

Response to the First Nations Clean Energy Strategy: Consultation Paper

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The development of the First Nations Clean Energy Strategy represents an opportunity to re-set the relationships between the Federal Government and First Nations Peoples in Australia. The draft principles, goals and objectives set out in the Consultation Paper capture this opportunity well, but the challenges lie in translating these statements into practical, ethical and robust outcomes. As a nascent opportunity, the clean energy transformation allows for flexible and novel approaches that will deliver sustainable and equitable outcomes, but these must be actively pursued with a genuine commitment to change.

The key to success will be a fundamental change in the approach of Government to First Nations Peoples, such that a “...model of partnership, based on genuine power sharing, becomes the rule and not the exception” ([PC, 2024](#)). Given the global focus on both clean energy developments and First Nations disadvantage, international agreements such as the United Nations Declaration on the Rights of Indigenous People (UNDRIP), and principles such as Free, Prior and Informed Consent (FPIC) and Indigenous Cultural Intellectual Property (ICIP) ([UN, 2018](#); [FAO, 2024](#)) should be actively incorporated into the Strategy and its execution through the practicing of Cultural Proficiency. A key challenge in this process will be to pursue opportunities for clean energy developments at a pace that supports decarbonising commitments and the pursuit of commercial opportunities whilst also complying with the principles of FPIC and ICIP, providing resources for asset assessment from First Nations Peoples’ perspectives, building capacity within Prescribed Body Corporates (PBCs), while respecting First Nations Peoples’ decision-making processes, and promoting a genuine, culturally-appropriate two-way dialogue and benefit-sharing.

The Curtin Institute for Energy Transition (CIET) offers comments below against the questions contained in the “First Nations Clean Energy Strategy: Consultation Paper”, and summary comments in conclusion.

Questions/notes
<p><i>1. Are the draft principles, and goals proposed appropriate and achievable? Are there any gaps or do you have suggestions for others that could be considered?</i></p>
<p>Guiding Principles for Australia’s clean energy transformation: <i>These principles are informed by the United Nations Declaration on the Rights of Indigenous People and the Sustainable Development Goals. Principles explicitly manifest the values of rights-holders and shareholders and provide guidance for the development of goals, the ways in which partnerships function and the framing of opportunities presented by the clean energy transformation.</i></p> <p>Principle 1 - Access to reliable clean energy is a human right. In the context of Australia's First Nations Peoples, this Principle represents a significant commitment, and an opportunity. It is well documented that remote First Nations Communities, lacking grid connection, utilise sources of energy that are not ‘clean’, including diesel-powered generation (Thorburn, O’Neil and Hunt, 2019). Categorising access to reliable, equitable and affordable clean energy as a human right entails actions to address the current lack of access to such energy sources. For example, access to electricity for some First Nations Communities requires pre-paid cards, which can limit access in poverty-stricken communities, and which is billed at rates more expensive than</p>

provided to urban-dwellers. Addressing this issue will require a national approach, in contrast to current State-based arrangements, whereby various departments or other service providers are responsible for energy provision. In turn, this would require developing a process to ensure the resolution of current challenges. In addition to improved community service provision and associated economic and social benefits, successfully engaging First Nations Peoples to collaboratively resolve their own energy challenges should build a foundation of understanding and positive perspectives of clean energy developments.

Principle 2 - First Nations Peoples are stewards and Custodians of Country, connection is ongoing and enduring.

First Nations Peoples have responsibilities to Country, Culture and Community that can only be exercised On Country. Access to Country is therefore essential and must be ensured. In the clean energy context, there are ramifications for both First Nations Peoples and public and private sector proponents. Stewardship, Custodianship and Traditional Ownership need to be explored and defined in partnership with First Nations Traditional Owners and Custodians and must precede development of project proposals to ensure power dynamics that empower all parties equally, thereby ensuring connection to Country is embedded in sustainable partnership arrangements. Partnership building activities, such as authentic yarning, formal meetings and On Country events lead by First Nations Peoples must be undertaken early.

First Nations Peoples must also be able to create, collate, synthesise, and present data, information and evidence that identify their values, aspirations and concerns for Country, Culture and Community (e.g., environmental, social, cultural and economic values). Self-determination cannot be achieved without two-way dialogue founded upon transparency and fully - and equally-informed participants.

Ensuring funds to resource and empower First Nations Communities' technical, operational, financial and institutional autonomy is a priority in order to ensure connection to Country is ongoing and enduring in the context of clean energy projects. This entails a commitment to identify, engage and develop joint decision-making protocols, procedures, and institutions at that early stage of project development to set a clear path of ongoing partnership. In this way, the boundaries of what Country is in scope, the On Country and off-Country footprint of proposed developments, what activities and infrastructure are acceptable on Country, who has access to Country, cultural protocols that must be met whilst On Country (e.g., gender-based access to areas) and how projects can be implemented (mainly regarding First Nations' environmental and heritage values) can be jointly developed.

