

POLICY NO	Local Planning Policy No. 2
POLICY	Wind Farms

CITATION

This is a Local Planning Policy prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This Policy may be cited as 'Local Planning Policy No.2 - Wind Farms'.

1. INTRODUCTION

This Policy sets out the local government's position for the development of wind farms, and is particularly relevant to all land classified Rural zone.

The intent of this Policy is to:

- a) guide the preparation, processing and determination of development applications and statutory referrals (i.e. public works proposals) for the development of wind farms in the Shire of Kent municipal district; and
- b) control the location, design, servicing, management, and decommissioning of wind farms in accordance with the aims and objectives of the local government's local planning framework and the local community's aspirations.

It should be noted this Policy is a guide for the exercise of discretion. The local government will have due regard to the Policy requirements in the assessment and final determination of development applications or public works proposals by government agencies for wind farms.

The Policy requirements are in addition to the matters already set out under the Western Australian Planning Commission's Position Statement for Renewable Energy Facilities (2020) (as amended).

2. RELEVANT SCHEME PROVISIONS

A wind farms falls within the use class 'renewable energy facility' which is defined in Part 6 of the Shire of Kent Local Planning Scheme No.3 as "*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*".

Under the terms of the *Planning and Development Act 2005, Planning and Development (Local Planning Schemes) Regulations 2015* and Local Planning Scheme No.3 the local government's development approval is required to develop and use land in the Scheme Area for the purposes of a 'renewable energy facility', including wind farms, unless an exemption to the need for approval is applicable under the *Planning and Development Act 2005, the Mining Act 1978* or any State Agreement Acts.

Under the terms of the Zoning Table in Part 3 of Local Planning Scheme No.3 the use class 'renewable energy facility' has been assigned the following land use permissibility in the following zones:

Zone	Land Use Permissibility
Residential	X - means that the use is not permitted by the Scheme
Rural Residential	X - means that the use is not permitted by the Scheme
Rural Smallholding	X - means that the use is not permitted by the Scheme
Rural	A - means the use is not permitted unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64 of the deemed provisions of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .

Mixed Use	X - means that the use is not permitted by the Scheme
Light Industrial	X - means that the use is not permitted by the Scheme
General Industry	A - means the use is not permitted unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64 of the deemed provisions of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
Cultural and Natural Resource	A - means the use is not permitted unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64 of the deemed provisions of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .

The development of wind farms on any land in the Scheme Area classified as a 'local reserve' may only be approved/endorsed by the local government where such use is consistent with the reserve purpose prescribed in Part 2 of the Scheme or is expressly listed in Part 2 as an 'Additional use for local reserves'.

3. OBJECTIVES

This policy seeks to:

- a) Provide a clear position for the consideration and determination of development proposals for wind farms, including the relevant planning considerations by the local government;
- b) Specify the information required to be provided by proponents when preparing development proposals for wind farms and the key matters required to be addressed;
- c) Protect continued traditional agriculture, other food production activities, and tourism uses;
- d) Reduce the amenity impact of wind farms by ensuring a satisfactory separation distance from sensitive land uses;
- e) Minimise the visual impact of wind farms by implementing a minimum distance to neighbouring lot boundaries;
- f) Minimise or avoid any potential impact on the natural environment, flora and fauna;
- g) Ensure the siting and design of wind farms does not compromise the safety of the local community, aviation activities, or the continuation of activities occurring on nearby and adjacent land;
- h) Ensure the local community is engaged in the early stages of wind farm planning by the proponent;
- i) Protect areas of environmental, heritage and/or visual significance and ensure wind turbines are appropriately and sensitively sited;
- j) Ensure wind farms are located so as not to have any detrimental impact on townsites, views from townsites or any other residential or highly scenic areas;
- k) Protect and maintain road infrastructure;
- l) Conserve the use of local resources such as gravel, water and sand; and
- m) Provide details of the local government's expectations and requirements for the decommissioning of wind farms.

4. GENERAL APPLICATION OF THE POLICY

- 4.1 This Policy applies to all development applications and public works proposals by government agencies for wind farms within the local government's municipal district.
- 4.2 This policy is effective from the date of publication by the local government in accordance with clause 87, Part 12, Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015 and may be amended or revoked at the discretion of the local government.

- 4.3 If a provision of this policy is inconsistent with the Shire of Kent Local Planning Scheme No.3, the Scheme prevails. This policy is not part of the Scheme and does not bind the local government in respect of any determination made pursuant to the Scheme. The local government shall however have due regard for the provisions of this policy and its objectives before making any determination.

