

Key learnings from the Pilbara Roundtable

The first of many roundtables feeding into the co-design of the Federal government's [First Nations Clean Energy Strategy](#) was held on 27-28 March 2023 in Port Hedland, Western Australia, with over 70 people in attendance.

Energy Ministers announced the development of the First Nations Clean Energy Strategy in [August 2022](#) and targeted for implementation in 2024, with policy reform along the way.

The development of the Strategy is an opportunity to review laws, regulation and policy, lift barriers and implement regulatory reform, and to stoke government investment in innovation, technology and infrastructure, so that First Nations people can share in and benefit from the renewable energy boom.

Day One of the roundtable was open to community members discussing opportunities and barriers to participation in Australia's energy transition. Day Two included clean energy, mining industry and government representatives talking with community members, and responding to presentations on key issues, workshopping opportunities, and networking.

The First Nations Clean Energy Network also introduced its [Best Practice Principles for Clean Energy Projects](#) and the [Clean Energy Negotiations Guide for First Nations](#) to ensure communities have the tools they need to make decisions, negotiate and ensure benefits.

There were a number of key learnings from the Pilbara roundtable, including:

1. Households and communities need affordable energy security and access to grants and subsidies
2. Co-designed small-scale community-led and owned projects are preferred
3. Access to information assists informed decision making
4. Education, training and community capacity building is critical going forward
5. Genuine partnerships must be built with industry and government
6. First Nations people and organisations need resourcing to realise opportunities and co-benefits
7. Project negotiations must be on a fair playing field, with rights protected, including Free Prior and Informed Consent

1. HOUSEHOLDS AND COMMUNITIES NEED AFFORDABLE ENERGY SECURITY AND ACCESS TO GRANTS AND SUBSIDIES

With housing in communities and public housing ill-equipped for the rapidly changing climate, Pilbara community members are increasingly concerned about the quality of life and

energy and fuel costs going forward, particularly for maintaining ceremony, keeping medicines cold, keeping life support and other machines on... all the necessities for living on Country.

Despite residential rooftop solar being the cheapest energy in the world, First Nations people, for the most part, are yet to realise - or have access to - the finance, subsidies and commercial offers available to many of the 3+ million Australian energy consumers who have already installed rooftop solar. Grants have not been readily available or accessible, transport and installation costs are high, proximity to grids difficult, and utility/other regulations are difficult to navigate or even circumnavigate.

Whether it's rooftop solar with a battery, a community-owned ground-mounted solar system or self-managed microgrids, Pilbara roundtable participants shared that many are looking to transition their communities to renewable energy to ensure energy security going forward, particularly reliable, affordable, accessible electricity. They agreed that essential clean energy services and associated subsidies and grants should be developed or made available for First Nations families and communities, and their planning and installation accelerated so that people can start their renewable journeys, like so many other people in Australia have done.

Participants had a strong preference for community driven energy mapping and the co-design of renewable energy projects to ensure community needs are met now and into the future.

2. CO-DESIGNED SMALL-SCALE COMMUNITY-LED AND OWNED PROJECTS ARE PREFERRED

While it was recognised that existing infrastructure would need to be modernised with the transition to clean energy, First Nations people at the Pilbara roundtable have a bigger ambition, proposing decentralised cost savings be realised through locally managed and owned community energy models independent from centralised utilities (eg. microgrids or community-owned solar power on buildings), with employment and training opportunities earmarked for local community members. People want self management of energy systems, reduced or no electricity bills, and interruptions and disconnections from power to be a thing of the past.

Participants discussed how community ownership, equity stakes or project partnerships with companies or the State could provide First Nations people with much needed land and energy security, economic sustainability, cultural and heritage management, and agency to manage relationships with contractors, companies and partners over the longer term and for the benefit of future generations.

First Nation families, communities and nations need support however to get such relationships and projects off the ground. Financial, commercial and government support structures and subsidies have been fairly marginal to date in the development of community-owned renewable projects.

