



Australian Conservation Foundation

Submission to: Implementation Design Paper: Capacity Investment Scheme

Addressed to: Department of Climate Change, Energy, the Environment and Water

Submission from: Australian Conservation Foundation

Level 1, 60 Leicester Street, Carlton VIC 3053.

Contact details:

Annika Reynolds, National Climate Policy Advisor

Email: annika.reynolds@acf.org.au

Date: 25 March 2024



**AUSTRALIAN
CONSERVATION
FOUNDATION**

**Nature
needs us,
now**



About the Australian Conservation Foundation

The Australian Conservation Foundation is Australia's national environment organisation. Since 1965, we've protected the nature we all love – our unique wildlife and our beautiful beaches and bush.

Driven by the power of people, we won World Heritage listing for the Great Barrier Reef and Kakadu National Park, and returned precious water to the rivers of the Murray-Darling.

We influence governments and businesses to protect the animals, rivers and reefs close to our hearts and hold decision-makers to account without fear or favour. Everything we do is evidence-based and helps nature and people thrive for generations to come.

We won't give up until Australia's nature is protected and regenerated.

The Australian Conservation Foundation acknowledges that First Nations Peoples of Australia hold unique knowledge and rights inherited from their ancestors and Country and have cared for this country since time immemorial. We pay our respect to First Nations Peoples of Australia, past, present and future. We respect their leadership in caring for Country and support their rights to continue to do so. We recognise that sovereignty was never ceded, and that colonisation was unjust, often violent and continues to adversely impact on First Nations Peoples today. As Australia's national environment organisation, we understand we have a responsibility to help right this historical wrong. We support their authority to speak for Country, right to self-determination and recognise that rightful recognition of and genuine reconciliation with First Nations Peoples is fundamental to protecting nature in Australia. We support First Nations-led campaigns that protect Country and seek win-win outcomes for our environment and for the rights, wellbeing and advancement of First Nations Peoples.

To find out more about the Australian Conservation Foundation's work visit www.acf.org.au



**AUSTRALIAN
CONSERVATION
FOUNDATION**

**Nature
needs us,
now**



Introduction

ACF welcomes the opportunity to make a submission to the *Implementation Design Paper: Capacity Investment Scheme*, which will inform the federal government's implementation design of the Capacity Investment Scheme (CIS).

The following submission provides feedback solely in respect of the *Merit and eligibility criteria* question outlined under the CIS tender design and assessment process section of the design paper. ACF commends the inclusion of social licence merit criteria and urges the government to include a nature protection and restoration merit criteria and to strengthen community and First Nations consultation merit criteria.

ACF further endorses the national merit criteria for social performance recommendations made by the Community Power Agency.¹

The Importance of Renewable Energy

The Inter-governmental Panel on Climate Change emphasises that rapid and significant deployment of renewable energy, leading to a “substantial reduction in overall fossil fuel use”, is an essential mitigation strategy under “all global modelled pathways that limit warming to 1.5°C”.² In Australia, the greenhouse gas emissions associated with the electricity and stationary energy sectors accounts for 55% of total annual emissions.³ Despite increased renewables uptake, Australia's energy system remains a source of polluting emissions that causes dangerous climate change, harming our ecosystems and communities.

Renewable energy is essential to Australia's future. We need a fast and fair transition, compatible with a 1.5°C pathway under the *Paris Agreement*, to a 100% renewable energy grid by 2030.⁴ The renewable energy generation, dispatchable capacity and transmission projects that we invest in must also be good for the local environment and communities.

Poorly planned renewables projects that lack social licence risk derailing this essential transformation. Delaying Australia's transition undermines the emissions reductions that we must achieve to protect nature and will risk Australia's critical opportunity to position itself as a renewable energy superpower that accelerates global decarbonisation.⁵

¹ See Community Power Agency, *Incentivising Best Practice Renewable Energy Development* (March 2024), <https://cpagency.org.au/wp-content/uploads/2024/03/2024_CPA_Incentivising-Best-Practice-Renewable-Energy-Development.pdf>.

² IPCC, 2022: Summary for Policy Makers (P.R. Shukla et al, Cambridge University Press), [C.2].

³ Department of Climate Change, Energy, the Environment and Water, *Australia's Emissions Projections 2023* (November 2023).

