NATIONAL NATIVE TITLE COUNCIL

Dr Albert K. Barume
Special Rapporteur on the rights of Indigenous Peoples
United Nations Human Rights Council
Office of the High Commissioner

Via email: hrc-sr-indigenous@un.org

Friday, 20 March 2026

Dear Dr Barume

Country Visit to Australia

The National Native Title Council (**NNTC**) is the peak body for the native title sector. Native title is the recognition in Australian law that Aboriginal and Torres Strait Islander people continue to hold unbroken rights and interests in land and water. NNTC members are made up of the Traditional Owners of Australia's lands, waters and resources, and their representative bodies, representing those First Nations communities with statutory land and cultural rights. It supports and advocates for First Nations people's right to true self-determination, including their rights to:

- speak for and manage their own Country,
- govern their own communities,
- participate fully in decision-making, and
- self-determine their own social, cultural and economic empowerment. The NNTC works closely with Traditional Owners, government, and industry partners to support and strengthen native title rights by changes to law, policy and best practice.

As a peak First Nations organisation, the NNTC provides a unique voice within the international context. Speaking with the authority of its membership, it contributes significantly to international discussion about First Nations community's rights and knowledge. In doing so, it both advocates for international reform and places the Australian experience on an international level.

Our mission is to champion members' rights and interests through advocacy, leadership, and skill-building. By delivering the tools and knowledge our members need to navigate the native title system, we ensure their voices are heard by governments and industry. Our work is guided by rights-based standards such as the UN *Declaration on the Rights of Indigenous Peoples* (**UNDRIP)** and the principle of Free, Prior and Informed Consent (**FPIC**).

We believe that it is fundamentally important that Indigenous Peoples work together and are provided forums to push their own reform agendas, like the United Nations Permanent Forum in Indigenous Issues (**UNPFII**). The NNTCs participation in the formation and maintenance of such networks now includes engagement with the UNFPII and engagements with the United Nations Educational, Scientific and Cultural Organization (**UNESCO**), International Union for Conservation of Nature (**IUCN**) and the International Council on Monuments and Sites (**ICOMOS**).

We understand the deep complexities of the assertion of rights by First Nations communities, shaped by a history in which Australia's laws and policies excluded First Nations people from their lands and decision-making. While the native title system has returned some rights and country to First Nations people, much more needs to be done to achieve genuine equity and recognition as significant gaps remain between formal recognition and the practical realisation of those rights. At the same time, cultural heritage protection frameworks are not currently providing Traditional Owners with meaningful authority to protect culturally significant places. The NNTC believes that UNDRIP has the potential to strengthen First Nations advocacy for meaningful reform by acting as the framework that underpins the development of legislation, policies, and institutions in Australia.

To this end, we are pleased to provide this note to inform your visit to Australia in November 2026. In the following, we will discuss:

- Sector, legislative and regulatory framework
- Economic Rights and Benefit Sharing
- Cultural Rights and the Energy Transition.

We note that the Mabo Centre, a partnership between the University of Melbourne and the NNTC is also providing a summary for your consideration. Together, these submissions should provide a comprehensive overview of the application of UNDRIP in Australia and the ways in which Traditional Owners are activating their rights.

We look forward to discussing these with you in person later in the year.

Regards,

Jamie Lowe

Chief Executive Office
National Native Title Council

1 Sector, legislative and regulatory framework

1.1 Native Title Act

Native title was first recognised in the Australian legal system in 1992 by the High Court of Australia within the *Mabo* decision.[1] The principles of Mabo were then consolidated by the Federal Government in the *Native Title Act 1993* (Cth) (***NT Act***), providing a framework for the determination and protection of native title rights.

Native title refers to the recognition of rights and interests First Nations people have on Country according to their traditional laws and customs. It is a legal concept which acknowledges the enduring connection First Nations people have to their ancestral lands, dating back long before European colonisation.

The *NT Act* determines the process for First Nations people to make native title claims which are assessed and resolved through negotiation, mediation, or litigation. It also establishes mechanisms for the registration of Indigenous Land Use Agreements.

