CULTURAL LICENCE TO OPERATE IN THE BLUE ECONOMY

FINAL PROJECT REPORT

BLUE ECONOMY
COOPERATIVE RESEARCH CENTRE

Australian Government
Department of Industry,
Science and Resources | Cooperative Research
Centres Program

CSIRO

Plant & Food
Research
Rangahau Ahumāra Kai

WAI COMMUNICATIONS

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Authors

The Indigenous Authors for this report came together to undertake an Australian and Aotearoa collaboration around strengthening partnerships between First Nations and Industry in the Blue Economy.

Participants

Design

The main graphics around the Cultural Licence to Operate theme used in this report draws inspiration from pivotal elements within the Blue Economy, emphasising ecosystems such as coral reefs, fish farming, maritime vessel engineering and the tourism industry.

The artwork visualises the intersection of these components, showcasing their integral role in both the ocean ecosystem and the economy at large. To establish a connection with First Nations culture, traditional symbols representing people and water have been incorporated. Simultaneously, a dot pattern inspired by underwater bubbles serves to extend this visual narrative beyond Australian borders, resonating with diverse cultures.

This piece aims to gracefully navigate the intersection of traditional Aboriginal dot artworks and contemporary dot patterns, embodying a harmonious blend that bridges cultural roots with the evolving dynamics of the blue economy industries. It was produced by the design agency of Black Logic.

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The Blue Economy CRC

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We extend our deepest respect and recognition to all Traditional Custodians of Land, Sea, Water and Sky as the First Nations peoples holding hopes, aspirations, traditions, culture and learnings.

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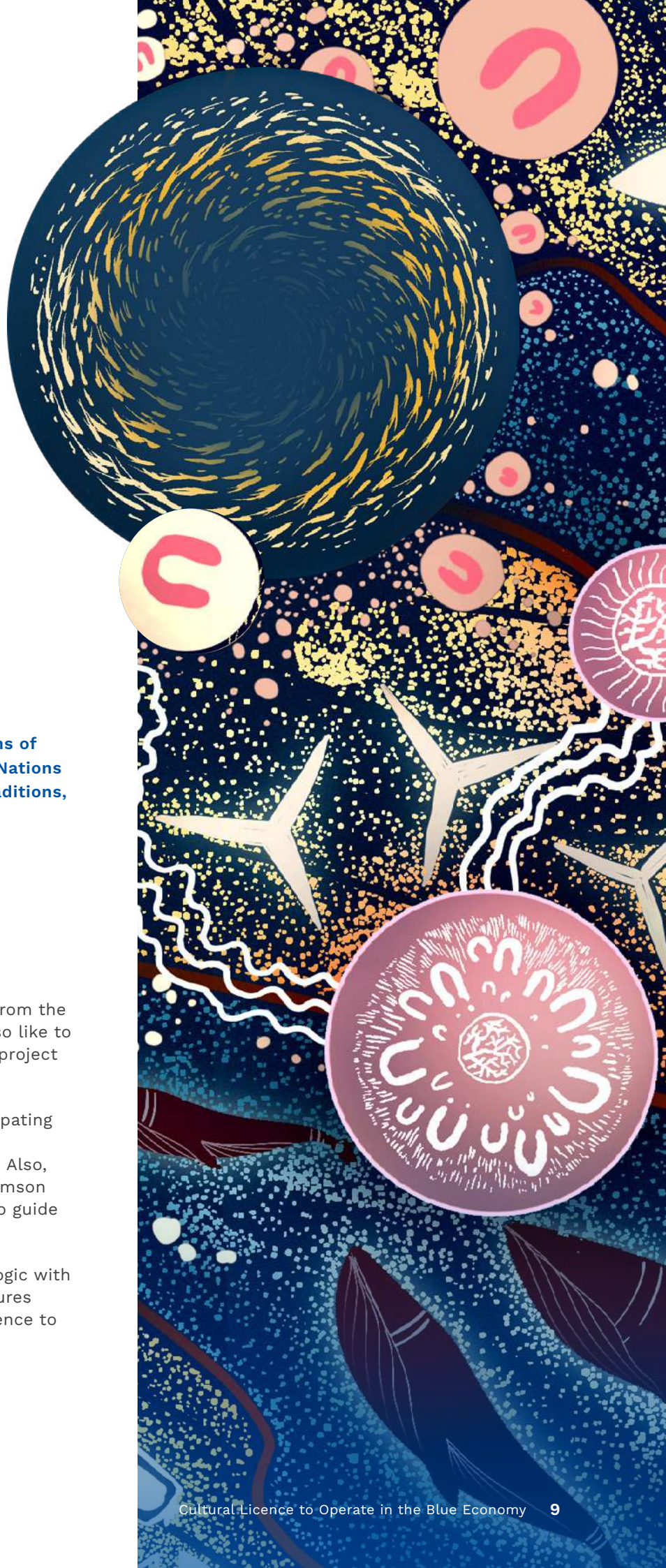
Executive Summary

In an era of heightened awareness of environmental protection and sustainability, the legitimacy of industry operations is increasingly being questioned by the public. Industries are needing to obtain the trust and ongoing broad acceptance of the community for business continuity.

The need to attain a Cultural Licence to Operate (CLO) by respectfully and fairly working alongside First Nations People is not a topic that is well explored. In this study, we develop a preliminary CLO framework as a responsive way to guiding the implementation pathway to improve change. This report presents outcomes from a Trans-Tasman scoping project funded by the Blue Economy CRC for 18 months. The four key partners supporting the project were CSIRO, Swinburne University of Technology, New Zealand Plant and Food Research and Wai Communications.

This Indigenous-led study set out to build the architecture of the CLO framework, without such clarity, CLO risks not being a credible concept for the purposes for which it can be used for responsible and equitable development.

The framework provides guiding tracks and transparency for shifting out from a transactional way to engage with First Nations through 'keeping up an appearance' or 'at arm's length' to building and maintaining a relational way of maximising co-benefits.

We flip the script for Industry to consider the competitive advantage of working directly alongside First Nations through changing the formula of corporate responsibility in a more legitimised and objective way of implementing and earning a cultural partnership pathway that maximises co-benefits.

We define the seven pillars of the CLO framework and the MUTUALITY principles that sets up the compass for partnering for a more equitable future by challenging the notion of exploitative growth and extend perspectives that sees value in the creation of co-benefits. We build an evidenced-based approach to characterising the fairness yardstick architecture by assessing views about the expected landscape of fairness and the readiness attitudes with building fair change initiatives. We assess the divergence and convergence behaviours towards agreement making between First Nations and Industry.

We surface and discuss the challenges of engaging and partnering between Indigenous People and Industry in the Blue Economy. Any reform efforts would need a renewal in Industry education and training models in order to uproot existing institutional misconceptions, ill-informed workplaces and outdated practices that unnecessarily hinders progression.

The report concludes with providing five key recommendations for shifting behaviours and approaches from rhetoric to breakthrough. We expand on the recommendations by providing specific points for the Blue Economy CRC, Industry, Government and Public.

At the core of uplift change is a whole system change piece, that is, building trust and sense-making, convening sectors, guiding principles and frameworks, education and training and strengthening leadership. We call upon Industry leaders to step up their ambition to drive the transformation needed to deliver the co-benefit goals and renewed awareness in our societies that if we make ethical and equitable choices, that respectfully move us forward together, we can make a positive difference for the future of Ocean Sustainable Development.
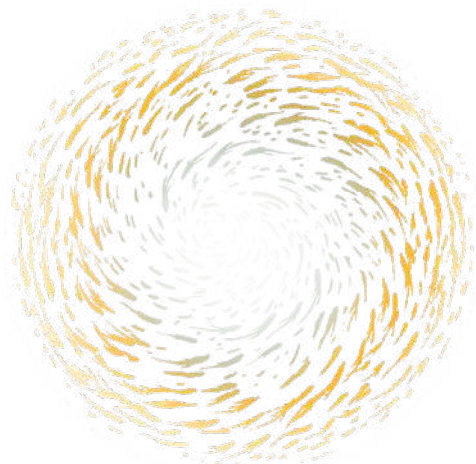
Part 1

Project framing

1. Introduction

1.1. Project purpose – addressing a gap

Unlocking the Blue Economy through an inclusive and equitable approach does not happen by chance. As governments, investors, rightsholders and stakeholders look to the sea as the next economic frontier (the 'Blue Economy'), there is a renewed focus on ensuring a balanced approach to developing and managing ocean resources through cross-disciplinary engagement (Hodgson et al., 2019).

For First Nations this balancing requires mechanisms for ensuring Indigenous Peoples can continuously and consistently leverage their inherent rights, capacity, innovative ideas, and aspirations for co-beneficial partnerships. With the growth in the Blue Economy, it is imperative to shift from under-resourcing of participatory processes to approaches that consider ethical and equitable opportunities for First Nations. Poor inclusion into economic agendas leads to a greater chance of First Nations People 'losing-out'– rather than gaining– from Blue growth and with this, there are potential legal and cultural licence challenges if their voices are not properly considered.

> **Here, we propose to build the Cultural Licence to Operate framework for creating the ecosystem for an ethical, equitable, dynamic, and responsive system in which negotiations are customised at place.**

Under the framework, each cultural partnership pathway is navigated by cultivating maximum co-benefits through courageously, innovatively, and iteratively bridging the gap between opportunities and challenges. Cultural licence may also be known as 'Cultural Code of Conduct', 'Cultural Partnership Pathway' or 'Cultural Legitimacy to Operate'. In this study, we switch to describing the CLO as Cultural Partnership Pathway given the focus on a workable path to partnership agreement (see upcoming section, Part 3).

1.2. Evolving corporate responsibility

Policymakers, international bodies, activist groups, local communities and First Nations continue to mount a pressing mandate on companies to balance their profit gains with social and environmental practices (Helmig et al., 2016; Kung et al., 2022; Leonidou et al., 2016).

Corporate responsibility is important to businesses as shareholders and customers are demanding increased accountability of companies towards their social and environmental impact on society (Hamza & Jarboui, 2020; Kamasak et al., 2018). To maximise their positive impact on the social, cultural and environmental systems in which they operate, companies must develop coherent corporate responsibility strategies. By society demanding business to rethink the profit driven model, the goal posts of corporate responsibility evolves to more ethical and equitable approaches (Fordham & Robinson, 2018). The responsibilities of businesses have multiple branches to the reporting of their corporate responsibility agenda (Figure 1).

An agenda or strategy does not always provide the insights on the implementation of actions and accountability to meeting the expectations of good practices. By lacking the specificity necessary for implementation, strategies can fall short.

There are some criticisms of corporate responsibility approaches being too subjective to have any real value (Schrempf-Stirling et al., 2016), approaches being too broad (Ringham & Miles, 2018; Sheehy & Farneti, 2021) and approaches being too focussed on presenting the best 'face' to attract investment (Hamza & Jarboui, 2020; Marquis & Michael, 2012). It has been raised by Carroll (2015) that corporate social responsibility is continuing its transactional path with limited transformational evolution.

There has been an acknowledgement by Latapí Agudelo et al. (2019) that with competing frameworks and new concepts it may might slow the global expansion of the corporate social responsibility agenda and shift towards new areas. To remove uncertainties, informalities and subjectivity around companies 'keeping up appearance' there is a need to implement an improved way of moving from ill-defined, informal and inconsistent ways to more legitimised ways of independently confirming ethical, equitable and inclusive practices.

Here, this study proposes a Cultural Licence to Operate framework to implement a shift away from any perceived subjectivity of a strategy to a more objective and committed approach for First Nations and Industry to come together to build and maintain the agreed delivery of co-benefits.
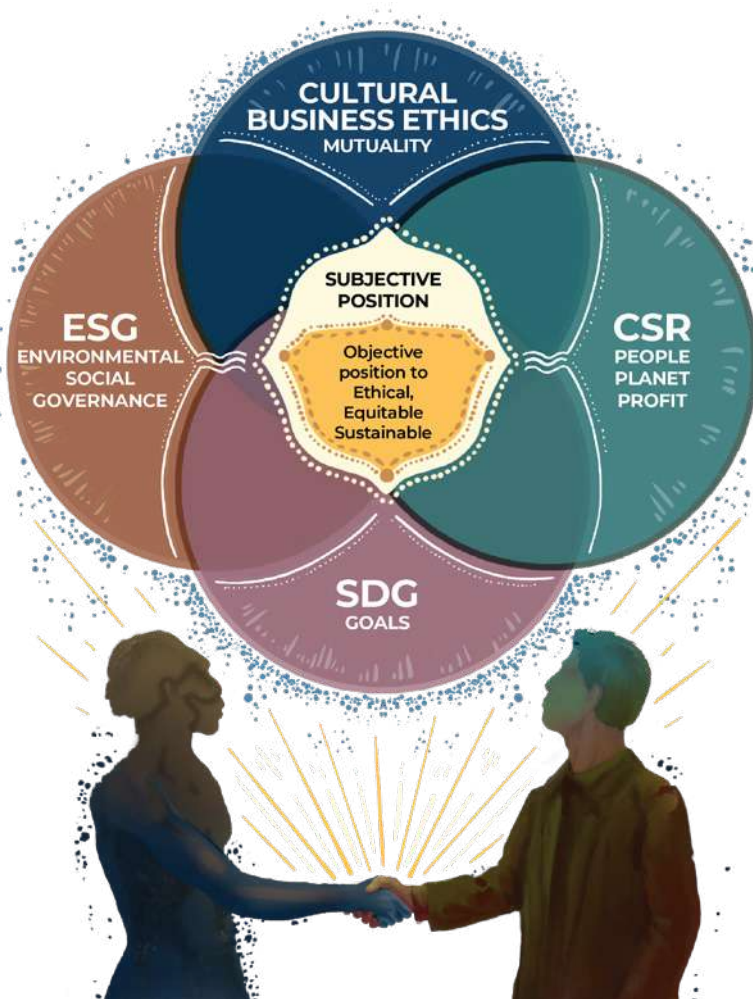
Figure 1. Landscape that links Cultural Business Ethics with Corporate Social Responsibility (CSR), Sustainable Development Goals (SDG) and Environmental Social Governance (ESG). It is important to acknowledge the shift from subjective to more objective positions on the goal posts for ethical, equitable and sustainable developments.

We need to change the 'keeping up appearance' formula of corporate responsibility by shifting from the unintentional or intentional approach of delivering to a subjective strategy to a more objective way of implementing and earning a pathway that maximises co-benefits.

In doing so, we aim to position this project and CLO framework within the middle of Figure 1 by working in the space to constructively and objectively work towards a pathway that certifies the confirmed agreement on the pursued ethical performance and equitable yardstick.

Corporate responsibility strategies can ring hollow if they remain in the subjective greyness of it being informal, unwritten and self-regulated and do not focus on the steps to objectively reaching co-benefits.

1.3. Drivers of change in the Cultural Licence to Operate in the Blue Economy

There are intersection points between cultural rights, native title rights, rights for states, legal requirements and regulation requirements.

These components we define as 'Drivers of Change' and shape the state of play components for strengthening First Nations and Industry partnerships. Each Country has their own state of play components as influenced by internal and external processes that influence the transformative actions towards building and maintaining relationships with First Nations.

In this study, we define and highlight some of the state of the play components (Table 1) while acknowledging it is beyond this scoping project to provide all the evolving details of governance structures, regulation reform and the influence of key international conventions such as United Nations Declaration on the Rights of Indigenous Peoples.

There are inter-linking parts of the socio-economic-political system that directly or indirectly supports the improved change in cultural partnership pathways. Governments can fund, coordinate and enforce efforts in ways that markets cannot.

> **This means there can be legislative and regulation requirements that can help to foster more advantageous ways of First Nations and Industry co-existing with co-benefits.**

Understanding the inter-linkages across key state of play components is important for recognising the direct and indirect influences upon First Nation-Industry partnerships.

Further background context has been addressed by other studies, see Meadows et al. (2019) for a table of initiatives promoting sustainability in extractive industries given consideration of International Human Rights Laws & Declarations, State Law, Corporate Social Responsibility and Industry standards.

A network approach has been developed to map and analyse the policy and legislative system associated with Australia's Blue Economy (Frohlich et al., 2023). Also, Lyons et al. (2023) has outlined legislative frameworks pertaining to the development of the Blue Economy, and Indigenous innovation in social licence to operate, in Australia, New Zealand and Canada.

Table 1. Key state of play components fostering change between First Nations and Blue Economy Industries.

SOME KEY STATE OF PLAY COMPONENTS FOSTERING CHANGE

CULTURAL RIGHTS

Stronger recognition of cultural rights *fosters* expectational and mandated shifts away from voluntary actions of working alongside First Nations to compulsory collaborative actions & agreements.

TREATY WITH FIRST NATION

With empowered communities taking control of their treaties it *fosters* the expectational and mandated change by Industries to partner rather than consult.

NATIONAL REGULATION REFORMS

Reforms to regulations *fosters* independent audit of practices to establish if actually meeting expectations and standards of practice.

INTERNATIONAL CONVENTIONS

International conventions *fosters* attention to meeting expectations and standards of practice

EQUALITY - BENEFIT SHARING

Expectations for equality and benefit sharing *fosters* the shift from the notion of exploitative growth to seeing value in the creation of co-benefits.

MULTI-SECTOR GOVERNANCE

Decision-making approaches that brings together sectors *fosters* vibrant communities by integrating people, knowledge and solutions.

1.4. First Nation connection to Country under the sea

There are distinct bodies of First Nations knowledge, stories and connection to submerged sea territories. In Australia, stories belonging to First Nations tell of a time when the former coastline of mainland Australia was inundated by rising sea level (Nunn & Reid, 2016).

When the Australian continent was submerged, ancestors of the world's oldest living cultures were there to see it and maintain unwavering traditions of stewardship of Sea Country (Kearney et al., 2023).

To build the plurality of cultural knowledge and connection around the submerging of sea territories, it is important to engage with ethnographic accounts of Indigenous Australian knowledges of Sea Country as this uncovers the potential for a more expansive vision of human connections to the past and present continental landmass (Kearney et al., 2023).

