Leading Practice Principles: First Nations and Renewable Energy Projects

CLEAN ENERGY COUNCIL

KPMG

A leading practice guide for engaging with Australia's First Nations peoples on renewable energy projects

Leading Practice Principles: First Nations and Renewable Energy Projects

A leading practice guide for engaging with Australia's First Nations peoples on renewable energy projects

Printed on Wurundjeri Country by Indigi-print on Envirocare 100% Recycled uncoated stock.

KPMG disclaimer: This guidance has been prepared as outlined with Clean Energy Council in the Scope Section of the KPMG engagement letter dated 21 March 2023 and updated by variation letter dated 12 September 2023. The services provided in connection with this engagement comprise an advisory engagement, which is not subject to assurance or other standards issued by the Australian Auditing and Assurance Standards Board and, consequently no opinions or conclusions intended to convey assurance have been expressed.

The findings in this report are based on a qualitative study and the reported results reflect a perception of Clean Energy Council and its members but only to the extent of the sample surveyed, being the Clean Energy Council approved representative sample of stakeholders. Any projection to the wider stakeholders is subject to the level of bias in the method of sample selection.

No warranty of completeness, accuracy or reliability is given in relation to the statements and representations made by, and the information and documentation provided by Clean Energy Council personnel and stakeholders consulted as part of the process.

KPMG have indicated in the course of this engagement the sources of the information provided. We have not sought to independently verify those sources unless otherwise noted within the report.

KPMG is under no obligation in any circumstance to update this guidance, in either oral or written form, for events occurring after the report has been issued in final form.

CLEAN ENERGY COUNCIL

KPMG

About the artwork

We commissioned Kevin Wilson of Nani Creative to create the hero artwork for this report.

“My artwork speaks to a few themes across two layers.

The thicker lines form shapes that represent people and yarning circles. Within and around these are designs that talk to our cultures across the continent.

While varied we share some common customs. With this work I wanted to show the richness of us as people, our knowledge of how to care for the land and show how full of life our landscapes are.

I aim to show that the way we live on this land is in sync, and sustainable. It had to be. Reflecting on how our old people connected all elements of life and through that knowledge, care for country.”

nani.com.au

Foreword

A message from the First Nations Clean Energy Network

We believe First Nations communities have the means to self-determine our own futures and protect our country. And when we self-determine, things are done the right way for generations.

We know the solutions for our communities.

This guide presents another opportunity for government and industry to reset relationships with First Nations communities and ensure sustainable power generation for all of us.

We can see the benefits and potential opportunity that the transition to renewables could bring.

We want to plan, design, own and operate community- to large-scale power systems on Country in ways that support inclusion and participation of our communities and people while building intergenerational wealth and environmental sustainability.

We know that when we have the opportunity to consent, co-design, collaborate and co-own or own clean energy projects, project delay, cost and risk is significantly reduced, and community support, social licence and reputation is massively increased.

The First Nations Clean Energy Network was formed to ensure First Nations people both play a central role in and harness the opportunities from Australia's renewable energy boom, and that the rapid transition to clean energy occurs fairly for First Nations people and communities.

The Network's Best Practice Principles for Clean Energy Projects are designed for the clean energy industry, government and communities, and cover such things as ensuring projects guarantee economic and social benefits, mutual respect, clear communication, cultural and environmental considerations, landcare, business employment opportunities and free, prior and informed consent (FPIC).

We are very pleased that the Clean Energy Council has worked with us to transform our Best Practice Principles into a handbook for the clean energy industry to follow.

With just over a dozen significant First Nations clean energy project partnerships in development to date, we expect many more to be announced as a result of this guide being implemented by the clean energy industry in Australia.

As Canada has found, First Nations participation in energy partnerships can reduce delay, risk and costs across the project lifecycle by increasing engagement, community buy-in, local employment, business development and benefit-sharing opportunities, realising positive impacts on land, social licence and energy security, and achieving sustainable clean energy projects.

Our First Nations voices, interests, aspirations and rights are central to the country's energy transition which we know must be done at pace and with justice in order to tackle climate change.

First Nations communities around Australia look forward to hearing from you as you start your engagement journey with this guidance in hand.

First Nations Clean Energy Network

A message from the Clean Energy Council

If the transition to clean energy is to be a just transition, the industry needs to build meaningful, mutually beneficial relationships with the Traditional Owners of the lands on which many renewable energy infrastructure projects will be built.

The renewable energy industry identified the need for a best practice guide on how to engage and foster truly collaborative relationships with First Nations peoples. I'm proud of Leading Practice Principles: First Nations and Renewable Energy Projects, the first comprehensive national guide on this critically important topic.

With proper practices in place, the essential work of the energy transition will not only accelerate Australia towards achieving its energy and net zero targets, but provide First Nations Australians with an opportunity to be heard, and to play a crucial role in a defining economic shift for the country. The renewable energy industry is linked, more than most, to our First Nations peoples through that critical interface so intrinsic to Indigenous culture: the Land. The transition provides a profound opportunity to create jobs on Country, provide low-cost power to remote communities and provide economic opportunity where there is little. By following the principles in this guide, we can help ensure the transition to renewables is fair and mutually beneficial for all.

I would like to thank all the individuals and groups who made this important document possible, beginning with the First Nations Clean Energy Network, upon whose best practice principles this guide was built, and KPMG, our co-author. I would also like to thank all the members in the Clean Energy Council's Community Engagement and Social Licence Working Group for their contribution, the First Nations experts and committees who contributed their knowledge and expertise, and also the Australian Renewable Energy Agency and the Climate Energy Finance Corporation.

Kane Thornton
Chief Executive Officer

A message from KPMG

In today's world, the urgency of addressing environmental challenges cannot be overstated. The renewable energy industry plays a pivotal role in shaping a cleaner and more sustainable future for our planet. However, the path to sustainability must be inclusive, acknowledging the deep connections that First Nations peoples have with the land, environment, and culture.

First Nations communities have practiced sustainable land cultivation and management for generations, displaying a deep connection to the environment and a profound understanding of ecological balance. Through their traditional knowledge and practices, they have cultivated the land in ways that promote biodiversity, soil health, and overall ecosystem resilience. This harmonious relationship between First Nations peoples and the land reflects their stewardship, acknowledging the interconnectedness of all living beings and the importance of preserving the environment for future generations.

Therefore, I am honoured to introduce the Leading Practice Guide for Engaging with First Nations peoples on Renewable Energy Projects. These industry guidelines stand as a testament to our commitment to creating a future where sustainable energy development goes hand in hand with cultural preservation, partnership, and shared prosperity. They represent a remarkable collaboration between industry experts, First Nations leaders, and various stakeholders. It reflects our shared dedication to honouring ancestral lands, embracing traditional knowledge, and establishing ethical principles that guide the development of renewable energy projects.

I extend my heartfelt gratitude to the project team, whose tireless efforts have culminated in this invaluable resource. I am equally appreciative of the wisdom and guidance offered by First Nations representatives, whose contributions have shaped these guidelines into a true embodiment of cultural sensitivity and shared responsibility.

May these guidelines serve as a foundation for all future endeavours, fostering a legacy of unity, equity, and harmony in the renewable energy industry. Together, let us navigate this path with respect, humility, and the unwavering belief that through collaboration, we can achieve a more sustainable and just world for generations to come.

Glen Brennan
Partner, KPMG Indigenous Services Lead

→
Bitter Springs, Roper River Catchment, Mataranka NT (Original Power)

Acknowledgement of Country

We respect and acknowledge the diversity of communities, identities, and clan groups for all First Nations peoples throughout Australia and recognise the continuing connection to lands, waters and communities. We pay our respect to Aboriginal and Torres Strait Islander cultures; and to Elders past and present.

As a collective of diverse businesses operating on a national scale, we understand that the success of our endeavours is intrinsically linked to the wellbeing and prosperity of the communities we operate within. We acknowledge that Aboriginal and Torres Strait Islander communities are rich and diverse, reflecting a tapestry of cultures and backgrounds. This diversity underscores the importance of embracing a range of holistic solutions to address the unique challenges and opportunities that lie ahead.

We recognise the impact of human activity on the cultural landscape of Australia. We understand that these practices have not always been in harmony with the profound attachment and cultural custodianship that First Nations peoples have with the land.

We are committed to forging strong relationships with First Nations communities and stakeholders, recognising their unique perspectives and aspirations. We strive to engage in genuine, meaningful partnerships that honour their rights, culture, and self-determination.

Other acknowledgements

→
Conrad Rory, Mataranka NT
(Original Power)

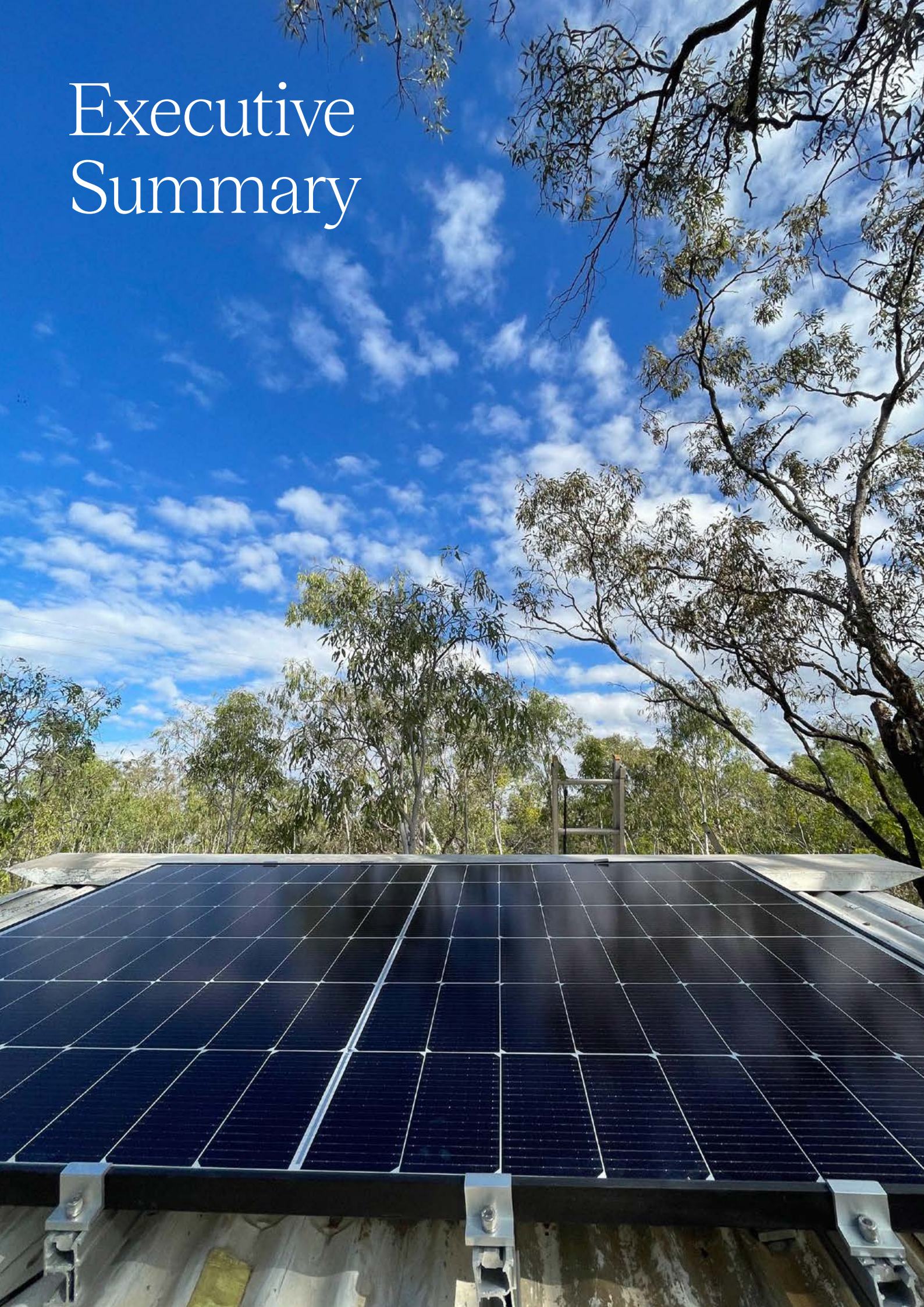
These guidelines are the product of deep collaboration and interest on the part of many. The willingness of First Nations peoples and industry to give their time and expertise as inputs to this document is testament to the importance of getting this issue right as we roll out renewable energy across Australia.

The Clean Energy Council would like to thank all the members of the CEC's Community Engagement & Social Licence Working Group as well as the Steering Committee for this project and the First Nations community members and experts who all provided invaluable contributions in the development of this guide. We also thank Justin Coburn (Beon Energy and former Chair of the CEC's Community Engagement & Social Licence Working Group) as a key driver of this project in its early phases. We gratefully acknowledge financial contributions from the Australian Renewable Energy Agency (ARENA) and the Clean Energy Finance Corporation (CEFC), which supported the development of this guide.

KPMG would like to acknowledge the work of our KPMG Indigenous Services and KPMG Banarra, Human Rights and Social Impact Services project team Glen Brennan, Richard Boele, Mel Sutton, Andy Symington, Sofia Anagnostaras, Jessica Herbert and Samantha Howard along with the support of Scott Mesley and KPMG's Corporate Citizenship team. We would also like to thank Matt Pearce (National Industry Leader, Energy, Mining and Property), Jackie Sharp (Partner, Power & Utilities), Sally Torgoman (Partner, Energy Commercial Advisory & Transaction) and Meg Brodie (Partner in Charge, KPMG Banarra, Human Rights & Social Impact Services), Megan Aspinall, Tess Fitzgerald and Scott Williams for their reviews of the contents.


phoenix 24/200

Executive Summary



Co-authored by the Clean Energy Council and KPMG, this is the first comprehensive national Guide on First Nations engagement, participation and benefit-sharing for renewable energy projects. The Guide has been co-designed with First Nations peoples and it unpacks and operationalises the First Nations Clean Energy Network's *Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects.*[1]

By incorporating these principles and associated practices into their operations and decision-making processes, proponents of renewable energy projects can demonstrate they are respecting the rights of First Nations peoples and improving outcomes for First Nations rightsholders and communities.

The guide outlines First Nations expectations for the sector and details the key considerations for First Nations engagement at each stage of the project lifecycle. It clearly sets out the relevant expectations for different industry stakeholders, at different stages of development. In doing so, this Guide aims to ensure early and ongoing First Nations engagement throughout the life of a project.

The Principles

1. Engage respectfully
2. Prioritise clear, accessible and accurate information
3. Ensure cultural heritage is preserved and protected
4. Protect Country and environment
5. Be a good neighbour
6. Ensure economic benefits are shared
7. Provide social benefits for community
8. Embed land stewardship
9. Ensure cultural competency
10. Implement, monitor and report back

←
Mataranka NT
(Original Power)

1 First Nations Clean Energy Network (2022), Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects, https://assets.nationbuilder.com/fncen/pages/183/attachments/original/1680570396/FNCEN_-_Best_Practice_Principles_for_Clean_Energy_Projects.pdf?1680570396

The guide is structured around the First Nations Clean Energy Network's 10 Principles. Chapter 1 introduces the guide and The Network's Principles, establishing the importance of the issue and discussing the cultural and historical context. It then summarises what our research identified as key current challenges and barriers to effective engagement.

In summary, these are:

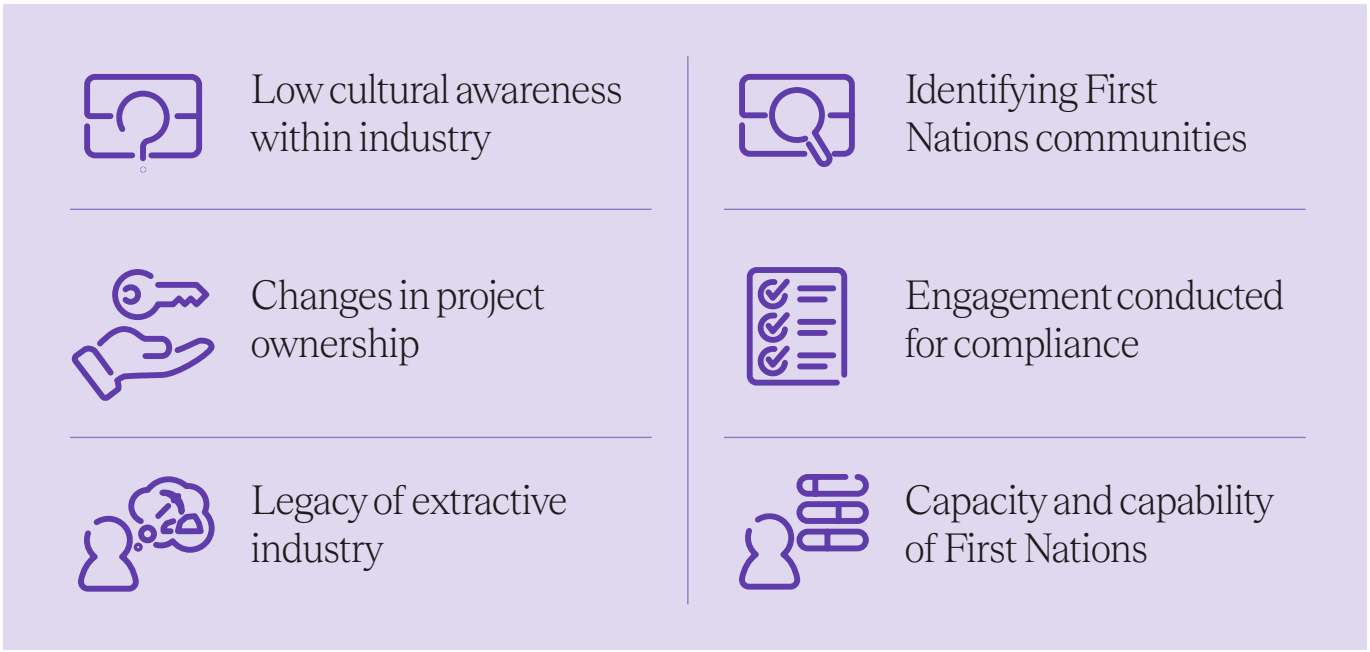


Figure 1: Current challenges and barriers to effective engagement with First Nations communities

While there is a range of challenges, there is also a significant opportunity to build long-term relationships that provide opportunities for First Nations participation in and economic development from renewables, particularly through partnerships and equity. Employment and procurement are also key opportunities for these communities.

