

# Submission to the Inquiry into economic self-determination and opportunities for First Nations Australians

Australian Sustainable Finance Institute | May 2024

## About ASFI

ASFI welcomes the opportunity to provide a submission to the Inquiry into economic self-determination and opportunities for First Nations Australians. ASFI is a not-for-profit organisation committed to aligning the Australian financial system with a sustainable, resilient, inclusive Australia. Our members are 44 of Australia's leading financial institutions – including major banks, superannuation funds, insurers, asset managers, and advisory services firms. ASFI members collectively hold over AU\$23 trillion in assets under management and are committed to allocating capital to create positive social and environmental outcomes.

ASFI prioritises elevating First Nations' perspectives, emphasising the value of their lived experiences and First Nations knowledge across all facets of our operations. This approach ensures that these critical insights actively inform and shape the development of sustainable finance, policy, and practices in Australia.

ASFI's focus on elevating First Nations peoples, perspectives and outcomes in finance originated in the recommendations outlined in the Australian Sustainable Finance Roadmap<sup>1</sup>. In 2023, we undertook scoping work to establish ASFI's First Nations focus area and developed our First Nations Work Program. Our four focus areas within this work program are:

1. Elevating First Nations voices, lived experiences and perspectives into all ASFI work programs,
2. Connecting, convening and coordinating First Nations activity in the finance sector,
3. Improving First Nations disclosures and,
4. Policy and regulatory engagement.

As a non-First Nations-led organisation, our First Nations Reference Group, a diverse and nationally represented group of First Nations Traditional Owners, First Nations finance and industry professionals, and ASFI members, is critical to ASFI's First Nations work program. The Reference Group operates consultatively with ASFI, and Traditional Owners are remunerated for their knowledge, skills, and guidance. Our First Nations Reference Group members are listed on our website [here](#).

## Focus of our submission

As an organisation committed to transforming Australia's finance system into one that is sustainable, resilient, and inclusive, the Australian Sustainable Finance Institute (ASFI) recognises the critical importance of economic self-determination for First Nations Australians. Economic self-determination embodies the ability of First Nations peoples to freely pursue their economic, social, and cultural development, addressing historical and systemic barriers that have hindered their full participation in the nation's economic life. ASFI's vision is to foster a finance system that actively promotes the economic agency of First Nations communities, aligned with the broader goals outlined in our Sustainable Finance Roadmap and programmatic efforts.

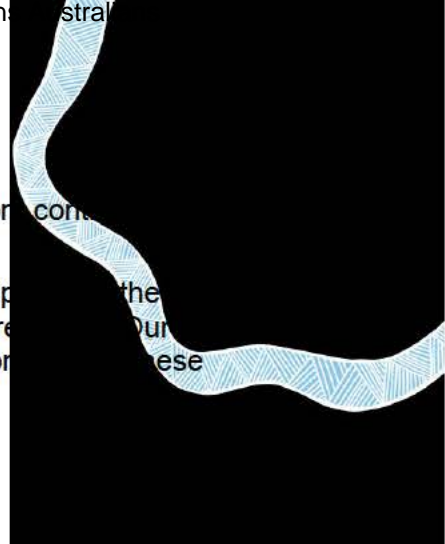
By enhancing access to capital, financial services, and investment opportunities and by embedding Indigenous knowledge and values into financial practices, we support sustainable and resilient economies that respect and elevate First Nations perspectives on land, water, and resource management. This includes ensuring inclusive financial systems, investing in First Nations enterprises, promoting financial literacy, building strong partnerships, and integrating sustainable and ethical practices. By setting this vision, ASFI aims to shift the financial system to one that supports economic prosperity and promotes social equity and environmental sustainability, paving the way for a future where First