⁴ Climate Council, “Transform the Energy System”, (2022) <[⁵ Accenture, *Sunshot in 2023: Accelerating towards Australia's renewable exports opportunity* \(March 2023, commissioned by ACF, ACTU, BCA and WWF\).](https://powerup.climatecouncil.org.au/transform-the-energy-system/#:~:text=By%202030%20our%20electricity%20sector,in%20buildings%2C%20transport%20and%20industry.>”>.</p></div><div data-bbox=)



AUSTRALIAN
CONSERVATION
FOUNDATION

Nature
needs us,
now



Recommendations

Recommendation 1: Development of a nature protection and restoration merit criteria

ACF recommends the development of an explicit and standalone nature protection and restoration merit criterion within the merit criteria. The criterion should focus on ensuring projects have minimised biodiversity impacts and taken steps to generate biodiversity and community co-benefits.

Recommendation 2: First Nations consultation and benefits sharing

ACF recommends the inclusion of stronger First Nations consultation requirements in the eligibility and merit criteria. The CIS should also incentivise and require benefit sharing between project proponents and First Nations communities, such as through co-ownership, co-investment and/or employment opportunities.

Recommendation 3: Ensuring enduring social licence

There are a number of ways that the CIS tender process could be strengthened to contribute to the enduring social licence of successful projects. ACF recommends the following to strengthen the CIS tender process, in alignment with leading State and Territory criteria for social licence:

- Require a social impact assessment to be completed, in line with EV4 under the Victorian Renewable Energy Target auction 2 ('VRET2'). As part of this assessment, the proponent should be required to develop a community engagement plan that includes monitoring and evaluation;
- Require community benefit sharing strategies to be consistent with best practice, as outlined in the Clean Energy Council's *Guide to Benefit Sharing Options for Renewable Energy Projects*;
- Require proponents to demonstrate an understanding of community sentiment, such as through polling or surveys; and further to demonstrate that community engagement has occurred to at least the "involve" standard pursuant to the IAP2 Spectrum of Public Engagement, in line with EL13 under the VRET2;
- Require proponents to demonstrate community participation in the design, delivery and governance of the project as appropriate with respect to the context and scale of the project; and
- Set targets for local content, employment and apprenticeships for projects to be eligible for the CIS.





Merit and Eligibility Criteria: Renewables that are Good for Nature and People

The following section outlines ACF's response to the consultation question directed at the proposed eligibility and merit criteria. ACF strongly supports the integration of merit criteria into both Stage A and Stage B of the tender process, and further commends the inclusion of social licence considerations in both Stages. ACF's submission is primarily directed at the proposed Australian supply chain, community and First Nations engagement merit criteria, set out in the consultation paper (at [4.4.2] and [4.4.3]) and incorporated in MC4 of the *Capacity Investment Scheme: South Australia and Victoria Tender Guidelines* (December 2023). Nonetheless, ACF supports the inclusion of technical and commercial viability, and proponent capability merit criteria in the tender process.

For further information, please see [ACF Position Paper: Energy that is good for nature and people \(February 2023\)](#).

Minimising Potential Biodiversity Impacts of Renewable Energy Projects

Australia is in the midst of an extinction crisis, with more than 2,000 plants and animals on the federal threatened species list. The two greatest threats to biodiversity in Australia are climate change and habitat destruction. ACF urges the government to ensure that, in tackling the former, the latter is not exacerbated.

ACF commends the federal government for accelerating the rollout of large-scale renewable energy projects to transition Australia's electricity system to renewables, and to reduce the significant greenhouse gas emissions associated with the use of fossil fuels. Climate change represents an existential threat to many of the unique species and ecosystems that call Australia home, including globally significant ecosystems like the Wet Tropics of Queensland and the Great Barrier Reef.⁶

However, it is essential that the local biodiversity impacts of renewable energy projects are minimised, to ensure that renewables that are good for nature, are also good for the local environment. Intact natural ecosystems not only provide the clean water, fresh air and healthy food that Australians need to survive, but they also provide habitat for our wildlife and a critical carbon store. The integrity of Australia's carbon sinks is an essential aspect of reaching and maintaining net zero by 2050.

⁶ UNESCO, *Policy Document on Climate Action for World Heritage*, UNESCO RES 24 GA 8, 3 November 2023, [5].



While ACF welcomes the explicit exclusion of burning native forest wood waste as a renewable energy source eligible for CIS funding (see [4.3.1]), we are concerned that the proposed merit criteria for CIS tenders is otherwise silent on the importance of minimising biodiversity impacts. We note that the *Capacity Investment Scheme: South Australia and Victoria Tender Guidelines* (December 2023) did not incorporate environmental considerations into its eligibility or merit criteria.