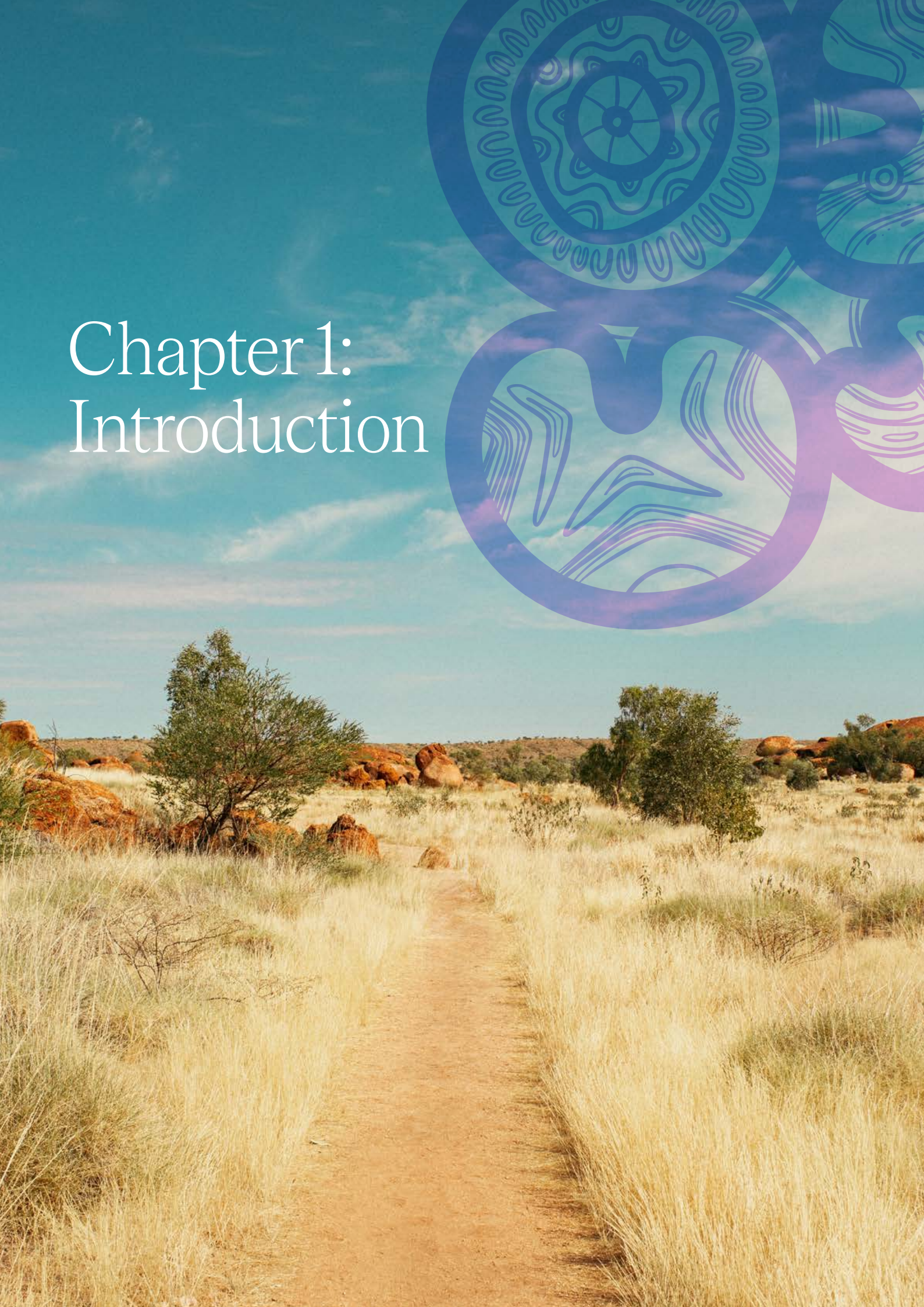
Chapter 2 presents the detailed guidance for renewable energy proponents and developers, framed to address these key challenges and barriers. It is ordered by Principle, each of which is divided into key sub-themes which present what we heard through our engagement with both industry and First Nations communities.

The guidance in Chapter 2 is presented separately for each sub-theme and is divided into minimum practice and leading practice recommendations. These are not regulatory standards nor an assessment of companies, but rather aim to capture the varying maturity of businesses across the sector. We recognise this is a journey and the two categories have been designed to support companies to take tangible steps to uplift their practice and enable ongoing improvement.

Finally, the Appendix gives an overview of some of the legal obligations in this space, presents a table mapping engagement against the project lifecycle, and details further relevant resources.

This Guide will support the industry to deliver better engagement and outcomes for First Nations peoples.

Contents



Chapter 1: Introduction

About this Guide

What is this Guide?

This is the first comprehensive national Guide on First Nations engagement, participation and benefit-sharing, for renewable energy projects, co-designed by First Nations peoples. It has been developed at a pivotal point in Australia's transition to clean energy, building on significant consultation with First Nations peoples from impacted communities, the First Nations Clean Energy Network, and community leaders.

The Network developed the *Aboriginal and Torres Strait Islander Best Practice Principles* for Clean Energy Projects to support First Nations communities to play a key role in the development of medium- and large-scale clean energy projects and to negotiate strong outcomes for communities. The 10 principles (see page 14) were developed to place First Nations peoples and communities at the centre of the development, design, implementation, and benefit-sharing of clean energy projects.

The principles are designed as requests by the Network and its community and First Nations members for better industry engagement.

The purpose of this guide is to facilitate the adoption and implementation of these principles by industry, through the identification of minimum and leading practice standards, as well as practical information and guidance on how to appropriately and effectively engage with First Nations peoples and communities.

In operationalising the Network's 10 principles, this Guide is an important link between community and industry. Leading practice engagement with First Nations peoples on renewable energy projects is critical for two reasons:

1. Benefits to industry through better projects and local partnerships
2. Benefits to First Nations communities through stronger social and economic agreements and respect for their rights

This Guide is designed to support the renewable energy industry to deliver better engagement, participation, and benefit-sharing with First Nations peoples. By setting out leading practice, this Guide provides guidance for industry on community expectations and offers a clear understanding of the importance of meaningful First Nations engagement.

Who is the Guide for?

This Guide is written primarily for Clean Energy Council members but can be used by the wider renewable energy industry. This includes project developers, project owners/operators, the Engineering, Procurement, and Construction (EPC) businesses that build projects, sub-contractors and investors in clean energy projects.

The clean energy industry in Australia is expanding rapidly, and the contents of this guide will be relevant to wind farms, solar farms, hydroelectricity facilities, new large-scale storage projects such as big batteries and pumped hydro, offshore wind projects, and renewable hydrogen projects.

Although this guide sets out community expectations for leading practice, it also provides information about minimum practices and a checklist to uplift the maturity of all companies and enable ongoing improvement. For First Nations community guidance and resources, refer to the Network's toolkit.

How should this Guide be used?

By incorporating these principles and practices into their operations and decision-making processes, proponents of clean energy projects can demonstrate leading practice engagement, thereby improving outcomes for and respecting the rights of First Nations peoples. This will help companies mitigate negative impacts, share benefits and work in genuine partnerships with First Nations peoples to achieve a clean energy future.

A localised approach

While this is a national Guide, First Nations communities have diverse languages, cultures, and histories, meaning that a 'one size fits all' engagement approach will not be appropriate or effective. A localised approach is critical to respecting First Nations communities and meeting their distinct needs. It is important that engagement is tailored to the unique challenges, aspirations and priorities of the First Nations community, with consideration of local context. For example, Tasmania has no legally recognised native title holders, therefore engagement based solely on native title considerations will not be effective and has the potential to retraumatise. As a first point, companies should undertake research and contact the relevant stakeholders in the local community to understand their specific history and context.

Not a substitute for regulation

This Guide is not intended to provide legal advice or replace other requirements under existing regulation. It is not a substitute for satisfying the regulatory requirements in each Australian jurisdiction. However, this guidance will position companies in alignment with leading practices and for compliance with potential future regulation.

→
Original Power and NGE Electrical deliver pilot of Renewable Energy Pathways Cert II at Original Power's Workforce Development Hub, Mataranka NT (Original Power)

Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects

The First Nations Clean Energy Network was established in 2021 to ensure First Nations peoples both play a central role in and harness the opportunities from Australia's renewable energy boom, and that the rapid transition to renewable energy occurs fairly for First Nations peoples and communities.

The Network is made up of First Nations peoples, communities and organisations, guided by a Steering Group of cultural leaders who are specialists in the clean energy industry, law, investment, academia, unions, business and community sectors.

In 2022 the Network released the *Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects* – a set of principles designed by and for First Nations communities with clean energy projects proposed on or near their land, to support communities to play a key role in the development of medium- and large-scale projects and to negotiate on an even playing field. The Principles highlight best practice and reflect local conditions and legislation, as well as international frameworks and norms for engagement with First Nations communities, including the United Nations Declaration on the Rights of Indigenous Peoples.

The Principles place First Nations peoples and their communities at the centre of the development, design, implementation and benefit-sharing of clean energy projects.

The Clean Energy Council and KPMG endorse these principles and supports their practical adoption and implementation by providing these guidelines for the renewable energy sector.

The Principles

1. Engage respectfully
2. Prioritise clear, accessible and accurate information
3. Ensure cultural heritage is preserved and protected
4. Protect Country and environment
5. Be a good neighbour
6. Ensure economic benefits are shared
7. Provide social benefits for community
8. Embed land stewardship
9. Ensure cultural competency
10. Implement, monitor and report back

Why is engagement with First Nations peoples important for the renewable energy industry?

About 43 per cent of renewable energy infrastructure needs to be sited on recognised First Nations land for Australia to get to net zero emissions by 2060.[2] These projects will deliver over $20.9 billion in capital investment and an estimated 700,000 direct jobs. A rapid rollout of wind and solar power, as well as transmission and storage capacity, is critical to keep Australia on track to net zero, but that rollout requires careful management to minimise adverse impacts and ensure benefits are shared with affected communities.

> "This is the chance in this industry, at this time, in this place... this country is so rich in renewable resources and it's on their Country. Let's not mess it up."
>
> Developer, interview April 2023

Aboriginal and Torres Strait Islander peoples' rights and interests in land are formally recognised over around 50 per cent of Australia's land area. However, it is important to understand all land is First Nations land, regardless of tenure, as First Nations peoples have occupied and cared for this continent and seas for over 65,000 years. They have an unbroken custodianship with the land and seas and their sovereignty of this Country has never been ceded, despite the historic dispossession from traditional lands during European colonisation. This is central to the structural inequality and marginalisation faced by First Nations peoples today. Renewable energy projects are spread over a wider area than fossil fuel equivalents to produce a given amount of energy. This brings a significant opportunity for First Nations peoples, as the oldest living civilisation in the world, to guide and participate in the energy revolution.

Respectful and meaningful engagement with First Nations communities provides an opportunity for renewable energy companies to be industry-leading, through equity and partnership agreements and the provision of innovative benefits to communities. However, engagement practices exhibited by many parts of the industry are considered inexperienced, focused on compliance, and not meeting community expectations. Through establishing trusting relationships with Traditional Owners and Custodians, renewable energy companies gain access to world-class renewable energy resources and contribute to an equitable energy transition. Ultimately, good-faith engagement with First Nations communities on renewable energy projects is critical to achieving positive outcomes for both company and community.

The Clean Energy Council's vision for reconciliation is for First Nations peoples to have agency in Australia's clean energy future and play an equitable role in the nation's transition to net zero. The clean energy industry is uniquely positioned to be at the forefront of a new era of change and to collaborate and develop genuine partnerships towards national reconciliation.

2 National Native Title Council, The Net Zero 2060 goal will need to rely on Australia's Indigenous estate, says new findings (April 2023) <https://nntc.com.au/news_latest/the-net-zero-2060-goal-will-need-to-rely-on-australias-indigenous-estate-says-new-findings/#:~:text=Fresh%20findings%20have%20shown%20about,to%20net%20zero%20by%202060.>, https://www.netzeroaustralia.net.au/wp-content/uploads/2023/07/Net-Zero-Australia-Mobilisation-How-to-make-net-zero-happen-12-July-23.pdf

Background to First Nations peoples and lived experience

Connection to Country

Australia is home to the oldest living culture in the world as First Nations people have occupied and cared for this country for more than 65,000 years. Before European colonisation, hundreds of distinct First Nations thrived across the Australian continent, each with unique languages, cultures, and traditions. These nations have deep connections to the land and waters and possess traditional knowledge in plant distribution, animal behaviour, astronomy, water flow patterns, fire regimes, food collection and preparation, pharmacology of medicinal sources and weather and climate cycles.

Land carries deep and meaningful importance for First Nations peoples, both on a personal level and as a unified community. This significance is encapsulated by the concept known as "Caring for Country," a traditional philosophy and practice among First Nations peoples. "Caring for Country" embodies their commitment to being stewards and custodians of the land, preserving its integrity and ensuring its wellbeing for future generations. First Nations land ownership differs from European legal systems, as it is rooted in the Dreaming creation stories, which establish fixed and validated boundaries. Everyone has a unique connection to specific territories within their family group, carrying spiritual ties and responsibilities to the land. Rather than viewing land as something to be owned, First Nations peoples experience it as a deeply symbolic and spiritual landscape, far beyond its physical attributes.

The impacts of colonisation

Colonisation has had a devastating impact on First Nations communities and their traditional ways of life. European settlers colonised nations primarily to exploit resources and boost their own economies at the expense of First Nations peoples and communities. The British arrival in 1788 was met with active resistance from Australia's First Nations peoples. This resistance, known as the Australian Frontier Wars, continued into the 1930s and was marked by hundreds of brutal massacres resulting in the deaths of thousands of First Nations men, women, and children. Researchers from the University of Newcastle have developed a Colonial Frontier Massacre map which identifies and records sites of frontier massacres, and found at least 10,000 First Nations people were killed in 416 massacres between 1780 and 1930. The British victory unleashed devastating consequences, including the rampant and intentional spread of diseases, the forcible displacement from ancestral lands, exploitation of Indigenous populations, and the profound disruption of languages, customs, and cultural traditions.

Many European settlers perceived the First Nations peoples as primitive and uncivilised. This perspective was shaped by their own cultural biases and ethnocentrism, which led them to view their own culture as superior and advanced. The lack of understanding and ignorance about First Nations customs, traditions, and social structures contributed to this misguided perception. This misunderstanding and misinterpretation of cultures resulted in significant differences, with the European settlers aiming to assimilate First Nations peoples and impose their own social, economic, and political structures on them. This led to policies including, but not limited to, forced removals of First Nations children from their families, known as the Stolen Generation; Protection Acts implemented across all states and territories that granted government broad powers to control many aspects of First Nation's peoples' lives; land dispossession; dispossession; assimilation policies and wage, all of which further exacerbated the impact on culture and identity. This historical period brought significant challenges to the preservation and continuity of First Nations cultures, highlighting the importance of acknowledging and respecting their rich heritage in the present day.

The 1967 referendum and the Native Title Act

First Nations peoples have always protested and fought against injustices and for their rights. There was no single moment that sparked the 1967 Referendum, rather a growing swell of support for change led by a range of people and organisations. Prior to 1967, States and Territories retained all legislative and therefore

policy responsibility for First Nations peoples as the Commonwealth was excluded by the Constitution from making laws for the First Nations population. The 1967 referendum sought to give the Australian Government the power to address the recognised inequalities that affect First Nations people and communities by making national laws particularly focused on First Nations people. Significantly, the referendum also allowed Aboriginal and Torres Strait Islander people to be counted as part of the country's population.

The 1967 referendum has longstanding significance for all Australians: a resounding 91 per cent of voters said 'Yes' and every state and territory had a majority result for the 'Yes' vote.

The passage of the *Native Title Act 1993* (Cth) (NTA) marked another significant moment in Australian history. The NTA recognises the rights and interests of Aboriginal and Torres Strait Islander people in land and waters according to their traditional laws and customs and establishes a process for claiming native title. While not without flaws, the NTA holds vital importance in the ongoing reconciliation process between First Nations and non-Indigenous Australians. It serves as an acknowledgement of the historical land dispossession and strives to foster a more equitable and respectful coexistence.

Our co-design approach

The need for a Guide such as this was identified by the Clean Energy Council's Community Engagement and Social Licence Working Group. Through discussions with the First Nations Clean Energy Network, it was agreed that the most appropriate format for the Guide would be to align industry guidance to the principles developed by the Network.

The development of the Guide was led and co-delivered by KPMG Indigenous Services, an Indigenous-led specialist team, and KPMG Banarra, a specialist human rights and social impact team. This ensured a commitment to cultural competency, an understanding of cultural context, a human rights lens, and adherence to leading practice standards.

The content of this Guide was informed by a series of interviews held with personnel from more than 20 renewable energy companies, including First Nations employees, with First Nations leaders and experts, and via direct engagement with First Nations communities. First Nations and industry voices were integrated from the outset to co-design a Guide that is culturally appropriate, empowering, and practical for industry. Interviews were held to translate First Nations expectations into practical actions that meet the maturity of industry and support it in progressing a just transition. Insights were leveraged from community roundtables held across the country by the Network and the Federal Government as part of the national First Nations Clean Energy Strategy. This process validated the findings of the Network and ensured voices from across the country were integrated into this Guide.

Our community engagement approach was co-designed with First Nations leaders and experts. This included developing criteria for selecting First Nations communities to ensure diversity of lived experience and perspective and aligning on an approach for continued engagement with experts and leaders to validate findings.

The design and delivery of the Guide was overseen by a Steering Committee with First Nations and industry representatives, bringing key stakeholders together and ensuring the Guide meets the needs of both.

The development of this Guide was underpinned by leading practice standards and norms, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the right to Free, Prior and Informed Consent (FPIC) that it articulates. This ensured First Nations rights were upheld throughout the development of this Guide.

What we heard: research findings

Stakeholder interviews provided insight into the current state of engagement with First Nations peoples on renewable projects including challenges and opportunities. Our research revealed that while maturity varies significantly across the industry, no companies that we heard of are currently meeting leading practice standards for First Nations engagement. This section provides a summary of current challenges to effective First Nations engagement as well as opportunities. For detailed insights, see the "what we heard from industry and First Nations communities" under each principle.

- Low cultural awareness within industry
- Change in project ownership
- Legacy of extractive industry
- Identifying First Nations communities
- Engagement conducted for compliance
- Capacity and capability of First Nations organisations

Figure 2: Current challenges and barriers to effective engagement with First Nations communities

Low cultural awareness within industry

Low cultural awareness within industry was identified as a significant barrier to meaningful engagement. There is a lack of understanding of the historical context and cultural significance of Australia's First Nations peoples, particularly among international proponents, which is in turn detracting from relationship building and the cultural safety of communities (see Principle 9 for further information). Low cultural awareness included understanding and respecting the diversity of First Nations communities – a critical element of effective and sustainable engagement, partnership and the delivery of relevant and sustainable benefits. To understand and appropriately tailor engagement to the distinct needs of each community companies must build trusting and mutually respectful relationships. This relies in part on developing skills through learning, listening and broad engagement with First Nations peoples.

Legacy of extractive industry

The legacy of past extractive industry practices continues to impact First Nations communities. This fosters distrust between communities and renewable energy companies, as they have had their land exploited and destroyed and promises undelivered by mining and gas companies. The limited engagement by the renewable industry perpetuates this distrust. Additionally, the larger geographic distribution of renewable energy projects – often over tens of square km – means a greater area over which impacts on cultural heritage and the environment might occur.

Engagement conducted for compliance

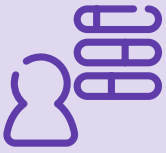
Currently, developers often only engage First Nations communities to comply with cultural heritage requirements or delay engagement until required for approvals. While complianc is important, this narrow approach to engagement involves communities too late in the project lifecycle and limits them from greater participation, co-design and negotiating benefits (see Principle 3 for further information). This compliance approach was also reflected in the way companies have approached the adaptation of their engagement processes to the requirements of each jurisdiction, only consulting communities when and if required. This violates First Nations communities' right to Free, Prior and Informed Consent (FPIC) (see Principle 1 for further information).

Change in project ownership

While ongoing engagement throughout the life of a project is extremely important, this was identified by both industry and First Nations groups as a challenge. Often commitments are not delivered to communities due to change of ownership and multiple companies engaging throughout planning, construction, and operation. This particularly limits the opportunity for longer-term benefits for communities and provokes distrust in the initial engagement process (see Principle 2 for further information).

Identifying First Nations communities

Developers and owners are not always talking to the right people from communities. Identifying stakeholders is a significant challenge for industry, particularly where multiple and diverse communities have an interest in the land. In addition, companies often don't consult widely enough due to a lack of understanding of community decision-making processes and authority or tight project timelines (see Principle 1 for further information).

