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Submission to the First Nations Clean Energy Strategy Consultation Paper

Energy Consumers Australia appreciates the opportunity to provide comment on the First Nations Clean Energy Strategy Consultation Paper.

Energy Consumers Australia represents residential and small business energy users, advocating for a future Australian energy system that works for, and benefits, the households and small businesses who use it.

We strongly endorse Ministers' agreement to create a First Nations Clean Energy Strategy that recognises the unique role of Aboriginal and Torres Strait Islander consumers and communities as Traditional Owners, and stewards of Country. A critical challenge for the Strategy will be ensuring that these roles are appropriately recognised and rewarded in policy and market settings, particularly as Australian governments pursue more ambitious renewable investment targets to mitigate climate change.

ECA also welcomes the Strategy's intention to address and remove policy and regulatory barriers encountered by First Nations people and communities. Recent research has made visible the significant harm experienced by Aboriginal and Torres Strait Islander people who are supplied under different arrangements from other Australians and who do not receive comparable levels of consumer protection or assistance. The Strategy must set clear targets for Commonwealth, State and Territory governments to address those inequities in treatment and outcomes as a priority.

The following provides feedback on the proposed framework for the First Nations Clean Energy Strategy principles, goals and objectives.

FIRST NATIONS CLEAN ENERGY STRATEGY GUIDING PRINCIPLES

Recognising that people have a right to energy that is affordable, reliable and clean

Energy Consumers Australia strongly supports the Strategy's first principle that Australians have a right to energy.

Energy is fundamental to access a reasonable standard of living in Australia; basic human needs such as clean water, cooking, nourishment, education, work, adequate housing, modern healthcare, communication depend on a person's access to affordable and reliable energy.¹

¹ [Conceptualising energy justice in the context of human rights law \(2022\)](#)



The essentiality of energy has long been acknowledged by governments, used to justify strong regulation of electricity and gas markets and suppliers to ensure ongoing supply, as well as government programs aiming to maintain access for households who may be struggling to afford their energy.

Energy is an essential service and it is important that everyone can access it.
Your rights as an energy customer
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Recognising the essentiality of the service, each State and Territory in Australia - directly or through national market regulation – has established rules around electricity and gas prices, reliability and safety standards, and contingency plans in the event of a retailer failure. And in acknowledging the harm caused by lack of access to energy, all Australian governments provide assistance in diverse forms to energy consumers. The aim of those market interventions is to ensure ongoing access, with disconnection as a last resort.

We see significant benefits in codifying access to energy (electricity) as a right in Australian energy law, and support that the right includes that it be reliable, clean and affordable.² As the Consultation Paper notes, Australia has committed to Goal 7 of the UN Agenda for Sustainable Development to ‘ensure access to affordable, reliable, sustainable and modern energy for all’. Without embedding that right in law or regulation, it will be difficult to achieve that goal.

This is particularly important for Aboriginal and Torres Strait Islanders who are experiencing harm from Australia’s current policy and regulatory regime.

ECA was pleased to support through a grant, recent research by the ANU Centre for Aboriginal Economic Policy³ which revealed that Indigenous rural and remote communities are significantly more likely to miss out on the full range of vital consumer protections that the rest of Australia enjoys, including protection from disconnection for life support customers, guaranteed minimum service levels, mandated public reporting on the number and frequency of disconnections, effective complaints and dispute resolution, and the ability to easily install rooftop solar to help bring down high energy bills.

The views of First Nations people, outlined in the [Interim Feedback Paper](#), stated “Unreliable and unaffordable power not only puts First Nations people’s mental, cultural, and physical health at risk, but stands in their way to access information services, resources and work opportunities, including the means to generating an income” (page 13). People living in remote communities felt locked out of the benefits that other Australians have and pointed to the impact of poor energy efficiency on their bills, but their inability to make change.

The consultation undertaken directly with First Nations communities in developing the Strategy has made much clearer the pathways to address and fix those inequitable outcomes.

The Strategy therefore provides the opportunity to set the framework, targets and actions to build a coordinated roadmap that encourages the Commonwealth, State and Territory government to work together to address existing inequities and barriers, and ensure that First Nations people and communities actively benefit from the energy transition.

