



Environmental
Defenders Office

EDO Principles for renewable energy transition projects

EDO Roadmap for Climate reform – Recommendation 22: Provide a clear pathway for assessment and approval of ecologically sustainable renewable energy projects and associated transmission infrastructure – by establishing national ecologically sustainable development standards and principles for renewable energy projects. This includes, for example, frameworks to ensure that renewable energy projects are appropriately located, sited, designed and operated to ensure development avoids, minimises and mitigates adverse impacts on the natural environment (fauna and flora), water resources, First Nations heritage, cultures and access to Country, and associated ecological processes. This must include clear mandatory requirements for free prior informed consent and extensive consultation with impacted First Nations communities.

General position:

- To meet the Paris Agreement Goal of limiting global temperature rise to 1.5 degrees Celsius, there needs to be a large-scale energy transition from fossil fuels to renewable energy. There are significant opportunities for Australia to be a leader in renewable energy technology and production, and there is an urgent need for renewable energy projects and transmission capacity to be operational as soon as possible to meet legislative targets. Australia also has a role in supplying minerals necessary for the energy transition.
- In acknowledging this, we also acknowledge that renewable energy projects will have impacts and, in some instances, significant consequences. The urgency of the decarbonisation task should not be to the detriment of First Nations communities, ecological sustainability and environmental integrity, Australia's human rights obligations, or our Pasifika neighbours. The climate and biodiversity crises – and solutions – are intrinsically linked, and tackling emissions reductions to the detriment of biodiversity is not an ecologically sound approach.
- The renewable energy transition presents an opportunity to engage with environmental concerns, community consultation processes, and First Nations cultural heritage protection in a different way than has been the historical experience in respect to the fossil fuel industry and other mining developments. **Laws can, and should, be designed to deliver outcomes for climate, nature and communities.**

For the purpose of this document, **renewable energy transition projects** include: renewable energy projects such as wind and solar farms and associated transmission infrastructure, green hydrogen projects, as well as projects relating to extraction and processing of minerals required for the

renewable energy transition ('transition minerals'). The definitions of renewable energy transition projects do not include technologies that facilitate ongoing fossil fuel use.

Environmental Defenders Office supports the following 12 principles for decision-making in relation to renewable energy transition projects:

1. **Rapid energy transition:** Australia must reduce greenhouse gas emissions consistent with a carbon budget based on science and our international commitments to keep global warming under 2 degrees Celsius and pursue a limit of 1.5 degrees Celsius above pre-industrial levels. The scientific, social, economic, human rights and environmental imperatives for limiting warming to 1.5 degrees Celsius are clear. This requires laws that **prohibit new fossil fuel projects**, and facilitate an economy-wide transition to renewable energy.
2. **Human rights and environmental justice:** All decisions and activities relating to renewable energy transition projects must be consistent with and consider Australia's international and domestic human rights obligations, and in particular the substantive and procedural elements of the right to a healthy environment, and environmental justice principles. Particular attention should be given to the rights and needs of overburdened people and communities, including First Nations Peoples. Government departments and Australian corporations must also act consistently with their responsibilities under the United Nations Guiding Principles on Business and Human Rights (**UNGPs**), including the corporate responsibility of Australian corporations to respect human rights, and Australia's responsibility to protect against human rights abuses from third parties including Australian corporations.
3. **First Nations consultation and consent:** Any proposed renewable energy transition project must involve consultation with First Nations Peoples that is early, iterative, and culturally appropriate that adheres to the standard of 'free, prior and informed consent' under United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**). First Nations Peoples must be empowered and resourced to engage in the design, delivery and benefits of projects, policies, and decision-making processes relating to transition minerals mining and renewable energy infrastructure, as they see fit.
4. **Community engagement, consultation & social licence:** Proposals for renewable energy transition projects should be supported by best practice community engagement and consultation. There are significant benefits of early and open engagement with communities about project siting, design, impacts and benefits. This can reduce land-use conflicts, delays and costs. The agency/decision maker responsible for developing regional energy plans, and assessing/ approving individual projects and developments, should ensure best practice community consultation is undertaken in seeking local community's social licence to operate. This includes early iterative, culturally appropriate consultation. This community consultation should complement principles relating to ensuring FPIC of First Nations.

