



Environmental  
Defenders Office

## **Submission on the Net Zero Economy Authority Bill 2024**

**19 April 2024**

## **About EDO**

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

***Successful environmental outcomes using the law.*** With over 30 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

***Broad environmental expertise.*** EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

***Independent and accessible services.*** As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

**[www.edo.org.au](http://www.edo.org.au)**

### **Submitted to:**

Senate Finance and Public Administration Committee  
PO Box 6100  
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Canberra ACT 2600  
Via [Submissions Portal](#)

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## **Acknowledgement of Country**

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past, present and emerging, and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations cultural heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises self-determination as a person's right to freely determine their own political status and freely pursue their economic, social and cultural development. EDO respects all First Nations' right to be self-determined, which extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

### **A note on language**

We acknowledge there is a legacy of writing about First Nations peoples without seeking guidance about terminology. We also acknowledge that where possible, specificity is more respectful. For the purpose of this submission, we have chosen to use the term First Nations. We acknowledge that not all First Nations people will identify with that term and that they may instead identify using other terms or with their immediate community or language group.

First Laws is a term used to describe the laws that exist within First Nations. It is not intended to diminish the importance or status of the customs, traditions, kinship and heritage of First Nations in Australia. The EDO respects all First Laws and values their inherit and immeasurable worth. EDO recognises there are many different terms used throughout First Nations for what is understood in the Western world as First Laws.

## Executive Summary

Environmental Defenders Office (**EDO**) welcomes the opportunity to comment on the Net Zero Economy Authority Bill 2024 (**the Bill**). EDO broadly supports the Bill.

To meet Australia's legislated emissions reduction targets, and ultimately 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. This is imperative.

Australia is already in a state of energy transition and failure to better plan and coordinate this transition will continue to create significant detrimental impacts on those communities which currently rely on fossil fuel generation, transmission and distribution for employment. As such, an environmental justice approach should be taken which recognises not only that the impacts of climate change will have disproportionate impacts on certain communities, but so too will policy decisions made to address the climate crisis, if not done well. A national net zero body is a good way to ameliorate these impacts as Australia moves to decarbonise, and to assist with planning a transition that leaves no community behind.

Relevantly, EDO's 2022 [Roadmap for Climate Reform](#) recommends the Australian Government coordinate and implement a rapid and just transition by:

**Recommendation 47.** Establishing a statutory body to coordinate transition planning and implementation, with transition costs funded in part by the redirection of current fossil fuel subsidies.

**Recommendation 48.** Consulting on and establishing a plan for a rapid and just transition for effected communities and workers, leaving no sector or community behind and involving genuine transition planning for affected and highly impacted communities. This should be done in the context of an environmental justice framework.

**Recommendation 49.** Ensuring First Nations peoples and our neighbours in the Pacific region are included in the design and delivery of energy transition policies, as they see fit, and First Nations communities are empowered to manage and protect Country.

The proposed Net Zero Economy Authority will undertake some of these functions, particularly through supporting specific communities to transition as fossil fuel infrastructure is retired, and through provision of information and advice to government. This following recommendations are intended to ensure the Net Zero Economy Authority established by the Bill will be best placed to undertake its functions effectively.

### Summary of Recommendations

**Recommendation 1:** Net zero transformation initiatives must be reliant on verifiable and evidence-based abatement and mitigation, and the definition in the Bill should exclude unproven technologies.

**Recommendation 2:** The Bill should provide that Ministerial directions cannot conflict with the objects of the Act or functions of the Authority.

**Recommendation 3:** More transparent Board appointment processes should be set out in the Act.

**Recommendation 4:** At least one Board position should be reserved for a First Nations person.

**Recommendation 5:** Strict conflict of interest requirements should apply to both the Board and the CEO.

**Recommendation 6:** Statutory criteria should outline required traits and experience for the CEO, and the appointment process must be transparent.

**Recommendation 7:** Funding should be redirected from fossil fuels to support a just transition.

## Introduction

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. The Paris Agreement also includes an imperative to support a just transition of the workforce, and the creation of decent work and quality jobs in accordance with nationally defined development priorities.<sup>1</sup>

The necessary energy transition policy must leave no sector or community behind – the Australian Government must lead genuine transition planning for affected coal communities, workers in high emissions intensity industries and sectors, and highly impacted communities. A range of opportunities need to be consulted upon, including reskilling workers to emerging industries, and identifying opportunities for impacted communities, First Nations and rural landholders to benefit from the renewable energy transition.

This will require significant planning by governments at all levels. EDO supports the National Net Zero Economy Authority Bill (**the Bill**) and the role of the Authority to undertake this task, including by promoting coordination and consistency in the design and implementation of Australian government policies, programs and plans, and providing advice to the Government to assist as we seek to meet national net zero targets.

The following recommendations intend to strengthen the operation of the new Authority by addressing its **functions; composition; and funding model**.