There are growing calls for the expansion of thinking on where the land ends and the sea begins and how submerged terrestrial landscapes are understood across cultures (Kearney et al., 2023; Veth et al., 2020).

We need to better understand the diversity and configuring possibilities of submerged terrestrial landscapes by working at the specificities of place to better understand the regional diversity across different locations.

A misassumption often overshadows the offshore marine environment through debate and questions around whether offshore landscapes have any significant underwater landmarks or hold any significant importance. Also, are the assumptions that the connection of First Nations with Sea Country does not extend to offshore environments.

This debate is being overturned by inundation studies with First Nations and by the recent discovery of intact subtidal Aboriginal archaeological sites at Murujuga in Western Australia (Benjamin et al., 2020; Wiseman et al., 2021).

> **Rather than make assumptions, we need to better gather our understanding of Indigenous connections to underwater landmarks in both near shore and offshore.**

No Australian baseline studies of submerged archaeological landscapes have been undertaken to provide a contextual framework that covers the entire country, apart from the targeted research at Murujuga (McCarthy et al., 2022).

Growing attention to marine inundated archaeology, in both near shore and offshore submerged sea territories, is placing demands that developers and Industry need to become knowledgeable about the local and regional prehistory, including Indigenous connection to underwater landmarks and cultural heritage near shore and offshore.

There are also calls for the public, cultural heritage managers and legislators to give attention to the vast submerged archaeological landscapes that fringe the continent. The current uncertainty around the configuring of submerged terrestrial landscapes provides even more need not to make dismissive assumptions but rather ensure that the appropriate work is carried out at place so that local and regional submerged sea territories can be understood. Many countries are scratching the surface of the Indigenous history and cultural heritage that lies below the sea's surface.

Underwater cultural heritage and the growing understanding of submerged terrestrial landscapes has ramifications for offshore development and resource extraction and according to McCarthy et al. (2022) these impacts are being considered by some developers.

Along the Australian coast, tens of thousands of years' worth of Indigenous history occurs below the surface of the sea. The challenge is finding it and safeguarding it. Underwater cultural heritage needs the collaborative efforts between First Nations, Researchers, Government and Industry to help ensure the ethical and sustainable development of our Oceans.

1.5. Difference between Social Licence and Cultural Licence Operate in the Blue Economy

The social licence to operate is unwritten, informal, unregulated and non-legally binding social contract (Duncan et al., 2018; Franks et al., 2013; Meesters & Behagel, 2017) that industry actors can use to self-regulate and set up their own terms of conduct (Brueckner et al., 2014; Overduin & Michele-Lee, 2017).

Unlike mandatory statutory licences, the 'licence' is neither legal nor regulatory in nature but provides a metaphor for informally earning permission from the community – a type of 'community licence' to informally reflect community acceptance (Cooney, 2017; Forsyth et al., 2021; Hampton & Teh-White, 2019). Another aspect is the community's ability to enforce the social licence informally, for example, through public protects, lobbying, activism or boycotts when a company fails to conform to community expectations and meeting its legal licences (Gunningham et al., 2004; Hampton & Teh-White, 2019). Where as, the cultural licence can in some cases be enforced legally through mechanisms such as exclusive native title as this exclusive possession means that other land users must seek the appropriate permission from native title holders to access or use the area.

> **Social licence is a broad-based quality that takes in multiple stakeholders, such as governments, diverse social groups and locals as a general means of permission to use natural resources.**

This means the social licence is a catch-all to take in all stakeholders for consideration of economic activity within the Blue Economy, where as, the cultural licence is framed around rightsholders within the biocultural landscape which includes important components such as rights, territories, local protocols and practices, cultural governance and relationships with place and people.

The social licence has subjectivity when it informal and unwritten. Whereas, this stakeholder broadness and greyness is removed with the cultural licence to operate as the licence is earnt objectivity by working at place specifically with First Nations through implementing and earning a partnership pathway that maximises co-benefits (Table 2). It is important to understand both the Social and Cultural Licence to Operate, hence there has been two projects funded by the Blue Economy CRC, one focusing on Social Licence and our project on the Cultural Licence.

Table 2. Outlining some differences between the Social and Cultural Licence to Operate.

1.6. Making 'walking the talk' real

There is urgent need to strengthen partnerships between First Nations and Industries in the Blue Economy given current expectations and past legacies of inequitable power dynamics through colonial legislation short changing Indigenous rights when imposing legal systems during European colonisation (Issifu et al., 2023).

Proceeding to cross-sector engagements without a clear and thorough understanding of the complexities of partnership is thus unlikely to achieve stated ambitions. Indigenous peoples are increasingly seeking improved ethical and environmental performance of the resource industries operating in their territories, as such, through responsibilities over bodies that oversee cross-sector partnerships and securing a more direct roles in the monitoring and surveillance of developments (McMillan & Prosper, 2016; Natcher & Brunet, 2020).

In Australia, there is still a gap into national statistics around the range of cross-sector partnerships on the Indigenous Estate (land, sea and water), as well as, lacking national and administrative data on First Nations business sector (Evans & Polidano, 2022). This means tracking the maturity in Australia around First Nation-Industry partnerships is non-existent or kept in the dark.

> **More progressive work needs to be carried out to create the maturity and uplift in the confidence, consistency, and commitment towards building, growing, and making visible the range of partnerships in the Blue Economy.**

We need to be building the cases in Australia, Aotearoa and across the Globe where First Nations and Industries are designing, constructing and maintaining advantageous partnerships.

We have avoided showcasing partnerships as it is difficult to know if they are demonstrating preferred best practices. Rather, this is an opportunity to be part of responsive call of establishing more independent ways of knowing if the integrity of best practices is achievable and the settings of partnership agreements are favourable.

Achieving good practices requires integrity and the independent audit to confirm if approaches are 'walking the talk'. Currently, we still lack robust measures of corporate performance because there is no consistent mandate for independently assessing Industry performance, nor demand such assessment from partner signatories. The more that the Blue Economy sector can evaluate the measuring up of practices, the more that we can track the true yardstick of progression. Currently, the two sectors that are predicted to grow rapidly in Australia are offshore aquaculture and marine renewable energy (Turschwell et al., 2023).

> **Now is the time for all Industries, emerging through to long established, to mature with their achievements of walking the talk of ethical and equitable partnerships with First Nations.**

1.7. Project significance

The project addressed a significant and often re-occurring issue in many parts of the world, namely the need for Industry to move from their business-as-usual way of approaching their engagements with First Nations towards the ultimate transformative goal — real beneficial relationships with First Nations.

The cross-Tasman and Indigenous-led nature of the project is also significant in that it provided a platform for Indigenous research methodologies and perspectives to be centred in the work. Research focus around the Cultural Licence to Operate (CLO) is lacking and this study aims to raise much needed attention and dialogue as we present a first preliminary version of the CLO framework.

1.8. Key challenges addressed

The project addressed several key challenges around the Cultural Licence to Operate in the Blue Economy:

Firstly, instead of adopting informal and ad hoc methods to building partnerships and co-benefits, the project engages this challenge by developing a framework for earning partnership achievements by navigating expectations about building and maintaining of an ethical, equitable and sustainable partnership.

Secondly, instead of making assumptions about fairness and relying on personal intuition that fairness is tracking a particular way, this project addresses this challenge by building an evidenced-based approach to characterising a "fairness yardstick" architecture. This assesses views about the expected landscape of fairness and the readiness attitudes needed to build change initiatives that are fair.

Thirdly, instead of misunderstandings arising within the zone of agreement making, this project addresses this challenge by examining the divergent and convergence elements needed to progress agreement making between First Nations and Industry. It highlights those inherent challenges and mechanisms by which they can be overcome during partnership agreement making.

Lastly, the project addresses the move from states of rhetoric to action by transformative actions needed to deliver the co-benefit goals and to renew direction and awareness of the benefits in building and maintaining a rewarding relationship between First Nations and Industry.

1.9. Overarching project objectives

This study set out to address a persistence gap by providing some guiding tracks and transparency to shift out from a transactional way to engage with First Nations through 'keeping up an appearance' or 'at arm's length' to building and maintaining a relational way of maximising co-benefits. It set out to:

a. **Develop guidance and transparency** to enable a shift from transactional to relational partnerships with First Nations that maximise co-benefits.

b. **Guide efforts** to build resilient partnerships between First Nations and Industry through transformative commitments built on ethical performance and a measurable and equitable yardstick.

c. **Develop better understanding** for measuring partnership fairness against a yardstick built on an evidenced-based approach.
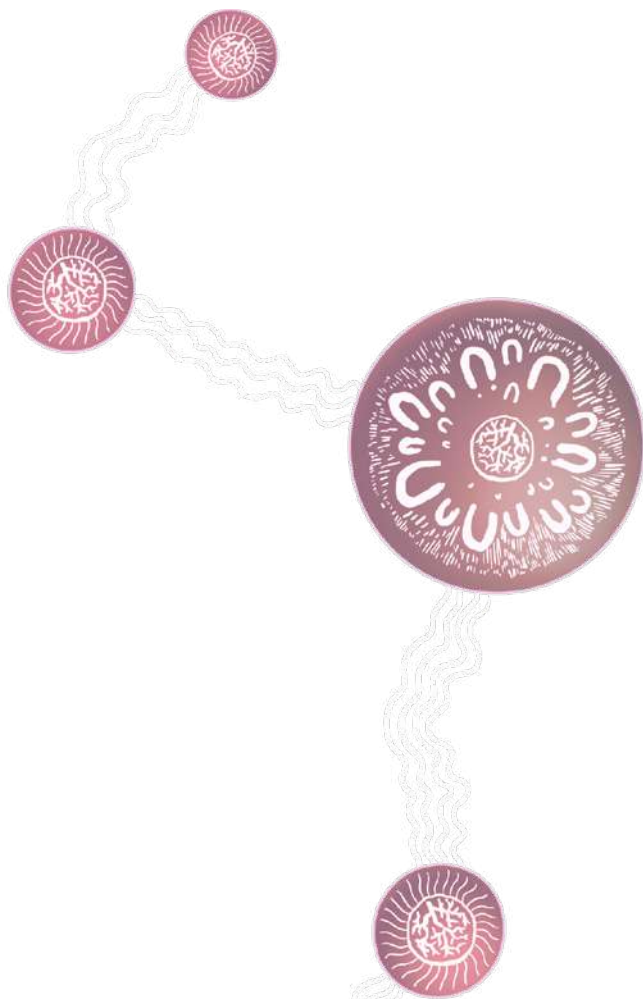
Part 2

Project methodology

2. Project methodology

2.1. Trans-Tasman project team

The four project partners involved organisations from Australia and Aotearoa (New Zealand) that included CSIRO, Swinburne University of Technology, New Zealand Plant & Food Research and Wai Communications.

The benefits of fostering the Trans-Tasman learnings across two countries was that we were able to draw upon multiple sources of learnings and information to help guide the development of the Cultural Licence to Operate framework. The project team also worked alongside the Blue Economy CRC. Importantly, the project team ensured the work was guided by First Nation researchers and practitioners by convening events and interactions to seek critical advice outside of the project team.

2.2. Fostering the Trans-Tasman cross-country learnings

There are differences in the past and current history with how Blue Economy Industries have worked alongside First Nations in Australia and Aotearoa.

There are many key factors shaping this difference. It is not the purpose of this scoping study to outline how and why past and current differences between Australia and Aotearoa have unfolded but rather to ensure we bring forward the learnings in each country to continuously improve on building ethical and equitable relationships into the future for strengthening global efforts with First Nations advancements in the Blue Economy.

We held engagement events that included members from both countries, and we also held events that included members from one country.

By an event focussing on one country (i.e., the Australian context) this enabled the team to focus on improving partnership dynamics without the complexities of trying to differentiate why one Country was falling short of the other.

> **Our focus is not to provide a Trans-Tasman comparative study but rather use the learnings within each country to advance national and international efforts of ensuring approaches are improved so they are not falling short of beneficial outcomes for both First Nations and Industry.**

2.3. Indigenous-led project

The Indigenous-led project team involved experienced Indigenous researchers and practitioners from both Australia and Aotearoa.

Each member of the five-member team is Indigenous and we descend from either Aboriginal, Torres Strait Islander and/or Māori heritage. Our experiences stretched across several key domain areas of coastal Indigenous livelihoods, Indigenous research methodologies, sustainable economic development, and equitable partnerships.

It was important that we upheld cultural integrity to our approach and brought our cultural values, perspectives and practices to the study, including our Indigenous Cultural and Intellectual Property (ICIP).

Dr Cass Hunter

Project lead, CSIRO | Australia

Cass is a Kuku Yalanji and Maluiligal woman from Far North Queensland.

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Alby Marsh

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Tribal Affiliations: Ngâti Ranginui, Ngai Te Rangi, Ngâ Puhi, Ngâti Hine, Te Rarawa.

Mibu Fischer

CSIRO | Australia

Mibu Fischer is Noonucal, Ngugi & Goenpul woman from Quandamooka Country, south-east Queensland.

2.4. Research ethics and ICIP

This project was undertaken by respecting and incorporating the Indigenous engagement protocols in Australia and Aotearoa.

Prior to the commencement of the project, the research aims, scope and proposed methods were reviewed for approval by the CSIRO Social Science Human Research Ethics Committee (CSSHREC). Key aspects of the participant consent process were outlined to CSSHREC, including that participation in the project was entirely voluntary and no information of a personal or culturally restricted nature would be sought or recorded. In order for free, prior and informed consent to be achieved, potential participants were provided with clear explanations of the research process. A full ethics application was submitted to the CSIRO Social Science and Human Research Ethics Committee and ethics approval (070/22) was granted in November 2022.

This report contains Indigenous Cultural and Intellectual Property (ICIP) belonging to First Nations Peoples. The parties acknowledge and agree that ownership of any ICIP will remain with Indigenous Peoples and this is outlined in the ICIP section at the start of the report. To eliminate audience confusion around ICIP, we detail at the beginning of the report the specific parts of the report that deal with ICIP. Any permitted reproductions must acknowledge the Indigenous contributors who in this case are the Indigenous Authors of the report.

2.5. Cross-sector engagement

Throughout the scoping project, four key engagement events were run that involved different audiences across the Blue Economy sectors (Table 3).

During the events, a mixture of open discussion and polled survey questions were used to build dialogues, hear audience learnings and gather insights. The open discussions allowed us to explore topics, concepts and frameworks. Our polling of the survey questions was carried out using the Slido platform and in some cases, the results of polled questions were discussed amongst participants during the event.

The ranking scores and percentages around participant responses gathered by Slido formed the basis of the bar charts and figures shown in this report. Further details around the design and audience involvement in the events is discussed below.

2.5.1. Range and design of events

Each of the four events were designed differently given the purpose and format of the gathering.

The respective duration of the four events was one hour, five hours, one and a half hours, and five hours. Different events focused on different topics given available time and relevant themes to discuss. Event 2 was the only event that had only First Nation members, the rest of the events had Indigenous and non-Indigenous as well participation across different sectors.

Event 2 was purposefully designed to create the culturally space for First Nations to openly and freely talk about issues. For each event, information sheets were provided to participants and consent for participation was sought before attendance. Traditional Custodians were remunerated for their time. Each event was facilitated by project lead, Dr Cass Hunter.

2.5.2. Seeking involvement in events

Across the events, participation was sought through a mix of either targeted or freely open invitation.

△ **For Event 1:** An open invite was sent to 50+ members attending the BE CRC Participant Workshop held in Fremantle.

△ **For Event 2:** A targeted invite was sent to 15 Indigenous members considered critical practitioners for providing constructive feedback.

△ **For Event 3:** A targeted invite was sent to key Industries with the offer to distribute among their networks.

△ **For Event 4:** The EOI distribution involved a mix of targeted and freely open invitation as matched to interest and availability. The targeting involved sending the EOI directly to numerous Traditional Owners, 5+ Indigenous Organisations, 20+ different Blue Economy Industries, several organisations from the Corporate Responsibility Sector, 10+Research Agencies and members from the BE CRC management team and board.
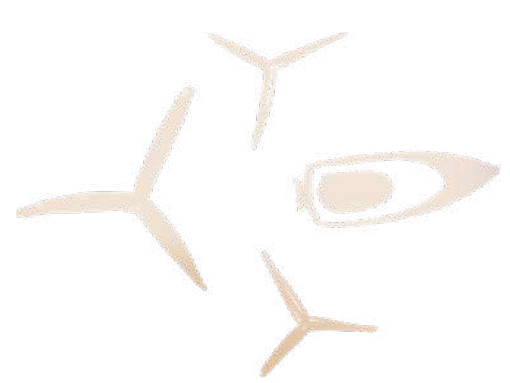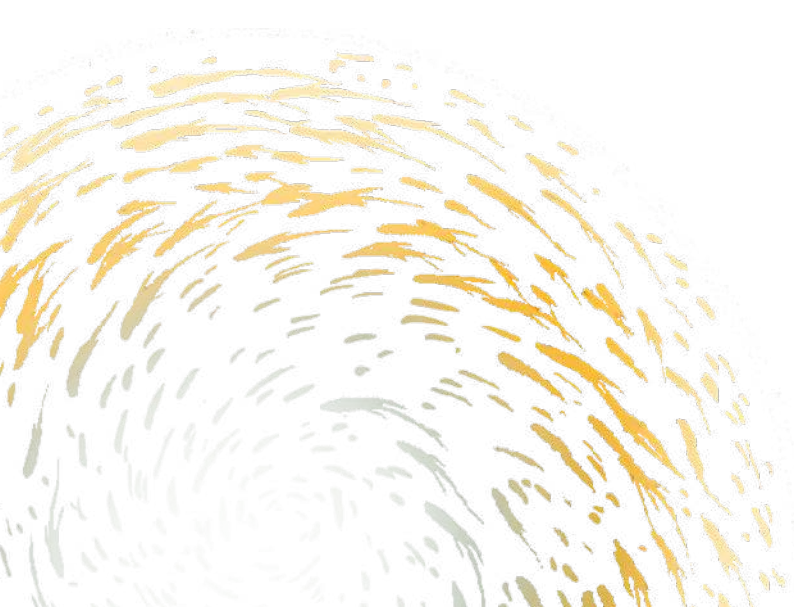
2.5.3. Attendance at workshops

Across our events, we had core membership that provided constructive feedback although participation levels across the range of Blue Economy Industries was not high.

