

First Nations Clean Energy Strategy

Submission to the federal Department of Climate Change, Energy,
Environment and Water

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Doctors for the Environment Australia (DEA) is an independent, self-funded, non-government organisation of medical doctors and students in all Australian states and territories.

DEA's work is based on the premise that humans need a future with clean air and water, healthy soils capable of producing nutritious food, a stable climate, and a complex, diverse and interconnected humanity whose needs are met in a sustainable way. We are therefore interested in environmental protection and restoration to promote human health and social stability, and clean energy to reduce the impacts of fossil fuel industries on human health.

Our members work across all specialties in community, hospital, and private practice, including Aboriginal community-controlled health services.

DEA welcomes the opportunity to provide a submission to the First Nations Clean Energy Strategy, enabling us to bring our health expertise to the Strategy, while recognising the importance of First Nations people themselves in determining their role in Australia's energy transition.

DEA's recommendations are summarised here, followed by our responses to relevant consultation questions.

Recommendations

1. Australia's National Energy Transformation Partnership, and overall vision of climate change response should be guided by a vision of **improving wellbeing and increasing equity, in Australia and globally**, rather than short term economic benefits. The First Nations Clean Energy Strategy should look towards this vision under guidance of First Nations Australians.
2. DEA supports the principles that the First Nations Clean Energy Strategy re-affirm and act on Australia's prior commitments:
 1. *Australia recognises its obligations under both the Universal Declaration of Human Rights and the Universal Declaration of the Rights of Indigenous Peoples to ensure First Nations Australians' **rights to housing, sanitation, education, employment and health care**, including access to **affordable energy**.*
 2. *Australia recognises its obligations under the Universal Declaration of the Rights of Indigenous Peoples (UNDRIP) to **free, prior and informed consent** by First Nations Australians before any development on their lands.*
 3. *Australia recognises its obligations to the Sustainable Development Goals including **commitment to sustainable energy, and reduction and eventual elimination of CO₂ exports**.*
3. DEA recommends that the First Nations Clean Energy Strategy specifically state that **gas is not clean fuel** for either energy, heating or cooking and should be explicitly excluded from this strategy.
4. The rights of First Nations Australians **to veto developments on their lands** should be explicitly articulated and upheld.
5. In recognition of the right to housing articulated in the UNDRIP, Australia **act more urgently on the housing crisis as it affects First Nations Australians**. This includes consultation with users in housing design and attention to location, orientation, shading, passive heating and cooling, insulation and tree-planting to complement affordable energy in ensuring comfort and safety while minimising household energy requirements.

6. In consultation with First Nations Clean Energy Network and local communities, **establish achievable targets for First Nations ownership and management of renewable energy assets.**
7. Provide sustainable **long-term funding for the First Nations Clean Energy Network to educate First Nations Australians**, through good governance and management of the Network.
8. **Showcase and learn from Indigenous organisations** that are delivering outcomes for First Nations communities.
9. Every agreement must ensure **commitment of adequate time and resources for effective engagement.**

Consultation question 1

Are the draft principles, and goals proposed appropriate and achievable? Are there any gaps or do you have suggestions for others that could be considered?

The First Nations Clean Energy Strategy is part of the [National Energy Transformation Partnership](#), a framework for Commonwealth, state and territory governments to collaborate in transforming Australia's energy system to achieve net zero emissions by 2050.¹ The vision of the Partnership is:

Australian governments will work together to maximise the economic opportunities of the clean energy transformation, ensure reliable and affordable electricity, and deliver the greatest benefits for Australian households, businesses and communities.²

Recognition of the importance of early, well-funded engagement with First Nations communities in the Transformation Partnership is welcome. However, the vision's focus on economic opportunities, provision of electricity and short-term benefits pre-determines the direction of the First Nations Strategy, rather than First Nations communities determining their own vision. An alternative focus on addressing climate change while enhancing wellbeing and recognising Australia's global responsibilities may lead to different preferred outcomes for First Nations and other Australians.

Recommendation 1

Australia's National Energy Transformation Partnership, and overall vision of climate change response should be guided by a vision of **improving wellbeing and increasing equity, in Australia and globally**, rather than short-term economic benefits. The First Nations Clean Energy Strategy should look towards this vision guided by First Nations Australians.

Principle 1: Access to reliable clean energy is a human right.

Two documents are referenced to support this principle, the Universal Declaration of Rights of Indigenous Peoples (UNDRIP) and the Sustainable Development Goals (SDGs). However, neither of these statements identifies a right to clean energy. The Universal Human Rights include 'food, clothing, housing and medical care and necessary social services, and the right to security'³ and clearly energy is needed to sustain and protect these fundamental human rights.⁴ However, energy is not an independent right.