Failing to ensure First Nations People's connection to Country exposes them to substantial risks regarding their Culture and Community, including their Cultural, spiritual, physical, and mental health and well-being. These risks impose costs upon our wider society, such as increasing costs of health services. The perception by proponents and some governments that ensuring connection to Country presents as increased risk in early-stage opportunity assessment has the potential to undermine First Nations Peoples rights to self-determination, FPIC and ICIP, but can be reduced through genuine, well-resourced, and timely building of partnerships.

A more constructive view is that early investment in genuine, ethical and equitable benefit-sharing arrangements represents a risk-mitigating activity that will ensure the support of a significant and foundational rights-holder group on whose Country projects may operate. A stand-alone national 'one-stop-shop' for First Nations groups to access independent and robust data, information, advice, funding and resourcing to support the building of benefit-sharing partnerships regarding clean energy issues and opportunities to inform their future actions.

Principle 3- First Nations Peoples will self-determine how they lead, participate in and benefit from the clean energy transformation.

To deliver on this principle, a commitment must be made to a significant national engagement campaign that will provide the foundation for self-determined, culturally-appropriate and informed decision-making. A national engagement campaign should be complemented with mechanisms for exploring partnership opportunities with purposively-identified local communities. For First Nations groups to develop a comprehensive understanding that incorporates leadership, participation, and benefits from the clean energy transformation, they must be provided with timely, appropriate, and accessible information. Self-determination by First Nations Peoples should be financially supported by proponents, adopt partnership-building timeframes agreed by First Nations Communities, presupposes the right to not participate in development opportunities, and a right of veto over development proposals on Country.

Principle 4 - Cultural heritage should be recognised, protected, and celebrated.

There are extensive regulatory processes in place that deal with cultural heritage, and the inclusion of this Principle is both appropriate and important. However, the concepts and definitions of the terms 'recognition' and 'protection' must be further developed to deliver clarity and consistency around the actual practice of recognising and protecting that must be founded upon First Nations' knowledge and the systems it encompasses, so as to ensure that human rights are secured. The broad differences across state cultural heritage protection politics, legislation, regulations and policies, and between state and Commonwealth mechanisms, will need to be considered so that Australia has a nationally-consistent approach to the management of cultural heritage that sets new, world-leading standards that will withstand international scrutiny. This is particularly important given recent international criticism of the Commonwealth Government by, for example, the United Nations and the European Union, on the administration of access and use of Country by governments and development proponents.

Recognition, protection, and celebration of cultural heritage, and of Culture (of which cultural heritage is one small part), can only be achieved where individuals, groups and organisations of all types are committed to ensuring Cultural Safety, Cultural Security and Cultural Proficiency, not just for First Nations Peoples, but for all participants. This requires that the knowledge, skills, capacities and practices of individuals, groups and organisations is fully resourced, actively fostered and modelled by senior leadership. Building genuine relationships is fundamental to achieving the recognition, protection, and celebration of cultural heritage, and of Culture, which requires research, training, On Country experience, and the monitoring, evaluation and refinement of these activities. Doing so, will substantially mitigate risks perceived by all participants.

Principle 5 - Everyone is responsible for building genuine partnerships and collaboration, underpinned by monitoring, evaluation, reporting and improvement.

To have an impact, this Principle must drive towards developing clarity around the definition of a genuine partnership, how that partnership is developed and executed, how power is balanced, how benefits are shared, how costs are distributed, and what collaboration means in the context of the First Nations Clean Energy Strategy. In addition, responsibility being allocated to all participants indicates that all involved must be drawn into a common understanding of the clean energy opportunity, the allocation of responsibility to build genuine partnerships and collaboration within that opportunity, and agreed mechanisms (instruments, incentives, and institutions) for monitoring, evaluating and reporting on and improving these activities. This must be created through a two-way process, according to First Nations' values and inclusive of developers, to drive the ethical allocation of responsibility and accountability. Without this common understanding, and agreed path forward, true shared responsibility cannot be achieved, as different stakeholders will move forward according to separate agendas.

Improvement in the effective and ethical functioning of partnerships requires perspectives and mechanisms (procedures, protocols, tools, and systems) that actively promote learning from setbacks, surprises and successes. These can be conceived, designed, implemented, monitored, evaluated, and improved using established practices from other sectors to accelerate learning.

Goals

- *All Australians can access affordable and reliable renewable energy, energy efficient and climate safe homes and community infrastructure.*
- *First Nations peoples' lives and livelihoods are improved.*
- *First Nations peoples' cultural knowledge, heritage and connection to Land Sea and Sky Country is respected and secured.*
- *Government and industry create opportunities to build deeper collaboration, consensus, and new culturally-safe opportunities and ways of working with First Nations Peoples.*

These goals, taken together, represent the foundation of a framework for realising the opportunities presented for all participants in the clean energy sector, including the economic and job creation benefits derived from: very significant physical infrastructure commitments; investment in securing Cultural Safety, Cultural Security and Cultural Proficiency; improved social equity outcomes; and the delivery of an improved 'Right Way' model for Government/corporate/First Nations/other stakeholder partnerships. To do that, knowing and enabling First Nations' communities' socio-cultural-economic priorities are fundamental. A path that includes the clear articulation of values, principles, milestones, performance indicators and systems for ongoing learning will be critical to achieving these goals.

