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24 January 2024

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Dear Matt and Team

Response to Draft Energy Policy Framework – Various Guideline Documents

Council thanks you for the opportunity to provide feedback on the Draft Energy Policy Framework and associated Guideline documents.

As you are aware, Warrumbungle Local Government Area ('LGA') is an integral part of the Central West Orana REZ ('CWO REZ'), currently with eleven proposed generation facilities and a major transmission line planned to be located therein. Across the whole CWO REZ there are 35+ projects.

Council's comments herein relate primarily to the Draft Benefit Sharing Guideline, with an additional comment that relates to both the Draft Wind Guideline and the Draft Solar Guideline.

A. Benefit Sharing Guideline (dated November 2023)

Council, together with its residents and ratepayers, is very much focussed on the transparency of the likely environmental, social, and economic costs and benefits arising from the developments (both singular and cumulative) and to ensuring that such costs reasonably attributable to the developments are carried by the developers and not outsourced to the LGA community to bear. The content of the Draft Benefit Sharing Guideline is thus a key issue for Council.

Council does support some elements of the Draft Benefit Sharing Guideline however, on balance, its strong concerns – thus objections – outweigh the positives and hence this submission is lodged as an objection. Council is keen to engage with the DPE to assist in framing a more acceptable document.

WSC supports the following positions enunciated in the Draft Benefit Sharing Guideline:

a) The fundamental principle that the application of community benefit programs be centrally administered and distributed through the local council via a planning agreement. However, not as defined; see proviso below in 'objections and recommendations for improvement';

b) That a financial quantum per megawatt is the most prudent and transparent way to determine community benefit payments. However, see proviso below in 'objections and recommendations for improvement';

c) That councils can consolidate Development Contributions paid via multiple renewable energy project planning agreements. Consolidation enhances the capacity and opportunity of local government to deliver more substantial legacy-defining community benefit projects or services than would otherwise be possible if funds were managed and allocated separately and in smaller quantums;

d) That the benefit sharing quantums apply to Modifications to SSD projects in instances where a modification seeks to increase the generating capacity of a project. See proviso below in 'objections and recommendations for improvement';

e) That details of any council-managed benefit sharing arrangements via a planning agreement be in accordance with the EP&A Act and Regulation and the current Planning Agreement Guideline document. That includes, inter alia, public financial reporting including the result of the expenditure. This reporting should include a public register that identifies:
   - those community projects funded
   - how each community project funded meets or contributes to relevant local government policies and plans
   - the public input that was generated to identify each initiative so funded, and
   - the cost and delivery timeframe of each initiative;

f) That community benefit funding to Council applies where SEARs have already been issued if the project's EIS has not been submitted within six months from the date of publication of the Guideline;

g) That community benefit funding applies to all solar and wind energy generation projects, whether they are located within or outside a declared REZ. However, see additions below; and

h) That visual, noise, etc, impact mitigation measures benefiting nearby landholders such as compensation payments or physical measures, for instance tree planning for visual screening, are outside the scope of benefit sharing.

2. Objections and Recommendations for Improvement. Council strongly opposes the following elements of the Draft Benefit Sharing Guideline:

a) That a developer can include in the quantum cap of $850/MW/yr for solar or $1,050/MW/yr for wind projects funding that is provided for a planning agreement with a council AND any other community enhancement projects that lie outside the planning agreement it sees fit;

b) That having three different benefit categories labelled 'neighbourhood', 'local community' and 'council-managed' is appropriate;

c) That community benefit funding only applies to solar and wind SSD projects, thus excluding pumped hydro and BESS projects, SSI and CSSI wind and solar developments and also excluding non-SSD projects i.e. < $30Mil CIV; and

d) That planning agreements should include a provision requiring the agreement to be reviewed and renegotiated in the event of any changes to the local government rating system that would materially affect rates payable for renewable energy development.

The reasons for WSC's position regarding items 2a) to d) above are outlined below.

***a) A developer should not be able to include in the quantum cap of $850/MW/yr for solar or $1,050/MW/yr for wind projects funding provided for a planning agreement with a council AND any other community enhancement projects outside the planning agreement it sees fit,* for the following reasons:**

i. Governance, fiduciary and legal obligations for councils are enshrined in the provisions of the Local Government Act. Under that legislation it is a key responsibility of the Local Government Authority to administer funds that are intended for the benefit of the public. Local Government is also subject to public scrutiny and accountability and public elections of officials which adds additional rigour and transparency not available to either local community groups or private developers.

   Providing large sums of money direct to community groups devoid of legally binding governance rules and accountability provisions to spend on public projects intended to provide a public benefit is not only at odds with the Local Government Act but carries with it opaqueness and a high risk of maladministration and self interest.

