

To: Department of Climate Change, Energy, the Environment and Water

9 February 2024

First Nations Clean Energy Strategy

We appreciate the opportunity to provide feedback on the First Nations Clean Energy Strategy (FNCES) consultation paper.

Environment Victoria is the leading not-for-profit environmental advocacy organisation in Victoria. With 40 grassroots member groups and over 200,000 individual supporters, we've been representing Victorian communities on environmental matters for over 50 years. Through advocacy, education and empowerment, Environment Victoria seeks significant and enduring solutions that will safeguard the environment and future wellbeing of all Victorians.

Environment Victoria's Clean Energy For All campaign emphasises the need to get to 100% renewables quickly and fairly. A strong First Nations Clean Energy Strategy is not only consistent with our goals; we see it as an essential component. Renewable energy entails the appropriation of resources from nature—wind, sunlight, and others—into Australia's economy. These resources are fundamentally First Nations' resources. It is vital that the transition does not drive a new wave of dispossession.

In this submission we highlight policy measures that should be part of the First Nations Clean Energy Strategy.

First Nations consent is crucial for a rapid energy transition

The Draft 2024 Integrated System Plan identifies social licence as a risk to the speed of the renewables transition and notes the importance of First Nations' engagement in the planning process.¹ Fundamentally, obtaining a social licence from Traditional Owners means Free, Prior and Informed Consent (FPIC). Failing to obtain FPIC also jeopardises support from the broader community and creates reputational risk throughout the renewable energy value chain.

The consultation paper notes that the Australian Government has expressed support for the United Nations (UN) Declaration on the Rights of Indigenous People which sets a global standard for FPIC. However, Australian law does not currently require project proponents to obtain FPIC.²

¹ Australian Energy Market Operator, 'Draft 2024 Integrated System Plan' (AEMO, 15 December 2023), https://aemo.com.au/-/media/files/stakeholder_consultation/consultations/nem-consultations/2023/draft-2024-isp-consultation/draft-2024-isp.pdf?la=en.

² 'FPIC in the Australian Context: Now and into the Future', Corrs Chambers Westgarth, accessed 6 February 2024, <https://www.corrs.com.au/insights/fpic-in-the-australian-context-now-and-into-the-future>.

Recent Australian research has found that where First Nations people have leverage to negotiate a strong agreement, such as a right of veto, the opportunities for benefit-sharing from renewable energy projects are materially improved.³ Environment Victoria supports the implementation of FPIC in accordance with the UN Declaration and its application to renewable energy infrastructure.

The rules for participating in the Capacity Investment Scheme (CIS) should require proponents to provide evidence of FPIC to their project from the Traditional Owners. The Strategy should also support and fund dedicated Renewable Energy Country Planning ahead of the development of renewable energy projects. Country Planning, as proposed by the First Nations Clean Energy Network, aims to support the rights and responsibilities of Traditional Owners with regard to lands, waters and cultural heritage and improve the flow of benefits to their communities.

We heard at the FNCES Geelong workshop on 28 November 2023 that the Strategy needs to create ways for First Nations to grow generational wealth. The CIS should prioritise projects that include a minimum level of First Nations equity ownership. Furthermore the CIS should set scheme-wide targets for First Nations equity ownership that increase over time.

The Strategy should establish new financing initiatives to support First Nations access to capital and First Nations-led clean energy infrastructure projects.

The Strategy should also include commitments to actively collaborate with States and Territories to reform energy, land and water planning legislation to recognise First Nations rights, use and occupancy. Legislation must require early, substantive engagement and participation of Traditional Owners in decision-making, and support must be provided to ensure this can be done effectively.

Support for all households to become more efficient and go all-electric

Most First Nations people in Victoria live in housing that is not energy efficient, and are far more likely to be renting than the overall population.⁴ In Victoria, we are particularly reliant on heating. Cold housing is expensive, unhealthy and stressful, with First Nations people particularly at risk, and renters have a severely limited ability to do anything about it.⁵

We heard the same message at the Geelong workshop – housing quality and the ability to pay power bills remain major issues for many First Nations people. The FNCES needs to deliver the basics of dignified, affordable and healthy housing, not just access to new energy technologies like solar and batteries.

The Strategy should include funding for a First Nations home energy efficiency program to build capacity and energy literacy at the household level. The program should be First Nations-led and include in-home energy assessments, advice and financial counselling, providing education to help curb usage and keep costs down.

³ Brad Riley et al., 'Why Aboriginal People Have Little Say over Energy Projects on Their Land', *The Conversation*, 10 August 2020, <http://theconversation.com/why-aboriginal-people-have-little-say-over-energy-projects-on-their-land-139119>; Sangeetha Chandrashekeran, 'Rent and Reparation: How the Law Shapes Indigenous Opportunities from Large Renewable Energy Projects', *Local Environment* 26, no. 3 (4 March 2021): 379–96, <https://doi.org/10.1080/13549839.2020.1861590>.

⁴ Rowan Bedggood et al., 'The Living Conditions of Aboriginal People in Victoria', *Energy Procedia* 121 (September 2017): 278–83, <https://doi.org/10.1016/j.egypro.2017.08.028>.

⁵ Cynthia Faye Barlow, Emma Baker, and Lyrian Daniel, 'Feeling Frozen? 4 out of 5 Homes in Southern Australia Are Colder than Is Healthy', *The Conversation*, 16 May 2023, <http://theconversation.com/feeling-frozen-4-out-of-5-homes-in-southern-australia-are-colder-than-is-healthy-205293>.

The national energy literacy program proposal announced at the Energy and Climate Change Ministerial Council (ECMC) on 24 February 2023 should include the development of a specific First Nations stream.

The clean energy transition has the potential to leave many people behind. The Strategy should establish a funded program to install household solar and battery systems for all First Nations social housing, in order to reduce electricity costs and improve energy security.

Increased First Nations participation in clean energy training, jobs and ownership

The clean energy transition is already facing a skills shortage. The Strategy needs to make sure that First Nations communities are able to access and participate in the opportunities that the transition brings. This should include tailored skills and training pathways as well as minimum employment participation standards for projects.

The Strategy should establish a suite of nationally accredited skills development, training and education programs to be provided in each jurisdiction that equip First Nations youth and young adults to pursue clean energy careers.

The CIS should require tenderers to adopt a participation plan that includes minimum standards of First Nations participation such as training opportunities, employment levels, and contributions from First Nations-owned businesses.

Commonwealth clean energy investment bodies including the CIS, Clean Energy Finance Corporation, Rewiring the Nation, Renewable Energy Transformation Agreements and the National Reconstruction fund should establish targets for First Nations employment and First Nations supply of goods and services across each Renewable Energy Zone. Targets should be set by percentage of population or a proportion of total project contract expenditure.

The legislation that provides for the establishment of all clean energy investment bodies should be amended to require boards to consider and improve participation by First Nations people. Section 17(4) of the National Reconstruction Fund Corporation Act 2023 (Cth)⁶ provides an example.

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⁶ This section requires the Board to have regard to the desirability of encouraging and improving economic participation by historically underrepresented groups, including women, First Nations Australians, people with a disability, and people of culturally and linguistically diverse backgrounds.