

8.3 Renewable Energy Planning Agreement Policy

REPORT BY THE ECONOMIC DEVELOPMENT CO-ORDINATOR.
TO 19 APRIL 2023 ORDINARY MEETING
GOV400103, LAN900113

RECOMMENDATION

That Council:

1. **receive the report by the Economic Development Co-ordinator. on the Renewable Energy Planning Agreement Policy;**
2. **place the Renewable Planning Agreement Policy on exhibition for 28 days to seek feedback from the community; and**
3. **adopt the Renewable Planning Agreement Policy if no submissions are received during the exhibition period.**

Executive summary

The Renewable Energy Planning Agreement Policy has been prepared as a set of guidelines that Council can use to regulate the negotiation, approval, and implementation of Renewable Energy Planning Agreement's (REPA's) and to provide guidance to proponents of Renewable Energy projects in the region. This policy applies to all renewable energy generation and transmission projects (and associated infrastructure) that will impact the Mid-Western Local Government Area.

This extends to wind farms, solar farms, pumped hydro, battery energy storage systems, hydrogen generation, transmission lines or any other form of renewable energy project or infrastructure.

Disclosure of Interest

Nil

Detailed report

The Central West and Orana Renewable Energy Zone is one of five Renewable Energy Zones in NSW. Renewable Energy Zones (REZ's) seek to group new wind and solar power and renewable power generation projects into locations where it can be efficiently stored and transmitted across NSW.

The Central West and Orana Renewable Energy Zone includes a significant part of Mid-Western Regional Local Government Area (LGA), the majority of the Dubbo Regional LGA, areas of the Gilgandra and Warrumbungle LGA's.

The purpose of this policy is to provide a guideline for Council to use when entering into a Renewable Energy Planning Agreement (REPA) with proponents. This policy applies to all REPA's entered into by Council.

The policy guides the impact of such development types and the need to carefully consider and plan for broader community impacts. The NSW Planning System allows for the consideration of the

impacts of development on the community through the Planning Agreement process under the provisions of the Environmental Planning and Assessment Act, 1979.

This Policy applies to any development application, application to modify a development consent or planning proposal by Proponents of Renewable Energy for land and development within the local government area of the Mid-Western Region, and surrounding LGA's that have an impact on the local community within the Mid-Western Region LGA.

Renewable Energy Planning Agreement Contribution

Proponents of Renewable Energy Projects in within the local government area of the Mid-Western Region, and surrounding LGA's that have an impact on the local community within the Mid-Western Region LGA, this extends to wind farms, solar farms, pumped hydro, battery energy storage systems, hydrogen generation, transmission lines or any other form of renewable energy project or infrastructure.

Proponents of each renewable energy project (and associated infrastructure) will be required to enter into a Planning Agreement with Mid-Western Regional Council with funding contributions to be equivalent to 1.5% of the Capital Investment Value (as defined in the Environmental Planning and Assessment Regulation 2021) of the project as a total value over the life of the project.

Payment Details under the Renewable Energy Planning Agreement

Once the project commences operation, Council request that the proponent; promptly notify Council of the Operational Commencement Date. Pay Council 50% of the value of the REPA (inclusive of GST) within 20 business days of the Operational Commencement Date.

The remaining 50% split annually over the life of the project. The payment due date will be the anniversary of the Operational Commencement Date each year. Payment will be adjusted annually in response to changes in the Australian Consumer Price Index.

Use of Funds for Community Benefits

Council will manage and utilise funds received through the Regional Energy Planning Agreement for the benefit of the community of the Mid-Western Regional Council Local Government Area. The benefit/s to the community includes (but may not be limited to) the following:

- Road infrastructure provision and maintenance;
- Housing opportunities and initiatives;
- Strategic planning;
- Economic development and investment attraction opportunities and initiatives;
- Skills development;
- Community facilities and recreation opportunities;
- Youth welfare and support; and
- Other infrastructure provision that provides for the continued health, wellbeing and development of the community.

Individual community groups will not receive funding from this fund. However, Proponents may want to explore the option of a Community Benefit Fund, which is designed to support small, localised community activities.