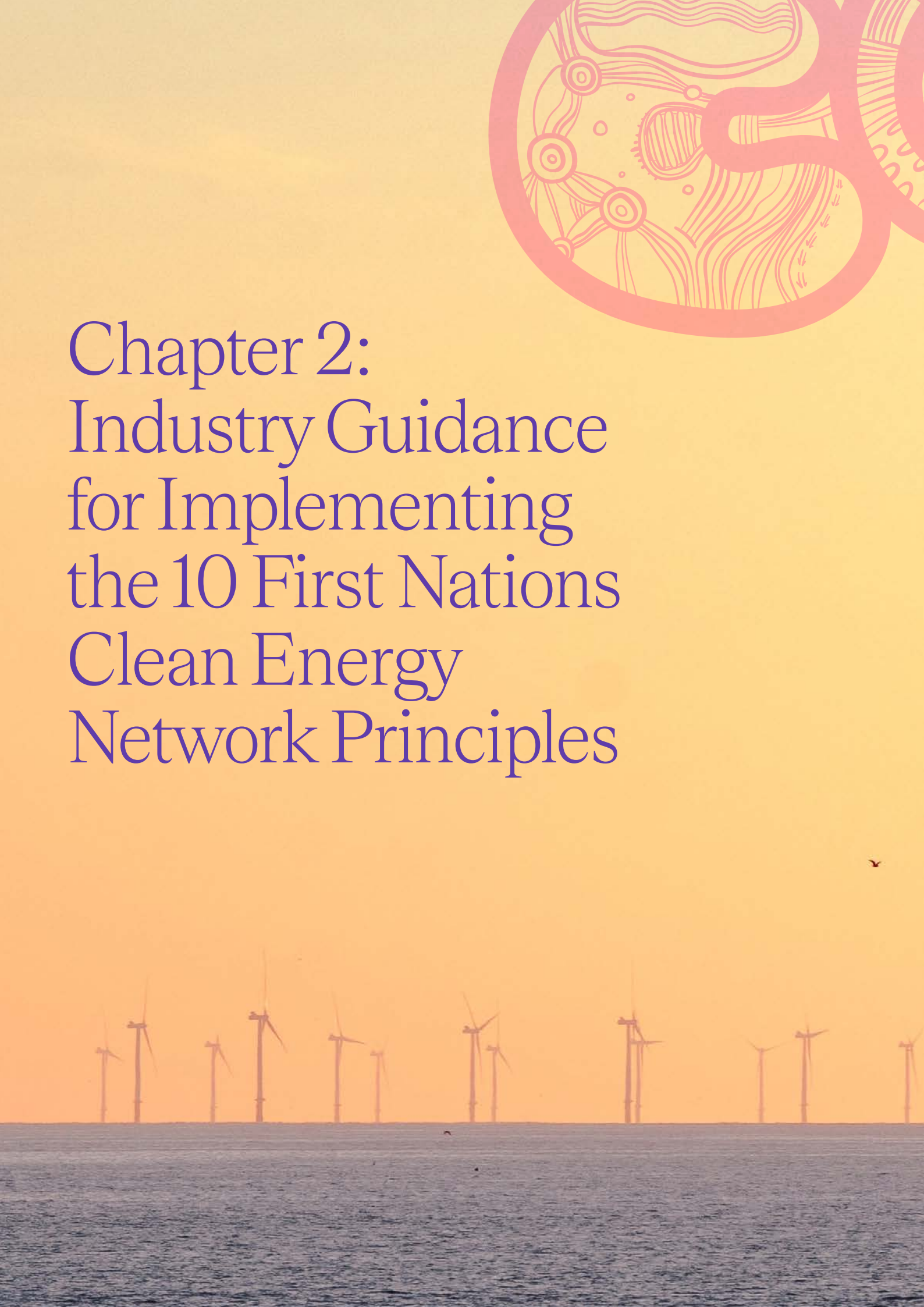


Capacity and capability of First Nations organisations

While the capacity of First Nations organisations varies significantly, strained capacity was identified by both industry and First Nations groups as a challenge to meaningful engagement. First Nations organisations are generally over-consulted and under-resourced, making ongoing and regular engagement with companies a difficult and slow process. This causes tensions as renewable energy companies work to meet tight project timelines for development. Similarly, capability can be an issue for First Nations organisations. Some First Nations organisations and communities expressed they had little experience with the development process and legislative landscape of renewable energy projects. We also heard that these issues are exacerbated by the large volume of renewable projects in some areas. Efforts to sustainably uplift and empower First Nations organisations while maintaining independence will improve relationships and enable communities to take advantage of the opportunities brought by renewable projects (see Principle 1 for further information).

While there is a range of challenges, the most significant opportunity identified by both industry and First Nations groups is the chance to build long-term agreements that provide opportunities for First Nations participation in and economic development from renewables, particularly through partnerships and equity. Employment and procurement are also key opportunities for these communities (see Principle 6 for further information).

Chapter 2: Industry Guidance for Implementing the 10 First Nations Clean Energy Network Principles



This section provides practical guidance for industry to operationalise each of the Network's 10 principles for clean energy projects. It outlines the key considerations for First Nations engagement at each stage of the project lifecycle to clearly set out expectations for different stakeholders within industry at different points in development. In doing so, this Guide aims to ensure early and ongoing engagement throughout the life of a project.

Each principle contains key sub-themes which present what we heard from engaging with industry and First Nations communities. Guidance is presented for each sub-theme to address the challenges identified. These recommendations are divided into minimum practice and leading practice categories. These are not regulatory standards or an assessment of companies but rather aim to capture the varying maturity of companies. We recognise this is a journey and the two categories have been designed to support companies to take tangible steps to uplift their practice and enable ongoing improvement. The categories are:

Minimum practice: recommendations for companies in the early stages of improving their First Nations engagement, to meet the minimum expectations of First Nations communities and create a strong foundation which can be built upon.

Leading practice: recommendations for companies that build off minimum expectations and position companies for genuine partnerships and more meaningful engagement with First Nations communities.

The recommendations included in this Guide are for the entire industry, however, Figure 4 in the appendix calls out the various processes and touchpoints different companies may have throughout the life of a project. Considerations for engaging with First Nations peoples throughout the different project phases – planning, construction, operations, and decommissioning – will help companies understand how they fit within the broader picture of engagement.

Principle 1:

Engage respectfully

Establishing respectful relationships with local and neighbouring First Nations communities is essential to building trust and genuine partnerships. The First Nations Clean Energy Network emphasises that mechanisms to establish a respectful relationship should be put in place from the very start of scoping a project and developed as the project processes. Respect is operationalised through obtaining FPIC, conducting negotiations fairly and in good faith, engaging early and respecting the boundaries of First Nations communities.

This section outlines what we heard from industry and First Nations communities and provides guidance (minimum and leading practice) on the following aspects of engaging respectfully that emerged from our research:

- **Identifying rights-holders**
- **Initial engagement**
- **Free, Prior and Informed Consent**
- **Building capacity of First Nations organisations**

"They haven't bothered to dig enough to find them to say they are Traditional Owners, or only looked on Native Title [database]. I would like to think they [would] dig harder to find original peoples of that land."

First Nations community member, interview May 2023

Identifying rights-holders

What we heard from industry and First Nations communities

Identifying First Nations communities and ensuring broad consultation within those communities is critical to establishing trusting relationships and obtaining consent. We heard from industry that identifying the right First Nations communities to engage with can be significant challenge. Developers are struggling to identify who has a connection to the land, particularly where there is no Native Title determination. This was echoed by First Nations communities who often found that developers were not effectively identifying local communities beyond Native Title holders.

Some developers rely on consultants with an understanding of the project area, while others go to Registered Aboriginal Parties and government bodies, however, the difference in representative bodies and consultation requirements across jurisdictions further complicates this. For example, land councils are the key representative bodies for Traditional Owners in the Northern Territory, while Registered Aboriginal Parties may be in Victoria. We also heard that developers found it challenging to navigate engagement where there were different interests from multiple First Nations communities or within the one community.

We also heard from developers that they do not always understand the governance of local First Nations communities. This was supported by First Nations experiences, as community members felt that developers and owners were not consulting widely enough, often engaging with only one or two people in the community. This does not consider the nuances of who has corporate or cultural authority to speak on certain issues. An understanding of decision-making structures is important to effectively engaging communities and allowing them to participate meaningfully. First Nations community members highlighted that industry needs to respect that communities do not have the same governance structures as Western systems.

> "I would say that one of the biggest challenges is when you get a project, trying to work out who to speak to, who has authority to speak. It's really difficult and challenging"

Industry professional, interview April 2023

Lauren Mellor (Original Power), Billy Anderson (Twenty Mile Homeland), Joe Wright (Bushgrid Solar)

Guidance

A strong understanding of the social and cultural landscape will help developers and project owners identify the First Nations community to engage, as well as which individuals to speak to (refer to Principle 9 for further discussion of cultural competency). Engaging widely to understand community governance structures and hear all perspectives is not only good practice but will support effective negotiations and strong agreement-making between industry and First Nations communities.

It is important that organisations develop understanding and competence across the organisation to support appropriate, effective and respectful engagement from conception throughout the project lifecycle. Learning should be an ongoing process with the understanding that 'competence' is a journey rather than a destination. Listening, learning and reflecting are fundamental to and underpin the guidance provided below on minimum and leading practice.

Minimum practice

Consider who has an interest in the land. This extends beyond land tenure and considers:

- Ancestral attachments to land and seas, including First Nations community members or Traditional Owners who no longer live in the area
- Wider users of land and water resources
- The resettlement of communities may mean they are no longer physically located within the project area but still have a strong attachment
- Cultural, spiritual or heritage impacts

Conduct desktop research of local area to identify:

- Relevant Traditional Owners, Custodians or First Nations communities
- Representative organisations such as Land Councils, Aboriginal Corporations, Elders Council, language centre, or Prescribed Body Corporate
- Community principles for engagement, potentially identified on the Registered Aboriginal Parties' or Land Councils' websites
- Community aspirations, particularly in relation to renewables, which may be found on Registered Aboriginal Parties or Land Councils websites and social media
- Impacts of previous projects, including renewables and other industries such as mining
- Significant events and detailed local history that may still affect a community's social wellbeing and culture (e.g. colonial experiences)

Utilise First Nations peak bodies for the relevant area for further information on the community and cultural context, such as native title service providers, healthcare providers, or land councils

Map relevant community stakeholders and develop a First Nations engagement plan

Ask people or organisations with connections to the community for advice, such as different factions, potential conflict, cultural protocols

Ask "is there anyone else we should speak to?". If so, ask for an introduction

Where there is more than one Traditional Owner or First Nations group, ensure you are engaging fairly with all. Where tensions or disputes between/within Traditional Owner or First Nations groups arise, it is critical to engage widely, transparently and recognise local context and history

Spend time with community to understand who has decision-making authority on certain topics, and other governance elements

"Getting more context about what the needs, values and interests are, where we can provide benefit, what parts of the project they may be able to be involved in... it's just establishing that relationship and finding out more about that community and ways we can work together to make sure they are benefitting and involved as much as possible."

Developer, interview April 2023

Leading practice

Support or work alongside Traditional Owners to conduct Country mapping prior to developing new clean energy projects. This builds understanding of the different languages, cultures and Traditional Owners of a given area to guide engagement

Develop a community engagement plan from the very early feasibility stages, through to construction and operations

Identify First Nations community services organisations, such as Aboriginal Medical Services or Land and heritage protection organisation / Indigenous Ranger programs, that can assist with identifying and engaging the local traditional owners

Initial engagement

What we heard from industry and First Nations communities

Engaging early is important to build long-term relationships between communities and developers and understand the priorities of First Nations communities. It is also critical to obtaining Free, Prior and Informed Consent (see page 29) and enabling First Nations communities to enter into long-term benefit-sharing agreements (see Principle 6 and Principle 7). However, we heard from First Nations communities that developers are engaging too late. This can lead to high levels of distrust between developers and owners and local First Nations communities, limiting opportunities for meaningful engagement going forward. It also risks 'baking in' negative impacts that could otherwise be mitigated, and missing opportunities for positive impact.

Developers begin their engagement with First Nations communities at different points in the project lifecycle, reflecting a range of maturity in the industry. We heard some developers engage during the feasibility phase as soon as an area for the project has been identified, while others only engage when regulation requires them to, meaning that engagement with First Nations communities can differ in each jurisdiction and whether they are developing on Native Title or freehold land. We also heard from Engineering, Procurement and Construction Companies (EPCs) that they are often the first company to engage with the local First Nations community, meaning consent was not obtained and cultural heritage surveys were not completed, causing delays before construction can go ahead. This reflects the inconsistent and often ad-hoc nature of First Nations engagement by the renewable energy industry.

Guidance

Early and ongoing engagement is not only critical to upholding the rights of First Nations peoples, it will also build the foundation for long-term trusting relationships and greater First Nations participation in projects. When first engaging with First Nations communities, it is critical to communicate appropriately and respectfully.

> "We hear about communities being engaged too late... after all the decisions have been finalised. That needs to be addressed."
>
> First Nations community member, interview May 2023

Minimum practice

Develop a company policy that commits to working towards leading practice First Nations engagement principles

As part of initial engagement, undertake cultural awareness training delivered by Traditional Owners or local First Nations community members or, where local capacity does not exist, from First Nations organisations that are as close as possible to the project area. This training may be in addition to general training provided to staff, and should focus particularly on understanding the specific community

Identify opportunities to involve First Nations community members in co-design of project parameters during the planning phases

Engage with the local First Nations community early in the planning phase and:

- Ask the community how they want to be engaged throughout the project (frequency of touchpoints, stakeholders to be involved such as community-endorsed representatives, protocols to respect and adhere to)
- Seek to understand the community's specific context, priorities and ambitions
- Be transparent with First Nations communities about the uncertainty that exists in the early stages of a project
- Adapt engagement to respect local cultural protocols, decision-making processes, communication preferences
- Establish a First Nations community engagement plan
- Prepare to be flexible and adaptable to local and cultural needs, particularly in regard to timeframes
- Wherever possible, provide more information and time if needed (see Principle 2)

Ask permission before entering a First Nations community, in accordance with local cultural protocols. This will vary so it is important to engage with representatives or leaders from the local First Nations community to ensure first encounters are respectful

Leading practice

If the broader First Nations community is consulted, compensate First Nations community members for their time

Where appropriate and where it is supported by local First Nations communities, employ a First Nations person external to the organisation and endorsed by the local community as a First Nations engagement officer for the project

Free, Prior and Informed Consent

What we heard from industry and First Nations communities

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is the most comprehensive international instrument on the rights of Indigenous peoples, adopted by the United Nations General Assembly in 2007 and endorsed by the Australian Government in 2009. It establishes a universal framework of minimum standards for the survival, dignity, and wellbeing of the First Peoples of the world. These rights mostly relate to the preservation and revitalisation of First Nations cultural heritage, traditions, customs, practices, languages, and traditional knowledge, without discrimination. The UNDRIP also affirms the importance of the right to self-determination - an ongoing process of choice to ensure communities are able to meet their social, cultural and economic needs. There are specific provisions within the UNDRIP relating to the use of First Nations lands, territories, and resources, which are particularly relevant to proponents.

Article 32.2 of the UNDRIP states that First Nations peoples should be consulted through appropriate representatives to obtain free and informed consent prior to the approval of any project affecting their lands, particularly in relation to the development or use of resources. Engaging with First Nations people on renewable projects needs to be based on the principles of Free, Prior and Informed Consent (FPIC), giving due recognition to First Nations' customary decision-making processes. Critically, because it is based on the underlying right to self-determination, FPIC is not just about obtaining consent; it is about establishing an ongoing relationship, including effective and meaningful participation in the achievement of First Nations' own development priorities. FPIC is further defined as:

- **"Free"** means that a community must be able to give consent voluntarily and without coercion, intimidation, or manipulation
- **"Prior"** requires that the free consent of First Nations people is obtained before an action or decision affecting them is taken and that enough time is provided to account for First Nations decision-making processes
- For consent to be **"informed"**, it must be based on accurate, timely, accessible, and sufficient information, including information on risks and likely impacts. Consultation and participation are crucial to a process of informed consent.
- **"Consent"** refers to the collective decision made by the rights-holders and reached through the customary decision-making processes of the First Nations communities

For the FPIC process to be meaningful and legitimate, consideration must be given to lack of community consent. Additionally, an FPIC agreement should have clear procedures established for withdrawal of consent, which would usually be related to agreed-upon milestones not being met or similar.

Although a fundamental right of First Nations peoples, we heard that most developers' and owners' First Nations engagement strategies are not based on the principles of FPIC. This was confirmed by communities who expressed that consent had not been obtained, particularly as they were involved in projects after decisions had been made or had not been involved at all.

In addition, we heard from First Nations communities the importance of understanding and respecting localised community and cultural decision-making processes. Obtaining and maintaining FPIC should be a culturally appropriate process, particularly with respect to timelines. The process of consensus-making and what consent looks like will vary for each local First Nations community or organisation.

"We should be at the table in the first place. We should be parties to those arrangements, whether we are the freehold owner or the Native Title owner or the lessee. We are the First Peoples and we should have a say in what goes on on Country... The key thing we need to find room for in the system is the exercise of FPIC."

– First Nations community member, interview May 2023

The provision of information in a timely and accessible manner is therefore key to enabling First Nations communities to make informed decisions (see Principle 2). First Nations communities noted they need adequate time to digest and understand project information, particularly in communities with no previous experience with the renewable energy industry.

Some First Nations communities felt they had little power to say no to projects, highlighting the need for FPIC to be embedded into developer, owner, and investor processes. Failure to obtain consent can lead to a severe lack of trust and broken relationships between developers and communities, making it difficult for the entire industry to reset and meaningfully engage. It can also cause significant further adverse impacts on First Nations cultural heritage and other rights, as well as undermine potential benefits that can arise through productive partnerships.

FPIC should usually be viewed as a phased process. For example, initial consent might be granted to conduct surveying and feasibility, with further phases to be agreed between the parties. The phased approach should include clear agreement on when FPIC is considered to be in place and should include reviews whenever project parameters change or agreed milestones are reached.

For further resources on FPIC, see the Appendix (page 76).

"To be in a position of [having] self-determination you're looking at FPIC and information given to communities that is of a level that can help them to make a decision without pressure."

Industry professional, interview April 2023

Guidance

The diverse decision-making structures of First Nations communities means that FPIC will look different for each community. Therefore, it is critical to employ a tailored approach, adapting the guidance below to the local context of the First Nations community. Spending time with the community and building a trusting relationship are the best ways to understand the governance structures and what consent will look like.

Minimum practice

Establish a process for obtaining FPIC through:

- Engaging early with First Nations communities to understand local decision-making structures, including: the governance structure of the community; who has authority to speak on which issues; what does consent (and withdrawal of consent) look like in this community, for example, does it take the form of a written record
- Providing clear, concise and comprehensive information about the project, risks, and benefits (see Principle 2)
- Allowing for flexibility in project design and outcomes
- Documenting consent by obtaining a letter of support from an authorised representative of the local First Nations community
- Acknowledging power imbalances and avoid pressure and coercion

Leading practice

Obtain and maintain FPIC throughout the project lifecycle through:

- Engaging early, ensuring project timelines respect community decision-making processes
- Provide flexibility and appropriate negotiation periods to ensure all relevant First Nations community members are consulted and understand the project, risks and benefits (see Principle 2)
- Document and conduct a phased consent process, whereby community is consulted at each stage and consent obtained for the activities of every project phase
- Establishing a process to reset the relationship and affirm consent where consent was not originally obtained
- Ensuring effective engagement with all groups where there are multiple Traditional Owner groups, and that specific community needs are set out and factored in
- Not proceeding with projects without explicit consent from First Nations communities. What is required to constitute consent should be determined by the community's own governance structures
- If FPIC is not familiar to the community, engage in dialogue to identify existing structures that can support the principles underlying FPIC
- Support local traditional owners to gain capacity and capabilities to balance any power imbalances (see below guidance in Building capacity of First Nations organisations)
- Developing company-wide policies, standards and commitments to ensure FPIC is operationalised across the business

Building capacity of First Nations organisations

What we heard from industry and First Nations communities

For a range of reasons, First Nations organisations may be under-resourced. This in turn limits the community's ability to actively participate in renewable energy projects. Developers and owners reported that the capacity of First Nations organisations is a barrier to greater collaboration and meaningful engagement. Capacity is an even greater barrier when developers sought to engage meaningfully with communities in line with project timelines. First Nations community members also acknowledged the stretched capacity of community organisations, with limited staff and resources, as many of these exist primarily to deliver services to the community, meaning that resources cannot be dedicated to engaging in consultation with renewable energy projects.

"The sector has to be aware they are dealing with an organisation that is not just a statutory authority or Native Title holder but all these other things tied up – family organisations, community organisations, involved with environment, training, jobs, legal issues, health – all of these things layered into First Nations life."

Industry professional, interview April 2023

This already stretched capacity is exacerbated by the volume of renewable energy projects and the number of companies involved throughout the project lifecycle, each requiring consultation from First Nations organisations. We heard one Traditional Owner organisation is being consulted by almost 30 different proponents. Over-consultation of First Nations communities was recognised by both industry and First Nations stakeholders.

First Nations community members expressed that undelivered promises from previous government policy or industry projects were a key factor in fatigue. Both industry and First Nations groups discussed the potential for industry to provide support to community organisations to support consultation and engagement, potentially through a funded role. However, First Nations community members raised concerns about maintaining independence and ensuring any support from industry is designed to enhance the capacity of First Nations organisations.