The final First Nations Clean Energy Strategy must set out an agreed suite of mechanisms (instruments, incentives and institutions) and timeframe to develop these goals to drive progress. For example, Prescribed Body Corporates (PBCs) will likely represent the interests of their Native Title Holders in discussions around clean energy opportunities, which requires that sufficient funding, capacity-building and resourcing is addressed

([CAEPR, 2021](#)). Currently, funding for PBCs does not reflect any expanded role with respect to clean energy opportunities.

The push by governments and proponents to commence projects as soon as possible presents a very clear and present risk to securing the rights of First Nations Peoples. Timeframes must be mutually-agreed by all participants, and take into account the cultural practices, responsibilities and different conceptions of time presented by different participants, notably First Nations Peoples. Human rights can only be secured where timeframes account for these differences.

Objectives

Governments address existing political, legislative, policy and regulatory barriers: to enable First Nations households in a range of housing types and community infrastructure to access benefits of renewable energy. This includes rooftop solar, electrification and energy efficiency measures.

Given the State and Territory responsibilities for energy supply, and the complexity of the energy market and supply chain from generators through to retailers and consumers, securing this objective is likely to be best approached in a bottom-up manner. This means undertaking a review of successful projects or programs that have delivered against this objective at household and community scales, as well as projects that have not succeeded, and identifying the policy and regulatory barriers that were overcome in the case of successful projects, or which proved insurmountable in the case of unsuccessful projects. Systematic approaches to learning from setbacks, surprises and successes will be essential.

The fragmented aspects of household-level energy supply, when viewed from a national level, point to a clear need for national-level oversight and/or coordination to ensure success is broadly shared in this area. This should be complemented with case-specific data and information on the needs, aspirations and opportunities presented by clean energy projects for First Peoples. For example, formal joint benefit-sharing partnerships between First Peoples communities and organisations and proponents.

Barriers to, and facilitators of, First Nations Peoples self-determination and empowerment should be analysed systemically to ensure a deep and nuanced understanding of First Nations Peoples history, situations, values, aspiration, and needs, as politics, legislation, policies and regulations interact in complex ways. Effectively addressing barriers will require high levels of Cultural Proficiency within individuals across all participant groups.

It will be essential to advance and promote cost-efficient, fit-for-purpose architectural design for First Nations' houses' energy efficiency based on each community's way of living and individual's daily practices.

Ensure quality information and resources: expand and consolidate existing data, research, and create culturally sensitive First Nations led research to improving accessibility, grow awareness and support participation.

This objective secures an important foundation for evidence-based decision-making and leaders in this area should be consulted to deliver progress as quickly as possible. These

include the Centre for Aboriginal Economic Policy Research at ANU, and more broadly, the ANU's First Nations portfolio, the First Nations Clean Energy Network (FNCEN) given their recent and comprehensive work on the development of the Strategy. The Curtin Institute for Energy Transition (CIET) is well prepared to participate in this objective, with our focus on accelerating a sustainable, equitable and innovative energy transition that must clearly accommodate the aspirations of First Nations peoples.

"Quality" should be defined according to explicitly-stated and agreed principles, such as precision, accuracy, being fit-for-purpose, spatial characteristics, temporal resolution, and ethical practice.

First Nations Peoples knowledge, inclusive of data gathered on and by them, information developed from such data, and knowledge developed as this information is applied, requires housing in repositories that are accessible in ways that recognise Culture, specifically adhering to ICIP principles, protocols, and practices. Data repository access should be mediated by First Nations Peoples according to principles and protocols agreed collectively by participants to ensure that use of data, information and knowledge is culturally-appropriate, for example, ensuring appropriate access according to gender.

The current focus of research in the renewable energy sector is weighted heavily towards infrastructure and technology solutions. Effective, cost-efficient and ethical projects ultimately depend upon resilient partnerships, which should be supported by research into the cultural, human, institutional and social dimensions of project situations and contexts.

Influence and develop policy frameworks and programs: so that First Nations peoples can participate in and benefit from the clean energy transformation.

This objective is very broad and should be defined more specifically. It is likely that successfully achieving it is founded upon the successful achievement of the objective above, with the foundation of quality information and resources based on non-First Nations and First Nations knowledge serving to inform and support the participation of First Nations peoples and deliver benefits to them.

Current policies influencing the renewable energy sector were, in the main, not formulated through culturally-appropriate participation of First Nations Peoples. Systemic policy failure is likely if this is not secured. Cultural practices, such as the various forms of yarning, should form the basis of methodologies to develop or refine current policies.

Policies, laws, and regulations that influence each other should be considered systemically and holistically to avoid policy failure. For example, the involvement of First Nations Peoples in renewable energy projects might require addressing housing policies in situations where First Nations Peoples no longer reside On Country.

Support and enable coordination and capacity development in First Nations organisations: to improve regional planning and support engagement with the risks and opportunities.

Coordination and capacity development in First Nations organisations represents a significant challenge. Internal and regional alignment must be achieved among all stakeholders through an ongoing genuine two-way dialogue around the energy transition.