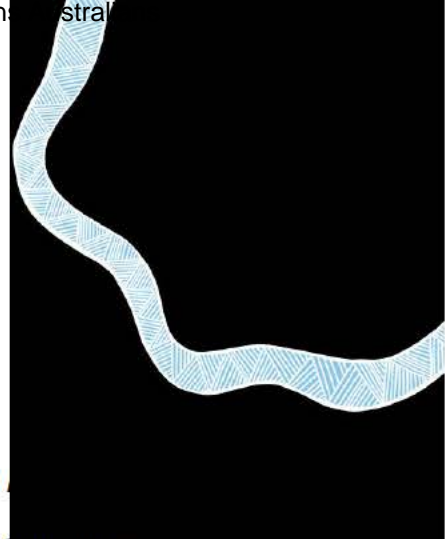
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<sup>1</sup> ASFI, Australian Sustainable Finance Roadmap, [The Roadmap – ASFI](#)

Nations Australians have full economic participation and self-determination, contributing to a more just and resilient society.

In this submission, we focus on increasing First Nations equity and participation in the financial system and in Australia's efforts to address the climate and nature. Our recommendations also incorporate principles that have broader application to these focus areas.





## Summary of our recommendations

Our recommendations are grouped as follows:

### ***Inclusion, engagement, and transparency***

- 1.1 Ensure First Nations representation in policy and decision-making in Government*
- 1.2 Support corporate disclosures on First Nations impacts, risks and outcomes*

### ***Capability building***

- 2.1 Invest in building the cultural capability of Government and Industry to engage and partner with First Nations businesses and communities*
- 2.2 Invest in building the technical capability of First Nations businesses and communities to participate fully in the economy*
- 2.3 Provide targeted support for Traditional Owners*

### ***Access to capital and business development opportunities***

- 3.1 Review investment mandates for Commonwealth Investment Vehicles (CIVs) to ensure consideration of First Nations impacts and opportunities in investment processes*
- 3.2 Explore options to support localised capital delivery for First Nations businesses*
- 3.3 Scale up blended finance and catalytic capital investments*
- 3.4 Consider tax, financial and tariff-related incentives to increase public and private investment into First Nations-led projects and businesses*
- 3.5 Reconsider definitions of First Nations businesses across Government policies and schemes and explore alternative verification methods*

Please see below for more detail on each recommendation.

## Recommendations

### *Inclusion, engagement, and transparency*

#### 1.1 Ensure First Nations representation in policy and decision-making processes

##### Government

Australian First Nations policy has been profoundly shaped by the legacy of colonialism, influencing governance and development approaches. Decolonisation is essential to dismantle these colonial influences and address the historical injustices faced by First Nations peoples. Governments can work towards a more equitable and respectful relationship with First Nations communities by prioritising First Nations perspectives, knowledge, and leadership in policy development and implementation. This approach is crucial for achieving genuine self-determination, cultural preservation, and social justice.

A critical component of decolonising policy involves integrating Free, Prior, and Informed Consent (FPIC) and key principles from the United Nations Declaration on the Rights of Indigenous People (UNDRIP) into government policies. Specifically, Articles 3, 18, 19, 26, and 32 emphasise the rights to self-determination, participation in decision-making, FPIC, control over lands and resources, and determining development priorities. Embedding these principles ensures that First Nations people have a decisive voice in actions affecting their lands and lives, strengthening the commitment to recognising and protecting their autonomy, culture, and traditions.

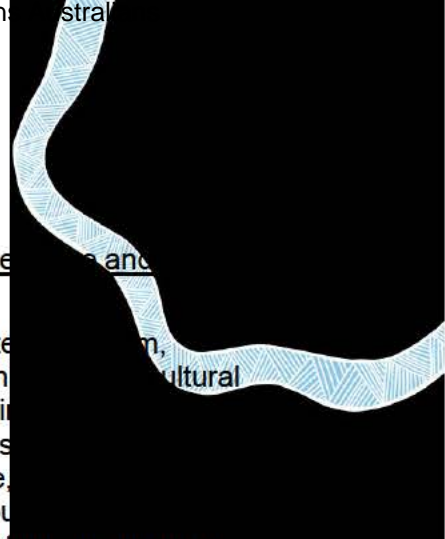
This comprehensive policy approach promotes equitable development and aligns national policies with global human rights standards, ensuring that the rights of First Nations peoples are consistently considered and prioritised across all levels of government decision-making.

