

16/02/2024

First Nations Clean Energy Strategy Taskforce

Department of Climate Change, Energy,
the Environment and Water

Via email to FNCS@dceew.gov.au

Re: AustralianSuper submission to “First Nations Clean Energy Strategy: Consultation Paper”

AustralianSuper welcomes the opportunity to provide feedback on the First Nations Clean Energy Strategy (the Strategy) Consultation Paper.

AustralianSuper is Australia’s largest superannuation fund. Our purpose is to help members achieve their best financial position in retirement. We seek to always act in the best financial interests of our 3.3 million members, representing \$317bn in member assets under management.

Climate change presents material risks and opportunities which AustralianSuper considers within its investment and ownership activities. Climate-related risks will impact global economies, asset classes and industries, as well as societies and environmental systems.

AustralianSuper has made a commitment to achieve net zero emissions in our investment portfolio by 2050. Reaching global net zero emissions by 2050 is required for economies to achieve the goals of the Paris Agreement¹, which are to hold the increase in global average temperature to well below 2°C and pursue efforts to limit the global temperature increase to 1.5°C above pre-industrial levels². Our Net Zero 2050 commitment aligns with our members’ best financial interests, as this pathway is modelled to limit the economic, social, and environmental costs of climate change³. This commitment builds on our activities seeking to manage the physical and transition risks of climate change which may impact long-term investment performance.

The transition to a net zero economy will also impact the communities and industries in which our member’s work, and in which our investee companies operate. First Nations communities will play an important role in the energy transition, as stewards of Country.

A company’s long-term value is intrinsically linked to their ability to engage constructively with stakeholders. Failures to respect Indigenous rights, engage constructively with First Nations communities, and protect cultural heritage presents investment and social risks. For example, financial costs resulting from poor engagement may arise due to legal fees, project cancellations or delays, reputational impacts, and loss of social license to operate.

¹ <https://www.ipcc.ch/sr15/>

² https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf

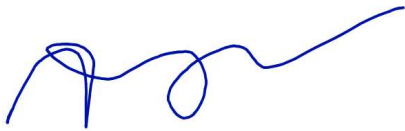
³ <https://www.ipcc.ch/sr15/> and <https://www.ipcc.ch/report/sixth-assessment-report-cycle/>

We support the aims of the proposed Strategy to “unlock opportunities for clean energy projects that are developed with, or led by, First Nations people”. We also support the acknowledgement that “First Nations peoples also have strong local and cultural knowledge, including management of Country, and this knowledge can, and should, inform how Australia transforms its energy systems to achieve net zero emissions”. Issues such as climate change, nature loss, just workforce transition, and First Nations’ cultural heritage are interconnected, and it is pleasing to see that the proposed Strategy implicitly addresses this.

AustralianSuper’s feedback on the Strategy is provided in the attachment. We aim to provide an investor perspective on the value of constructive relationships with First Nations communities in the context of the clean energy transition.

We would be pleased to provide additional information or to discuss this submission in further detail. If that would be of assistance, please do not hesitate to contact myself or Kendall Fraser, ESG & Stewardship Analyst (kfraser@australiansuper.com).

Regards

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Andrew Gray
Head of ESG & Stewardship

Attachment: Detailed Comments

AustralianSuper is broadly supportive of the principles, goals and objectives outlined in the Strategy. We see an important role for the establishment of the Strategy and the National Energy Transformation Partnership within the broader context of the whole of economy Net Zero Plan.

AustralianSuper recommends that the Strategy considers the key areas detailed below.

Role of Companies

The Strategy should identify the role of companies as key stakeholders facilitating the participation of First Nations peoples in the clean energy transformation. The Strategy provides an opportunity to guide companies embarking on clean energy projects on best practice approaches with respect to First Nations relationships, engagements, partnerships, and cultural heritage management. Companies are often the stakeholders within the economy who interact with the land, cultural sites and First Nations communities who are custodians of Country.

Engagement

Constructive engagement and relationships with First Nations communities can be tied to a company's long-term performance. Poor engagement may result in legal, reputational, and operational risks, and therefore financial costs for companies, alongside the social and cultural costs for First Nations communities affected.

