

Planning and Development Amendment

Act 2023

Significant Development Pathway – Key Details

- Temporary Part 17 pathway closed on 29 December 2023

The COVID19 era SDAU, Part 17, pathway was closed on 31st December 2023. It is understood that several applications were lodged before the close which were to be processed during the first few months of 2024.

It also remains open for already approved applications to be able to revisit their approvals and also to any previously approved applications that may require modification.

In its place, there are a raft of changes that commenced on 1st March 2024, with others to come on 1st July 2024.

Regulations and Supporting Documents

1 March 2024

- *Planning and Development (Significant Development) Regulations 2024.*
- *Planning and Development (Development Assessment Panels) Amendment Regulations 2024.*
- *Planning and Development (Local Planning Schemes) Amendment Regulations 2024*
- *Planning and Development (State Planning Policies) Regulations 2024.*
- *Planning and Development (Planning Codes) Regulations 2024.*
- *Lands Amendment Regulations 2024*
- *Swan Valley Planning Regulations 2024*
- Significant Development Pathway Application Guide
- Fact Sheet – Part 11B – Process for Premier’s Authorisation for a Significant Development Application

1 July 2024

- WAPC Regulations
- Amendments to LPS Regulations – Decision Making for Single Houses

A new pathway opened to applications on 1st March 2024 with the introduction of the Planning and Development (Significant Development) Regulations 2024 (Part 11B)

1. Significant Development Regulations – Key Details

(PART 11B APPLICATIONS)

- Eligibility:
 - \$20 million+ in Perth and Peel (region scheme areas)
 - \$5 million+ elsewhere; or
 - Authorised by the Premier on recommendation of the Minister if application raises issues of State or regional importance
 - Not eligible - applications in Improvement Schemes or planning control areas, public works and applications in redevelopment areas
- New 120 day assessment timeframe.
- Retain pre-lodgement services and a centralised and coordinated State Government referrals approach.
- Retain the ability to vary requirements of a local planning scheme, but with new parameters.
- Retain the requirement for applications to be determined at a public meeting.

Applications most likely to benefit from this process are:

- **present issues of State or regional importance**
- **involve referral to multiple State Government agencies and would be assisted by coordination, and/or**
- **align with State Government policies and priorities but are restricted by an out-of-date local planning framework.**

Part 11B applications are generally determined by the Statutory Planning Committee (SPC).

Proposals are assessed by the Department and referred to local government for 60 days. Public consultation is undertaken on all applications, for at least 28 days. All applications are referred to the Minister for Planning for comment.

Applications generally determined by SPC. Meetings are open to members of the public who can request to make a presentation (deputation) along with other stakeholders, including the applicant.

Proponents can apply to amend an approved development, including an extension to the substantial commencement period.

What consideration will be given to local planning scheme requirements, policy and local concerns?

As with other development assessment pathways, the SPC must have due regard for the local planning framework in determining Part 11B applications, including any discretion available.

Some requirements of local planning schemes are not open to any discretion through the local government or Development Assessment Panel (DAP) pathways. Unlike these other pathways, the SPC can determine a Part 11B application in a way that conflicts with the local planning scheme if it is of the opinion that one or more of the following applies:

- The proposal raises issues of State or regional importance and the decision would be in the public interest
- The local planning scheme has not been reviewed in accordance with legislative requirements
- The conflict with the planning instrument is minor and the decision would be consistent with the relevant State Planning Policy, State Planning Code and Region Scheme, and the local planning strategy

When making a decision that would conflict with the local planning scheme, the WAPC must have due regard for the principles of orderly and proper planning and the preservation of the amenity of the locality.

What impact does a review by the Environmental Protection Authority (EPA) have on the development assessment process?

Proposals likely to have a significant effect on the environment, referred to by the EPA as "significant proposals", may be considered for environmental impact assessment. View the [EPA assessment process](#). As with other development assessment pathways, the SPC cannot make a decision on a Part 11B application that would allow the proposal to be implemented until a Public

Environmental Review process is complete and any Ministerial Statement has been issued. The SPC is unable to make a decision that would be contrary to any Ministerial Statement issued in accordance with the *Environmental Protection Act 1986*.

Premier authorisation to lodge a development application under Part 11B

A prospective applicant in relation to a development application that has not yet been made, may submit notification to the Minister for Planning under section 171M to request the Premier to authorise the lodgement of the application for determination by the WAPC under Part 11B.

On receipt of such a request, the Minister may recommend that the Premier give authorisation for the lodgement and determination of the application by the WAPC under Part 11B on the grounds that the application raises such issues of State or regional importance that it would be appropriate for the application to be lodged and determined under this Part.

