



Pathways to Partnerships

Gunaikurnai and Major Projects

The Gunaikurnai People

We are Gunaikurnai, Traditional Owners of a large area of Gippsland. Our Country spans from Warragul in the west, to the Snowy River in the east; from the Great Divide in the north, to the ocean in the south. Our Country comprises almost 10 percent of Victoria.

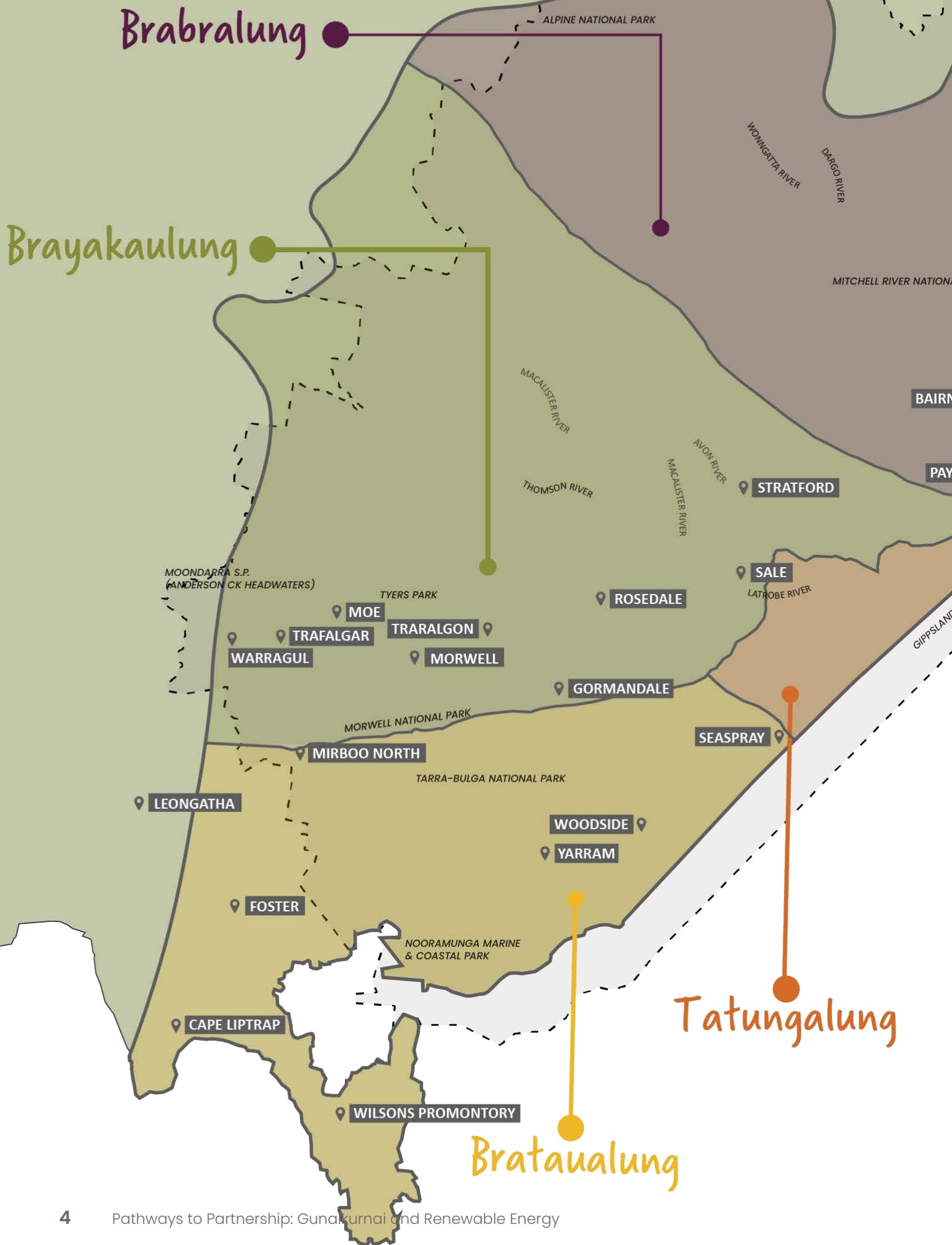
We have occupied, used and cared for our Country for thousands of years.

