

Empowering Local Governments: Planning for Renewable Energy



November 2024

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Part 1 - Planning Frameworks

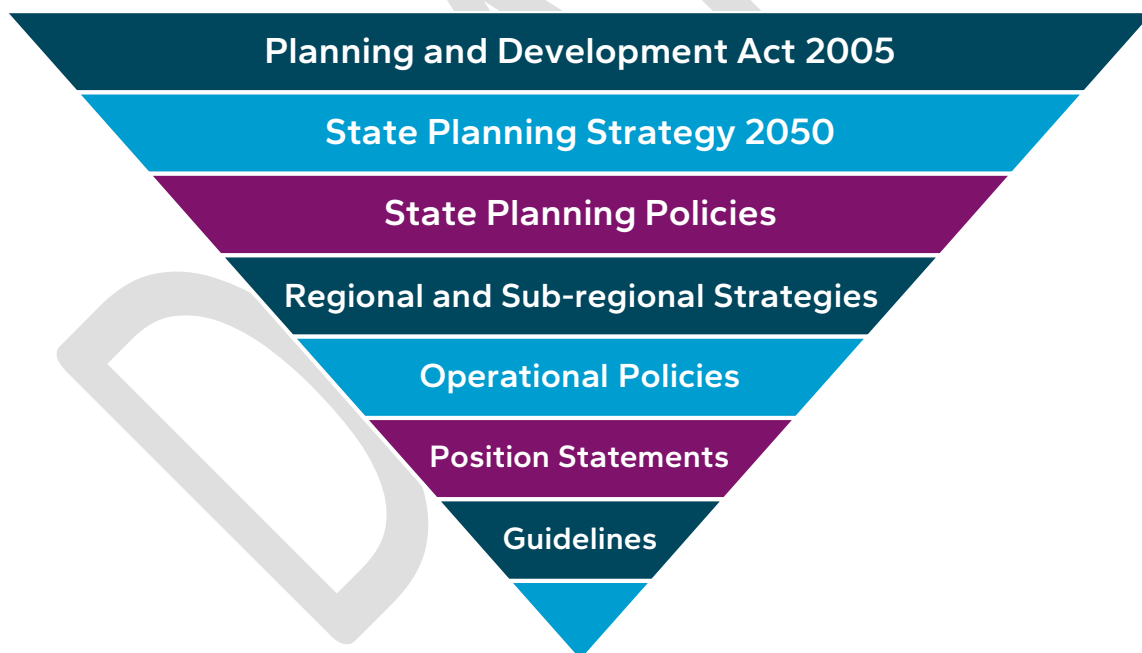
The growth in the number, size, and complexity of renewable energy facilities will continue as energy generation and other traditional industries decarbonise their facilities and operations. Unsurprisingly, the placement and management of renewable energy facilities has become a matter of growing importance for local communities across Western Australia (WA).

Local Governments have the ability to utilise their own local planning frameworks to ensure that proper and orderly planning matters are considered during the development of renewable energy facilities. The purpose of this part is to provide Local Governments with an overview of the State and local planning frameworks and outline the various planning instruments as they relate to the ongoing development of renewable energy facilities.

State Planning Framework

The State planning framework comprises a collection of key documents that are the basis for land use planning in WA. For context, the hierarchal order of the State planning framework documents is visualised in Figure 1 below.

Figure 1 - State Planning Framework Documents



Planning and Development Act 2005 and Planning and Development (Local Planning Schemes) Regulations 2015

The [Planning and Development Act 2005](#) (the Act) is the highest order statutory planning instrument in WA. The Act includes provisions for the creation of planning schemes, which are used to regulate land use and development across the State. There are a range of regulations which sit underneath the Act. For example, whilst the Act details the concept of local planning schemes, the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#) (the Regulations), provides specification about the structure and implementation of schemes.

The intention of the Regulations is to have a holistic State approach to planning processes, by administering how local planning strategies and schemes are to be prepared and amended. The Regulations consist of model provisions, which provides the form and content for all new planning schemes, as well as a set of deemed provisions that introduces uniform processes to schemes, such as local planning policy preparation and development assessment.

State Planning Strategy 2050

The Western Australian Planning Commission (WAPC) have prepared the [State Planning Strategy 2050](#) (2050 Strategy), which provides a strategic framework that identifies principles, goals and directions for the future of planning and development in WA.

The 2050 Strategy includes a section dedicated to energy, which states that it is in the state's long-term interest to diversify its energy generation mix, including investing in renewable energy. As such, the objective of this section is *"to enable secure, reliable, competitive and clean energy that meets the State's growing demand"*.

Regional and Sub-regional Strategies

The WAPC have prepared a series of frameworks to guide regional and sub-regional planning in WA, such as the [regional planning and infrastructure frameworks](#) for the State's regions outside of Perth and Peel, as well as [sub-regional strategies](#) in areas where more cooperation is required. The renewable energy industry has greater relevance in some regions, and the relevant content in the regional and sub-regional strategies related to renewable energy facilities reflects this.

