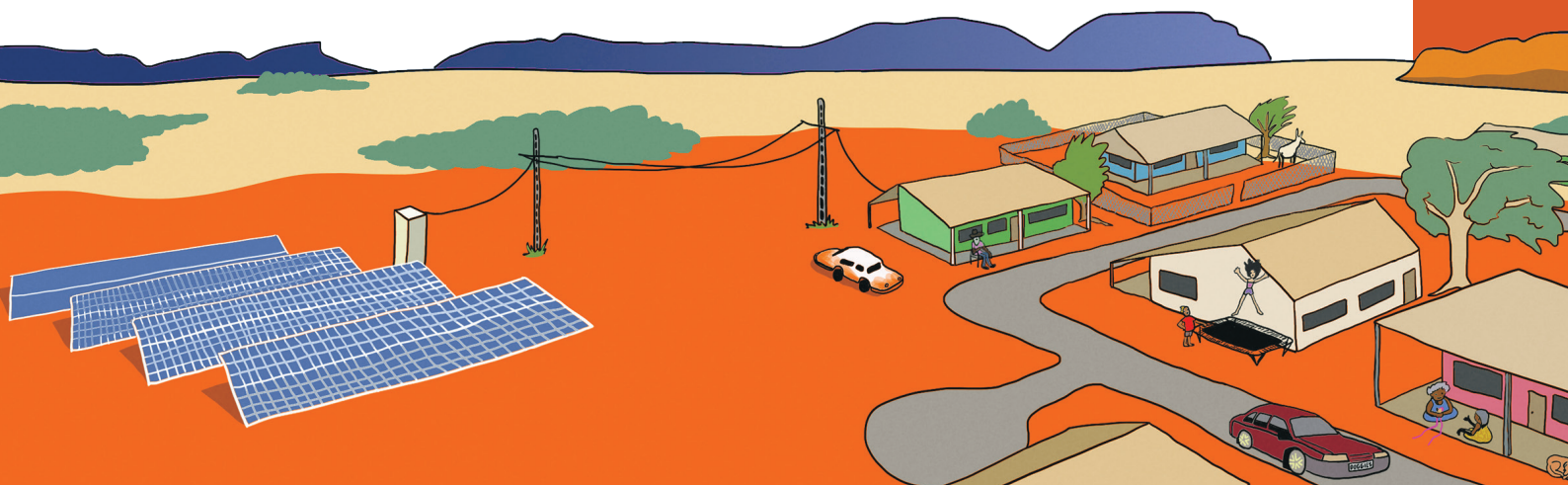




Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects



Executive Summary

Australia's First Nations people have sustainably cared for country for thousands of years, and the transition to clean energy is one that can ensure we continue to care for land, water and sacred places for thousands more.