The following provides further comment on the proposed dimensions of a right to energy.

² We note that this is being actively discussed in the European Union, where the notion of energy justice is being analysed from energy’s impact on climate change as well as energy poverty. Common across that discourse is that the traditional energy sector governance is no longer fit for purpose (see for example [Heffron 2023](#); [Heffron and Fontenelle 2023](#))

³ See [White, Riley, Wilson, Markham, O’Neil, Klerck and Napaltjari Davis \(2024\)](#)



Why energy needs to be affordable

The Strategy identifies affordability as one of its goals – that all Australians can access affordable energy. In our view, affordability should be included as a further dimension of the right to energy and as a fundamental principle of the Strategy given it is a major barrier to access.

In Australia, energy is nearly always delivered through some form of commercial contract. For most Australians who have trouble affording their energy bill, remedy is found through mandatory assistance from their energy retailer, or through government support through grants, concessions and rebates. While these supports have enabled many consumers who are facing financial difficulties to access energy and energy services, there remain current and pervasive inequities of access to affordable energy across Australia.

When energy becomes unaffordable and thus inaccessible it becomes harder to keep homes thermally safe, as well as to store food and medicine correctly, creating increased vulnerability to poor health and wellbeing outcomes and resulting in direct consumer harm.

This harm is disproportionately affecting Aboriginal and Torres Strait Islander communities across Australia.

The extent and impact of that harm is now clear. Research released in 2022⁴ noted the level of ‘energy insecurity’ experienced by remote communities. It found that 91% of households in some Northern Territory communities on prepayment meters were disconnected during 2018-2019 financial year for non-payment. And almost three quarters (74%) of households were disconnected more than ten times during the same period. And disconnection is only one dimension of energy insecurity – those people are also far less likely to have housing that is energy efficient, adding to their energy bills and/or discomfort, with consequent health and wellbeing impacts. For communities who are more likely to be exposed to extreme weather, the research also found disturbingly that households located in the central climate zones had a one in three chance of same-day disconnection on extremely hot or cold days.

Why energy needs to be reliable

Energy must be reliable for the same reasons it must be affordable – it is essential to enjoy a reasonable standard of living. Reliability standards for industry are therefore created on the premise that energy is an essential service, and set with an expectation that outages are minimal and problems fixed quickly. In our view, access to reliable energy means supply needs to be resilient, dependable and secure.

First Nations communities in rural and regional areas experience significantly lower standards of service⁵. This can directly impinge on their wellbeing, creating more vulnerability to or exacerbating medical problems, as well as constraining economic development in these communities.

Cost-effective renewable technology means it is now within our capability to deliver resilient, dependable, and secure energy in rural and remote communities.

⁴ See [Longden, Quilty, Riley, White, Klerck, Davis, Jupurrurla](#) (2022)

⁵ *ibid*



Why energy needs to be clean

Aiming for clean energy in the Strategy aligns with contemporary sustainability and climate change discourse⁶, Australia's Paris Agreement targets⁷ and the Commonwealth's *Long-Term Emissions Reduction Plan* to achieve net zero emissions by 2050.⁸

Inherent in these targets is the understanding that there is a pressing and immediate need to address the catastrophic consequences of climate change, yet many First Nations people are already experiencing these consequences directly and profoundly.⁹

First Nations communities are disproportionately exposed to a range of climate extremes in heat, rainfall and drought which is predicted to increase over the coming decades.¹⁰ This exposure to extreme climate and weather patterns increases disconnection to Country and increases vulnerability to poor health and wellbeing outcomes.¹¹

Our research tells us consistently that all Australian consumers want and value clean energy. Our Forethought research (2019) made it clear that consumers want clean energy, with an overwhelming number of participants believing that renewables were the future, and wanted Australia to be a country that moved towards a smaller carbon footprint. Whether passionate about the environment or not, many consumers in the study expressed a view that cleaner, more sustainable energy was important.¹² In our December 2023 Energy Consumer Sentiment Survey, 25% of households surveyed saw a rapid transition to renewable energy sources as one of the most important challenges ahead, while 27% saw replacing old coal and gas plants with new more efficient technology as a priority. These were values only behind affordability (72%) and energy resilience to extreme weather events (39%)¹³.