It should be noted in events 1, 2 and 4 we did not have a high acceptance. This non-participation is likely to be a reflection of multiple factors such as availability, relevancy, and comfort levels with participation. Low comfort levels may arise due to inherent concerns about pointing fingers rather than being among a safe space to learn and reflect. We tried to create and publicise the environment of safe spaces for learning and reflection, but we are aware it takes time to build trust and willingness.

Table 3. Summary of the engagement events we ran during the project.

Workshop session at the BE CRC			
Event 1	**Invite Range**	**Attendance**	**Polled Questions topics**
Face-to-face; Session at BE CRC participant workshop **18th May 2023** **1 hour duration**	Invitation across members at the BE CRC event held in Fremantle	Industry, Government and Research sector were in attendance Δ 13 members in attendance	Total number of polled questions was two around the topic area of: Δ Partnership pathway & trajectory
Indigenous Forum			
Event 2	**Invite Range**	**Attendance**	**Polled Questions topics**
Online; Indigenous Forum **25th May 2023** **5 hour duration**	Sent to Indigenous colleagues considered critical practitioners. Only two of the invited group members did not join.	Aboriginal and Torres Strait Islanders from Australia Δ 8 members in attendance	Total number of polled questions was eleven, around the topic areas of: Δ Negotiated co-benefits Δ Partnerships Δ Incentives & compliance
Industry-focused WebCast			
Event 3	**Invite Range**	**Attendance**	**Polled Questions topics**
Online Industry-focused WebCast; **22nd June 2023** **1.5 hour duration**	Targeted invites to key Industries in Australia and Aotearoa as well as being run as an open event.	WebCast format keeps online audience anonymous but emails being provided during the session gauged that Industry, Government and Research sector were in attendance Δ At least 15 members given response scores from polled questions	Total number of polled questions was five, around the topic areas of: Δ Co-benefits & incentives Δ Fairness Δ Partnership
Cross-Sector Workshop			
Event 4	**Invite Range**	**Attendance**	**Polled Questions topics**
Online cross-sector workshop **22nd August 2023** **5 hour duration**	Invitation across members at the BE CRC event held in Fremantle	Industry, Government and Research sector were in attendance Δ 14 members in attendance	Total number of polled questions was ten, around the topic areas of: Δ Co-benefits Δ Competitive advantage & business case Δ Perseverance Δ Pragmatic agreement making

2.6. Phases around the framework formulation and data analysis

2.6.1. Phases around framework formulation and data analysis

The project was based around three key phases of formulation and analysis, as explained in further detail below.

In the first phase of the project the research team developed a draft the Cultural Licence to Operate (CLO) framework during internal team discussions in the lead up to and in preparation for the second phase which was a series of feedback and data gathering events. At each event, the draft of the CLO framework was explained to participants to stimulate discussion about its pillars and principles. Phase 3 involved formulating the key recommendations from concluding statements around key learnings and points.

2.6.2. Phase 1 – Method for defining the CLO framework

The project team meet regularly to build an initial framing of Cultural Licence to Operate (CLO) framework based on our learnt experiences.

The development of the pillars evolved as we developed the framework, these modifications included the ordering of pillars and the selection of terms used to define the Pillars. Some concepts needed many meetings and deep conversations to work through.

Each of the Indigenous authors in this project specifically brought their cultural experiences, learnings, and values to the development of the framework. From our understanding, there appears to be no other framing of the Cultural Licence to Operate framework in the literature nor is it a term that is used frequently in publications.

This study is the first in providing an initial framing to Cultural Licence to Operate framework in the specific context of the Blue Economy. In shaping the CLO framework, it was important to listen to feedback from outside our project team to see if the way it was framed could be improved.

Seeking this feedback involved targeted insights during our online feedback and data gathering events as a way of stimulating discussions around potential improvements to the initial framing of the CLO framework. We also sought external Indigenous reviewers to provide feedback on the framework and project. The team also meet regular to plan and design our engagement events, including the designing of the polled questions.

2.6.3. Phase 2 – Data analysis components

The comments from participants at each data gathering event were examined to find common threads of support or otherwise as well as suggestions for potential modification to the draft CLO framework.

The questionnaire data from the polled surveys was used to calculate a mix of percentages and ranking, which were then depicted in bar charts with text highlighting key trends.

2.6.4. Phase 3 - Formulation of recommendations

The key recommendations made in Part 7 of the report are linked to the concluding statements made across Parts 3 to 6. For clarity, recommendation 1 is drawn from Part 3, recommendations 2 is drawn from Part 4, recommendation 3 is drawn from Part 5 and recommendations 4 & 5 is drawn from Part 6.
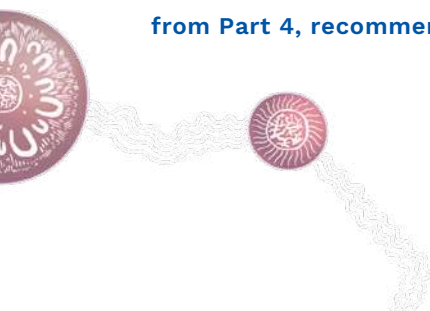
2.7. Report structure

The report structure, in addition to the Introduction and Methods section, has results and discussion divided into parts:

Part 3 – Presents and discusses the overarching Cultural Licence to Operate (CLO) framework and its seven key pillars.

Part 4 – Examines in detail Pillar 4 – Co-benefits of the CLO framework, in particular a fairness yardstick approach and how this supports change.

Part 5 – Explores Pillar 5 - Agreement of the CLO framework by addressing the divergent and convergent elements around the zone of potential agreement making.

Part 6 – Explores Pillar 6 – Risk & Impact of the CLO framework by focussing on the perceptions challenges and risks with First Nations and Industry engagement.

Part 7 – Concludes the report by providing a series of summarising recommendations for transformative commitments to make change in the engagement and relationship between First Nations and Industry in the Blue Economy.

Dividing the report into parts allowed for the specific background context relating to specific parts of the CLO pillars to be addressed as a preventative measure to avoid audience members getting lost in a large introduction section.

Each Part from 3 to 6, includes background context, aims, results, discussion and a concluding statement. The parts did not include a methods section since the approach is explained in this section. While Part 3 of the report addresses the seven pillars of the CLO framework, the project did not elaborate on each of these seven pillars as it was out-of-scope to explore all pillars in extensive detail.

Instead, pillars 4, 5 and 6 of the CLO framework were more extensively explored as they were considered more relevant to a cross-sector audience and seen as a more effective use of our audience time. Below, further context is provided around the specific way we approached the functionalities around Pillar 4, 5 and 6. It is important to note that more future work is still required for achieving the implementation of all seven pillars. Our study contributes towards the transitioning efforts around maturing the testing and progressive implementation of the CLO framework, but more work and investment is needed.

PART of the report	Details about the focus within the Part
WHY did Part 4 approach Pillar 4 of Co-benefits by addressing scoping the fairness yardstick?	For co-benefits to be reached it is crucial for fairness to be understood, this is why we focus on developing a new concept called the Fairness Yardstick. Reaching maximum co-benefits are unlikely to be achieved if fairness remains misunderstood.
WHY did Part 5 approach Pillar 5 of Agreement by addressing the zone of potential agreement making?	Since agreement making is a process, we explore agreement by understanding the divergence, emergence and convergence around reaching a workable pathway. It is important to understand the workable pathway through the emergence zone (i.e., zone of potential agreement making)
WHY did Part 6 approach Pillar 6 of Risk & Impact by addressing perceptions around challenges and risks?	A key part of risks and impacts involves addressing challenges, tension points and blind spots. The nuancing around workable agreements acknowledges the inherent risks and compromising to reach an agreed pathway forward.

Part 3

Cultural Licence to Operate framework

3. Cultural Licence to Operate framework

3.1. Why develop a Cultural Licence to Operate framework?

First Nations make repeated calls to work alongside business and sectors rather than be unfairly positioned to poorly interact or respond at arms-length through minimum to no relationship building around agreed and shared vision for co-benefits.

This distancing means that there are limited opportunities for Industry to earn respect and trust, create free prior and informed consent, and brings opaqueness as to whether First Nations are satisfied with any engagement. By formalising these processes, we look to the concept of a "licence" and agreement with the 'licence' in our framework more than a metaphor for informally earning permission so that opaqueness is removed.

> **An agreement process removes opaqueness by moving from uncertain endorsement dynamics to a transparent process, from inactive terms of engagement to active, from "I think I have support" to confirmation of support and most importantly from parallel tracks to a union.**

Across the literature, there is little work around the Cultural Licence to Operate. While the work by Lyons et al. (2023) acknowledges the need for re-centring the social licence around Indigenous innovations it does not specifically define a Cultural Licence to Operate framework. This study advances the work around partnerships by, from our understanding, providing a first preliminary version of the Cultural Licence to Operate Framework.

In our approach, the Cultural Licence to Operate (CLO) is framed around the standards of practice of ethically and equitably building a partnership that we have defined as a Cultural Partnership Pathway. The purposeful switch in terms helps to frame the need to create the ecosystem for an equitable, dynamic, and responsive system in which negotiations are customised at place where each Cultural Partnership Pathway is navigated by cultivating maximum co-benefits through courageously, innovatively, and iteratively bridging the gap between opportunities and challenges.

The CLO framework to the pathway system purposefully brings the complexities to the forefront by the creating the space to constructively work towards a pathway through building the groundwork for certifying the confirmed agreement on the pursued ethical and equitable performance. This creates the conditions in which the pathway system is built around the relationship ecosystem being ethical and equitable developed, scaled, and sustained.
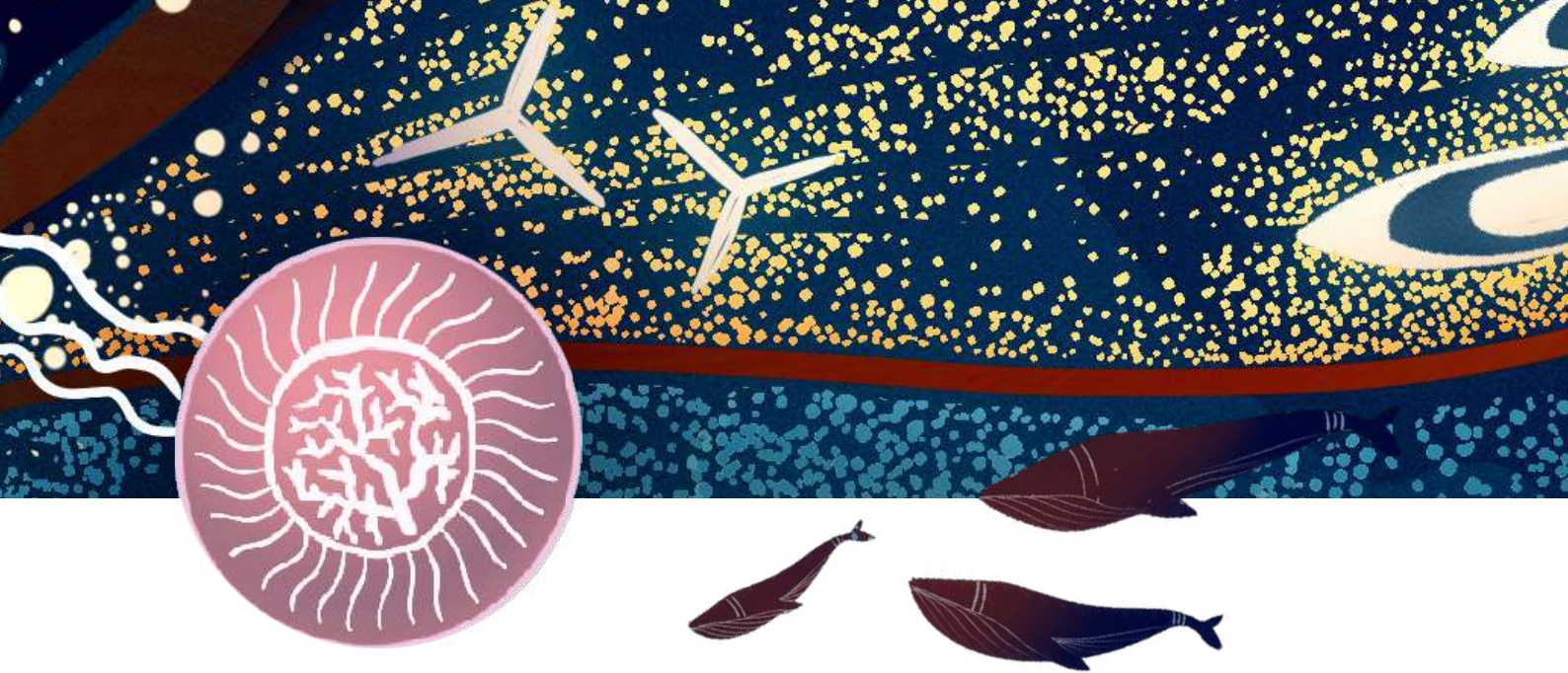
3.2. A framework for strengthening the connection and constructive dialogue between Rightsholders and Proponents

To help shift from partial to more relational and constructive dialogues between First Nations and Industry there is a need to move beyond 'at arm's length' or 'too hard' by setting up the space and opportunity for the constructive dialogue to allow the sense-making and informed decision making around respectful and equitable partnerships.

This goal is not straightforward as relationship building requires agency and is a dynamical and iterative process based on multiple factors including, developed trust, respect and experience, motivations and creativity, fairness disparities, availability of resources and timing. The framework helps to build the inertia and agency to progressively navigate forward to the aspired vision not build an end-to-end automatised result.

> **The inherent challenge with improving Cultural Partnership Pathways is that the guiding framework needs to be specific enough to offer genuine guidance in laying the right groundwork for earning trust and respect, yet broad enough to accommodate the wide range of pillars, perspectives and contexts that develops the dynamics of building and maintaining long-term relationships at place.**

The challenge is also around the experience of understanding, willingness, openness of any individual(s) within a proponent organisation at any particular time. Especially where relationships and practices are yet to be established, implemented, tested, and adaptively reviewed.

The CLO framework is intended to provide some guiding tracks and transparency to shift from transactional engagement with First Nations that are about 'keeping up an appearance' or 'at arm's length' to relational engagement that maximised co-benefits.

It is important to note, **the framework is not a prescriptive recipe book that contains every detail. It is designed to give guidance and place responsibilities on key people to build the journey together by working through opportunities and challenges.**
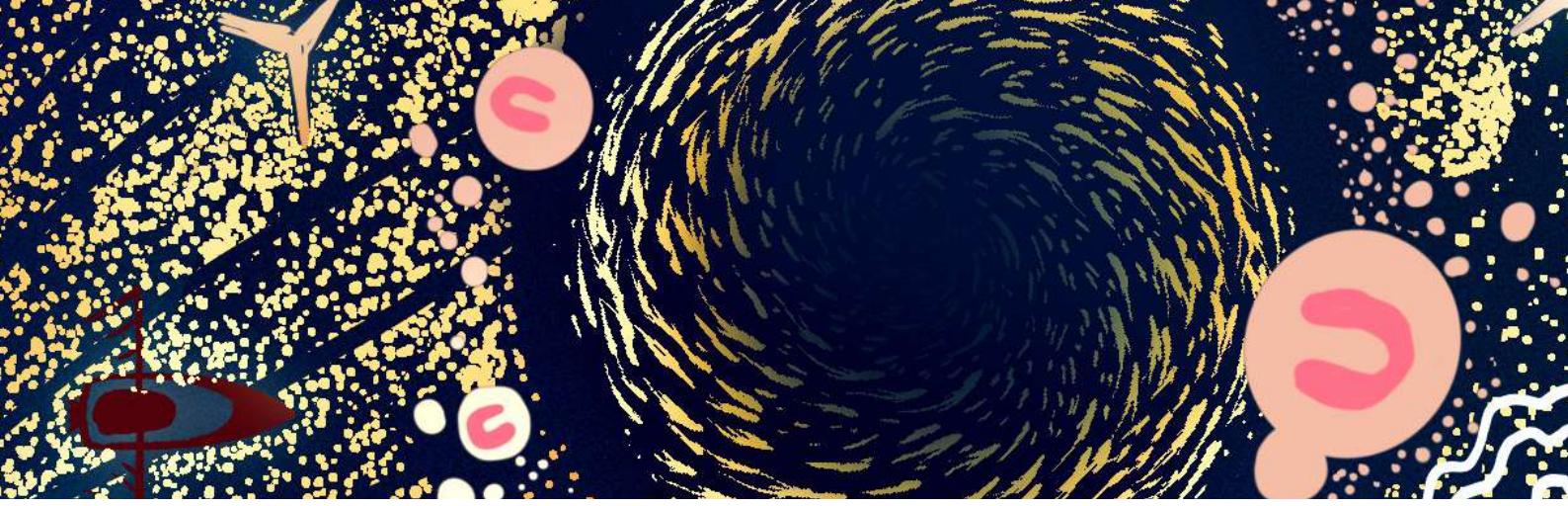
3.2.1. Aims of Part 3

In this part of the study, the central aim was to:

△ **Develop** the Cultural Licence to Operate (CLO) framework around standards of practice for ethically and equitably building partnerships with First Nations people.

△ **Identify** core outcomes of the CLO framework.

△ **Characterise** how the CLO frameworks transforms from transactional to transformative.

3.3. Results – development of the framework

The project team built an initial framing of Cultural Licence to Operate framework based on our learnt experiences and team discussions around cultural integrity (Figure 3).

The CLO framework and its pillars did not change from the original version presented to cross-sector audience members and to external Indigenous reviewers for their feedback. As such, the project team have played a considerable and fundamental role as the Indigenous contributors in developing and presenting a first preliminary version of the CLO framework as a basis for future testing.

The CLO framework represents an Indigenous viewpoint and is protected as ICIP. The project team is aware the CLO framework may evolve over time and with this evolution, it involves the prior written consent of the Indigenous contributors for permitted reproduction.

3.4. Core outcome components of the framework

The core outcome components of the CLO framework are to catalyse co-benefits pathways for elevating the strategic advantages of working together at place (Figure 2).