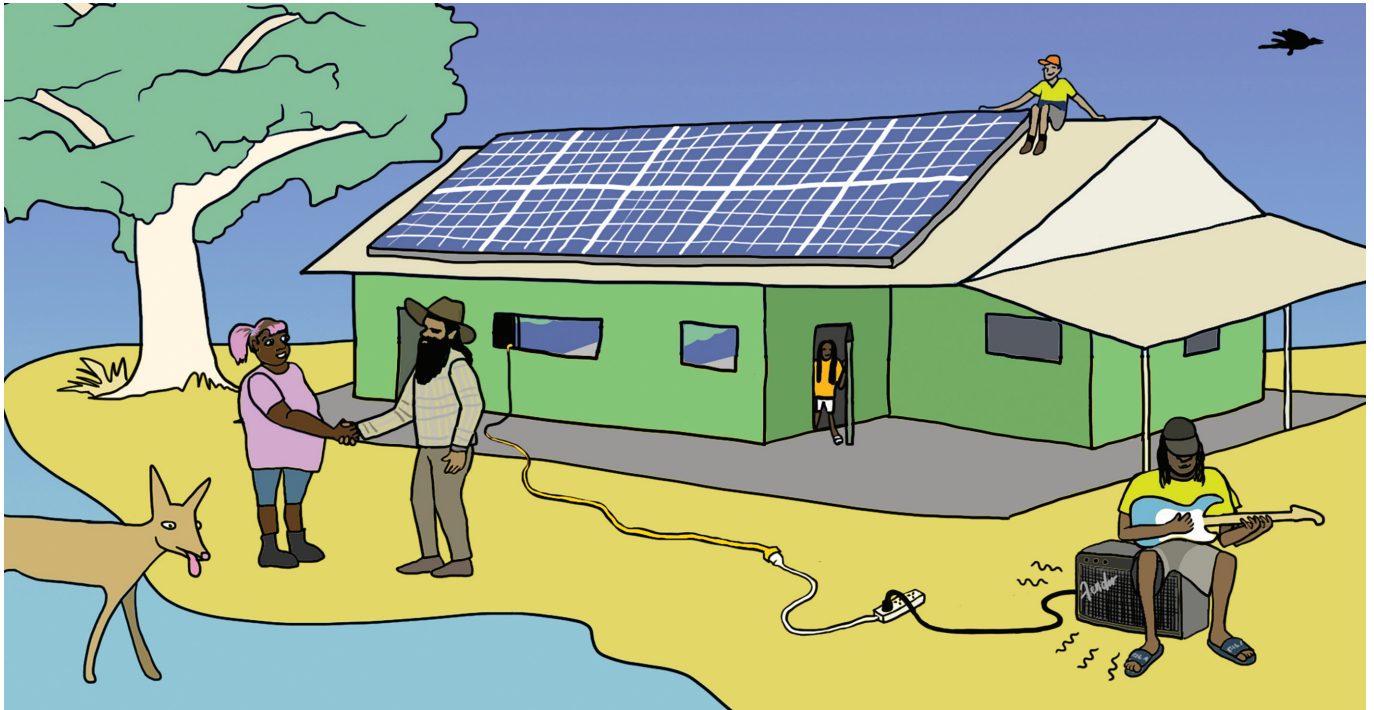
The First Nations Clean Energy Network aims to protect country and to make sure First Nations communities share the benefits of Australia's clean energy boom.

These Principles have been framed to help First Nations communities to achieve those goals and more.

They should also be followed by clean energy companies themselves and the governments that regulate projects.

The 10 principles cover such things as ensuring projects provide economic and social benefits, mutual respect, clear communication, cultural and environmental considerations, landcare and employment opportunities.

Introduction



The opportunity of renewable energy should and can be available to all. But we know for many of our communities that affordable, secure and clean power is not yet a reality.

Our communities deserve ready access to household solar. We want to drive community-owned clean energy projects and secure equitable arrangements for large scale renewable projects on our lands.

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 renewable energy occurs fairly for First Nations people and communities.

The Network is a partnership of First Nations people, community organisations, land councils, unions, academics, industry groups, technical advisors, legal experts, renewables companies and others.

We believe Aboriginal and Torres Strait Islander communities have the means to self-determine our own futures and protect our country.

Purpose of the Principles

We have developed the Principles to support First Nations communities to play a key role in the development of medium and large-scale clean energy projects and to negotiate well on an even playing field.

These Principles place First Nations people and their communities at the centre of the development, design, implementation and benefit-sharing of medium to large-scale clean energy projects.

Designed for First Nations communities with clean energy projects proposed on or near their land, the Principles will also be useful for all groups involved in the development of energy projects – so that we can work together cooperatively, collaboratively, fairly and respectfully in our joint mission to power the nation with renewable energy.

We also anticipate that governments will consider these Principles when assessing clean energy developments, including, for example, land, environmental and cultural heritage approvals, procurement and employment policies, and grant program funding requirements. Similarly, project proponents (the companies that build, own, operate and finance projects) should also follow these Principles, from the initial planning stage of any clean energy development onwards, regardless of the minimum legal requirements to receive project approval.

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.

Background

Australia's economy is rapidly transitioning from one powered by fossil fuels to one powered by renewable energy, and numerous projects involving First Nations communities are now under way.

First Nations people have been installing and using renewable energy at smaller scales for decades. But large-scale renewable energy projects are relatively new for many First Nations communities – particularly at the scale and pace of development we're now seeing.

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

1 Engage respectfully

Respectful engagement with First Nations communities must occur from the initial planning stage of any clean energy development and throughout the project's life-cycle. Developers and investors must ensure that future owners also adhere to this principle.