Programs that have already achieved success in inter-group alignment should be carefully considered in informing the approach to drive success in this objective. Examples include the Pilbara Cultural Land Management Project ([PCLMP](#)), a multi-year project comprising more than 12 Pilbara First Nations groups building capacity and alignment across member groups to drive culturally-driven land management practices across the region. Recognising and considering communities' priorities and goals concerning clean energy projects is crucial to achieving coordination and capacity in First Nations organisations. It should be done through specific projects with each First Nations community, as deemed appropriate.

Facilitate workforce and business development: *by identifying options and activities to build First Nations participation in workforce and supply chains and expanding the opportunities for jobs on Country.*

Given the commitments of several major mining houses to decarbonise their operations, including significant iron ore operations in the Pilbara, some focus in this region may provide success that will serve as a catalyst to broader, longer-term success against this objective. These companies' existing local First Nations employment and procurement practices and resources may be leveraged, improved upon or replicated to deliver outcomes. In addition, those projects that have already incorporated local First Nations participation via equity stakes and other initiatives should be engaged and supported to capture opportunities and lessons learned. Such projects or opportunities currently exist in the Kimberley, Pilbara, and Goldfields–Esperance regions of Western Australia, Queensland, and some parts of Northern Territory. Besides initiatives from companies' activities, developing and supporting First Nations' own business initiatives derived from clean energy projects (such as providing resources to have power and clean water, and consequently developing agricultural practices and animal husbandry, and investing in tourism) must be considered, along with building capacity, and creating jobs that will supply First Nations own businesses.

Ensure access to financial support: *create an enduring economic legacy through government and private sector financing initiatives to enable participation at the household, community, and large-scale project levels.*

Existing finance programs such as the Northern Australia Infrastructure Facility ([NAIF](#)), and organisation with a long history in renewable energy such as the Australian Renewable Energy Agency (ARENA) and the Clean Energy Finance Corporation (CEFC) should be reviewed and processes modified to specifically support this objective, and the Strategy should also consider models of success that include international initiatives such as those in Canada. We note here the MoU signed in November 2023 that includes Canadian First Nations financial institutions and key Australian First Nations organisations ([NNTC, 2023](#)).

Embed cultural and heritage protection: *that supports First Nations peoples and all Australians to recognise, respect and celebrate our cultural heritage.*

Comments against the Principle “**Cultural heritage should be recognised, protected, and celebrated**” address this Objective. That recognition must be led by First Nations peoples.

Recognise First Nations peoples' environmental values, management, and expertise: at all stages of the clean energy project life cycle and create opportunities for environmental co-benefits through Indigenous design thinking.

This objective touches on the foundational values of First Nations Peoples attributed to nature – such as the water, fauna, and flora – of which, healthy management, by adopting existing First Nations' land and sea management practices is crucial to simultaneously conserving the biophysical dynamics and cultural values. Documenting natural processes according to First Nations' knowledge (such as mapping and surveying) can inform clean energy projects to achieve the goal of creating co-benefits between communities and projects.

The Pilbara Cultural Land Management Project (mentioned previously) is an example where First Nations Peoples have prioritised cultural values in assessing and driving sustainable land management practices, and similar programs are in place elsewhere. On Gumaranganyjal (Roebuck Plains) Station, Yawuru people are driving holistic development (Normyle et al, 2021) incorporating Yawuru cultural and environmental management practices in sustainable land management. These and other initiatives must be considered and shared with host First Nations Peoples in parallel with discussions around the host group's existing expertise and values.

Overall, CIET believes that the draft principles and goals proposed are appropriate. They present a significant set of undertakings, that if delivered, would create a significantly improved environment for Australia's First Nations Peoples with respect to the clean energy transformation.

These draft principles and goals are achievable, but as referenced in several instances above, will require a clear and ongoing commitment to achieve change. Throughout the process, the drive by private sector proponents to achieve project progress will need to be balanced by the challenge to appropriately account for and address First Nations priorities. In addition, the departments and agencies that administer existing regulatory regimes may well be resistant to significant changes to practices or policies and will thus require clear direction at a Ministerial level. In turn, this Ministerial-level commitment will need to consider the need to address misalignment between the principles and goals of the First Nations Clean Energy Strategy and the regulations they administer (such as the Environmental Protection Act and Native Title). Given their national remit, the Energy and Climate Change Ministerial Council meetings represent an appropriate forum to consider these issues, potentially informed by a standing agenda item presented by the First Nations Clean Energy and Emissions Reduction Advisory Committee.

Finally, to achieve success, it will be vital to ensure that the mechanisms and processes that aim to drive the delivery of the principles and goals take account of the need for flexibility in implementation to reflect the variability in on-the-ground situations. In those situations, the search for place-based solutions is fundamental and it should be advisable to address the set of principles and procedures that must guide such solutions.

2. What needs to change to ensure that First Nations peoples can access reliable, clean energy on an equitable basis, including those First Nations peoples located in metropolitan, regional and remote areas of Australia?

The small number of projects that have succeeded in addressing this issue need to be carefully examined for success factors, and a process to resolve the barriers (particularly regulatory barriers) needs to be developed. The technology and commercial drivers for success in this area exist, so solutions can be found.