Community members from the Pilbara region are considering rooftop solar and other clean energy technologies in their homes and communities, but the how-to is a stumbling block. Information needs to be made accessible on the how-to of pulling a housing or community project together, including risks, impacts and benefits, and finance, subsidies and commercial stakes, to accelerate community project developments.

3. ACCESS TO INFORMATION ASSISTS INFORMED DECISION MAKING

There is a real lack of information about renewables and the clean energy transition and how it is likely to impact people on the ground, economically, environmentally and socially. Recognising and regulating information inequity would make a big difference to future negotiations.

People and communities need clear, transparent information and tools to better understand renewable energy options, reasons for critical minerals mining, the breadth in clean energy technologies, and the role and potential of the decarbonised electricity system going forward.

People also need information about what options may be available to them, from household to small, medium and large scale clean energy developments (including transmission lines, major hydrogen and ammonia hubs, wind farms, etc), and why some developments may be considered as more significant by First Nation communities, companies or governments than others.

First Nations people need to know what is being asked of them, what is the likely impact, cost and lifespan, what are the potential benefits to First Nations people and at what price, and whether a project should therefore go ahead or be vetoed?

People's experience includes being asked by government or industry to hastily negotiate well after a decision has been made and in an information vacuum - a legacy of the fossil fuels extractive industry. This model of engagement negates basic consumer, cultural heritage and land access rights and lends itself to a complexity of (legal) issues going forward.

Participants in the Pilbara felt that information on all aspects of a potential project must be made transparent and shared by governments, companies, industry, Councils and Networks so that First Nations and everyone was equitably informed to participate and make assessments, and First Nations people could really see whether they were procuring and receiving full project benefits.

Critically, community members said people need time to digest and understand the same information everyone else is privy to (including energy consumers across the country, parties to a negotiation, banks and insurers, etc). Longer negotiation periods are also necessary to make sure all community members are consulted and up to speed.

When people have all the information at hand early on well before a project is fully conceived, and can share and consult on that information with co-decision-makers in a community, organisation or Nation as per community decision making channels, and when

decision-makers are treated as equals - as significant project partners rather than stakeholders or renters, the message from the Pilbara is that key First Nations' engagement is likely more assured, strategic partnership and equity arrangements more promising, and land access more likely.

4. COMMUNITY CAPACITY BUILDING, EDUCATION AND TRAINING IS CRITICAL GOING FORWARD

An industry wide approach to training and development in the clean energy sector is currently missing. People want local jobs and community members trained competently to work and grow in the sector, particularly your people.

Participants also want members of the clean energy industry trained in cultural competency. Companies and workers need to understand how to talk with First Nations people, who to talk to, what questions they should be asking, legal and other rights First Nations people hold, and so on.

The Pilbara roundtable suggested industry and companies should provide training for work on projects as there is a lack of training providers across the country doing this. It was also suggested that local jobs be mandated, with training provided and jobs designed appropriately (eg. job pools) to fit economic, social and cultural needs. Industry workforce planning should be mandated too, to ensure implementation by partners and agencies for the benefit of First Nations people.

A regional / state-wide advisory body for renewable and clean energy would help First Nations dictate and utilise best practice in the clean energy transition. Included could be governance support of representative bodies, including capacity building on how to operate a company, and learnings from international best practices.

It was also suggested that funding be made available as clean energy projects are being conceived and designed in order to upskill community members to better understand community proposals, how the community might interact and/or negotiate with it, and in what areas the community can build capacity for future employment and/or offtake opportunities. Further, people were firmly in agreement about the need for capacity building in the pointy end of negotiating with highly skilled project proponents and investors. That funding could employ skilled practitioners, as necessary, to ensure a level playing field while upskilling community members.

Traditional Owners suggested further research and due diligence about companies / entities backgrounds was essential but largely inaccessible due to the lack of resources available to them, including financial and legal advice and information. They want control and decision making power brought back into the community.