The standard of “free, prior and informed consent” (FPIC) must apply when engaging with First Nations communities (where consent means the opportunity to approve or reject projects before commencement or withdraw or reconsider consent if the proposed activities change). FPIC is found in numerous international human rights instruments and standards, including in the United Nations Declaration on the Rights of Indigenous Peoples.

- “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 affecting them is taken.
- For consent to be “informed”, it must be based on accurate, timely, accessible and sufficient information.

Establishing a respectful relationship with local and neighbouring First Nations communities is essential. Putting in place mechanisms that will build respectful relationships must be prioritised from the very start of scoping a project and patiently developed as projects progress.

If negotiating a land access and benefit sharing agreement, the agenda, nature and timelines of this negotiation must be developed by the community and the project developer alike. Comprehensive agreements can take several years to negotiate and this time should be factored into the early planning for project development. Negotiations must be conducted fairly and in good faith. First Nations people must be properly resourced to obtain independent expert legal, scientific, business, commercial and other advice.

Prioritise clear, accurate and accessible information



Communities must be given clear, timely, accurate and detailed information about the nature, design, construction, impact and ongoing life of clean energy projects on or near their land. This information must be provided in an appropriate and accessible format, recognising that language barriers may exist.

Companies and developers must be open and responsive to reasonable community requests at all stages of the project life. The ongoing operations of the development must include transparent processes for community feedback and concerns to be received and acted on, in a timely fashion. This responsibility should rest with senior executives.

First Nations communities should consider having agreements (before they are finalised) reviewed by advisors with significant expertise to ensure that best practice terms and conditions (including commercial terms and conditions) are being followed. Parties to land access and benefit sharing agreements could also consider sharing aspects of non-confidential agreements to promote the emergence of a community of best practice and to assist other First Nations groups to become informed about terms and conditions. This is a decision that each group can make on a case by case basis.

3 Ensure cultural heritage is preserved and protected

A high level of commitment to cultural heritage preservation and protection must be built into the way clean energy projects are planned, constructed and operated.

Developers, industry and investors must commit to avoiding damage to cultural sites, without exception. Companies should fund First Nations people to do cultural heritage protection work and First Nations people should be able to choose who works on cultural heritage matters. A key initial step is for companies to prioritise regular and ongoing cultural competency training for their employees.

First Nations people often have cultural rights and obligations to care for country, including cultural sites, which will require access to the project site. Companies should anticipate and respond positively and in a timely manner to access requests.