State Planning Policies and Position Statement: Renewable Energy Facilities

State planning policies provide the foremost level of planning policy control in WA, whilst position statements outline the policy position of the WAPC on a specific matter that falls outside the strategic and operational roles of State planning policies. There is currently no State planning policy for renewable energy facilities.

The [Position Statement: Renewable energy facilities](#) (the Position Statement), is the document which provides guidance on how to incorporate planning controls for renewable energy facilities through planning instruments, such as local planning strategies and schemes, structure plans and the assessment of subdivision and development applications.

However, the lower level of planning regard afforded to this Position Statement has led to inconsistent application and approvals of renewable energy facilities across the State. WALGA's [Renewable Energy Facilities Advocacy Position](#) calls on the State Government to adopt a new state planning policy for renewable energy facilities, to replace the existing Position Statement.

All development proposals must outline how they address all relevant state planning policies. Renewable energy facilities, and particularly those in rural areas, are likely to need assessment against [State Planning Policy 2.4 Basic Raw Materials](#), [State Planning Policy 2.5 Rural Planning](#), [State Planning Policy 2.9 Water Resources](#), and [State Planning Policy 3.7 Planning In Bushfire Prone Areas](#).

Local Planning Framework (Strategies, Schemes and Policies)

It is the responsibility of Local Governments to plan for their communities, by ensuring that the necessary planning controls exist for proper and orderly land use and development. They do this through the preparation of local planning strategies, schemes and policies.

The Regulations require Local Governments to prepare a **local planning strategy** for each local planning scheme area. The strategy provides the basis for the zoning of land in local planning schemes, as well as the long-term planning directions and actions to manage the future of land use and development in a Local Government. Strategies must be prepared in a manner and form approved by the WAPC.

A **local planning scheme** is the primary statutory planning document for Local Governments. A local planning scheme outlines how land should be used and developed, primarily by classifying areas for certain land uses and incorporating provisions to control development, which is achieved via a scheme text and maps. The preparation or amendment of a scheme requires approval from the Minister for Planning, to ensure consistency with the state planning framework.

The other planning instrument that is relevant to the development of renewable energy facilities are **local planning policies**, which can be prepared by Local Governments to support the exercise of discretion for in planning decisions. The process for adopting a local planning policy is also set out in the Regulations and is relatively quick in comparison to local planning schemes and strategies, as they only require approval of the Council. As such, they are an effective tool for Local Governments to manage particular issues affecting them.

Whilst Local Governments are responsible for administering their local planning framework, they must ensure that it is consistent with the state planning framework, so they can effectively manage the development assessment of renewable energy facilities. If the local planning instruments do not align with the objectives of the state planning framework it is unlikely that they will receive approval by the relevant authority, being the Minister for Planning or WAPC.

Local Planning Strategies

A local planning strategy should provide the rationale for which areas of land can be appropriately zoned for renewable energy land uses. The [Local Planning Strategy Guidelines](#) clarifies what a local planning strategy should provide to justify the zoning of land under the local planning scheme, such as:

- *identifying land uses, zones or areas that are intended to change over the timeframe of the local planning strategy and identifying strategies to manage the change.*
- *identifying heavily constrained land that should avoid land use intensification (for example, land that is low lying and requires extensive fill, has environmentally sensitive areas or native vegetation, has infrastructure and/or servicing limitations such as access to water, is subject to bushfire risk that cannot be adequately addressed).*
- *avoiding, mitigating or managing conflict between incompatible land use and/or zones.*
- *identifying and protecting high value assets (for example, heritage, regionally significant natural areas, public drinking water source areas, environmentally sensitive areas, agricultural land) and land uses that need to be retained, protected and/or managed.*
- *identifying planning areas that require more detailed planning to realise the long-term planning directions for these places (for example, urban corridors, road and infrastructure corridors, areas identified for future zoning and intensification of land use).*

The above points must be taken into consideration when prescribing the preferred zoning of land that is suitable for renewable energy facilities. The Position Statement also provides information on the specific controls that can be implemented in a local planning strategy to address the development of renewable energy facilities, including:

- Local planning strategies should denote areas for landscape protection that prohibit the development renewable energy facilities. Local Governments without an approved strategy may require detailed evaluation regarding the landscape qualities of a subject site.
- In terms of preferred locations for larger facilities, they should be on cleared rural land with low agricultural value, and close to the network grid. If it is possible, the agricultural land use should persist during the operation of the renewable energy facility.
- Consideration of competing land uses on rural land, outlined by [State Planning Policy 2.5 Rural Planning](#) and [Development Control Policy 3.4 - Subdivision of rural land](#) need to be taken into account when determining appropriate locations for renewable energy facilities.
- Strategies should include off the grid renewable energy facility considerations, such as areas of high environmental and landscape value which may be unsuitable for large scale facilities. This may include conducting visual landscape analysis to enable landscape character and significant views to be recognised and protected.
- Renewable energy facilities should not impact on the future growth of regional towns and urban growth areas, particularly in areas where sensitive land uses will be located such as residential dwellings on the urban-rural fringe.