Community Plan implications

Theme **Building a Strong Local Economy**

Goal	An attractive business and economic environment
Strategy	Support the expansion of essential infrastructure and services to match business and industry development in the region

Strategic implications

Council Strategies

Towards 2040 Community Plan
Regional Economic Development Strategy (REDS)

Council Policies

By adopting the recommendation, Council is endorsing the Renewable Energy Agreement Policy to be placed on public exhibition for comment. Should any submissions be received, a further report will be presented back to Council for consideration. If no submissions are received at the end of the exhibition period, the policy will be adopted.

Legislation

Environmental Planning and Assessment Act, 1979
Environmental Planning and Assessment Regulation 2021
Mid-Western Regional Council Local Environment Plan 2012
Electricity Infrastructure Investment Act 2020 (NSW) (EII Act)
Protection of the Environment Operations Act 1997

Financial implications

The adoption of this policy may lead to increased funding to Council to support a range of initiatives on behalf of the community.

Associated Risks

There are potential risks associated with this policy if not adopted, these may include the possibility of missed opportunities for community benefit and infrastructure contributions from proponents who may not be required to make such contributions without a formal agreement in place. Without a planning agreement, there may be a risk of inadequate consideration of environmental and social impacts that could arise from development activities, which could have long-term consequences for the community.

LISA PENSON
ECONOMIC DEVELOPMENT CO-ORDINATOR. ALINA AZAR
DIRECTOR DEVELOPMENT

30 March 2023

Attachments: 1. Renewable Energy Planning Agreement Policy Draft.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



POLICY RENEWABLE ENERGY PLANNING AGREEMENTS

*A prosperous
and progressive
community.*

ADOPTED		VERSION NO	version 1.0
COUNCIL MEETING MIN	[xx/xx]	REVIEW DATE	[date to review]
date:	[insert date]	FILE NUMBER	[insert file no]

Objective

The purpose of this policy is to provide a guideline for Council to use when entering into a Renewable Energy Planning Agreement (REPA) with Proponents. This policy applies to all REPA's entered into by Council.

This policy is a set of guidelines that Council can use to regulate the negotiation, approval, and implementation of Renewable Energy Planning Agreement's (REPA's) and to provide guidance to proponents of Renewable Energy projects in the region and Council's requirements to deliver benefits to the community.

This policy applies to all renewable energy generation and transmission projects (and associated infrastructure) that will impact the Mid-Western Local Government Area.

This extends to wind farms, solar farms, pumped hydro, battery energy storage systems, hydrogen generation, transmission lines or any other form of renewable energy project or infrastructure.

There has been much interest and growth in renewable energy developments in the Mid-Western Regional Local Government Area (LGA).

The policy guides the impact of such development types and the need to carefully consider and plan for broader community impacts. The NSW Planning System allows for the consideration of the impacts of development on the community through the Planning Agreement process under the provisions of the Environmental Planning and Assessment Act, 1979.

LEGISLATIVE REQUIREMENTS

Environmental Planning and Assessment Act, 1979
Environmental Planning and Assessment Regulation 2021
Mid-Western Regional Council Local Environment Plan 2012
Electricity Infrastructure Investment Act 2020 (NSW) (EII Act)
Protection of the Environment Operations Act 1997

RELATED POLICIES AND PLANS

Towards 2040 Community Plan
Regional Economic Development Strategy (REDS)

policy: | version 1., [insert date]

POLICY

Background

This Policy applies to any development application, application to modify a development consent or planning proposal by Proponents of Renewable Energy for land and development within the local government area of the Mid-Western Region, and surrounding LGA's that have an impact on the local community within the Mid-Western Region LGA.

A Renewable Energy Planning Agreement is an agreement entered into by Council and a Proponent where the Proponent agrees to fund public amenities or infrastructure, dedicate land at no cost to Council, provide monetary contributions or any other material public benefit, for a public purpose.

The use of Renewable Energy Planning Agreements has increased as a result of their flexibility in allowing councils to capture public benefits outside of the infrastructure contributions system where there is a need for an innovative and flexible approach to deliver public infrastructure and services.

Council aims to ensure that REPAs are entered into before development consent is granted. The REPA will be reviewed annually to ensure that the public benefit is being provided in accordance with the terms of the agreement.

Renewable Energy Planning Agreement Contribution

Proponents of Renewable Energy Projects in within the local government area of the Mid-Western Region, and surrounding LGA's that have an impact on the local community within the Mid-Western Region LGA, this extends to wind farms, solar farms, pumped hydro, battery energy storage systems, hydrogen generation, transmission lines or any other form of renewable energy project or infrastructure.

