



**COUNCIL POLICY**  
**Administration**

1.2.17

<b>Title:</b>	<b>Energy &amp; Resource Industry – Community Benefits Policy</b>
<b>Adopted:</b>	17 July 2024
<b>Reviewed:</b>	Nil
<b>Associated Legislation:</b>	Local Government Act 1995, State Planning Policy 3.6 Infrastructure Contributions
<b>Associated Documents:</b>	
<b>Review Responsibility:</b>	Manager Governance and Community
<b>Delegation:</b>	Chief Executive Officer

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Previous Policy Number/s Nil

**Objective:**

The Energy & Resources Industry Community Benefit Policy will support the promotion of benefit sharing strategies associated with the development of State Significant and Regionally Significant Energy and Resource sector projects in the Shire of Mingenew Local Government Area that:

- Secure off-site benefits for the community so that Energy and Resource Industry developments deliver a net community benefit;
- Ensures that the wider community shares in the benefits resulting from Energy and Resource Industry development in the Local Government Area; and
- Ensures that the costs and benefits of Energy and Resource Industry development will be equitably distributed within the community and inter-generationally.

The Energy and Resource Industry Community Benefit Policy will be updated as needs so that it is suitable to deliver on the Shire of Mingenew's Community Strategic Goals and provides clear expectations to Energy and Resource Industry developers.

**Policy Statement:**

The Shire of Mingenew supports the development of Energy and Resource Industry projects within our Shire and across our region, which will attract significant investment and opportunities.

Council is engaging deeply with developers, community, businesses, farmers, experts, state and federal government entities and other councils, to understand the process, challenges and opportunities of Energy and Resource Industry developments.

Through this ongoing work, Council will help to lead and support the development of Energy and Resource Industries in a way that minimises impacts and delivers prosperity for our community.

Key to success is a coordinated and strategic approach whereby all members of the Mingenew Community and all developers that are active in the region are aware of the community's co- designed, overall vision for the future and how it can be supported by the economic benefits associated with Energy and Resource Industry development and its flow-on effects.

Council considers this coordinated and strategic approach to be essential to capitalise on the opportunity that the clean energy transition and associated resources sector growth presents.



### **Policy Principles:**

The Fundamental Principles for Successful Energy and Resource Industry Development in the Mingenew LGA (The Principles), we are ensuring real and purposeful community acceptance and support. This Policy is the first step in an ongoing partnership between the Energy and Resource Industry Developers and our community to minimize the impacts and maximise the opportunities for Mingenew.

The Principles identifies key community projects and programs that will deliver tangible community benefits through the strategic use of Community Benefit Funding.

The Principles deliver the following message from the Mingenew Community to the WA Government, Developers and other stakeholders:

- We are supportive of the Energy and Resource Industry transition
- We want to keep the overall experience for our community positive, to remain supportive
- We will ensure the Energy and Resource Industry transition happens with us, not to us.
- Assist us to deliver a coordinated approach to our community.
- Follow our Fundamental Principles for Successful Energy and Resource Industry Development, to maximise collaboration and strategic outcomes.
- We want to ensure that Energy and Resource Industry developments maintain or enhance our existing economy.
- We have a long-term plan for our economic transition, which includes the Energy and Resource Industry transition and we invite you to support it.

### **PLANNING AGREEMENTS**

The Shire of Mingenew will use a Voluntary Planning Agreement (VPA) also known as Developer Agreements to establish Community Benefit as it has no Development Contribution Plan incorporated into its local planning scheme. In addition, at the time of implementing this policy the State of WA has no legislative mechanism to enshrine a Voluntary Planning Agreement into the planning framework other than that of being via the use of discretion.

A voluntary planning agreement is defined as an agreement between Council and a developer, who has made, or proposes to make, a development application, under which the developer is required to dedicate land free of cost; pay a monetary contribution; provide any other material public benefit to be used for or applied towards a public purpose.

Planning Agreements may be formulated with direct reference to, or in consideration of, this Policy. However, this Policy does not bind Council or otherwise prevent Council from entering into Planning Agreements that do not strictly adhere to the Policy, should the Agreements otherwise provide alternative and equivalent community benefit, and are supported by the community.

Where there is a disparity between the conditions of a developer VPA and the requirements of this Policy (which may change over time), the VPA will be adhered to.

### **COMMUNITY BENEFIT**

Community benefit excludes that which is required to mitigate adverse impacts of development including, but not limited to, host and adjoining landowner payments required to obtain consent or prescribed by legislation, or acute impacts to Council assets e.g. damage to local road infrastructure.