4 Protect country and the environment

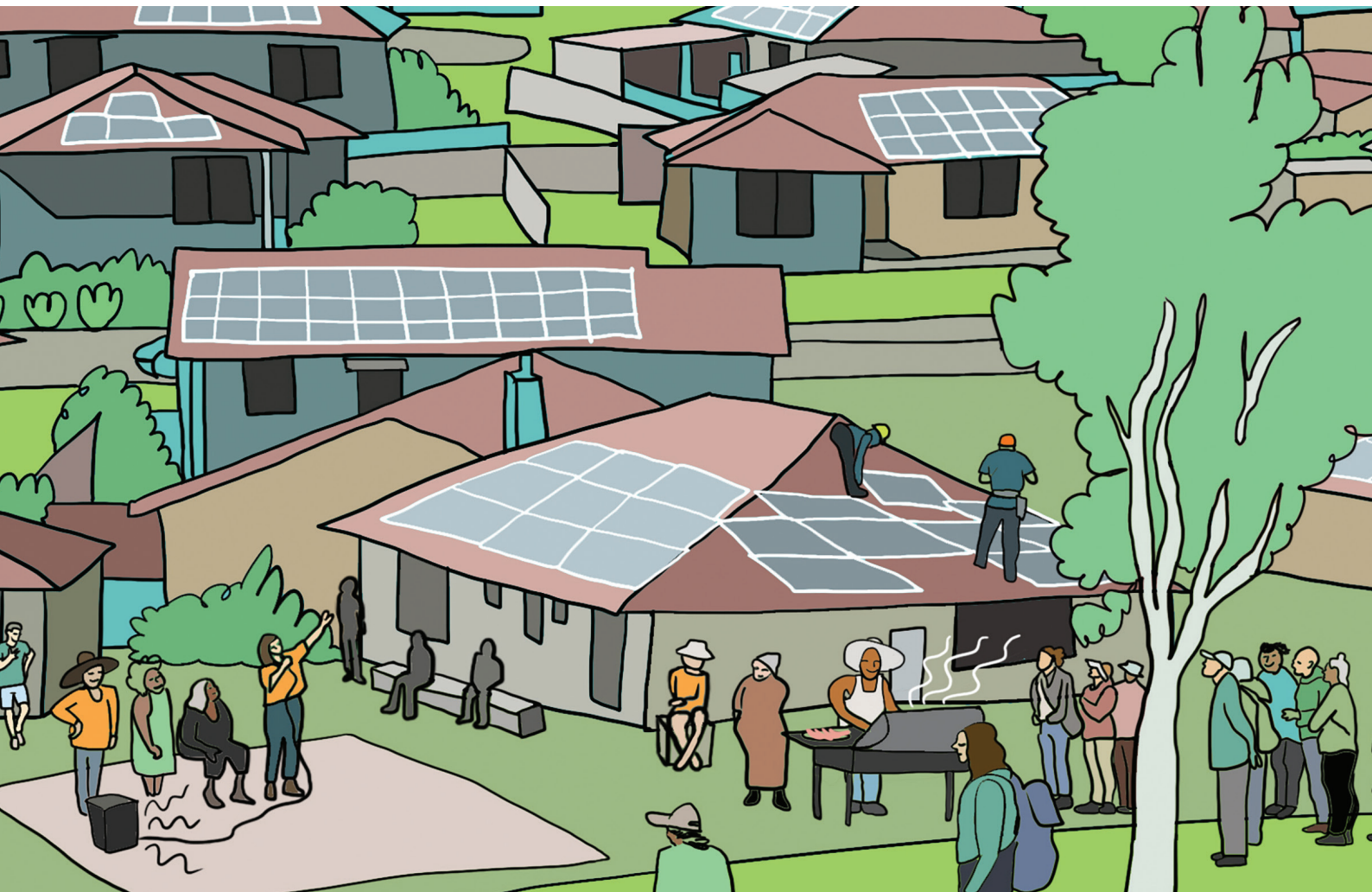
First Nations people have sustainably cared for and protected their land for thousands of years. Companies should respect the community's authority and responsibility to preserve and protect areas of environmental value and to accommodate this through the design, operation and transition phases of the project. An example would be companies agreeing to avoid operations that will damage the local environment.

Companies must also design projects so it is clear what will happen at the end of a project's life, including funding of remediation and rehabilitation activities.

Every project should have a land and environmental protection plan, developed collaboratively with First Nations communities. This plan should be designed to identify and protect sensitive environments. The ongoing management, implementation and enforcement of the plan must be adequately resourced. First Nations communities must have representatives with decision-making authority on any environmental protection committee or body that is established to have oversight of environmental protection matters.

5 Be a good neighbour

Communities must be consulted about a project's potential visual, noise, traffic and other impacts, such as use of shared water resources, and disposal of waste. Communities should also be involved in identifying ways to manage and mitigate these impacts. For example, during the construction phases of a project, if construction workers have to be brought in, the community should be consulted about how those workers are housed, and any other requirements the community might have, including restrictions on alcohol use.





Ensure economic benefits are shared

Any clean energy development on or near First Nations communities should provide benefits to that community. These benefits will differ widely, depending on what outcomes communities want to achieve.

Companies must consider different options for how First Nations communities can share in benefits. These can include, for example, owning a stake in the project and its assets, through to rental payments for the disturbance, use and occupation of land. Using local First Nations goods and services must be prioritised over bringing in outside resources.