#### 1.2 Support corporate disclosures on First Nations people, communities and affairs

At present, there is no nationally consistent framework for organisations to report the impacts of major projects or corporate activity (for example in clean energy, mining, the built environment, etc) on First Nations communities. Supporting development and driving implementation of First Nations disclosure requirements for organisations doing business in Australia would be a transformative step towards elevating First Nations impacts and outcomes into financial decision-making. Such disclosures are vital for meeting investor and stakeholder demands for high-quality, comparable information on how businesses and financial institutions interact with First Nations peoples and communities. They would also facilitate better data collection and analysis at scale, enhancing understanding of First Nations-related risks, opportunities, and outcomes, and ultimately support better investment risk management and stronger outcomes for First Nations Australians.

The importance of disclosures is underscored by the successful evolution of climate disclosures, which have significantly influenced how environmental considerations are integrated into corporate strategies. By adopting a similar approach for First Nations disclosures, we can expect a substantial shift in how corporations consider and address First Nations issues, making them a core aspect of business and financial strategies. ASFI is currently leading a First Nations Disclosure project in collaboration with our First Nations Reference Group. This project aims to establish clear, industry-wide standards and guidance for reporting on aspects such as the integration of FPIC, employment, leadership, customer outcomes, and the economic, social, and cultural impacts on First Nations businesses and organisations.

We welcome the Government's collaboration on this project.



**Capability building**

**2.1 Invest in building the cultural capability of Government and Industry to engage and work with First Nations businesses and communities**

Government and industry must prioritise cultural capability building to foster equitable partnerships. This involves dedicating resources and effort to enhance the cultural understanding and competencies of those involved in initiating and nurturing partnerships with First Nations businesses and communities. First Nations communities should educate their Government and Industry counterparts about their language, customs, and custodianship principles. This responsibility should be more evenly distributed. In cultural capability building, stakeholders can create a foundation for partnerships that are not only sustainable but also respectful and mutually beneficial.

**2.2 Invest in building the technical capability of First Nations businesses and communities to participate fully in the economy**

Investing in building their technical capabilities is essential to enable full participation of First Nations businesses and communities across the economy. While this investment should span various sectors, particular opportunities exist within key Government reform agendas, such as the Future Made in Australia scheme. First Nations participation in these initiatives will be particularly beneficial, elevating their unique knowledge on climate and nature to drive sustainable development.

We would also recommend investment in strategic business advisory services for First Nations businesses. These services are pivotal in guiding First Nations enterprises through complex market landscapes and regulatory environments, ensuring they can maximise their commercial potential. By providing tailored advice on business planning, market entry strategies, and compliance, strategic business advisors equip First Nations entrepreneurs with the tools necessary for long-term success. These advisory services also help bridge the gap between traditional knowledge and contemporary business practices, facilitating the integration of cultural values into business models that appeal to a broader market. This integration not only preserves cultural integrity but also enhances the market uniqueness of First Nations businesses, increasing their competitiveness.

We note that capability building should also recognise the diversity among First Nations communities, with educational and training programmes tailored to each community's needs and stages. These programmes are crucial for equipping communities with relevant industry knowledge, thus enabling them to make informed decisions based on the principle of Free, Prior, and Informed Consent (FPIC).

**2.3 Provide targeted support for Traditional Owners**

Strategic commercial advisory services are crucial for Traditional Owners when negotiating agreements with project proponents. These services would ensure that Traditional Owners are well-prepared and represented in discussions and negotiations regarding projects on or near their lands. Advisors can provide crucial guidance on negotiation tactics, contractual rights, and long-term benefits, ensuring that agreements are fair and beneficial.

Drawing inspiration from the First Nations Major Projects Coalition in Canada, which has successfully empowered First Nations communities through collective negotiation and project management, ASFI is exploring the possibility of working in partnership to establish a similar entity in Australia—the Australian First Nations Major Projects Coalition. This initiative would strengthen First Nations communities' negotiating power and enhance their economic self-determination by providing them with the resources to effectively negotiate fair agreements regarding major projects affecting their lands and resources.