The public purpose that funds will be applied to includes works to embellish public spaces, the provision of spaces for public recreation and community facilities, initiatives to support affordable housing and/or development activity, works to rehabilitate or conserve biodiversity values, new or upgraded community infrastructure, support of local volunteer or community group activities or some other public purpose if the Council reasonably considers that the public interest would be better served by applying the funds towards that purpose.

Community benefit does not include using funds as a financial off-set or subsidy to Council operational activities whereby a direct link from the funds to the prescribed community benefit cannot be defined. For example, the funds could be used to implement new infrastructure at the Mingenew Recreational Centre but could not be used to off-set operational costs of the facility.

### **GOVERNANCE AND INTER-GENERATIONAL EQUITY**

Council will ensure a governance structure that, as far as possible, reflects the needs and concerns of the immediate communities of impact and the broader Local Government Area to assist with determining the public purpose for funds.

A Community Benefit Advisory Committee will be established and provide advice to Council on the projects to which community benefit funds may be allocated. While project proposals and community initiatives may come from any source, the Community Benefit Advisory Committee will have the opportunity to provide feedback and/or endorsement for any and all uses of the Community Benefit Fund. Developer representatives from where the community benefit funds are derived will not form part of the Committee but will have the ongoing opportunity to present to the Committee in regard to specific projects or initiatives and have access to recommendations and minutes which will also be made public.

Council has the final say in regard to the use of the funds. The Community Benefit Advisory Committee has no delegated authority to spend monies from the Community Benefit Fund and can only advise on its use to Council.

### **COMMUNITY BENEFIT FUND**

The financial value of community benefit will vary from project to project and over time, however, the minimum community threshold for the Shire of Mingenew will be based on the industry standard Benefit Sharing Guidelines produced by many State Governments across Australia.

Funds will be kept as externally restricted funds, and the use of funds from individual developer contributions, or other sources, will be monitored and form part of the annual reporting process, such that the specific funding breakdown for each community project or initiative is clear.

Council will manage funds to ensure that they benefit future generations as well as the present generation, and that ongoing depreciation and maintenance costs (whole of life costs), or any other unforeseen impacts, are taken into account for project proposals.

### **LEGISLATIVE CONTEXT**

State Planning Policy 3.6 Infrastructure Contributions - April 2021



The Policy provides a system for local governments to plan and charge for community infrastructure items that are not included in the standard provisions through development contribution plans and introduces a framework for the requesting of contributions for community infrastructure.

### *State Planning Policy 3.6 Infrastructure Contributions - April 2021*

#### 6.9 Developer Agreements

*Contributions may also be implemented in limited circumstances through Developer Agreements or by a voluntary agreement between a landowner or developer and the relevant local government, pursuant to a request from the landowner or developer.*

*Circumstances include large-scale, single ownership projects with a long development timeframe, or in regional areas where a formal DCP is not considered by local government and contributing owners to be necessary to achieve desired infrastructure delivery outcomes.*

*Notwithstanding that Developer Agreements do not form part of a local planning scheme, infrastructure contributions prepared under this arrangement should be consistent with the principles outlined in this policy and any decision to deviate from these principles, including the provision of facilities of a higher quality or specification than standard, should be a voluntary decision by all parties to the agreement.*

### *State Planning Policy 3.6 Infrastructure Contributions Guidelines - April 2021*

#### 2.3 Imposition of infrastructure contributions

##### *(iii) Developer Agreements*

*Developer Agreements may be considered in limited circumstances – usually large-scale projects under single ownership – and pursuant to a request from the landowner or developer, or in regional areas where a formal DCP is not considered by local government and contributing landowners to be necessary to achieve the desired infrastructure delivery outcomes.*

*Developer Agreements are voluntary and fall outside the formal infrastructure contributions system, and do not require State Government assessment or approval. Any agreement for infrastructure contributions via a Developer Agreement should be consistent with the principles outlined in SPP 3.6 and any decision to deviate from these principles, including the provision of facilities of a higher-quality or specification than standard, should be a voluntary decision by all parties to the agreement.*

#### National Legislative Framework/Policy Development

The 2024 National General Assembly of Local Government endorsed motion "to implement a nationwide compulsory community benefit sharing framework. This framework would eliminate the need for individual councils to negotiate separate voluntary planning agreements for each project proposal within their respective Local Government Area."

#### **DEFINITION**

##### Energy and Resource Industry

Proponents identified to form part of the Energy and Resource Industry may include but are not limited to:

- Critical Minerals Projects
- Mineral Sands Projects
- Gas Projects



- Wind Projects
- Solar Projects
- Carbon Offsetting Schemes and
- Carbon Sequestration Schemes
- Battery Energy Storage System (BESS) Schemes
- Other emerging related industries