The Strategy should outline best practice for company engagement with First Nations communities, with Free, Prior and Informed Consent (FPIC) as a key principle embedded in the framework. This should identify the importance of timely, consistent, and active consultation, ensuring FPIC has been obtained at the beginning of any projects.

Informed and ongoing consent requires companies to build genuine relationships with relevant First Nations communities, acknowledging their role as stewards of the land and cultural heritage. It is important that companies do not approach engagement as a 'tick box' exercise. Genuine and meaningful engagement which fosters ongoing collaboration and project leadership must be the goal.

The Strategy may also wish to acknowledge that priorities across First Nations communities will differ, and engagement should take a multidimensional approach.

The framework should outline the expectation that First Nations communities are financially supported when undertaking such engagement and land management work. This may be integrated into the Strategy's objective of ensuring access to financial support.

AustralianSuper is supportive of ACSI's Policy on Company Engagement with First Nations People⁴. This provides additional information on company expectations regarding engagement practices.

Partnership and Governance

The Strategy could outline how companies may practically shape their governance structures to create clear lines of responsibility for, and oversight of, First Nations relationships, engagement, and cultural heritage. This could also

⁴ <https://acsi.org.au/wp-content/uploads/2021/12/ACSI-Policy-on-Company-Engagement-with-First-Nations-People.Dec21.pdf>

include guidance for companies on integrating First Nations representation into management structures to facilitate their roles as partners, leaders, and owners of clean energy projects.

Policy

The Strategy should consider the role of government policy in incentivising the participation of First Nations peoples in clean energy projects. Incentives may be used as tool to encourage companies to partner with First Nations communities, uphold best practice cultural heritage and engagement practices, and/or advance leadership opportunities for First Nations peoples.

Legal/Regulatory Reform

AustralianSuper supports the development of legal reform which embeds standards that reflect the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP⁵), including FPIC, as discussed. A lack of alignment between the objectives of the Strategy, and the legal/regulatory environment may limit company actions to drive the objectives. This may in turn create uncertainty for investors.

The Strategy should explicitly establish the intersectionality between First Nations issues, climate change, nature loss and just transition principles, and the importance of coordinated policy. Legal reforms and policy changes which address these issues should be both considerate of these intersections and aligned. E.g., cultural heritage laws, just transition policies, and environmental protection laws. Reforms to laws should also be led by First Nations voices and perspectives.

Workforce

First Nations people should be supported to self-determine how they participate in Australia's energy transition. This is an important component of achieving a just economic transition. At the community level, participation in clean energy projects provides economic opportunities for First Nations peoples which support financial wellbeing. First Nations peoples should be recognised as decision-makers and leaders in clean energy projects. This includes leading the design and development of projects, which will help to improve economic and social outcomes.

At the company level, it is important that workplaces are culturally safe and inclusive environments for First Nations peoples. The strategy should outline workplace practices which support psychosocial safety for First Nations peoples.

The Strategy should consider current resourcing gaps which act as barriers to First Nations' participation in the clean energy transformation. Practical skills and training for First Nations communities is required to support workforce participation in industries and jobs relevant to the transition. The Strategy could also consider how existing community/regional work undertaken by the Net Zero Authority may be leveraged and expanded.

Cultural Heritage

Recognising and respecting First Nations people's cultural heritage and connection to Country supports positive social, cultural and investment outcomes. First Nations communities maintain intangible intergenerational knowledge with regards to sustainable resource use and protection of cultural heritage. This should be respected and utilised

⁵ United Nations Declaration on the Rights of Indigenous Peoples | Division for Inclusive Social Development (DISD)

through having ownership over land and cultural heritage management decisions. This may ensure nature and cultural heritage is protected throughout the transition.

The Strategy should also define the tangible and intangible elements of cultural heritage. Intangible elements such as knowledge of, and connection to Country are often less understood and recognised, despite their enduring significance.

As discussed, clear lines of responsibility within companies, constructive partnerships, genuine relationships, and engagement with First Nations communities which uphold FPIC are all key to effective cultural heritage management. The regulatory and legal environment should also hold stakeholders to account when cultural heritage is damaged or destroyed. The social, cultural, and financial costs of cultural heritage destruction should not be understated.