

# First Nations Guidelines

Increasing income and employment opportunities  
from electricity infrastructure projects







# Acknowledgement of Country

The Office of Energy and Climate Change acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

The Office of Energy and Climate Change believes in thoughtful, place-based approaches to our work and maintaining strong partnerships with local Aboriginal communities to ensure local priorities and values inform and influence decision-making, and those communities benefit from the economic empowerment and jobs generated from the work of the Office.

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First Nations Guidelines

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# Minister's foreword

I recognise the Traditional Owners of the lands across NSW and pay my respects to Elders past, present and emerging.

The delivery of the Electricity Infrastructure Roadmap is a once-in-a-generation opportunity to embed Aboriginal outcomes in new energy infrastructure developments.

We want decisions in building new energy infrastructure throughout regional NSW to benefit and drive success in Aboriginal-owned organisations and businesses; to build capacity for people and businesses and to create better outcomes for Aboriginal people right across NSW.

The *First Nations Guidelines – Increasing income and employment opportunities from electricity infrastructure projects* are a collaborative effort between the NSW Government and Aboriginal communities to ensure Aboriginal participation is included in project design and implementation. Region-specific guidelines will also be co-designed to ensure local Aboriginal people and communities have greater say in how they wish to be engaged, and the outcomes that are a priority for the area.

These guidelines will embed participation opportunities and outcomes for Aboriginal communities in the delivery of new energy infrastructure developments.

We are privileged to work alongside Aboriginal people as they partner with us to understand and help champion the wellbeing, rights and successes of Aboriginal communities.

**The Hon. Matt Kean MP**  
**Treasurer and Minister for Energy**

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# What is the purpose of these guidelines?

The purpose of these guidelines is to set out the expectations for increasing employment and income opportunities for Aboriginal peoples and communities in the construction and operation of new electricity infrastructure projects in NSW delivered under the NSW Electricity Infrastructure Roadmap.

These guidelines have been developed under section 4 of the *Electricity Infrastructure Investment Act 2020* and require private sector energy infrastructure proponents to consult and negotiate with local Aboriginal communities about these opportunities. It is expected that any commitments made will be met by proponents.

The guidelines comprise 2 parts: the general guidelines and region-specific guidelines for Renewable Energy Zones. These general guidelines provide details about requirements for and approaches to consultation and negotiation with local Aboriginal communities. Region-specific guidelines will provide detailed socio-demographic information about the regions and the communities and outline particular approaches to engagement and any priority areas of employment and income opportunities for local communities.

## Box 1: Examples of employment and income opportunities

- Direct opportunities (jobs and businesses) attributed to infrastructure projects such as engineering, electrical, construction, maintenance, operations.
- Indirect opportunities (jobs and business opportunities) attributed to infrastructure projects such as the provision of accommodation, catering, hospitality, goods, and materials supply.
- Funding for local initiatives with community and employment purposes made available by collecting fees from new generation and storage projects in Renewable Energy Zones.
- Education opportunities that lead to long-term employment and income pathways, such as traineeships, apprenticeships and scholarships.

Project proponents should be aware that there may be other consultation obligations with Aboriginal stakeholders and processes under other NSW and Commonwealth legislation concerning cultural heritage, environmental, social, or other impacts of proposals. These obligations and processes are not captured by these guidelines. The requirement to consult and negotiate under these guidelines is **in addition to and does not replace or change** any of these other requirements.

Proponents must exercise due diligence to understand and meet all relevant legislative requirements for proposed projects to ensure that consultation with local Aboriginal stakeholders addresses all relevant matters of concern.

These guidelines are not intended to:

- present an alternative avenue to address issues around grievances and reparations regarding matters of cultural heritage, native title or land rights
- provide legal advice on the matters covered by the guidelines or matters covered under other legislation or policies. If necessary, parties should seek independent legal advice.

Refer to Schedule 6 (links and references) for guidance on some of the other NSW and Commonwealth legislation and policies that may apply to proposals.

## Who is the audience for these guidelines?

Audience	Related activity
<b>Aboriginal people, businesses, and communities</b>	<p>Understanding what is expected of industry in negotiation and engagement</p> <p>Understanding the nature of opportunities that may arise from new electricity infrastructure projects</p>
<b>The Minister</b>	<p>Authorising a network operator to carry out priority transmission infrastructure projects</p>
<b>Consumer Trustee</b>	<p>Authorising a Renewable Energy Zone network infrastructure project; the Consumer Trustee may impose conditions to give effect to the guidelines</p> <p>Preparing tender rules and the terms and conditions of long-term energy service agreements to encourage best practice outcomes</p> <p>Preparing tender rules and the terms and conditions of the access rights to a Renewable Energy Zone</p>
<b>Infrastructure Planner</b>	<p>Preparing an assessment or recommendation for Renewable Energy Zone network infrastructure for the Consumer Trustee</p> <p>Dispersing funds raised through Renewable Energy Zone access schemes for employment and community purposes</p>
<b>Project proponents</b>	<p>Considering what best practice looks like in negotiating and engaging with local Aboriginal communities</p> <p>Preparing project proposals for network construction and operation or tenders for infrastructure projects that are covered by the guidelines</p> <p>Preparing tenders for access rights that are covered by the guidelines</p>

# What is the policy context?

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## NSW Electricity Infrastructure Roadmap

The Electricity Infrastructure Roadmap (the Roadmap) establishes an integrated, whole-system approach to transform the State's electricity system by attracting, securing and coordinating private investment to develop the necessary infrastructure. This involves the investment in transmission, energy generation, storage, and firming infrastructure (for example, pumped hydro energy storage) as ageing coal fired generation plants retire over the coming decades.

The delivery of significant energy infrastructure is also expected to drive economic growth in regional NSW and support direct economic opportunities and benefits to regional communities. This includes up to \$32 billion in private sector investment, and supporting around 6,300 construction and 2,800 ongoing jobs in 2030.

The Roadmap is enabled by the *Electricity Infrastructure Investment Act 2020* (Act). A requirement under the Act is for 'the Minister to issue guidelines about consultation and negotiation with the local Aboriginal community in relation to relevant projects for the purposes of increasing employment and income opportunities for the local Aboriginal community.'<sup>1</sup>

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## NSW Aboriginal Procurement Policy

The NSW Government has introduced the Aboriginal Procurement Policy (APP) to support and create better long-term outcomes for Aboriginal people, businesses, and communities. The policy applies to NSW Government departments and agencies procuring external goods and services.

The APP requires suppliers tendering for government contracts (over the value of \$7.5 million) to submit an Aboriginal participation plan as part of the tender process. A participation plan is a written statement outlining a prospective supplier's activities to employ and train Aboriginal people or use Aboriginal-owned businesses in supply opportunities.

The participation plan must demonstrate that proposals include one or a combination of the following:

- at least 1.5% of the contract value to be subcontracted to Aboriginal-owned businesses
- at least 1.5% of the contract's Australian-based workforce (FTE) that directly contributes to the contract to be Aboriginal or Torres Strait Islander peoples
- at least 1.5% of the contract value to be applied to the cost of education, training or capacity building for Aboriginal staff or businesses directly contributing to the contract.<sup>2</sup>

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<sup>1</sup> section 4(1) *Electricity Infrastructure Investment Act 2020*

<sup>2</sup> These requirements are also imposed on NSW Government departments under the NSW Government's First Nations Procurement Policy, NSW Government 2021.

The APP does not apply outside of NSW Government contracts; however, the policy approach provides a useful benchmark for the assessment of Aboriginal participation in projects proposed under the Roadmap. Proponents are expected to seek to meet the APP as a starting point for consultation and negotiations with local Aboriginal communities, regarding relevant projects.

Under the APP, progress on meeting commitments made under the plan must be reported by suppliers and verified. If APP outcomes are not met in a government contract, the remaining balance of the proposed participation spend is directed to Training NSW. Similar reporting obligations on commitments under participation plans could be considered by the Roadmap decision-makers.

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## Key Roadmap terms

In this guideline, *Roadmap proponents* or *project proponents* or *proponents* refer to a person or organisation that is carrying out a Renewable Energy Zone network infrastructure project, a Priority Transmission Infrastructure Project, or a generation or storage infrastructure project seeking a long-term energy service agreement (see below for definition) or rights under a Renewable Energy Zone access scheme.

**Aboriginal participation plan:** referred to as a ‘participation plan’, is a written agreement outlining a prospective supplier’s activities to employ and offer training to Aboriginal people or use Aboriginal-owned businesses to procure goods and services. The commitments in the participation plan may form part of the contractual agreement if an authorisation or agreement is awarded.

**Access scheme:** a scheme that authorises or prohibits access to, and use of, specified network infrastructure in a Renewable Energy Zone by network operators and operators of generation and storage infrastructure.

