



# **Submission to DPIE Infrastructure Contributions: Proposed *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Regulation 2021***

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RE-Alliance works to deliver a renewable energy transformation in Australia filled with sustainable, long-term benefits for regional communities.

We do this by listening to the needs of communities most impacted by the transition, facilitating collaboration across the renewables industry to deliver social outcomes and advocating for meaningful benefits for regions at a policy level.

## **Summary:**

RE-Alliance broadly supports the “move towards a principles-based infrastructure contributions system based on certainty, efficiency, simplicity, transparency and consistency”<sup>1</sup>. Our submission pertains to the aspects of the proposed amendments that relate to the renewable energy industry, specifically amendment 3.4 “Improving revenue collected under section 7.12 contributions plans” and amendment 3.5 “Changes to public participation on draft planning agreements”.

Our submission will outline the importance of building social licence in communities set to host renewable energy projects, particularly renewable energy zones, and how this relates to the Proposed Environmental Planning and Assessment Amendment (Infrastructure Contributions) Regulation 2021.

More specifically, our submission suggests that greater clarity is required around the interplay between voluntary planning agreements (VPAs), local contributions and community enhancement funds (CEFs) that are often established for wind and solar developments.

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<sup>1</sup> DPIE 2021 *Infrastructure Contributions Explanatory Paper*, p.6. Available here: <https://www.planningportal.nsw.gov.au/sites/default/files/documents/2021/GD1469%20Infrastructure%20Contributions%20-%20Regulations%20and%20local%20contributions%2011102%20final.pdf>



## Proposed amendment 3.4 Improving revenue collected under section 7.12 contributions plans

RE-Alliance:

### Supports:

- the aim of implementing a consistent approach to local contributions made by solar and wind developers.

### Notes

- that the draft amendment suggests \$2000 per MW, capped at \$450,000 for both solar and wind farm projects;
- that the amendment does not discuss how these local contributions will interact with Renewable Energy Zone draft regulations requiring developers to contribute to REZ Access Schemes;
- that local contributions have previously typically been negotiated through Voluntary Planning Agreements between local councils and project proponents;
- that the expenditure of local contributions from wind and solar projects in the most impacted communities is vital to the earning and maintaining of social licence for infrastructure that is critical to NSW's energy future
- that from our experience the lack of consistency in Voluntary Planning Agreements across different LGAs has caused confusion and difficulties for both the renewable energy industry and the local communities set to host the infrastructure;
- that local councils occasionally incorporate the governance of Community Enhancement Funds from wind and solar farms into VPAs, and that this can be a cause of tension in local communities.
- The draft amendments lack clarity about how CEFs interact with VPAs and local contributions. For example, would the \$450,000 cap include CEFs in the circumstance that a local council incorporated governance of CEFs into a VPA?

### Recommends

- that at a minimum decisions about the expenditure of local contributions allocated to Community Enhancement Funds is delegated to a Section 355 committee, or another governance structure that includes direct local decision makers outside of the council;
- Any cap on local contributions for wind and solar farms should exclude CEFs;
- Liaising with DPIE's Energy Corporation to clarify how these amendments will interact with specific Renewable Energy Zone regulations.

### Questions and clarifications

- In the current energy market, wind projects earn more per MW than their solar counterparts. Has the department considered different local contribution rates for wind and solar compared to \$2K per MW for both?
- At what stage of a wind or solar farm's development is the payment expected to be made – planning or once operational?



- Is the per megawatt payment based on the proposed project size eg, project size at planning approval stage; or once operational?
- As land is leased by project developers for the construction and operations of wind and solar farms, will landowners be impacted or charged any additional contributions/ land rates?
- Pg. 45 of the “Practice Note” reads as if a VPA and local contribution should both be a consent condition for wind and solar projects, when the detailed text below the headline indicates that’s not the case. From our understanding, the proposed regulation changes do not include new provisions for both VPAs and S7.12 contribution plans to apply to energy projects. At present both are not typically applied e.g. Uungala Approval, only a VPA was applied and not S7.12 conditions.

## Proposed amendment 3.5 Changes to public participation on draft planning agreements

RE-Alliance:

### **Supports:**

- The amendment to specify how and when draft planning agreements are to be exhibited, leading to the implementation of a mandatory exhibition period of 28 days.