On receipt of the Minister's recommendation, the Premier may authorise the lodgement of the application under Part 11B.

2. CHANGES TO THE DAP SYSTEM

Changes to the DAPs system came into effect on 1 March 2024 and include employment of full-time specialist members, and removal of mandatory application thresholds for a completely opt-in development assessment pathway process.

- Reduction of the number of DAP panels from five to three (Metro-inner, Metro-outer and Regional).
- Appointment of qualified and experienced professionals, on a full or part time, fixed term basis with no changes to current local Council representation. Specific provisions will ensure that all panels continue to operate with the required numbers of specialist panel members during the transition period.

- Removing most exclusions on applications including allowing all multiple and grouped dwelling developments over \$2 million to be determined by a DAP.
- Removing mandatory application thresholds making DAPs a completely opt-in process for any development over \$2 million, with standard exclusions such as single homes still applying.

A DAP, is constituted by —

(a) the 2 local government DAP members, designated under regulation 25(2)(a), for the relevant local government in relation to the application; and

(b) 3 specialist DAP members appointed by the DAP executive director.

Specialist DAP Members are appointed based on qualification and experience in 1 or more of the following areas of expertise —

- (i) urban and regional planning
- (ii) architecture
- (iii) urban design
- (iv) civil or structural engineering
- (v) landscape architecture
- (vi) environmental impact assessment

The DAP Application Process

Intent to Lodge

Where available, the applicant can discuss the proposal with local government at a pre-lodgement meeting.



Lodgement with Local Government

Application is lodged with Local Government, who confirms that the DAPs pathway is appropriate for the application.



Local government notifies DAPs of the Application

Local government notifies the DAP secretariat, who acknowledges receipt with the local government and the applicant.



Assessment by the Responsible Authority

The Responsible Authority (mainly local government) assesses the application and prepares a report to the relevant DAP.



DAPs Meeting

The DAP secretariat prepares a meeting agenda which is published on this website. Local government will notify interested parties. A meeting is held to consider the application.



Outcomes

DAP makes the decision, which will be determined as approved, refused or deferred. This will be published in the meeting minutes on this website.

3. STATE REFERRAL COORDINATION UNIT (SRCU)

The Part 11B pathway will have access to the new State Referral Coordination Unit (SRCU), which will collaborate with referral agencies to consider proposals strategically from a State-wide perspective. The SRCU will manage stakeholder inputs and provide a single, coordinated whole-of-government response on applications. This will lead to proactive case management of referrals to State agencies and local governments and ensure timely determination of proposals.

While there is no specific reference to Town Planning in the documents the list of “other” documents that are to be lodged with the site plans gives cause for hope:

- bushfire assessment.**
- traffic impacts and parking management.**
- noise impacts.**
- heritage impact.**
- environmental management.**
- visual landscape impact.**
- urban design.**
- sustainability, water sensitive and energy efficient design.**
- contaminated sites.**
- waste management.**

- **Stormwater.**
- **servicing (e.g. water, wastewater, drainage, electricity, gas).**
- **other reports as required by the Department.**

4. CHANGES TO LOCAL GOVERNMENT OPERATIONS

Proposed P&D Act Changes

- Part 4 of the Bill introduce new section 257C to provide the ability for Regulations to:
 - Prescribe the development approval functions of the local government
 - Specify that for certain types of single house developments functions be undertaken by the CEO of the local government or employees authorised by the CEO
 - Deal with other matters – performance of functions, authorisation of LG employees, and any supplementary or incidental matters

Proposed Changes to Deemed Provisions

- Identify development approval functions (any decision relating to a DA)
- Define type of development Regulations apply to: “prescribed single house development”
 - New or alteration and additions to an existing single house;
 - Any development associated with a single house such as ancillary accommodation, patios, boundary walls or fences, garages or carports; and
 - Exclude this part from applying to a heritage-protected place (houses on the state or local register, or in a heritage area).

- Outline that development approval functions for the above types of development are to be done by:
 - CEO of the local government or
 - employees authorised by the CEO
- Outline that such decisions cannot be subject to the direction of the Council
- Outline provisions relating to the authorisation of employees who can perform development approval functions.

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5. OTHER CHANGES

The “R-Codes” have also changed and are now called the “Residential Design Codes”, Volumes 1 and 2. The main changes noted to date are those regarding medium density, which make it easier to organise infill projects. There are also some “Explanatory Guidelines” available which seek to explain the changes.