Before advertising a draft local planning strategy, a Local Government must provide a copy to the WAPC to assess for compliance with the Regulations and State planning framework. If the WAPC are satisfied, they will certify the strategy for the Local Government to advertise for 21 days.

Following the advertising period, the Local Government must consider the submissions, make any necessary changes and submit a copy of the advertised strategy, a schedule of submissions and details of any amendments to the WAPC for final endorsement. The WAPC has 60 days to make a decision - endorse the strategy with or without modification; require the Local Government to make amendments prior to resubmitting; or refuse the strategy.

In some instances, instead of preparing a new local planning strategy, a Local Government may need to amend an existing local planning strategy, in which the same process as above is required. The total time to prepare a new strategy can take anywhere between 2 - 3 years, depending on the complexity.

Local Planning Schemes

The Regulations require that a local planning scheme will consist of the following documents:

- the local planning scheme text
- the deemed provisions
- supplemental provisions to the model and deemed provisions
- the scheme map
- any supporting materials, plans, maps, diagrams, illustrations and other material required by the WAPC.

The local planning scheme text should align with the model provisions, which are set out in Schedule 1 of the Regulations. Schedule 2 of the Regulations outlines the deemed provisions, however, these do not need to be replicated in the scheme text, as they automatically apply to all schemes. The Act allows for supplementary provisions to be included at the end of the scheme text (Schedule A), provided they are consistent with or not already covered by the Regulations.

Whilst the local planning strategy should provide the basis of generally preferred zoning, the scheme map establishes statutory planning controls through zoning that dictates which land uses can be located in particular areas. The scheme text will include a zoning table that classifies which respective zones that renewable energy land uses are permissible.

Appendix 1 to 3 shows an example from the Shire of Nannup, where this local planning framework has been put in place. Appendix 1 shows the Shire of Nannup's local planning strategy map for the Nannup townsite and surrounds, with preferred zoning and notes on particular areas. Appendix 2 demonstrates how this strategic plan has been reflected through the local planning scheme zoning map for the Nannup townsite. Appendix 3 exhibits a portion of the zoning table, highlighting the zones where a renewable energy facility land use may be permitted. For context:

- 'A' means that the use is not permitted unless the local government has exercised its discretion by granting development approval after advertising in accordance with clause 64 of the Deemed Provisions.
- 'X' means that the use is not permitted by the Scheme.

In the Shire of Nannup, in areas that have been zoned as General Industry, Priority Agriculture, Rural or Rural Smallholdings, a renewable energy facility land use may be permitted if the Local Government exercises their discretion to grant development approval following advertising in accordance with Clause 64 of the deemed provisions (from Schedule 2 of the Regulations).

The Position Statement also provides instructions for how local planning schemes can utilise their statutory protections to control the development of renewable energy facilities, including:

- Implementation of the following land use definition for renewable energy facility:
Renewable energy facility means premises used to generate energy from a renewable energy source and includes any building or other structure used in, or relating to, the generation of energy by a renewable resource. It does not include renewable energy electricity generation where the energy produced principally supplies a domestic and/or business premises and any on selling to the grid is secondary.
- Designating renewable energy facilities as an 'A' use (not permitted without advertising and the Local Government exercising discretion) in the appropriate zones of a zoning table.
- The introduction of Special Control Areas (SCA) to create special provisions over particular areas of land. These may be applied for various reasons, such as protecting significant views, valuable landscapes from unsuitable land uses or air flight paths. In these SCA, provisions can designate a renewable energy facility as an 'X' use (not permitted).
- Provisions which provide direction on renewable energy facilities development, including the desired locations, development standards and terms of operation. These provisions can introduce measures to address potential impacts of renewable energy facilities such as providing suitable setback distances and vegetation screening from sensitive land uses.

The Act allows for a local planning scheme to include a schedule of supplementary provisions which can address matters not included in the model or deemed provisions of the Regulations. Any proposals to modify the model provisions will be assessed by the WAPC and determined by the Minister for Planning. Additionally, supplementary provisions cannot be contrary to or alter the intent of the deemed provisions.

With regards to the development of renewable energy facilities, the supplementary provisions of a scheme can specify land uses that are exempt or require development approval and set use specific development controls. However, this can also be achieved through Special Control Area provisions or via a zoning table which includes discretionary provisions to a renewable energy facility land use.