**Consumer Trustee:** (abbrev: CT) the independent body responsible for planning the level, timing and type of investment that will take place under the Roadmap. It will determine the design and schedule of competitive processes to award long-term energy service agreements and access rights.

AEMO Services Ltd, a subsidiary of the Australian Energy Market Operator (AEMO), has been appointed by the NSW Minister for Energy and Environment as the NSW Consumer Trustee.

**Energy Corporation – the Energy Corporation of NSW:** (abbrev: EnergyCo or EnCo) a company established under section 7 of the *Energy and Utilities Administration Act 1987* (NSW) to coordinate energy infrastructure, e.g. transmission, generation, firming, and storage projects, to ensure the right infrastructure is built at the right time, to meet energy needs.

Under the Act, EnergyCo is to be appointed as the Infrastructure Planner for the 5 proposed Renewable Energy Zones.<sup>3</sup>

**Electricity Infrastructure Investment Act 2020:** (abbrev: Act or EII Act) the legislation that provides the legal framework for Roadmap activities.

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<sup>3</sup> section 23(5) *Electricity Infrastructure Investment Act 2020*



**Electricity infrastructure jobs advocate:** a role created under the Act to advise the NSW Minister for Energy and Environment on:

- strategies and incentives to encourage investment, development, workforce development, employment, education and training in the energy sector in Renewable Energy Zone regions
- road, rail and port infrastructure required in the regions specified above to promote export opportunities for generation, storage and network technology.

**Infrastructure Planner:** the entity authorised to exercise the functions under section 63 of the Act.

**Local Aboriginal community:** an Aboriginal person or a person who has native rights and interests, within the meaning of the *Native Title Act 1993* (Cth), in relation to the land to which the relevant project relates, and the Local Aboriginal Land Council for the area to which the relevant project relates, and other Aboriginal persons prescribed by the regulations.

**Long-term energy service agreements:** (abbrev: LTESA) agreements for renewable energy generation, long duration storage, and firming infrastructure projects.

**Renewable Energy Sector Board:** a board established under the Act for the NSW renewable energy sector, in particular in relation to the operation of the sector and the manufacture and construction of infrastructure in the sector.

**Renewable Energy Zones.** (abbrev: REZ) areas in NSW that combine renewable energy generation such as wind and solar, storage such as batteries, and high-voltage electricity network infrastructure to deliver electricity to users. The Act contemplates at least 5 such zones to be located in the Central-West Orana, Illawarra, New England, South West and Hunter–Central Coast areas. Renewable Energy Zones are declared under the Act.

**Roadmap decision-makers** or **decision-makers** in this guideline refers to entities appointed under the Roadmap that have relevant decision-making functions under the Act, in particular the Minister, the Infrastructure Planner, Consumer Trustee and Regulator.

**Regulator:** the entity authorised to exercise the functions under section 64 of the Act.

# How will the guidelines be used and how do they work?

## Application of the guidelines for the Roadmap

Figures 1 and 2 below provide a high-level summary of where the First Nations guidelines (this includes both general and region-specific guidelines) must be considered and by whom, and where they may be required to be considered for long-term energy service agreements and network infrastructure projects respectively.

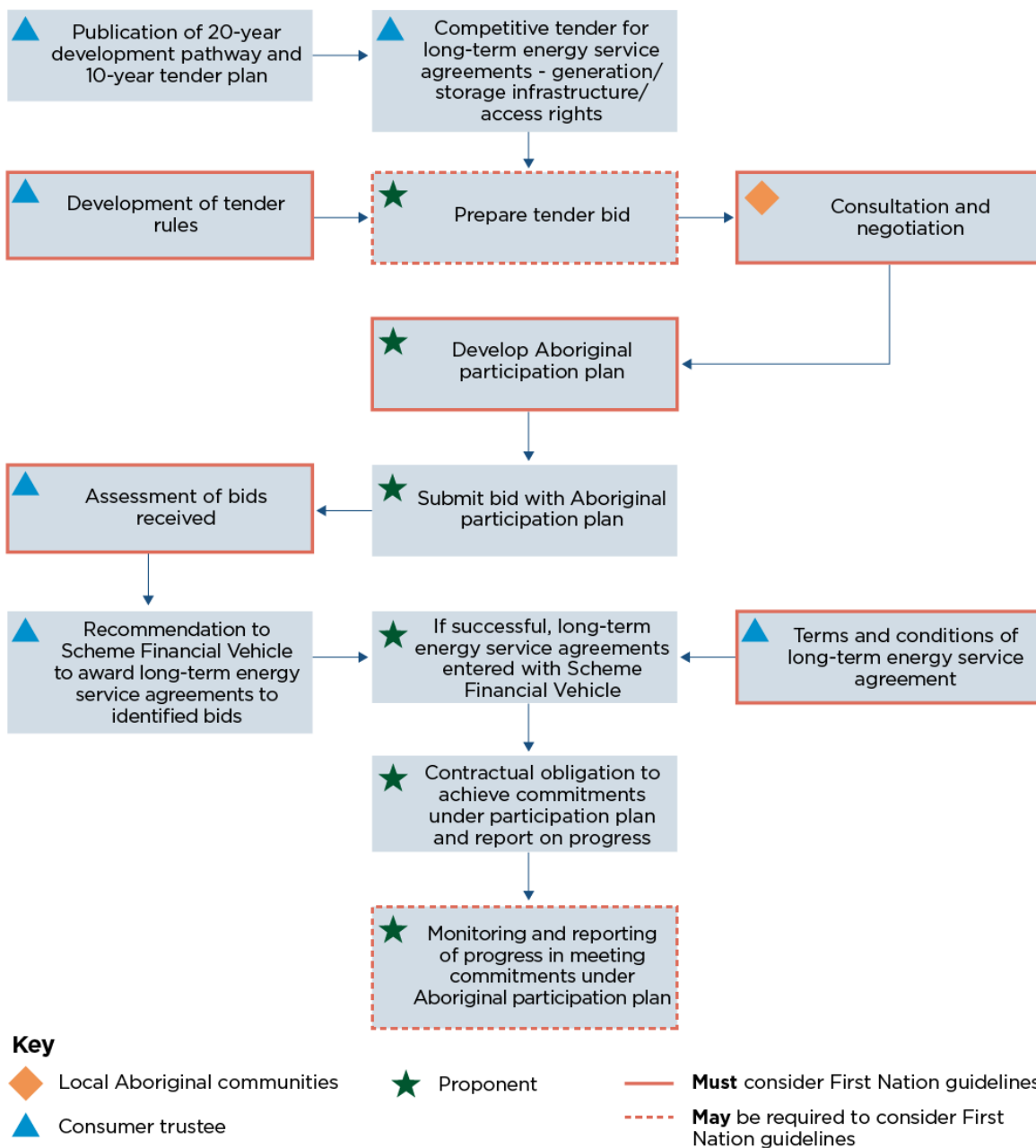


Figure 1 The role of the guidelines in the making of long-term energy service agreements