Compensation and greater coordination from developers and owners were identified as mechanisms to alleviate consultation fatigue, however, developers were unclear on what this could look like in practice. Working groups and other representative bodies of First Nations communities can function as a single first point of contact, reducing the burden on individual First Nations peoples. For example, monthly working group meetings can be organised where developers can initially present projects to community.

Guidance

When engaging with First Nations communities, companies should take steps to identify and alleviate consultation fatigue and stretched capacity. When seeking to build the capacity of First Nations organisations, it is important to do so in consultation with First Nations communities to ensure it is sustainable and in line with their needs. Stakeholders suggested that an industry body or government agencies could play a key role in facilitating greater coordination to reduce the strain on First Nations communities.

"Engagement fatigue was the big thing – it was huge, stood out of everything."

Developer, interview April 2023

Minimum practice

Ask about the capacity of local First Nations organisations to engage with renewable energy projects, and then consult with local First Nations organisation / community to determine the best way to support their engagement, FPIC and participation. This may include:

- Providing experienced personnel to the community to support their learning throughout the life of the project, such as through a part time role in the organisation
- Providing or funding management, project governance and financial literacy training
- Providing funding that is reflective of the work to be undertaken by the local First Nations organisation or community, which may include cultural heritage inductions, cultural training, drafting documentation for negotiations or agreements. This funding should meet the capacity needs of community

Appropriately compensate First Nations community members for sharing cultural knowledge

Build extra time and/or optionality into scheduled engagements, in order to work with First Nations communities in a manner which allows for the growth and development of community

Participate in industry- or government-led collaboration with other proponents in the region to contribute to collective strategies that support coordinated engagement and consultation (for example, funding a coordinated position to engage with communities and minimise over-consultation)

Leading practice

Facilitate knowledge sharing between First Nations communities and with industry. For example, creating a space for communities to share their experience and learnings from engaging with renewables. This could take the form of regional education or learning hubs for First Nations communities, conference presentations or corporate roundtable discussions

Collaborate with other companies across the industry to facilitate education on renewable energy to First Nations communities

If the broader First Nations community is consulted, compensate First Nations community members for their time

"For proponents to think their project is the most important thing. It may not be. All the capable people are spread very thin."

First Nations community member, interview May 2023

Principle 2:

Prioritise clear, accessible and accurate information

Communities must be given clear, timely, accurate and detailed information about clean energy projects. This includes the nature, design, construction, potential impacts and ongoing life of projects on or near their land. This is operationalised through an open channel of communication where companies provide information to local First Nations communities and respond to requests and feedback from communities throughout the project. Ensuring information is appropriate and that the format and language meet the communities' needs is key.

This section outlines what we heard from industry and First Nations communities and provides guidance (minimum and leading practice) on the following aspects of providing information about a project that emerged from our research:

- **Information-sharing**
- **Changes in project ownership**

"The power imbalance and knowledge imbalance sits really strongly with industry still."

Representative of Traditional Owner organisation, interview May 2023

Information-sharing

What we heard from industry and First Nations communities

Access to accurate and culturally appropriate information early on in a project is critical to building trust and empowering First Nations communities to make informed decisions. A significant information gap between proponents and First Nations communities was acknowledged by both groups. This not only relates to project-specific information but also an understanding of the development process and renewable energy more broadly. We heard that First Nations communities who had previously engaged with the mining industry were better informed around negotiation and agreement-making processes. Transparency around projects and greater education on renewables is crucial to empowering First Nations communities to enter fair negotiations and get the best outcomes for community.

Timely and accessible information enables First Nations communities to prepare for and harness the opportunities that renewable energy projects may bring, such as employment and procurement, and enable greater involvement in project planning. We heard that one Traditional Owner group receives a full-day information session with developers about the project as standard practice before broader community and business information sessions. This was noted as an extremely positive initiative and builds foundations for a trusting long-term relationship. On the other hand, we heard of First Nations communities being informed of projects and asked to negotiate after decisions had already been made.

Developers highlighted challenges in providing information to First Nations communities from project inception, such as commercially sensitive information, the uncertainty of approval processes, and long development timelines, particularly for large-scale projects.

"To get to that point that you know how many megawatts is going down and the boundaries and to have not consulted local peoples, to me it seems crazy."

First Nations community member, interview May 2023

Ethan Godfrey, Marlinja NT (Original Power)

Guidance

Sharing accurate and transparent information with First Nations communities, as early as practical, will help to secure the best outcomes for all parties, facilitate compliance with UNDRIP and legislative obligations and uphold the rights of First Nations communities. Information sharing and greater transparency throughout the lifecycle of a project will help empower First Nations communities and build trust.

> "Challenge is late-stage development where you don't know that the project is definitely going ahead – until you do and then you need everything to happen yesterday."

Developer, interview April 2023

Minimum practice

Work with community to understand the communication methods that work best for the local First Nations communities

Adhere to language needs and cultural protocols

Provide clear, accessible, detailed and relevant information about the project, including through a variety of mediums (e.g., videos, images, storyboards, translation of key documents into language) including:

- Type and location of infrastructure
- Timeframe for negotiations and engagement
- Scheduling an engagement touchpoint throughout the project
- Estimated project timeline
- Estimated project cost and resources
- Opportunities for participation, including employment and business opportunities
- Expectations of communities
- Explaining the why, how, and when of decisions

Work with First Nations communities to decide what constitutes an agreement and what is evidence of an agreement. Be flexible and adapt to how the community wants to make arrangements and agreements with you

Maintain well-kept records of engagement to ensure:

- There is a single source of truth, or a history of discussions and committments, that span the full life of the project
- There is a record of impacts, commitments and benefits agreed to, and any complaints

Leading practice

Work with the local First Nations communities to schedule regular touchpoints throughout the life of the project. This may vary throughout project phases and according to the needs and preferences of the local community

Provide education to First Nations communities on the renewable energy transition more broadly, including energy generation and storage options and impacts to community

Provide independent support to First Nations groups to ensure they understand the information shared, and develop a review mechanism (e.g. follow up Q&As) that seeks to confirm understanding

Collaborate with other proponents in the region to coordinate and streamline communications to minimise burden on First Nations communities. This could be facilitated by an industry body, for example to support the creation of regional working groups

Changes in project ownership

What we heard from industry and First Nations communities

Maintaining meaningful engagement with First Nations communities over the life of a project was recognised as a challenge by both First Nations communities and industry. Some developers expressed that they have limited control when engaging third parties, such as engineering, procurement, and construction firms (EPCs), meaning existing commitments to communities are not always upheld. In addition, projects are often sold at various points – typically once planning approvals are obtained – leaving employment strategies, Cultural Heritage Management Plans and other agreements at risk of being abandoned.

Some developers are beginning to take steps to ensure agreements are continued, whether through contracts with third parties or holding discussions with potential buyers around the importance of First Nations engagement. The transfer of information between developers, owners and contractors is extremely important to reduce the burden on First Nations communities.

> "Then agreements are ripped from underneath them which creates a lot of other social problems like mental health issues. It's all cumulative, it was hard to hear. Happens all the time with renewables – they can get sold off at any time."

First Nations industry professional, interview April 2023

Guidance

Setting expectations for third-party engagement and facilitating an effective handover between developers, operators, owners and contractors is critical to maintaining meaningful engagement with First Nations communities throughout the life of the project. Given renewable energy projects can change hands at many points throughout the different phases, upholding commitments to First Nations communities should be a key consideration. Open communication and effective documentation will be key to achieving this.

"You have that change of relationship at three points typically, if they don't sell it at those different parts. It's very complex. You find yourself repeating yourself a lot even in the same project."

Representative of Traditional Owner organisation, interview May 2023.

Minimum practice

Provide a handover to new project owners including:

- A detailed First Nations stakeholder profile including communication preferences, priorities, governance and decision-making processes of the local First Nations communities
- Records of engagement with First Nations communities, including any agreements made or complaints raised
- Current status of implementation of any commitments made during project negotiations

Leading practice

When considering future owners and operators:

- Investors should undertake due diligence processes, such as reviewing documentation and evidence of First Nations community engagement
- Include meaningful First Nations engagement as a selection criterion and embed commitments made into contracts where possible

Implement contractually binding terms that require future owners to honour past First Nations agreements and plans

→
Left to right: Kira Moore, Belinda Atkinson, Shaurntae Lyons
Avonlie Solar Farm, NSW
(Beon Energy Solutions)

Principle 3:

Ensure cultural heritage is protected

Developers, industry and investors must commit to protecting cultural heritage. Cultural heritage is the heritage of tangible and intangible assets of a group or society that is inherited from past generations. The preservation and protection of cultural heritage should be embedded into the planning, construction and operation of clean energy projects. The First Nations Clean Energy Network highlights that regular and ongoing cultural competency training is a key initial step. Providing access to Country, respecting First Nations traditions, and honouring First Nations languages and stories are also important in employing a holistic approach to cultural heritage management.

This section outlines what we heard from industry and First Nations communities and provides guidance (minimum and leading practice) on the following aspects of cultural heritage protection that emerged from our research:

- **Cultural heritage management**
- **Access to country**
- **Intangible cultural heritage**

> "Things like when you're doing surveys it's all about the cultural heritage material you're finding. Whereas culture is connected to so much more – stories, species, place, water – all of those things."

Developer, interview May 2023.

Cultural heritage management

Cultural heritage management is fundamental to reinforcing the commitment to safeguarding and preserving the rich cultural legacies and identities of First Nations communities. It is also a statutory requirement: before large-scale projects can be established, proponents must ensure their projects don't have an adverse effect on cultural heritage. Cultural heritage management acknowledges the intrinsic value of both tangible and intangible cultural heritage, including sites, artifacts, traditions, and practices, and the need to ensure their protection for present and future generations. The essence of cultural heritage management lies in the recognition of the profound connection between cultural identity and the landscapes, stories, and customs that shape First Nations communities.

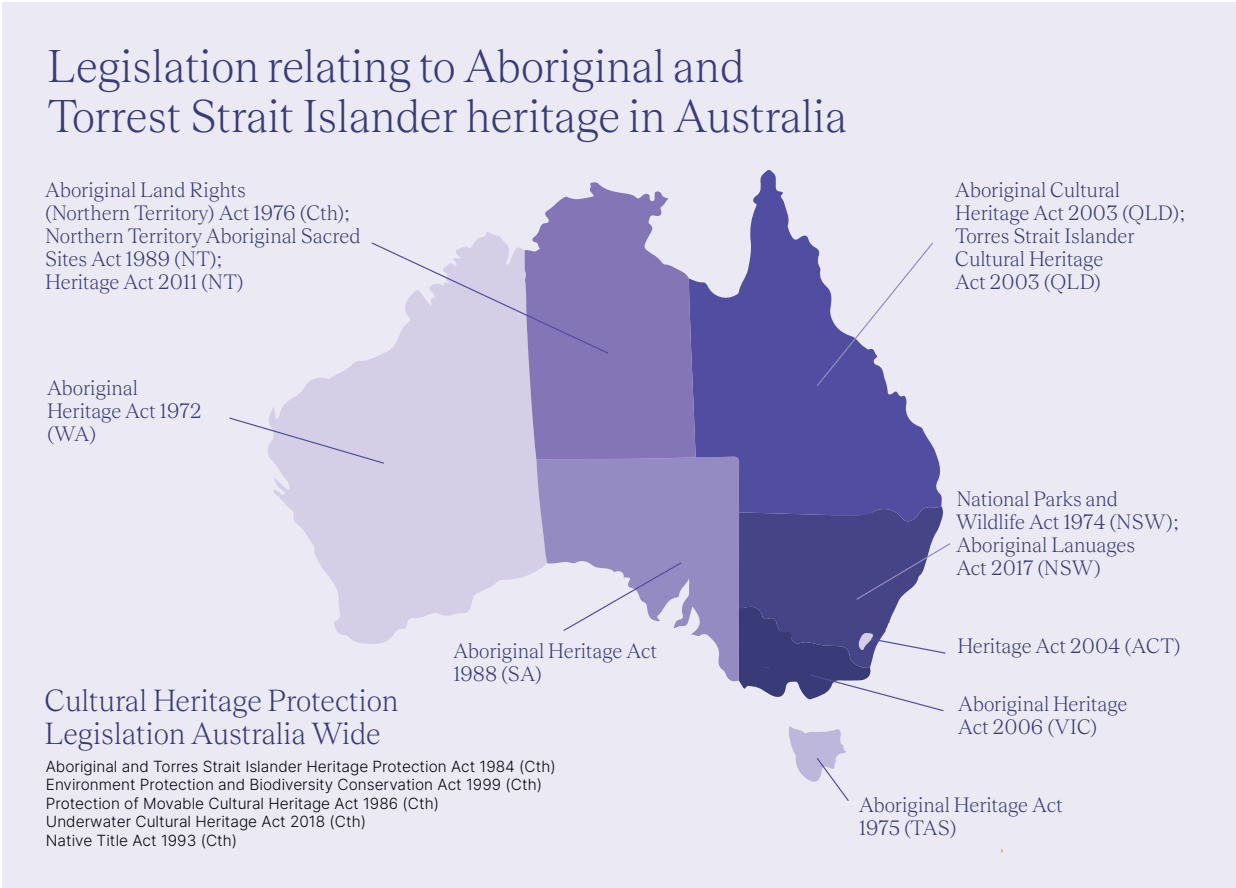


Figure 3: Cultural Heritage Protection Legislation Source: Heritage Chairs of Australia and New Zealand, Dhawura Ngilan: A vision for Aboriginal and Torres Strait Islander heritage in Australia; p29.

Australia has legal frameworks that operate to protect and manage cultural heritage. These laws acknowledge the rights of First Nations communities to their cultural heritage and provide mechanisms for their active participation in its protection and management. Key legislation at the federal level includes the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth), which aims to protect areas and objects that have particular significance to Aboriginal and Torres Strait Islander peoples and the *Native Title Act 1993* (Cth), which is primarily concerned with land rights and native title, but also acknowledges the significance of cultural heritage and requires parties to consider its preservation during negotiations. The majority of cultural heritage protection and compliance requirements for developers are included under State and Territory legislation, with considerable variance in the legal requirements across each Australian jurisdiction.

Despite these frameworks, it is broadly acknowledged that current Australian cultural heritage legislation offers mixed results for protecting First Nations cultural heritage in line with international obligations such as UNDRIP and does not represent leading practice. As such, companies are encouraged to move beyond the minimum legislative compliance standards for cultural heritage management. Companies looking for First Nations guidance on leading practice standards for cultural heritage management are encouraged to consider *Dhawura Ngilan (Remembering Country): A vision for Aboriginal and Torres Strait Islander heritage in Australia*[3], which embodies the long-held aspirations of First Nations peoples for protecting their heritage. The vision of this document clearly sets out the principles and expectations of First Nations communities:

1. Aboriginal and Torres Strait Islander people are the Custodians of their heritage. It is protected and celebrated for its intrinsic worth, cultural benefits and the wellbeing of current and future generations of Australians.
2. Aboriginal and Torres Strait Islander heritage is acknowledged and valued as central to Australia's national heritage.
3. Aboriginal and Torres Strait Islander heritage is managed consistently across jurisdictions according to community ownership in a way that unites, connects and aligns practice.
4. Aboriginal and Torres Strait Islander heritage is recognised for its global significance.

The renewable energy industry is required under cultural heritage legislation to engage with local First Nations groups regarding potential cultural heritage impacts. Positive experiences include where proponents have gone beyond compliance

[3] Heritage Chairs of Australia and New Zealand, Dhawura Ngilan: A vision for Aboriginal and Torres Strait Islander heritage in Australia and the Best Practice Standards in Indigenous cultural heritage management and legislation (Report, 16 September 2020) 4 https://www.dcceew.gov.au/sites/default/files/documents/dhawura-ngilan-vision-atsi-heritage.pdf

and worked with Traditional Owners to map cultural heritage so the broader community can learn more about First Nations heritage. Strong relationships have been developed where project owners have gone beyond compliance to work closely with Traditional Owners in the preservation, protection and recognition of the value of cultural heritage to the broader community.

We also heard that where cultural heritage management plans were not developed or not well managed, this caused project delays and strained relationships between industry and communities. In one case, this caused a delay of nine months for a project moving into construction. Often in these circumstances there was a lack of understanding about cultural heritage and its significance to the local community.

Access to Country

First Nations communities have a strong desire for meaningful access to their ancestral lands, reflecting their inherent connection and cultural ties to Country. This access is not solely about physical presence but encompasses the fundamental right to actively engage with and care for Country. We heard that on one 15-megawatt solar farm, thousands of artefacts were found which was seen as an opportunity for the local First Nations community to be invited onto private land to connect with their heritage.

Intangible cultural heritage

Intangible cultural heritage embodies the essence of a community's identity, encompassing the non-material aspects that define its unique traditions, practices, stories, and expressions. These intangible aspects of cultural heritage are often linked to places or landscapes. We heard from developers that many cultural heritage assessments are currently focused solely on physical artefacts, undermining the value of intangible cultural heritage and the definition covered in Australian law and international agreements.

It is critical for industry to employ a holistic approach to cultural heritage, working closely with local First Nations communities to understand the history and local nuances of the site. Ensuring First Nations ownership of data and information collected from surveys and assessments is also an important component of leading practice.

"We have the knowledge of a site there, what can we do to help share that or should it continue to be locked up behind fences? We have been very fortunate, we have a good relationship with the private land holder. With Traditional Owners we have come to an agreement to ensure access to that site. They can utilise that site for cultural learning and education purposes."

Developer, interview April 2023

Guidance

Working closely with local First Nations communities to understand the breadth of cultural heritage and nuances of a particular site will lead to stronger outcomes for both the community and the business.

First Nations communities will get to be involved in heritage protection and preservation while developers minimise risk.

Minimum practice

Voluntarily enter a Cultural Heritage Management Plan or Cultural Heritage Management Agreement and engage closely with First Nations communities to identify and address potential impacts on cultural heritage

Undertake cultural heritage impact assessment and management with a holistic view, including land and sea country as well as intangible aspects

Appropriately compensate local First Nations cultural heritage specialists to undertake cultural heritage mapping and protection work

When using a cultural heritage consultant, work with communities to ensure local First Nations communities endorse the individual they will be working with

Ensure repatriation of cultural artefacts in consultation with cultural heritage custodians

Provide ongoing engagement and, where possible, opportunities for access to the project area, respecting traditional laws, customs and caring for Country. Where you do not have the right to provide access, facilitate discussions between landholders and First Nations communities

Introduce cultural heritage inductions for staff and sub-contractors where local groups build capability of proponents regarding cultural heritage and the nuances of any particular site

Regularly review Cultural Heritage Management Plans

Follow guidance from cultural heritage custodians about what information should be recorded about a particular site, respecting the secret and/or sacred nature of some aspects of cultural heritage

Leading practice

Incorporate ongoing cultural heritage monitoring and management in alignment with other project environmental monitoring activities

Ensure knowledge of cultural heritage is respected as the intellectual property of local First Nations communities

Put in place an appropriate remediation mechanism to address damage or destruction of cultural heritage where this is unavoidable or occurs with the consent of First Nations communities

Support First Nations peoples to revitalise language and create resources to educate and share, for example through support for Indigenous naming of places with the consent and consultation of Traditional Owners

Where feasible, ensure that decisions regarding whether interference with cultural heritage is acceptable rests with affected cultural heritage custodians

Principle 4:

Protect Country and environment

Principle 8:

Embed land stewardship

This section combines two of the First Nations Clean Energy Network's Principles to enable easy implementation for industry around caring for Country and the environment. Companies should support and respect First Nations authority and responsibility to preserve and protect areas of environmental value, acknowledging that First Nations peoples have sustainably cared for and protected this land for thousands of years. The Network articulates that this should be a consideration for the design, operation and transition phases as well as remediation and rehabilitation at decommissioning. In addition, renewable energy projects can demonstrate a better model of land use and development than past extractive projects. Enhancing the value of the land and protecting Country can be operationalised through a co-developed land and environmental protection plan.