Similar to the process of a local planning strategy, when a Local Government proposes to prepare or amend a local planning scheme, they must submit it to the WAPC, who make a recommendation to the Minister for Planning. The Minister can choose to approve, require modification and re-submission or refuse the scheme/amendment for advertising. Should the Minister choose to approve the scheme for advertising, the Local Government must advertise it for 90 days.

Following the advertising period, the Local Government must consider all submissions and make any necessary modifications. The Local Government may choose to advertise the scheme once again if the proposed modifications are significant. Once this process is complete, the Local Government must provide the advertised scheme, a schedule of submissions and details of any modifications to the WAPC. Within 120 days after receiving the proposed local planning scheme, the WAPC must provide an endorsed copy of the proposed scheme to the Minister for Planning for a final decision. The total time to prepare a new scheme will generally take between 2 - 3 years, whereas amending a scheme will take between 6 - 18 months.

Local Planning Policies

If a local planning strategy or scheme does not include provisions for renewable energy facilities, there may be consideration to address these matters through a local planning policy. Local planning policies typically indicate a Local Government's objectives for certain types of development, such as renewable energy facilities.

A local planning policy may specify development standards which can allow a Local Government to apply discretionary decision making on the development of renewable energy facilities. The policy might denote matters that need to be considered when a development application is received and set out the conditions which may be applicable. The policy can be specific to renewable energy developments, or they might apply to a particular area in the Local Government.

Due to the higher level of statutory protections, the local planning scheme provisions prevail over a local planning policy, and as such, the policy must be consistent with the scheme. If the policy is contrary to the scheme, that element of the policy has no effect, and cannot be implemented. If the policy is inconsistent with a state planning policy, they must give notice to the WAPC.

As local planning policies are determined by the Council, they can be implemented fairly quickly in comparison to local planning strategies and schemes. During the process of preparing a local planning policy, Local Governments can use their discretion to determine how long the policy needs to be advertised (no less than 21 days). Should a Local Government decide to amend an existing policy, there is no requirement to advertise the amended policy, unless the Local Government sees it as a significant amendment. Following the advertising period and review of submissions, the policy must go to Council to decide whether the policy will proceed with or without modifications, or whether the policy will not proceed. The total time to prepare a new policy will take 3-6 months.

WALGA has prepared a [Local Planning Policy Guide](#) and [Local Planning Policy Template](#) to assist Local Governments in the writing, development and review of policies.

Part 2 - Development Assessment

There are three development assessment pathways that a renewable energy facility application could be determined under:

- Local Government development assessment
- Development Assessment Panels (DAPs)
- State Development Assessment Unit (SDAU).

Applicants can choose which of these three pathways that the application will be determined under, noting that there are certain thresholds which need to be met to enable a development to be assessed under each. This part provides an overview of each development assessment pathway, a visual representation of the stages and the responsible authority for each stage.

Receipt of development approval does not exempt a proponent from seeking approval under other legislation such as clearing permits, building permits and approval from the Environmental Protection Agency (EPA). There is a possibility that a renewable energy proposal could be exempt from requiring development approval where the works are proposed by a public authority and are classified as public works.

Local Government Development Assessment Pathway

This pathway is the one that Local Governments will be most familiar with, as the vast majority of development applications will be determined by a Local Government. Appendix 5 demonstrates the process, which involves:

- pre-lodgement meeting/s between the applicant and Local Government (optional)
- lodgement of the Development Application with the Local Government
- assessment of the Development Application by the authorised Local Government officer and report is prepared (statutory timeframe for advertising is 28 days)
- endorsement of the delegation register by the Council
- determination of the Development Application by the Local Government officer under delegated authority or by the Elected Members at a Council meeting (statutory timeframe for determination is 60 days after that application is accepted, or 90 days if advertised).

Part 1 provides the overview of the State and local planning framework, which Local Government officers and Elected Members must give full weight to when making their decisions. The Local Government is not able to vary the State planning instruments, or relevant local planning strategy and scheme when determining an application for a renewable energy facility and must give due regard to any relevant local planning policy.

The main reasons for applicants to choose this pathway is it allows full collaboration with the Local Government during the entire application process, from pre-lodgement to the final decision being made. However, due to the significant scale of these projects, and the limited resources of regional Local Governments, applicants may choose one of the other pathways to determine their renewable energy facility development applications.

Development Assessment Panels Pathway

Separate from the Department of Planning, Lands and Heritage and Development (DPLH) and Western Australian Planning Commission (WAPC), a Development Assessment Panel (DAP) is a decision-making body that determines development applications made under local and regional planning schemes in place of the original decision maker, such as Local Governments.

There are three DAPs which cover all Local Governments across the Western Australia: Metro Inner (19 Local Governments), Metro Outer (14 Local Governments) and Regional (104 Local Governments). Each DAP comprises five members, which includes three independent technical experts and two Local Government Elected Members.