Formal native title recognition for First Nations people is vital to preserve cultures, identities, heritage, and connection to Country while ensuring First Nations communities have the right to continue traditional laws, customs, and practices.

Native title can exist where traditional connection to land and waters has been maintained. Native title can exist in the following areas:

- Vacant crown land.
- National parks, State forests, and public reserves.
- Pastoral leases.
- Beaches, oceans, seas, reefs, lakes, rivers, creeks, swamps, and other waters that are not privately owned.

It does not take precedence over existing rights, such as freehold or leases. Established landowner rights, including private ownership, always prevail over native title.

Native title is not recognised where the Australia legal system has acted to extinguish native title through valid Government acts. This includes:

- Privately owned land.
- Land covered in residential and commercial leases.
- Crown reserves under the control of local government or other statutory authority.
- Areas covered in public infrastructure.[2]

Native title is often described as a 'bundle of rights' in land, meaning a collection of rights. These rights may include the right to camp, hunt, use water, hold meetings, perform ceremony and protect cultural sites. It is important to note that native title only recognises the right to perform certain activities which come from traditional laws and customs but does not recognise those traditional

[1] *Mabo v Queensland (No 2)* ("Mabo case") [1992] HCA 23; (1992) 175 CLR 1 (3 June 1992)
[2] First Nations Legal and Research Services, *Native Title*, 2025.

laws and customs themselves. The types of rights that are recognised in a native title determination depends on the particular laws and customs of the native title claim group, and what they can prove.

Native title is inalienable, meaning it cannot be sold or transferred freely, and can only be surrendered to the Crown (or extinguished). However, there are some options for non-extinguishing leasing of native title lands. [3]

1.2 Aboriginal and Torres Strait Islander Heritage Protection Act

The destruction of sacred caves in the Pilbara in 2020 and the subsequent parliamentary inquiries, *Never Again: Inquiry into the destruction of the 46,000-year-old caves at Juukan Gorge in the Pilbara region of Western Australia – Interim Report* (**Never Again**) (Attachment B) and *A Way Forward: Final report into the destruction of Indigenous sites at Juukan Gorge* (**A Way Forward**) (Attachment C) highlighted the deficiencies of the Commonwealth cultural heritage protection framework under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth) (***ATSIHP Act***). The current system:

- is outdated, complex and inaccessible
- does not recognise Traditional Owners and limits the exercise of their self-determination
- leaves businesses unclear about who the Traditional Owners are in their project area
- does not provide for a specific process for the Minister to receive advice directly from Aboriginal and Torres Strait Islander people
- can cause serious disruption to projects, increase costs and blowout timelines due to complex administration arrangements and a lack of clarity about who speaks for Country
- does not align with state and territory processes
- does not facilitate Aboriginal and Torres Strait Islander participation in the administration of the Act
- has limited compliance mechanisms
- has low penalties compared to similar legislation.

A central issue is the failure to recognise Traditional Owners as custodians of their own heritage and that rights over cultural heritage are collectively held. As legislation of last resort, the *ATSIHP Act* is activated where heritage is not effectively protected by state and territory heritage protection laws. Reforming the *ATISHP Act* is an opportunity to embed the principle of traditional ownership in a heritage protection framework that empowers Traditional Owners, addresses the deficiencies of the current system, and gives business and industry regulatory certainty to support investment.

The Australian Government and the First Nations Heritage Protection Alliance (**FNHPA**) have been working in partnership since November 2021 to co-design reforms to fix the system and strengthen the laws, policies and procedures around the recognition, respect, protection and celebration of First Nations Cultural Heritage in Australia. As outlined in *Dhawura Ngilan: a vision for Aboriginal and Torres Strait Islander Heritage in Australia* (**Dhawura Ngilan**) (Attachment D), a refreshed protection framework should enshrine the principle that Traditional Owners are the Custodians of their heritage and that these rights are held collectively. The proposed reforms provide for:

[3] PBC, *Native title, rights and interests*, 2023.