The core components reflect the overarching pillars of the framework that forms the Cultural Partnership Pathway:

1. Centring investment around values for returning reward.

2. Agreement to cooperatively build co-benefits at place.

3. Certifying performance and building wins at place.

Figure 2. Core outcome components of the Cultural Licence to Operate framework based around the co-benefit advantages from the Cultural Partnership Pathway.

CORE OUTCOME COMPONENTS TO THE CULTURAL LICENCE TO OPERATE FRAMEWORK

The Cultural Partnership Pathway is not specific to a type of sector or environment, meaning it can be adopted in both land, coasts, sea and offshore environments.

The partnership pathway approach can support a range of Industries (e.g., marine, mining, offshore renewables and tourism) to create the ecosystem for an equitable, dynamic and responsive system in its partnership approach with First Nations.

In our project, the first preliminary version of the CLO framework is applied in the case of the Blue Economy sector. We hope the learnings can be shared with other Industry sectors.
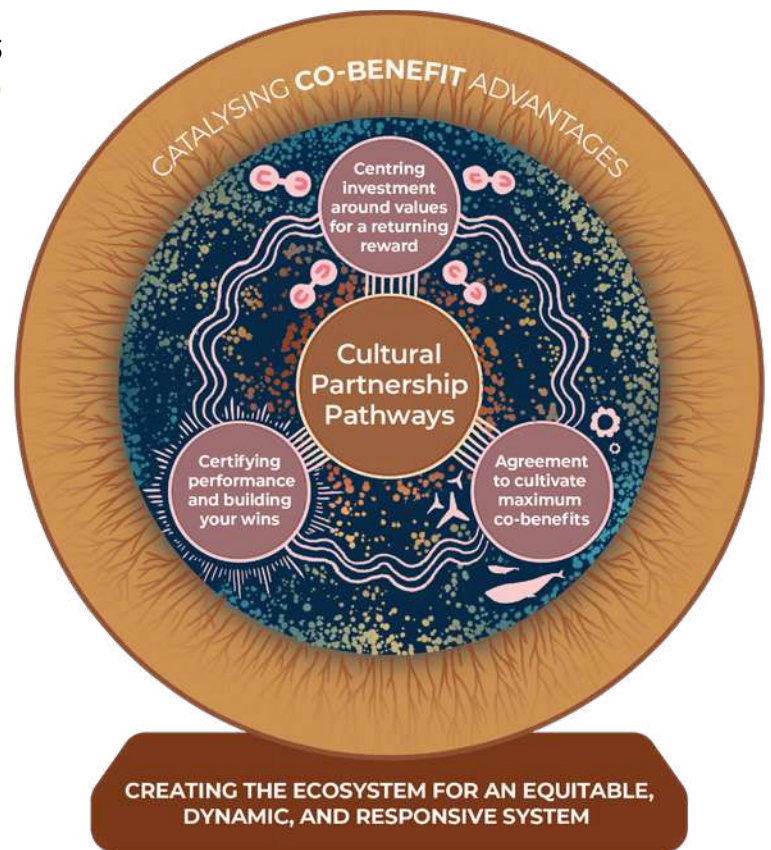
3.5. How is the framework designed to shift from transactional to transformational?

Unlocking the handbrake to reaching a rewarding partnership is encouraging Industries to move from their business-as-usual way of approaching their engagements with First Nations towards the ultimate transformative goal — real beneficial relationships with First Nations.

The approach is aiming to shift from transactional to transformational through moving from rhetoric to actions that breaks through to better co-existence and partnership models. The transformational change is summarised in this graphic.

Re-orienting from routine inertia to explore new strategic alternatives

Embrace uphill climb to evolve risks to rewards

Anchoring to the building of trust and understanding

Cultivate maximum co-benefits centred around values

Constructive dialogues to reconcile tensions through deeper learnings on both sides

Certify performance and adjust to new benchmarks

Customising and tailoring to reach a workable pathway at place

Communicating the learnings and wins

Core to the Cultural Partnership Pathway is it being carried out at place: this 'place' is the local First Nation clans/communities. The consistency in the framework is for Blue Economy Industries to work fairly and respectfully at place not in the consistency to be locked into only one particular way to deliver and achieve co-benefits.

At each place the scaling and sustaining of co-benefits is enabled by cultural, social, relational, environment, economic, strategic, and operational factors. As such, the negotiated co-benefits will vary across places given the choices and aspirations of First Nations and the sustaining environment to catalysing and scaling up benefits.

3.6. How does the framework relate to ESG reporting standard?

The framework helps to drive better implementation of sustainable development practices and disclosure. The framework is not an Environment Social Governance (ESG) reporting standard that Industry can report to investors and stakeholders about how it engages with First Nations. The way the framework has been designed is to help support the implementation of practices at place.

Additional work would be needed to convert the framework into supporting the way Industry is required to report on its activities with First Nations. It is beyond this scoping study to make shifts with ESG reporting, but we are aware of the importance of improving the way of creating an independent approach to assess if First Nations are satisfied with relationships and pathways forward with Industry.

3.7. Pillars of the Cultural Licence to Operate framework

The Cultural Licence to Operate framework is based around seven key pillars that provide a guiding compass to the sense-making, trust-making and behaviours for Industry to boldly 'walk the talk' of respectfully and productively working alongside First Nations.

We do this by challenging the notion of exploitative growth through creating economic and cultural opportunities in ways that centre value for Indigenous peoples and families (Figure 3). The *Cultural Licence to Operate is framed around the Cultural Partnership Pathway*. As such, the 'licence' is earned in place by building and maintaining trust for a Cultural Partnership Pathway to achieve the ultimate transformative goal — real beneficial relationships with First Nations through a rewarding partnership to share the risks, responsibilities and resources.

We also need to move from an assumption that consent or approval or permission or licence is a one-off greenlight or endorsement, to understanding that all these processes require solid foundations to establish and maintain, and do not exist in perpetuity so can be withdrawn.

Figure 3. The Cultural Licence to Operate framework to building at place Cultural Partnership Pathway in the case of the Blue Economy.
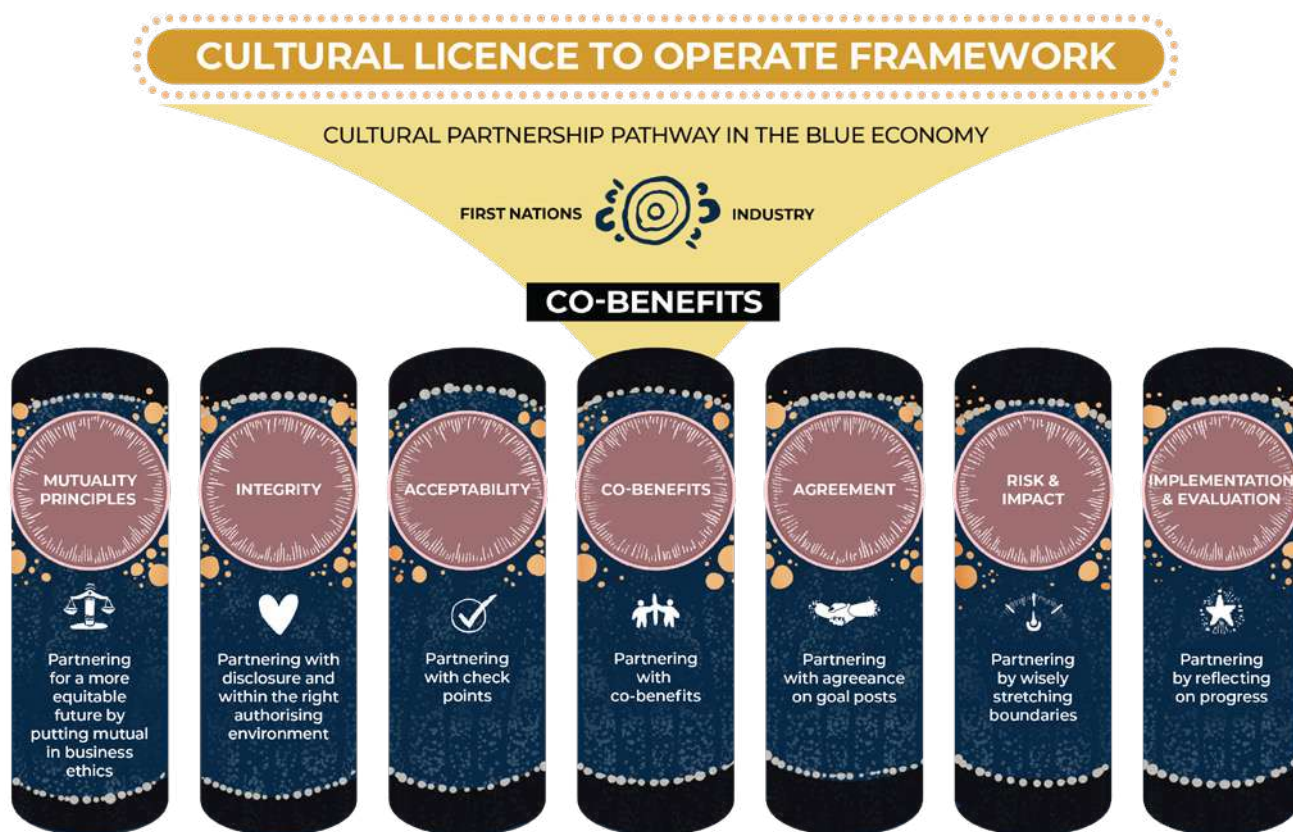
Each of the seven pillars play their part in creating the ecosystem for an equitable, dynamic, and responsive system in which negotiations are customised at place where the partnership pathway is navigated to help cultivate maximum co-benefits through the relationship courageously, innovatively, and iteratively developing trust to share the risks, responsibilities and resources. Each pillar is discussed in more detail below. By sharing the risks, responsibility and resources it delivers the rewards for both First Nations and Industries.

3.7.1. PILLAR 1 – MUTUALITY Principles
Partnering for a more equitable future by putting mutual in business ethics

Mutuality is a core part of business ethics which involves working inclusively, respectfully and equitably alongside people and communities.

Nowadays, business ethics has a considerable growth in Industries and organisations. Business ethics is a comprehensive term covering all ethical issues that arise in the course of doing business. It represents rules, standards, symbols or principles that provide guidance for ethically appropriate behaviour in management decisions related to company operations and working relationship with the community.

Business ethics requires Industries to adopt a different strategic and operational approach that is not only about profit and shareholder demands, but also one of respect and responsibility. We define MUTUALITY principles that sets up the compass for ethically partnering with First Nations (Figure 4).

Figure 4. Mutuality principles for First Nations and Industries to work ethically alongside each other.

MUTUALITY principles for Business & Industries to work ethically alongside First Nations

M ake the commitment to respecting genuine and inclusive participation based on critical cross-cultural competencies

U nderstand the goal posts on both sides and put actions in place that show urgency to activating equitable mobility

T rust and generosity by honest disclosure and sharing of intentions

U nite by understanding each-others standards and codes of conduct for respectfully working together

A ccountablity is mutual and upheld through co-operative processes

L earn to reconcile by addressing implicit bias and reflecting on how individual perspectives might blind us

I nnovate ways of working together through strong system of shared governance and transparent communication

T ailoring agreements to each community by a commitment to respect place-based aspirations and authority

Y ardstick of fairness by mutual co-benefits based around an ecosystem that is equitable, dynamic, and responsive
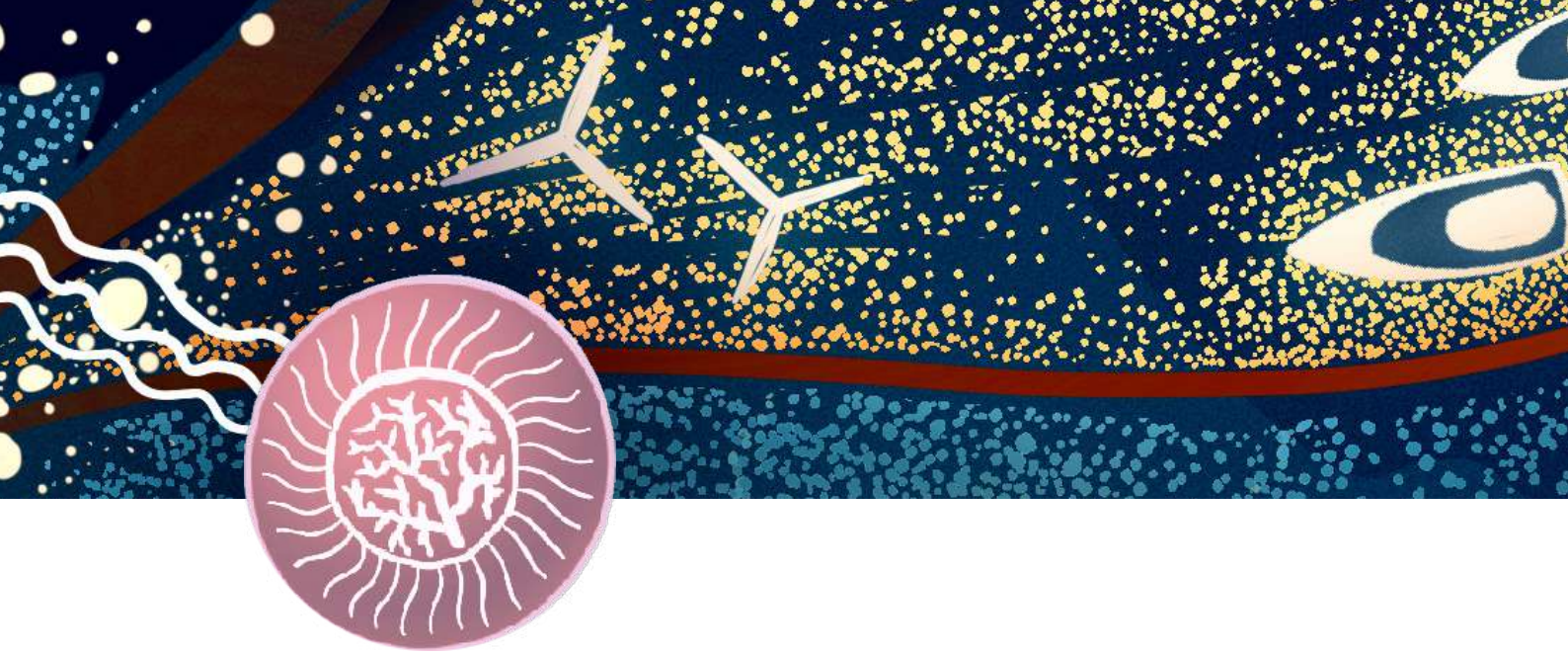
The U principle within the MUTUALITY principles is important for industry to understand by being aware and respectful of the standard of practice for working alongside First Nations.

It is also important for First Nations to understand Industry standards and regulations. Below, we have defined a code of conduct that reflects this respectful and ethical practice (Figure 5).

> " Genuine interest on each side to understand the aspirations and vision of the prospective partner – usually involves listening and asking questions. "

Figure 5. Standard of practice for Blue Economy Industries to working alongside First Nations. Note, this standard could be used in other industries.

MUTUALITY PRINCIPLES

UNITE BY UNDERSTANDING STANDARDS – FIRST NATION STANDARD

Principles to define the Standard of Practice of working alongside First Nations

First Nation standards of practice:

People, country and culture:

- Commitment to respecting relationality, cultural learning and holistic views.
- Commitment to respecting place-based knowledges, protocols, practices and rights.
- Commitment to respecting genuine and inclusive participation, including the rights of youth, disability, Elders, gender, communities and sea country.

Process and pathways standards of Practice:

- Recognising and co-operating with the right of self-determination to reduce disadvantage.
- To engage with ownership and access of data sovereignty and strengthen Indigenous Intellectual Property.
- Applying a rights-based approach to agreements, economic development and Sea Country.

Licence and legitimacy standards of Practice:

- Free, prior and informed consent governs all agreements and benefit streams.
- Transparency and accountability are mutual and co-operative processes that acts in a timely manner.
- Culturally appropriate governance and reporting frameworks.
- Positive social and cultural impact and reducing risk to Indigenous Peoples.

3.7.2. PILLAR 2 – Integrity Partnering with disclosure and within the right authorising environment

Integrity requires working at place with honesty and respecting cultural authority at place:

Honesty: is at the heart of parties coming together. Disclosure of intent enables parties to have clarity and reduces ambiguity around motivations and intentions.

Authorising environment: It is important to work with the right authority (status matching). This status matching is setting up the right authorising environment, the right cultural authority with the decision-makers within Industry.

Key messages:

> Don't go black shopping to get the response you desire.

Supporting tips:

Aotearoa (New Zealand) implements a disclosure template for the research sector to have transparency for intent and objectives to engage and partner.

Future advancements:

In the future, it would be useful to develop a disclosure template that would support Industry and First Nations in the case of developing co-benefits from Blue Economy.

This disclosure is a step towards the transparency and honesty with intent to work towards an agreed partnership.

3.7.3. PILLAR 3 – Acceptability
Partnering by checking-in

Acceptability recognises that underlying limitations need to be checked to see if they create irreconcilable aspects or unacceptable provisions to parties working together.

Checking in helps to provide the careful oversight to make sure that every party has ample opportunity to share their concerns before investing the highly intensive time into working through the stages of agreement-making.

Checking in helps to bring concerns to the surface and offer a more prompt and direct approach to addressing the acceptable tolerance range and unacceptable conditions.

This checking of available provisions (e.g., resourcing) and inherent lines in the sand (non-negotiables) prior to agreement making offers a time-efficient way to identify potential concerns and irreconcilable differences to help prevent parties wasting time into building a partnership that has red-flags in it not working for one or more parties.

Indicative check points can give rise to different acceptability dynamics through raising orange, red and green lights. The dynamics are:

△ Check – Satisfied – Green light to move on with progressive discussions;

△ Check – Unsatisfied – Orange light – Improve provisions – Move on with progressive discussions;

△ Check – Irreconcilable – Stop red light – No progress to agreement-making.