As we transition to meet our net zero targets, it is not only obvious but imperative that the energy we use is clean, and that all Australians, and particularly First Nations communities have access to energy that is clean.

Embedding energy as a right in practice

The Strategy rightly recognises that access to clean and reliable energy is a right of all Australians. As outlined above, we think that the right should include affordability. We see value in explicitly embedding that right in energy law and rules.

The inclusion of this right in energy laws and rules enables a range of benefits.

It makes clear that ensuring access must be a societal priority, and so where there are Australians who are not able to access energy that is affordable, reliable or clean, then governments must take remediation action.

⁶ see recommendation 5 of the IEA [Recommendations of the Global Commission on People-Centred Energy Transition](#) and [The human right to access clean energy](#)

⁷ [Paris climate agreement: a quick guide – Parliament of Australia \(aph.gov.au\)](#)

⁸ [Australia's Long-Term Emissions Reduction Plan - DCCEEW](#)

⁹ [Too hot for humans? First Nations people fear becoming Australia's first climate refugees | Indigenous Australians | The Guardian](#)

¹⁰ [Aboriginal Population and Climate Change in Australia: Implications for Health and Adaptation Planning - PMC \(nih.gov\)](#)

¹¹ [Climate change and adaptation - Environmental Health - Australian Indigenous HealthInfoNet \(ecu.edu.au\)](#)

¹² [A future Energy Vision Consumer Expectations Research](#) (2019)

¹³ [Energy Consumer Sentiment Survey](#) (2023)



Codifying the right in energy law facilitates clearer responsibilities of government and industry in delivering affordable, clean and reliable energy to all Australians.

An explicit commitment from governments that they will prioritise access because energy is an integral element of a reasonable life will support ongoing social licence for the energy transition. That is increasingly important as consumers are being asked to accept higher energy bills in the short to medium term to pay for the energy transition, to invest their own money in their homes and business premises, and to change the way they think about and use energy.

It emphasises the expectation that all consumers should be able to access a service as essential as energy and provides momentum to act on this expectation. Thoughtful alignment and consideration of effective policies to deliver affordable, clean and reliable energy to all Australians will help to address the current inequities of access and prevalence of energy poverty many First Nations consumers and communities experience.

Energy Consumers Australia has previously called for contemporary architecture that affirms a commitment by national and jurisdictional governments to a national and integrated energy transition that leaves nobody behind and outlines a shared vision of consumer participation. The energy market of 2023 is fundamentally different from that of 2013, and it is continuing to change. New technology – digitalisation and the move to renewable and decentralised generation – as well as decarbonisation of the energy sector have challenged the regulatory and legislative framework.

As the consultations in developing the First Nations Clean Energy Strategy have made visible, our current policy and regulatory framework is not giving due consideration to the rights of and opportunities for First Nations people to share in the benefits of the energy transition. That's been further reinforced through the Productivity Commission's recent Closing the Gap review¹⁴ which noted that the lack of progress "raises questions about whether governments have fully grasped the scale of change required to their systems, operations and ways of working to deliver the unprecedented shift they have committed to."

The Strategy should therefore include consideration of the necessary policy and regulatory changes to address those obstacles, including consideration of the recommendations of the First Nations Clean Energy Network to ensure

- free, prior and informed consent is embedded across the Strategy; and
- market bodies have the appropriate direction and capability to ensure that First Nations communities are appropriately engaged and acknowledged in system planning and design.

While there are anomalies in the current regime, we believe the governance structure underpinning the National Energy Market provided sound scaffolding for its creation and growth - national legislation and rules that are overseen by an intergovernmental agreement that outlines the respective role and responsibilities of Commonwealth and State and Territory governments, and those of market bodies. We see value in continuing a hierarchy of intergovernmental agreement, legislation and rules.

We believe that the inclusion of a right to affordable, clean and reliable energy into energy law and rules will support a just transition. It emphasises the importance of an equitable, participatory and sustainable shift towards the decarbonisation of the Australian energy system. It also draws attention to the importance of ensuring the benefits of the transition are shared by all Australians, and that no one gets left behind.