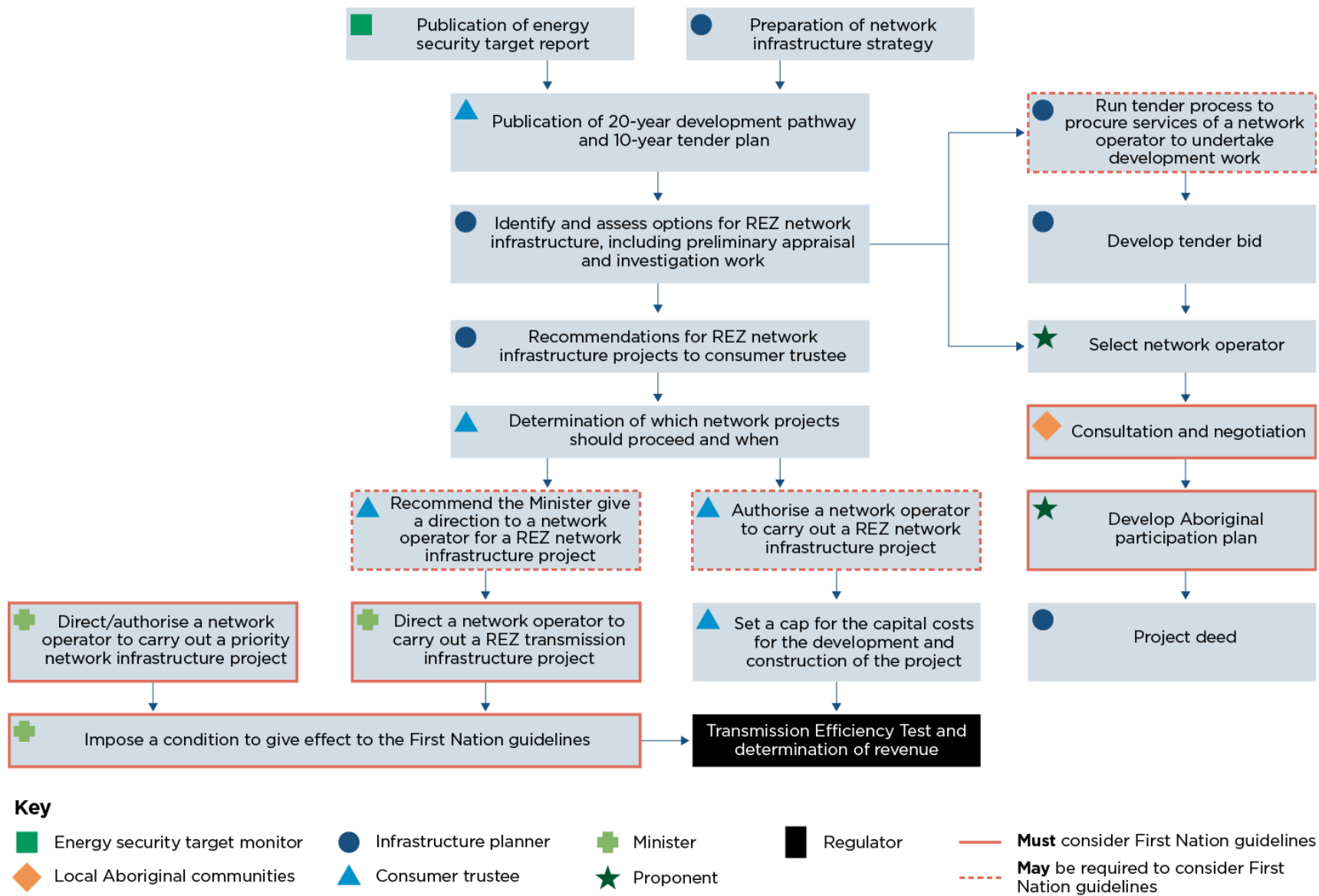


Figure 2 The role of the guidelines in network infrastructure projects

# What are the objectives of these guidelines?

The Roadmap will support up to \$32 billion of private sector energy infrastructure investment in regional NSW by 2030. These guidelines are intended to ensure local Aboriginal communities also benefit from this investment via employment and income opportunities. These guidelines are designed to highlight the importance of:

- meaningful engagement by private sector investors with local Aboriginal communities and committing to the creation of opportunities for local Aboriginal communities. The engagement is expected to be reflective of current government practices and should aim to adopt similar numerical targets for Roadmap contracts as set out in the NSW APP
- building the capacity of local Aboriginal communities to actively engage in negotiations to create these opportunities and to take advantage of the opportunities that are offered
- where project proposals are successful, ensuring the commitments made to local Aboriginal communities are turned into obligations, and the progress in meeting these commitments is actively, effectively and transparently monitored and enforced.

In addition to delivery by proponents and funds from access fees, other sources of funding may be directed to delivering the objectives of the guidelines.

# When are Aboriginal participation plans required?

The Minister and the Consumer Trustee must take the guidelines into account when exercising certain functions under the Act,<sup>4</sup> and may impose conditions on proponents to give effect to them.

It is recommended that network project proponents (network operators) be required to prepare and implement an Aboriginal participation plan (participation plan) for priority transmission infrastructure projects and Renewable Energy Zone network infrastructure projects respectively. The condition would be imposed before the network operator applies to the Regulator for a revenue determination.

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<sup>4</sup> section 4 *Electricity Infrastructure Investment Act 2020*



For an infrastructure proposal to which a long-term energy service agreement would apply, it is recommended the Consumer Trustee impose an eligibility requirement on proponents to develop and include a participation plan as part of a bid. The Consumer Trustee may also consider such matters as the quality of the participation plan or compare the agreed outcomes against the minimum participation targets, in its merit assessment process.

## What are the required commitments from Aboriginal participation plans?

In accepting project proposals for network infrastructure authorisations, long-term energy service agreements or access rights, decision-makers should generally consider whether:

- a proponent has demonstrated genuine and meaningful engagement with the local Aboriginal community, including providing adequate time for the community to prepare for formal engagements, and developed commitments with local Aboriginal community input
- a proponent's participation plan<sup>5</sup> takes account of operational constraints and commits to align or exceed the APP benchmark targets for minimum employment and spending throughout the project<sup>6</sup>
- the plan is credible and acts to enable capacity building for the local Aboriginal community
- the plan includes a process for continuing engagement with the local Aboriginal community about progress on commitments
- the plan includes details about how progress on meeting the commitments will be reported and how the report might be verified with the local Aboriginal community.

Note that there is an expectation that the minimum participation targets will ratchet upwards as the Roadmap is rolled out over time, and as the organisational capacity and resource capability is built up within local Aboriginal communities.

Roadmap decision-makers should generally consider the level of detail to be provided in participation plans. This could include ensuring, for example, sufficiency and clarity of detail about the commitments made to provide employment and income opportunities after engagements with the local Aboriginal community. It could also consider whether the commitments clearly address whether local Aboriginal communities and regional communities will receive long-term and broad benefits from Roadmap activities more generally.

Decision-makers should generally further consider the transparency of the commitments made and how to verify the progress. This could include consideration of whether participation plans have included sufficient detail about the community's endorsement and how proponents propose to measure, verify and report to the local Aboriginal community on progress towards achieving the agreed outcomes.

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<sup>5</sup> A template for a First Nations participation plan is provided in Schedule 5 of this guideline.

<sup>6</sup> This spending is in addition to payments made by proponents through access fees.

In assessing the merit of proposals, decision-makers should generally consider the extent to which a proponent’s participation plan delivers, or is likely to deliver, on outcomes and targets within region-specific protocols.

### Case study: Newcrest Mining<sup>7</sup>

Over the last 5 years, Newcrest Mining has engaged the local Aboriginal community in employment and training initiatives under an Indigenous Land Use Agreement for its Telfer Mine in Western Australia. Newcrest has been operating in this community for 40 years.

This engagement:

- has employed 500 local Aboriginal people in the last 15 years
- currently employs 102 Aboriginal workers in full-time roles
- provides for 8 full-time trainee positions each year
- developed specialised training programs to build skills capacity for existing workers and training to prepare people for employment
- works with the local community to maintain a register of ‘work ready’ people
- provided preferential tenders to local Aboriginal-owned businesses and companies.

These economic participation outcomes were negotiated with the local community, and Newcrest activities met planned outcomes. Additionally, the local Aboriginal community will receive \$18 million as part of the benefits sharing program under the 5-year agreement.

Community outcomes:



Capacity building



Long-term economic opportunities



Meaningful and ongoing relationships

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## Identifying an Aboriginal-owned business

For the purposes of this guideline an Aboriginal-owned business is identified as both:

- having at least 50% Aboriginal ownership
- being recognised as an Aboriginal business through an appropriate organisation, such as Supply Nation or the NSW Indigenous Chamber of Commerce. These organisations maintain lists of First Nations businesses that are audited and undergo quality assurance.

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<sup>7</sup> Case studies included in these guidelines are for the purposes of providing examples of ‘best practice’ outcomes. It is acknowledged that most are not from NSW, but it is anticipated these will be replaced by NSW examples as work under the Roadmap progresses.

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## Confirming the Aboriginal heritage of employees

For the purposes of maintaining the integrity of this guideline and ensuring robust outcomes, Roadmap decision-makers should generally consider how to verify what is being reported. For example, suppliers reporting on numbers of full-time equivalent employment opportunities for Aboriginal peoples on the contract could be required to demonstrate their process of confirming Aboriginal status in line with the guidance available from the Buy.NSW portal.

Under the Buy.NSW guidance, the status of Aboriginal employees can be confirmed in any of the following ways:

- a letter from a Local Aboriginal Land Council (LALC) confirming acceptance of a person as a member of the LALC. The letter must be on the LALC letterhead and signed by either the LALC Chairperson or Chief Executive Officer
- a letter of confirmation from an Aboriginal community organisation
- a statutory declaration where an individual is unable to provide evidence from a LALC or Aboriginal Corporation (this declaration could state why the person has been unable to obtain such written evidence, in acknowledgement of the fact that persons may have recently moved to the area where they are seeking employment and obtaining the evidence may be impractical within the time required).

## What does best practice engagement look like?

Prioritising engagement with local Aboriginal communities can provide significant benefits to project management and lead to valuable project outcomes. A key focus of the guidelines is balancing genuine and respectful engagement with Aboriginal people on their Country to understand the proposal's impacts and collaborate to deliver sustained economic opportunities for local Aboriginal communities.