   Furthermore, a disadvantage of Developers allocating the funds directly is that they are focused on their particular investment, so may fail to see the broader picture that a Council, by virtue of their statutory responsibilities, sees and plans for from a management and governance perspective;

ii. Under the Local Government Act, listening to and planning the needs of the community is formally addressed and reinforced via the mandated Community Strategic Plan;

iii. The Local Government Act governance responsibilities are even more pronounced in the LGAs that are part of Renewable Energy Zones. For instance, there are some 35 renewable energy generation/BESS/transmission projects planned for the REZ, including eleven in WSC. The environmental, social, and economic costs from said developments will not be isolated or 'one-off', like what occurs with an occasional mine development in the rural landscape, but rather, with the aggregation, will have profound and shire -wide consequences.

   The extent of the challenge for local government necessitates very substantial technical and management resourcing to help deliver the hard and soft infrastructure and services required by residents and ratepayers. Thus, the total sum of $850/MW/yr for solar or $1,050/MW/yr for wind projects will be essential to be allocated direct to Local Government via planning agreements;

iv. The development of the NSW REZs is a once-in-a-century undertaking that will, for better or for worse, impact on a regional population, which, in the case of the CWO REZ, has for 200 years experienced a traditional rural way of life and culture. The scope and extent of the industrialised change and disruption will be profound. Host councils will have a huge task ahead to govern in this time of massive change.

Under Council's leadership, the Development Contributions will be planned and allocated in a transparent and accountable way, to a public purpose that will ensure the provision of public benefits that address the broad, tangible and intangible environmental, social and economic costs arising from REZ developments, in accordance with the EP&A Act and Regulation and the Local Government Act. In accordance with these Acts impacted communities will have a voice in decision-making; and

v. Funds administered by a community group may also result in additional capital works being undertaken outside the scope of Council's plans, yet Councils may subsequently be expected to maintain and replace them throughout the assets lifecycle. There is no guarantee that such assets would be in accord with Council's four-year Delivery Program and Operational Plan, thus creating an unwanted and unsustainable financial burden.

b) Having three different benefit categories labelled 'neighbourhood', 'local community' and 'council-managed' is overly complicated and is likely to confuse. Furthermore, such a designation is unnecessary if the Development Contributions are assigned to the management of the local council via a planning agreement, for the following reason:

i. As outlined above, Council opposes the developers usurping the statutory role of local government to manage development contributions usually paid via a planning agreement. However, if a developer wishes to pay additional funds to a community over and above the value of $850/MW/yr for solar or $1,050/MW/yr for wind projects then that is their prerogative.

c) Development Contributions should be paid on all renewable energy generation, firming and transmission projects, including pumped hydro and BESS, be they SSD, SSI or CSSI. Furthermore, Local Government should be provided with the discretion to seek Development Contributions on projects below the SSD trigger (i.e. < $30 Mil CIV), for the following reasons:

i. On a like-for-like impact basis, there is no justification to exclude SSI and CSSI projects from providing funds for the provision of public benefits. All three categories of development should be required to provide said funds via the planning agreement provisions;

ii. SSI and CSSI projects often have additional adverse impacts in that landholders are obligated/forced to sell over their land to the Government and the relevant legislation is heavily weighted against landholders having equal power in the negotiations and usually end up with a less than satisfactory deal. Social licence considerations tend to come a poor second when the State Government is allowed to dictate such terms; and

iii. Smaller scale developments (i.e. below the SSD CIV threshold) can and do generate adverse impacts that should be acknowledged and compensated as required. Local Government should be provided the discretionary power to secure a planning agreement.

d) Planning agreements should not include a provision requiring the agreement to be reviewed and renegotiated in the event of changes to the local government rating system that would materially affect rates payable for renewable energy development, for the following reasons:

i. Mining projects located on land rated for mining still pay Development Contributions for planning agreements; and

ii. Renewable energy generation facilities will industrialise agricultural lands yet not deliver the long-term jobs and related economic activity and benefits to a district/region that a mine does. Hence Council sees no reason to allow renewable energy developers scope to reduce their financial contributions in the event that renewable energy generation land rates come to fruition.

B. Draft Wind Guideline

The Draft Wind Guideline is proposing to designate a wind farm as CSSI if it includes a BESS with a delivery capacity of 750+ MW. Council strongly opposes such a move and requests such developments remain SSDs. The reason being that with SSD projects Local Government can have reasonable input into the decision-making process. With SSI and CSSI designations, Local Government and local community input is very much curtailed and such projects tend to be mandated and 'rail- roaded', much to the angst of residents and ratepayers.

C. Draft Solar Guideline

The Draft Solar Guideline is proposing to designate a solar farm as CSSI if it includes a BESS with a delivery capacity of 750+ MW. Council strongly opposes such a move and requests such developments remain SSDs. The reason being that with SSD projects Local Government can have reasonable input into the decision-making process. With SSI and CSSI designations, Local Government and local community input is very much curtailed and such projects tend to be mandated and 'rail-roaded', much to the angst of residents and ratepayers.

Council looks forward to discussing the contents herein with the DPHI. In the first instance please contact Ms Leeanne Ryan on email Leeanne.Ryan@warrumbungle.nsw.gov.au

Yours sincerely

ROGER BAILEY
GENERAL MANAGER