### **Notes:**

- The rationale provided by the department for this amendment is to increase community participation and transparency around draft planning agreements;
- That RE-Alliance has heard community feedback about the lack of timely, accessible and transparent information about planning agreements;
- That an inability to provide feedback or be involved in decision making about wind and solar farm planning agreements has caused tension between local councils, impacted communities and project developers;
- That community support for wind and solar projects is vital to the success of NSW’s Electricity Infrastructure Roadmap;
- That community support can be obtained through collaborating with and empowering local communities in decision making around wind and solar developments.

### **Recommends:**

- Involving the local community in the planning agreement process earlier than the exhibition period. For example, establishing Section 355 committees with representatives from directly impacted communities to negotiate VPAs.
- Widely and proactively advertise and communicate exhibition periods for wind and solar VPAs.
- Ensure exhibition periods are sensitive to seasonality of agriculture in specific areas and are extended to enable landholders to contribute outside of harvest for example.



## Renewables and Regional Communities

The need to significantly reduce emissions this decade presents a great challenge for us in making the transition from fossil-fuels, to cleaner and cheaper renewable energy. The NSW Government is rising to this challenge through the establishment of Renewable Energy Zones (REZs). However, the rollout of renewable energy infrastructure must be both fast and fair.

To maximise benefits to regional communities, state government planning systems must inform, include and seek the expertise of impacted communities in the development of individual projects, Renewable Energy Zones and renewable energy transmission lines.

This work is not an additional bonus. Including local communities in decisions and maximising benefits from renewables infrastructure is essential for the acceptance and success of large-scale renewable infrastructure. RE-Alliance has observed too often that when local communities are not included, they naturally will not support and often actively and justifiably, oppose local development, in turn jeopardising individual projects and slowing the transition to renewables. Actors with vested interests seeking to prolong the use of fossil-fuels will often opportunistically leverage local dissatisfaction for their own benefit.

The rollout of wind, solar and batteries in Australia has seen the proliferation of innovative community benefit-sharing programs, whereby local communities impacted by the infrastructure are invited to profit or benefit from the project in some way. We have documented case studies of these types of programs in our *Community Benefits Handbook: How Regional Australia can Prosper from the Clean Energy Boom*<sup>2</sup>.

Social licence for renewable projects is essential to our energy transition. When planned well, renewable projects build stronger, more resilient regional communities and economies. On the flipside, when local communities are not included in development or the rationale for the transition and there's a lack of local buy-in, there can be significant delays to new transmission and renewable generation infrastructure.

The causes of failures in social licence are complex. The solutions are not. Earning social licence for infrastructure is about including local communities in planning decisions and providing opportunities for locals to benefit.

The successful roll-out of Renewable Energy Zones is crucial to NSW's clean, secure and cheap energy future. Our community engagement work has highlighted that getting community input and support for voluntary planning agreements (VPAs) between local councils and wind and solar developers is crucial to earning and maintaining social licence for these developments. Particularly as they pertain to management of Community Enhancement Funds.

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<sup>2</sup> *Community Benefits Handbook: How Regional Australia can Prosper from the Clean Energy Boom*. Available here: [https://www.re-alliance.org.au/community\\_benefits\\_handbook](https://www.re-alliance.org.au/community_benefits_handbook)



## Community Enhancement Funds

The most straightforward action renewable energy proponents can take to create benefits in their communities is to carve out a stream of funds for that purpose. Many wind farms and a growing number of solar farms in Australia have Community Enhancement Funds (CEFs), voluntary payments made by proponents of a renewable energy project for distribution to community groups, programs and projects. CEFs are one of the more common avenues through which the renewable energy industry can provide benefits to regional communities, and begin to build the relationships and trust that are vital to the establishment and maintenance of social license in REZs.

Over the years, hundreds of community applications have been made and granted. Local not-for-profits, Country Women's Associations, climate action groups, Landcare groups, golf and bowling clubs, local schools, theatres, men's sheds and progress associations are just some of the many organisations that have replaced equipment, run projects, built community infrastructure and supported their communities through CEF grants. Overwhelmingly, CEFs have supported the volunteer-led organisations that underpin country towns.

Community projects that have been realised as a result of renewable energy project CEFs range from small scale such as Indigenous and community gardens, workshops for resilient living and health initiatives, food coops, local tourism marketing materials, through to more substantial 'legacy' type projects such as community microgrids, solar arrays for hospitals and large scale revegetation projects. You name it, somewhere, a local community has found a way to fix it, upgrade it or make it happen with the support of wind or solar farm CEF funding.