It was understood that community capacity building would need to occur around local and wider energy security issues and likely challenges going forward due to climate change (eg. extreme heat). Sharing knowledge and learnings with other First Nation communities was seen as paramount and necessary.

5. BUILDING GENUINE PARTNERSHIPS WITH INDUSTRY AND GOVERNMENT

Both Federal and State governments have recognised that one of the most critical elements of the clean energy supply chain is access to land. Pilbara participants recognised that some First Nations groups are in an interesting position of leverage, providing an opportunity to not just be part of the dialogue but to enter genuine partnerships.

The Pilbara roundtable reflected on learnings from dealing with extractive industries, and agreed the clean energy transition offers an opportunity to work out what can be done differently, including defining a new economic model that includes First Nations' aspirations and effective participation.

Participants also called on governments to properly engage with First Nations when proposing to make changes to tenure to facilitate clean energy projects, and not to repeat the mistakes of the past.

First Nations people want negotiations reset for true collaboration and sustainability with consultation that's more than 'tick and flick', including mandating early engagement by project proponents (companies, governments) with impacted First Nations people (at or before a project is proposed), to build trust and strong, long lasting relationships.

Communities want to co-design engagement and negotiation processes with proponents to ensure agreements made with First Nations people are sustainable, with critical long-term benefits.

First Nations people impacted by clean energy projects want the best commercial outcomes with a fair equity ratio across project proponents and communities, and/or ensuring equal/fair receipt of project royalties.

The Pilbara roundtable suggested a national legislated framework or benchmark be developed and implemented for all project negotiations with First Nations people, to provide necessary guidance, for instance, if the community was without the capacity (eg. financial) to meaningfully negotiate the best possible outcomes (including knowing what the community is entitled to, now, and into the future), or if the community was absent the knowledge of what should be rightfully included in a negotiation (eg. risks, benefits). It was suggested the framework or benchmark could include a compliance checklist to include the necessary processes and steps to be undertaken before any project could commence.

6. FIRST NATIONS PEOPLE AND ORGANISATIONS NEED RESOURCING TO REALISE OPPORTUNITIES AND CO-BENEFITS

First Nations participants reinforced that native title groups are owners of land, and so are also potential proponents. Ideally, First Nations communities should be equity partners in projects, sharing annual profits and bonuses, providing local jobs and training, and ensuring homes and communities have access to affordable reliable clean energy technologies and solutions going forward.

But, how to get there? First Nations people are currently being approached by small and large proponents, but have little capacity and/or resources to respond effectively or meaningfully, meaning bigger picture plans get stumped early.

Participants suggested PBCs should receive funding from the investment process to employ consultants, and force design and planning at the PBC level. PBCs and Traditional Owners need to be resourced to mitigate power imbalances and level the playing field, including through access to independent legal and technical advice so that communities can make informed decisions about which business opportunities to enter into. PBCs could benefit from having portfolio managers and/or vehicles to both negotiate and help operate and manage clean energy projects.

Industry and/or government investment and/or funding would give First Nations necessary financial leverage for possible equity stakes, and particularly for those negotiating huge commercial considerations.

A dedicated investment grant fund and/or a development bank to create and/or finance First Nations equity and ownership in commercially viable businesses, with associated revision to trusts and tax structures, was also put forward by the Pilbara roundtable. It was recognised that there are a lot of big opportunities in the pipeline, but a lack of finance to capture it.

Further, changes to Non Disclosure Agreements and agreements that developers impose on PBCs which limit the ability to seek advice, was also desired.

7. PROJECT NEGOTIATIONS MUST BE ON A FAIR PLAYING FIELD, WITH RIGHTS, INCLUDING FREE, PRIOR AND INFORMED CONSENT (FPIC), PROTECTED

The roundtable group were very clear in wanting their collective rights protected. They want to be negotiated with as communities, not one by one. Companies should recruit people from communities early to initiate the conversation in a culturally appropriate and respectful manner, and protocols for negotiating well developed and implemented up front.