Whilst it was previously required that all developments valued over \$10 million must be determined by DAPs, recent planning reforms have removed mandatory application thresholds, which means that any development over \$2 million can choose to opt-in to the DAP pathway, in such situations the Local Government would be the determining planning authority. Appendix 6 exhibits the DAP process, which is as follows:

- pre-lodgement meeting/s between the applicant and Local Government (optional)
- lodgement of the Development Application with the Local Government, confirmation of whether the DAP pathway is appropriate
- notification to the DAP Secretariat by the Local Government, which acknowledges receipt with the Local Government and applicant
- assessment of the Development Application and preparation of the Responsible Authority Report (RAR) by the authorised Local Government officer, with recommendation for the relevant DAP (report must be given 12 days before the statutory timeframe expires)
- meeting agenda published online by the DAP Secretariat, the Local Government notifies the interested parties when the DAP meeting will be held
- determination of the Development Application by the DAP (statutory timeframe for determination is 60 days after that application is accepted, or 90 days if advertised).

Similar to the Local Government development assessment pathway, DAPs are not able to vary the State and local planning frameworks and must give due regard to any local planning policies. The Regional DAP have determined a variety of applications for renewable energy facilities, and an example from the Shire of Harvey can be found [here](#).

State Development Assessment Unit Pathway

In 2020, the State Government introduced the Part 17 Significant Development Pathway as a temporary initiative to encourage major developments during COVID-19. The permanent Part 11B Significant Development Pathway replaced the Part 17 pathway and become operational in 2024. To be eligible for the significant development pathway, a Part 11B project is valued at \$20 million or more in the Perth and Peel regions and \$5 million or more in other parts of the State.

The State Development Assessment Unit (SDAU) assesses all Part 11B applications, and the new State Referral Coordination Unit (SRCU) manages input from referral agencies to provide a holistic response. Part 11B applications are determined by the Statutory Planning Committee (SPC), whilst WAPC determines any remaining Part 17 applications. Appendix 7 shows this process, including:

- mandatory pre-lodgement consultation between the applicant and WAPC
- lodgement of Form 11B-1 and any other required information on the Planning Online portal
- assessment of the proposal by the SDAU and referral process conducted by SRCU, which refers to Minister for Planning and relevant State agencies for comment (assessment and referral process is 60 days, public consultation is 28 days)
- preparation of a report and recommendation by the SDAU for the SPC
- determination of the Significant Development Application by SPC (statutory timeframe for determination is 120 days, meeting minutes are to be published 14 days after the decision).

Unlike the other two pathways, the Act allows the SPC to make a decision that conflicts with local planning scheme provisions where that scheme is more than five years old or has not been consolidated within the preceding five years, and/or where the application raised matters of State or regional significance or is in the public interest to do so.

Conclusion

Local Governments have the ability to utilise their own local planning frameworks to ensure that proper and orderly planning matters are considered during the development of renewable energy facilities. This can be achieved through a mixture of long-term strategic planning through the local planning strategy, statutory provisions via the local planning scheme and the application of discretionary decision making from local planning policies.

Whilst Local Governments oversee the administering of their own local planning frameworks, they must ensure that all of these planning instruments align with the objectives of the state planning framework. This not only ensures faster approval timeframes from the WAPC and Minister for Planning, but also increases the likelihood of these planning instruments being approved by the respective authority.