This section outlines what we heard from industry and First Nations communities and provides guidance (minimum and leading practice) on the following aspect of protecting Country and the environment that emerged from our research:

- **Land and environmental management**

Land and environmental management

The Commonwealth Department of Climate Change, Energy, the Environment and Water describes Environmental Management Plans as *"how an action might impact on the natural environment in which it occurs and set out clear commitments from the person taking the action on how those impacts will be avoided, minimised and managed so that they are environmentally acceptable."*

Environmental management plans are also intended to provide a comprehensive framework designed to safeguard the intricate relationship between First Nations communities and their ancestral lands. This plan serves as a strategic blueprint for preserving both the cultural and ecological vitality of these territories. Recognising that First Nations peoples have been stewards of their lands for generations, environmental management plans leverage traditional ecological knowledge and modern conservation principles to ensure sustainable practices.

Existing frameworks relating to environmental management include:

1. *Environment Protection* and *Biodiversity Conservation Act 1999* (Cth) (EPBC Act): This is the primary federal legislation that addresses the protection of Australia's biodiversity and ecosystems. It covers matters of national environmental significance, including threatened species and ecological communities, migratory species, world heritage sites, and the Great Barrier Reef.
2. National Environmental Protection Measures (NEPMs): These are cooperative measures among Australian governments to set standards and guidelines for various environmental issues, such as air quality, water quality, and noise pollution.
3. State and Territory Environmental Legislation: Each state and territory in Australia has its own environmental legislation that addresses matters specific to their jurisdictions. Examples include the New South Wales *Environmental Planning and Assessment Act 1979* (NSW), Queensland *Environmental Protection Act 1994* (Qld), and Victorian *Planning and Environment Act 1987*.
4. Indigenous Land Use Agreements (ILUA) are legally binding agreements between native title groups and other parties in Australia. These agreements are designed to outline how Indigenous people can use and access land and waters where native title rights and interests have been recognised.

Environmental management plans are often submitted during the environmental impact assessment process and may be part of the documentation considered by government when deciding whether to approve a proposed action. If the proposed action is approved, environmental management plans are often referenced in the conditions of approval. In addition, approval conditions sometimes require revised or additional environmental management plans to be approved before the approved action can begin. These guidelines will assist with the preparation of environmental management plans in all these circumstances.

Land management practices encompass the strategies and methodologies employed to oversee the management of land, serving as the mechanisms to attain specific land use goals. The Australian Collaborative Land Use and Management Program (ACLUMP) which exists under the Department of Agriculture, Fisheries and Forestry, has placed a growing emphasis on refining land management practices due to the pivotal role they play in influencing more favourable land use outcomes, whether of an economic, social, or environmental nature.

"Wind has different challenges in terms of impacts on flora and fauna, particularly bird life. If First Nations community places an importance on a certain bird species it can be a problem."

Industry professional, interview April 2023

What we heard from industry and First Nations communities

Industry and First Nations leaders have shared valuable insights regarding environmental management and ongoing renewable projects, highlighting specific challenges related to different types of renewable technologies.

In the case of companies engaged in wind energy, they can encounter a specific set of challenges due to their potential impact on local flora and fauna, particularly bird life. These challenges become especially significant when considering the cultural connection that First Nation's communities have with specific species which can often intertwine with totemic and spiritual aspects. This connection often leads to conflicts arising from the need to balance renewable energy goals with the preservation of cultural and ecological heritage.

On the other hand, solar energy projects have a more dense land footprint, leading to discussions about land use conflicts, including impacts on agricultural lands and biodiversity.

Often First Nations communities aim to secure compensation for the utilisation of their land, fostering community uplift as a result. Frequently, companies enter these territories, execute their projects, and subsequently depart, leaving behind land mismanagement and disrupted socio-economic dynamics. This underlines the significance of establishing sustainable partnerships that benefit both the environment and the wellbeing of First Nations communities, which will enhance relationships and trust in the sector, as well as lead to better environmental outcomes and organisational reputation more generally.

Land management is best designed and implemented when informed by First Nations peoples. The effective stewardship of land, waterways and skies by First Nations peoples for more than 65,000 years, including the nurturing of land for production, fire safety and water security, is a rich resource available to industry working in collaboration with community. The opportunities available for effective land management were illustrated particularly by an example of the reintroduction of native grass species to a project site. Not only did this facilitate the return of native environment and support cultural practices, it also supported the project as the reintroduced species require less maintenance, reducing ongoing operational costs.

"We want to be compensated for damage done today plus sustainable investment in perpetuity and link to production of business. If your business succeeds so does our community."

First Nations community member, interview May 2023

Guidance

In any development on First Nations land, regardless of tenure, it is essential to partner with the community in the identification, planning and implementation of environmental protection and management if they have capacity and wish to be involved. Renewable energy projects represent an opportunity to continue to care for Country by embedding land stewardship in project development and operations. This has significant synergies with cultural heritage protection, environmental management, and procurement. In addition, it can improve connection to culture and wellbeing for First Nations communities and provide tangible benefits for project developers and operators. Working in partnership with local organisations is key to delivering this, as is building relationships with private landholders to facilitate access to land where possible, to enable land management to take place.

"I think it's just so important for everyone in this space to know that First Nations people know this land and country better than anyone else."

Industry professional, interview April 2023

Minimum practice

Engage with First Nations communities to understand local cultural and environmental considerations during site selection

Consult local First Nations communities in the development of a project-specific Environmental Management Plan, that:

- Seeks to identify and protect flora and fauna species that are culturally significant to local communities
- Engages early with First Nations communities about decommission planning and site rehabilitation

Leading practice

Engage local First Nations communities to conduct their own environmental impact assessment process from a First Nations perspective

Consult with local and regional First Nations groups about the possible presence of highly significant environmental and cultural sites. If such sites are present, then seek to allow First Nations communities to access, manage and protect these significant sites/areas. Relationships with private land holders will be key to facilitating access

Establish partnerships with First Nations environmental groups and businesses, such as Indigenous rangers, for involvement in ongoing environmental management and monitoring

Co-develop a project specific Environmental management Plan with local First Nations communities, that:

- Reflects the cultural and communication needs of the community, e.g. regeneration, soil, water, invasive species, conservation
- Involves community in environmental impact monitoring, including the collection of culturally significant data where relevant for communities
- Considers First Nations responsibility to care for Country and seeks to promote greater land stewardship across the whole project site

Facilitate knowledge sharing about land management and Caring for Country between First Nations communities, project proponents and private landholders

Principle 5:

Be a good neighbour

Communities must be consulted about a project's visual, noise, traffic and other impacts, such as use of shared water resources, and disposal of waste. The First Nations Clean Energy Network highlights that First Nations communities should be involved in identifying ways to manage and mitigate these impacts.

This section outlines what we heard from industry and First Nations communities and provides guidance (minimum and leading practice) on the following aspect of being a good neighbour that emerged from our research:

- **Communicating and managing impacts**

Communicating and managing impacts

What we heard from industry and First Nations communities

Effectively communicating and managing impacts in collaboration with First Nations communities is a key component of meaningful engagement. The impacts on First Nations communities from the development of renewable energy projects are broad – ranging from environmental and cultural heritage through to strains on local infrastructure. For example, we heard from a First Nations community member that workers from a renewable energy project being developed in their area were filling up local motels, with the flow-on effect that there was no emergency housing available in the community. Additionally, access to rental properties can become increasingly difficult due to the influx of workers in the region for renewable projects.

It is also important to consider the cumulative impacts of the renewable energy transition as significant amounts of new infrastructure, such as roads and transmission infrastructure, are being built across the country. New infrastructure has the potential to benefit community when it is developed in consultation and collaboration with local needs and insights.

Guidance

Being honest about the potential impacts of project developments and involving communities in identifying ways to minimise negative impacts will build trust and social licence. It is important to place yourselves in the shoes of the community and consider the broad range of impacts and how this may exacerbate existing challenges the community faces. This includes being transparent about when impacts and risks are unknown or uncertain.

Billy Anderson,
Twenty Mile Homeland, Borroloola
(Original Power)

Minimum practice

Gather input from communities on potential impacts, including if and how they want to be involved in minimising and managing negative impacts and maximising benefits

Integrate First Nations considerations into the management plans that are required for planning and approval processes

Establish a two-way dialogue to openly and honestly communicate the potential visual, noise, traffic and other impacts at each stage of the project

Consider and manage negative impacts to shared resources, such as water and housing

Leading practice

Involve local First Nations communities in project design, for example proactively discuss how the position or placement of infrastructure, if possible, can be adjusted to minimise impacts to First Nations communities and integrate throughout the project design process

Arrange for members of local First Nations communities to visit an existing operating site (wind, solar, etc) to gain first-hand experience of the impacts, sights, and sounds

Principle 6:

Ensure economic benefits are shared

The economic benefits of renewable energy projects should be shared with First Nations communities. The First Nations Clean Energy Network highlights that these benefits will differ depending on the communities' needs and aspirations. Companies should therefore consider a range of options from employment, procurement and equity and co-ownership models in consultation with the community. The Network also emphasises transparency and accountability in implementation of employment strategies as key. It is important to note that this section is closely linked to Principle 7 (see page 62) which includes community benefit funds, as many owners and developers deliver social and economic benefits through a single agreement.

This section outlines what we heard from industry and First Nations communities and provides guidance (minimum and leading practice) on the following aspects of economic benefits that emerged from our research:

- **Employment**
- **Procurement**
- **Co-ownership and equity**

> "It's not for us to say you need employment... the last thing we need is for a renewables company to say we will create 20 jobs and Traditional Owners to say that's not what we want."
>
> Industry professional, interview May 2023

Employment

What we heard from industry and First Nations communities

First Nations people remain under-represented in the workforce, with less than half (49.1 per cent) of working age First Nations Australians in work in 2018, compared to 75.9 per cent of non-Indigenous Australians[4]. Long-term and sustainable employment is central to closing the gap[5] in socioeconomic indicators for First Nations peoples. Upskilling future generations and building out career pathways within the renewable energy industry will enable long-term employment opportunities with intergenerational economic impacts that benefit individuals, families, communities, and local economies.

This also helps build the critical workforce for the sector and minimises the costs and social impacts of bringing staff in from other areas.

Employment is often the primary focus of the renewable energy industry's engagement with First Nations peoples. However, we heard that First Nations peoples are facing significant challenges entering the clean energy workforce, and the industry is also seeking further support to understand how best to facilitate that entry.

Some First Nations community members also expressed that employment is not a priority for all First Nations communities, with procurement sometimes being the preferred alternative as this keeps talent within First Nations businesses. It is critical that companies consult communities to understand their specific needs and preferences in relation to economic participation in renewable energy projects.

Typically, industry focuses on setting employment targets, often to comply with government approval requirements. From the industry's perspective, upholding and delivering employment targets over the lifecycle of a project was identified as a key challenge. In addition, employment targets are sometimes weakened or abandoned entirely as projects are sold or contracted out during different phases of the project (e.g. after development approvals or after construction).

Beyond this initial target-setting during the approval and construction phases, there is often a lack of any additional commitments made to increase and/or maintain employment over the project lifecycle. Employment plans often also lack a focus on culturally safe recruitment practices, cultural competency training for employees and managers, career development pathways and other retention strategies, and commitments for First Nations representation in senior leadership.

First Nations community members reported that employment targets set by renewables companies were often far below the demographic makeup of the First Nations population in the local community. That is, while First Nations people make up 3.8 per cent of the Australian population, their representation in some communities is far higher.

We also heard that while targets may be set, there is often no information or guidance provided to communities regarding current job openings, skills requirements, lengths of contracts, nor any ongoing communication of the progress by companies towards their stated employment targets. Some First Nations communities therefore experience a level of distrust and a perception that target-setting solely serves the purpose of ticking the box for an approvals process.

In the few examples where companies have successfully hired and retained First Nations local community members in ongoing roles, a significant level of trust and legitimacy was built with the company, contributing to an overall positive engagement experience.

Skills gaps between local First Nations peoples and the employment opportunities available on renewable energy projects also factored in the challenges faced by industry in realising their employment targets. This makes early engagement critical for enabling First Nations communities to fully realise the available opportunities. Training initiatives will be key to closing any skills gaps between First Nations job seekers and forthcoming roles available in the renewable energy industry, however, this takes significant forward planning.

> "There's not a lot of trust with big companies – they promise employment, benefits and all things that never get delivered."
>
> Traditional Owner, interview May 2023

[4]Minderoo Foundation, Indigenous Employment Index (2022) <https://www.minderoo.org/indigenous-employment-index>

[5]Department of the Prime Minister and Cabinet (Cth), Closing the Gap 2008-2018, Report (2019).

Case study: Employment support

↓ Bomen Solar Farm, NSW (Beon Energy Solutions)

Beon Energy Solutions (Beon), an energy solutions construction company delivering large-scale energy projects across Australia, has actively engaged with local First Nations communities, providing training, employment and business opportunities through their industry-leading First Nations Engagement and Participation Program. Their goal is to ensure First Nations peoples participate in and benefit from large-scale solar farms built in or near First Nations communities.

In constructing the Avonlie solar farm in Southern NSW, Beon employed over 30 local First Nations people on the project, many of whom were long-term unemployed. Pre-employment training and post-employment support was provided, as well as steps to create a culturally safe working environment. As a result of their program, most of those previously unemployed workers within months from the end of their time with Beon had full time, permanent employment.

Beon's First Nations Engagement and Participation Program included the following.

Engagement and relationship building with the local First Nations Community through:

- Meeting and liaising with elders
- The creation of a First Nations Advisory Committee
- Listening to the needs and aspirations of the local community, which led to assisting the local First Nations co-op to develop a funding proposal for a First Nations community centre
- The use of a local First Nations artist to design art for personal protective equipment to be used on the project
- Post-project, Beon funded rooftop solar on seven First Nations owned buildings as a show of appreciation for the way the community supported and contributed to the project
- Employment of two local First Nations women as engagement coordinators
- The running of community events specifically for the First Nations community – lunches and information sessions - to promote and inform community about the project

Pre-employment training and support which included:

- Assistance provided to applicants throughout the application process including paperwork support
- An ID day where Beon supported applicants to get their identification papers in order
- White-card training (general construction induction training)
- A 1-week pre-employment program for Aboriginal women and men. This included an emphasis on health and safety, positive communication, working in teams, understanding processes on site and a site visit and introduction to project managers prior to commencing work

Creating a culturally safe working environment through:

- Employing a full time Aboriginal Community Engagement coordinator
- Conducting a community smoking ceremony to launch the project
- Cultural awareness training for all managers
- Celebration of Reconciliation and NAIDOC week
- On the job mentoring and support for new employees engaged from the local community
- Facilitating an exchange with four Aboriginal workers from the NT who worked on the project

Post-Employment Support by:

- Assisting with the preparation of CVs, providing references and actively approaching local Government and business regarding job opportunities
- Inviting local construction companies to site to meet with some of the Aboriginal workers around future employment opportunities
- Providing post job training in traffic management
- Personal mentoring and support for job interviews

"When you've got industry saying let's talk about job opportunities, we say go away. There will be three jobs maybe in the reality of your project. Guess what... they'll be highly trained technicians who need a lead time for them to be meaningful."

Representative of Traditional Owner organisation First Nations community member, interview May 2023

Guidance

It is critical that employment opportunities provided by renewable energy projects, including both direct employment and procurement of local services, meet the economic, social and cultural needs of communities. Early and meaningful engagement with First Nations communities in relation to their employment priorities and aspirations and to communicate project opportunities will increase the success of training, employment and economic participation initiatives. Industry workforce planning is also key for identifying and addressing any skills gaps across the sector. Training needs to be planned in consultation with First Nations communities well ahead of project construction, to ensure appropriately trained First Nations candidates can be employed on renewable energy projects. Consideration should be given to apprenticeships and traineeships that provide on-the-job training and career development pathways for First Nations job seekers. Focus should also be given to longer term operational roles, which may require additional training or study compared to entry level construction positions.

If employment has been identified as a priority or goal by local First Nations communities, follow the guidance set out below. Otherwise work with local First Nations communities to identify other ways to share economic benefits and add value for the community, for example through procurement (Page 55) or community benefit funds (Page 63).

Terrence O'Keefe, Marlinja NT (Original Power)

Minimum practice

Establish a local employment strategy or plan that:

- Builds First Nations employment into the company's overall recruitment policies
- Includes project-specific employment targets that are representative of the demographic makeup of the community
- Informs First Nations communities about the number of jobs, types of jobs, and expected length of contracts in the early planning phase of the project. It is critical to manage expectations and acknowledge uncertainties
- Advertises opportunities locally and in ways appropriate to the First Nations communities
- Engages local First Nations employment organisations to match local job seekers to upcoming and existing positions
- Identifies specific opportunities for First Nations women and gender-diverse persons to ensure gender diversity
- Provides training and support mechanisms
- Engages local Traditional Owners or First Nations community members to provide cultural awareness training to all staff, contractors, and unions represented on the worksites, where possible (otherwise sourced from certified First Nations training providers)

Leading practice

Establish a local and culturally safe First Nations employment strategy (potentially co-designed with local First Nations groups) that:

- Engages with the local community to identify which jobs fit the community's economic, social and cultural needs
- Sets targets throughout the project lifecycle for First Nations employment, including in maintenance and operations as this provides longer-term employment outcomes
- Embeds targets in contracts with third-parties, EPCs and sub-contractors to ensure future owners/operators are bound to existing agreements
- Assigns accountability for employment targets to senior HR personnel
- Regularly reports back to the local community on how targets are being met
- Undertakes skills analysis for the local community and broader region and provides training accordingly
- Provides pre-employment support and mentoring for First Nations job seekers
- Supports sustainable and future focused training and skills development, including high school initiatives and apprenticeships
- Funds First Nations scholarships for training courses, including through collaboration with other developers and proponents
- Focuses on upskilling and leadership opportunities to drive learning and career development and ensure First Nations people are not limited to entry-level roles
- Includes the development and implementation of a retention strategy, including monitoring and reporting to community and company governance
- Supports or establishes community education programs to increase knowledge of renewable energy

"Around creating real partnerships, providing capacity for First Nations business. We know the statistics around First Nations businesses employing First Nations peoples. Making sure whatever the community's desires are, they are included and considered."

Developer, interview April 2023

Procurement

What we heard from industry and First Nations communities

Procurement of goods and services was identified by both stakeholder groups as a significant opportunity to strengthen First Nations economic development and create real partnerships between industry and community. First Nations businesses can contribute to a broad range of aspects of project development and operation; from catering and transport to groundworks and media. However, project owners and developers raised issues of supply and demand, with limited local capability or fewer opportunities for procurement in earlier stage development processes, highlighting the need for "possibility and practicality" to inform procurement strategies. Proponents also expressed that, similarly to employment, they had no control of procurement decisions when projects are in construction or relying on third parties. Therefore, commitments for First Nations communities may vary throughout the life of the project, often with little oversight and reporting.

There is a wide range of both maturity and ambition among industry developers and owners. While some respondents found it challenging to reach targets, such as those regulated by state governments, others were focused on enhancing the resilience and independence of First Nations businesses through long-term contracts and training.

Some Traditional Owners reported that procurement was preferred over direct employment, highlighting the need to engage early and meaningfully with communities to understand and incorporate their distinct preferences and priorities. First Nations organisations and businesses often face capacity issues, limiting them from applying for and winning major contracts with developers and owners. For example, a Traditional Owner organisation reported lacking necessary equipment, such as mowers and tractors, to carry out revegetation on large sites.

Industry can provide support to First Nations businesses, potentially in the form of equipment or training, to overcome these barriers and build effective partnerships. Support should be tailored to drive independence and capacity over time and to create change that will last beyond the project lifecycle. This will in turn lead to project benefits through fostering of positive relationships, engagement with local business that understands and is committed to local priorities and protocols, and building community capacity to meet future project needs.

"My downfall is we have the labour side but haven't got the assets to apply for tenders for those projects… they more or less just said they will give us the first chance but if we can't they'll go to another contractor with the assets."

Traditional Owner, interview May 2023

Case study: First Nations Procurement Targets

TransGrid has committed to increasing indirect economic spend to First Nations businesses through Major Project Contracts by allocating a minimum spend of 2.5 per cent of the Engineering, Procurement and Construction contract on First Nations workforce participation and procurement (including labour, goods and services).