There is reason to focus on remote areas of Australia for two reasons. They appear to be the most impacted by lack of infrastructure and lengthy supply chains and they have the least robust energy access ([White et al, 2024](#)).

As previously mentioned, large-scale clean energy projects are proposed for the Pilbara region of Western Australia, and these represent an opportunity to leverage off these proposals to provide improved access to reliable clean energy for First Nations communities. Proponents will need some form of agreement to be completed with local First Nations peoples, and in parallel proponents will be developing supply-chains and utilising multi-disciplinary clean energy project teams. Given the clear social inequity experienced by First Nations communities in the Pilbara and social licence issues for the mining sector, a coordinated program for industry and First Nations peoples to deliver reliable, clean energy for Pilbara First Nations communities appears promising, and could serve as a model for other areas ([RIC, 2018](#)).

Lessons learned in the suggested process above will be applicable to promote change and ensure First Nations peoples can access reliable, clean energy on an equitable basis also in regional and metropolitan areas.

3. How should government and industry support First Nations peoples to own and manage renewable energy assets for long-term sustainability and community benefit?

Distributed energy resources via household solar are relatively common and developed, but the scale of clean energy assets necessary to underpin Australia's energy transformation are part of a nascent industry that is yet to nail down broadly applicable commercial models. The Report of the Commonwealth Parliament's Joint Standing Committee on Northern Australia into the Juukan Gorge tragedy is informative here with respect to potential pitfalls presented by industry extracting value from First Nations country, and should be closely reviewed, given the prominence of that discussion and the time taken to incorporate input from First Nations peoples across Australia ([Commonwealth of Australia 2021](#)). This report details the uneven access to resources when industry and First Nations groups seek to negotiate. The impacted group at Juukan Gorge, the PKKP spoke of "the grossly unequal negotiating position of the parties," ([Commonwealth of Australia 2021](#) 2.75, p.27).

So, Government and industry need to make a commitment to include First Nations ownership and management of renewable energy assets in standard development assumptions and pursue the provision of information and resourcing with First Nations peoples to support this.

For this approach to succeed, First Nations peoples will require access to both information and resources. The Juukan Gorge Inquiry recommended that the Commonwealth

Government establish a fund for Prescribed Body Corporates under the Native Title Act, and this recommendation should be acted upon ([Commonwealth of Australia 2021](#), Recommendation 7, paragraph 7.120).

Again, consideration of successful domestic and international examples should be undertaken. Australian examples of clean energy developments with equity stakes for First Nations peoples include the Aboriginal Clean Energy Partnership, Yindjibarndi Energy Corporation, and the Western Green Energy Hub. These projects are in the development stage but have already progressed many elements that will contribute to success, so should be closely engaged. As mentioned previously, Canada has many examples of projects with significant First Nations ownership and management, so the already strong linkages between the First Nations peoples of the two countries should be reinforced.

4. What strategies are most likely to improve how quality information, data and resources concerning the clean energy transformation is developed and disseminated to First Nations communities?

Given this is largely about levelling the playing field, a useful strategy would be to understand the information gathering and resourcing undertaken by clean energy project proponents in assessing clean energy opportunities and then mapping those to the capacity of First Nations communities; a gap analysis. This will include commercial expertise, project management, operations advice, among other initiatives.

Similarly, where Government seeks to develop new policies and drive new clean energy growth, what factors do they consider in pursuing these changes?

Ultimately, this information needs to be mapped to First Nations values and aspirations for management of their Country. In this way, an integrated approach can develop that will underpin co-design and co-management with First Nations peoples, using both non-First-Nations and First Nations methodologies.

5. What is the best way to build First Nations awareness and knowledge of clean energy and who should foster and deliver these outcomes? Do you have any suggested examples?

The most effective way to build First Nations awareness and knowledge of clean energy is by expanding on existing First Nations peoples' experience and making connections. This will serve to make the concepts relatable and frame them from a First Nations' perspective. There are examples where First Nations peoples are playing a leading role in clean energy, and these could be used as case studies or roadmaps to facilitate discussions for groups keen to build awareness and knowledge. These include:

- [Aboriginal Clean Energy Partnership](#);
- [Yindjibarndi Energy Corporation](#);
- [Western Green Energy Hub](#);
- The involvement of the Barngarla [Determination Aboriginal Corporation](#) in the South Australian Government's [Hydrogen Jobs Plan](#);
- Tjiwarl Katu Power Pty Ltd (Zenith Energy Pty Ltd and Tjiwarl [Contracting Services Joint Venture](#)).

Information sharing can be supported by leveraging off existing First Nations forums, possibly by developing dedicated clean energy forums or roundtables, such as:

- Australian Institute of Aboriginal and Torres Strait Islander Studies ([AIATSIS](#));
- [ANU First Nations portfolio](#);
- Consideration of an expanded role for the First Nations Clean Energy and Emissions Reduction Advisory [Committee](#);
- First Nations Clean Energy Network ([FNCEN](#)).

