

# Fact Sheet

## Development Information Guide



### Development Application Decision Process

When an application for Development Plan Consent is lodged, a Planner will assess it against the *Development Act 1993* and *Development Regulations 2008* and The Barossa Council Development Plan to determine the category of development. These categories involve Complying Development, Merit Development (Category 1, 2 or 3 notification) and Non-Complying Development.

#### Complying Development

Certain development applications can be 'complying' under the Development Plan and/or the Development Regulations. Although Development Plan Consent is automatic in these cases, you will still need to lodge an application as formal confirmation is necessary. Building Rules Consent may also be required. Complying applications are exempt from public notification.

#### Merit Development

The Development Plan lists what type of development is allowed or prohibited in each planning zone. If your proposal is not included on either list it means the development is subject to the 'consent' of Council and is to be assessed on its merits. Sometimes adjoining neighbours will need to be notified (Category 2), or in other cases the application will be advertised in local newspaper(s) and land owners within the general locality will be notified (Category 3).

#### Non-Complying Development

If an application is listed in the Development Plan as inappropriate in a planning zone, the proposal is categorised as 'non-complying'. An applicant must show good reason why the application should be considered in the first instance, and if Council's Development Assessment Panel agrees the proposal has merit it may proceed; the State Government's Development Assessment Commission must also agree.

#### Who makes the decision and when?

Either Council or the State Government's Development Assessment Commission is the "relevant authority" responsible for assessing your application and issuing an approval. Mostly, it is Council that is responsible for making decisions on a proposal.

Set time limits are specified in the legislation depending on the nature of the development proposed. Applications for routine developments that require a planning assessment can generally be dealt with within eight weeks of lodgment, and within two weeks for complying developments.

Where an application has to be referred to a government agency, the time limit can be extended up to 12 weeks (eg. for land division proposals). Wherever possible, The Barossa Council will assess applications in less time than allowed, depending largely on the nature and complexity of the proposal and the issues raised.



### **How will a decision be made?**

Development proposals need to be suitable in terms of the Development Plan policies for the area. The assessment of any proposal must be made on the basis of the planning policies contained in the Plan. The assessment process is guided by the content and substance of the planning policies. However, a 'Development Plan Consent' cannot be granted if the relevant authority believes the proposal is seriously at variance with the Plan's policies.

### **Delegated Decisions**

Most applications can be dealt with under delegation (decision by officers) when relevant policy criteria has been met and/or no objections have been received as a result of public notification and an approval can be recommended. However, some applications need to be submitted to the council's Development Assessment Panel (DAP) for a decision.

### **About the Development Assessment Panel (DAP)**

Certain applications will be referred to the DAP for a decision if policy criteria are not strictly adhered to, objections have been received, or the application is seriously at variance with the Development Plan. Decisions will take into account any submissions arising from public consultation or from agencies, and recommendations by council officers.

The Development Assessment Panel:

- comprises seven members, including an independent Presiding Member; three elected members and three independent members appointed by Council;
- holds meetings in a public forum and the DAP hears representations in respect of submissions, assessing and determining development applications;
- currently meets at 5.00pm on the first Tuesday of each month as required.

How submissions are heard:

- matters involving submissions from the public wishing to speak to the DAP will be dealt with in agenda order;
- objectors will be heard first with the applicant (or their representative) having the right of reply;
- each person has five (5) minutes or agreed by the Chairman of the DAP to make their presentation;
- at the conclusion of a submission questions may be asked by the members of the DAP after which the presenter is required to return to the public gallery; and
- once all the presentations for the particular item are heard, the DAP will debate the matter in an open forum and make a decision (some discussion may be confidential if it relates to legal advice).

Sometimes applicants don't agree with the decision, such as if the proposal was refused outright or conditions attached to a consent are unacceptable to the applicant. Where the type of development has been assessed as Category 2, only the applicant has a right of appeal (within two months) against the Development Assessment Panel's determination. If the application is Category 3, objectors can also appeal (within 15 working days). You must lodge an appeal with the Environment, Resources and Development Court within the prescribed time if you don't agree with a decision or conditions. No specific appeal rights are available for decisions made in respect of non-complying developments.

### **Further information about the process**

Council's Development and Environmental Services department administers the assessment process for all Development Applications (including referrals to government agencies and other sections of council), and is available to assist with the following:

- an assessment of preliminary proposals and explanation of the application process to avoid delays and problems;
- advice on how to complete an application form, what fees need to be paid, and what information needs to be provided to support your application;
- whether the Council is required to notify neighbours for their comments about an application (for developments which require consultation prescribed by regulation).