To support the procurement spend target and encourage First Nations procurement, major project teams seek to engage early with community to:

- **Discover prospective local suppliers within the community**
- **Map out and analyse key stakeholders**
- **Communicate the potential pipeline of work/ participation opportunities within the community**
- **Create local skills training and job readiness pathways**

In addition, an Aboriginal Participation Plan will also be developed detailing capacity-building strategy through joint ventures and alliances between First Nations suppliers to acquire bid opportunities.

Guidance

First Nations procurement delivers a range of benefits to communities and renewable energy businesses. Early engagement and partnership will assist in informing targets, planning and the attainment of sustainable benefits. Extra support may need to be provided to First Nations businesses to ensure they can participate in procurement processes and win contracts. There is the potential for an industry body or Government to deliver programs that enhance the capacity of First Nations business or provide greater information to renewable energy companies on procurement approaches.

Minimum practice

Establish a First Nations procurement strategy that includes:

- Preference clauses and targets for procuring from First Nations businesses, in-line with local or national government Indigenous procurement plans
- Local advertisement of supplier opportunities, including communication of timelines, budgets and other relevant procurement information
- Provision of secure, long-term, 'bankable' contracts for First Nations businesses that provide a firm foundation for sustainable growth

Actively seek to identify and engage with First Nations businesses through Supply Nation, Indigenous Chambers of Commerce, Indigenous business registers, other First Nations organisations, networks, and direct local engagement

Develop a register/web portal where local businesses can sign up for project updates and supplier opportunities

Leading practice

Establish your company's own First Nations procurement strategy that includes:

- Developing a local procurement plan with set procurement targets for local and other First Nations and Traditional Owner businesses that reflects the regional First Nations population
- Preference clauses for procuring from Traditional Owner businesses embedded within tender assessment processes
- Identifying appropriate and effective communication strategies for promoting opportunities
- Embedding procurement and employment targets for third party contractors through Indigenous Participation Plan requirements
- Ensure future owners/operators are bound to existing supplier agreements. This includes transitioning relationships with First Nations suppliers
- Provide targeted and coordinated support to build First Nations capacity to tender for work packages, for example providing briefings/training to support local supplier's ability to meet project needs
- Support education, training, and business development initiatives for First Nations entrepreneurs
- Help with sourcing finance for First Nations business, such as providing loan guarantees
- Holding regular Indigenous procurement briefings with local and regional First Nations businesses

Co-ownership and equity

What we heard from industry and First Nations communities

As asset owners, co-owners or beneficiaries, First Nations communities can harness the economic benefits of renewable energy projects and enjoy the right to self-determination. First Nations and industry stakeholders pointed to Canada as an aspiration and example of First Nations ownership and equity agreements. In 2022, Indigenous communities owned, co-owned, or have a defined financial benefit agreement in place for almost 20 per cent of Canada's electricity-generating infrastructure, which was almost all renewable.[6]

Access to various federal, provincial, and utility-based financing schemes have been instrumental in providing equity and capacity for renewable energy projects.

Some First Nations community representatives expressed a strong desire to enter into ownership and co-ownership agreements in renewable energy projects. Agreements of this sort enable First Nations communities to participate beyond entry-level employment or procurement contracts, instead providing long-term and sustainable economic benefits directly to the community for generations to come.

"It's an opportunity to level up, not just say give us your menial jobs... to be treated as a partner."

First Nations community member, interview May 2023.

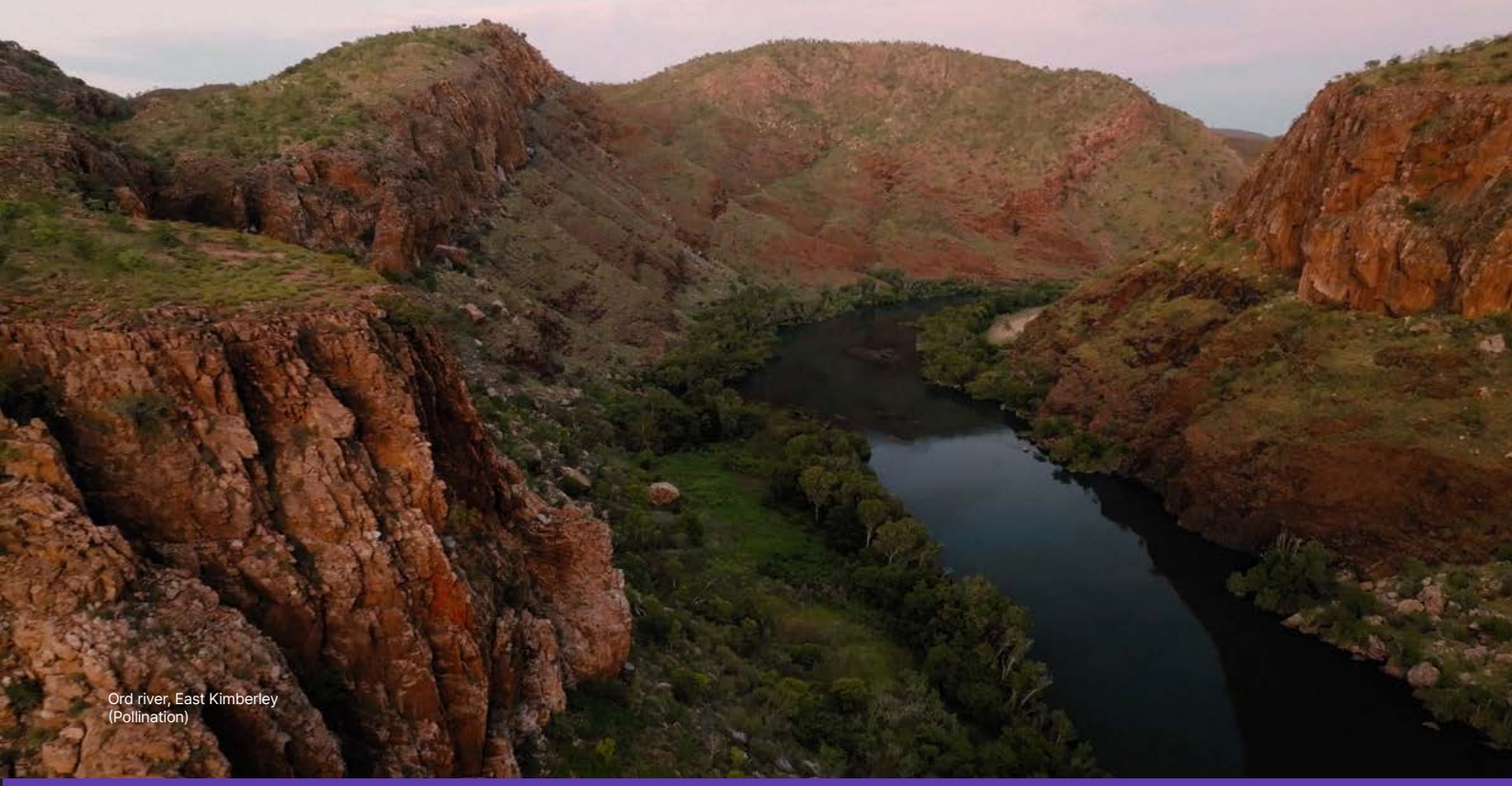
Additionally, greater participation in and governance of projects by First Nations people fosters a sense of empowerment and a new skillset to communities they haven't previously had the opportunity for. It could also provide greater land and energy security as well as involvement in cultural heritage management.

Ambitions vary drastically within industry: we heard some developers acknowledge equity and ownership as the biggest economic opportunity in decades, while others were focused solely on compliance with cultural heritage and employment requirements. Industry should recognise First Nations peoples as potential proponents and partners and look to enter innovative long-term agreements to support the development of meaningful, First Nations-led renewable energy projects.

"The question [First Nations community] had for our board is "where's the long-term intergenerational wealth? Can we invest?" We said absolutely. We would like you to have a stake in 100 years' time for your people."

Developer, interview April 2023

[6] REC – Market Snapshot: Indigenous Ownership of Canadian Renewable Energy Projects is Growing (cer-rec.gc.ca)



Ord river, East Kimberley (Pollination)

Case study: Equity models

Equity investments involve acquiring ownership stakes in a renewable energy project or company. With a number of recent equity agreements in place in Australia, the industry is evolving in this space. It is important to illustrate that equity and ownership will look different based on the proponent, the community, and other factors such as land tenure and regulatory landscape.

East Kimberley Clean Energy project

The proposed $3 billion green energy, hydrogen, and ammonia export project is unique in its partnership between climate change investment firm Pollination and Traditional Owner groups. MG Corporation, representing the Miriuwung and Gajerron people, Balanggarra Aboriginal Corporation, the Kimberley Land Council and Pollination will each own one-quarter of the project. The project partnership, called Aboriginal Clean Energy Partnership, has created an opportunity for Traditional Owner groups to co-design the parameters of the project. This model embeds cultural heritage, environmental, engineering and approvals in project development activities, significantly de-risking the project and accelerating delivery.

Western Green Energy Hub

The Mirning People, the Traditional Owners of a large coastal stretch of South Australia and Western Australia, will have a share in the $75 billion project. The Mirning Traditional Lands Aboriginal Corporation RNTBC (MTLAC) is the registered native title representative body corporate that manages and protects the native title rights and interests of the WA Mirning People. InterContinental Energy recognise the Mirning People in the corporate framework of the project through a shareholding and in a corporate charter. The entity Mirning Green Energy Limited (MGEL) holds shares in the Western Green Energy Hub and is able to appoint a person to be a director on the Western Green Energy Hub Board. Greater involvement in the governance of the project will help support better outcomes for heritage protection and other agreements.

Yindjibarndi Energy Corporation

The Yindjibarndi Aboriginal Corporation, representing the Yindjibarndi People as the Traditional Owners in the Roebourne region of the Pilbara, has partnered with ACEN to form the Yindjibarndi Energy Corporation (YEC). The YEC will develop, own, and operate large-scale renewable energy projects in the Pilbara region. The leadership of the YEC includes an ACEN-appointed director and chairperson and a Yindjibarndi-appointed director. Some of the principles under the leading partnership agreement include: Yindjibarndi approval for all proposed project sites on Yindjibarndi Ngurra (Country), Yindjibarndi equity participation of 25% to 50% in all projects, preferred contracting for Yindjibarndi-owned business, and training and employment opportunities for First Nations people.

A number of barriers to ownership, equity stakes and project partnerships were raised by both First Nations and industry representatives. While there are a lot of significant opportunities for First Nations communities, there is a lack of finance to harness them. First Nations communities and organisations need access to capital to come to the negotiating table as true partners, highlighting the need for targeted funding.

Some First Nations community members expressed they need a better understanding of renewable energy projects and access to project-specific information in order engage appropriately and effectively in negotiations (see Principle 2 for further information). This includes a thorough understanding of equity and ownership risks for First Nations communities, such as liabilities and financial risks of the project. It is critical that mechanisms are in place to ensure First Nations peoples participate in a fully informed way.

Developers and owners raised land tenure as a challenge to entering agreements. While Native Title presents opportunities for co-ownership, proponents have existing commitments to existing landholders on freehold land and the Government on Crown land.

Co-ownership and equity agreements were recognised as leading practice among industry professionals. However, there is a significant gap between aspiration and how it would look in practice, with many questions around the role of industry and government in enacting this and ensuring that both industry and community are clear about the benefits and risks of equity and ownership sharing. Emerging practice illustrates that equity and ownership options look different for each community, proponent and project.

Guidance

Co-ownership and equity are important considerations for renewable energy projects and have potential benefit for both communities and industry. It is critical that all parties are transparent about equity and ownership options, opportunities and preferences, as well as risks and challenges. There is a significant role for industry and Government to play in ensuring First Nations communities have an equal seat at the table. In particular, a dedicated financial mechanism, such as a development bank, is needed to finance First Nations ownership in renewable energy projects.

Leading practice

Explore opportunities to enter equity partnership agreements with First Nations peoples and communities, sharing benefits, risks and potential financial facilitators for community

Support First Nations peoples and communities to enter into equity and partnership agreements that may include:

- Funding/grants for First Nations communities/PBCs to participate in specific critical project steps like feasibility studies, impact assessment, financial analysis and project approval
- Support access to independent business (including legal and financial) advice and mentoring

Ensure First Nations peoples and communities have the opportunity to be involved through co-governance of projects such as seats on decision-making bodies such as the board and/or through a steering committee

Appropriately communicate all project risks to First Nations communities and confirm their understanding and agreement

Support the establishment of a dedicated investment grant fund and/or a development bank to create and/or finance First Nations ownership

Principle 7:

Provide social benefits for the community

Projects should provide social benefits for local First Nations communities that meet their distinct needs. The First Nations Clean Energy Network highlights energy security as an example given many First Nations communities experience unreliable and expensive electricity. Providing clean and affordable energy can help improve health, social, economic and educational outcomes. Like economic benefits, these will need to be tailored to the aspirations and needs of the community. For successful implementation, options will need to be discussed at an early stage with delivery built into the project.

This section outlines what we heard from industry and First Nations communities and provides guidance (minimum and leading practice) on the following aspects of providing social benefits to community that emerged from our research:

- **Social benefits**
- **Energy security**

> "It's not up to us to say we will bring you a bunch of whatever, screens and desks for the school, the community needs to come up with these ideas."

Industry professional, interview May 2023

Social benefits

Social benefits refer to positive effects that a project can have on a community as a whole, and include improvements in health, education, the environment and the overall wellbeing of the community.

What we heard from industry and First Nations communities

Developers recognised the significant opportunity to provide a broader range of benefits to First Nations communities through renewable energy projects. Some saw this as an opportunity to leave a positive and sustainable legacy and increase the resilience and wellbeing of communities. Many industry respondents were still in the process of defining what these benefit-sharing agreements will look like over the course of their projects, but these often focused on education, housing, community centres and sports. Both First Nations and industry representatives acknowledged that it is critical that benefits meet the distinct preferences and ambitions of local First Nations communities.

As First Nations communities are diverse and experience unique challenges, a 'one size fits all' approach will not meet the needs of communities.

"Need to listen, if communities say 'actually in this community it's housing' – then that's what it is."

First Nations community member, interview April 2023.

First Nations representatives expressed a vast range of social benefit priorities, including community centres such as a drop-in centre for youths and a domestic violence shelter for women, and greater investment in schools and housing. Engaging early and building a meaningful relationship with the local First Nations community is critical to understanding the specific needs of the community and building long-term benefit-sharing agreements (see Principle 1).

An understanding of the social context and building a trusting relationship with the local community are key to achieving positive social impacts and have the potential to facilitate project outcomes through enhanced relationships, supporting community capacity, and enhancing infrastructure that may attract and support employment recruitment and retention. Early and ongoing engagement with First Nations communities is important to understand what is meaningful to them and how industry can support. We heard developers struggled to deliver benefits where they hadn't effectively consulted the community. For example, a developer offered scholarships to school-aged children in the community but there was no uptake. Successful social benefit initiatives are identified and co-designed with local communities, to ensure they meet the distinct cultural, social and economic needs and priorities of the community and are implemented appropriately and effectively.

Some developers and owners have established community benefit funds to support communities to harness the social benefits of renewable energy projects. However, it is important to note that the examples of these funds shared by respondents are not all solely dedicated to First Nations communities. First Nations community members expressed that dedicated community benefit funds should be separate to broader community funds, particularly for Traditional Owners as they experience different impacts to general landholders and affected communities. Industry respondents also shared that although a dedicated First Nations community benefit fund was not part of every project, it should be standard practice across the industry.

Project owners raised concerns about the governance of community benefit funds, wanting them to have the greatest positive value for communities, while First Nations community members highlighted the importance of self-determination to spend the funds in a manner determined by community. One Traditional Owner organisation is looking to establish a trust on behalf of the community to facilitate this.

"Identifying their priorities, might be health-oriented. Say how can we help them build on that, whatever the aspiration is. It doesn't necessarily have to be energy related. Some proponents think 'we will gift them a few spare solar panels'."

First Nations community member, interview May 2023

"As Traditional Owners we shouldn't be competing with the rest of the community for limited funds."

Representative of Traditional Owner organisation, interview May 2023

Guidance

Benefit-sharing agreements must be designed to meet the unique priorities and aspirations of the local First Nations community. Effectively reviewing and reporting back to community on the progress and outcomes of these is also critical.

Minimum practice

During project feasibility stage, develop an understanding of community priorities, needs and aspirations for benefit-sharing

Establish a dedicated First Nations benefit-sharing agreement with benefits and social investment tailored to the needs and priorities of the community

Provide local sponsorship opportunities for local and regional community organisations and initiatives. Encourage First Nations groups to apply for these sponsorship opportunities

Leading practice

Build in delivery of benefits/agreements into governance of project and review these regularly to ensure they still meet community needs

Collaborate regionally with other proponents to support joint initiatives to meet First Nations community needs and aspirations (for example, funding ongoing, local apprenticeships or community housing)

Co-design a First Nations community benefit fund or on-going sponsorship program, including:

- Distributing a percentage of project revenue direct to First Nations communities, ensuring they can determine and allocate spending on social benefits according to their needs
- Providing long-term and sustainable funding (i.e. not year-on-year grants), working with future owners and operators to maintain this
- Determining with First Nations community how they want the funds to be distributed, for example through local council or other mechanism, to ensure self-determination, including First Nations involvement in governance arrangements

Where projects don't have First Nations communities nearby, establish a "sister community" to engage with and provide benefits to. This will require the owner and developer to build a relationship with the community and work closely together to identify opportunities for the project to provide benefits that meet the sister community's aspirations and needs

"What I've seen is solar installed and it's just a 6.6KW system. That's great for homes that aren't overpopulated but First Nations homes often are... Energy literacy comes into it too. The energy literacy of how to read your bill and understand what solar you're using."

First Nations community member, interview May 2023

Energy security

Energy security refers to the uninterrupted availability of energy and includes timely investments to supply energy in line with economic developments and environmental needs.

"If you've got something like a proposed solar farm in the Northern Territory surrounded by communities with no energy security, it seems a no-brainer to sort that out first."

Industry professional, interview May 2023

What we heard from industry and First nations communities

First Nations communities expressed concerns about current access to secure and reliable energy. Many First Nations households, particularly in remote areas of Central Australia, rely on diesel generators or prepaid power which is mandated by the government in some First Nations communities and social housing. This poses significant risks in maintaining energy for the necessities for living on Country in an increasingly hot climate and contributes to a range of negative social, health and economic outcomes.

First Nations communities are looking forward to transitioning to renewable energy to support their energy security. However, understanding and awareness among First Nations community members of available renewable options are low, impacting their capacity to identify benefits and costs of each option and to engage proactively with developers. The high costs of renewable energy, such as rooftop solar and batteries, are a significant concern for First Nations households. Increased energy literacy, for example around installation, batteries and reading energy bills, will help empower First Nations communities in the clean energy transition.

While energy security was not identified as a priority among industry representatives, some recognised the potential opportunity.

However, many industry members noted that regulation posed a significant challenge, as strict rules are imposed on remote communities around who is generating, supplying and selling power. Developers called for Government to play a role in addressing this barrier and the potential for greater collaboration between proponents to coordinate funding. However, First Nations communities expressed that co-designed small- to medium-scale community-led projects are preferred over hosting large-scale export-focused projects.

Case study: Marlinja Community Solar Project

A solar-powered community centre has been created in partnership between the Marlinja community and Original Power's Clean Energy Communities Project. Marlinja, like many remote communities in the Northern Territory, experiences extreme energy insecurity, with high household energy costs and lengthy and regular disruptions to power. With wet season temperatures above 40 degrees and overcrowded, poorly designed houses, the inability to afford and access reliable energy has been a significant concern for the community.

The community centre will not only provide respite from the frequent blackouts that impact local households but also provide a hub for children, family, and cultural activities, leading to positive social and cultural outcomes for the community. This is the first step in a larger plan for Marlinja to transition to 100 per cent renewable energy, generating its own electricity from solar power with battery storage. As a community-led and community-owned renewable energy project, the transition to solar will empower the Marlinja community while ensuring they directly receive the benefits of cheaper, cleaner and more reliable energy. This will help meet the needs of local families and businesses, empowering local community members and supporting economic development.

Educating the local community on renewable energy was built into the delivery of this project. Original Power engaged community members in project planning, installation of rooftop solar panels, and training in electrical technology and carpentry skills. A Solar Schools Day was also held to educate Marlinja students on how solar power works for the community.