5. APPLICATION REQUIREMENTS

In addition to the information requirements prescribed in clause 63 in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the local government's Development Application Checklist, all development applications for windfarms must be accompanied by the following information:

- a) Detailed specifications of the renewable energy system to be installed, including site plans detailing setbacks, access, floor plan and elevation plans for any building structures including temporary construction workforce accommodation and associated effluent disposal infrastructure;
- b) All pre-lodgement consultation outcomes as detailed in clause 6 of this Policy entitled 'Community and Stakeholder Consultation';
- c) An Environmental Survey as detailed in clause 7 of this Policy entitled 'Environmental Impact';
- d) A Hydrological Assessment of existing natural water resources proposed to be used;
- e) A Visual and Landscape Impact Assessment as detailed in clause 8 of this Policy entitled 'Visual and Landscape Impact';
- f) A Noise Impact Assessment as detailed in clause 9 of this Policy entitled 'Noise Impact';
- g) A heritage impact assessment for any known areas containing building or places of cultural heritage significance;
- h) A Construction Management Plan;
- i) An Operational Management Plan;
- j) A Traffic Management Plan (incorporating a Traffic Impact Assessment of traffic activities associated with development during construction, operation and decommissioning);
- k) A Bushfire Management Plan for any land designated by the Fire and Emergency Services Commissioner as being bushfire prone;
- l) A Shadow Flicker Assessment as detailed in clause 10 of this Policy entitled 'Other Potential Impacts';
- m) An Aviation Impact Assessment as detailed in clause 10 of this Policy entitled 'Other Potential Impacts';
- n) A Decommissioning Plan as detailed in clause 11 of this Policy entitled 'Decommissioning Program'.

6. COMMUNITY AND STAKEHOLDER CONSULTATION

The local government requires wind farm proponents to actively engage in community and stakeholder consultation prior to lodgement of any formal application.

Early, meaningful and innovative community consultation, demonstrating an ongoing commitment to providing clear information and ensuring opportunities for genuine input, is important to delivering good planning outcomes.

Pre-lodgement consultation should be aimed at identifying and considering options for eliminating, reducing or otherwise managing impacts, not merely informing communities and stakeholders of the proposed development.

The local government's expectation is that proponents will use a range of tools for community and stakeholder engagement. The local government has a strong view that developers need to invest time and effort into positive community engagement, and to build a relationship with nearby and adjacent owners.

This Policy requires applications for wind farms to address consultation in a comprehensive way and include:

- a) Lodgement of a detailed Community and Stakeholder Engagement Plan that outlines the outcomes of pre-lodgement community consultation, and a strategy for further consultation for the life of the development. The Plan should identify key stakeholders early in the project planning stage.
- b) Community and Stakeholder Engagement Plans should incorporate the fundamental principles, actions and frameworks outlined in the Clean Energy Council 'Community Engagement Guidelines for the Australian Wind Industry';
- c) An outline of how landowners and stakeholders issues have been considered and addressed; and
- d) A written agreement or signed statement of non-objection by landowners where any wind turbines are proposed to be sited closer than 800 metres to neighbouring lot boundaries.

Proponents should liaise with a wide range of relevant key stakeholders early in the process, including, but not limited to, the local government, Main Roads WA, Western Power, Department of Water and Environmental Regulation, Department of Biodiversity, Conservation and Attractions, CASA, Air Services Australia, local spraying contractors, nearby unlicensed airstrip owners, and any relevant local community groups.

Other stakeholders may also be relevant depending on the proposal's potential impacts.

7. ENVIRONMENTAL IMPACT

Consistent with the WAPC Position Statement on Renewable Energy Facilities, this Policy requires applications to address, avoid and minimise impacts of any wind farm on the natural landscape, and environment (including flora/ fauna).

Applications should be accompanied by an environmental survey of the site by a suitably qualified environmental consultant and address:

- i. The type, location and significance of flora and fauna;
- ii. Any rare or endangered species;
- iii. Stopover sites, local bird species, roosting or nesting sites for birds of conservation significance;
- iv. Location of bat colonies;
- v. Areas of high raptor activity;
- vi. The cumulative impact of turbines on migration routes;
- vii. Existing remnant vegetation to be retained or that is proposed to be removed (on a plan);
- viii. Distances to areas of habitat, remnant vegetation and areas of natural environment on a context plan, including conservation areas, reserves or crown land;
- ix. Maximising distances to bird conservation areas, breeding grounds of sensitive species and areas of remnant bushland that is likely high value bird habitat or habitat for birds of conservation significance;
- x. Methods to avoid bird collision such as increasing the visibility of rotor blades (where feasible*), flashing lights, and keeping bird migration corridors free;
- xi. Decommissioning of the wind farm at the end of its life.