Key messages:

> **Be prepared for a community not to waste their time with a poorly resourced or highly constrained opportunity.**

Supporting tips:

Understand that acceptability dynamics can go through green, orange and red flags.

Future advancements:

In the future, by adopting disclosure statements it would help parties to be on the front-foot as opposed to back foot of hitting unexpected surprises. It is important that the framework, through the acceptability pillar, eliminates the time wastage in trying to reconcile a partnership agreement that is actually inherently irreconcilable.

This means in some cases the dialogue between First Nations and Industry will not proceed forward to the next part of discussing co-benefits. In time, it is possible negotiation could be reset if there is a change in any irreconcilable aspects.

3.7.4. PILLAR 4 – Co-benefits - Partnering with co-benefits

There is spectrum of co-benefits that range from one-dimensional benefits to more novel ways that scale up co-benefits across multiple dimensions.

The dimensions of benefits range from employment, training and development, co-operative operations, grants, offsetting payments, local business and procurement opportunities, community shares and equity stakes in projects. Developing co-benefits can be approached from alternative ways. Below, we have defined some ways but are aware there needs to be more exploring and articulation of innovative ways to maximise co-benefits across the layers of economic, social and environment benefits (Figure 6).

Key messages:

> **Build relationships that help to build lasting infrastructure for economic mobility of First Nations.**

Supporting tips:

Resources:

⊿ **Guide to Benefit Sharing - Renewable Energy Projects**

Future advancements:

In the future,

⊿ **Develop a template for the business case of co-benefits.**

⊿ **Co-benefits tiers that promote paths to upward mobility and lasting infrastructure.**

Figure 6. Towards the scoping of the spectrum of co-benefit options from an agreed partnership pathway between First Nations and Industry.
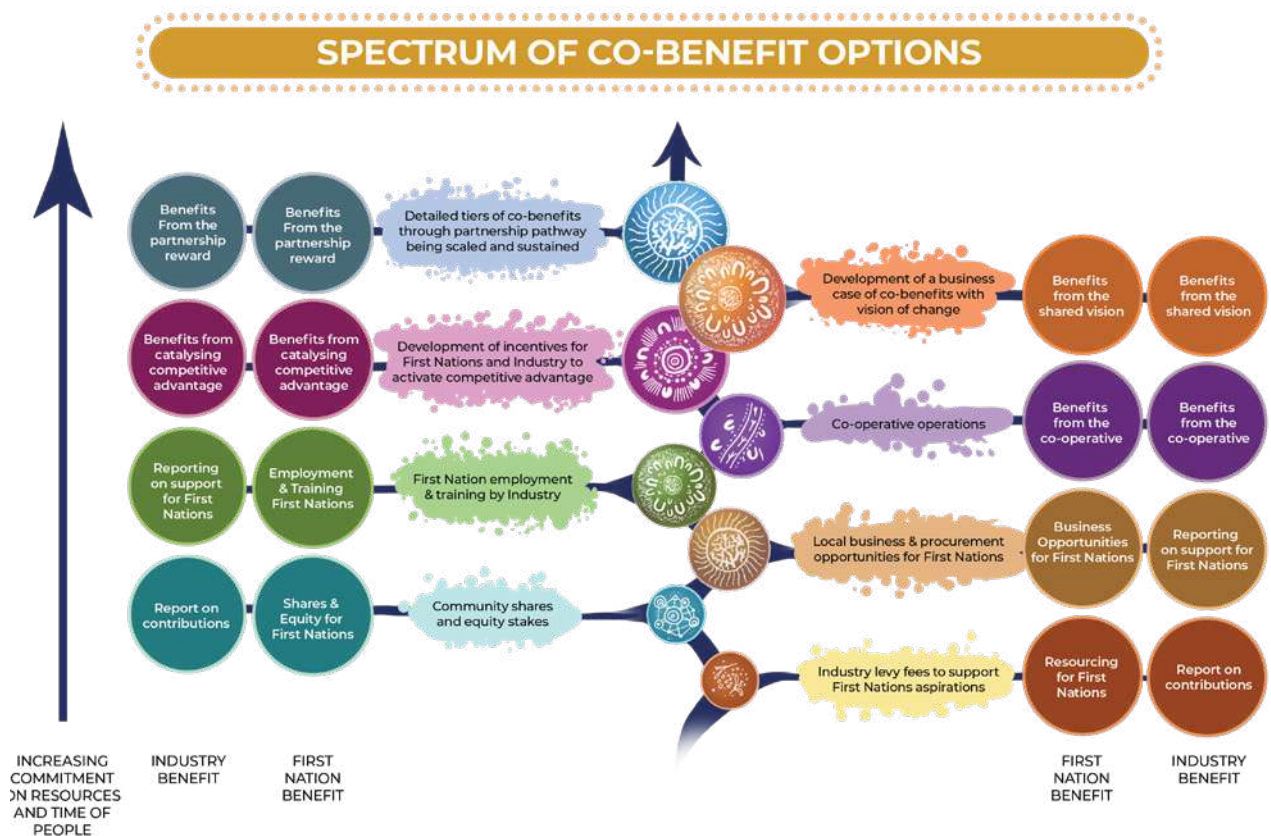
3.7.5. PILLAR 5 – Agreement – Partnering with agreeance on goal posts

The goal posts for agreements likely covers a wide range of subject areas, including, benefits, cultural heritage & environmental protection, resolution of conflict and addressing compensation payments.

In Australia, a common way that agreements between First Nations and Industry are formed is through an Indigenous land use agreement. Currently, there is no terms to signify agreement over sea country such as through Indigenous Sea Use Agreement.

Key messages:

> There needs to be triggers within the agreement for it be reviewed so that consent and business-as-usual benefits are not just assumed to be locked in.

Supporting tips:

Supporting Resources:

△ [What do strong agreements contain - Clean Energy Agreement Making](#)

△ [Best practices for Impact Benefit Agreements](#)

Future advancements:

In the future,

△ Develop a visible template of agreement making

3.7.6. PILLAR 6 – Risks & Impact
Partnering by wisely stretching boundaries

A siloed approach to risk management completely ignores the intersection of risks and their connected nature. Organisations need to be aware of this interconnectivity when working through risk tolerance and risk appetite.

Key messages:

> Through risk tolerance comes rewards.

Supporting tips:

Website:

△ [CSR_Balancing_Risks_and_Rewards](#)

Future advancements:

In the future,

△ Develop a template for working through the risks and impacts.

3.7.7. PILLAR 7 – Implementation & evaluation Partnering by reflections on progress

It is critical to evaluate and foster new breadths to measuring success, as well, establish the implementation pathway for creating the collaborative and responsive environment to deliver appropriate success.

Reflection: Defining the cultural partnership pathway as work-in-progress acknowledges the strengths and limitations to continuously building and maintaining a maturing and evolving relationship.

3.8. Building the readiness groundwork to execute the Cultural Partnership Pathway

Building and executing a Cultural Partnership Pathway between First Nations and a Blue Economy Industry needs the readiness groundwork before setting up the parties to work mutually together (Figure 7).

This readiness was re-affirmed by participants in this scoping study. It is important to build readiness by understanding:

Key messages:

" Important to honestly evaluate Corporate Social Responsibility impact. "

Supporting tips:

Resource:

△   Approaches to Evaluate CSR impact

Future advancements:

Looking to the next logical steps on the back of this project, there is a fundamental need to test and implement the *Cultural Partnership Pathway* approach.

- △ Time commitment and appropriate bandwidth of resources.
- △ Critical questions for understanding background context.
- △ Competencies for engaging and brokering fair negotiation.

This study makes a start are defining some of the readiness components around asking critical questions around sustaining readiness and building capacity (see some readiness components at the start of Figure 7). It is beyond the scope of this study to define all the readiness elements.

Figure 7. Executing the Cultural Licence to Operate framework through consideration of readiness and sustaining of the Cultural Partnership Pathway. This study makes a start at defining some readiness components. Note, there are likely to be other components.
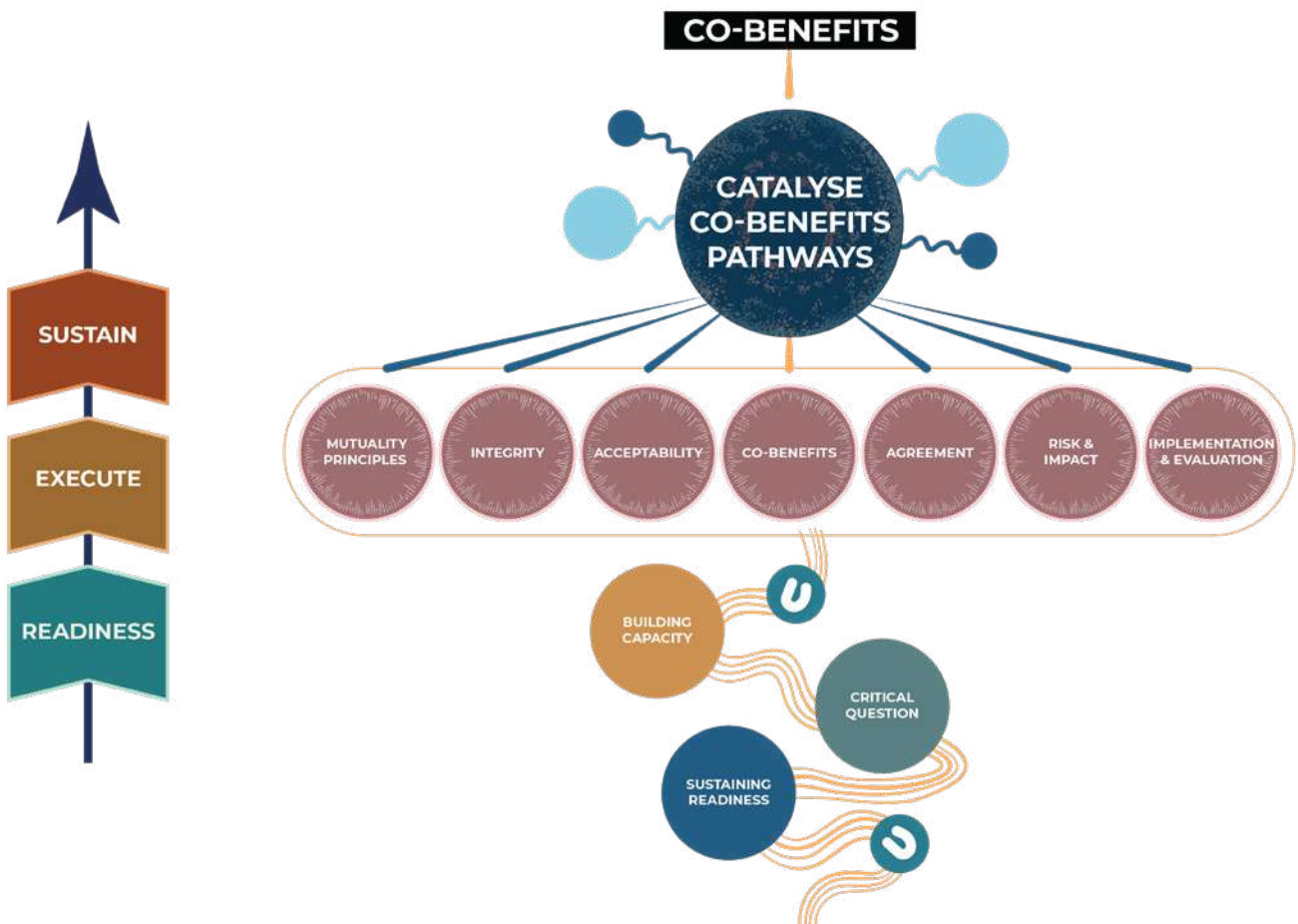
3.8.1. Summary about shifting away from ineffective partnerships

In summary, we need to shift away from ineffective partnerships by understanding why a partnership is likely to take a path of being ineffective.

A PARTNERSHIP IS LIKELY TO BE INEFFECTIVE IF ...

The partnership was established just to "keep up appearances"

There is no sharing of risk, responsibility, accountability or benefits

There is a hidden motivation which is not declared to all partners

One person or partner has all the power and/or drives the process

The inequalities in partner's resources determine their relative influence in partnership's decision-making

Partnership members do not have the training to identify issues or resolve internal conflicts

3.9. Discussion

3.9.1. Unlocking the handbrake to reaching a rewarding partnership

A rewarding partnership is earnt by developing trust to share the risks, responsibilities and resources.

Our preliminary Cultural Licence to Operate framework brings visibility to building blocks towards bridging the opportunity and challenges through earning transformative partnership achievements that navigate the waters to meeting the expectations of an ethical, equitable and sustainable partnership.

This framing provides a guiding compass to the sense-making, trust-making and behaviours into satisfying the expected practices for navigating and reaching the brightest star (maximum co-benefits).

REFORM   TRANSFORMATIVE EDGE   TRANSFORMATION

While progress has been made in Australia and Aotearoa with First Nation and Blue Economy Industry partnerships, there is still the need for the compass to be set to brightest star otherwise we are falling shorting of outcomes for both First Nations and Industry.

The framework is helping to create the checking points that our compass is being dialled to the right settings of maximum co-benefits (brightest north star) given aligned interests. This step change of re-dialling to maximum co-benefits through reforming partnership practices is a framework designed to elevate the transformative edge and transformational change across Blue Economy Industries.

This pivoting changes the formula of corporate responsibility through a more legitimised and objective way of implementing and earning a Cultural Partnership Pathway that maximises co-benefits. The adoption of narrow boundaries around corporate responsibilities can omit key change pieces from disclosure, reducing the usefulness of CSR reports (Ringham & Miles, 2018).

Historically, the boundary around disclosure has been unchallenged. Corporate responsibility strategies rings hollow if they remain in the subjective greyness and do not focus on the steps to objectively reaching co-benefits.

3.9.2. Conclusion – Extension of the work

Our preliminary Cultural Licence to Operate (CLO) framework brings visibility to building blocks to meeting the expectations of an ethical, equitable and sustainable partnership.

Looking to the next logical step from this scoping project is the next phase around the fundamental implementation phase of testing the CLO framework at place through piloting the pillars and principles framework.

This testing is vital in the transitioning out of a preliminary framework into an applied and tested framework. This implementation provides applied grounding for guiding the pivoting in Industry and business models on an improved trajectory with mutual understanding, goals and purpose.
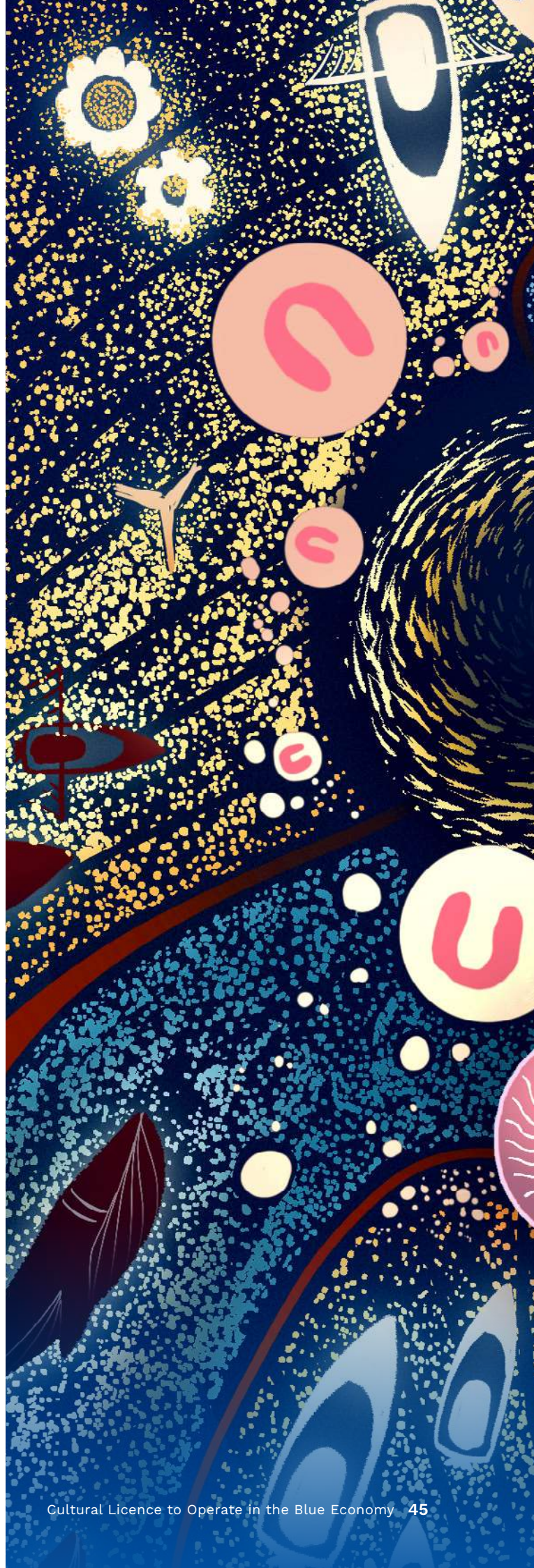
Part 4

Scoping the fairness yardstick

4. Scoping the Fairness Yardstick between Indigenous People and Industry

4.1. Background context to fairness

4.1.1. Enabling environment of fairness

Fairness is something people feel. Fairness is in the eye of the beholder and is a perception of the just exchanges between people (Colquitt et al., 2018).

This perception of fairness means we need to pay attention to how fairness plays out in the interactions and gestures between people.

We need to understand the enabling environment around what is contributing to the feelings of fairness and the anchors of fairness.

Five readiness elements to fair change ('fairness anchors') has been characterised by Austin et al. (2020) based around discrepancy, appropriateness, valence, self-efficacy and fairness. Fairness is stretching across many sectors. More questions are being asked about Industry sectors fairly working alongside First Nations (Kung et al., 2022).

Unbalanced bargaining positions can see First Nations accept terms not because they are fair but because there is no other choice. The change around the enabling environment of fairness helps to ensure First Nations are not falling short of meeting their fairness expectations.

First Nations may be securing some level of benefit from their interactions with Industry but a deeper question needs to be asked *"are the terms really fair, how much should Industry invest for a returning reward?"*.