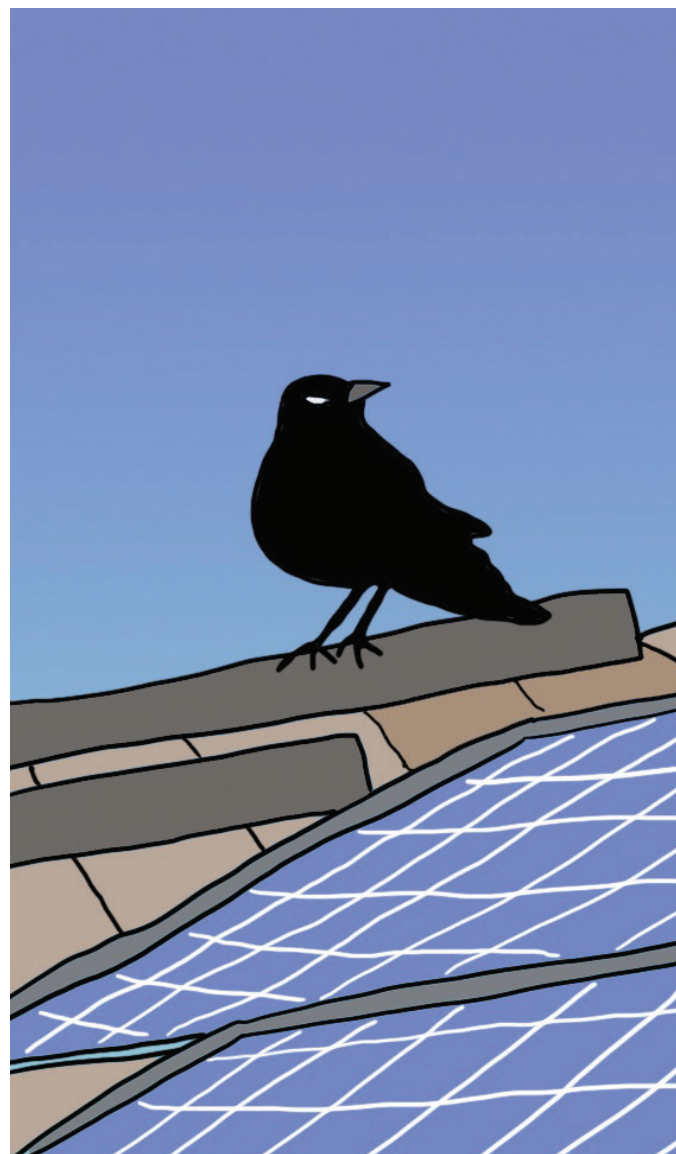
Companies should (where possible and desired by First Nations) employ First Nations people, particularly from the local community. To develop a skilled First Nations workforce, the community could be surveyed for skills, and pre-employment training possibilities identified well in advance of commencement. Skilling up the local community should be prioritised and concrete employment targets set for local First Nations people (with results transparently reported), including ensuring that workers are not limited to entry-level work but provided with career pathways through ongoing mentoring and training. Accountability for meeting these targets should be assigned to senior executive company personnel, including formalising pathways for employment creation and measures to make the workplace conducive to the recruitment and retention of First Nations workers.

7 Provide social benefits for community

Projects should also provide social benefits for the local community.

For example, many First Nations communities are energy poor, and experience unreliable, dirty and expensive electricity, often from diesel generators. Providing these communities with energy security in the form of renewable energy (via individual or community solar power) can help improve health, social, economic and educational outcomes.

The manner and form of community benefit should be discussed at an early stage, and its delivery built into the project's accountability and governance structures.



8 Embed land stewardship

Clean Energy projects can demonstrate a better model of land use and development than past extractive projects.