- a nationally consistent model to identify Traditional Owners representative institutions for proponents to engage with and a First Nations Cultural Heritage Council to identify representative institutions and relevant Traditional Owners when this is not otherwise clear
- a First Nations Engagement Standard to encourage early and genuine engagement and support agreement making between Traditional Owners and proponents
- modernising the *ATSIHP Act* with a streamlined declaration model, clearer timeframes, and stronger penalties
- an Engagement Gateway to support the work of the Council and encourage agreement making.

At time of writing, this reform package has not yet been introduced to parliament.

1.3 Environmental Protection and Biodiversity Conservation Act

The *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) (***EPBC Act***) and regulations are Australia's main national environmental legislation. They provide a way for us to protect and manage nationally and internationally important plants, animals, habitats and places.

The *EPBC Act* refers to the living things (including plants and animals), habitats and places that need protecting as 'matters of national environmental significance'. There are 9 of these:

- World Heritage areas
- National Heritage places
- wetlands of international importance (listed under the Ramsar Convention)
- listed threatened species and listed ecological communities
- listed migratory species (protected under international agreements)
- Commonwealth marine areas
- Great Barrier Reef Marine Park
- nuclear actions (including uranium mines)
- water resources (relating to unconventional gas development and large coal mining development).

The *EPBC Act* also protects the environment through 'protected matter', when actions are taken:

- on Commonwealth land or impact upon Commonwealth land
- by an Australian Government agency anywhere in the world
- that impact Commonwealth heritage places overseas.

Engagement with First Nations people is part of referring and assessing actions under the *EPBC Act*.[4]

1.4 State and territory legislations

Cultural heritage protections are primarily dealt with under state and territory schemes. The below outlines the key pieces of legislation which provide for cultural heritage protections in each jurisdiction.

- Australian Capital Territory — *Heritage Act 2004*
- New South Wales — *National Parks and Wildlife Act 1974*

[4] Australian Government Department of Climate Change, Energy, the Environment and Water, *Engagement with First Nations People for referrals under the EPBC Act*, 7 August 2025.

- Northern Territory — *Aboriginal Sacred Sites Act 1989*; *Heritage Act 2011*
- Queensland — *Aboriginal Cultural Heritage Act 2003*; *Torres Strait Islander Cultural Heritage Act 2003*
- South Australia — *Aboriginal Heritage Act 1988*
- Tasmania — *Aboriginal Heritage Act 1975*
- Victoria — *Aboriginal Heritage Act 2006*
- Western Australia — *Aboriginal Heritage Act 1972*

1.5 The 'Sector'

The range of statutory requirements briefly described above requires an understanding of the environment in which organisations operate and the sector of which they are a part.

As cultural rights are necessarily collectively held, the Australian native title framework has implemented UNDRIP through the self-determined creation of First Nations representative institutions to exercise these rights. After a native title determination is made, native title holders are compelled to establish a Prescribed Body Corporate (**PBC**). PBCs are the legal entities that hold or manage native title rights and interests on trust or as agents for the native title holders. PBCs have identified statutory responsibilities for culture but with different structures and titles (e.g. Registered Aboriginal Parties in Victoria).

In 2024, the NNTC produced a *State of the Sector Short Report* to provide a snapshot of the First Nations 'sector' (Attachment E). With a growing demand on PBCs (and like statutory entities) to engage with intersecting policy areas alongside consultative and agreement making functions, the report demonstrates that PBCs have insufficient funding and resources to properly participate in the complex policy interactions they encounter. Many PBCs operate with minimal staff, heavy compliance burdens, and limited access to independent legal, financial, environmental and technical advice. Yet they are expected to:

- Engage in complex negotiations with mining, energy and infrastructure proponents;
- Consult large and often geographically dispersed native title groups;
- Manage future act processes and Indigenous Land Use Agreements;
- Administer compensation agreements and benefits;
- Protect and manage cultural heritage; and
- Meet corporate, financial and reporting obligations under Commonwealth law.

In doing so, the report highlights why PBCs have cultural authority and should be at the forefront of industry and government engagement on policies and programs that affect land, waters, and resources.