Proponents of each renewable energy project (and associated infrastructure) will be required to enter into a Planning Agreement with Mid-Western Regional Council with funding contributions to be equivalent to 1.5% of the Capital Investment Value (as defined in the Environmental Planning and Assessment Regulation 2021) of the project as a total value over the life of the project.

An official authorised creditor declaration will be required to confirm Capital Investment Value.

Payment Details under the Renewable Energy Planning Agreement

Once the project commences operation, Council request that the proponent;

- promptly notify Council of the Operational Commencement Date.
- pay Council 50% of the value of the REPA (inclusive of GST) within 20 business days of the Operational Commencement Date.
- pay Council the remaining 50% split annually over the life of the project. The payment due date will be the anniversary of the Operational Commencement Date each year. Payment will be adjusted annually in response to changes in the Australian Consumer Price Index

Proponents are to use the REPA Template supplied by Council as a draft agreement, noting minor changes may be accepted by Council.

Use of Funds for Community Benefits

Council will manage and utilise funds received through the Regional Energy Planning Agreement for the benefit of the community of the Mid-Western Regional Council Local Government Area. The benefit/s to the community includes (but may not be limited to) the following:

- Road infrastructure provision and maintenance;
- Housing opportunities and initiatives;
- Strategic planning;
- Economic development and investment attraction opportunities and initiatives;
- Skills development;
- Community facilities and recreation opportunities;
- Youth welfare and support;
- Other infrastructure provision that provides for the continued health, wellbeing and development of the community.

(See Appendix A for further information)

Individual community groups will not receive funding from this fund. However, Proponents may want to explore the option of a Community Benefit Fund, which is designed to support small, localised community activities.

Public Notification Period

It should be noted that the minimum exhibition period for a REPA is 28 days.

Ideally, a REPA should be submitted to Council and in place prior to submission of the Environmental Impact Statement (EIS) to which the REPA relates.

Disclosure

Council will disclose all REPAs entered into with proponents on its website and they can be found in Councils VPA Register.

Reporting

Council will provide an annual report on its use of REPAs, including the public benefits provided under each agreement.

Review

This policy will be reviewed annually to ensure that it remains relevant and effective in achieving Council's and Proponents objectives.

This policy is intended to provide guidance to Council and is not intended to create legal obligations or rights. By Council resolution, Council reserves the right to depart from this policy if it considers it appropriate to do so in a particular case.

policy: | version 1., [insert date]

Appendix A – Potential Public Benefits

The following table lists examples of public benefits that REPAs may seek to achieve.

The list is not exhaustive.

<p>Infrastructure</p>	<p>Accessibility improvements – accessible parking, kerb ramps, modifications to public buildings or areas Roads – design and construction Open space – parks, public places, embellishment Drainage and stormwater controls Traffic measures Transport outcomes Pedestrian and cycleway linkages and footpaths Telecommunication networks Power, water, gas Communications and information technology such as WIFI public space Bridges (vehicular and pedestrian) Flood management / mitigation works</p>
<p>Facilities</p>	<p>Community buildings – e.g. meeting rooms, halls, libraries Child care centres Public toilets Youth spaces Public leisure facilities Performance spaces Civic spaces Public car parking areas and commuter parking Bus shelters Family care facilities Sport, recreation and activity centres Business, research and creative industries incubator space and ancillary uses Affordable Housing</p>
<p>Public domain improvements</p>	<p>Paving – paths, streets and open space areas Plantings – streets and open space areas Furniture – seats, bins Banners Public art in streets, open space and public domain space Kerbs and gutters Treatment and/or features in public places Facilities such as kiosk in parks and open spaces Turf Public leisure, sport and recreation facilities Environmental management improvements such as water and energy minimising devices Restoration and management of natural areas including beaches, bushland, creeks and lagoons</p>
<p>Other</p>	<p>Other benefits in line with Council plans and strategies - including plans of management, flood plan management plans, traffic and transport plans, masterplans, development control plans, local environmental plans and the management plan Maintenance/Rehabilitation in perpetuity – e.g. pest control and bush regeneration Other public benefits that provide a positive planning outcome for the people of Mid-Western Regional Council.</p>

policy: | version 1., [insert date]

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