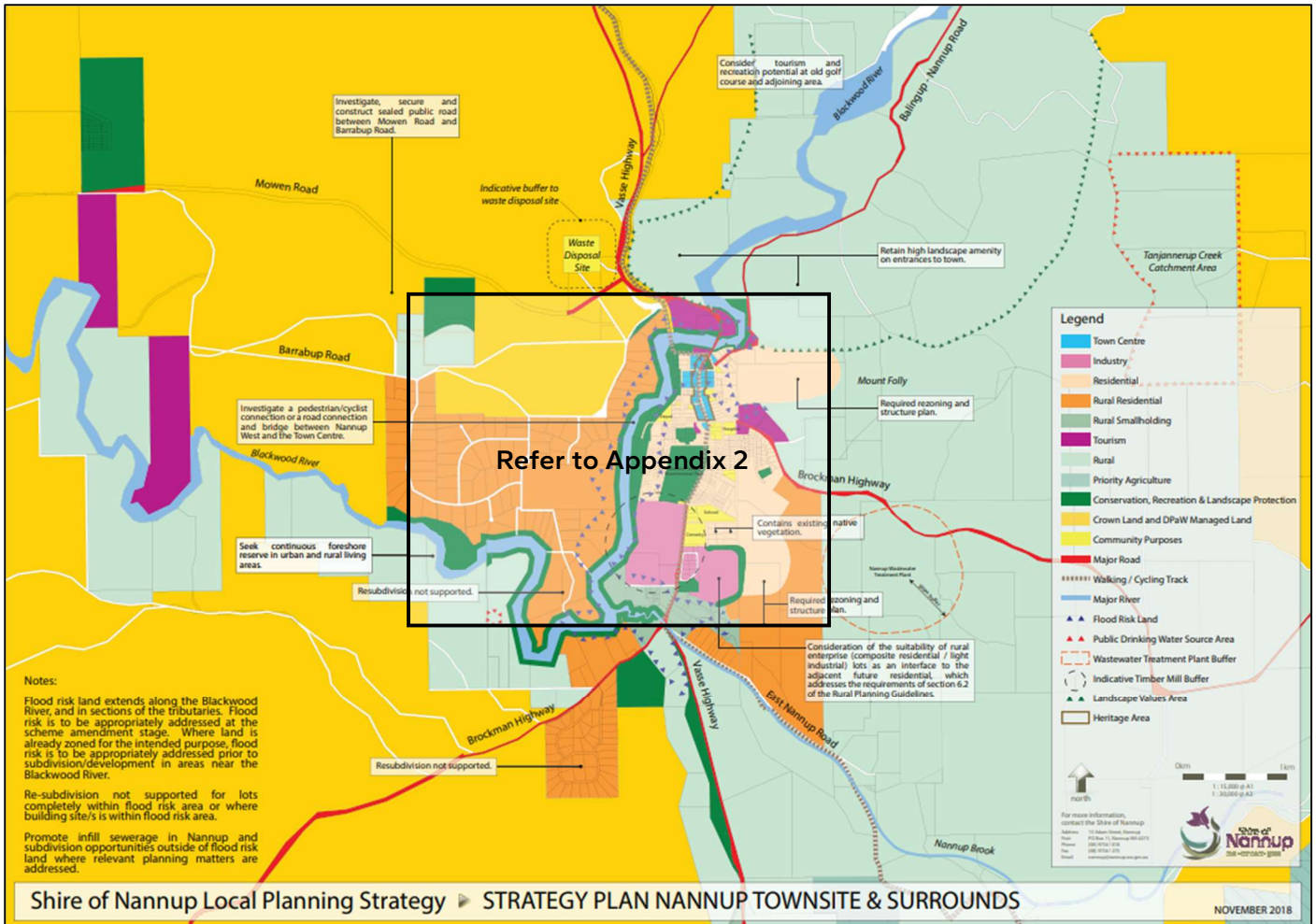
Furthermore, with applicants having the choice of three different development assessment pathways, a Local Government with their local planning framework up to date will be in a better position to positively impact the outcome of renewable energy projects even when they are not the decision maker.

For any further information, or any additional comments you wish WALGA to consider in preparing this resource, please contact WALGA's Planning & Building team on planning@walga.asn.au.

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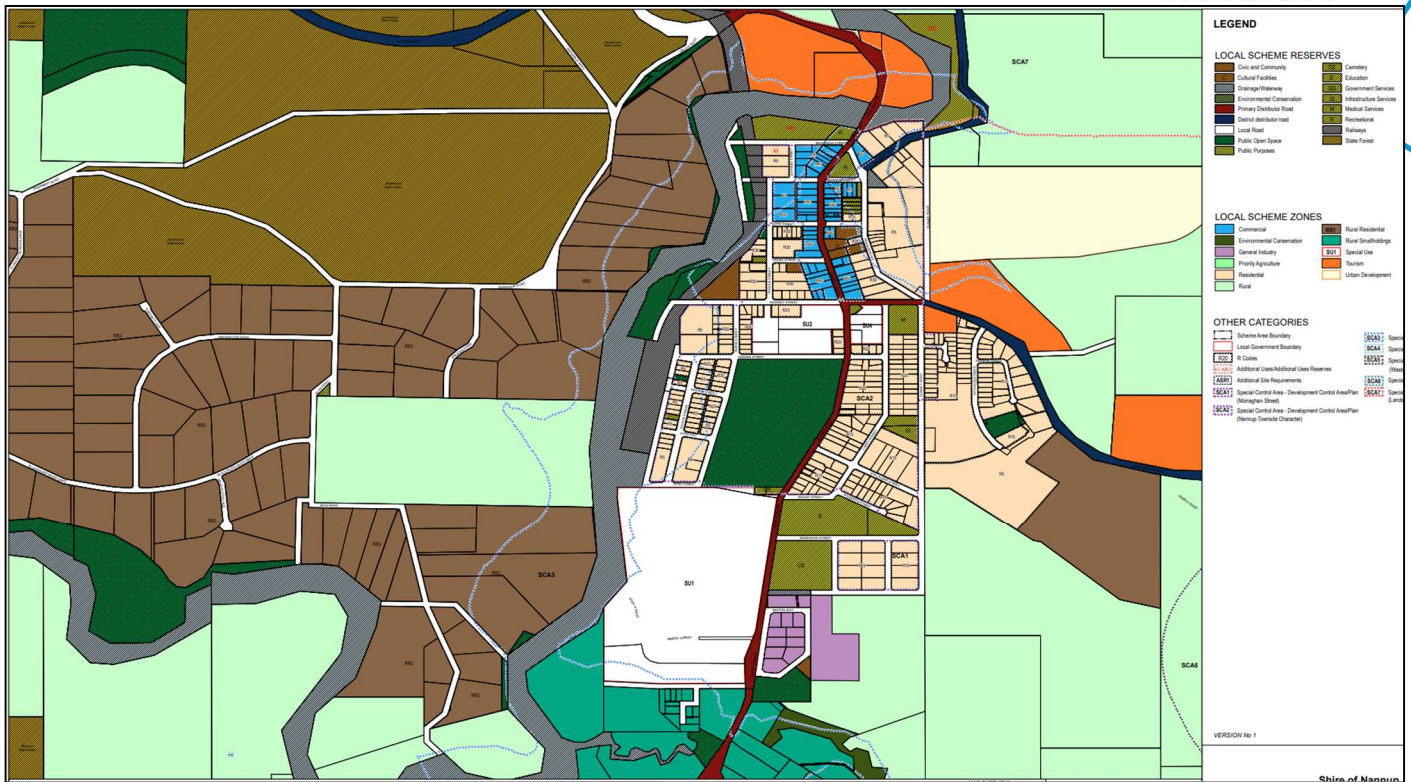
Appendices