Best practice engagement involves:

- identifying Aboriginal stakeholders (refer to Schedules 2 and 3)
- engaging with Aboriginal stakeholders with an understanding of free, prior, informed consent principles
- pre-consulting with Aboriginal stakeholders before commencing consultation discussions
- information gathering and input from the local community to assist in decision-making
- ongoing participation throughout the project completion
- maintaining the relationship even after the immediate project has been completed
- all participants being treated with dignity and respect
- being informed about cultural awareness and protocols.<sup>8</sup>

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<sup>8</sup> see 'Core cultural learning', Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)

A best practice engagement approach is more likely to achieve positive outcomes and provides the opportunity for all parties to prepare to implement the plan. If relationships are maintained, the long-term benefits include the reputation and goodwill that follow, which can be of considerable value for ongoing and new proposals across the regions.

Where appropriate, the engagement undertaken for the purposes of meeting requirements within these guidelines can be combined with engagement and consultation undertaken for other purposes relating to the developments.

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## What is a place-based approach?

When a development is proposed proponents should adopt a place-based approach in their participation plans.

A place-based approach involves the proponents gaining an understanding of the location and the people within the community, and opportunities and challenges for community involvement. Applying a place-based approach means that proponents can approach consultations and negotiation with appropriate commitments that suit the local Aboriginal community; for example, proponents could prepare a proposed commitment that addresses job or training gaps in the area. Further details on a place-based approach are found in Schedule 2.

Proponents can find further guidance through the region-specific protocols and information, which will be co-developed with regional Aboriginal stakeholders. These region-specific protocols will provide some detail about the region, as well as key result areas, stretch goals, or outcomes for employment and income opportunities that local Aboriginal communities are seeking to address from the new infrastructure developments.

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## What should best practice negotiations involve?

Roadmap proponents should be aware of cultural protocols and cross-cultural communications when working with Aboriginal stakeholders. Further details of culturally appropriate protocols are found in Schedule 2.

A best practice negotiation approach will involve:

- determining whether interpreters or cultural navigators need to be engaged in the negotiation process
- collaborative and inclusive decision-making under the principles of free, prior, and informed consent
- patience and understanding to ensure engagement is genuine and not transactional – provide more information and time if needed
- being flexible in expectations about timeframes
- learning how to best engage Aboriginal stakeholders (such as stakeholder meetings, workshops, participatory research, mind mapping, negotiation roundtables, photovoice, and other creative tools)
- being clear about what outcomes can and cannot be achieved about the project and the place.



# How will generation and storage project proponents demonstrate compliance?

The Consumer Trustee is to take into account the guidelines when exercising its functions in relation to the making of long-term energy service agreements.

It should generally, therefore, take the participation plan into account when it determines the eligibility of bids for a long-term energy service agreement and access rights. The Consumer Trustee should generally also take into account how the participation plan addresses these guidelines in its assessment of the merits of the bid.

Proponents may be required to report on the delivery of the bid undertakings and there may be recourse if undertakings are not met.

Decision-makers should generally consider establishing a monitoring and compliance framework to ensure commitments made by proponents under participation plans are met. This may include an independent audit regime of participation plans. This could, for example, mirror the monitoring regime of the AAP, which requires 5% of contracts to be audited each year.

The Consumer Trustee can stipulate terms and conditions for long-term energy service agreements. Amongst other things, this could include applying bonding and/or liquidated damages. If utilised for participation plans, terms and conditions may include a provision about the consequences that would apply if the proponent does not meet the commitments made in its participation plan<sup>9</sup>.

Irrespective of the form of the financial or contractual incentives used to incentivise compliance, consideration could be given to ensuring the incentives are set at a value greater than the expected costs of meeting those commitments.

In considering whether additional action is necessary, it would be useful to consider the proponent's efforts in relation to the delivery. For example, if proponents are able to demonstrate that they have used best endeavours to deliver on their commitments, and/or have discussed and reached agreement on alternatives with the local Aboriginal community, it will be open to the decision-maker not to impose a penalty.

Additionally, proponents must make reports on progress of commitments to the local Aboriginal community, as set out in their engagement approach in participation plans.

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<sup>9</sup> Project spending for the purposes of determining the minimum participation requirements will exclude capital expenditures and procurement spending that cannot be sourced domestically.

# How will network projects demonstrate compliance?

The Infrastructure Planner will monitor the delivery of network infrastructure projects that are authorised under the Act. As part of this monitoring, the Infrastructure Planner should generally require proponents to report on their progress against the commitments made in their participation plan and include these plans in the scope of any auditing regime. As with generation and storage projects, network infrastructure proponents may be asked to demonstrate they have made best endeavours to deliver on their commitments.

## What role can access schemes play?

Access schemes will control which generation and storage projects can connect to the specified network infrastructure in a Renewable Energy Zone. Projects that participate will be charged access fees and portions of these fees will be dedicated to funding community and employment initiatives in the Renewable Energy Zone.

The Consumer Trustee is responsible for determining access fees, including the community and employment components. It is anticipated that the Infrastructure Planner will develop the benefit-sharing schemes that ensure community and employment funds make a genuine and tangible impact for local communities in Renewable Energy Zones, including local Aboriginal communities.

In developing and implementing these benefit-sharing schemes, the Infrastructure Planner should generally consult with local Aboriginal communities and stakeholders on funding proposals, projects or programs, to contribute to delivering specific community and employment outcomes in the Renewable Energy Zone.

# How will outcomes be reported and improved over time?

The Consumer Trustee, the Infrastructure Planner and the Regulator are required to report on the performance of their functions on an annual basis, which will be published.

The Minister may require any information to be reported. This will include information regarding Aboriginal participation plans, such as:

- the average percentage commitments to Aboriginal employment, project spend and a combination in participation plans, and progress on achieving these commitments
- the total commitments to employment (in FTE) and project spend (in \$) made in participation plans, and progress on achieving these commitments
- the reported employment and project spend reported by proponents
- audits conducted on participation plans.

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## Review

The guidelines will be reviewed at least every 2 years to ensure the objectives and requirements of the guidelines are in line with community expectations and State priorities.

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## Contact details

If you would like further information or wish to discuss the application of these guidelines, relevant contact details for the Office of Energy and Climate Change, the Consumer Trustee and the Energy Corporation of NSW are outlined below. Please note that these contact details are subject to change. Updated contact details are available on the AEMO Services and EnergyCo websites.

### Office of Energy and Climate Change

Email: [energy@planning.nsw.gov.au](mailto:energy@planning.nsw.gov.au)

### Consumer Trustee

Email: [stakeholderengagement@aemoservices.com.au](mailto:stakeholderengagement@aemoservices.com.au)

### EnergyCo NSW

Email: [REZ@planning.nsw.gov.au](mailto:REZ@planning.nsw.gov.au)

Phone: 1300 305 695

# Schedule 1 – Relevant sections of the *Electricity Infrastructure Investment Act 2020*

## **3 Objects of Act**

(1) The objects of this Act are –

- (a) to improve the affordability, reliability, security, and sustainability of electricity supply, and
- (b) to co-ordinate investment in new generation, storage, network, and related infrastructure, and
- (c) to encourage investment in new generation, storage, network, and related infrastructure by reducing risk for investors, and
- (d) to foster local community support for investment in new generation, storage, network, and related infrastructure, and
- (e) to support economic development and manufacturing, and
- (f) to create employment, including employment for Aboriginal and Torres Strait Islander people, and
- (g) to invest in education and training, and
- (h) to promote local industry, manufacturing and jobs, and
- (i) to promote export opportunities for generation, storage, and network technology.

(2) The following objects also apply to Parts 4–6 –

- (a) to increase employment and income opportunities for Aboriginal and Torres Strait Islander people in New South Wales, and
- (b) to promote consultation and negotiation with the traditional Aboriginal owners of land on which generation, storage and network infrastructure is proposed to be constructed or operated under this Act.

(3) A person or body exercising a function under this Act must do so in a way that is consistent with the objects of this Act.

## **4 Consultation and negotiation with local Aboriginal communities**

- (1) The Minister is to issue guidelines about consultation and negotiation with the local Aboriginal community in relation to relevant projects for the purposes of increasing employment and income opportunities for the local Aboriginal community.
- (2) The Minister is to take the guidelines into account when exercising the Minister’s functions under Part 5, Division 2.