¹⁴ Productivity Commission [Review of the National Agreement on Closing the Gap](#) 2024



SETTING AND REPORTING TARGETS

The Strategy should set targets that deliver clear benefits to First Nations communities and consumers. Targets should be purposeful, ambitious and measurable.

While the Strategy should outline a range of targets, we propose two meta targets be adopted:

1. That by 2027, all Aboriginal and Torres Strait Islanders, along with all Australians, will enjoy the same level of consumer protections outlined in the National Energy Customer Framework, including a ban on disconnections during designated periods (e.g. extreme weather events).
Where that does not exist currently for Aboriginal and Torres Strait Islanders households, State and Territory Governments agree to develop a plan to achieve that goal by 2027, and report on progress annually to the Energy and Climate Change Ministerial Council.
2. That by 2026, the Australian Energy Regulator has the authority to collect and publish retail performance data for all Australian energy consumers to monitor hardship, debt and disconnections.

An important part of the Strategy must be that it monitors and reports publicly on progress on delivering the Strategy's targets.

Energy Consumers Australia recommends that the Government consider establishing a reporting mechanism. We endorse the First Nation Clean Energy Network's suggestion that there be a public Annual Report prepared for Energy Ministers.

FIRST NATIONS CLEAN ENERGY STRATEGY GOALS AND OBJECTIVES

We support the goals and objectives of the Strategy – they align with our recommendations to decision-makers that a successful and just energy transition must

- centre consideration of consumers' (and communities') interests across the supply chain – this Strategy gives a prominence to community interests that is a good evolution of energy decision-making;
- recognise, build and capture all the benefits of the energy transition – the impacts on health and wellbeing, community prosperity through new jobs and investment, increased community capital through actively helping communities navigate the transition; and
- are future-focused, recognising that industry and government must change their behaviour and practices to build genuine partnerships and collaboration.

Our submission has already addressed the need for governance reform. The following therefore focuses on two key elements of success in the Strategy – ensuring that housing is a key priority area for action given its impact on energy bills, and supporting capacity building in First Nations organisations.

Governments address existing policy and regulatory barriers

Policy and program design should actively consider where consumers encounter obstacles in making a decision – that can be through their location, the type of house they live in, whether they own their house, or their individual circumstances, for example, income, literacy, age, household composition or



mental health. The UK Behavioural Insights Team (BI Team) developed [a useful model](#) to support climate change action that makes clear the interaction between system settings and individual behaviour.

Its “upstream-downstream model” acknowledges that:

“Individuals make choices as a function of their preferences, knowledge, values and biases (downstream), within choice environments that exert profound influence due to the proximate effects of pricing, convenience, salience and norms (midstream), which exist as they do largely because of a system of commercial incentives, regulation, investment, infrastructure and institutional leadership (upstream).”¹⁵

Downstream means informing and encouraging people to take direct action *where they can* (our emphasis). It recognises that people have agency, and will make choices based on their perceived needs, values and capabilities.

Midstream requires altering the context for consumer participation - or what the BI Team calls the choice environment. As the report says, we too often expect people to swim against the current. Currently we are asking consumers to take action in a system that makes choice hard – through complexity, confusing and fragmented information, and services or products that don’t reward the desired change or even punish “non-compliant” behaviour. We need to remove friction and make choices for consumers easier, more attractive, more socially normative and more timely.