As with previous questions, rapid progress in Australia will be supported by looking globally for success in similar environments such as Canada and sharing the learnings locally. The scale of project involvement in Canada represents an aspiration for Australian First Nations people, and the financing mechanisms utilised likely hold lessons for Australia. These include Government acting as guarantor for First Nations finance and concessional finance specifically allocated to First Nations peoples ([FNFA, 2024](#)).

The Curtin Institute for Energy Transition (CIET) enjoys existing relationships with many of the above stakeholders, as well as formal and informal domestic and international connections through our home within Curtin University. We seek to play an active role in facilitating the broad aspirations of the First Nations Clean Energy Strategy, with a focus on building First Nations awareness and knowledge of clean energy to support just and sustainable outcomes.

6. What aspects of the current regulatory environment that presently govern Australia's energy system most impact First Nations people's ability to participate in and benefit from the clean energy transformation? What strategies would be effective in reducing these impacts?

On the one hand, a lack of expectation or regulatory requirements around FPIC means that proponents, utilities providers and so on do not have any specific requirement to drive the clean energy transformation with First Nations communities. At best this means variable outcomes, at worst, it can mean effective exclusion from any clean energy developments on Country. On the other hand, an excess of Government red tape stifles innovation in service provision into remote communities. Inflexible and unfit for purpose regulations mean First Nations people face challenges to access, develop and install integrated clean energy-powered utilities. With the advances in solar power and battery energy storage systems (BESS), renewable energy can be used to provide clean energy as well as to provide water treatment facilities. Given the challenges of service provision to remote communities and associated social disadvantage, these opportunities should be explored with vigour. Even the installation of solar panels, an everyday occurrence around Australia, faces significant hurdles in remote communities. See for example, [Original Power's](#) work to provide solar solutions in the Northern Territory.

For the first issue, criteria around FPIC and UNDRIP compliance must be applied at an early stage so that we can be confident that the local First Nations community has been engaged and has provided initial consent prior to major decisions being undertaken. For the second, Governments and service providers must approach service provision into remote communities in a flexible and responsive manner, taking a partnership approach that builds sustainability, including a significant role for community members in operations and maintenance etc. This will require a major shift in mindset, and most likely changes to regulations and policies.

Water management is a key issue, mainly considering water's environmental and cultural values and the regulation provided by the Native Title Act, which reduces First Nations rights to water at some specific cultural sites. In this case, the consideration of the water dynamics as a whole system and its cultural values is lacking. Environmental regulation is another issue, as its considerations on fauna and flora are limited – such as the protection of certain species – and do not incorporate a “reasoning” based on the fauna and flora systems needed to maintain a healthy Country, including its cultural values.

7. Which behaviours or outcomes should government consider incentivising through regulation, policy, or programs to improve First Nations people’s participation in Australia’s energy system?

Governments must develop regulatory approvals mechanisms that drive proponents towards compliance with UNDRIP, FPIC, ICIP and Cultural Proficiency standards. As recognised international benchmarks, these standards will contribute to the international recognition of the full sustainability of Australia’s Clean Energy transformation – a just transition.

These standards will necessarily drive towards earlier engagement with First Nations people, and may involve Governments undertaking initial, broad engagement around clean energy, etc. Creating regulations and Governments modelling best practices to ensure a genuine and two-way dialogue would help to achieve this goal.

8. What is the best way to build First Nations organisations’ capacity and expertise in clean energy development?

Australia needs to rapidly identify ‘what is working’ in First Nations clean energy development and adopt/adapt these success factors into Australian First Nations organisations and communities. Leveraging off success is the key to addressing these issues rapidly. Canada stands out as the most successful and similar jurisdiction, and we note the existing MoU between Canadian and Australian Indigenous organisations on collaboration and solidarity. Thus Australia-Canada First Nations exchanges and lessons around capacity-building should be captured and replicated. Domestically, as mentioned previously, several projects are taking shape with significant First Nations involvement. The success factors for these projects should be identified, shared and expanded upon. At a more basic level, the general capacity-building of First Nations organisations remains a priority and should be addressed as soon as possible. Funding for building the capacity and expertise of First Nations organisations will play a fundamental role.

9. What is the best way that governments and industry can build their internal capacity to support First Nations participation and benefit?

Governments and industry must view First Nations communities as co-proponents. This draws First Nations engagement to the very front end of opportunity assessment, and will assist in identifying gaps, aspirations and quick wins. A standard model of policy or infrastructure development by Government is to identify and shape the issue/opportunity, and only once relatively well developed does external engagement occur. Similarly, industry treats their potential projects as commercial-in-confidence. Both of these models need to be challenged in a First Nations environment, where comprehensive engagement needs to be undertaken early, and must continue.

Understanding First Nations as co-proponents brings the reasoning that First Nations Communities must be able to self-determine their future and have their own action plan as third-party agents. Cultural proficiency of Government and proponents must be in place in order to establish proper dialogue and deliberation.