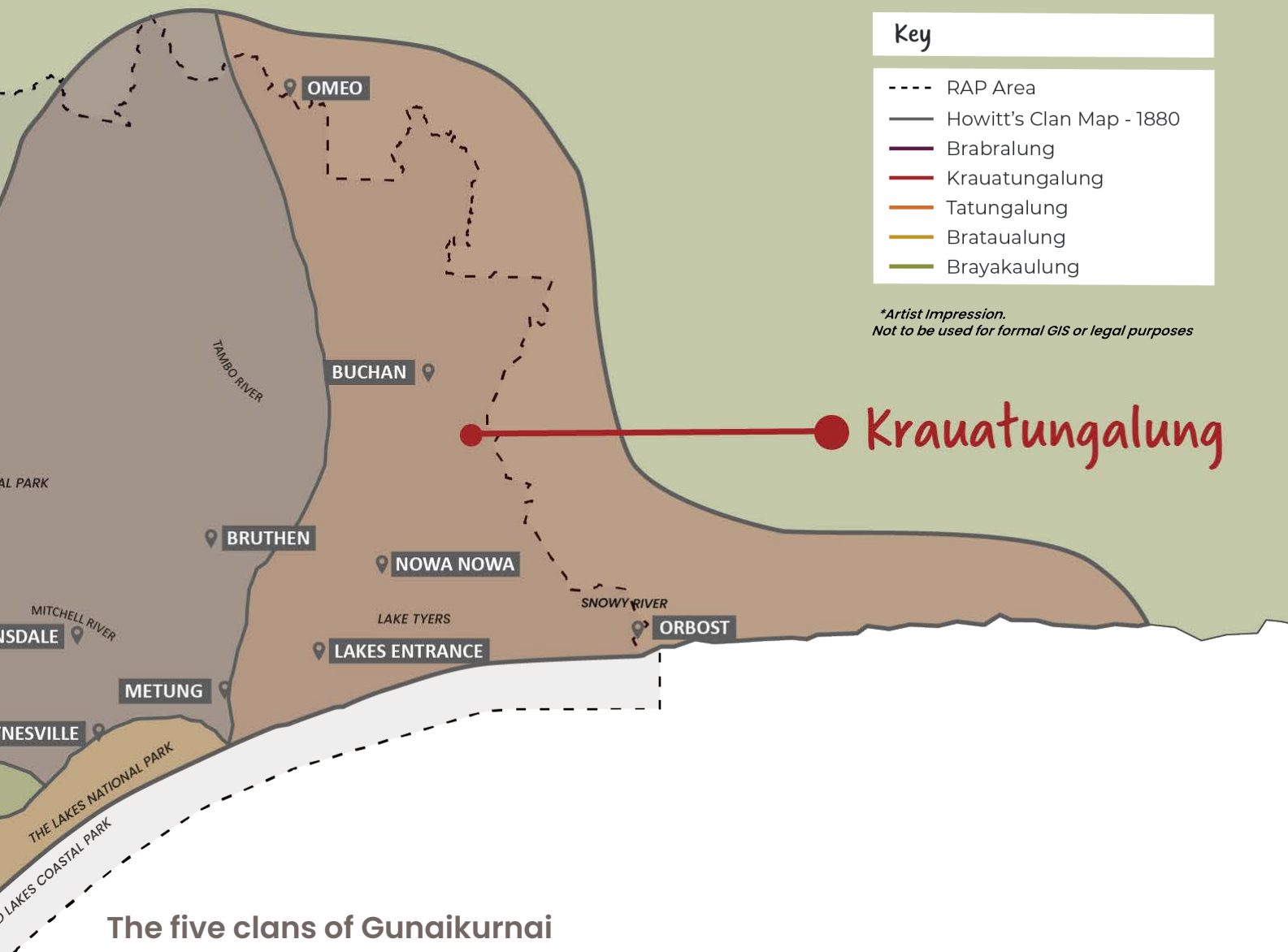
Our Country is the land, rivers and ocean, including those areas that were dry land before the sea levels rose and stabilised approximately 5,000 years ago.

Our Country includes the people and the stories; the past and the future. All of it is connected, and all of it is important to us. Country heals us and connects us to our Ancestors, culture and history.