## Functions of the Net Zero Economy Authority

Core functions of the Authority include facilitating public and private sector participation and investment in ‘net zero transformation initiatives’, including referring matters to specialist investment vehicles and other entities.<sup>2</sup> ‘Net zero transformation initiative’ means a project or initiative that will, or is reasonably likely to, facilitate, directly or indirectly, the achievement of Australia’s greenhouse gas emissions reduction targets.<sup>3</sup> This should be amended to ensure that false solutions, such as carbon capture and storage (**CCS**), offsetting measures, or non-renewable hydrogen, are excluded from the definition.<sup>4</sup>

There are no effective or credible pathways currently available to offset or mitigate new or expanded fossil fuels. Carbon capture, offsetting and non-renewable hydrogen are false solutions and should not be used in place of real and rapid carbon abatement. Getting to net zero, in line with the Authority’s mandate, must be based on real world abatement and mitigation of emissions.<sup>5</sup> This should be made clear in the legislation.

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<sup>1</sup> United Nations Framework Convention on Climate Change, (Dec 2025), Paris Agreement.

<sup>2</sup> National Net Zero Economy Authority Bill, cl 16.

<sup>3</sup> National Net Zero Economy Authority Bill, cl 5.

<sup>4</sup> See, [EDO submission on the National Hydrogen Strategy, 2023](#).

<sup>5</sup> See e.g., *Clean Energy Finance Corporation Act 2012* (Cth) section 62, prohibited technology.

**Recommendation 1:** Net zero transformation initiatives must be reliant on verifiable and evidence-based abatement and mitigation, and the definition in the Bill should exclude unproven technologies.

Under proposed clause 20, the Minister may give directions to the Board. This is by legislative instrument, but not disallowable. The Board must comply with such a direction, which may be about the performance of the Board or Authority's functions, or the exercise of the Board or Authority's powers.

Given the significant influence in this direction, and the fact that such a direction is legal binding under the proposed legislation, additional safeguards are needed. The clause should be amended to ensure that such a direction cannot conflict with the legislative objects of the Act, or the functions of the Authority.<sup>6</sup>

**Recommendation 2:** The Bill should provide that Ministerial directions cannot conflict with the objects of the Act or functions of the Authority.

### Composition of the Net Zero Economy Authority Board

EDO supports the establishment of a Board as best practice for ensuring the independence of statutory authorities. Robust Board member selection processes protect against politicisation of statutory boards and ensure community trust in the advice provided by the organisation.<sup>7</sup> The Bill should provide greater clarity as to appointment processes for Board members. Board nominations should be announced publicly and statutory timeframes should allow for public awareness and scrutiny of the procedure.

Given a legislative function of the Authority relates to 'supporting Indigenous persons to participate in, and benefit from, Australia's transition to a net zero emissions economy', the legislation should also specify that at least one Board position is reserved for a First Nations person.

**Recommendation 3:** More transparent Board appointment processes should be set out in the Act.

**Recommendation 4:** At least one Board position should be reserved for a First Nations person.

The Bill does not currently provide for a robust conflict-of-interest policy. Amendments should be incorporated which protect against real *and* perceived conflicts of interest. For example, where a Board member would gain financially from a decision made by the Authority, or, where perception of a conflict would undermine public trust in the operation of the Authority and its advice.

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<sup>6</sup> National Net Zero Economy Authority Bill, cl 16, 3.

<sup>7</sup> See for example alleged politicisation of the Climate Change Authority Board: <https://www.sbs.com.au/news/article/the-government-has-appointed-a-former-energy-executive-to-lead-the-climate-change-authority/hw7n45d8d>

This should go beyond the mere disclosure of interests for the CEO and Board and beyond the basic requirements in the *Public Governance, Performance and Accountability Act 2013* (Cth).<sup>8</sup> To have confidence in the operation of the Authority, a strict conflict of interest policy that prevents appointment where material conflict is present, or appears to be present, should be legislated in the Bill itself.

**Recommendation 5:** Strict conflict of interest requirements should apply to both the Board and the CEO.

As set out in clause 42, the appointment of the CEO of the Authority is by the Minister on the recommendation of the Board. There does not appear to be any criteria for the appointment or selection of the CEO, and the legal force of the Board’s recommendation for selection is also unclear (i.e. if the Minister could disregard the recommendation).

For clarity, and to avoid politicization of the role, EDO recommends statutory criteria to guide the selection of the CEO, including relating to their expertise and experience. Further, Board recommendations should be made public, with a mandatory process for the Minister disclose reasons why any departure from a Board recommendation has been made.

**Recommendation 6:** Statutory criteria should outline required traits and experience for the CEO, and the appointment process must be transparent.

### Funding for the Net Zero Economy Authority

EDO notes that \$83.2 million in funding over 4 years has been announced for the Authority. EDO’s longstanding position the government must discontinue financial support (public funding), subsidies, investments and incentives that encourage fossil fuel or other activities that are contrary to genuine emissions reduction efforts. This includes measures which delay genuine mitigation efforts, like CCS as noted above. Subsidies should be redirected to emissions reduction, environment protection, economic transition and community development – and should form part of the funding for the new Authority.

**Recommendation 7:** Funding should be redirected from fossil fuels to support a just transition.

*Thank you for the opportunity to make this submission.  
Please do not hesitate to contact our office should you have further enquiries.*

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<sup>8</sup> National Net Zero Economy Authority Bill , cl 26, 46.