ASFI would welcome the Government's support in this endeavour.

## ***Access to capital and business development opportunities***

### **3.1 Review investment mandates for Commonwealth Investment Vehicles to ensure consideration of First Nations impacts and opportunities in investment processes and decisions**

The Clean Energy Finance Corporation (CEFC) and the National Reconstruction Fund (NRF), alongside other Commonwealth Investment Vehicles (CIVs), play a key role in shaping Australia's economic landscape by supporting the deployment and financing of significant infrastructure and technology projects. This also applies to government programs supporting clean energy and broader Future Made in Australia programs, such as those delivered by the Australian Renewable Energy Agency (ARENA). These bodies are uniquely positioned as government-owned and funded catalytic investment vehicles, enabling them to set emerging market norms for engaging and investing with First Nations Australians across various sectors.

Both the CEFC, ARENA and the NRF should lead by example in adopting investment processes and standards that respect the rights and contributions of First Nations communities. This involves implementing Free, Prior, and Informed Consent (FPIC) principles and First Nations data governance as foundational criteria in their investment and portfolio management practices. Such standards are essential for responsible investment and will encourage broader market adoption across all areas where these CIVs have influence.

To reinforce this approach, it would be beneficial to amend the CEFC Investment Mandate Direction 2023 to include a robust application of FPIC and explicit First Nations disclosures when assessing investments. Criteria could include:

- the extent of ownership by First Nations of the project,
- whether Traditional Owners have been afforded a right of Free, Prior, and Informed Consent,
- the degree of engagement with Traditional Owners,
- the extent to which the investment will deliver economic or social benefits/opportunities for First Nations.

The NRF, ARENA, and other CIVs should follow suit, mandatorily applying these principles wherever their investments intersect with First Nations communities and interests.

Moreover, a comprehensive review should be undertaken across all CIVs and relevant Commonwealth grant programs to assess and improve these bodies' cultural knowledge and processes. This review will help establish an optimal enabling environment that supports First Nation communities in accessing capital and participating fully in projects that affect their lands and futures. By establishing and demonstrating respect and inclusivity towards First Nations communities as paramount, CIVs can demonstrate to private investors the value of ethical and equitable practices with First Nations communities. Furthermore, elevating First Nations impacts fosters ethical and equitable investment practices and enhances their projects' long-term sustainability and success within the broader Australian economy.

### **3.2 Explore options to support localised capital delivery for First Nations businesses**

Exploring options to support localised capital delivery for First Nations businesses is crucial for advancing economic self-determination. Like all businesses, First Nations businesses require timely and appropriate access to capital. Yet mainstream finance often fails to adequately reach the First Nations business sector, highlighting the need for tailored approaches that align with the unique needs and circumstances of the First Nations economy.

Historical economic exclusion has limited First Nations communities' ability to accumulate and transfer wealth, impacting their capacity to secure mainstream financing. Often lacking

access to personal network loans and necessary collateral, First Nations entrepreneurs face significant challenges in accessing capital that meets their needs without resorting to high interest or predatory lending options.

Moreover, the stringent requirements imposed by mainstream lending institutions do not typically align with the business models of emerging First Nations enterprises. First Nations businesses struggle to meet the criteria for commercial loans, which often require an extensive trading history. The prevailing attitudes and biases within the investment community further exacerbate these challenges, often sidelining First Nations businesses from significant capital opportunities.

To address these challenges, it is essential to consider localised decision-making and capital distribution mechanisms that respect and incorporate First Nations governance structures and cultural practices. This approach would involve rethinking traditional investment criteria and fostering relationships that value First Nations businesses' unique contributions and potential.