** Note: Increasing visibility of blades needs to be balanced with the need to also examine visual impact. **

The local government will take into consideration any separate environmental approval processes being undertaken at the time of lodgement of any application, whether it be at a State or Federal level, and may request copies of any separate applications submitted including supporting information.

The requirements of this section do not apply to noise which is discussed under clause 9.

8. VISUAL AND LANDSCAPE IMPACT

A Visual and Landscape Impact Assessment is required and shall;

- i. Describe the appearance of changes in the landscape caused by the proposed wind farm;
- ii. Identify the view of the wind farm from the sites of key sensitive land uses, key locations of major roads/tourist routes (including rest areas), heritage places; any tourist facilities and recreational reserves;
- iii. Ensure photos in the report include a view of the existing landscape and a photomontage with the turbines superimposed;
- iv. Include all images in colour with a high quality/ resolution;
- v. Include a clear plan that shows the location of where each photo was taken, the direction from which it was taken, and numbering of each photo location;
- vi. Be in accordance with the Western Australian Planning Commission; Visual Landscape Planning in Western Australia' manual and the 'Wind Farms and Landscape Values (2005)' produced by the Australian Wind Energy Association and Australian Council of National Trust.

Wind farms are required to be designed, sited and operated to minimise their visual impacts and shall meet the following requirements:

- i. A setback of at least 1.5 kilometres between any wind turbine and sensitive land use, not associated with the development;
- ii. A setback of 800 metres between any wind turbine from a non-participating neighbouring lot boundary, unless otherwise agreed to in writing by the affected property owner at the time of lodgement of an application;
- iii. Locating turbines in flatter landscapes, where feasible, to reduce visibility due to shortening the visual perspective of the structures.
- iv. Blades on wind turbines to rotate in the same direction; ensure that all wind turbines have uniformity in terms of colour, size, and shape; and
- v. Implementation of landscaping within the development site to mitigate visual impact to the greatest extent possible from sensitive land uses.

Landscaping outside of the lots being developed for a wind farm is not accepted as being a practical mechanism for visual mitigation as conditions of development approval cannot require works outside of the development site.

For the purpose of this Policy, the term 'sensitive land use' is as per the definition in the Western Australian Planning Commission's Position Statement for Renewable Energy Facilities as outlined in the definitions section of this Policy below.

The local government will also take into account the description of types of 'sensitive land use' outlined in Clause 2.3 of the Environmental Protection Authority 'Guidance for the Assessment of Environmental Factors'.

9. NOISE IMPACT

A Noise Impact Assessment shall be lodged with any wind farm proposal to demonstrate that it can meet the standards under the *Environmental Protection (Noise) Regulations 1997* (WA Noise Regulations). The current version of the South Australian Environmental Protection Authority 'Wind Farms Environmental Noise Guidelines (2021 or any replacement version)' should also be referenced for assessment purposes.

Any Noise Impact Assessment is to be completed by a suitably qualified acoustic consultant, and must address construction noise, predicted noise levels associated with a fully operational wind farm, and general commentary on low frequency noise and infrasound.

The Noise Impact Assessment may reference information from:

- The Victoria State Government Health Department technical information report on 'Wind farms, sound and health' which provides information explaining the characteristics of low frequency sound; and
- The Draft National Wind Farm Development Guidelines (2010) explaining the characteristics of low frequency noise and infrasound.

Any Noise Impact Assessment must take into account the location of any sensitive land use. Following construction wind farm proponents take a commercial risk as there is potential for adjacent landowners to construct new dwellings on their lots.

Wind farm developments must comply with the WA Noise Regulations at all times. The WA Noise Regulations protect 'rural premises' and other sensitive land uses. There is a 'highly sensitive area' defined in the WA Noise Regulations, which is an area within 15 metres from the building associated with the sensitive use (such as a dwelling). If an adjacent landowner decides to subdivide or build a second or more dwellings on their lot, the most stringent assigned noise levels would apply to any additional dwellings.