Likewise, SDG 7 has a target of universal access to 'affordable, reliable, modern energy by 2030' but does not assert this to be a right. However the SDGs have a global scope, where many people currently depend on unprocessed biomass for energy, and at a global level there may be situations included in SDG 7 where gas is considered a modern fuel.⁵ DEA does not accept gas as a clean fuel because of its contribution to asthma cases, exacerbations and deaths;⁶ and because of the detrimental impact of investment in gas on the urgent energy transition.⁷

Asserting a right to clean energy distracts us from the significance of rights as independent claims for human wellbeing. Energy, like money, is not a right in itself, but a necessity to ensure other rights.⁴ The importance of this is in demand reduction which is urgently needed if we are to meet emissions reductions commitments. Humanity needs to use less energy, even including clean energy.⁸

DEA recognises that many First Nations Australians, including some of our patients, are deprived of rights and suffer from energy poverty. Rights-based approaches to promote First Nations wellbeing have achieved progress.^{9,10} However currently few, if any, Australians have all their energy needs met by clean energy sources.¹¹ This makes the first principle of this strategy rather fanciful, potentially undermining its purpose.

Recommendation 2

DEA supports the principles that the First Nations Clean Energy Strategy re-affirm and act on Australia's prior commitments, that:

1. Australia recognises its obligations under the Universal Declarations of Human Rights and the Rights of Indigenous Peoples to ensure First Nations Australians' rights to **housing, sanitation, education, employment and health care**, including access to **affordable energy**.³
2. Australian recognises its obligations under the Universal Declaration of the Rights of Indigenous Peoples to **free, prior and informed consent by First Nations Australians** before any development on their lands.¹²
3. Australia recognises its obligations to the Sustainable Development Goals including **commitment to sustainable energy, and reduction and eventual elimination of CO₂ exports**.⁵

Recommendation 3

DEA recommends that the First Nations Clean Energy Strategy specifically state that **gas is not a clean fuel** for either energy, heating or cooking.

Principle 2: First Nations peoples will self-determine how they lead, participate in and benefit from the clean energy transformation

DEA supports this principle but would like to see it expanded and strengthened to include the right of First Nations communities to veto unwanted developments on their lands.

Australia's *Native Title Act 1993* (Cth) does not provide full self-determination for First Nations people because there is no right to veto unwanted developments.¹³ The right of veto is required for full implementation of the United Nations Declaration on the Rights of Indigenous peoples.¹² Free, prior, and informed consent includes the right to say no.¹⁴ Merely being engaged early and receiving 'benefits across all stages of the project life cycle and program implementation,' as in the principle in the draft Clean Energy Strategy could obscure the importance of veto rights. Without this right, First Nations communities continue to suffer desecration of their lands, damage to their water sources and loss of cultural heritage.¹³

Energy industries have been particularly egregious in overriding First Nations communities' rights, and governments have favoured short-term development over long-term community interests. In 1979 the Commonwealth passed legislation to prevent the Mirrar people from claiming Land Rights over the site of the Ranger Uranium mine.¹⁵ The mine closed in 2021 after forty years of mining, with only five years of funded rehabilitation before the company leaves the site.¹⁶ More recently, approvals of gas industry developments at James Price Point overrode Aboriginal communities' right to stop them. The Goolarabooloo and Jabirr Jabirr People were limited to deciding how they could reduce the negative impacts of the project because they had no authority to refuse.¹⁷ Consequently, the UNDRIP is not fully enacted.

Mining developments are primarily for the benefit of mining companies, rather than to promote community development, and mining companies use their economic power to influence government approvals.¹⁷ Despite claims that resource extraction can promote economic advancement, and they may leave communities worse off than other communities which have not been involved in mining. The Ranger uranium mine, leaving communities with higher cancer and stillbirth rates, is an example.¹⁸

Extraction of resources from Aboriginal people's lands without consent has been a feature of colonisation, though energy sources have changed from wood to coal to gas to renewables.¹⁹ The vision of the current

strategy on economic development and energy production without attention to social and political consideration risks its failure,²⁰ as seen by communities opposing renewable energy developments.²¹

The UNDRIP and acknowledged rights of First Nations people to freely negotiate without any presumption that development will proceed should be a key principle of this strategy.¹⁴ The right of veto should be maintained and not require divisive periodic review: just as once development is allowed, it can never be reversed, so decisions against development should be considered irreversible.

Recommendation 4

The rights of First Nations Australians to **veto developments on their lands** should be explicitly articulated and upheld.