Guidance

Providing reliable, affordable, and clean energy to First Nations communities will provide long-term social and economic benefits. This requires collaboration within the renewables industry and significant support from the Government, such as regulatory change and targeted policies.

Minimum practice

Consult with local and regional First Nations community to understand their energy needs and priorities

Provide energy literacy education to community if identified as a priority by local First Nations communities

Leading practice

In areas with low energy security, establish a First Nations energy justice and security plan that seeks to address local and regional concerns. Initiatives may include:

- Assistance with installation of rooftop solar and storage on social and community housing
- Coordination and delivery of small-scale solar to First Nations communities
- Support for communities to undertake local renewable energy projects, e.g., microgrids, through the provision of training, information, and funding

Consider how you can address energy security for First Nations communities in need on a larger scale. This may include collaboration with other proponents at a regional scale or, through your national footprint, advocacy and partnering with industry or First Nations groups

Consider how you can ensure long-term energy security for First Nations communities, such as embedding requirements in contracts to ensure future commitments

←
Marlinja NT
(Original Power)

Principle 9:

Ensure cultural competency

Cultural competency is the understanding of cross-cultural differences and the ability to adapt to other cultural environments. This extends beyond cultural awareness, which is the recognition of one's own and other cultures, cultural competency is key to building respectful and trusting relationships with First Nations communities. The First Nations Clean Energy Network highlights that companies must develop and embed ways for personnel at all levels to learn about local culture and heritage. This can be operationalised through a Reconciliation Action Plan to develop a strategy to have meaningful relationships with, and provide opportunities for, First Nations peoples.

Accountability and involvement from senior level leadership is key to success.

This section outlines what we heard from industry and First Nations communities and provides guidance (minimum and leading practice) on the following aspects of cultural competency that emerged through our research:

- **Training**
- **Senior buy-in and cultural shifts within business**
- **Reconciliation Action Plans (RAPs)**

"Companies and workers need to understand how to talk with First Nations peoples, who to talk to, what questions they should be asking, legal and other rights First Nations peoples hold"

Developer, interview May 2023

Training

What we heard from industry and First Nations communities

Cultural competency training serves as a valuable tool for improving understanding and communication skills when interacting with individuals from different cultural backgrounds. The importance of training lies in its ability to foster inclusivity, facilitate effective communication, and nurture mutual respect among people from diverse cultural backgrounds, leading to a culturally safe workplace. Beyond these essential benefits, cultural competency training also plays a pivotal role in mitigating bias and discrimination, promoting more adept problem-solving, and offering

invaluable contributions to a wide range of fields and industries. It was noted during consultations that ensuring cultural competency was extremely important to both industry leaders and First Nations communities, who both recognise the significance of maintaining a strong connection to culture, Country, and the preservation of history.

Cultural competency training (as opposed to cultural awareness training) is a way for organisations to develop their understanding, skills and confidence in working with First Nations peoples through listening, reflecting and practising in a culturally safe space that supports open and honest dialogue. This base-level learning can then be built upon through community-specific cultural awareness training. Cultural competency training should therefore be implemented as a fundamental and ongoing skill development focus for any organisation working in the renewable energy sector.

Currently, several companies are already actively participating in these cultural competency trainings as part of their stakeholder engagement processes. One example reported was a developer engaging in the IAP2 stakeholder engagement training, which serves as a foundation for upholding the highest standards in stakeholder engagement practice. However, companies should focus on training specifically related to First Nations culture, such as the AITSIS core cultural learning course. Many developers and owners have noted that there is a lack of dedicated First Nations training capacity in regional First Nations communities, leading to a reliance on online or general training modules rather than a localised approach. Some companies reported that there is a desire to shift away from conventional PowerPoint presentations to adopting induction videos that effectively convey the significance of cultural comprehension which have been co-designed in close collaboration with Traditional Owners showcasing their distinct Countries.

Guidance

Cultural competency training is critical to build the competence and confidence of the renewable energy sector to work appropriately and effectively with First Nations peoples. This training will provide a base upon which localised cultural awareness training can build, facilitating respectful and meaningful engagement and improving outcomes through stronger agreements between industry and First Nations communities.

Minimum practice

Develop and deliver cultural competency training as a component of site inductions and training for all site-based employees

Ensure cultural competency training is provided for any contractors engaged on renewable energy projects

Leading practice

Develop and deliver organisation-wide cultural competency training conducted by a First Nations certified training organisation

Ensure regular cultural competency training is built into leadership accountability and governance structures

Engage local First Nations community to develop and deliver in-person cultural competency training for project team and contractors/third parties prior to project construction that includes specific local history, cultural practices, and customs

Set internal targets for the percentage of all organisational staff that have completed cultural competency training

Senior buy-in and cultural shift within business

Appropriate and effective engagement with First Nations communities is significantly reliant on the genuine engagement and commitment of senior leadership and recognition of the need for cultural shift through learning, engagement and system change.

What we heard from industry and First Nations communities

We heard from developers that when senior staff commit to good practice First Nations engagement and cultural awareness, this has significant impacts throughout the business. However, it was highlighted that few companies truly understand the importance of this, with First Nations community members and some companies calling for a greater shift within industry, particularly among international proponents.

During consultations with renewable energy companies, it was noted that there is a need for holistic integration of Indigenous perspectives, values, and knowledge systems into the company. Companies that were engaged recognised that by embracing cultural competency and transforming the company culture, they can gain a competitive edge by fostering inclusive workplaces, respecting diverse backgrounds, and navigating international markets effectively. This transformation is essential for long-term sustainability and relevance in an interconnected world where diversity is leveraged for innovation and growth.

> "One of the messages for industry is there's a lot of internal work to do. There's a big internal piece, it's not just community engagement: it's a cultural journey and a different way to look at things."
>
> Industry professional, interview April 2023

Guidance

A commitment to cultural awareness and meaningful First Nations engagement at the senior level of an organisation will have practical and symbolic flow on effects throughout the company. However, it is critical that this commitment is genuine and not just paying lip service to notions of reconciliation. This Guidance provides a starting point; however, organisations should embed programs suited to the structure of the organisation.

Minimum practice

Ensure that there is an Acknowledgement of Country policy, that company leaders understand how to conduct a genuine Acknowledgement and encourage this as standard practice for all external meetings

Encourage company leaders to acknowledge, respect and participate in cultural events such as NAIDOC week and Reconciliation Week

Ensure protocols are in place to engage and remunerate Traditional Owners to provide Welcome to Country at large significant events hosted by the company, and that leaders understand how to appropriately respond

Leading practice

Company leadership demonstrates a commitment to leading practice engagement principles, including regular engagement with First Nations community leaders

The Board and senior management exercise their influence to promote First Nations rights, supporting projects that raise awareness of First Nations rights in relation to heritage, native title, closing the gap, environment and constitutional rights

Host and/or support staff participation in NAIDOC and Reconciliation Week cultural events

"I think it's important that the sector evolves at the moment. A lot don't have Reconciliation Action Plans or are failing to deliver on them."

First Nations community member, interview April 2023

Reconciliation Action Plans

A Reconciliation Action Plan (RAP) is an organisational framework and action plan with a focus on internal reflection and competency to appropriately and effectively engage with First Nations peoples, remove barriers to full participation, and impact positive change within areas of influence. RAPs hold immense significance as a strategic framework designed to promote and facilitate reconciliation between Indigenous and non-Indigenous Australians. They include a comprehensive set of goals, actions, and commitments that organisations undertake to enhance cultural awareness, foster respectful relationships, and address past injustices. The RAP program is managed by Reconciliation Australia, a national organisation that promotes reconciliation between Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians.

There are several types of RAPs, each representing a different stage of an organisation's reconciliation journey:

1. **Reflect RAP:** This is the starting point for organisations that are new to the RAP process. It involves internal reflection and awareness-building around reconciliation, as well as forming relationships with First Nations communities and individuals.
2. **Innovate RAP:** This stage involves developing and implementing initiatives that contribute to reconciliation within the organisation and the wider community. It often includes specific projects, actions, and targets.
3. **Stretch RAP:** Organisations at this stage have already made substantial progress in their reconciliation efforts. Stretch RAPs focus on broader cultural change and leadership in advancing reconciliation.
4. **Elevate RAP:** The highest level of RAP, the Elevate RAP, involves organisations making an enduring commitment to reconciliation. It includes initiatives that address systemic issues and contribute to lasting change.

Industry respondents reported a growing demand for Reconciliation Action Plans (RAPs) as a means to demonstrate their organisational commitment to First Nations communities, and as an integral component of establishing and maintaining social to operate.

What we heard from industry and First Nations communities

We heard a number of industry respondents are in the process of developing their first Reflect RAP. This company-wide commitment has been an important step in increasing cultural awareness within the organisation, sparking meaningful conversations along the way. Importantly, RAPs were seen to help companies develop a consistent approach to First Nations engagement, rather than achieving this on a project-by-project basis.

Initial consultations with First Nations stakeholders have underscored the necessity of grounding RAP objectives in specific locales to the greatest extent possible. Some First Nations community members highlighted the positive impacts a RAP can have on relations with communities, noting they were proactively connecting through identified roles.

Guidance

RAPs enable companies to develop a strategic framework to make tangible steps towards reconciliation. The renewable energy industry can use RAPs to build their competence and confidence in engagement and guide them into genuine partnerships with First Nations communities to harness the opportunities of the energy transition.

"We launched our first RAP last week with the team... all these processes and realisations along the way help build awareness internally so there is more understanding. We are just starting with this really but it's important."

Developer, interview April 2023

"Getting better at listening... going on a journey of how do we engage holistically in a way that is meaningful for First Nations people and about things they care about."

Developer, interview April 2023

Minimum practice

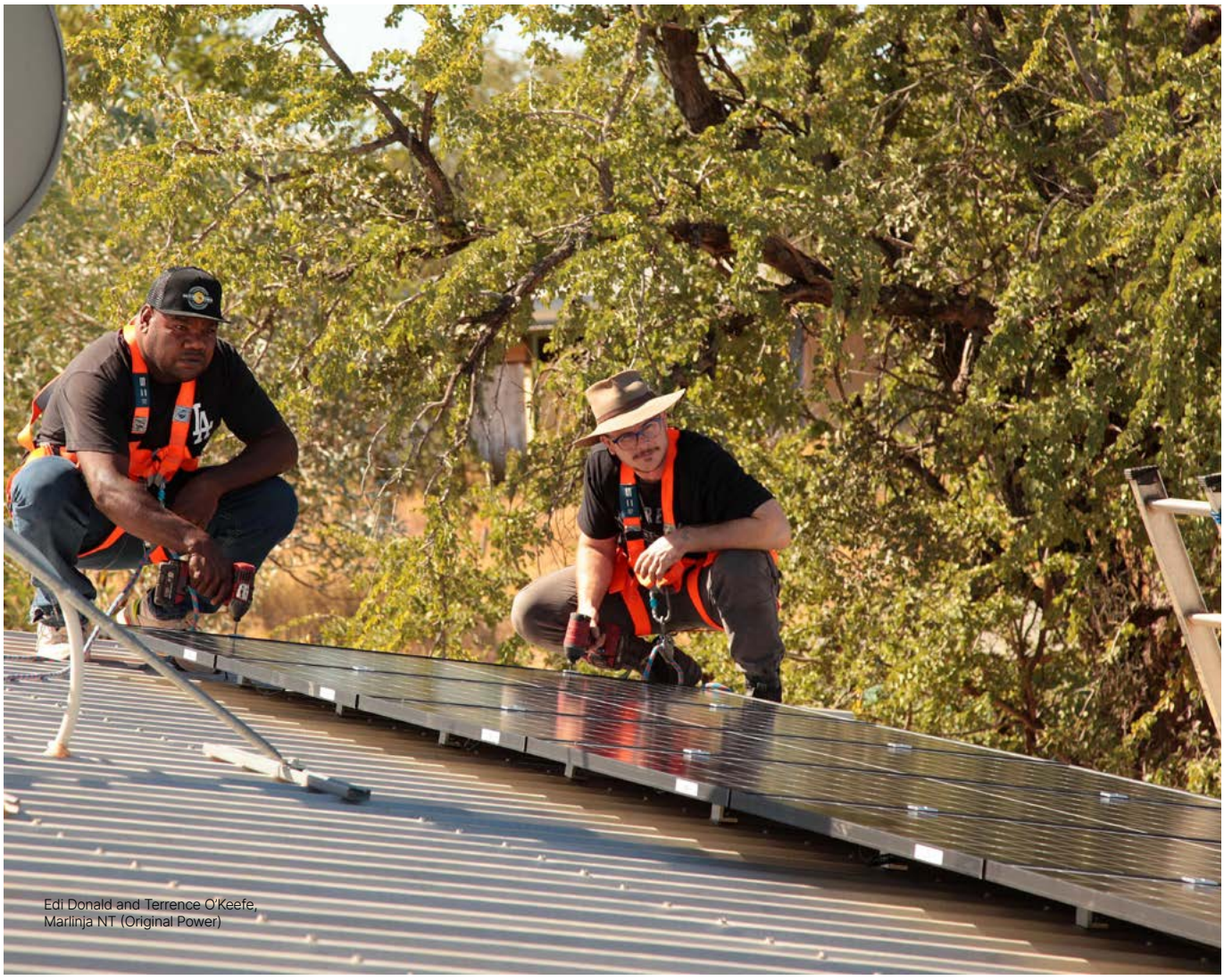
Establish a Reconciliation Action Plan (RAP) as a framework for coordinating your organisation's First Nations commitments

Leading practice

Establish RAP targets that tie implementation to performance through specific project, personnel and organisation key performance indicators

Progress your organisation's cultural competency and reconciliation journey by attaining the next level of RAP

Embed your RAP targets in strategic and operational plans, facilitating appropriate prioritisation, accountability and resourcing



Edi Donald and Terrence O'Keefe, Marlinja NT (Original Power)

Principle 10:

Implement, monitor and report back

All company commitments made to local First Nations communities should be documented, regularly reported on and embedded in the life of the project.

This section outlines what we heard from industry and First Nations communities and provides guidance (minimum and leading practice) on the following aspect of monitoring and reporting:

- **Transparency and accountability**

> "If it's publicly reported, we are sharing information and should not compete down to lowest required but compete up to the best standard."
>
> Developer, interview May 2023

Transparency and accountability

What we heard from industry and First Nations communities

First Nations community representatives reported that there has been a lack of transparency from developers and other contractors on how companies are implementing commitments made to communities. This was recognised as a barrier to meaningful engagement, as it undermined trust and meant that First Nations community members were not aware of progress or challenges. First Nations community members expressed a desire for more open dialogue about the challenges developers may be facing with First Nations engagement so that the community can participate in problem-solving, and expectations can be managed. For example, if companies are struggling to meet employment targets or have low retention rates, First Nations community members may be able to identify issues and potential solutions.

Greater transparency from the industry provides opportunities for greater learning. For example, being open about agreements made, particularly equity agreements, enables First Nations communities to learn from other examples and reflect on how this could be applied in their community, while also driving an open community of better practice among industry. Monitoring and reporting will also enable industry to see the benefits to their business, a factor often overlooked or ignored when conceiving First Nations engagement.

Guidance

Measuring and reporting on the implementation and impact of projects and the commitments made to First Nations communities in a culturally appropriate way will drive trust through greater transparency and accountability. Developers and operators should work with local First Nations communities to identify appropriate models and mechanisms that meet the needs and interests of both community and industry.

Minimum practice

Report back to the community on the progress of commitments made to First Nations communities, including:

- Regular progress updates on outcomes achieved and implementation of commitments made during project negotiations
- Emerging barriers, stumbling blocks and lessons learned along the way
- Any commitments to and/or next steps for continuous improvement/adaption according to changing community needs and priorities
- The value created for the project through First Nations engagement and participation

Where appropriate or if approved by the relevant First Nations group, report on outcomes of First Nations engagement in public reports, announcements and annual environmental management reports

Embed reporting requirements in contracts with third parties requiring them to report back on achievement of targets and commitments

Ensure there is a complaints management process in place that allows any concerns of local First Nations communities to be heard and actioned

Leading practice

Establish a monitoring and compliance framework to ensure commitments are met, which:

- Aligns with broader community expectations and policy initiatives such as Closing the Gap and United Nations Sustainable Development Goals
- Ties implementation of commitments made to the key performance indicators of executives
- Includes consequences for not meeting targets
- Includes reporting to the Board

Establish a dedicated resource within the company to implement commitments made to First Nations communities and ensure information flow back to communities on implementation status

Work closely with third parties to independently monitor compliance and monitor, evaluate and report significant impacts as a result of construction, including complaints handling and processing through an appropriate grievance mechanism

Involve First Nation communities in evaluation processes, such as through a local reference group and/or community perception survey

Appendix

Summary of guidance

Principle 1: Engage respectfully
Minimum practice
Consider who has an interest in the land
Conduct desktop research of local area to identify relevant Traditional Owners, Custodians or First Nations communities
Utilise First Nations peak bodies for the relevant area for further information on the community and cultural context, such as native title service providers, healthcare providers, or land councils
Map relevant community stakeholders and develop a First Nations engagement plan
Ask people or organisations with connections to the community for advice, such as different factions, potential conflict, cultural protocols
Ask “is there anyone else we should speak to?”. If so, ask for an introduction
Where there is more than one Traditional Owner or First Nations group, ensure you are engaging fairly with all. Where tensions or disputes between/within Traditional Owner or First Nations groups arise, it is critical to engage widely, transparently and recognise local context and history
Spend time with community to understand who has decision-making authority on certain topics, and other governance elements
Develop a company policy that commits to working towards leading practice First Nations engagement principles
As part of initial engagement, undertake cultural awareness training delivered by Traditional Owners or local First Nations community members or, where local capacity does not exist, from First Nations organisations that are as close as possible to the project area. This training may be in addition to general training provided to staff, and should focus particularly on understanding the specific community

Identify opportunities to involve First Nations community members in co-design of project parameters during the planning phases

Engage with the local First Nations community early in the planning phase and ask the community how they want to be engaged throughout the project (frequency of touchpoints, stakeholders to be involved such as community-endorsed representatives, protocols to respect and adhere to)

Ask permission before entering a First Nations community, in accordance with local cultural protocols. This will vary so it is important to engage with representatives or leaders from the local First Nations community to ensure first encounters are respectful

Establish a process for obtaining FPIC through:

- Engaging early with First Nations communities to understand local decision-making structures, including: the governance structure of the community; who has authority to speak on which issues; what does consent (and withdrawal of consent) look like in this community, for example, does it take the form of a written record
- Providing clear, concise and comprehensive information about the project, risks, and benefits (see Principle 2)
- Allowing for flexibility in project design and outcomes
- Documenting consent by obtaining a letter of support from an authorised representative of the local First Nations community
- Acknowledging power imbalances and avoid pressure and coercion

Ask about the capacity of local First Nations organisations to engage with renewable energy projects, and then consult with local First Nations organisation / community to determine the best way to support their engagement, FPIC and participation

Appropriately compensate First Nations community members for sharing cultural knowledge

Build extra time and/or optionality into scheduled engagements, in order to work with First Nations communities in a manner which allows for the growth and development of community

Participate in industry- or government-led collaboration with other proponents in the region to contribute to collective strategies that support coordinated engagement and consultation (for example, funding a coordinated position to engage with communities and minimise over-consultation)

Leading practice

Support or work alongside Traditional Owners to conduct Country mapping prior to developing new clean energy projects. This builds understanding of the different languages, cultures and Traditional Owners of a given area to guide engagement

Develop a community engagement plan from the very early feasibility stages, through to construction and operations

Identify of First Nations community services organisations, such as Aboriginal Medical Services or Land and heritage protection organisation / Indigenous Ranger programs, that can assist with identifying and engaging the local traditional owners

If the broader First Nations community is consulted, compensate First Nations community members for their time

Where appropriate and where it is supported by local First Nations communities, employ a First Nations person external to the organisation and endorsed by the local community as a First Nations engagement officer for the project

Obtain and maintain FPIC throughout the project lifecycle through:

- Engaging early, ensuring project timelines respect community decision-making processes
- Provide flexibility and appropriate negotiation periods to ensure all relevant First Nations community members are consulted and understand the project, risks and benefits (see Principle 2)
- Document and conduct a phased consent process, whereby community is consulted at each stage and consent obtained for the activities of every project phase
- Establishing a process to reset the relationship and affirm consent where consent was not originally obtained
- Ensuring effective engagement with all groups where there are multiple Traditional Owner groups, and that specific community needs are set out and factored in
- Not proceeding with projects without explicit consent from First Nations communities. What is required to constitute consent should be determined by the community's own governance structures
- If FPIC is not familiar to the community, engage in dialogue to identify existing structures that can support the principles underlying FPIC
- Support local traditional owners to gain capacity and capabilities to balance any power imbalances (see guidance in Building capacity of First Nations organisations)
- Developing company-wide policies, standards and commitments to ensure FPIC is operationalised across the business

Facilitate knowledge sharing between First Nations communities and with industry. For example, creating a space for communities to share their experience and learnings from engaging with renewables. This could take the form of regional education or learning hubs for First Nations communities, conference presentations or corporate roundtable discussions

Collaborate with other companies across the industry to facilitate education on renewable energy to First Nations communities

If the broader First Nations community is consulted, compensate First Nations community members for their time

Principle 2: Prioritise clear, accessible and accurate information

Minimum practice

Work with community to understand the communication methods that work best for the local First Nations communities

Adhere to language needs and cultural protocols

Provide clear, accessible, detailed and relevant information about the project, including through a variety of mediums (e.g., videos, images, storyboards, translation of key documents into language)

Work with First Nations communities to decide what constitutes an agreement and what is evidence of an agreement. Be flexible and adapt to how the community wants to make arrangements and agreements with you

Maintain well-kept records of engagement

Provide a handover to new project owners

Leading practice

Work with the local First Nations communities to schedule regular touchpoints throughout the life of the project. This may vary throughout project phases and according to the needs and preferences of the local community

Provide education to First Nations communities on the renewable energy transition more broadly, including energy generation and storage options and impacts to community

Provide independent support to First Nations groups to ensure they understand the information shared, and develop a review mechanism (e.g. follow up Q&As) that seeks to confirm understanding

Collaborate with other proponents in the region to coordinate and streamline communications to minimise burden on First Nations communities. This could be facilitated by an industry body, for example to support the creation of regional working groups

When considering future owners and operators:

- Investors should undertake due diligence processes, such as reviewing documentation and evidence of First Nations community engagement
- Include meaningful First Nations engagement as a selection criterion and embed commitments made into contracts where possible

Implement contractually binding terms that require future owners to honour past First Nations agreements and plans

Principle 3: Ensure cultural heritage is protected

Minimum practice
Voluntarily enter a Cultural Heritage Management Plan or Cultural Heritage Management Agreement and engage closely with First Nations communities to identify and address potential impacts on cultural heritage
Undertake cultural heritage impact assessment and management with a holistic view, including land and sea country as well as intangible aspects
Appropriately compensate local First Nations cultural heritage specialists to undertake cultural heritage mapping and protection work
When using a cultural heritage consultant, work with communities to ensure local First Nations communities endorse the individual they will be working with
Ensure repatriation of cultural artefacts in consultation with cultural heritage custodians
Provide ongoing engagement and, where possible, opportunities for access to the project area, respecting traditional laws, customs and caring for Country. Where you do not have the right to provide access, facilitate discussions between landholders and First Nations communities
Introduce cultural heritage inductions for staff and sub-contractors where local groups build capability of proponents regarding cultural heritage and the nuances of any particular site
Regularly review Cultural Heritage Management Plans
Follow guidance from cultural heritage custodians about what information should be recorded about a particular site, respecting the secret and/or sacred nature of some aspects of cultural heritage
Leading practice
Incorporate ongoing cultural heritage monitoring and management in alignment with other project environmental monitoring activities
Ensure knowledge of cultural heritage is respected as the intellectual property of local first Nations communities
Put in place an appropriate remediation mechanism to address damage or destruction of cultural heritage where this is unavoidable or occurs with the consent of First Nations communities

Support First Nations peoples to revitalise language and create resources to educate and share, for example through support for Indigenous naming of places with the consent and consultation of Traditional Owners

Where feasible, ensure that decisions regarding whether interference with cultural heritage is acceptable rests with affected cultural heritage custodians

Principle 4: Protect Country and environment & Principle 8: Embed land stewardship

Minimum practice

Engage with First Nations communities to understand local cultural and environmental considerations during site selection

Consult local First Nations communities in the development of a project-specific Environmental Management Plan, that:

- Seeks to identify and protect flora and fauna species that are culturally significant to local communities
- Engages early with First Nations communities about decommission planning and site rehabilitation

Leading practice

Engage local First Nations communities to conduct their own environmental impact assessment process from a First Nations perspective

Consult with local and regional First Nations groups about the possible presence of highly significant environmental and cultural sites. If such sites are present, then seek to allow First Nations communities to access, manage and protect these significant sites/areas. Relationships with private land holders will be key to facilitating access

Establish partnerships with First Nations environmental groups and businesses, such as Indigenous rangers, for involvement in ongoing environmental management and monitoring

Co-develop a project specific Environmental management Plan with local First Nations communities

Facilitate knowledge sharing about land management and Caring for Country between First Nations communities, project proponents and private landholders

Principle 5: Be a good neighbour

Minimum practice
Gather input from communities on potential impacts, including if and how they want to be involved in minimising and managing negative impacts and maximising benefits
Integrate First Nations considerations into the management plans that are required for planning and approval processes
Establish a two-way dialogue to openly and honestly communicate the potential visual, noise, traffic and other impacts at each stage of the project
Consider and manage negative impacts to shared resources, such as water and housing
Leading practice
Involve local First Nations communities in project design, for example proactively discuss how the position or placement of infrastructure, if possible, can be adjusted to minimise impacts to First Nations communities and integrate throughout the project design process
Arrange for members of local First Nations communities to visit an existing operating site (wind, solar, etc) to gain first-hand experience of the impacts, sights, and sounds

Principle 6: Ensure economic benefits are shared

Minimum practice
Establish a local employment strategy or plan
Establish a First Nations procurement strategy
Actively seek to identify and engage with First Nations businesses through Supply Nation, Indigenous Chambers of Commerce, Indigenous business registers, other First Nations organisations, networks, and direct local engagement
Develop a register/web portal where local businesses can sign up for project updates and supplier opportunities

Leading practice
Establish a local and culturally safe First Nations employment strategy (potentially co-designed with local First Nations groups)
Establish your company's own First Nations procurement strategy
Explore opportunities to enter equity partnership agreements with First Nations peoples and communities, sharing benefits, risks and potential financial facilitators for community
Support First Nations peoples and communities to enter into equity and partnership agreements, such as through funding and grants
Ensure First Nations peoples and communities have the opportunity to be involved through co-governance of projects such as seats on decision-making bodies such as the board and/or through a steering committee
Appropriately communicate all project risks to First Nations communities and confirm their understanding and agreement
Support the establishment of a dedicated investment grant fund and/or a development bank to create and/or finance First Nations ownership

Principle 7: Provide social benefits for the community

Minimum practice
During project feasibility stage, develop an understanding of community priorities, needs and aspirations for benefit-sharing
Establish a dedicated First Nations benefit-sharing agreement with benefits and social investment tailored to the needs and priorities of the community
Provide local sponsorship opportunities for local and regional community organisations and initiatives. Encourage First Nations groups to apply for these sponsorship opportunities
Consult with local and regional First Nations community to understand their energy needs and priorities
Provide energy literacy education to community if identified as a priority by local First Nations communities

Leading practice
Build in delivery of benefits/agreements into governance of project and review these regularly to ensure they still meet community needs
Collaborate regionally with other proponents to support joint initiatives to meet First Nations community needs and aspirations (for example, funding ongoing, local apprenticeships or community housing)
Co-design a First Nations community benefit fund or on-going sponsorship program
Where projects don't have First Nations communities nearby, establish a "sister community" to engage with and provide benefits to. This will require the owner and developer to build a relationship with the community and work closely together to identify opportunities for the project to provide benefits that meet the sister community's aspirations and needs
In areas with low energy security, establish a First Nations energy justice and security plan that seeks to address local and regional concerns
Consider how you can address energy security for First Nations communities in need on a larger scale. This may include collaboration with other proponents at a regional scale or, through your national footprint, advocacy and partnering with industry or First Nations groups
Consider how you can ensure long-term energy security for First Nations communities, such as embedding requirements in contracts to ensure future commitments

Principle 9: Ensure cultural competency

Minimum practice
Develop and deliver cultural competency training as a component of site inductions and training for all site-based employees
Ensure cultural competency training is provided for any contractors engaged on renewable energy projects
Ensure that there is an Acknowledgement of Country policy, that company leaders understand how to conduct a genuine Acknowledgement and encourage this as standard practice for all external meetings
Encourage company leaders to acknowledge, respect and participate in cultural events such as NAIDOC week and Reconciliation Week

Ensure protocols are in place to engage and remunerate Traditional Owners to provide Welcome to Country at large significant events hosted by the company, and that leaders understand how to appropriately respond
Establish a Reconciliation Action Plan (RAP) as a framework for coordinating your organisation's First Nations commitments
Leading practice
Develop and deliver organisation-wide cultural competency training conducted by a First Nations certified training organisation
Ensure regular cultural competency training is built into leadership accountability and governance structures
Engage local First Nations community to develop and deliver in-person cultural competency training for project team and contractors/third parties prior to project construction that includes specific local history, cultural practices, and customs
Set internal targets for the percentage of all organisational staff that have completed cultural competency training
Company leadership demonstrates a commitment to leading practice engagement principles, including regular engagement with First Nations community leaders
The Board and senior management exercise their influence to promote First Nations rights, supporting projects that raise awareness of First Nations rights in relation to heritage, native title, closing the gap, environment and constitutional rights
Host and/or support staff participation in NAIDOC and Reconciliation Week cultural events
Establish RAP targets that tie implementation to performance through specific project, personnel and organisation key performance indicators
Progress your organisation's cultural competency and reconciliation journey by attaining the next level of RAP
Embed your RAP targets in strategic and operational plans, facilitating appropriate prioritisation, accountability and resourcing

Principle 10: Implement, monitor and report back

Minimum practice
Report back to the community on the progress of commitments made to First Nations communities
Where appropriate or if approved by the relevant First Nations group, report on outcomes of First Nations engagement in public reports, announcements and annual environmental management reports
Embed reporting requirements in contracts with third parties requiring them to report back on achievement of targets and commitments
Ensure there is a complaints management process in place that allows any concerns of local First Nations communities to be heard and actioned
Leading practice
Establish a monitoring and compliance framework to ensure commitments are met
Establish a dedicated resource within the company to implement commitments made to First Nations communities and ensure information flow back to communities on implementation status
Work closely with third parties to independently monitor compliance and monitor, evaluate and report significant impacts as a result of construction, including complaints handling and processing through an appropriate grievance mechanism
Involve First Nation communities in evaluation processes, such as through a local reference group and/or community perception survey

Overview of legal obligations and other relevant standards

First Nations engagement on renewable projects occurs in a complex and rapidly changing regulatory landscape. This section is not intended to provide comprehensive legal advice but rather provide guidance about the rights of Australia's First Nations peoples, particularly in relation to native title, land rights and cultural heritage. Best practice engagement requires more than the minimum standards set out in relevant laws and standards. The engagement advice under these Guidelines meets First Nations expectations and does not displace any existing consultation rights or obligations established under regulation. Nor does this table provide an exhaustive list of regulation to comply to. Ultimately, proponents are strongly advised to seek legal advice.

Relevant laws and standards

Jurisdiction	Land rights	First Nations cultural heritage	Planning and environment
Australian Capital Territory		*Heritage Act 2004*	*Environment, Planning and Sustainable Development Directorate*
Commonwealth	*Native Title Act 1993*	*Aboriginal and Torres Strait Islander Heritage Protection Act 1984* *Protection of Movable Cultural Heritage Act 1986* *Underwater Cultural Heritage Act 2018* *Environment Protection and Biodiversity Conservation Act 1999*	*Environment Protection and Biodiversity Conservation Act 1999*
New South Wales	*Aboriginal Land Rights Act 1983*	*National Parks and Wildlife Act 1974*	*Environmental Planning and Assessment Act 1979*
Northern Territory	*Aboriginal Land Rights Act (Northern Territory) 1976 (Cth)* *Community Living Areas (CLA) Leases* *Crown Lands Act 1992* *Special Purposes Leases Act 1953*	*Aboriginal Sacred Sites Act 1989* *Heritage Act 2011*	NT *Planning Act 1999* Northern Territory (NT) *Planning Scheme 2020*
Queensland	*Aboriginal Land Act 1991* *Torres Strait Islander Land Act 1991*	*Aboriginal Cultural Heritage Act 2003* *Torres Strait Islander Cultural Heritage Act 2003*	*Planning Act 2016* *State Development Assessment Provisions (specific requirements under local government Legislation)*
South Australia	*Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* *Maralinga Tjarutja Land Rights Act 1984* *Aboriginal Lands Trust Act 1966*	*Aboriginal Heritage Act 1988*	*Planning, Development and Infrastructure Act 2016*

Tasmania	*Aboriginal Lands Act 1995*	*Aboriginal Heritage Act 1975*	*Electricity Supply Industry Amendment Regulations 2022* *Land Use Planning and Approvals Act 1993*
Victoria	*Aboriginal Land Rights Act 1970* *Aboriginal Land (Lake Condah and Framlingham Forest) Act 1987 (Cth)*	*Aboriginal Heritage Act 2006* *Heritage Act 2017*	*Victoria Planning Provisions*
Western Australia	*Aboriginal Affairs Planning Authority Act 1972*	*Aboriginal Heritage Act 1972*	*Environmental Protection Act 1986* *Planning and Development (Local Planning Schemes) Regulations 2015*

First Nations engagement throughout the project lifecycle

Figure 4: Considerations for First Nations engagement throughout the project lifecycle

Planning

Steps involved	Responsible	Considerations
• Site selection, including: • Investigate an area's potential for wind or solar energy generation • Site exploration • Discussion with councils, governments and land-owners • Resource monitoring • Concept design • Once site is selected, notify AEMO to get transmission connection • Financial feasibility • Impact assessment • Agreements with land-owners • Environmental and planning approvals • Public notice period • Secure financing • Power purchasing agreements • Connection agreement	Developer	Engage with the local First Nations community early on, acknowledging and being transparent about uncertainties where required. Co-design andw plan with community (see Principle 1). Developers should establish regular touchpoints with the local First Nations community (see Principle 2) and seek to enter long-term agreements to provide social and economic benefits (see Principle 6 and Principle 7)

Construction

Steps involved	Responsible	Considerations
• Prepare project site, including land clearing where required • Engineering • Build/install infrastructure • Connect to the grid, gradually staging up to full capacity	EPC Businesses, Developer, Owner, Sub-contractors	Work closely with the local First Nations community to protect cultural heritage (see Principle 3). Engage early to consult the community of potential impacts and disruptions from construction, involving them in managing impacts see (see Principle 5). Upskilling and employing First Nations people in renewables should also be a focus for EPCs and developers (see Principle 6)

Operations

Steps involved	Responsible	Considerations
• Monitor outputs • Maintain infrastructures • Replace components as they reach end of life	Project Owners	Look for opportunities to provide long-term employment and procurement to First Nations people during the operations phase (see Principle 6). This can also be through partnerships to care for Country (see Principle 4 & 8)

Decommissioning

Steps involved	Responsible	Considerations
• Dismantle infrastructure • Rehabilitate environment • Handover or sell the land	Project Owner	Work with local First Nations communities to rehabilitate the environment (see Principle 4 & 8)

Other resources

A Guide to Benefit Sharing Options for Renewable Energy Projects - Clean Energy Council

Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects - First Nations Clean Energy Network

Clean Energy Agreement Making on First Nations Land: What Do Strong Agreements Contain? – Australian National University

Community Engagement Guidelines For the Australian Wind Industry - Clean Energy Council

Community Ownership of Renewable Energy: How it Works in Nine Countries – Institute for Human Rights and Business

Core cultural learning - AIATSIS

Engaging with Traditional Owners - AIATSIS

First Nations Guideline: Case Studies on First Nations community engagement for renewable energy projects - NSW Department of Planning, Industry and Environment

First Nations Guidelines: Increasing income and employment opportunities from electricity infrastructure projects - NSW Government

First Nations investment screening approach – CEFC

FPIC Guide - FPIC Solutions Dialogue (fpicdialogue.org) – RESOLVE

Free, Prior and Informed Consent Manual – Food and Agriculture Organization of the United Nations

Guidelines for Applying Free, Prior and Informed Consent - Conservation International

How-to Guide: Hydropower and Indigenous Peoples - International Hydropower Association

Indigenous Negotiations Resource Guide - First Nations Clean Energy Network

Negotiation and Implementation of Impact and Benefit Agreements - First Nations Clean Energy Network

Images

Kevin Wilson, Nani Creative: nani.com.au

Original Power: originalpower.org.au

Pollination: pollinationgroup.com

Beon Energy Solutions: beon-es.com.au

Shutterstock: shutterstock.com

Adobe Stock: stock.adobe.com

Austockphoto: austockphoto.com.au

Unsplash: unsplash.com

Glossary

Term	Definition
Acknowledgement of Country	Not to be confused with a "Welcome to Country" which can only be conducted by a First Nations person from that particular area, an Acknowledgement of Country can be performed by anyone to acknowledge the Traditional Owners of the Country they are on
Caring for Country	An Australian Indigenous concept and practice that refers to the holistic and sustainable management of the land, water, natural resources, and ecosystems by Indigenous communities. It encompasses a deep spiritual and cultural connection to the land, reflecting the understanding that the well-being of Indigenous peoples is intricately linked to the health and vitality of the environment
Community Ownership	The state in which community members collectively own and control assets, resources, or enterprises for the benefit and self-determination of the community itself
Country	The ancestral lands, waters, and natural features of Indigenous groups, holding deep cultural and spiritual significance
Cultural Heritage	The physical and intangible aspects of a culture, including artifacts, languages, stories, rituals, and traditions
Custodians	Individuals, often within Indigenous communities, who have been entrusted with the responsibility of safeguarding and protecting specific cultural, natural, or sacred sites, resources, or knowledge for future generations. They serve as guardians and stewards
Economic Development	The intentional efforts and strategies to improve economic well-being and quality of life within a community or region, typically involving job creation, income growth, and enhanced economic opportunities
Energy Transition	The shift from traditional, fossil-fuel-based energy sources to renewable and sustainable energy sources, such as solar, wind, and hydro power, as a response to environmental concerns and energy sustainability
First Nations	Aboriginal and Torres Strait Islander people are the original inhabitants and first peoples of Australia, also referred to collectively as First Nations

Free, Prior, and Informed Consent (FPIC)	FPIC is a fundamental principle of international human rights law, particularly regarding the rights of Indigenous peoples. It entails the right for Indigenous communities or individuals to give or withhold their consent for projects, policies, or actions that may affect their lands, resources, cultures, or livelihoods
Land Rights	The rights of Indigenous peoples to their traditional lands, including the right to use, manage, and benefit from those lands
Native Title	Legal recognition of Aboriginal and Torres Strait Islander peoples' rights and interests in land and waters according to their traditional laws and customs
Reconciliation	The process of addressing historical injustices and working toward improved relations between Indigenous peoples and non-Indigenous populations
Self-Determination	The right of Indigenous peoples to make decisions about their own political, economic, social, and cultural development
Sovereignty	The ultimate authority and control exercised by Indigenous nations over their own affairs and territory, without interference from external governments
Traditional Knowledge	Indigenous or local knowledge systems, practices, and wisdom that have been passed down through generations and are often deeply connected to a specific culture's relationship with the environment and natural resources
Traditional Owners	An Aboriginal or Torres Strait Islander person or group who is recognised as having a traditional or historical connection to and relationship with an area of land or water. Often used to describe native title holders
UN Declaration on the Rights of Indigenous Peoples (UNDRIP)	A United Nations declaration that outlines the individual and collective rights of Indigenous peoples around the world
Welcome to Country	A traditional First Nations ceremony performed by Traditional Custodians to welcome visitors to their land

CLEAN ENERGY COUNCIL

KPMG

cleanenergycouncil.org.au
kpmg.com.au