All applications shall contain a clear commitment to providing a Noise Impact Mitigation Plan to the local government for post-operational noise monitoring to clearly demonstrate that any constructed wind farm complies with the *Environmental Protection (Noise) Regulations 1997* and manage complaints regarding noise impacts during the operational phase of the development.

Potential methods to address compliance with the *Environmental Protection (Noise) Regulations 1997* in the event that any future sensitive land use, particularly dwellings, are constructed in the locality may include new noise monitoring, shutting down turbines, replacement of turbines with a quieter model etc.

10. OTHER POTENTIAL IMPACTS

The impact of wind farms on nearby property owners, road users, the use of adjacent land, and natural resources, particularly water, must be considered addressed through the detailed design process.

Wind farm proposals should not have any negative impacts through:

- i. shadowing, flickering, reflection, or blade glint impacts beyond the boundaries of any lot subject to the application;
 - a. shadow flicker (i.e. the moving blades of wind turbines cast moving shadows that when viewed through a stationary constrained opening such as a window appears as a flicker. This is commonly referred to as shadow flicker and when the sun is low in the sky the effect of shadow flicker increases). It is generally accepted that shadow flicker can only occur within 1km of any given wind turbine.
- ii. unreasonable interference with normal agricultural or farming activities of nearby rural properties, such as aerial spraying, as well as airports, aerodromes and airstrips. An Aviation Impact Assessment prepared by a suitably qualified aviation consultant is required to demonstrate turbines will not impact on aerial spraying activities of surrounding farms or airports, aerodromes and airfields including unlicensed airstrips;
- iii. interference with existing lawful continued use of neighbouring land including intensive rural activities, and tourism uses;
- iv. proximity to established residential areas, whether the land is zoned residential, rural residential or is residential by nature (smaller lots of a typical residential size containing dwellings). The amenity of urban areas and the rural character surrounding urban areas needs to be afforded a high level of protection; or
- v. excessive use natural water resources during the construction process which may have potential to compromise the sustainable use of these resources.

The local government will also consider any wind farm application in accordance with:

- i. Clause 5.3.5 (Public Aviation and Safety), 5.3.6 (Heritage) and 5.3.7 (Construction Impact) contained in the Western Australian Planning Commission's Position Statement for Renewable Energy Facilities (2020);

- ii. Relevant sections of 'Guideline D' of the 'National Airports Safeguarding Framework'. The local government will have particular regard to Clause 25 on consultation, Clauses 26-29 on risk assessment, Clauses 33-34 on lighting, Clause 39 on wind monitoring towers, Clause 41-42 on obstacle lighting and Clause 43 on turbulence; and
- iii. Any State Planning Policy or Development Control Policy published by the Western Australian Planning or any other local planning policy adopted by the local government that may of direct relevance to any given development proposal.

The impact of wind farms on nearby property owners, road users, and the use of adjacent land should also be addressed through the detailed design process.

Local roads are under the care and control of the local government. There is a considerable amount of public infrastructure within the local government's municipal area.

State Roads, such as major highways, fall under the care and control of Main Roads WA.

Any application should consider the safety of drivers using local and State roads in the context of significant views of wind farms from them.

Furthermore, any wind farm proponent will be responsible for:

- i. Preparation of a 'Pre-Development Road Infrastructure Condition Report' that identifies and records the condition of all roads and associated infrastructure that will be affected by any route for heavy vehicles and delivery trucks, needed for the construction phase;
- ii. The costs associated with any damage caused to roads and associated infrastructure attributable to the construction phase of the development. Any damage shall be rectified by the operator/proponent to the standard identified in the 'Pre-Development Road Infrastructure Condition Report'; and
- iii. All costs of any road construction and/or upgrading required for construction transport routes and / or the development.

Note: The local government may consider undertaking road construction, upgrading and/or repair works (where feasible) if funded by the developer.

The local government may place conditions on any development approval granted to ensure all costs associated with road construction, including widening and upgrading, and/or damage are met by the developer.

The local government will require the preparation and lodgement of a Traffic Impact Assessment report by a suitably qualified traffic engineer or consultant in support of any application.

11. DECOMMISSIONING & REHABILITATION PROGRAM

As part of development applications, proponents should recognise the need for a decommissioning plan. As part of development applications, proponents should recognise and address the need for a decommissioning plan for removal of all wind turbines and associated infrastructure from as well as the rehabilitation of the affected land at the end of the development's operational life span (unless major refurbishment is separately approved).