Appendix 1 - Shire of Nannup Local Planning Strategy Map: Nannup Townsite & Surrounds





Appendix 2 - Shire of Nannup Local Planning Scheme Map: Nannup Townsite



Appendix 3 - Shire of Nannup Local Planning Scheme Zoning Table

USE & DEVELOPMENT CLASS	Commercial	Environmental Conservation	General Industry	Priority Agriculture	Residential	Rural	Rural Residential	Rural Smallholdings	Special Use	Tourism	Urban Development
Motor vehicle repair	X	X	D	X	X	A	X	A		X	
Motor vehicle wash	A	X	D	X	X	X	X	X		X	
Multiple dwelling	D	X	X	X	D	X	X	X		X	
Nature based park	X	A	X	A	X	D	X	A		D	
Nightclub	A	X	X	X	X	X	X	X		X	
Office	D	X	X	X	X	X	X	X		X	
Park home park	A	X	X	X	A	X	X	X		A	
Place of worship	A	A	X	A	A	A	A	A		A	
Reception centre	D	X	X	X	X	A	X	A		D	
Recreation - private	D	X	X	A	X	A	X	A		A	
Renewable energy facility	X	X	A	A	X	A	X	A		X	



Appendix 4 - Local Planning Framework Checklist

	Yes	No
Local Planning Strategy		
Does your Local Government have a local planning strategy?	<input type="checkbox"/>	<input type="checkbox"/>
If yes, has it been updated in the last 5 years?	<input type="checkbox"/>	<input type="checkbox"/>
Does your local planning strategy address renewable energy facilities?	<input type="checkbox"/>	<input type="checkbox"/>
If no, does your Local Government have the capacity to amend or prepare a local planning strategy?	<input type="checkbox"/>	<input type="checkbox"/>
Local Planning Scheme		
Does your Local Government have a local planning scheme?	<input type="checkbox"/>	<input type="checkbox"/>
If yes, what year was is gazetted?		
Does your local planning scheme include any specific provisions related to renewable energy facilities?	<input type="checkbox"/>	<input type="checkbox"/>
Does your local planning scheme include the renewable energy facility definition or similar?	<input type="checkbox"/>	<input type="checkbox"/>
Does your local planning scheme include renewable energy facility land use in the zoning table?	<input type="checkbox"/>	<input type="checkbox"/>
If no, to any of the above, does your Local Government have the capacity to amend or prepare a local planning scheme?	<input type="checkbox"/>	<input type="checkbox"/>
Local Planning Policy		
Does your Local Government have a local planning policy which addresses renewable energy facilities?	<input type="checkbox"/>	<input type="checkbox"/>
If no, does your Local Government have the capacity to prepare a local planning policy which addresses renewable energy facilities?	<input type="checkbox"/>	<input type="checkbox"/>

Notes

If you answered no to the above questions and your Local Government is experiencing development pressures from renewable energy facilities, you should consider updating your local planning framework in order to control the proper and orderly planning of renewable energy facilities within your local area.

This may include the amendment or preparation of a local planning strategy, scheme or policy to address the development of renewable energy facilities. Please note that a local planning scheme is required to be reviewed within five years of its adoption. It is recommended that the review of a local planning strategy should coincide with this review process.

If your local planning strategy or scheme is older than 15 years, it is recommended to consider preparing a new strategy or scheme to align with the current state planning framework. The preparation of a new scheme or strategy can be a lengthy and expensive process that could take 2 -3 years, whilst an amendment may take 6 - 18 months, depending on the complexity, and will generally be lower cost.