4.1.2. Fairness in the Blue Economy through advocacy and authenticating fair change

Expectations of Industry to meet more fairer ways of operating have been raised by several authors (Croft et al., 2023; Österblom et al., 2020; Van Stavel et al., 2021).

As we move towards increasingly diverse use of ocean ecosystems across the world, it is critical to ensure inclusion of the social dimensions and needs of local communities in assessment and decision-making (Bennett, 2018). It is argued by Haward & Hass (2021) that ocean sustainability cannot be achieved without adequate attention to social issues and Croft et al. (2023) addresses the importance of achieving fairness.

> Yet, there remains a gap in the literature about how to measure fairness achievements, that is, working through the fairness yardstick.

This fairness yardstick is a concept we developed in this study as little research has focussed on authenticating fairness by placing explicit focus on quantifying how practices have measured up to fairness expectations.

This is needed because the work carried out in the Blue Economy advocates for increasing fairness but lacks articulation of the architecture of the moving parts influencing the variation in fairness.

The advocacy for fairness and authenticating fairness are both important and complement the uplift in fairness practices. Advocacy calls for change and uplift. Authenticating fairness confirms the fairness expectations and readiness to meet the expectations.

Global structures of power, equity and politics still contain elements of the 'old power' which are the old institutions (Alexander et al., 2022). Therefore, progress on equity in our ocean must be viewed in the context of structure-agency: whose equity and fairness, when and in what context?

A widespread challenge facing fairness in the Blue Economy is the natural inclination to rely on intuition that fairness is tracking a particular way rather than on insights and data that supports and quantifies the measuring up to the fairness yardstick. This yardstick architecture helps to define variation in fairness, expectations to be fair and readiness to be fair. With First Nations often being left behind in Blue Growth, now is the time to take a deeper dive in understanding how we can go about efforts with measuring up to a yardstick around fairness.

Instead of fairness being poorly characterised, quantified or overlooked, we need to give visibility to the yardstick architecture. To fill this gap, we explore the fairness yardstick architecture. This is important in understanding as it helps to build understanding around why Industries can be falling short of First Nation expectations for fair outcomes.

Since the concept around the multi-dimensions of the fairness yardstick is not well explored in the literature, we thought it would be useful to the audience to provide a conceptual framework (see section 4.2 below). It was important for this overview to explain how the yardstick links to components of fairness expectations and fairness readiness.

We explore different modes of fairness by describing the interplay between the length and tilt of the yardstick.

Note, it is out of scope for this study to measure and differentiate the exact point that Industries are on the Fairness Yardstick, but we can help an audience build their understanding around the mode playing out and which mode would be preferred.
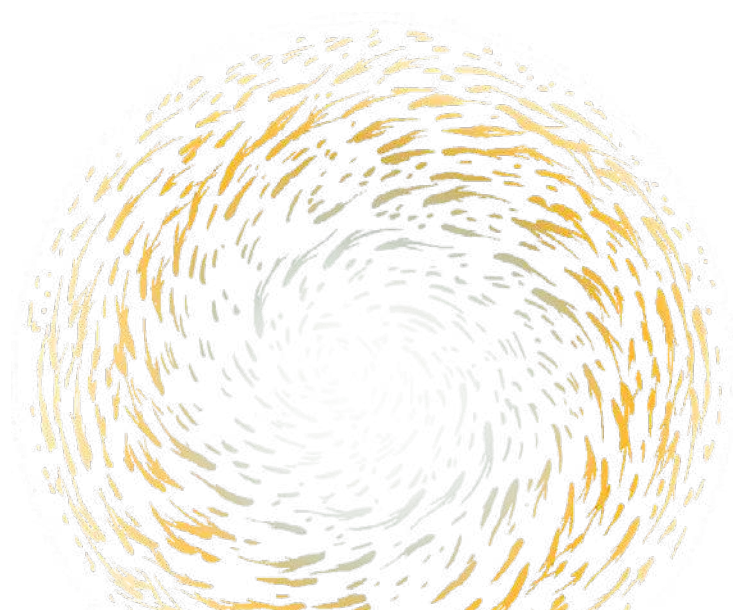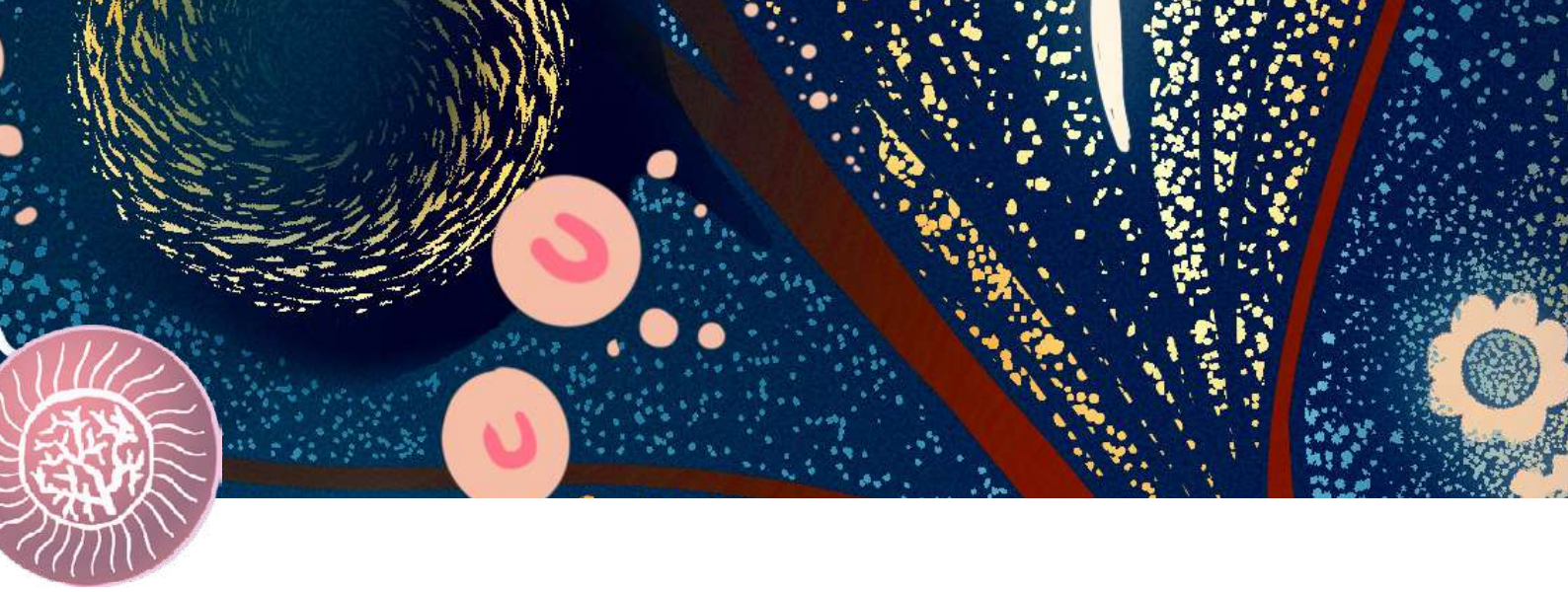
4.2. Conceptual Framework of the varying modes of measuring up to the Procedural, Distributive and Interactional Fairness Yardstick

4.2.1. Setting the fairness expectations of Fairness Yardstick – what is the enabling environment for meeting fair change?

Fairness is something people feel. Fairness is in the eye of the beholder and is a perception of the just exchanges between people (Colquitt et al., 2018).

Fairness expectations shapes the length of the fairness yardstick. This means the length is expanded by the range of fairness expectations. It is important to understand the fairness expectation as this is the enabling environment for meeting fair change.

Below, we characterise some of the fairness expectation elements documented in the literature around procedural, distributive and interactional fairness (Figure 8).

Figure 8. Fairness expectations to shape the procedural, distributive, and interactional components of the Fairness Yardstick.

FAIRNESS EXPECTATIONS OF FAIRNESS YARDSTICK

PROCEDURAL FAIRNESS
- Openness to input
- Consistent
- Ethical
- Representativeness
- Accuracy
- Bias suppression

DISTRIBUTIVE FAIRNESS
- Distributive criterion
- Appropriateness
- Equality
- Rights
- Allocation of benefits

INTERACTIONAL FAIRNESS
- Respectful communication
- Capable engagement
- Honesty
- Justification
- Empathy
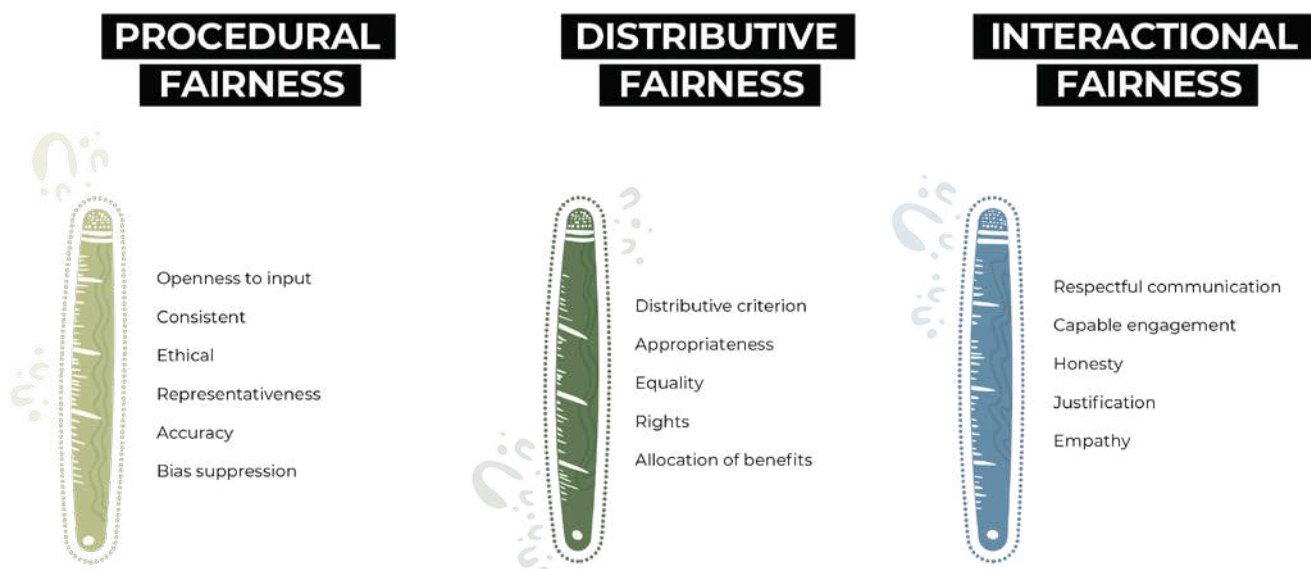
4.2.2. Multi-dimensions of the Fairness Yardstick

There are many moving parts to the feeling of fairness and means the yardstick architecture is expandable by each moving part. This creates multi-dimensions to the yardstick and varying stretches of the yardstick.

The length of the fairness yardstick is expanded by the range of fairness expectations and the tilt of the yardstick is shaped by readiness and capacity to meet fairness expectations.

The range of fairness expectations (i.e., setting the length of the yardstick) is discussed above in section 4.2.1 and the elevating tilt is explained in further detail below in 4.2.4.
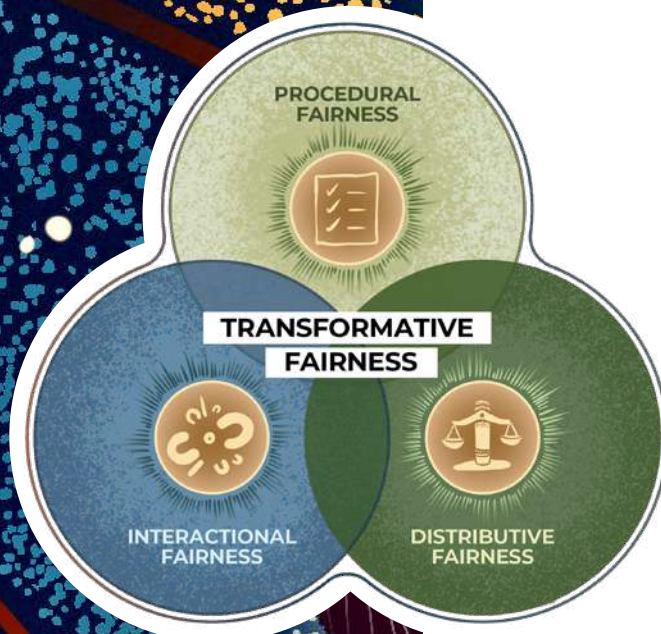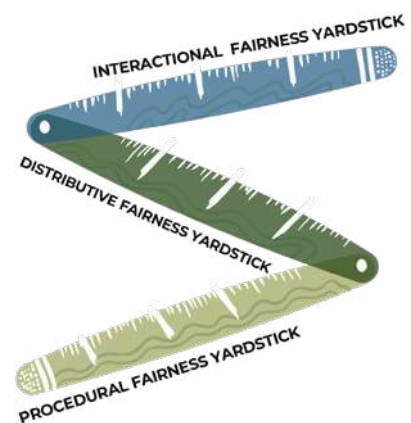
4.2.3. Multi-dimensional readiness to fair change

As outlined by Austin et al. (2020), there are five readiness elements to fair change ('fairness anchors') based around discrepancy, appropriateness, valence, self-efficacy and fairness.

We explore these components in this study and link them to tilting the Fairness Yardstick.

READINESS FOR FAIR CHANGE
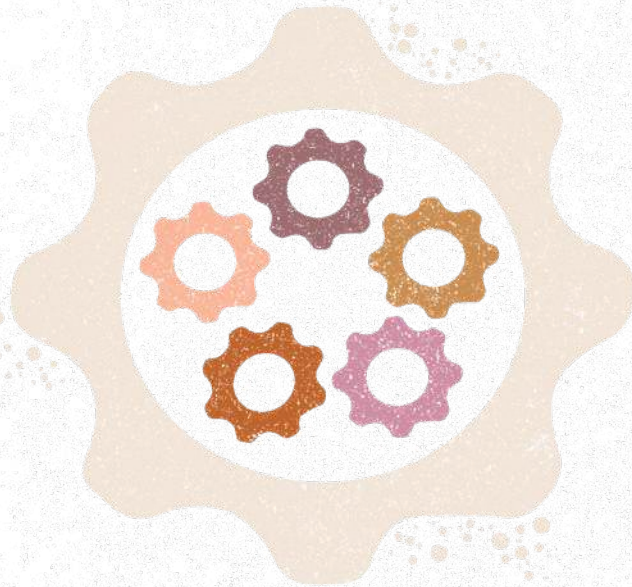
Discrepancy – an individual's perception of the need for *change*

Appropriateness – an individual must also believe in the of the given change

Valence – an individual's assessment of whether or not the proposed change is beneficial

Self-efficacy – is an individual's confidence in their ability to participate & implement change successfully

Fairness – an Individuals involved in fair change initiatives are more likely to display commitment to the change when fairness is considered

4.2.4. What elevates the tilt of the yardstick up to maximising Fairness?

There are fairness anchors that play a part in tilting up the fairness yardstick towards maximising fairness benefits.

◬ For **procedural fairness** one of the key components for tilting is the appropriateness anchor.

◬ For **distributive fairness,** one of the key components for tilting is the valence anchor.

◬ For **interactional fairness**, one of the key components for tilting is the self-efficacy anchor.

Note, these mentioned components above are unlikely to be the only factors elevating the tilt.

Investment into readiness helps to tilt up the fairness yardstick to its maximum fairness

Tilting the procedural fairness yardstick up by the appropriateness

Tilting the distributive fairness yardstick up by Valence

Tilting the interactional fairness yardstick up by self-efficacy

4.2.5. Modes of the multi-dimensional Yardstick of Fairness

We explore different modes of fairness to help the audience understand differences in the way Industries can be approaching their fair change (Figure 9).

There are varying modes that shape how fairness plays out. It is important to understand the different modes and what processes and motivation enable shifts between the modes. In our theoretical conceptualising of the modes, they can range from Mode 1 where outcomes result from clear and strong processes to Mode 8, where outcomes arise from an unclear process with weak distributive integrity which has been insincerely explained.

Figure 9. Different modes of the expansion of the fairness yardstick given the strength of procedural, distributive and interactional fairness.
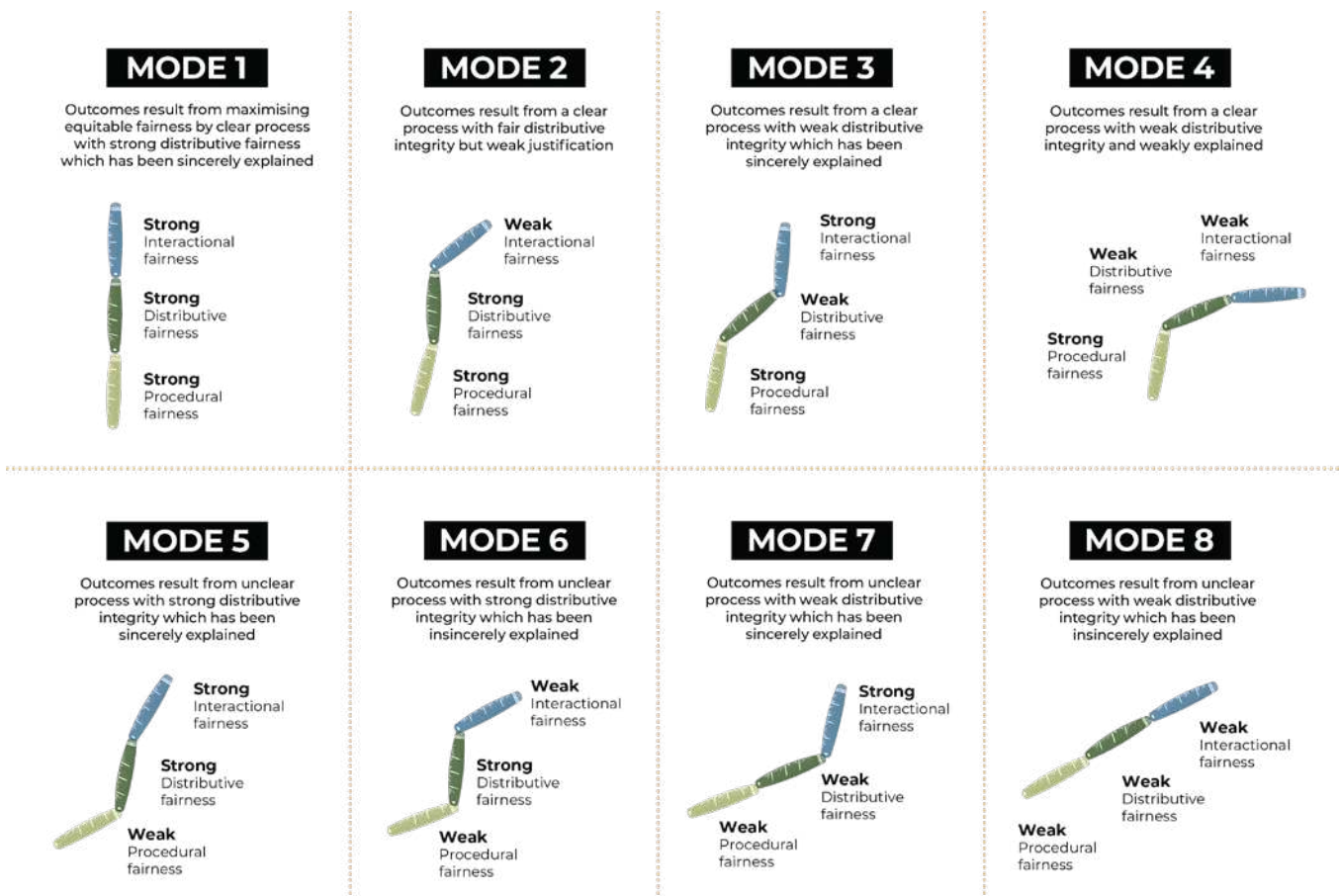
4.3. Aims of Part 4

In this part of the study, the aims were to:

△ Explore different modes of fairness given the interplay between the length and tilt of the yardstick.