CEFs will be a win-win-win for the roll-out of REZs in NSW. Regional communities will gain access to new and considerable funding avenues through which to finance local projects, events and initiatives. Through this the quality of life in regional NSW can be improved, and sorely needed infrastructure can be provided. Through CEFs the renewable energy industry can grow relationships and trust in regional communities that are crucial for the industry's social licence.

**CEFs should be based on local needs, co-designed with the local community, and form part of genuine community engagement, collaboration and empowerment.**

### CEF GOVERNANCE

Commonly, a set amount of funding per year is made available to local communities during the operational life of the project. The funding amount is typically based on installed megawatts with different methodologies across different technologies and capacity factors, and is typically CPI linked. In many cases, funding grants are made through an application process and in accordance with guidelines or terms of reference determined by the management committee to achieve fairness and transparency.

There are currently no federally legislated requirements for CEFs in Australia, although there are often state-based requirements, which has led to enormous diversity in the form, function and size of funds from region to region and project to project. In some states, such as Victoria, there is also considerable freedom for renewable energy company representatives, Councils and communities to jointly



determine a fund that best suits the region and the people involved. Ideally, the shape and workings of the CEFs in Australia therefore typically reflect the community hosting the renewable energy project. For instance, some CEFs are managed by the project company, with input from community representatives; Some CEFs are managed by community representatives with input from the project company; Common to NSW due to the Section 355 CEFs are run by Council-managed committees comprised of a range of stakeholders to ensure distribution of representation and; Some CEFs are entirely managed by community representatives.

Community Enhancement Funds are sometimes negotiated as part of a Voluntary Planning Agreement (VPA) with the local council/s. In NSW, the terms of VPAs negotiated between local councils and renewable energy project proponents vary widely - which this proposed Infrastructure Contributions Amendment seeks to resolve. These payments can represent a substantial form of income for councils, particularly for those in regions that enjoy strong wind and solar resources and therefore have more than one wind or solar farm operating within their boundaries, as will be the case for councils within REZs.

**While there are some CEFs managed entirely by the local Council, this can lead to tensions where funding originally intended to benefit the impacted community is spent across the LGA more broadly.** This can negatively impact the purpose of the fund from the proponents' perspective, which is to build and maintain social licence in the community directly around the project. It can also have broader impacts on social licence, as the focus areas may not be in the closest vicinity around the neighbourhood, and as Councils do not always publicise that strategic projects have been partially or fully funded by renewable energy projects.

In April 2021 Dubbo Regional Council, a key stakeholder in the CWO REZ, passed their Planning Agreement Policy for Solar and Wind Energy Farms. A concerning aspect of this planning policy is the following clause:

*In respect of wind and solar energy farm developments, Council has developed the Dubbo Regional Council Solar and Wind Farm Consultative Committee. The committee will consider recommendations for the expenditure of community benefit funds across solar and wind energy farm developments. Council, as the responsible Government Agency, will ultimately select and approve projects for funding as appropriate<sup>3</sup>.*

RE-Alliance has investigated this issue, at present there are no community representatives on the committee that decides where and how CEFs are spent. RE-Alliance is aware of significant concerns held within the directly impacted communities of pre-existing wind and solar projects within the Dubbo LGA about Council control and expenditure of these funds. This is impacting upon the social licence of existing projects, and poses a threat to future projects as the community may not regard future CEFs as beneficial to their local community.

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<sup>3</sup> Dubbo Regional Council 2021, *Council Policy: Planning Agreement Policy for Solar and Wind Energy Farms* pp.3-5, available at: <https://www.dubbo.nsw.gov.au/ArticleDocuments/241/PLANNING%20AGREEMENT%20POLICY%20FOR%20SOLAR%20AND%20WIND%20ENERGY%20FARMS%20IN%20DUBBO%20REGIONAL%20LGA%20v2.pdf.aspx>



Indeed, a Danish study revealed how municipal control of community benefit funds contributes to frustration within the community and “a perception of procedural and distributive unfairness”<sup>4</sup>. These types of approaches can prevent innovation and legacy projects and promote homogenisation and municipality control (rather than community control) and the complexity of the process results in a disconnection from the actual projects that are wanting to maintain social license.

For these reasons, **we recommend that no matter what CEF governance structure is decided upon, that it includes representatives of the directly impacted community and provides those representatives with decision-making and voting privileges.**

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<sup>4</sup> Jørgenson, M.L 2020 “Low-carbon but corrupt? Bribery, inappropriateness and unfairness in Danish energy policy” p.8. Available at: <https://doi.org/10.1016/j.erss.2020.101663>