issue its concurrence in some circumstances.

Can I appeal the decision if my application gets refused?

The applicant has no right of appeal on Non-Complying applications.

Third parties (arising from public notification) may have appeal rights in some instances. These are defined by the *Development Regulations 2008*.