**Aboriginal and Torres Strait Islander people should be aware that this document contains images of people who may have since passed into the Dreaming.*







The five clans of Gunaikurnai

We have a strong and living culture, a stable and growing corporation, and our rights to Country and the natural resources it contains, have been legally recognised. We have built the foundations to heal wounds from the past and rebuild our heritage, culture and people. We are in a strong position to move forward to build a better future for our community.



Brataualung
people in South Gippsland.



Brayakaulung
around the current area of Sale.



Brabralung
people are from Central Gippsland.



Tatungalung
near Lakes Entrance on the coast.



Krauatungalung
people near the Snowy River.

Gunaikurnai Land and Waters Aboriginal Corporation

Gunaikurnai Land and Waters Aboriginal Corporation (GLaWAC) represents all Gunaikurnai people. In 2008, GLaWAC was appointed as the Registered Aboriginal Party (RAP) responsible for cultural heritage clearance under the Aboriginal Heritage Act 2006 (Vic). In 2010, the Gunaikurnai people were formally recognised by the Federal Court of Australia as holding native title over much of Gippsland, and GLaWAC manages and protects these native title rights on behalf of the Gunaikurnai people as a Prescribed Body Corporate (PBC).

Also in 2010, the Gunaikurnai people were recognised as Traditional Owners by the State of Victoria and GLaWAC, on behalf of the Gunaikurnai people, entered into a Recognition and Settlement Agreement (RSA) and an Indigenous Land Use Agreement with the State of Victoria under the Traditional Owner Settlement Act 2010 (Vic). The first agreement of its kind in Victoria, the RSA recognises Gunaikurnai rights to traditional land and waters. Pursuant to the RSA, GLaWAC jointly manages 14 parks and reserves through the Gunaikurnai Traditional Owner Land Management Board (GKTOLMB).

GLaWAC has also signed an agreement with the Federal Government to start the process of establishing a Sea Country Indigenous Protected Area. The IPA will conserve and protect areas of cultural significance and the environment in the area stretching from Nanjet, east of Yiruk Wamoon (Wilsons Promontory), to Mallacoota, including the sea and coastal environment, as well as seagrass beds, dunes, estuaries, bays and coastal wetlands.

GLaWAC Operations

GLaWAC employs over 90 people to operate the various programs it has in place to support the Gunaikurnai community with its active practise and celebration of culture and meet its priorities to protect and heal Country.

GLaWAC has a natural resource management business and develops and runs a range of cultural and educational programs. GLaWAC has established a Cultural Hub, an open, welcoming space for Gunaikurnai people to come together, including with other Traditional Owner groups, and an adjoining outdoor amphitheatre. It delivers its functions as a RAP to protect cultural heritage, including approving cultural heritage management plans, and as a PBC to manage and protect Gunaikurnai native title rights and interests.

GLaWAC also supports Gunaikurnai community members to achieve economic self-sufficiency by running various commercial ventures. It runs a café and art gallery, is developing a tourism venture near Yiruk Wamoon and is undertaking feasibility trials to establish an oyster harvesting enterprise.

GLaWAC operates a community benefit trust, supporting Gunaikurnai members to access financial support for education, cultural activities and independent business development.



Gunaikurnai Governace

GLaWAC has strong governance structures with an established Board of Directors, an Elders Council, and Board Sub-Committees. It has in place a range of strategic documents and policies that all link to the **Gunaikurnai Whole-of-Country Plan**, a plan developed by Gunaikurnai people that sets out Gunaikurnai aspirations for the future. This includes a clearly articulated decision-making policy that incorporates traditional decision-making procedures and identifies various principles for its implementation that ensure inclusivity, fairness and respect within the whole Traditional Owner group.

GLaWAC works closely with a separate body corporate, the GKTOLMB, which was established to prepare and help execute the joint management plan covering 14 parks and reserves. GKTOLMB works effectively with government to ensure that the Gunaikurnai people are leading the care of their Country every day.

GLaWAC is readily accountable to its members and the broader Gunaikurnai community, regularly reporting on its financial operations and community development activities through in-person meetings, newsletters and on GLaWAC's website.

GLaWAC has robust procedures in place to ensure that financial assistance provided to its members through community benefit programs is distributed according to a transparent set of criteria, with appropriate checks and balances. GLaWAC is also in the process of establishing an additional trust for financial investments, to be overseen by an independent trustee.