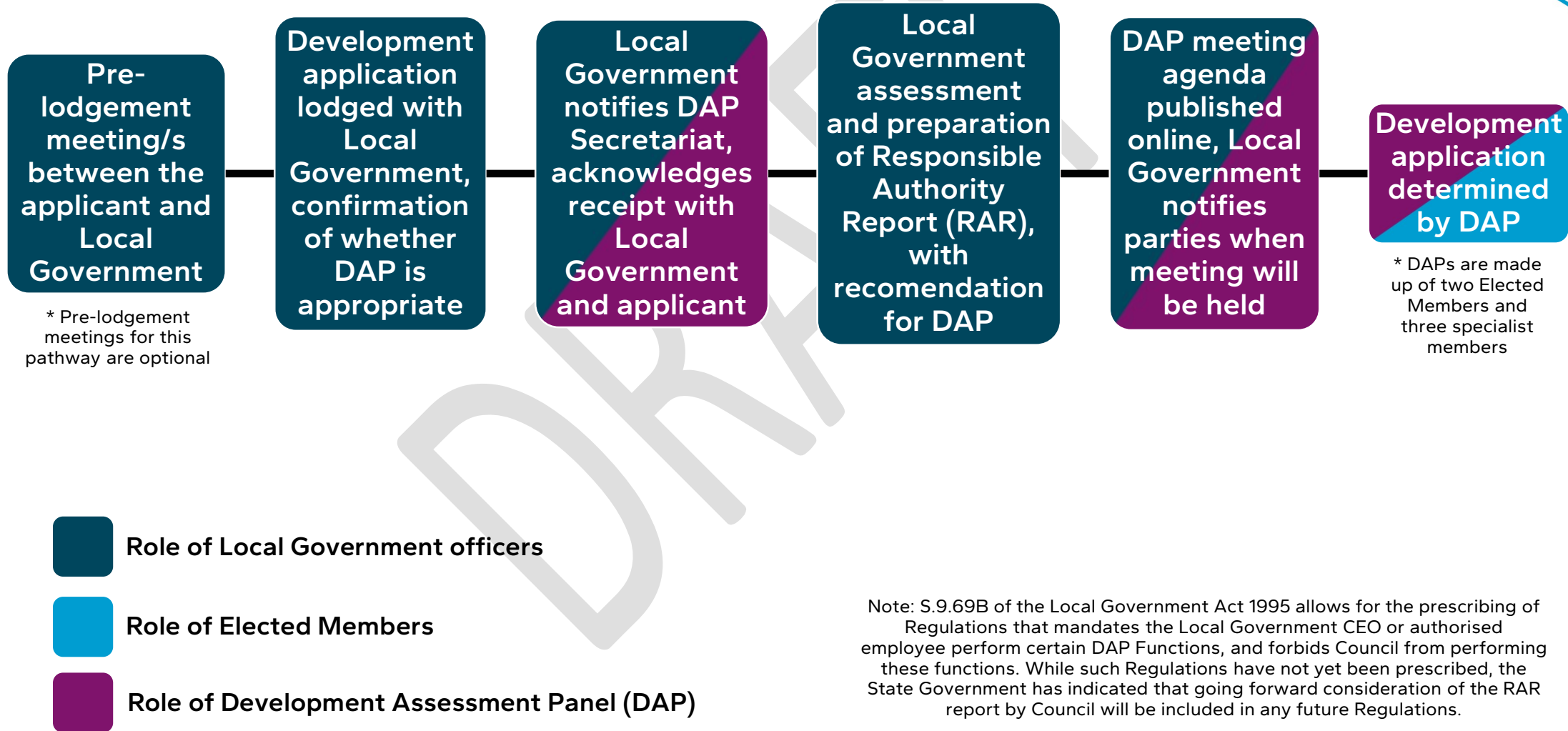
Local Governments considering amending or reviewing their local planning schemes should discuss the matter with their relevant regional team of the Department of Planning, Lands and Heritage (DPLH). A list of all current local planning schemes and local planning strategies can be found [here](#).

WALGA have developed a [Guideline for Scheme Amendments](#) and a [Local Planning Policy Guide](#) and [Local Planning Policy Template](#) to assist with the amendment and preparation of these planning instruments. Local Governments should also consult the range of [fact sheets, manuals and guidelines](#) prepared by DPLH.

Appendix 5 - Local Government Development Assessment Pathway



Appendix 6 - Development Assessment Panel (DAP) Pathway



Note: S.9.69B of the Local Government Act 1995 allows for the prescribing of Regulations that mandates the Local Government CEO or authorised employee perform certain DAP Functions, and forbids Council from performing these functions. While such Regulations have not yet been prescribed, the State Government has indicated that going forward consideration of the RAR report by Council will be included in any future Regulations.

Appendix 7 - State Development Assessment Unit (SDAU) Pathway