△ Develop an evidenced-based approach to characterising the fairness yardstick architecture by assessing views about the expected landscape of fairness and the readiness attitudes with building fair change initiatives.

△ Characterise a conceptual framework that captures the multi-dimensions of the fairness yardstick.

4.4. Results

4.4.1. Responses

The responses used in this part of the study were drawn across several events. Of the eleven figures presented in this part, 54% are based around polled questions asked during the online cross-sector workshop, 23% from the online Indigenous Forum and 23% from the Industry-focused WebCast.

The structure of the results is firstly based around examining five readiness anchors of discrepancy, appropriateness, valence, self-efficacy and fairness with building fair change initiatives between First Nations and Blue Economy Industries (4.4.2 to 4.4.6) by providing an overall result statement about each readiness anchor.

Secondly, we examine the responses to identify any new Fairness Yardstick components. Thirdly, we finish the results section by exploring which mode of fairness the data is telling us may be operating.

4.4.2. Discrepancy readiness to change

Discrepancy refers to the perception of the need for change, or a perception of imbalance between the current state and the desired state.

Overall finding about discrepancy:
The results indicate the authentic motivations around need for change are still building.

The study has gathered some preliminary evidence around the need to change and strengthen relationships and partnerships between First Nations and Industry. If the need for change is only coming from one sector then this makes it more difficult to form cross-cultural partnerships. Our results around discrepancy indicate there is some need for change coming from both sectors. However, the quote made by the workshop participant identified that a need for change needs to be genuine.

> ‘Industry players engage because they have to not because they want to. How do we change that view’
>
> **Participants cross-sector workshop**

The majority of participants identified that showing genuine intentions needs more than a relationship commitment (Figure 10). Across the participants, around 40% identified that way more is needed to show genuine intentions.

Figure 10. Percentage of participants identifying whether a relationship commitment by Industry is good enough to show genuine intentions. Information was gathered during online Indigenous Forum run in May 2023; n = 8.

Do you think a relationship commitment by Industry is good enough to show genuine intentions?

Not sure	0%
Yes, a good start	13%
Yes, it is a core	0%
No, needs a bit more	50%
No, needs way more to show genuine intentions	38%
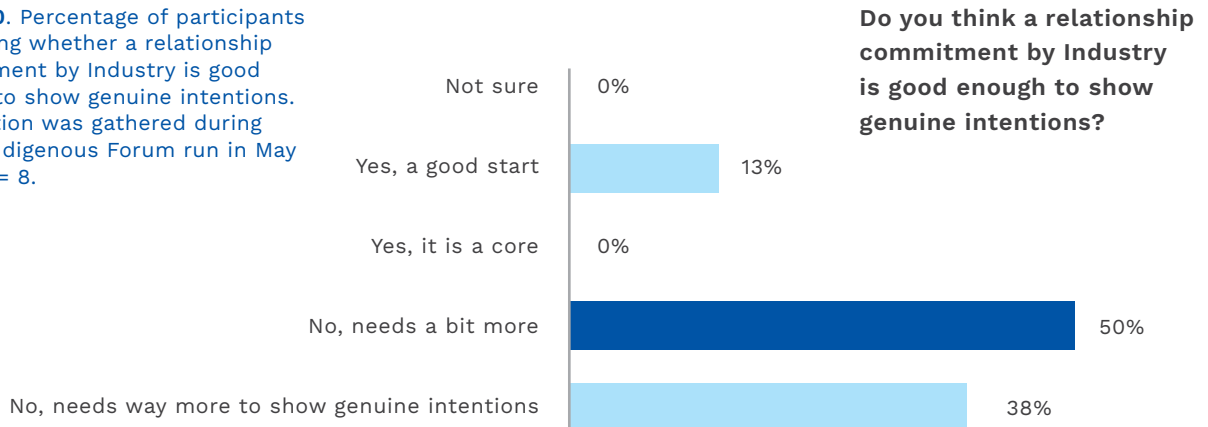
First nation participants also highlighted the imbalance in power that significantly impacts upon First Nations and Industry working fairly together (Figure 11).

Figure 11. Percentage of participants identifying the impact of a hierarchy and skewness on the balance of power of First Nations and Industry working fairly together. Information was gathered during online Indigenous Forum run in May 2023; n = 8.

How much do you think hierarchy and skewness in the balance of power currently impacts upon the First Nations and Industry working fairly together?

Not sure	0%
Low impact	0%
Some impact	25%
Significant impact	75%
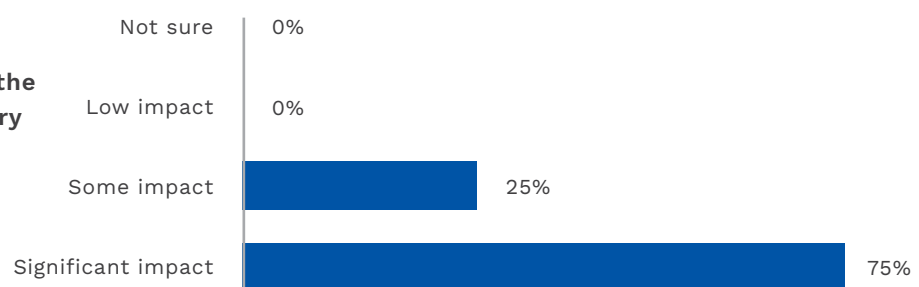
Participants identified that the impact of time and resources constraints would be a common response for Industry developing partnerships with First Nations (Figure 12). The next common responses identified was considering a partnership because of a need to meet a required code of conduct. The 'too hard basket' as the third highest response indicates the discomfort about knowing what to do.

The response of asking for more than deserved through a partnership was considered a less likely response than the risks to profits before agreeing to anything. The less likely response was based around Industry executives not being keen. This indicates that the participants did not think the Executive needed convincing of the development of partnerships with First Nations.
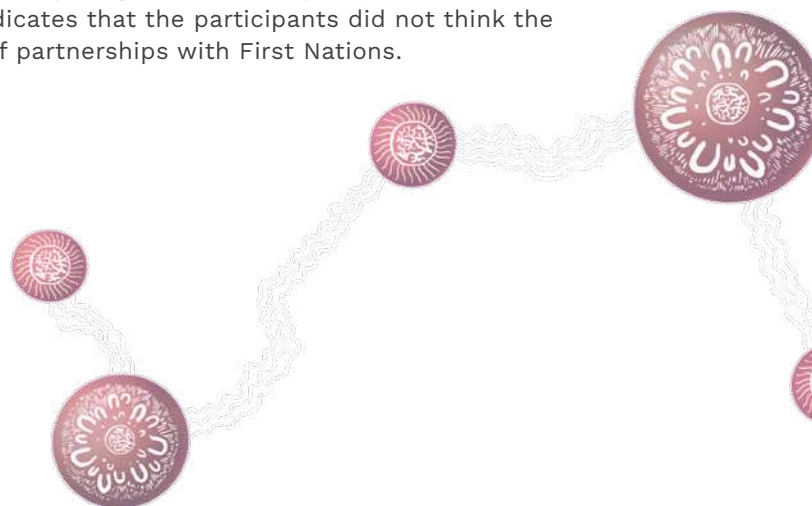
Figure 12. The ranking to identify the top three responses of participants about the common responses of Industry to developing partnerships with First Nations. The higher the ranking number the more likely it was ranked in the top three responses. Information was gathered during both an online Indigenous Forum run in May 2023 and the Industry-focused WebCast session run in June 2023; n = 23.

From your learnings, what are common Industry responses to developing partnerships with First Nations? Select your top three responses

Response	Value
CONSTRAINTS - Impacts of time and resources constraints makes it difficult to consider	1.255
REQUIREMENT - We will consider because we need to meet a required code of conduct	1.125
TOO HARD BASKET - Industry members feeling uncomfortable about knowing what to do	0.875
PARTNERSHIP - We see benefits of partnerships with First Nations	0.84
COST - We will consider as long as it is not too costly for business	0.615
RISK - Time is needed to assess the risks to profits before agreeing to anything	0.515
OVERLOOK - Our involuntary involvement means we can turn down particular requests	0.19
Not sure	0.135
TOO MUCH - asking for more than deserved through a partnership	0.135
MORAL- Lets try to make it work because it is the right thing to do	0.135
RECOGNITION - We will consider only if we get publicly recognised for our involvement	0.13
EXECUTIVES - Great to see change but I know our management executive won't be keen	0.065

Overall in *discrepancy*, the results indicate that there is likely to be more than one forcing mechanisms, either intentional or required, that is shifting the need to change in the relationship dynamics between First Nations and Industry.

4.4.3. Appropriateness readiness to change

To be motivated to change, an individual must also believe in the **appropriateness** of the given change.

Overall finding about appropriateness: The results show there is building rationalisation around the sense-making and motives for partnering with First Nations.

The quote from an audience member raises an important point that appropriateness of the change is often centred around the appropriate authoring environment that is required to reach approval. Appropriateness is affected by many factors, this is why the study looked at combination of Risk vs Benefits as there is a trade-off process. Appropriateness explores views around justification being good enough. The figures below explores this further.

> **'Appropriate authorising environment on both sides'**
>
> **Participants cross-sector workshop**

Participants identified there is not one single reason justifying Industry working towards co-benefits with First Nations (Figure 13).

The top reason to justify partnerships was cultural rights. This was followed by reconciling past injustices and meeting UNDRIP and UN convention obligations. The least likely reasons to justify working towards co-benefits was meeting compulsory mandates to ethical and fair practices, this maybe because currently there is little compulsory meeting of ethical and fairness.

Figure 13. The ranking to identify the top three responses of participants to justify Industry working towards co-benefits with First Nations. The higher the ranking number the more likely it was ranked in the top three responses. Information was gathered during an online cross-sector workshop session run in August 2023; n = 13.

Select the top three reasons that justify Industry working towards co-benefits with First Nations?

Reason	Value
Meeting cultural rights	1.39
Reconcile the past injustices through commitment to rebalance	0.85
Meeting UNDRIP & UN conventions obligations	0.85
Sharing of benefits	0.77
Creating competitive advantage of the partnership	0.62
Meeting corporate responsibility	0.46
Meeting Reconciliation Action Plans	0.46
Supporting a diverse workforce	0.39
Meeting compulsory mandates to ethical & fair practices	0.23

> **The results indicates that appropriateness across individuals is influenced by external and internal forces shaping the need or desire to accept change.**

Rather than this study focussing on measuring appropriateness levels in Industry, as this is very individual specific and varies with each Industry and business, we have tried to understand the factors affecting decision making around satisfaction convergence. This convergence is addressed in more detail in the Part 5 through examining pragmatic behaviour in reaching an agreement, while recognising that not all factors affecting satisfaction convergence is addressed in this study.

4.4.4. Valence readiness to change

Valence refers to an individual's assessment of whether or not the proposed change is beneficial and worthwhile.

Overall finding about Valence: The results show there is still efforts to build co-benefits into the corporate culture of the Blue Economy.

A high percentage of participants identified that co-benefits are critical to reaching an agreement (Figure 14). This is followed by some participants identifying co-benefits as important and at least one identifying they were not sure if co-benefits are important to reaching an agreement.

Figure 14. Percentage of participants identifying the importance of co-benefits in reaching an agreement. Information was gathered during an online cross-sector workshop run in August 2023; n = 14.

How important do you think co-benefits are in the process of reaching an agreement?

Category	Percentage
Not sure	7%
Not important as the benefits should only go to one party	0%
Some importance - co-benefits plays some part in reaching an agreement	0%
Important as benefits should go to both parties	14%
Critical to reaching an agreement	79%
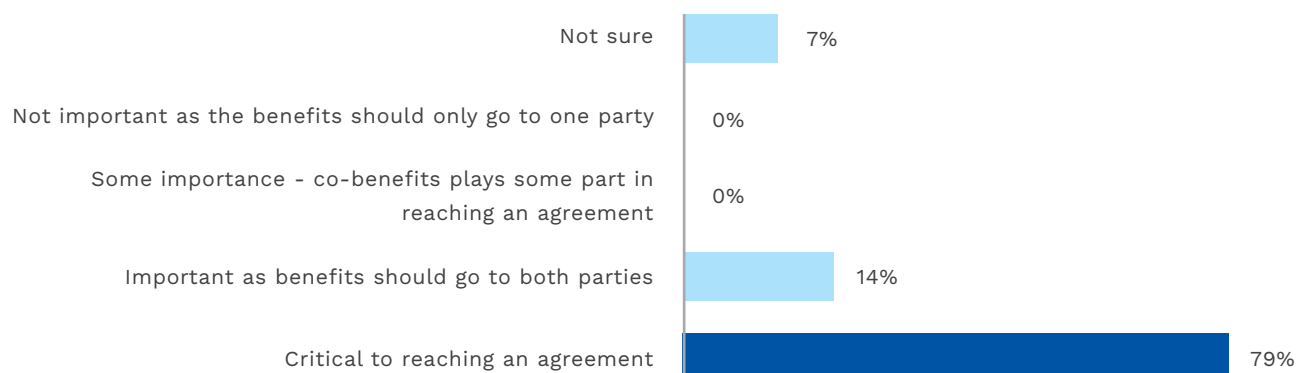
Half of the participants identified a low occurrence of negotiated co-benefits being part of the corporate culture of the Blue Economy (Figure 15). There was detection by participants that negotiated of co-benefits was embedded within the corporate culture of the Blue Economy Industry. Participant scoring indicates the lack of consistency in the partnering between First Nations and Industry.

Figure 15. Percentage of participants identifying the level of negotiated co-benefits currently part of the corporate culture of the Blue Economy. Information was gathered during an online cross-sector workshop run in August 2023; n = 14.

How much do you think negotiated co-benefits is currently part of the corporate culture of the Blue Economy

Not sure	14%
Not present	0%
Low	50%
Some	36%
High	0%
Embedded in corporate culture	0%
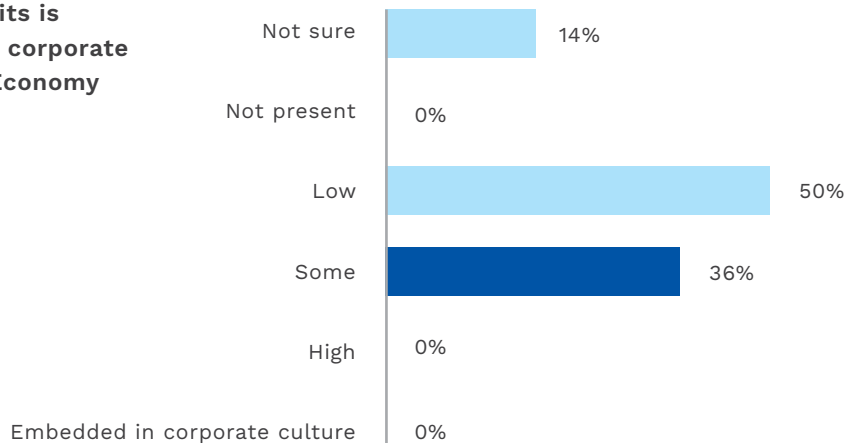
Participants identified that the top challenge to building and achieving competitive advantage was poor understanding around what and how to achieve competitive advantage (Figure 16). The next reason was mistrust with creating competitive advantage together.

Figure 16. The ranking to identify the top two responses of participants about the factors still presenting challenges to building and achieving competitive advantage. The higher the ranking number the more likely it was ranked in the top responses. Information was gathered during an online cross-sector workshop run in August 2023; n = 11.

What top two factors do you think still present challenges to building and achieving competitive advantage?

