

What is non-complying development?

Non-complying developments 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. An example may be an industrial development within a residential zone.

Can a non-complying development be approved?

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 expensive fees. You should seek the advice of Council before preparing your application.

If satisfied that the proposal is not seriously at variance with the Development Plan, a non-complying development can be granted consent.

Assessment Process

The assessment process involves a number of steps, including:

1. Development application lodged with Council. The application should include a brief statement in support detailing the reasons why an assessment should be undertaken.
2. DAP/ Administration determines if it will proceed to undertake an assessment.
3. If DAP/Administration determines to proceed to undertake an assessment, the Applicant is required to submit a statement of effect. The statement of effect must include:
 - An assessment of the extent to which the proposed development complies with the provisions of the Development Plan; and
 - An assessment of the expected social, economic and environmental effects of the development on its locality; and
 - Any other information specified by Administration as being required to undertake a complete assessment.
4. Administration consults with State Agencies (as required);
5. Public consultation is undertaken;
6. All representations will be forwarded to the Applicant and provided ten (10) business days to respond to the content of the representations;
7. The assessing officer completes the assessment and prepares a report for consideration by Council's Development Assessment Panel;
8. The Development Assessment Panel makes its decision to support or refuse the application;
9. If the Development Assessment Panel supports the application, Council will seek the concurrence of the Development Assessment Commission (State planning authority). The Development Assessment Commission must concur with Council's support in order for consent to be granted.
10. If DAC concurs then Council issues its decision.

Can you appeal against Councils decision?

An Applicant has no right of appeal against the decision for a non-complying development.