The NNTC is building the capacity of PBCs through PBC Director training which are practical, interactive sessions focused on governance, leadership, legal responsibilities, and how to exercise native title rights. The NNTC also supports the convening of a national 'PBC Steering Group', an advisory body of PBCs from within the NNTC's membership, that provide advice to the NNTC and

Government on policy matters relating to native title holders, funding and resources, governance, cultural heritage, water and economic development.

2 Economic Rights and Benefit Sharing

In practice, native title rights are often limited when compared to international human rights standards concerning Indigenous land rights. While the law provides mechanisms requiring consultation and negotiation with Traditional Owners — through the "future acts regime"— these processes do not necessarily provide native title holders with the ability to withhold consent to developments affecting their lands and waters. This raises ongoing concerns regarding Australia's compliance with the standards set out in UNDRIP, particularly in relation to the principle of FPIC.

Whilst Australia has recognition of native title rights that provides some means to exercise rights over the management of Country, it is limited. It is also still very difficult to turn these rights into viable, long term economic drivers for the community.

Current laws and policies in Australia are mostly unfit for the purpose of protecting and conserving Aboriginal and Torres Strait Islander Cultural Heritage and thereby removing a significant lever for economic empowerment of Indigenous communities. As a result, it is incumbent on businesses and investors to reach beyond legislative standards and implement leading practice for cultural heritage as defined by First Nations Peoples.

The *Dhawura Ngilan Business and Investor Initiative* has been developed by the NNTC and FNHPA to support businesses and investors to embed Indigenous Peoples-led cultural heritage standards into governance, strategy, operations, and due diligence. In doing so, investors can hold institutions to account for their Indigenous Peoples human rights record.

Simultaneously with protection of cultural heritage is the means by which thriving cultural practice and healthy Country can create economic wellbeing for Indigenous Peoples. In Australia, native title holders and Traditional Owners have been negotiating land access and benefit sharing agreements for over 30 years in the mining and resource extraction context, however clean energy agreements are starting to break new ground, including in the area of co-ownership.

Co-ownership in this context refers to an arrangement where a Traditional Owner group on whose land or waters a project is located hold shares (equity) in the developer company. Co-ownership may offer a path to self-determination for Traditional Owners, including long-term revenue streams as well as influence to protect Country on issues concerning cultural heritage and environmental stewardship. However, the model may not suit all groups and requires unpacking - it can be complicated, brings various risks, and is highly dependent on the interests and concerns of PBCs, their governance structures, capacity, and the nature of the proposed project.

The Australian native title regime provides for compensation for the loss of capacity to exercise rights and, in terms of the current consideration, associated economic activity. Native Title Holders can seek compensation when their native title rights are extinguished or impaired. However, the *Native Title Act* provides little guidance on how compensation should be valued. Principles of redress articulated in the UNDRIP provide a broader framework that could potentially guide improvements to this regime, particularly Article 28, which recognises Indigenous peoples' rights to restitution, return of land, fair compensation and culturally appropriate remedies. To help address this, the NNTC

is developing a National Compensation Strategy. This strategy promotes negotiated settlements over lengthy, costly, and often traumatic litigation processes. It provides a national framework to establish clear, fair standards for compensating Native Title holders when their rights are impacted by governments or third parties.

3 Cultural Rights and the Energy Transition

Internationally, governments and industry are racing towards meeting global emissions targets that can only be attained through the green energy transition. The clean energy transition will not only require new energy like solar and wind but will be largely fuelled by gas while such industries achieve full provision capacity. Both onshore and offshore, the rush to decarbonise will impact significantly on Indigenous Peoples' lands and cultural rights.

3.1 Critical Minerals

The geoengineering required for the clean energy transition is built on new technologies and energy storage capacity. Requiring critical minerals at hitherto unprecedented quantities, these sectors have created the perfect storm.