Environmental permitting requirements, pursuant to State and Territory legislation and/or the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) ('EPBC Act') are insufficient to ensure that renewable energy projects minimise biodiversity impacts to the greatest extent possible. In particular, the EPBC Act has been ineffective at conserving Australia's matters of national environmental significance. The federal government's 'nature positive' law reforms should be implemented as soon as possible, bringing into force National Environmental Standards. Such Standards would provide important clarity and guidelines for the appropriate location of renewable energy projects to minimise impacts on matters of national environmental significance.⁷

In the meantime, large-scale renewable projects that are inappropriately located such that the project is likely to incur significant biodiversity impacts, are the projects most likely to become embroiled in social and political controversy. This risks the social licence of these projects and is more likely to result in costly approval delays.

ACF therefore recommends the development of an explicit and standalone nature protection and restoration merit criterion. The purpose of that criterion should be to enable the government to assess, and prioritise, projects that have: (a) avoided and minimised biodiversity impacts and (b) taken steps to generate biodiversity co-benefits from the project. For example:

- Demonstrated community partnerships for environmental protection and enhancement; and
- Community participation in land use planning and/or co-use of land for agriculture.⁸ For example, agrivoltaics projects that successfully and productively co-locate food and energy production.

⁷ Brendan Sydes, "What nature needs from the Albanese government", (26 October 2023, ACF) <<https://www.acf.org.au/what-nature-needs-from-the-albanese-government>>.

⁸ See further, Community Power Agency, *Incentivising Best Practice Renewable Energy Development* (March 2024), 2 <https://cpagency.org.au/wp-content/uploads/2024/03/2024_CPA_Incentivising-Best-Practice-Renewable-Energy-Development.pdf>.



Minimising the adverse impacts of renewable energy projects on biodiversity can be achieved with effective planning and the appropriate siting of project such that, as much as possible, energy infrastructure is located in areas where ecosystems are already disturbed or degraded, and thus, there is greater opportunity for community partnership to restore local nature. This also reduces impacts on high-value ecosystems, such as large intact remnants of endangered ecological communities.

Recommendation 1: Development of a nature protection and restoration merit criteria

ACF recommends the development of an explicit and standalone nature protection and restoration merit criterion within the merit criteria. The criterion should focus on ensuring projects have minimised biodiversity impacts and taken steps to generate biodiversity and community co-benefits.

Strengthening First Nations Consultation Requirements

ACF supports the inclusion of merit criteria relating to community and First Nations engagement (see [4.4.2] and [4.4.3]). However, the current requirements listed in the consultation paper, and that were included under MC4 of the *Capacity Investment Scheme: South Australia and Victoria Tender Guidelines* (December 2023) should be strengthened.

ACF recommends the integration of the following into the merit criteria for the CIS:

- Free, prior and informed consent of Traditional Owners for renewable energy developments on their lands, consistent with the *UN Declaration on the Rights of Indigenous Peoples*;⁹ and
- Ensuring First Nations people benefit directly from developments on their lands, including through awarding shares in the project to local communities and prioritising First Nations employment.¹⁰

In respect of the latter, the Northern Australia Infrastructure Fund ('NAIF'), which also funds renewable generation and dispatchable capacity, includes mandatory eligibility criteria regarding the social benefits of projects, with a particular focus on First Nations outcomes.¹¹ At a minimum, these standards should be integrated into the CIS eligibility and merit criteria to ensure consistency across federal government funding schemes.

⁹ *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN GAOR, 61st sess, 107th plen mtg, Supp No 49, UN Doc A/RES/61/295 (13 September 2007).

¹⁰ First Nations Clean Energy Network, *Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects* (November 2022)
<https://assets.nationbuilder.com/fncen/pages/183/attachments/original/1680570396/FNCEN_-_Best_Practice_Principles_for_Clean_Energy_Projects.pdf?1680570396>.

¹¹ See Northern Australia Infrastructure Facility Investment Mandate Direction 2023 (Cth), Schedule 1.



The CIS merit criteria for First Nations benefit sharing should be appropriately flexible to suit a range of projects and communities. Nonetheless, the government must ensure benefit sharing is genuine and results in economic, social and environmental outcomes for First Nations communities. The First Nations Clean Energy Network provides detailed best practice principles for benefit sharing with local First Nations communities, and includes opportunities such as:

- Developing a land and environment protection plan for the full lifecycle of the project in partnership with First Nations communities, and resourcing First Nations people to contribute to ecological restoration and management;
- Sharing the economic benefits of the project through co-ownership, co-investment, rental payments or prioritising sourcing from First Nations goods and services as appropriate; and
- Providing social benefits to the community such as by ensuring the project contributes to energy reliability and access for the local community.¹²

Communities, particularly local and affected communities, should be meaningfully consulted and benefit from the placement of renewable energy projects in their area. The CIS is an opportunity to set guidelines for proponents that assures the enduring social licence of their developments.