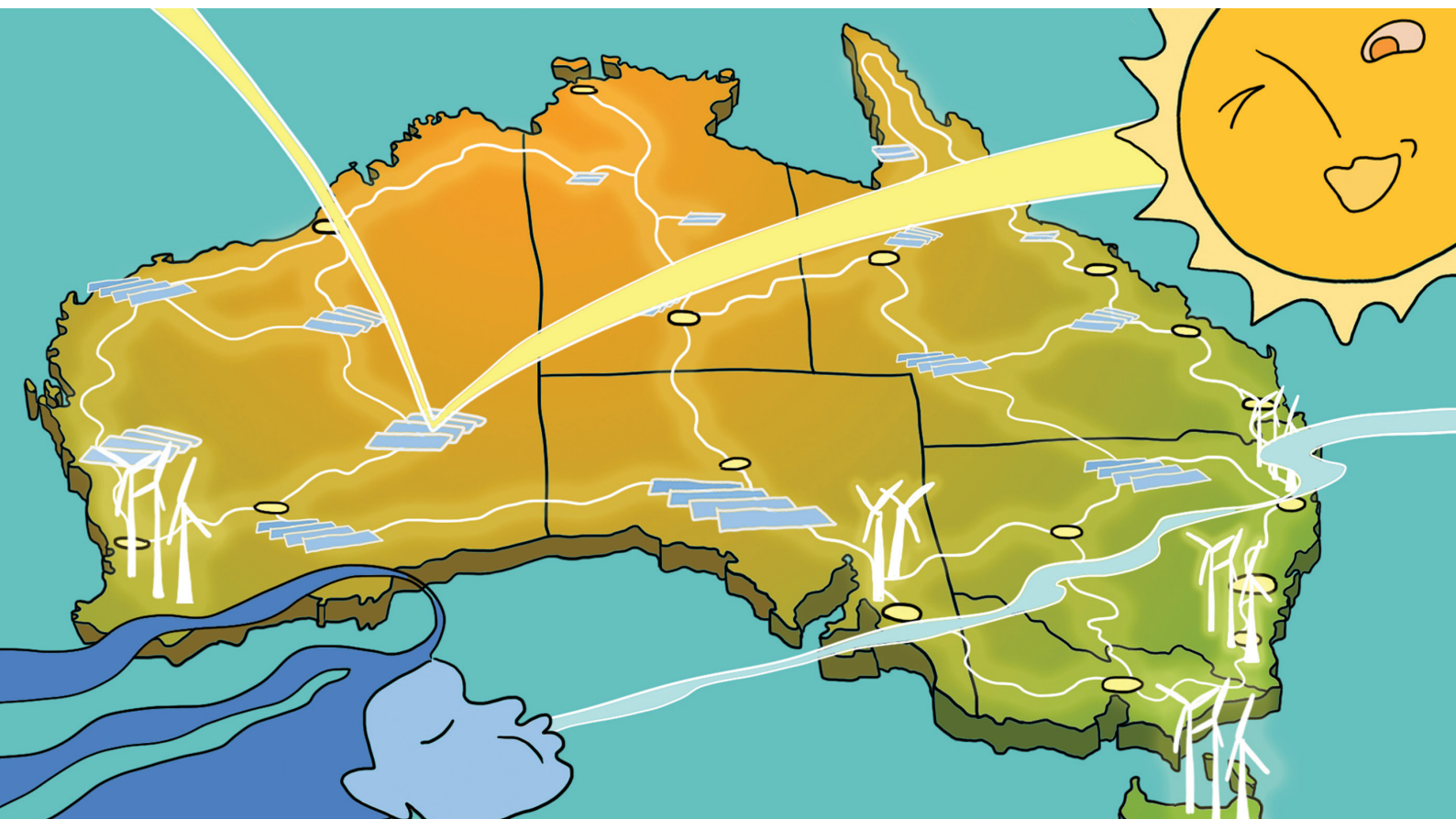
For example, a project should not only seek to do no harm, it should also aspire to enhance the ecological, cultural and agricultural value of the land. Examples of ways to do this could include funding ranger programs to deal with feral species and invasive weeds or restore local wildlife habitats of significance.



9 Ensure cultural competency

A company must develop and embed ways that personnel, at all levels, and particularly senior levels, learn about local culture and heritage. Developing a Reconciliation Action Plan with Reconciliation Australia is a way of doing so. This is a strategic plan that includes practical actions for how companies can ensure they have meaningful relationships with, and provide opportunities for, First Nation peoples.

Companies should have regular cultural competency training built into their accountability and governance structures, with a goal to constantly improve cultural competency across all levels. The local community should provide the cultural competency training.



10

Implement, monitor and report back

All company commitments to the local First Nations community must be part of the structure of the project's development lifecycle, including ensuring future project owners and operators are also bound by them. Company commitments to First Nations communities should be tied to the performance of its executives.

Any commitments made with local communities must also be adequately resourced. To see that such promises are upheld, a responsibility manager should be appointed to oversee the proper implementation of commitments.

The community should be regularly provided with detailed reports about the implementation of all commitments, with progress reviewed and feedback provided from the community to companies as part of a process of continuous improvement.

Additionally, after progress is reviewed and agreed with the community, commitments and progress against those commitments should be included in a company's public reports and announcements.



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