GLaWAC regularly draws on a team of external specialists to get advice on legal, financial, accounting and strategic matters. It engages in ongoing review and evaluation its own performance, functions and adherence to its Whole-of-Country Plan and is regularly audited.



Major Projects and Agreement-making:

A New Way of Operating

There has been an abundance of coal, oil and gas exploration, extraction, processing and distribution on Gunaikurnai Country and Sea Country. Historically, the Gunaikurnai people have been excluded from the planning, development and operations of energy and other projects on our land, as well as the wealth these projects have generated. Our cultural heritage has been significantly impacted and, at times, entirely desecrated. In short, we have received very little in return for the destruction of significant parts of our Country and culture.

We are now moving into a new phase, where there is a burgeoning expectation that developers and governments engaged in major projects on traditional lands and waters involve Traditional Owners from the incipient stages of project development.

We are transitioning from a history of excluding Traditional Owners to a future of inclusion, partnership and reconciliation.

This coincides with the shift from 'old' energy to newer, cleaner forms of energy. Fossil fuel infrastructure on our lands is being decommissioned, with offshore oil and gas soon to follow. At the same time, clean energy projects are being developed – solar, wind, hydrogen, battery storage, pumped hydro, carbon capture and storage, and transmission. Gunaikurnai Country remains central to energy generation for Victoria and beyond, with the Victorian Government

identifying a Renewable Energy Zone (REZ) on Gunaikurnai Country and the Federal Government declaring an area in Gunaikurnai waters as suitable for offshore renewable energy.

However, it is not just energy projects that are developed on Gunaikurnai Country and Sea Country; many other industries both established and emerging, operate on our Country, and there are a variety of major projects being developed.

GLaWAC expects developers across all industries and governments involved in major project development, to be forming agreements with GLaWAC in line with international best practice. Such agreements provide a plethora of benefits to developers, governments, GLaWAC and the broader community, and align with international obligations and expectations.

UNDRIP & FPIC: International Obligations and Standards

Best-practice mutually respectful partnerships between Indigenous communities, developers and governments is unequivocally required under international law. The Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the United Nations in 2007 and endorsed by Australia in 2009. It sets out the individual and collective rights of Indigenous peoples and reflect a burgeoning international standard.

The rights set out in UNDRIP are increasingly being incorporated into domestic laws and policy. For example, Canada has passed legislation affirming UNDRIP, requiring the government to take measures to ensure Canadian laws are consistent with UNDRIP and to develop an action plan to implement UNDRIP. In Australia, governments frequently refer to the rights reflected in UNDRIP. For example, the Victorian Government acknowledges 'Aboriginal self-determination [as] a human right', and has publicly committed 'to working towards a future of equality, justice and strength',¹ expressing its intention to 'genuinely partnering' with Traditional Owner groups and Aboriginal community in advance of self-determination.²

Self-determination is the central right of UNDRIP. Self-determination means that: (1) we have a choice in determining how our lives are governed; (2) we participate in decisions that affect our lives; and (3) we have control over our lives and future including our economic, social and cultural development.³

UNDRIP also sets out our right to determine how our land and waters are to be developed and to set priorities for development. **This includes establishing fair processes for compensation for projects on our Country, and taking steps to reduce the environmental, economic, social, cultural or spiritual impact of projects on our Country.** We also have the right under UNDRIP to control, use, conserve and protect our Country.⁴

One of the central tenets of self-determination is '**Free, Prior and Informed Consent**' (FPIC), operationalised in several articles of UNDRIP.⁵ This means that developers wishing to undertake projects that affect



our peoples should negotiate with us with the aim of obtaining our consent, and that we create a process where we talk with parties on an equal footing and come to a solution or agreement that all parties are satisfied with. FPIC is also an ongoing obligation, applying throughout the lifespan of an agreement to ensure our consent remains free and informed.

Fair and equitable negotiations, and the ongoing implementation of an agreement, of course require Indigenous groups to be properly resourced so that they can make informed decisions, seek independent expert advice, and communicate with the Indigenous community. It is expected that developers and/or governments provide sufficient resources and funding to allow Indigenous groups to do this.⁶

¹ Victoria State Government, 'Victorian Aboriginal Affairs Framework: 2018-2023' (2018).

² Victoria State Government, 'Community Engagement and Benefit Sharing in Renewable Energy in Victoria' (2021) 12.