5. **Ecologically sustainable development:** Development of renewable energy transition projects must be undertaken in accordance with principles of ecologically sustainable development. The principles include the precautionary principle, conservation of biological diversity and the principle of intergenerational equity. Decision-making must be based on the best available science and apply the precautionary principle where there is a lack of scientific certainty.
6. **Regional planning and strategic environmental assessment** – Siting of proposed renewable energy transition projects should be consulted upon early and strategically (and within a coherent strategic framework designed to meet state energy and emissions reduction targets). Regional planning and robust strategic environmental assessment (**SEA**) should be used to:
 - collect environmental data for areas identified for potential renewable energy transition projects and related development. In addition to data on available transition mineral and renewable energy resources, this includes (but is not limited to) data on biodiversity, ecology and ecosystem services, hydrology – groundwater, surface water, wetlands, and natural and cultural heritage;
 - where possible identify/prioritise projects on land which has previously been developed, impacted or degraded, including existing infrastructure corridors, (noting that where this land may still have cultural value, including intangible values, impacts are avoided);
 - identify sensitive areas to be off limits (including, for example, national parks, World Heritage areas and values, high conservation value land, critical habitat, wetlands, culturally significant sites);
 - Consider and address/mitigate cumulative impacts; and
 - based on environmental sensitivity mapping and comprehensive data collection (noting that not all values can be mapped), identify precincts or zones where projects and infrastructure can be progressed in accordance with the principles of ecologically sustainable development.
7. **Unacceptable impacts:** Areas where proposals will be clearly unacceptable should be identified and protected upfront. This should include, for example, culturally significant sites, national parks, World Heritage areas and values, national heritage areas; the marine estate; high conservation value land; critical habitat, wetlands, as identified under the *Environment Protection & Biodiversity Conservation Act 1999* (Cth) and/or relevant state or territory legislation. Water availability and hydrological impacts may also be unacceptable for some projects under climate change. Australia must also support an international moratorium on deep sea mining. Renewable energy developments and renewable energy products such as solar panels and wind turbines must not use deep sea mined minerals in projects or manufacture.
8. **Project design to avoid and minimise impacts:** Relevant government departments (including the new national EPA) must be adequately resourced to assist proponents of renewable energy transition projects to understand their obligations under relevant legislation and locate and design projects in a way that will meet relevant legislation/ National

Environmental Standards. As noted for energy planning, where new developments are required, they should avoid impacts on matters of national or state/territory environmental significance, then demonstrably minimise impacts by project design adjustments. Offsets must only be used as a genuine last resort - any residual impacts that are unavoidable (ie, cannot be avoided or mitigated) should be offset, applying best practice offset principles including clear requirements for net gain, like for like, additionality and in perpetuity protection. Law reform is needed to improve existing inadequate offsetting regimes that lack integrity and fail to deliver environmental outcomes. Offset projects that have co-benefits and that align with First Nations interests should be supported.

9. **Transparent and accountable decision-making:** Assessment and decision-making in relation to all renewable energy transition projects must be transparent and comprehensive. Merits review rights should be available to provide for better scrutiny of decisions, and to ensure decision-maker accountability. Strong third-party enforcement rights similarly empower citizens to hold decision-makers and proponents to account, and these measures must be backed up by easily accessible and timely information on all projects, decisions, and conditions.
10. **Minimise impacts on water resources:** Renewable energy transition projects must demonstrably avoid, mitigate or minimise (within clear limited allocations) impacts on natural surface and groundwater flows, for the cleaning and maintenance, development, construction, use and operations related to projects.
11. **Full life cycle recycling, rehabilitation and restoration:** There should be fully funded rehabilitation, restoration, and recycling plans required for end of project works (ie, full lifecycle impacts addressed). Projects should be funded to ensure that the rehabilitation and restoration of project sites is addressed, including early in the approval process. In relation to transition minerals, recycling and re-use should be prioritised and factored into demand projections, rather than policy designed on unlimited extraction.
12. **Mandatory Due Diligence and Enforceable Remedies:** To ensure Australia and Australian corporations abide by the standards set out under Pillars I and III of the UNGPs, and to address adverse environmental and human rights risks arising out of Australian mining and energy corporations' domestic and global operations and renewable energy supply chains, Australia must implement mandatory environmental and human rights due diligence and enforceable remedies via national legislation. This legislation must impose mandatory due diligence obligations on Australian domiciled corporations, that require the identification of risks of environmental harm and human rights abuses arising out of the corporation's domestic and extraterritorial activities, subsidiary activities, contractor and commercial partner's activities and in their supply and value chains. These due diligence obligations must be enforceable by affected parties and provide a mechanism for effective remedy for the victims of an Australian corporation's activities, subsidiary activities, contractor and

commercial partner's activities and in their supply and value chains. This remedy mechanism must be accessible and applicable for victims of extraterritorial environmental harm and human rights abuses.