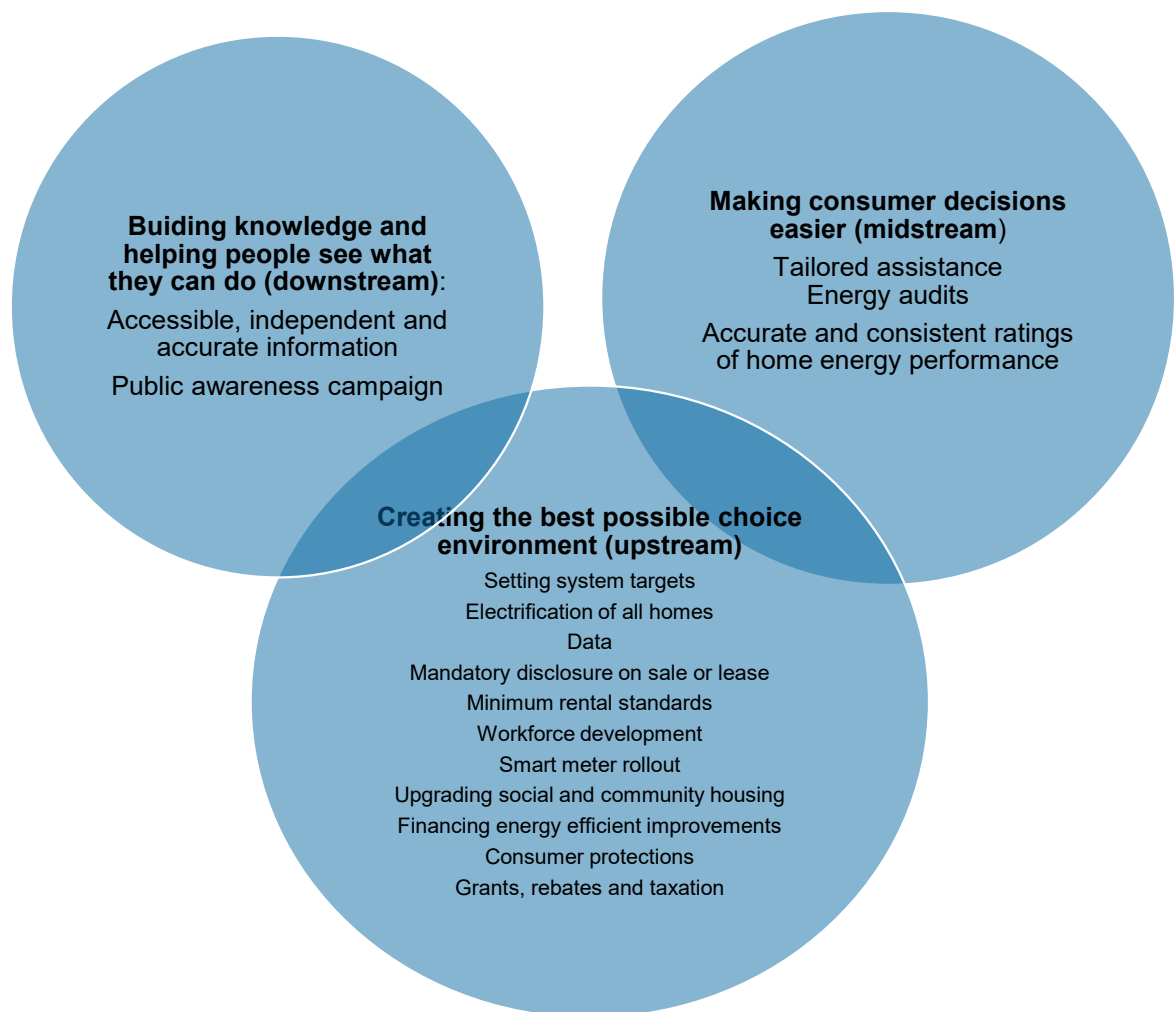
Upstream works on incentivising business and government to create the best possible choice environment for consumers. That requires understanding and reviewing how the system incentivises inertia or creates perverse incentives.

The First Nations Clean Energy Network has identified housing as a significant barrier to affordable energy. Using the BI model, it makes clear the government actions required to deliver better outcomes for Aboriginal and Torres Strait Islanders.

¹⁵ Behavioural Insights Team *How to build a Net Zero society: a guide for policymakers and business* p. 6 [How to build a Net Zero society | The Behavioural Insights Team \(bi.team\)](#)



Figure 1: Recommended actions to improve the energy performance of homes





Support and enable coordination and capacity development in First Nations organisations

The last 2-3 years has seen the emergence of researchers that have made visible the challenges faced by First Nations people and communities and – wonderfully – advocates that have been able to speak up for those people in policy decisions.

The impact of the First Nations Clean Energy Network particularly has been a very welcome and influential voice, able to bring community issues and voices directly to decision-makers at the highest level.