Decommissioning includes (but not limited to):

- Disconnection from the electrical grid;
- Removal of all wind turbines and associated ancillary equipment including materials recycling where possible (Note: Underground cable and concrete turbine footings typically remain in the ground below ploughing depth unless economical to remove and recycle);
- Removal of all above ground components;
- Removal of all internal access roads, gates and fencing, unless required by the landholder;
- Site rehabilitation works; and
- Funding guarantees for all required decommission and land rehabilitation works via bond, sinking fund or bank guarantees.

There is an expectation by the local government that all land developed for wind farm purposes will be returned to its 'pre-development' condition insofar as practicable once any renewable energy facility reaches the end of its lifecycle. If a proponent seeks to retain some infrastructure on the land (such as roads, gates, fences, turbine foundations etc.), this needs to be made clear in the development application.

If the concrete foundations of wind turbines or any associated infrastructure are proposed to be retained, then a condition may be imposed on any development approval granted requiring a suitable notification to be placed on the Certificate of Title(s) of the land to alert prospective purchasers of any retained infrastructure and its location.

Developers need to consider setting aside moneys and budgeting for decommissioning costs throughout the life of the development. The local government expects substantial decommissioning and remediation works will commence within twelve (12) months of wind turbines no longer generating electricity permanently. Breach of this requirement may result in control of the decommissioning fund or security given to the landowner or an administrator as agreed between the parties to complete the decommissioning and land rehabilitation works.

Information regarding the proposed decommissioning program and likely timeframes must be provided in the application.

The local government may require the proponent of any wind farm development to enter into a deed of agreement with the local government to ensure full compliance with an approved Decommissioning and Rehabilitation Plan.

DEFINITIONS

Unless otherwise noted, terms used in this Policy have common meanings and include those defined in the *Planning and Development Act 2005*, *Planning and Development (Local Planning Schemes) Regulations 2015* and the Shire of Kent Local Planning Scheme No.3.

Amenity – All those factors which combine to form the character of an area and include the present and likely future amenity. Amenity includes the livability, comfort or quality of a place which makes it pleasant and agreeable to be in for individuals and the community. Amenity is essential in the public, communal and private domains and includes the enjoyment of sunlight, views, privacy and quiet. It also includes protection from pollution (i.e. noise, dust, odour, light).

Construction Workforce – Workers that may be required to be brought into a locality for undertaking the construction phase of a project or during maintenance shut-downs, outside of what would otherwise be considered the operational phase of the project.

Decommissioning means wind turbines, site office/s and any other ancillary buildings and infrastructure is removed from the site. Roads and foundation pads are covered and revegetated, allowing land to be returned to its former use.

Deemed Provisions means the provisions set out in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Development – The development or use of any land, including:

- a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;
- b) the carrying out on the land of any excavation or other works;
- c) in the case of a place to which a protection order made under the Heritage Act 2018 Part 4 Division 1 applies, any act or thing that:
 - i) is likely to change the character of that place or the external appearance of any building; or
 - ii) would constitute an irreversible alteration of the fabric of any building.

Development Application – An application under a local planning scheme, or under an interim development order, for approval of development.

Dwelling – A building or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not comprise a single family.

Local Government – Shire of Kent.

Scheme – Shire of Kent Local Planning Scheme No.3.

Sensitive Land use means land uses that are residential or institutional in nature, where people live or regularly spend extended periods of time. These include dwellings, short-stay accommodation, schools, hospitals and childcare centres and generally exclude commercial or industrial premises.

Short-Term Accommodation – Temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than 3 months in any 12 month period.

Total Height means the vertical distance from natural ground level to the highest point of a wind turbine system.

Wind Farm means premises used to generate electricity by wind force and any associated turbine, building or other structure but does not include anemometers or turbines used primarily to supply electricity for a domestic property or for private rural use

Wind Turbine means any equipment, ancillary to existing land development, that is used to convert and then store and/or transfer energy from the wind into usable electrical energy. The term includes any equipment used in the activity such as base, blades, generator, pole, tower, transformer, vane, wire, inverter, batteries etc.

Workers – Employees, contractors and sub-contractors engaged with a worksite or project.

Workforce Accommodation – Premises, which may include modular or relocatable buildings, used:

- a) primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a **temporary basis**; and
- b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.

DOCUMENT CONTROL

Responsible Officer	Chief Executive Officer	
Council Adoption	Date:	Resolution No:
Reviewed/Modified	Date:	Resolution No:
	Date:	Resolution No:
Review Due	Date:	
Compliance Requirements		
Legislation	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	