ASFI acknowledges the critical roles of Indigenous Business Australia (IBA) and the Indigenous Land and Sea Corporation (ILSC) in supporting economic opportunities for First Nations businesses. As the First Nations business sector continues to grow, it is essential to enhance existing financial frameworks. This enhancement may involve expanding the functions or capital-raising capacities of current institutions or establishing new ones to bring more support to First Nations businesses.

Australia could benefit from implementing a framework similar to Canada's First Nations Fiscal Management Act (FMA). This framework, crafted by First Nations leaders, is designed to boost the revenue-generating abilities of their communities, and facilitate access to capital markets for long-term financing of essential infrastructure and other community projects.

The FMA framework consists of four integrated institutions that collectively work to improve First Nations' access to lower-cost capital market finance and create a favourable investment environment for community-driven projects. These institutions are:

1. First Nations Tax Commission – which aids First Nations governments in increasing their own-source revenue by establishing tax jurisdictions and developing efficient tax and expenditure policies.
2. First Nations Financial Management Board – which focuses on enhancing the financial management and governance practices of First Nations communities and businesses, aligning them with international standards.
3. First Nations Infrastructure Institute – which aims to improve infrastructure investment outcomes on First Nations lands by offering the necessary expertise and support for project planning and execution.
4. First Nations Finance Authority (FNFA) - which secures low-cost financing for First Nations by monetising or consolidating community revenue streams and issuing highly-rated sovereign bond to the market<sup>2</sup>.

A prime example of the FMA framework's success is the Mi'kmaq Coalition's acquisition—comprising seven Mi'kmaq communities in the Atlantic provinces—of a 50 percent stake in Clearwater Seafoods for \$500 million. This purchase, partially financed by a \$250 million debenture from the FNFA, marks the largest Indigenous investment in the seafood industry.

Canadian First Nations financial infrastructure listed above demonstrated how, with an enabling policy environment and well-resourced First Nations-led infrastructure, First Nations communities can achieve long-term economic self-determination.

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<sup>2</sup> Between 2014 and 2022, the FNFA issued nine debentures amounting to \$1.63 billion, all with high investment-grade credit ratings due to no defaults and no need to use federal government guarantees. This strong performance has allowed 154 qualified First Nations governments to borrow at rates similar to Canadian municipalities for public infrastructure funding. ([The Next Generation: Innovating to Improve Indigenous Access to Finance \(fraserinstitute.org\)](https://www.fraserinstitute.org/publications/the-next-generation-innovating-to-improve-indigenous-access-to-finance))



### 3.3 Scale up blended finance and catalytic capital investments

Implementing blended finance solutions and catalytic capital-style investments is essential for effectively supporting the growth of the First Nations economy. These strategies leverage public and philanthropic funds to attract private investment, creating a multiplier effect that can significantly enhance the scale and impact of development initiatives within First Nations communities.

Blended finance solutions can serve as a powerful tool to mitigate actual or perceived financial risk and encourage private investment in projects that are critical to the empowerment of First Nations. By combining different forms of capital with varying risk appetites, these solutions create more attractive investment profiles and facilitate larger-scale initiatives that might otherwise be too risky or unappealing for private investors alone.

Catalytic capital, which is patient, flexible, and risk-tolerant, is particularly important as it can address specific funding gaps that conventional financing often overlooks. This type of capital is crucial for supporting innovative projects that drive economic growth within First Nations communities but require time to mature and generate returns.

Indigenous Financial Institutions (IFIs) in Canada have successfully used blended finance to support First Nations small-to-medium enterprises<sup>3</sup>. These institutions offer a range of financial products and services, including developmental lending, specifically tailored to meet the unique needs of First Nations businesses. The success of these programs is evident in the enhanced capacity of these businesses to contribute to the national economy while maintaining cultural and community coherence.

ASFI is committed to exploring these innovative financial solutions and partnerships. We seek to work alongside the Government and other stakeholders to tailor these models to the Australian context, ensuring that First Nations businesses and communities have the necessary tools and resources to thrive. This collaborative effort will be pivotal in building a dynamic and inclusive economic landscape that benefits all Australians.