Energy Consumers Australia is empowered to represent all households and small businesses and is accordingly looking for solutions that will ensure First Nations households and small businesses are able to access affordable, reliable and clean energy. We do not have the remit or expertise to speak to the range of issues faced by First Nations communities and so rely on advocates like the First Nations Clean Energy Network.

The work of the First Nations Clean Energy Network has been critical in highlighting the barriers, concerns and opportunities faced by Aboriginal and Torres Strait Islander consumers and communities through the energy transition. In considering how to build capacity, we would therefore strongly support an ongoing and appropriately resourced role for the Network as an independent advocate for First Nations communities.

First Nations Energy Efficiency Project

Energy Consumers Australia also strongly supports the Network’s proposal for a First Nations Energy Efficiency Project to improve household capacity and deliver energy-related support to First Nations people.

Our recent Household Energy Consumer Information Research¹⁶ asked 2,500 households across Australia to better understand where they are looking for information on energy, who they trust for information and what barriers they face to action (improve the energy efficiency of their homes and /or reduce their energy costs).

While the number of First Nations consumers consulted was small, it indicated again the disparities between First Nations and non-First Nations consumers around their confidence and self-efficacy to manage their energy use.

¹⁶ [Household Energy Consumer Information Research](#) (2023)



Figure 2: Confidence in minimising energy consumption

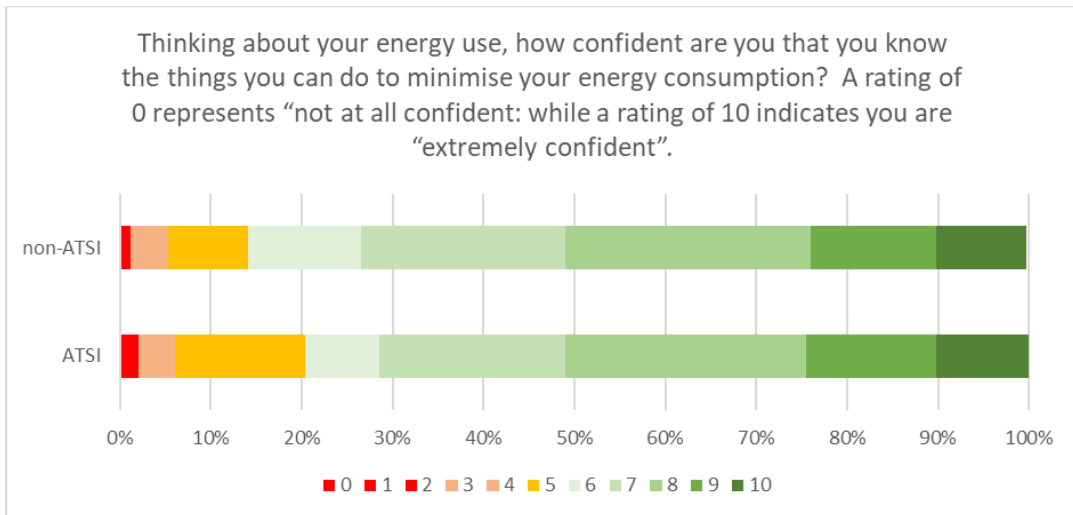


Figure 3: Ability to change energy use

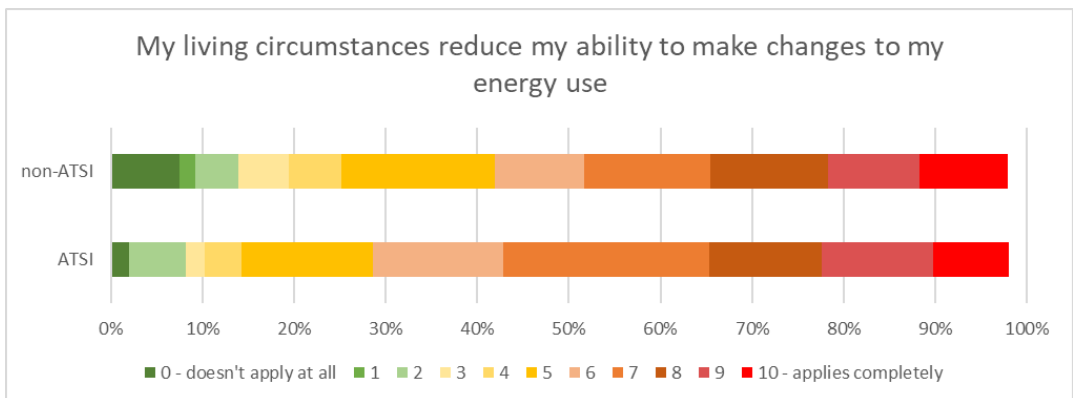
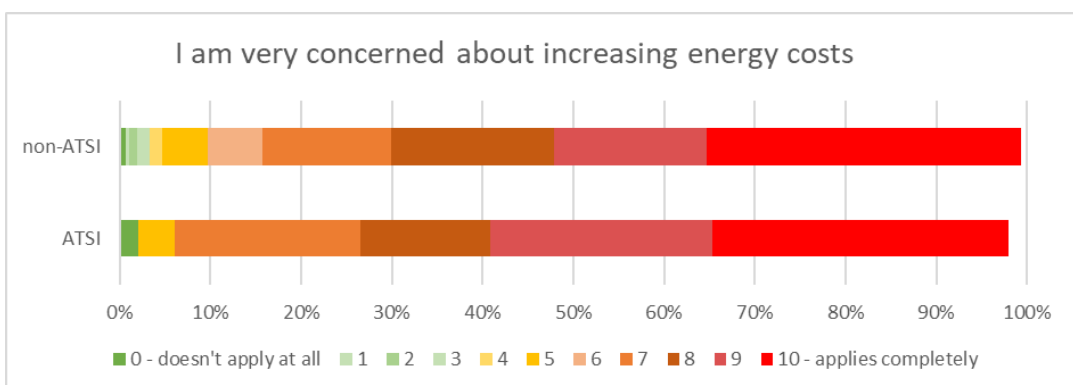


Figure 4: Concern around energy costs





To be successful, the First Nations Energy Efficiency Project should be First Nations led. That aligns with the Productivity Commission's Priority Reform 2, which recognised that Aboriginal Community Controlled Organisations achieve better results for Aboriginal and Torres Strait Islander people and that governments must do more to strengthen those organisations.