Land access is a huge issue. First Nations people are being pressured to say yes to projects without any real benefit flowing back to communities. PBC's are under-resourced and can't keep up with the demand. People want equal knowledge to negotiate land access, and fair resourcing to allow for community assessment of projects and benefits. At the same time, land is being reserved, undermining First Nations ambitions.

Participants suggested national guiding principles to negotiate land access were needed, urgently.

Roundtable participants suggested that land stewardship should be embedded to reduce local environmental impacts, and that land and/or cultural heritage provision revisions and/or new proposals must include consultation *prior* to any change, and then communicated well to all community members.

People also want to be able to reserve development rights on their land, before developers do, and for any hint of the extinguishment of native title rights in favour of developers' proposals to be removed off the table.

And they want Free Prior and Informed Consent (FPIC) to be ensured or mandated to give control of decision making back to communities, particularly the right to negotiate land use. Proponents must respect the right to FPIC, which includes the right to withhold consent (the right to veto).

Water is another issue. Roundtable participants recognised access to water and water licences are crucial going forward, and were concerned company and/or pastoralist agreements weren't taking into account First Nations needs nor sustainability of supply. There was a call for PBCs to be able to renegotiate water rights going forward.

The Pilbara roundtable wants project agreements to be made public, as much as possible, to ensure a fair playing field whereby communities and industry can share knowledge and learn from each other and the co-designed projects already underway.

Robust benefit sharing frameworks were also suggested to provide outcomes for host communities (eg. the planned update to the transmission line network in Australia). Further, circular economy principles should be transparent so that end-of-life impacts of materials (e.g. coal plant, solar panels) which have the potential to harm Country are understood and prepared for. Finally, corporations' risk disclosures should be extended to include nature/biodiversity and cultural heritage risks.

Finally, it was suggested and agreed that the development of a national framework to ensure First Nations participation and benefit from the Renewable Energy transition was an absolute necessity - and roundtable participants were appreciative of being included in the First Nations Clean Energy Strategy development process.

WHERE TO FROM HERE?

The Federal government is responsible for writing the First Nations Clean Energy Strategy. Further roundtable discussions will be held around the country over the next 6-9 months. More information on the [roundtables](#) can be found here. Additional input to the Strategy can be provided either [directly](#) to the Department of Climate Change, Energy, the Environment and Water, or through the [First Nations Clean Energy Network](#).

TESTIMONIALS FROM ROUNDTABLE PARTICIPANTS

- *"It was an opportunity to network with other PBC's, TO's and develop a better understanding of the renewable energy transition and the challenges/opportunities to Indigenous communities."*

- *"It was good to understand the strong feelings about Country and some of the frustrations about land access processes and Aboriginal disempowerment."*
- *"I gained a better understanding of the position and role currently taken by the state and Commonwealth on the role First Nations communities will play in the Green Revolution."*
- *"A fantastic event that is working to the benefit of all First Nation communities."*

REGISTRATION SUMMARY

In addition to individual community members, representatives from a variety of organisations and groups attended Day Two of the Pilbara roundtable, including:

- Alinga Energy Consulting Pty Ltd
- APA
- BHP
- Cheeditha Energy
- Claypan Services Pty Ltd
- Cundaline Resources
- Department of Climate Change, Energy, the Environment and Water
- Department Of Primary Industries And Regional Development
- Department Of The Premier & Cabinet
- Department of Water and Environmental Regulation
- DMIRS - EPWA
- Fortescue Metals Group
- Gobawarrah Yinhawangka
- Goorring Aboriginal Corporation Pbc
- Horizon Power
- Impact Investment Partners
- Karajarri Traditional Lands Association
- Kariyarra Aboriginal Corporation
- Kariyarra Enterprises
- MIB Traffic
- National Indigenous Australians Agency
- North Regional TAFE
- Nyamba Buru Yawuru
- Pilbara Solar
- Rio Tinto
- Wajarri Enterprise