### 3.4 Consider tax, financial and tariff-related incentives to increase public and private investment into First Nations-led projects and businesses

A number of potential tax, financial and tariff-related incentives could reduce barriers for First Nations businesses.

A tax credit scheme for investments in First Nations-led projects could improve capital flow to these initiatives. This scheme would allow investors, including Private Ancillary Funds and Public Ancillary Funds, to claim a percentage of their investment as a tax credit. As noted by PwC in its report on the economic contributions of the First Nations business sector, strategic financial incentives are crucial for fostering the growth of First Nations enterprises<sup>4</sup>. Additionally, introducing tax exemptions or deductions for First Nations businesses can increase the financial viability of these enterprises.

Global trade incentives should also be considered to expand First Nations businesses' access to new and existing trade markets. Removing or significantly reducing export and import tariffs for these businesses can lower barriers to trade, broaden market access and enhance brand.

The Indigenous Peoples Economic and Trade Cooperation Arrangement (IPECTA), supported by NIAA and DFAT, was formed in early 2023 between New Zealand/Aotearoa, Canada, Chinese Taipei, and Australia to build knowledge-sharing pathways amongst participating First Nations economies. ASFI looks forward to seeing how IPECTA partners across Government to identify opportunities for First Nations businesses to participate in global trade.

<sup>3</sup> [The Next Generation: Innovating to Improve Indigenous Access to Finance \(fraserinstitute.org\)](https://www.fraserinstitute.org)

<sup>4</sup> [The economic contribution of Indigenous business sector is growing \(pwc.com.au\)](https://www.pwc.com.au)

Furthermore, feedback from Traditional Owners at the 2024 First Nations Clean Energy Symposium highlighted a significant concern: government funding and resources that support the development of major projects by Traditional Owners are disproportionately being allocated to non-First Nations entities. This imbalance hinders the potential for First Nations-led economic development and contradicts the principles of equity and self-determination. Enhancing research and development incentives specifically for First Nations enterprises would stimulate innovation and investment opportunities.

### 3.5 Reconsider definitions of First Nations businesses across Government schemes and explore alternative verification methods

To enhance economic self-determination and support the growth of First Nations businesses, it is critical to review the current systemic and policy barriers that make it more difficult for these enterprises to thrive. Such barriers include restrictive business verification processes and ownership requirements that can deter external investment and complicate operational activities.

The majority First Nations ownership requirement, typically 51%, can inadvertently create barriers to attracting necessary growth capital. Whilst this was created as a way to minimise black cladding, this requirement may inadvertently limit the ability of these businesses to access diverse funding sources such as venture capital or crowdfunding, which often entail changes in ownership structures.

Additionally, the existing verification methods for confirming the status of First Nations businesses can impose significant administrative burdens. These methods often do not align with the practical realities faced by these enterprises and can hinder their operations and growth.

To foster genuine First Nations participation and control, the Government should explore alternative frameworks for assessing ownership. This includes mandating First Nations leadership in board governance, ensuring a majority of First Nations members on the board of directors to align decision-making with First Nations priorities. Additionally, requiring that the CEO or managing partner be First Nations would guide operations and strategies from an Indigenous perspective. Implementing a majority First Nations leadership team would further promote broader First Nations influence in business decisions. These solutions may also be more effective in limiting black cladding businesses than a 51% ownership structure, as they require businesses to demonstrate genuine First Nations governance and decision-making.

Developing fit-for-purpose verification processes is also essential. The Government should work closely with First Nations communities and organisations to create streamlined verification processes that minimise unnecessary administrative burdens while ensuring compliance and integrity. This could involve simplifying the verification process to reduce administrative load while maintaining rigorous standards and collaborating with financial institutions and technology providers to leverage their expertise in creating efficient verification systems.

Furthermore, a comprehensive review and simplification of government procurement policies is necessary to remove restrictive practices and support the sustainable growth of First Nations businesses. Conducting a thorough review of existing procurement procedures will help eliminate unnecessary bureaucratic hurdles and ensure that procurement opportunities are fully accessible to First Nations businesses.