- (3) To give effect to the guidelines, the Minister may impose a condition on a direction under section 32 or an authorisation under section 36(2).
- (4) The consumer trustee is to take the guidelines into account when exercising the consumer trustee's functions under Part 6, Divisions 3 and 4.
- (5) To give effect to the guidelines, the consumer trustee may —
  - (a) include, in a recommendation to the Minister under section 31(1)(a), a recommendation that a condition be imposed on the Minister's direction, and
  - (b) impose a condition on an authorisation under section 31(1)(b).
- (6) The guidelines are to be published on the Department's website.
- (7) In this section —

***local Aboriginal community*** includes —

- (a) an Aboriginal person who has native title rights and interests, within the meaning of the *Native Title Act 1993* of the Commonwealth, in relation to the land to which the relevant project relates, and
- (b) the Local Aboriginal Land Council for the area to which the relevant project relates, and
- (c) other Aboriginal persons prescribed by the regulations.

***relevant project*** means —

- (a) a renewable energy zone network infrastructure project or priority transmission infrastructure project, and
- (b) an infrastructure project to which an LTES agreement applies.

# Schedule 2 – Best practice engagement

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## Understanding the local Aboriginal community

This section is designed to provide some guidance about native title, land rights and interests. It is not intended to provide comprehensive legal advice and proponents are strongly advised to seek independent legal advice.

Before engaging with any local Aboriginal group, careful consideration must be given to understanding the legal status of that group in relation to the relevant area of land. There may be different rights under various pieces of legislation.

The engagement under these guidelines does not displace any existing consultation rights established under the *Native Title Act 1993* (Cth), State Environmental Planning Instruments, policies and guidelines, including the *Crown Land Management Act 2016* and *National Parks and Wildlife Act 1974*, and any Aboriginal land-use agreements, or stakeholder engagements to prepare a management plan for a declared site or an Aboriginal Heritage Impact Permit.

The engagement under these guidelines must be conducted in addition to these existing engagement arrangements.

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## A place-based approach to engagement and delivery<sup>10</sup>

The need to engage widely and collaborate to support outcomes for local Aboriginal communities is compatible with a place-based approach to engagement and delivery.

Place-based delivery is a framework that takes an inclusive and collaborative approach to achieve mutual goals and sustainable outcomes. It requires seeing and listening to place, to identify opportunities and synergies to deliver goals and outcomes. It supports innovative, locally appropriate, long-term solutions to deliver a common vision for the place.

It is recommended that Roadmap proponents adopt a place-based approach to developing their First Nations participation plans.

The following tables summarise some of the common features of place-based approaches, relevant to Roadmap activities.

Applied properly, a place-based approach to consultation and negotiation can help to:





- generate more effective, accepted and appropriate strategies to deliver development proposals through collaboration with local Aboriginal communities
- plan and deliver outcomes in ways that provide practical responses to community concerns.

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<sup>10</sup> adapted from the Department of Planning and Environment's internal document *Place-based Delivery Guide*, 2020

Table 1 Common features of place-based approaches



Source: 'Features of place-based approaches', Queensland Council of Social Service (QCOSS)

	Feature	Characteristics	Detail
	Agreed place	<ul style="list-style-type: none"> <li>◆ a focus on place and community-in-place</li> </ul>	<p>Place is more than just the physical or geographical forms of an area; they may also be 'centres of meaning constructed out of lived experience'.<sup>11</sup></p> <p>In the Australian context, understandings of the importance of place may be further influenced by Aboriginal and Torres Strait Islander knowledge around the connection to 'Country', that is the interdependence and reciprocal relationship between the land and the people.<sup>12</sup></p>
	Shared vision and commitment to outcomes	<ul style="list-style-type: none"> <li>◆ a shared vision for change</li> <li>◆ a long-term view of change</li> <li>◆ energy and urgency for change</li> <li>◆ a collective commitment to generating the change for the community</li> <li>◆ shared outcomes</li> </ul>	<p>A shared vision is essential to place-based approaches. Focusing on a future vision galvanises people around a central goal and sustains motivation. It builds collective efficacy and supports collaborative action by bringing parties together around a shared goal. Place-based approaches also tend to have a long-term view of change and rely on community energy and urgency for change. The emphasis on shared purpose and collective change ensures a continued focus on improving conditions in the community and avoids fragmented efforts that may have little impact in the long run.</p>
	Working together	<ul style="list-style-type: none"> <li>◆ include thinking innovatively about who contributes to generating social change</li> <li>◆ include a commitment to working together across community, governments, and industry</li> </ul>	<p>Place-based approaches involve a commitment to working together in new and different ways. By their nature, they are collaborative, across community members, the service sector, and industry all working together to achieve a shared vision. This approach is essential to overcome fragmentation, siloing, duplication, and lack of coordination in existing systems, as well as identify opportunities for collaborative working, generating innovative solutions, and identifying novel sources of resources.</p>
	Community engagement	<ul style="list-style-type: none"> <li>◆ genuine engagement with the broader community, including local people, groups and community-based organisations</li> </ul>	<p>Genuine community engagement starts early and takes a long time and is a fundamental feature of an effective place-based approach. Furthermore, partnering with community members builds social inclusion, self-efficacy and civic empowerment.</p> <p>Without community engagement, there is likely to be little buy-in from those working in place, or from the people the initiative is designed to support.</p> <p>Failing to properly engage people with a lived experience and citizens in place is also a lost opportunity to harness the assets and strengths of those most affected by the project.</p>

<sup>11</sup> Tuan T 1977, *Space and place: The perspective of experience*, cited in 'Features of place-based approaches', Queensland Council of Social Service (QCOSS).

<sup>12</sup> 'Features of place-based approaches', Queensland Council of Social Service (QCOSS)

## Putting it into practice

	<p><b>Connect, scope and plan</b>  <b>Key considerations for engagement planning to help ensure that place-relevant inputs and partnerships are in place early</b></p>
<p><b>Key tasks</b></p>	<ul style="list-style-type: none"> <li>◆ Map your stakeholders and assess their readiness to engage.</li> <li>◆ Plan your engagement; consider whether a local Aboriginal working group has already been convened and who should be contacted. Relevant bodies to contact include the Local Aboriginal Land Councils where the relevant project is proposed to be undertaken, the traditional owners in the area, including any Registered Native Title Body Corporate. Advice can be sought from state heritage agencies, Aboriginal Affairs, and the National Native Title Tribunal to identify the relevant local Aboriginal community groups to contact.</li> <li>◆ Consultation should not be limited to land interests; other Aboriginal communities that should be considered for engagement could be:             <ul style="list-style-type: none"> <li>• businesses employing Aboriginal people where Aboriginal regional jobs may be created (such as the local Chamber of Commerce)</li> <li>• training organisations where Aboriginal apprentices and trainees are enrolled (for example, Aboriginal Employment Strategy)</li> <li>• Australian small and medium enterprises in the supply chain that are registered Aboriginal businesses (for example, Supply Nation or the NSW Indigenous Chamber of Commerce).</li> </ul> </li> <li>◆ Review the appropriateness of your consultation materials and information – these should always be tailored to your audience.</li> <li>◆ Consider whether to appoint an appropriate facilitator to help build bridges for collaborations and integration. They should not be the primary contact point but can provide guidance on cultural norms, values and sensitivities, and other important local information.</li> </ul>
	<p><b>Understanding people and place</b>  <b>Gather information and data to understand and to ensure that delivery meets the needs of the community and the landscape</b></p>
<p><b>Key tasks</b></p>	<ul style="list-style-type: none"> <li>◆ As part of the engagement process:             <ul style="list-style-type: none"> <li>• visit place and understand its importance to the community</li> <li>• build a place profile; do some research and collect data to understand the place and its context</li> <li>• identify and map Aboriginal economic interests.</li> </ul> </li> <li>◆ Identify other landowners, lessees, local councils, state/territory government agencies and Commonwealth Government departments, and in some cases tourist and recreational groups who have rights and interests in the area.</li> <li>◆ Ensure engagement with the local Aboriginal community is supported by free, prior, and informed consent, and local Aboriginal interests are represented to contribute to cultural knowledge.</li> </ul>