³ Australian Human Rights Commission, 'The Community Guide to the UN Declaration on the Rights of Indigenous Peoples' (2010).

⁴ See articles 25, 26, 29 and 32.

⁵ See articles 10, 11, 19, 28, 29 and 32.

⁶ See, for example, Australian Human Rights Commission, 'Developing principles on Resource Development on Indigenous land: A Human Rights based approach' (2002); First Nations Clean Energy Network, 'Aboriginal and Torres Strait Islander Best Practice Principles for Clean Energy Projects' (2022) Principle 1; Australian Energy Infrastructure Commissioner, 'Considerations for Landholders before entering into Commercial Agreements'

Indigenous Partnerships

The benefits of partnership and agreement-making with Indigenous peoples across various industries can be seen in many countries, including Canada, New Zealand/Aotearoa and the United States, as well as here in Australia.

The Six Nations of the Grand River in Canada have developed some 20 renewable energy projects on their traditional lands, including some of the largest wind and solar power plants in the country. These have largely been established through partnership with a range of energy companies, structured through various commercial arrangements such as by taking equity ownership, or receiving royalties .

Companies, organisations and volunteer groups can apply for funding from Six Nations of the Grand River Development Corporation to implement projects for the benefit of the community, such as building community infrastructure, constructing new housing, supporting language programs and purchasing a generator for a community food bank.

In Canada, around 20% of renewable energy initiatives have whole or partial Indigenous ownership or Indigenous beneficiaries.

The Gumala people of the Pilbara region through their entity, the Gumala Aboriginal Corporation (GAC), receive royalties from Rio Tinto for iron ore production on their Country.

GAC members can access financial grants to support them in a range of areas, including with access to education, cultural activities, health insurance, sports registration fees, and home ownership and repairs. GAC has also developed an early childhood learning program and now has childhood centres and learning programs in a variety of locations, training parents and carers to take on the roles of facilitators and learning assistants.

GAC invests at least 40% of its income from royalties in shares, bonds, property and high-interest term deposits.

The Yindjibarndi people in the Pilbara region are leading the development of various renewables projects – including wind, solar and battery storage – on their Country, in partnership with an international developer, Acen Corporation, whereby the Yindjibarndi will take equity of 25–50% in all projects.

The Yindjibarndi people use revenue generated from various projects on their Country to support social and economic independence for the Yindjibarndi people, as well as protect, preserve and promote Culture.

Māori groups have used a variety of ownership models for renewable energy projects on their traditional lands. For example, the Tauhara North No. 2 Trust, representing the Ngati Tahu-Ngati Whaoa, has entered into a joint venture in relation to a 140MW geothermal power plant which meets 3% of New Zealand/Aotearoa's energy requirements.

The Tauhara North No. 2 Trust in Aotearoa supports its people in the areas of health, education, culture and sports.

Granite Mines Affected Area Aboriginal Corporation (GMAAAC) was established to receive royalties on behalf of the Traditional Owners in the Tanami Desert.

GMAAAC engages in community development projects including running community consultation processes, engaging project partners, ensuring project completion, and communicating project outcomes to Traditional Owners and community members. Project examples are constructing a water park, providing dialysis services, and carrying out a cultural 'mapping' project.

At least half of the income received from royalties is invested for the benefit of future generations.

Steps to Agreement-Making with GLaWAC

SHOW RESPECT

Certainty for Developers
and Governments

DEVELOP TRUST

Positive Working Relationship
and Social Licence

VALUES

Protection of
Country and
Cultural Heritage
Management

PARTNERSHIPS

Supporting a Self-Sustaining,
Self-Determining Community

BEST-PRACTICE AGREEMENTS

Content and
processes

Benefits of Agreement-Making

Many benefits of agreement-making with GLaWAC flow to developers, governments, the Gunaikurnai people and the broader community.

Step 1:

Show Respect: Certainty for Developers and Governments

Agreement-making with GLaWAC helps to give developers and governments certainty when planning and undertaking projects on Gunaikurnai Country and Sea Country.

Planning for, developing, operating and servicing major projects on Gunaikurnai Country and Sea Country may trigger future act provisions in the Native Title Act 1993 (Cth) at various stages of development. Other land use rights may need to be obtained from GLaWAC during the life of the project, such as easements or rights of way, and developers will need to ensure compliance with the Aboriginal Heritage Act 2006 (Vic) and the Traditional Owner Settlement Act 2010 (Vic).