Recommendation 3: First Nations consultation and benefits sharing

ACF recommends the inclusion of stronger First Nations consultation requirements in the eligibility and merit criteria. The CIS should also incentivise and require benefit sharing between project proponents and First Nations communities, such as through co-ownership, co-investment and/or employment opportunities.

Strengthening Community Consultation and Social Licence Merit Criteria

The above two sections provide specific recommendations regarding two issues that may impact the social licence of renewable energy projects, local biodiversity impacts and First Nations consultation. The following section sets out ACF's recommendation for ensuring social licence is generally attained for projects under the CIS.

The rapid deployment of renewables is essential for a safe climate future, and to achieve and beat the government's 82% by 2030 renewable energy target. Australia needs renewable projects that are supported by host communities.

¹² See generally First Nations Clean Energy Network, *Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects* (November 2022)

<https://assets.nationbuilder.com/fncen/pages/183/attachments/original/1680570396/FNCEN_-_Best_Practice_Principles_for_Clean_Energy_Projects.pdf?1680570396>.



Delivering social value involves prioritising projects that result in positive benefits to people's lives and communities. Communities are more likely to support change, such as hosting large scale renewable generation and dispatchable capacity projects when they have experienced procedural fairness through quality community participation and engagement, and in circumstances where the project incorporates distributional fairness, by benefit sharing with First Nations communities and the public. Finally, projects that explicitly prioritise environmental outcomes by minimising biodiversity impacts and maximising environmental co-benefits (see recommendations above), are also more likely to enjoy enduring social licence.

ACF urges the government to improve upon MC4 and develop merit criteria that encourages better corporate practice on the topics of greatest concern for host communities, thereby improving the social licence of the projects that are ultimately selected under the CIS. Merit criteria should be designed to incentivise better practice beyond existing requirements within State based development assessment requirements. Such criteria should not be merely procedure-focused, such as by mandating additional public consultation periods that may delay projects without necessarily contributing to better community understanding and buy-in. Instead, community engagement and participation merit criteria should be outcome-focused.

ACF recommends the following to strengthen the CIS tender process, in alignment with leading State and Territory criteria for social licence:

- Require a social impact assessment to be completed, in line with EV4 under the Victorian Renewable Energy Target auction 2 ('VRET2').¹³ As part of this assessment, the proponent should be required to develop a community engagement plan that includes monitoring and evaluation;
- Require community benefit sharing strategies to be consistent with best practice, as outlined in the Clean Energy Council's Guide to Benefit Sharing Options for Renewable Energy Projects;
- Require proponents to demonstrate an understanding of community sentiment, such as through polling or surveys; and further to demonstrate that community engagement has occurred to at least the "involve" standard pursuant to the IAP2 Spectrum of Public Engagement, in line with EL13 under the VRET2;¹⁴
- Require proponents to demonstrate community participation in the design, delivery and governance of the project as appropriate with respect to the context and scale of the project; and
- Set targets for local content, employment and apprenticeships for projects to be eligible for the CIS.

¹³ Victorian Department of Environment, Land, Water and Planning, *Community Engagement and Benefit Sharing in Renewable Energy Development in Victoria: A Guide for Renewable Energy Developers* (July 2021).

¹⁴ Ibid.



Additionally, CIS underwriting contracts should include requirements for ongoing monitoring and evaluation of community engagement and benefit sharing by successful proponents.

Recommendation 3: Ensuring enduring social licence

There are a number of ways that the CIS tender process could be strengthened to contribute to the enduring social licence of successful projects. ACF recommends the following to strengthen the CIS tender process, in alignment with leading State and Territory criteria for social licence:

- Require a social impact assessment to be completed, in line with EV4 under the Victorian Renewable Energy Target auction 2 ('VRET2'). As part of this assessment, the proponent should be required to develop a community engagement plan that includes monitoring and evaluation;
- Require community benefit sharing strategies to be consistent with best practice, as outlined in the Clean Energy Council's *Guide to Benefit Sharing Options for Renewable Energy Projects*;
- Require proponents to demonstrate an understanding of community sentiment, such as through polling or surveys; and further to demonstrate that community engagement has occurred to at least the "involve" standard pursuant to the IAP2 Spectrum of Public Engagement, in line with EL13 under the VRET2;
- Require proponents to demonstrate community participation in the design, delivery and governance of the project as appropriate with respect to the context and scale of the project; and
- Set targets for local content, employment and apprenticeships for projects to be eligible for the CIS.

