



Biodiversity Council

Submission to the Offshore wind industry consultation process

6 September 2024

About The Biodiversity Council

The Biodiversity Council brings together leading experts including Indigenous knowledge holders to promote evidence-based solutions to Australia's biodiversity crisis. The Council was founded by 11 universities with the support of Australian philanthropists.



Introduction

The Biodiversity Council welcomes the opportunity to provide input to the offshore wind industry consultation process.

We understand that the Senate Standing Committees on Environment and Communications is undertaking an inquiry into the offshore wind industry consultation process, particularly regarding:

1. the efficacy of community engagement and benefit in planning, developing and operating the offshore wind industry;
2. community engagement within the existing Australian Government offshore wind industry regulatory and legislative frameworks;
3. the adherence to the principles of Free, Prior and Informed Consent from Aboriginal and Torres Strait Islanders of the affected Sea Country by the Australian Government and offshore wind industry;
4. the impact of the offshore wind industry on marine life and marine environments in Australian waters, including strategies for impact minimisation and management; and
5. any other related matters.

Climate change poses a significant threat to biodiversity, and the Biodiversity Council supports a rapid transition from fossil fuels to renewable energy.

There are opportunities to improve outcomes for biodiversity and reduce conflicts between renewable energy project proposals and stakeholders through adherence to the principles of Free, Prior and Informed Consent from Traditional Custodians, and better strategic planning to protect marine biodiversity and culturally significant species.

Key considerations

Free, Prior and Informed Consent

The transition to a renewable powered Australia must be done in partnership with the Aboriginal and Torres Strait Islanders who have cared for their Country for thousands of generations.

Free, Prior, and Informed Consent (FPIC) is a distinct right afforded to First Nations and other Indigenous Peoples under the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).¹ UNDRIP “establishes a universal framework of minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world and it elaborates on existing human rights standards and fundamental freedoms as they apply to Indigenous peoples”.² Australia endorsed UNDRIP in 2009. There is an opportunity to implement this international commitment in law, policy and practice.

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<https://antar.org.au/issues/undrip/free-prior-informed-consent/#:~:text=Free%2C%20Prior%2C%20and%20Informed%20Consent,inherent%20right%20to%20self%2Ddetermination>.

² <https://humanrights.gov.au/our-work/un-declaration-rights-indigenous-people>

The First Nations Clean Energy Network has developed a set of best practice principles for clean energy projects.³ The Australian Government and industry should follow these principles when developing offshore wind projects. Additionally, the Australian Government should take meaningful steps to implement UNDRIP and embed its principles within legal frameworks.

Recommendation 1: The Biodiversity Council recommends that Australian Government and industry should follow the First Nations Clean Energy Network best practice principles for clean energy projects when developing offshore wind projects.

Recommendation 2: The Biodiversity Council recommends that the Australian Government should take meaningful steps to implement UNDRIP and embed its principles within legal frameworks.

Marine life and the marine environment

The IUCN have summarised a variety of potential impacts that offshore wind may have on biodiversity, including habitat loss, mortality from collisions and displacement due to disturbance.⁴

The Australian State of the Environment Report 2021, notes that given the early stage in development of offshore wind in Australia, the impacts on local ecosystems are largely unknown, and are currently extrapolated from Northern Hemisphere assessments.⁵ However, to manage impacts of offshore wind, biodiversity information specific to Australia is required.

Data on Australia's marine biodiversity is highly variable.⁶ In 2010, it was estimated that there may be 250,000 species in Australia's marine waters, but that only about 33,000 were found in major databases.⁷ Without baseline information, it is difficult to determine the impact of a particular offshore windfarm development on marine biodiversity overall. The Australian Government should undertake comprehensive marine spatial planning to better understand significant locations for marine biodiversity where offshore wind infrastructure would be inappropriate.

Where wind farms proceed we need to invest in comprehensive before and after, control and impact monitoring so that those impacts can be determined and understood. For example, the knock-on effects of increases or decreases in marine predators, such as seals and cormorants, may be substantive, but they take years to ripple through ecosystems.

Traditional Custodians have cultural obligations to care for Country. Offshore wind developments should be developed and operated to avoid disturbing intangible cultural heritage, like the movement of whales along their song lines.

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<https://assets.nationbuilder.com/fncen/pages/183/attachments/original/1680570396/FNCEN - Best Practice Principles for Clean Energy Projects.pdf?1680570396>

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https://iucn.org/sites/default/files/2022-06/01_biodiversity_impacts_associated_to_off-shore_wind_power_projects.pdf

⁵ Trebilco R, Fischer M, Hunter C, Hobday A, Thomas L, Evans K (2021). Australia state of the environment 2021: marine, independent report to the Australian Government Minister for the Environment, Commonwealth of Australia, Canberra, <https://soe.dceew.gov.au/sites/default/files/2022-07/soe2021-marine.pdf>

⁶ Evans, K., Bax, M. J. and Smith, D. C (2018) Enhancing the robustness of a national assessment of the marine environment *Marine Policy* **98**: 133-145

<https://www.sciencedirect.com/science/article/pii/S0308597X18302070>

⁷ Butler, A. J., Rees, T., Beesley, P. and Bax, N. J. (2010) Marine Biodiversity in the Australian Region *PLOS One* **5**(8): e11831. <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0011831>

Threatened species lists do not contain all species of cultural significance to Traditional Custodians. Simply meeting the requirements of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is inadequate to protect species of cultural significance. Moreover, only caring for species once they become threatened falls short of cultural obligations.⁸ In addition to consideration of culturally-significant species for individual offshore wind developments, the EPBC Act should be amended to afford protection and sustainable management of culturally significant species.⁹

Recommendation 3: The Biodiversity Council recommends that the Australian Government should undertake comprehensive marine spatial planning to better understand significant locations for marine biodiversity where offshore wind infrastructure would be inappropriate.

Recommendation 4: The Biodiversity Council recommends that the Australian Government amend the Environment Protection and Biodiversity Conservation Act 1999 to afford protection and sustainable management of culturally significant species.

Recommendation 5: The Biodiversity Council recommends that the Australian Government embark on extensive Before and After, Control and Impact, experimental evaluation of the consequences of offshore wind.

⁸ Pascoe, J. McKnight, A. and Goolmer, T. (2023) Humpback whales hold lore for Traditional Custodians. But laws don't protect species for their cultural significance *The Conversation* <https://theconversation.com/humpback-whales-hold-lore-for-traditional-custodians-but-laws-dont-protect-species-for-their-cultural-significance-213073>

⁹ Goolmeer, T., Skroblin, A., Grant, C., van Leeuwen, S., Archer, R., Gore-Birch, C. and Wintle, B. A. (2022) Recognizing culturally significant species and Indigenous-led management is key to meeting international biodiversity obligations *Conservation Letters* **15**: e12899. <https://onlinelibrary.wiley.com/doi/full/10.1111/conl.12899>