Consultation question 2

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

Access to reliable clean energy needs to be considered alongside other urgent necessities not accessible for all First Nations and other Australians, including housing, sanitation, education, employment and health care. Housing must be designed and built appropriately to ensure people can be safe and comfortable while minimising greenhouse gas and other environmental impact.

First Nations Clean Energy Network appears to be making progress towards reliable renewable energy based on community development principles.²²

Recommendation 5

In recognition of the right to housing articulated in the UNDRIP, Australia **act more urgently on the housing crisis as it affects First Nations Australians**. This includes consultation with users in housing design and attention to location, orientation, shading, passive heating and cooling, insulation and tree-planting to complement affordable energy in ensuring comfort and safety while minimising household energy requirements.²³

Consultation question 3

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

First Nations Clean Energy Network is leading the way, by providing opportunities for government and industry investment. Replacing expensive diesel generators with solar and battery systems is a priority. Benefits include reducing household energy costs, increasing energy security and reliability, and enabling sustainable economic development through development of small businesses.²⁵ Extreme weather events can cut access to communities, making locally generated electricity even more important.

Recommendation 6

In consultation with First Nations Clean Energy Network and local communities, **establish achievable targets for First Nations ownership and management of renewable energy assets**.

Consultation question 4

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

The PowerMakers program run by First Nations Clean Energy Network is an opportunity for education for First Nations people about participating and owning renewable energy in First Nations communities.²⁵ This can lead to a flow of quality information and skills.

Recommendation 7

Provide sustainable **long-term funding for the First Nations Clean Energy Network to educate First Nations Australians**, through good governance and management of the Network.

Consultation question 5

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

First Nations communities are best placed to share knowledge and awareness themselves. The PowerMakers program run by First Nations Clean Energy Network is an opportunity for education for First Nations people about participating and owning renewable energy in First Nations communities.²⁵ This can lead to a flow of quality information and skills.

Centre for Appropriate Technology (CfAT) is another example of a company led by First Nations Australians and working as an enterprise-based not-for-profit business:

CfAT supports people in remote and regional Australia in maintaining their relationship with country, including a desire to live on country, visit country, develop country for economic benefit, or protect country. CfAT provides solutions to infrastructure challenges including reliable power, water supply, digital connectivity, infrastructure, and training and skills development.²⁶

CfAT has specialised in renewable energy sources, a strength of Australia's vast remote regions.²⁶ It may be a model for similar, but locally appropriate industries Australia-wide.

Recommendation 8

Showcase and learn from Indigenous organisations that are delivering outcomes for First Nations communities.

Consultation question 8

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

Through time and education, First Nations communities can lead in determining how to build capacity and expertise.

The existence of ‘supporting regulatory and fiscal policy that were negotiated and adapted to Indigenous sustainability visions’ has proved crucial to the success of a range of such projects across Canadian provinces.²⁴ However engagement takes time and commitment, and engagement with First Nations communities may take more time and greater commitment because of history, culture and language challenges. While the energy transition is urgent, without engagement with communities, action will be less effective, less efficient and may fail altogether.

Recommendation 9

Every agreement must ensure commitment of **adequate time and resources for effective engagement**.

Consultation question 15

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

Small, geographically isolated First Nations communities that currently depend on diesel generators should be priority for government loans for solar and wind development. Over time these loans will be paid off, leaving communities with affordable clean energy in the longer term, not dependent on fuel trucks that can be cut off during floods. With heavy vehicles disproportionately involved in road crashes and fatalities,²⁸ reducing the need to transport diesel can also be a contributor to reducing our road toll.

Consultation question 19

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

As health professionals, DEA is cautious about seeking ideal scenarios. We are all human and subject to errors, and there is always room for improvement, through reflection, feedback and audit.

Consultation question 20

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

Free, prior and informed consent requires adequate time and resourcing for community information and engagement, as well as the right to say ‘no’.

Consultation question 21

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

Across Canada there appears to be progress towards effective collaboration between Indigenous peoples and governments for a rapid and far-reaching energy transition. This includes community education and empowerment, reducing demand, energy efficiency, development of renewable energy sources at a range of scales and transmission. First Nations, Métis and Inuit firms are partners or beneficiaries of nearly 20% of Canada’s electricity-generating infrastructure, almost all of which is renewable. Attention is given to the

requirements of UNDRIP to ensure that ancestral Indigenous lands and waters are protected, including sacred sites and ecological habitats essential for traditional and contemporary livelihoods.²⁹

Consultation question 22

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

Engagement with local First Nations communities should be integrated into overall proposal development and assessment, and required as part of every energy development, while ensuring appropriate recognition and compensation for First Nations people's time and expertise.

Consultation question 23

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

DEA would welcome opportunities for further involvement in development of the strategy.

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