10. What role should industry play in supporting First Nations develop their coordination and capacity?

Industry needs to be consistent and flexible in providing support. Support needs to be based on the identified and expressed needs of the First Nations community, and thus cannot be prescriptive. Taking a 'partnership' approach will be more conducive to success and sustained outcomes, and the necessary coordination and capacity are more likely to become long-term. Given the commercial modelling applied to clean energy projects is considering several decades of operations, this long-term approach to engagement, relationships and partnership should align with internal considerations. The process requires working together to understand what opportunities clean energy might present, and which of these should be pursued, then identifying, and eliminating the hurdles to success.

11. What role do you think First Nations on-Country planning can play in realising benefits in the energy transformation?

Travelling to and meeting on-Country should be recognised as a fundamental element of progressing any project on First Nations Country. At the outset, it demonstrates a willingness for proponents to place themselves in the environment that is everything to its First Nations Traditional Owners. Additionally, the depth of understanding that can be gained by seeing, hearing, feeling the Country of the Traditional Owners is critical in developing the relationship that will underpin successful development. Besides, deep listening that guarantees cultural safety and security during and after planning is key, along with ensuring data sovereignty and applying First Nations methodologies to develop the planning process.

12. What is required to ensure First Nations businesses are ready and able to participate in Australia's clean energy transformation?

The starting point in bringing First Nations businesses to the opportunities of the clean energy transformation is to identify and analyse existing successful First Nations in clean energy and related sectors such as mining. Some have been previously mentioned, and examples can be readily found via First Nations business organisations or forums, or by engaging with the First Nations procurement functions of mainstream corporates.

The next step is to understand the challenges and hurdles overcome by these businesses, such as their growth plans and their willingness to build capacity of other First Nations enterprises. The opportunity to broker relationships via Joint Ventures, partnerships, alliances etc should be comprehensively explored. New First Nations enterprises leveraging off existing First Nations enterprises is almost certain to be the least challenging path to success for the clean energy transformation. Processes for the transfer of intellectual property, capacity-building, increased expertise, local employment and other benefits can form part of this relationship-building process. The ultimate aim should be for the new or junior First Nations partner to eventually build sufficient capacity across the business to stand alone.

13. How could more opportunities for First Nations owned businesses be created for the Clean Energy industry?

Following the path above will largely support this process. In addition, the Strategy should work with public and private sector stakeholders to ensure that clear criteria are applied around robust and substantial engagement with and opportunities for First Nations businesses as part of any grant or concessionary finance process. Such issues should also be considered as part of broader project approvals processes. Previous responses have highlighted the need to ensure local and regional First Nations businesses are made aware in a timely way of clean energy developments and understand the opportunities presented.

14. What workforce development approaches will maximise First Nations participation in the clean energy workforce? What are the barriers to this happening and how can they be overcome?

Undertaking a focused approach whereby the needs of local Traditional Owners are given priority is critical. Skills audits should be undertaken by proponents and/or Government to match the local population to employment opportunities. Existing barriers include a lack of flexibility in job pathways, and the need for greater support to assist in the transition to employment. Engagement with existing programs and service providers will assist in understanding the challenges faced by community members and the support systems required to support long-term employment outcomes.

15. To improve First Nations access to finance, what strategies are required? What additional financing opportunities are needed so First Nations peoples can participate in and benefit from the renewable energy transformation?

As previously mentioned, in Canada, First Nations-specific funds are allocated by First Nations focused agencies. This model should be considered in Australia, and Governments should also consider the Canadian example of serving as guarantor for First Nations finance. The regulations governing existing concessional loan agencies such as the Clean Energy Finance Corporation and Northern Australia Infrastructure Facility must be considered for change. At a household and community level, greater understanding of the factors behind financial stress must be considered, and working to address these will be critical.

16. What actions will lead to greater First Nations ownership of major renewable energy projects?

Much of the detail of this goal is previously stated. Critical aspects include:

- The provision of project finance;
- Government as guarantor;
- Capacity building in the leadership of TO communities, organisations and businesses;
- Capacity building in the operationalisation of projects;
- Formation of effective JVs with IP transfer and diminishing non-First-Nations presence;
- Increasing First Nations presence on boards and project leadership positions.

17. What are the key barriers to greater First Nations participation and benefit in renewable energy projects and how can they be overcome?

Currently, key barriers to greater First Nations participation and benefit in renewable energy projects can be summarised as:

- History of colonisation, disempowerment and intergenerational trauma;
- First Nations communities are not actively involved in the broader policy, strategy and commercial discussions about renewable energy;
- Capacity limitations of First Nations organisations and businesses are either not understood, or are understood and not addressed;
- Renewable energy projects are only brought to the attention of First Nations communities at a relatively advanced stage;
- Despite being custodians of the Country on which renewable energy projects will be built, First Nations communities are not seen as central to development.

Remedies include a focus on United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and Free, Prior, and Informed Consent (FPIC) at the early, formative stage of any project or policy and ensuring this focus is maintained through development and operations. Critically, Government must model this approach, with a clear focus on UNDRIP and FPIC in assessing and pursuing clean energy transformation opportunities in Australia. Given the critical role of approvals and conditions in setting the parameters for clean energy development, the role of Government in positioning First Nations communities for success should not be underestimated.

18. What can industry put in place when developing clean energy projects to ensure the cultural responsibilities of First Nations peoples are implemented throughout the project life cycle?