The International Energy Agency undertakes projection modelling for future mineral demand based on the latest policy and technology developments. In its Net Zero Emissions by 2050 Scenario, demand for critical minerals grew by three-and-a-half times to 2030, reaching over 30 million tonnes. Electric vehicles and battery storage are the main drivers of demand growth, but there are also major contributions from low-emissions power generation and electricity networks.[5]

At the current rate of mining, a shortfall in some critical minerals is forecast to appear as early as 2025. Whilst to meet demand for electric vehicles, we need 260 new lithium, cobalt, nickel and copper mines by 2030.[6]

The relative geographic complexity of critical minerals mining largely relates to the mineral traces themselves. Deposits are smaller than conventional mineral and ore seams and across an area larger to the relative gross extraction amount. As critical mineral mining is quite different in terms of scale, impact and physical intervention, the manner in which Traditional Owner rights are upheld and consent granted must also be different.

Within the native title rights framework in Australia, the future acts regime contains provision to combine mine and infrastructure sites within the one process of consultation and agreement. The Indigenous Land Use Agreement (ILUA) mechanism provides an approach which both satisfies international human rights expectations and can accommodate the particular physical and economic characteristics of critical minerals.

However, in many instances there is no requirement for an ILUA to be undertaken with Indigenous Peoples regarding critical minerals mining. Even in situations where there is express government involvement with the project (through funding[7] or regulatory imposition), there is no requirement

[5] https://www.iea.org/reports/critical-minerals-market-review-2023/implications
[6] Minerals Council of Australia, *Annual Report 2023*, 2023, p.13
[7] For example, the Australian Government Capacity Investment Scheme and Future Made in Australia agenda.

made by government to enforce provision of an ILUA. In the absence of such requirements, the one genuine opportunity for Indigenous Peoples to be extended FPIC and benefit sharing is removed.

The process of developing an ILUA necessarily includes agreement making and benefit sharing. When agreements are made via an ILUA, the process is informed through FPIC and, when agreements are made independent of an ILUA, in instances where native title may not apply, the same processes should be adopted.

Mining critical minerals often requires small mines in regional areas which opens opportunities for local community capacity building. The capacity of ILUAs to include such a range of provisions in the agreement, mean that they are a robust vehicle to detail:

- Equity in local mines and mining related projects including refineries and manufacturing.
- Co-management (including participating in the decision-making) in mines and related projects, and a percentage of co-ownership.
- Jobs and training for traditional owners in sustainable development of mines, and renewable energy technologies is essential for environmental, social, and governance (**ESG**) credentials.
- Rehabilitation of mines.
- Education and training in post-mine closure and post-mine transition planning (including the governance, operational, social and economic dimensions).

3.2 Offshore

The Sea Country Alliance is a collective of Australia's Traditional Owners with responsibility for Sea Country, representing all coastal state and territories of Australia. This representation ensures that the 56-member alliance, speaks for the complexity of our diverse seas, oceans and coastal areas. The Alliance's advocacy work has produced a range of papers and positions on the role of Traditional Owners in project development offshore, largely oil and gas however also speaks to clean energy wind projects. The regulatory environment of these projects and emerging international law in the High Seas is further developing a framework for exercise of Indigenous Peoples' marine rights.

3.2.1 Gas and Wind

The regulation of energy projects (gas and offshore wind) in Australian Commonwealth waters is managed under several pieces of legislation and associated regulation:

- *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth)
- *Offshore Electricity Infrastructure Act 2021* (Cth)
- *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Several recent decisions in the Federal Court have highlighted deficiencies in the way Traditional Owners' interests in Commonwealth offshore areas have been considered in the context of offshore energy projects. This jurisprudence has highlighted the need to ensure that Traditional Owner interests are given due recognition in the development and operation of offshore energy projects. The decisions have also highlighted the fact that, to date, this has not occurred and also that the current regulatory framework supporting this legislation is not apt to facilitate this outcome.

Much recent commentary on the issue of Traditional Owners and Offshore Energy Projects has focussed on the issue of potential impact on the First Nations Cultural Heritage aspects of the offshore marine environment. It is important to continue to bear in mind that Traditional Owner interests in

Sea Country are broader than this and extend to rights in respect of commercial, economic and social activities and the rights that First Nations peoples derive as the Traditional Owners of *their* Sea Country. Rights and interests based in tradition can today have also a tangible contemporary commercial manifestation.