Further, Victoria has established a treaty process in the Advancing the Treaty Process with Aboriginal Victorians Act 2018 (Vic) (Treaty Act). Treaty negotiations under this framework will soon commence with the anticipation that treaty outcomes will further bolster the position, resources and ability of Victorian First Nations groups to control matters which impact their lives.

By embracing agreement making, developers and governments can ensure certainty in this changing and evolving landscape.

In addition, government departments are increasingly making clear their expectation for developers to engage with Traditional Owners as part of licence application processes or to be eligible to take part in tenders for government contracts or financial support.

Accordingly, agreement-making provides developers and governments with clarity and confidence on meeting the obligations they have under law and policy to engage and negotiate with GLaWAC. Agreements will help to mitigate against delays or commercial uncertainty down the track.

Step 2:

Develop Trust: Positive Working Relationship and Social Licence

Whilst developers and governments will come and go, and projects will be developed and seen through to the end of their lives, the Gunaikurnai people will always be the custodians of Gunaikurnai Country and Sea Country. Best-practice agreements support developers and governments to establish positive, mutually respectful working relationships with GLaWAC and the Gunaikurnai people. **Agreements will establish from the outset agreed processes and ways of working between GLaWAC and developers or governments to ensure respect for each other's priorities, and respect for the Gunaikurnai as Traditional Owners of Gunaikurnai Country and Sea Country.**

Further, having a social licence to operate is increasingly critical for developers and governments. Having a positive working relationship with the Gunaikurnai will support developers and governments to get the social licence they need for the success of their projects. Agreements with the Gunaikurnai people also contribute to the Corporate Social Responsibility (CSR) commitments and Environmental, Social and Governance (ESG) values of developers.

To support their engagement with stakeholders, developers and governments will be permitted to publicise their partnership with GLaWAC and the results of that partnership.

Step 3:

Values: Protection of Country and Cultural Heritage Management

International research also shows that best-practice agreements with First Nations groups help to maximise conservation benefits. The Gunaikurnai people have as a key priority the protection and proper management of our Country and Sea Country. Major projects represent some risk to the Gunaikurnai people, particularly to our cultural heritage and our ability to access and manage certain cultural landscapes, waterways and species. **Any development on Gunaikurnai land or waters will need to be mindful of environmental risk, and GLaWAC will always look to ensure that Country is protected.** Entering into agreements can appropriately plan for and consider proper Country and cultural heritage management.

Further, GLaWAC wants to preserve, and look for opportunities to explore, heritage that is important to the Gunaikurnai people and the Australian nation as a whole. GLaWAC is interested in information and data produced or commissioned by developers pertaining to Gunaikurnai land and waters, and invites information and data exchange options, which agreements can account for.

Step 4:

Partnerships: Supporting a Self-Sustaining, Self-Determining Community

Entering into agreements with GLaWAC that respects the international standard of FPIC will bring significant social and economic benefits to the Gunaikurnai people. They will support the Gunaikurnai's economic independence and boost a community that is well-governed, engaged and empowered. With additional income, GLaWAC will be in a position to replicate the many examples of Indigenous groups utilising royalties or profit-sharing schemes to achieve economic empowerment.

GLaWAC already has a demonstrated history of supporting its members through community benefit programs. It has put in place a Community Benefit Fund, Funeral Assistance Fund and Business Benefits Program through which GLaWAC members are supported with the costs of education, sporting opportunities, funerals and establishing independent small businesses. It also applies income to undertake its many and varied operations and activities, including running cultural programs, developing a Cultural Hub, running its café, art gallery and developing tourism and oyster ventures.

Additional income generated from partnership with developers and governments through best-practice agreement-making in relation to major projects on Gunaikurnai Country and Sea Country will support GLaWAC to strengthen and expand its operations, and better serve its community. As the principle strategic document for GLaWAC, the Gunaikurnai Whole of Country Plan outlines the priorities of the Gunaikurnai people, providing direction for how GLaWAC manages social and economic benefits for the Gunaikurnai community. GLaWAC will be guided

by the Whole of Country Plan when considering how to apply income.