Some actions that industry can put in place when developing clean energy projects to ensure cultural responsibilities of First Nations are implemented and guide the project life cycle include:

- Industry must see their projects as co-designed and co-managed with local First Nations Traditional Owners;
- For the duration of construction and operations, the industry proponent is the co-custodian. Compliance is a starting point, not an endpoint;
- A genuine relationship with First Nations communities is key. Ongoing, active engagement is critical throughout the project lifecycle, including in decommissioning and handover;
- Planning, design and project footprint must reflect cultural values according to a First Nations-led perspective;
- Access to land, particularly heritage sites, must be maintained.

19. What does an ideal scenario look like where First Nations peoples can effectively manage their Country and cultural heritage responsibilities in co-existence with clean energy assets?

Effective First Nations Country and cultural heritage management in co-existence with clean energy assets includes aligning engagement, project planning, regulation, and resources to comply with First Nations values and achieve First Nations goals. For that, it is important to consider the following (but not limited to):

- First Nations Traditional Owners have the power to veto design and location decisions, so that the physical presence of the project is signed off with consent of the Traditional Owners;
- Project decisions must be made considering First Nations-led impact assessment (environmental, social, cultural and economic), which will inform and guide land and water management, and project implementation and life cycle;
- First Nations participate in project decision-making;
- PBCs are properly resourced;
- Review of the current regulatory framework to enable the above steps;
- Access to Country is only limited to the extent required by safety.

FPIC is an ongoing assent to the project, as well as an active and ongoing process of transparency, information creation and provision and discussion with representatives and the broader community.

20. What does Free, Prior and Informed Consent look like to you and/or your organisation? And how can it be achieved in practice?

FPIC is an ongoing assent to the project, as well as an active and ongoing process of transparency, information creation and provision and discussion with representatives and the broader community.

21. Please suggest documented examples of best practice cultural heritage protection models or standards being applied in domestic or international jurisdictions?

The Burra Charter (Australia ICOMOS, 2023) is an excellent instrument that establishes principles and procedures for heritage conservation in Australia. According to the document, cultural landscapes is place, practice, process, and management understood in a comprehensive way (p. 3 and 4):

- Cultural landscapes as place – *“The identification of a cultural landscape as a heritage place reinforces the attachment of people to place, and the importance of a landscape to the identity of a community. Delineating a cultural landscape requires the identification of a ‘boundary’ (for instance a water catchment boundary or a surveyed land parcel), however recent approaches reflecting human perceptions of a geographic area suggest that a more nuanced practice should be considered. Thus, ‘landscape components’, ‘serial properties’ and ‘buffer zones’ may be appropriate concepts to describe a cultural landscape.”*
- Cultural landscapes as practice – *“Landscape practices may include traditional and contemporary values and perspectives that represent people’s long-term relationship with the land. In ‘continuing’ living/working cultural landscapes, traditional management practices are still in use, for instance, cultural burning, a particular way to prune trees, or to manage a vineyard. Local practices are connected to the distinctiveness of regions, related to local micro-climates, and represent their real essence.”*
- Cultural landscapes as process – *“This includes changing perceptions, transformations in the landscape, as well as evolving spatial and physical attributes such as land use and settlement patterns. The approach acknowledges the profound interrelationships of social and natural systems, their complex dynamics, symbiotic interactions, and capacity to evolve and adapt to change. It*

also focuses on the cultural meaning of these landscape processes in the context of natural, social, and economic forces and events, both internal and external.”

- Cultural landscapes as management – *“Cultural landscape can incorporate a wide range of heritage management activities (including methods and tools). These can include customary approaches, landscape characterisation, overlaying methodologies, landscape archaeology, biographical approaches, literary representation, aesthetic analysis, participatory engagement, the World Heritage approach, approaches to protected areas, as well as approaches to the cultural landscapes of outer space.”*

In addition, the Burra Charter provides a framework to develop a heritage management plan that is a practical guide to recognise, evaluate and manage the cultural landscape.

22. What can government and industry put in place to ensure that First Nations environmental values and expertise inform the clean energy transformation and that indigenous design thinking is integrated into clean energy projects?

Government and industry have a fundamental role in ensuring that First Nations environmental values and expertise inform clean energy projects by integrating indigenous design thinking. To achieve that, the following is necessary:

- Develop industry representatives’ cultural proficiency and the understanding of indigenous environmental values and expertise;
- Ensure system-level thinking to document and assess environmental attributes along with socio-cultural and economic attributes taking account of the holistic aspect to First Nations custodianship of Country;
- Adopt First Nations’ methodologies through First Nations-led processes for documentation, data collection, and assessment criteria of environmental systems;
- Make those processes an active part of clean energy projects’ planning, design, implementation, operation, closure, and handover;
- Seek out and share examples and best practice such as the Yawuru’s holistic management of Roebuck Plains Station that incorporates cultural custodianship as the primary focus, with other land uses subsumed to that.

23. Please provide any other comments and suggestions you might have in relation to the development of a First Nations Clean Energy Strategy?

We believe that the preceding comments represent an appropriate and sufficient level of detail for the response from the Curtin Institute for Energy Transition.