A First Nations Energy Efficiency Project should offer a full range of services and assistance to households, ranging from home energy assessments and personalised energy reports delivering tailored advice, and information about energy saving measures. For rural, regional and remote communities, it could also include advice about and access to energy efficient appliances and renewable technologies. It should aim to link in with other relevant services.

First Nations participation and benefit in the energy transition

ECA supports the development of policy frameworks and programs that enable First Nations people to meaningfully participate in and benefit from the clean energy transformation.

In this context, it may be useful to look at the participation of First Nations people and communities in Canada who are at the forefront of the country's clean energy transformation.

Most recent statistics reveal Indigenous people in Canada are partners or beneficiaries of almost 20% of their electricity-generating infrastructure (almost all of which is producing renewable energy). The types and levels of ownership of different clean energy projects has also increased over time from about 25-50% to 100% community ownership which is now increasingly common, particularly over the past few years.¹⁷

The geographical spread, ownership type, diversity and scale of Indigenous clean energy projects across Canada mean that Indigenous people are recognised as essential players in the transition and clean energy evolution.

This is something that we can learn from here in Australia as we undertake our *own* clean energy evolution. The First Nations Guidelines in NSW¹⁸ indicate some tentative steps forward in this realm, however there is still a long way to go.

The First Nations Clean Energy Strategy presents an important and timely opportunity to address significant existing inequity and disadvantage, and identify opportunities for First Nations communities to lead, participate in and benefit from the energy transition. We also believe this approach is the right one to deliver a successful and just energy transition – putting consumers at the heart of policy design and planning.

We congratulate Energy Ministers on their initiative in developing a comprehensive and future-focused strategy.

¹⁷ [Waves of Change: Indigenous clean energy leadership for Canada's clean, electric future](#) (2022)

¹⁸ [First Nations Guidelines | NSW Climate and Energy Action](#)



Thank you for the opportunity to provide our feedback. If you have any questions or comments about the submission, or require further detail please contact Taneesha Amos-Hampson at taneesha.a@energyconsumersaustralia.com.au.

Yours sincerely,

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