For example, the Whole of Country Plan sets out priorities such as supporting the well-being of our people, managing and healing our Country, protecting and practising our culture, being respected as Traditional Owners of our Country, supporting education, and being economically independent. Accordingly, GLaWAC may choose to apply income to such ventures as research projects, ranger programs on Country and Sea Country, commercial fishery operations, training programs for Gunaikurnai people, carbon farming, and energy security and affordability schemes.

GLaWAC will also be guided by its community benefit strategy which is intentional about how community benefit funds will be applied and ensure that income will support future generations of Gunaikurnai people. **This will mean that the Gunaikurnai community is economically and socially supported long after major projects have concluded.** GLaWAC will invest income through independently-governed trust arrangements to carry out investment plans and establish passive income streams.

GLaWAC will be transparent with the broader Gunaikurnai community on how benefits received from major projects on Gunaikurnai Country or Sea Country will be managed, continuing its current processes of regular consultation and information-sharing. It will regularly report on benefits generated for the community and will continue to explore options for consultation and independent evaluation to ensure our work serves our people where they need it most.

Step 5:

Best-Practice Agreements: Content and processes

GLaWAC looks forward to negotiating agreements with developers proposing projects on Gunaikurnai land and waters. GLaWAC expects that any such agreements would cover:

- Compensation for use of Gunaikurnai's traditional lands and waters through royalties or equity share, in line with or exceeding international and national standards.

- Opportunities for GLaWAC to be returned land, through land transfers, or the provision of land options or rights of first refusal.

- Proposed ways of working together to ensure positive relations between GLaWAC and developers are fostered into the future.

- Caring for Country, including cultural heritage, and land and sea management, including site planning for the life of the project and rehabilitation.

- Provision for a research program to be undertaken by GLaWAC.

- Requirements relating to the developers engaging in cultural awareness programs.

- Employment and training opportunities for Gunaikurnai people.

- Procurement from GLaWAC and Aboriginal businesses including right of first refusal processes

- Provision for regular monitoring and evaluation of the agreement.



“Working in the renewables sector has allowed my family and I to enjoy a life full of adventures and quality time together whilst securing our financial future. With the industry being relatively new in Australia, there are lots of exciting opportunities for our mob, now and future generations, learning, protecting and working on Country and being part of an environmentally sustainable future.”

Peter McGregor
Gunaikurnai Traditional Owner

Agreement making with GLaWAC: An Overview

- The Gunaikurnai people are the Traditional Owners of Gippsland, having occupied, used and cared for our Country and Sea Country for thousands of years.
- GLaWAC represents the Gunaikurnai people. It is the Prescribed Body Corporate holding Native Title rights on behalf of the Gunaikurnai, it is the Registered Aboriginal Party responsible for cultural heritage clearances, has entered into a Recognition and Settlement Agreement with the State of Victoria, and is establishing a Sea Country Indigenous Protected Area with the Federal Government.
- GLaWAC has strong governance structures and is engaged in a range of activities, including delivering cultural heritage management plans, running commercial business enterprises and operating a community benefit fund.
- GLaWAC invites developers and governments to commence discussions and negotiations for agreements with GLaWAC at the incipient stages of any major projects or developments. Developers and governments should follow the steps outlined in this document towards finalising a best-practice agreement with GLaWAC.
- Agreements will cover a range of matters including compensation arrangements, opportunities to return land, guidelines for working together to ensure ongoing positive relations, cultural heritage and land and sea management, cultural awareness training; employment and training opportunities, procurement and agreement monitoring and evaluation.
- Entering into agreements offers developers, governments and the Gunaikurnai a plethora of benefits. These include establishing commercial certainty for the life of projects, supporting engagement with government processes and licencing requirements, establishing positive working relationships between all parties, supporting developers to attain a strong social licence, maximising conservation of Country and Sea Country, and upholding international human rights obligations. They offer developers and governments an opportunity to be at the forefront of international best-practice around partnership and engagement with Traditional Owners.
- Agreements will support GLaWAC and the Gunaikurnai people, including its future generations, to be well-governed, engaged, economically independent, financially and socially empowered, all ultimately supporting Gunaikurnai self-determination.



GLaWAC invites all developers to contact us at:
ecodev@glawac.com.au
to discuss proposed projects.

We look forward to hearing from you.



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