3.2.2 UNCLOS III

In January of this year, the *Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction* (**BBNJ Agreement**) was enacted.[8] Significantly, whilst Indigenous Peoples' rights are not specifically identified in the *United Nations Convention on the Law of the Sea*, they are recognised in the BBNJ Agreement'[9] and other United Nations instruments. Of these instruments, UNDRIP is the most prominent but there is also significant recognition in the *International Covenant on Civil and Political Rights* and decisions by the Human Rights Committee that have 'emphasised the importance of protecting Indigenous peoples' lands and resources in order to ensure their cultural survival'.[10]

The necessary absence of State sovereignty from the High Seas does not affect the cultural rights that can be assumed to be possessed by Indigenous Peoples under UNDRIP.[11] With no parameters applied under UNDRIP, merely recommendations for State remediation in some instances, it can be assumed that the boundless nature of these rights need merely to be asserted by those groups. In this regard, the jurisprudence from Australia can be seen to support this assertion of the manifestation of cultural heritage in Sea Country. Whilst necessarily applying a State jurisdiction to these rights (at 200 nm), the application of reasoning of their existence reveals no boundaries other than those defined by the Indigenous Peoples themselves. This argument has been explored in the Australian context in *Yarmirr*. In this decision, the Justices confirmed that to the extent the Commonwealth law asserts sovereignty it can also give effect to Indigenous Peoples rights.[12]

The BBNJ recognises that Traditional Environmental Knowledge (**TEK**) belonging to Indigenous Peoples is extant in the High Seas. Albeit however, it is a limited recognition that extends to TEK exchange and application to management of the marine environment, including implementation of free, prior and informed consent (FPIC) for use of this knowledge.[13] What is quite clearly established is that intangible cultural heritage exists in the High Seas and that there is a cultural right associated with its exercise that belongs to its Indigenous Peoples. It is a necessary expansion of this recognition to also recognise that the High Seas contain both tangible and intangible cultural heritage, particularly in relation to dreaming stories and land mass changes occurring over the 70,000 year period of Australian Aboriginal and Torres Strait Islander communities' cultural traditions.

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[8] United Nations Treaty Collection, '10. Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction' in *Chapter XXI Law of the Sea*, Entry into Force.

[9] United Nations, *Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction*, opened for signature 20 September 2023, (entered into force 17 January 2026) ('BBNJ Agreement).

[10] Australian Human Rights Commission, 'Native Title and Sea Rights' in *Native Title Report* 2000, 2000, s2 ('AHRC Report').

[11] Whilst UNDRIP speaks to states it is giving recognition to rights that exist independently of international law.

[12] Gleeson CJ, Gaudron, Gummow and Hayne JJ. *Commonwealth v Yarmirr* [2001] HCA 56; 184 AJR 113; 208 CLR 1; 75 ALJR 1582 (11 October 2001), 128.

[13] BBNJ Agreement, Article 14.

The focus of the BBNJ on Access and benefit Sharing processes is, in part, a result of the non-jurisdictional nature of the High Seas and the Area themselves. It's clear assertion of the requirement to respect ICIP and approach TEK with FPIC processes, can only result in the necessary flow on effect of economic benefits for Indigenous Peoples. To the extent that States are parties to the BBNJ, this can be realised both from projects undertaken under the BBNJ Agreement and within State jurisdictions.

3.3 Clean Energy

A recent publication, *'Negotiating Native Title in the Move to Net-Zero: Challenges & Opportunities for Traditional Owners in Australia'*[14] explores the impact of new energy projects on the native title rights of Traditional Owners.