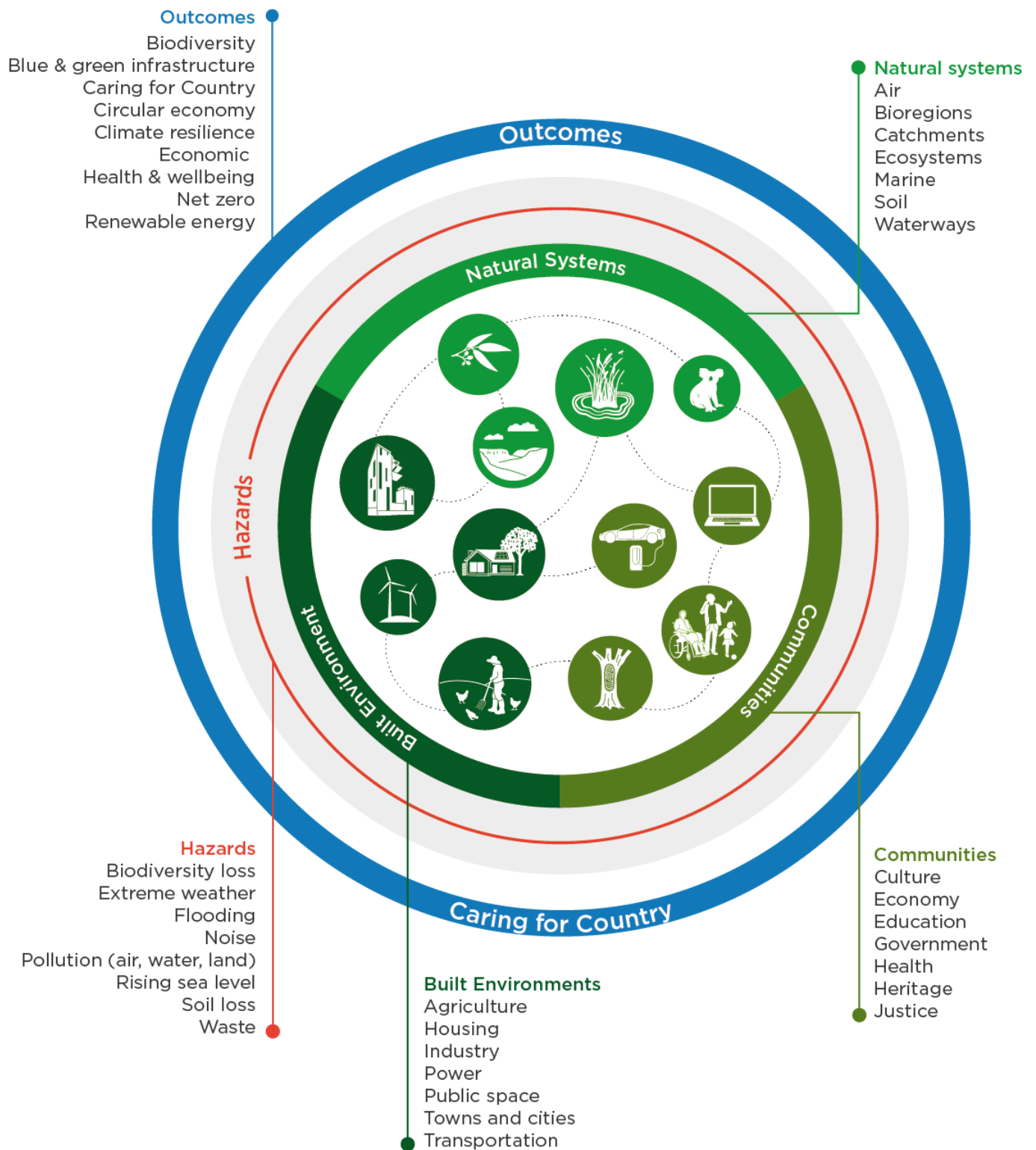


Figure 3 Aspects of 'place'

The geographical area covered by 'place' can be at any scale and can be multi-layered. It may be a local area, region, or a larger area, where economic, social, or ecological trends interact and play out. Place refers to the physical location, people, environment, business, culture, or other aspects that are important to the communities in which an initiative is happening.

A place is a complex socio-ecological system and includes inter-related and inter-dependent elements, which can be natural or human-made.



## Sharing values and project outcomes

### Identifying and prioritising shared values, goals and outcomes

#### Key tasks

- ◆ Map values to identify and understand collaborators' and other stakeholders' points of view and priorities.
- ◆ Develop shared goals that will work toward achieving the best possible outcomes for the community you are working with.
- ◆ Plan and articulate commitments, clear outcomes, measures of progress and impact.
- ◆ Confirm shared goals and seek approval to proceed with them.
- ◆ Where appropriate, include Aboriginal people in developing terms of reference and selection processes for consultants and seek their endorsement of the appointment of specialists employed on procurement activity.
- ◆ Identify the key result areas or project outcomes that can be measured and tracked over time.
- ◆ Where the priorities have been defined, for example, long-term employment, job readiness and upskilling programs, and growing local businesses, proponents can use the community's plans to design or adjust potential activities to support local communities to achieve their goals.
- ◆ Track key result areas against how they address broader NSW Government policy objectives such as the Closing the Gap, and the United Nations Sustainable Development Goals.



## Income and employment engagement and negotiation from Roadmap activities

Taking a collaborative approach to design and delivery helps establish shared ownership. This collective ownership ensures the projects that emerge are context-appropriate.

#### Key tasks

- ◆ Engage with communities in culturally appropriate ways that encourage them to express their needs and perspectives to help to shape an appropriate outcome, rather than assuming you know the best approach.
- ◆ Identify the priority challenges or issues with stakeholders.
- ◆ Where possible, co-design the project/s.
- ◆ Collaborate where possible to deliver the project/s, referring to engagement principles and the adherence assessment tool.
- ◆ Identify the resources required to maintain community involvement (for example, arranging travel to meetings, payments for surveys).



## Case study: Bushlight

The Centre for Appropriate Technology Limited ran a renewable energy program between 2002 and 2013, to install energy systems in small remote Aboriginal communities. The program aimed to improve the reliability and cost of electricity supply to Aboriginal communities.

The program illustrates a successful engagement process because the proponents developed a community engagement plan at the start of each project to determine the willingness and the capacity of the local community to engage in the project. As a result, information materials and communications were tailored around how the community wanted to receive the information and how the community understood the benefits.

Communities participated in joint decision-making processes with technical partners.

The program also considered employment outcomes for the community by engaging local labour to help contractors and technical experts install and operate energy systems.

Community outcomes:



Meaningful and ongoing relationships



Capacity building



Long-term economic opportunities



Strengthening cultural connections

## General engagement protocols

There is no 'one size fits all' model for Aboriginal engagement and negotiations, and following the context of the engagement taking place will influence the design.

In developing culturally safe and sensitive engagement plans, the following protocols should be considered:

- *Identify any specific language and communication needs*, including the possible need for a cultural interpreter or facilitator from the local Aboriginal community.
- *Identify any cultural protocols to adhere to, along with any relevant local processes, issues, and sensitivities.* For example, introductory protocols are important to let the group know who you are and where you are from. Other cultural protocols include allowing silences during the consultation process as people may not want to express an opinion then, or they could be listening and reflecting on what has been said. In some cases, it is a cultural protocol to avoid direct eye contact because they find it offensive.
- *Respect Aboriginal peoples' and communities' right to choose the time and location for meetings.* For example, the environment for consultation must be comfortable. Some Aboriginal communities may want to arrange a time to meet face-to-face where possible.
- *Be clear about the purpose and scale of the engagement.* For example, it is important to manage expectations by ensuring stakeholders know the parameters of each engagement activity, whether it be to inform, consult, involve or collaborate.

- *Understand that Aboriginal ways of communicating are often narrative-based.* For example, some groups may want to sit and have a cuppa and a 'yarn'. Be patient when asking questions and listen to the responses. It is important not to rush the process and provide extra time for meetings. In addition, appropriate use of humour is highly valued (for example, do not curse, or speak ill of anyone).
- *Minimise bureaucratic language, jargon and acronyms.* Ensure that communications, information and consultations are accessible to all people including people with a disability, people from culturally and linguistically diverse backgrounds, and older people.
- *Prepare to be flexible and adaptable to local and cultural needs.* For example, engagement with the Aboriginal community may require multi-layered processes as engagement needs to relate to Aboriginal concepts of wellbeing. Additionally, it is important to provide appropriate opportunities for stakeholder participation and encourage a sense of community ownership of projects being delivered. Be honest and share, where appropriate, openly and be accountable and responsible for the outcomes. It may also be necessary to meet multiple times to reach agreed outcomes.
- *Ensure both men and women with rights and interests in the area are identified because men and women may be responsible for different heritage places and values.* It may be appropriate for separate male and female teams to undertake consultation.

# Schedule 3 – Local Aboriginal Land Councils in NSW

The *Electricity Infrastructure Investment Act 2020* defines a ‘local Aboriginal community’ to include ‘an Aboriginal person who has native title interests within the meaning of the Commonwealth *Native Title Act 1993*, in relation to the relevant project’; ‘the local Aboriginal land council for the area to which the relevant project relates’, and other Aboriginal persons prescribed in regulations. In NSW, there are 120 Local Aboriginal Land Councils divided into 9 regions. These are set out in Table 2.