> As Australia makes the necessary changes to achieve net-zero, there will be both a growing demand for electricity to replace other fuel sources and for the land needed for solar and wind power generation, transmission and storage. The Australian Labor government has set itself a target of achieving 82% of electricity generation through renewables by 2030.[15] In 2024 solar and wind power accounted for 32.4% of electricity generation in Australia.[16] This will need to increase rapidly if the government is to meet its target.
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> Where previously the majority of Australia's solar electricity generation has been through rooftop panels that do not require extra land use, electricity generated through specifically developed industrial sites is increasing. Such sites require large areas of land often around the 2,000 ha. mark. Some can be massive. For example, the proposed Australian Renewable Energy Hub (**AREH**) on Nyangumarta lands covers 6,500 sq km in the Pilbara, Western Australia, and 260 km of shared transmission lines. This would make it one of the largest renewable energy hubs in the world. The energy produced (est. 26 GW) by wind and solar would be used for industry in the Pilbara, such as mining or the future production of Green Iron (see below). The AREH development area covers approximately 24% of the Nyangumarta's exclusive native title area and is estimated to have an operational life of over fifty years.
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> This expanded use of land for clean energy is likely to disproportionately affect Traditional Owners. Net Zero Australia estimates that 43% of all clean energy infrastructure required for Australia to reach its net-zero emissions target by 2050, would need to be on Indigenous lands (the so-called 'Indigenous Estate'). And, whereas solar and wind projects can often co-exist with other industry (e.g. farming and livestock), the 'locking up' of necessary land presents different challenges for Traditional Owners, who may be unable to use this land for cultural business.

[14] Storey & Ward, *Negotiating Native Title in the Move to Net-Zero: Challenges & Opportunities for Traditional Owners in Australia*, Carlton, 2025, p12.
[15] https://alp.org.au/protecting-our-climate/
[16] Open Electricity https://explore.openelectricity.org.au/energy/nem/export/

Addendum

Attachment A	References
Attachment B	*Never Again: Inquiry into the destruction of the 46,000-year-old caves at Juukan Gorge in the Pilbara region of Western Australia – Interim Report*
Attachment C	*A Way Forward: Final report into the destruction of Indigenous sites at Juukan Gorge*
Attachment D	*Dhawura Ngilan: a vision for Aboriginal and Torres Strait Islander Heritage in Australia*
Attachment E	*State of the Sector Short Report*

References

Attachment A

1	**Abbreviations**
ACT	Australian Capital Territory
Cth	Commonwealth
FNHPA	First Nations Heritage Protection Alliance
FPIC	Free, Prior and Informed Consent
ICOMOS	International Council on Monuments and Sites
IUCN	International Union for Conservation of Nature
NNTC	National Native Title Council
NT	Northern Territory
NSW	New South Wales
PBC	Prescribed Body Corporate
Qld	Queensland
SA	South Australia
Tas	Tasmania
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNPFII	United Nations Permanent Forum in Indigenous Issues
Vic	Victoria
WA	Western Australia

2	**Legislation**
	Aboriginal Cultural Heritage Act 2003 (Qld)
	Aboriginal Heritage Act 1972 (WA)
	Aboriginal Heritage Act 1975 (Tas)
	Aboriginal Heritage Act 1988 (SA)
	Aboriginal Heritage Act 2006 (Vic)
	Aboriginal Sacred Sites Act 1989 (NT)
ATSIHP Act	*Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth)
EPBC Act	*Environmental Protection and Biodiversity Conservation Act 1999* (Cth)

	Heritage Act 2004 (ACT)
	Heritage Act 2011 (NT)
	National Parks and Wildlife Act 1974 (NSW)
NT Act	*Native Title Act 1993* (Cth)
	Torres Strait Islander Cultural Heritage Act 2003 (Qld)

3 Bibliography

Commonwealth of Australia, Joint Standing Committee on Northern Australia, *A Way Forward: Final report into the destruction of Indigenous sites at Juukan Gorge*, 2021

Commonwealth of Australia, Joint Standing Committee on Northern Australia, *Never Again: Inquiry into the destruction of the 46,000-year-old caves at Juukan Gorge in the Pilbara region of Western Australia – Interim Report*, 2020

Heritage Chairs of Australia and New Zealand, *Dhawura Ngilan: a vision for Aboriginal and Torres Strait Islander Heritage in Australia*, 2020

National Native Title Council, *State of the Sector Short Report*, 2024