Table 2 Local Aboriginal Land Councils in NSW

**Source:** NSW Aboriginal Land Council

Note that the list may change from time to time. Please access the NSW Aboriginal Land Council’s website for the current list.

Region	Local Aboriginal Land Councils		
<b>Central</b>	Dubbo Gilgandra Mudgee	Narromine Nyngan Trangie	Warren Weilwan Wellington
<b>Mid North Coast</b>	Birpai Bowraville Bunyah Coffs Harbour	Forster Karuah Kempsey Nambucca Heads	Purfleet/Taree Thungutti Unkya
<b>North Coast</b>	Baryulgil Square Birrigan Gargle Bogal Casino-Boolangle Grafton Ngerrie	Gugin Gudduba Jali Jana Ngalee Jubullum	Muli Muli Ngulingah Tweed/Byron Yaegl
<b>North Western</b>	Baradine Brewarrina Collarenebri Coonamble Goodooga Lightning Ridge	Moree Mungindi Murrawari Narrabri Nulla Nulla	Pilliga Toomelah Walgett Wee Waa Weilmoringle
<b>Northern</b>	Amaroo Anaiwan Armidale Ashford Coonabarabran	Dorrigo Plateau Glen Innes Guyra Moombahlene Nungaroo	Red Chief Tamworth Walhallow Wanaruah

Region	Local Aboriginal Land Councils		
<b>South Coast</b>	Batemans Bay Bega Bodalla Cobowra Eden	Illawarra Jerrinja Merrimans Mogo	Ngambri Nowra Ulladulla Wagonga
<b>Sydney/Newcastle</b>	Awabakal Bahtabah Biraban Darkinjung	Deerubbin Gandangara La Perouse Metropolitan	Mindaribba Tharawal Worimi
<b>Western</b>	Balranald Broken Hill Cobar	Dareton Menindee Mutawintji	Tibooburra Wilcannia
<b>Wiradjuri</b>	Albury & District Bathurst Brungle – Tumut Condobolin Cowra Cummeragunja Deniliquin	Griffith Hay Leeton & District Moama Murrin Bridge Narrandera Onerwal	Orange Peak Hill Pejar Wagga Wagga Wamba Wamba West Wyalong Young

# Schedule 4 – Mechanisms for recognition of land rights

In NSW there are 2 mechanisms by which Aboriginal peoples can have their land rights recognised. Table 3 provides a summary of these mechanisms.

**Table 3 Comparison of land rights and native title processes in NSW**

**Source:** Adapted from 'Comparison of Land Rights and Native Title in NSW fact sheet', NSW Aboriginal Land Council, January 2017.

	<i>Aboriginal Land Rights Act 1983</i> (NSW)	<i>Native Title Act 1993</i> (Commonwealth)
<b>Aim</b>	To provide land rights and to vest land in NSW to Aboriginal peoples through a process of lodging claims for certain Crown lands. As the amount of land set aside for Aboriginal persons has been progressively reduced without compensation and in recognition of the ongoing disadvantage suffered.	Provide a process for legal recognition of the traditional communal, group, or individual rights and interests which Aboriginal people have in land and water. To address past injustice by providing a process to recognise and protect the native title in addition to providing processes to reach agreements or provide compensation.
<b>Claimants</b>	Properly constituted Aboriginal Land Councils can make claims	A person or persons authorised by the native title claim group
<b>Land that can be subject to a claim</b>	Crown land that is: <ul style="list-style-type: none"> <li>◆ able to be lawfully sold or leased, or is reserved or dedicated for any purpose</li> <li>◆ not lawfully used or occupied</li> <li>◆ not needed or likely to be needed for residential purposes or an essential public purpose</li> <li>◆ not the subject of a registered native title claim or determination.</li> </ul> Land that is privately owned cannot be claimed or granted although some land vested in Property NSW may be claimable.	<ul style="list-style-type: none"> <li>◆ vacant Crown land</li> <li>◆ national parks</li> <li>◆ state forests</li> <li>◆ Crown reserves</li> <li>◆ some types of non-exclusive leases</li> <li>◆ some land covered by permissive occupancies and licences</li> <li>◆ inland waters and the sea.</li> </ul> With some minor exceptions, land that is privately owned cannot be subject to native title rights and interests because the exclusive interest in land extinguishes native title.
<b>Lodgement of claim</b>	Claims must be lodged with the Registrar of the Aboriginal Land Rights Act	Claims must be lodged with the Federal Court of Australia
<b>Decision-maker</b>	The NSW Minister administering the Crown Land Management Act	Federal Court of Australia

	<i>Aboriginal Land Rights Act 1983</i> (NSW)	<i>Native Title Act 1993</i> (Commonwealth)
<b>Requirement</b>	Traditional connection to land does not need to be established. If the Minister is satisfied that the lands are 'claimable Crown land' as defined in section 36 of the Act the land must be granted to an Aboriginal Land Council.	The native title will only be determined by the Court to exist where claimants can establish that they are the Traditional Owners for the area claimed, i.e. they have maintained a continuing connection with the area through the acknowledgment and observance of traditional laws and customs and ongoing practice of rights and interests.
<b>Outcomes</b>	NSW Aboriginal Land Council or a Local Aboriginal Land Council may: <ul style="list-style-type: none"> <li>◆ acquire and manage land as an economic base for Aboriginal communities</li> <li>◆ make claims</li> <li>◆ negotiate Aboriginal Land Agreements.</li> </ul>	Legal recognition of native title, i.e. the traditional communal, group, or individual rights and interests which Aboriginal people have in land and water. Act provides processes to: <ul style="list-style-type: none"> <li>◆ reach agreements with the government and other parties, such as farmers and miners</li> <li>◆ have a say about acts that affect native title</li> <li>◆ be compensated for extinguishment of native title which occurred after 31 October 1975.</li> </ul>
<b>Holder of land rights</b>	Land successfully claimed is held by a local or NSW Aboriginal Land Council.	Traditional owners who have been recognised through the Court process as native title holders. Native title holders are required to form a Prescribed Body Corporate to represent them as a group and manage their rights and interests after a determination by the Court. The Act also provides for some rights in land and waters by a person or persons who hold native title even where a claim has not been made, such as where an act is proposed to be done that affects native title.
<b>Resulting land/ land-use rights</b>	<ul style="list-style-type: none"> <li>◆ Freehold title, including the right to certain minerals in the land, subject to any native title that exists in the land.</li> <li>◆ Leaseback or joint management arrangements of land to be managed as national parks.</li> <li>◆ May negotiate Aboriginal Land Agreements that may deal with a range of matters, including land swaps, joint management of land, and compensation.</li> <li>◆ May make agreements with other landowners or persons in control of the land to access land for hunting, fishing and gathering and have rights to apply for access permits.</li> <li>◆ Aboriginal Land Councils also have consultation rights in relation to Aboriginal culture and heritage and have functions to protect and promote Aboriginal cultural heritage.</li> </ul>	Native title is a property right and may include rights to: <ul style="list-style-type: none"> <li>◆ access and camp on an area</li> <li>◆ visit and protect important places</li> <li>◆ hunt, fish and gather food and bush medicine</li> <li>◆ in some cases, possess, occupy, use and enjoy the area</li> <li>◆ certain procedural rights where an act affecting native title is proposed to be done.</li> </ul>



Note that under certain conditions, land may have both land rights and native title coexisting. Proponents need to research the existing interests, and the nature of those interests, in the areas that are proposed for development. These interests may not appear in the ‘usual’ title searches.

The National Native Title Tribunal (NNTT) maintains 3 registers of native title information<sup>13</sup> and 2 other databases. These are set out in Table 4.

**Table 4 Registers and databases maintained by the National Native Title Tribunal**

**Source:** ‘About Registers & Applications, Determinations & Decisions’, National Native Title Tribunal

Register	Purpose
<b>Register of Native Title Claims</b>	Information about claimant applications that have satisfied the registration test
<b>National Native Title Register</b>	Information about the determination of claimant, non-claimant, compensation, and revised native title determination applications by the Federal Court, High Court, or a recognised body
<b>Register of Indigenous Land Use Agreements</b>	Information about Indigenous Land Use Agreements made between people who hold or may hold native title in the area and other people, organisations, or governments
<b>Native Title applications, registration decisions, and determinations database</b>	Current information on all native title determination applications that are provided to the Registrar by the Federal Court, including all claimant applications (whether or not they have passed the registration test), non-claimant applications, compensation applications, and revised determination applications This database contains summaries of the native title determination applications, including the current status of applications, and provides a link to extracts from the Schedule of Native Title Applications
<b>Future Act applications and determinations database</b>	Summaries of all future act determination applications made to the NNTT Summaries of all future act determinations made by the NNTT, including NNTT Members’ written reasons for determination decisions

<sup>13</sup> Parts 7–10, *Native Title Act 1993*

# Schedule 5 – Template, Aboriginal participation plan

## Part B – Participation plan template for the First Nations Guidelines – Increasing income and employment opportunities from electricity infrastructure projects

- The participation plan will report on the engagement approaches, negotiated and agreed on outcomes with stakeholders, and stakeholder management and reporting.
- The participation plan must take account of the general guidelines as well as any applicable region-specific protocols and outcomes.
- The participation plan must be included as part of submission in the project proposal tender for the long-term energy service agreement, an access right or a Renewable Energy Zone network infrastructure project.
- If the tender bid or network recommendation is accepted, the commitments in the plan become part of the contractual arrangement.
- Project proponents may be required to provide progress reports on the commitments and the local Aboriginal community
- In completing the participation plan, the proponent should note this process is for the First Nations guidelines and does not satisfy other consultation and reporting requirements in other Acts.
- This template will be modified from time to time.

Tendering organisation	
Tender reference	
Project name & ID	
Project location	<Suburb and postcode or region where the project will take place>
Project start date	<If known, or estimate>
Expected project end date	
Supplier name and contact details	
Supplier ABN	
<b>Aboriginal stakeholder engagement approach – please provide sufficient details</b>	
Which community groups or organisations were engaged in the development of the proposal?	
How was engagement undertaken with the community groups or organisations?	Did any pre-consultation take place beforehand? Was the community prepared for the consultation?

Are there any region-specific protocols to address?	
Are there any negotiated or agreed outcomes above minimum economic participation requirements?	
How will the stakeholders be informed about progress or outcomes?	
<b>Aboriginal economic participation requirements</b>	
Estimated project value	Indicate estimated \$ value of contract (e.g. \$500,000)
Project spend*	Exclusions: For the purpose of determining the participation requirements, the project spend <u>does not include</u> spending on CAPEX or procurement of goods and services that are not available domestically or locally. The project spend is the contract value minus the proposed exclusions.
<p><b>Plan to meet Aboriginal economic participation requirements</b></p> <p>The plan must demonstrate that proposals include one or a combination of the following:</p> <ul style="list-style-type: none"> <li>• at least 1.5% of the contract value to be subcontracted to Aboriginal-owned businesses</li> <li>• at least 1.5% of the contract's Australian based workforce (FTE) that directly contribute to the contract to be Aboriginal or Torres Strait Islander peoples</li> <li>• at least 1.5% of the contract value to be applied to the cost of education, training or capacity building for Aboriginal staff or businesses directly contributing to the contract.</li> </ul> <p>All proposed commitments in the plan must be credible and go towards building sustainable employment and income opportunities for the local Aboriginal community.</p> <p>Commitments must be measurable, verifiable and reportable.</p> <p>Progress reports may be required. A report of progress to the local Aboriginal community may also be required.</p>	
Subcontracting plans	<p>If you are sub-contracting all or part of the participation plan requirement, your participation plan should include the following:</p> <ul style="list-style-type: none"> <li>• the portion of Aboriginal participation that will be directed to Aboriginal-owned businesses through sub-contracting</li> <li>• identify opportunities for Aboriginal-owned businesses in your supply chain</li> <li>• methods for verifying that businesses are at least 50% Aboriginal-owned</li> <li>• you could include identifying Aboriginal-owned businesses that your organisation will sub-contract in the delivery of the project</li> <li>• you could demonstrate an existing relationship with local Aboriginal community groups, such as Local Aboriginal Land Councils or native title groups, or commit to developing a working relationship with specified stakeholders by a certain date if successful.</li> </ul>

Employment plans	<p>Total estimated project workforce (FTE):  Estimated Aboriginal FTE: e.g. total workforce x 1.5% (or the percentage agreed).</p> <p>Your plan should include:</p> <ul style="list-style-type: none"> <li>• identified roles for Aboriginal and/or Torres Strait Islander employees and the skills required for these roles. Where possible, the majority of the roles should be central to the goods/services being delivered and located within local communities</li> <li>• identified ways to source suitable Aboriginal candidates; for example, through collaboration with the region-specific First Nations working group, Aboriginal employment service providers, Local Aboriginal Land Councils or local business organisations, advertising through Aboriginal-owned media outlets or hosting community information sessions.</li> </ul>
Education, training or capability-building plans for Aboriginal staff or businesses	<p>If you are directing some or all of the Aboriginal participation requirements to education, training or capacity building for Aboriginal staff or businesses, your plan should include:</p> <ul style="list-style-type: none"> <li>• the portion of the Aboriginal participation requirement that will be directed in this manner</li> <li>• ways you plan to provide pre-training, ongoing and upskilling programs for Aboriginal employees; for example, a mentoring, apprenticeship or professional development program for Aboriginal employees; commitment to building cultural capability within the workplace that may include training of existing staff or developing a Reconciliation Action Plan</li> <li>• courses or costs you plan to support Aboriginal employees</li> <li>• ways you plan to build capability for Aboriginal-owned businesses that are contributing directly to the project; for example, supplier diversity programs, business mentoring programs, assessing local Aboriginal business capability.</li> </ul>
Supply chain plans	<p>Ways you plan to source suitable goods and services from Aboriginal-owned businesses; for example, attending meet the buyer events in region-specific communities; collaboration with Aboriginal-owned business supplier groups.</p>
Plan to report progress to the Aboriginal community	<p>How do you propose to provide progress reports to the local community? How often? How do you propose to engage the community in meeting commitments?</p>
<b>Past First Nations participation compliance history</b>	
<p>Please indicate whether and how you have previously performed against Aboriginal participation requirements (government or non-government contracts).</p>	<p>If your business is currently or has previously been subject to participation requirements, please advise the project, contracting agency, participation requirements, and the business's performance against the requirements (Were the commitments met? If not, why not, etc.).</p> <p>If your business has no experience with Aboriginal participation requirements, evidence can be provided of your business's commitment to employ Aboriginal staff or to use Aboriginal-owned suppliers through:</p> <ul style="list-style-type: none"> <li>• previous track record of Aboriginal employment and use of Aboriginal-owned suppliers, including by providing examples or case studies</li> <li>• a Reconciliation Action Plan (RAP) or similar that provides a business commitment to Aboriginal employment and Aboriginal-owned supplier targets.</li> </ul>

# Schedule 6 – Links, references and resources

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## NSW Government legislation

- *Biodiversity Conservation Act 2016*
  - *Crown Land Management Act 2016*
  - *Electricity Infrastructure Investment Act 2020*
  - *Fisheries Management Act 1994*
  - *Forestry Act 1916*
  - *National Parks and Wildlife Act 1974*
- 

## NSW Government policies

- [Crown Land Management Act – Community Engagement Guidance and Resource \(PDF 5.9MB\)](#)
  - [Local Decision Making NSW](#)
  - [NSW Electricity Infrastructure Roadmap](#)
  - [NSW Government First Nations Procurement Policy \(APP\)](#)
  - [NSW Regional Development Framework](#)
  - [NSW Regional Economic Development Strategies](#)
  - [OCHRE Plan – NSW Government Aboriginal Affairs Strategy](#)
  - [Our Place on Country: Aboriginal Outcomes Strategy 2020–23 \(PDF 7.7MB\)](#)
- 

## References and research

- [Aboriginal Employment Strategy](#)
  - [About Registers & Applications, Determinations & Decisions](#), National Native Title Tribunal
  - [AEMO Services Ltd](#)
  - [Budyari Ngalaya – First peoples’ business partnerships](#)
  - [Closing the gap – the National Agreement 2020](#)
  - [Communicating positively: A guide to appropriate First Nations terminology \(PDF 536KB\)](#)
  - [Comparison of Land Rights and Native Title in NSW fact sheet \(PDF 459KB\)](#), NSW Aboriginal Land Council, January 2017
  - [Core cultural learning](#), Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)
-

- [Energy NSW](#)
- [Engaging with Indigenous Australia – exploring the conditions for effective relationships with Aboriginal and Torres Strait Islander communities](#), Australian Institute of Health and Welfare
- [Features of place-based approaches](#), Queensland Council of Social Service (QCOSS)
- [Local Aboriginal Land Councils in NSW](#)
- [National Indigenous Infrastructure Guide](#), Centre for Appropriate Technology
- [National Indigenous Reform Agreement: PI 01-Estimated life expectancy at birth](#), Australian Institute of Health and Welfare, 2020
- [NSW Aboriginal Land Council](#)
- [NSW Indigenous Chamber of Commerce](#)
- [NSW Reconciliation](#) – examples and strategies for engaging First Nations people and communities in business opportunities and ventures
- [Supply Nation](#)