Poor understanding of what and how to achieve competitive advantage	1.00
Mistrust between parties with creating competitive advantage together	0.64
Low courage to operate outside of business as usual	0.55
Little recognition pathways to acknowledge competitive advantage	0.46
Required investment into achieving competitive advantage	0.36
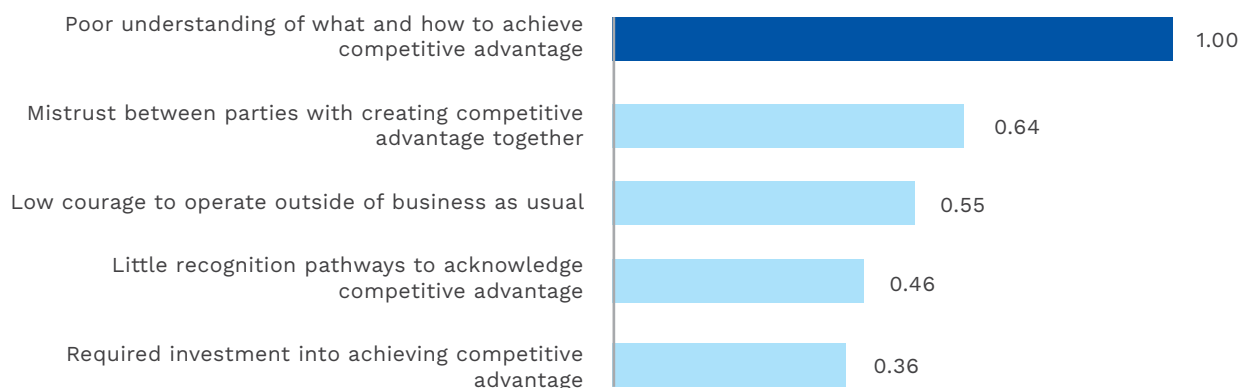
Participants identified that the top reason for eroding the possible competitive advantage from co-benefits was too much risk and uncertainty with achieving an advantage (Figure 17). Some participants also identified a lack of trust behind enabling benefits for each party. This means that while benefits could be unlocked it comes with working through the barriers to achieving it. Other barriers that are eroding co-benefits arrangements was the fifth ranked factor of a party being seen to ask for too much with little reward for others.

What top two factors do you think currently erodes the possible competitive advantage from co-benefit arrangements?
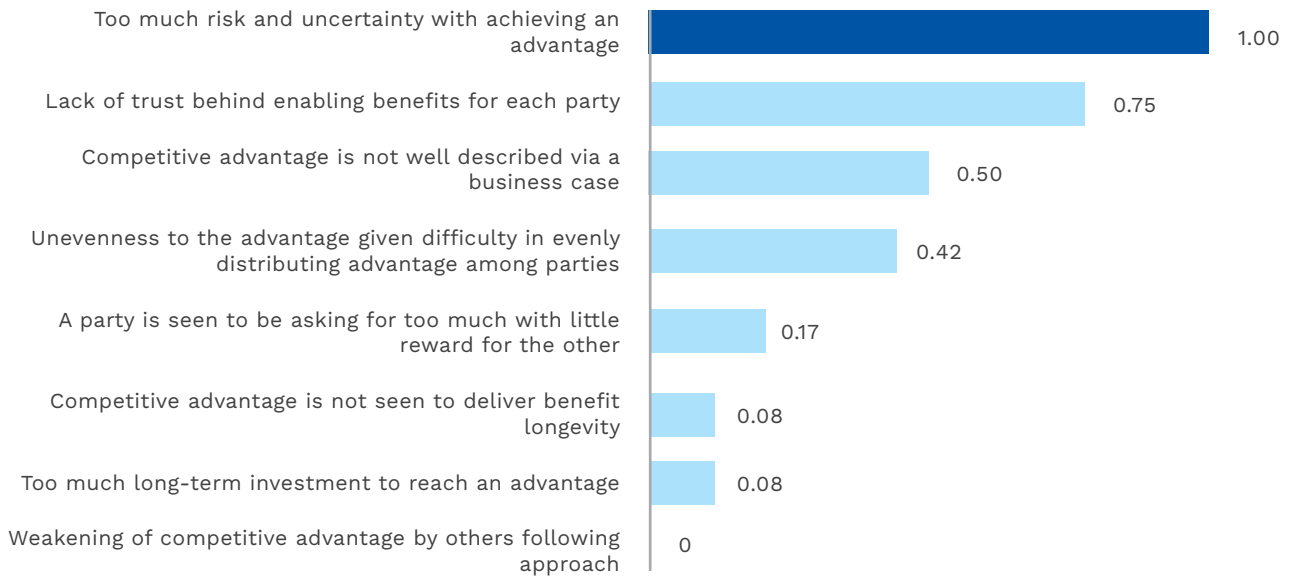
Following on from the above responses in Figure 17 around risk affecting competitive advantage, participants identified that the likely response to scoping co-benefits was the need for it to be scoped around careful considerations of risk (Figure 18). Consideration of risk came before the consideration of competitive advantage as scored by participants. This highlights the importance of risk management. The lowest response scored was around co-benefits being scoped around level of resources.

Figure 18. The ranking to identify the top two responses identified by participants about the approach that Industry is likely to take with scoping co-benefits. The higher the ranking number the more likely it was ranked in the top responses. Information was gathered during an Industry-focused WebCast session run in June 2023; n = 15.

In your learnings, what approach is Industry likely to take with scoping co-benefits?
Select your two top responses
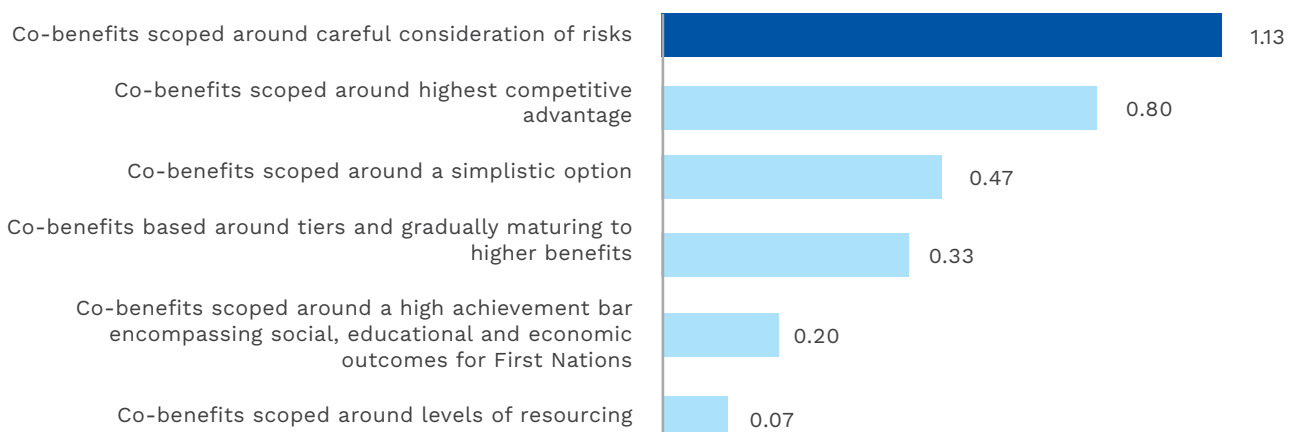
Overall, the results around the valance of whether or not the proposed change is considered beneficial, indicates that there is an interplay of risks and benefits around the emergence of catalysing benefits. This means that while there could be rewards, there still is considerations around risk management.

4.4.5. Self-efficacy readiness to change

Self-efficacy is an individual's confidence in their ability to participate in and implement change successfully.

Overall finding about self-efficacy: The results show there is a high amount of capacity uplift needed in Industry to build confidence around partnerships with First Nations.

Across participants there was high uncertainty around how much perseverance was in the corporate culture of Australian Blue Economy Industries with building relationships with First Nations (Figure 19). Around 25% of participants identified some perseverance and willingness to give the relationship building a go and around 10% identified high perseverance with trying to reach co-benefits.

'**Industries need to have assistance with First Nations engagement as they lack the specialist experience'**

Participants cross-sector workshop

Figure 19. Percentage of participants identifying the level of perseverance in the corporate culture of the Blue Economy Industries with building relationships with First Nations. Information was gathered during an online cross-sector workshop run in August 2023; n = 11.

How much perseverance is in the corporate culture of Blue Economy Industries to build relationships with First Nations?

Response	Percentage
Not sure	46%
No start to the perseverance journey if not guaranteed to end in a relationship being formed	0%
Low perseverance - pressures to rush matters to meet deadlines	0%
Low perseverance - as time is money	9%
Some perseverance - willingness to give the relationship building a go	27%
High perseverance - it is a requirement that needs to be met	9%
High perseverance - as trying to reach co-benefits	9%

Using perseverance as an indicator of self-efficacy in the confidence to implement change successfully, there is likely to be the need for more readiness building to strengthen the required confidence and commitment for building and maintaining a successful partnership.

4.4.6. Fairness readiness to change

Individuals involved in fair change initiatives are more likely to display commitment to the change and to better adjust to adversities of the change when **fairness** is considered.

Overall finding about fairness: There is work ahead for the Blue Economy Industries with considering and responding to fairness.

Participants identified there is high amount of work ahead for the Blue Economy Industry sector to consider and respond to fairness (Figure 20). A small percentage of participants identified that negotiations become stalled around the fairness concept.

Figure 20. Percentage of participants identifying the level of work ahead for the Blue Economy Industry sector to consider and respond to fairness. Information was gathered during an Industry-focused WebCast session run in June 2023; n = 8.

Over the next 5 years, how much work is ahead for the Blue Economy Industry sector to consider and respond to fairness?

Category	Percentage
Not sure	13%
Low - already seeing willingness to work through fairness conversations	0%
Some - questions are arising about fairness concept	12%
High - needs considerable discussions to work through fairness	63%
Very high - negotiations become stalled around fairness	12%
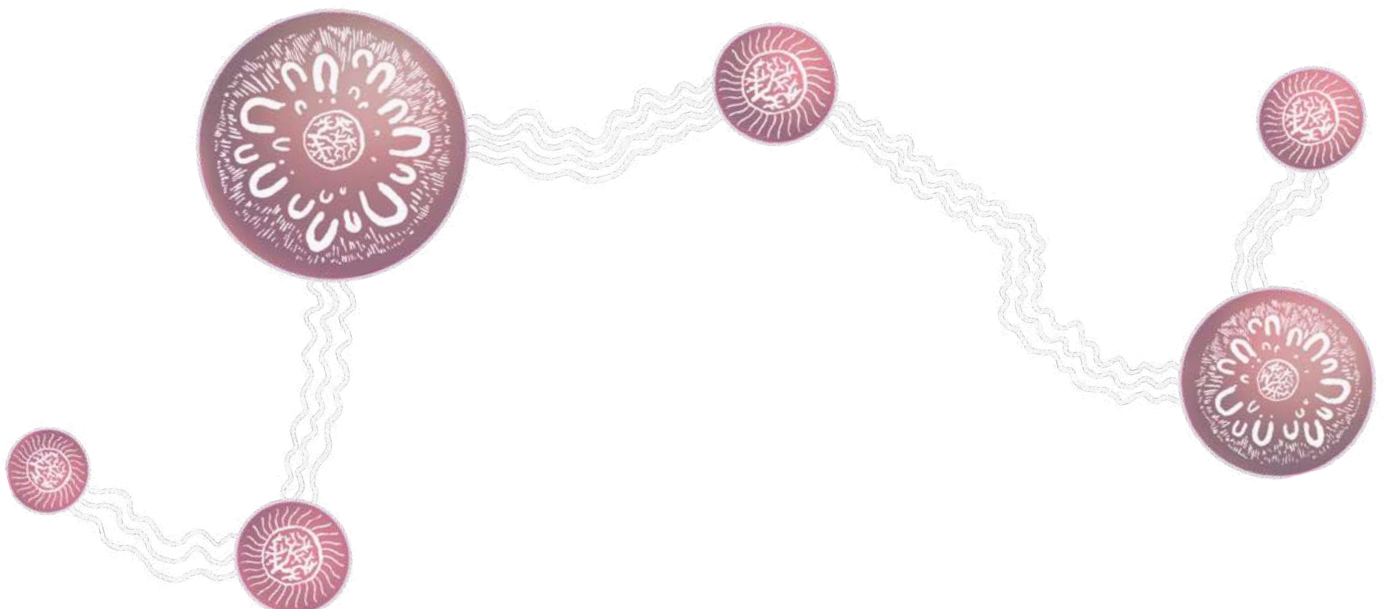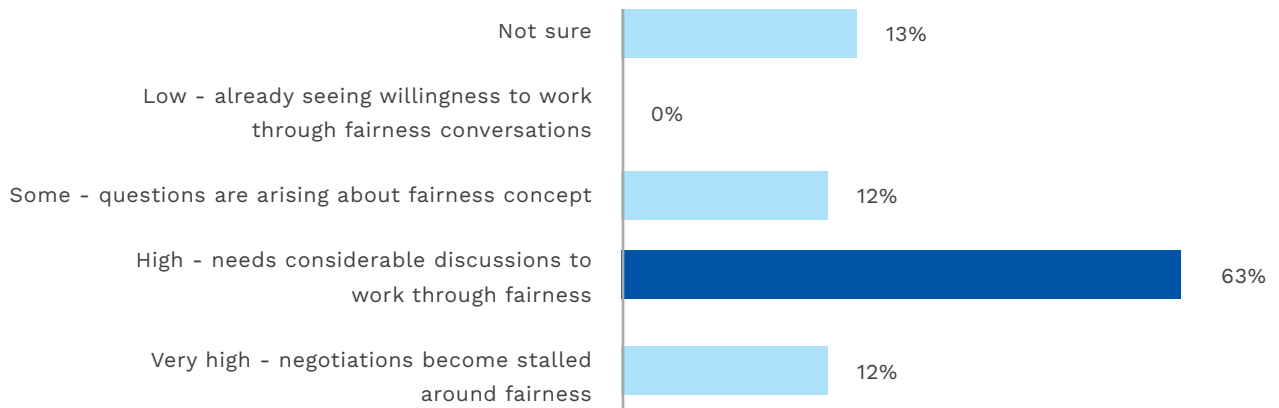
4.4.7. New components to add to the multi-dimensional yardstick given audience input

Across the events run, participants raised key points that provided additional insights around the components underpinning procedural, distributive, and interactive fairness (Figure 21). This extends to the factors identified in Figure 8.

Some of the key components added was Free Prior Informed Consent (FPIC), obligations to rights-based approach, power sharing and pragmatic behaviour.

Figure 21. Components identified by participants across our events around the concept of procedural, distributive and interactional fairness.

COMPONENTS IDENTIFIED BY AUDIENCE MEMBERS TO ADD TO THE MULTI-LAYERS OF THE FAIRNESS YARDSTICK

PROCEDURAL FAIRNESS

Competency levels through accreditation and tick of approval

Compulsory engagements

Obligations to a rights-based approach

Aligning to success metrics

Rubric of definitions and standards

Competency standards

Accreditation

FPIC principles

Permission within the agreement and terms

DISTRIBUTIVE FAIRNESS

Place-based factors

Power sharing

INTERACTIONAL FAIRNESS

Competency in negotiations

Cultural safety

Disclosure of intent with engagements

Flexibility through withdraw conditions

Appropriate authorising environment

Pragmatic behaviour

Cultural integrity

Appetite to engage & partner

4.4.8. Which mode of fairness is the data telling us is operating?

From our scoping results, it is difficult to exactly confirm which mode is more commonly playing out (see modes in Figure 9).

This is because our study has not measured the response to each of the expectations for meeting procedural, distributive and interactional fairness so we cannot appropriately gauge the tilt to the Fairness Yardstick. We have measured some expectations (e.g., expectations around pragmatic behaviour) but this study has not measured all relevant satisfaction scoring with meeting expectations.

It is still important to be aware of the modes as well as build awareness of how to shift between modes. It is important for Industries to understand the mode they are operating in given their approach and investment towards procedural, distributive and interactional fairness. Also, focus needs to be placed around how Industries transition and shift out of particular mode of fairness by understanding how to identify and meet expectations around community fairness.

4.5. Discussion

Transforming our global economy through sustainable development requires the development of systems that promote fairer and more equitable societies (Bennett, 2022; Lombard et al., 2023).

It is essential to understand the social norms and cultural dynamics of each context to promote fairer and more equitable systems. Tackling equity and fairness is reached through self-reflection rather than through confrontation or being pushed into a corner as sense-making is important to define, discuss or interpret in diverse contexts (Rudolph et al., 2020).

> **When fairness is explored, it is important for it to be approached from both sides – the eyes of First Nations and the eyes of Industry – "What is being seen as fair benefits in the eyes of the beholder".**

WHAT IS BEING SEEN AS FAIR BENEFITS IN THE EYES OF THE BEHOLDER

We have started to build the enabling environment and expectations around fairness, but we are aware that this needs greater scope and better concentration on two-way learning. The enabling environment for First Nations could have elements that different to the enabling environment to Industry.

> **"What is fair" is an important to ask but is not straightforward to address.**

The answer requires reflection and work to make sure fairness is being measured by the right architecture (i.e., fairness yardstick) so as to not under or overestimate fairness. This scoping study has started to build some empirical evidence around the architecture for efforts towards measuring up to the fairness yardstick by attempts to conceptualise the yardstick and differentiate between the different modes of fairness that might be operating.

While it was not within the scope of our study to quantify the exact mode of operation, our explorative study begins to show the layers to what needs to be considered when attempting to assess an important question, "What is fair?".

4.5.1. Complexities with achieving fairness

In this study, we do not explicitly address fairness acceptance by assessing how favourable an agreement is seen. Rather we try to focus on understanding fairness expectations so that the layers to fairness acceptance is better understood.

It is difficult to know how many First Nations are either left in a position to accept the fairness scope put on the table, walk away from a proposed offer or are left in a stalled point of negotiations. It important to build knowledge around the fairness expectations of First Nation-Industry partnerships so we are not falling short of meeting the mark.

Langton (2015) identifies capacity-building and transparency, such as, setting aside commercial in confidence aspects, are key to systematic and cooperative change between First Nations and Industry.

4.5.2. Fumbling to meeting fairer expectations

During our discussions, it was recognised that Industry is likely to go through a 'fumbling process' to achieve change.

We define this as competency fumbling, that is, the time for Industry to learn and ask foundational questions. This raises an important point around progression being slowed by an acceptable amount of competency fumbling vs bottleneck congestion by only adopting a narrow view and not considering wider scope. This nuance needs exploring as slow progression to fair change can be misinterpreted as developing the required competency when it could actually be from limited scope to adopt to fairer ways of partnering. It is important to differentiate slow progression between the case of competency fumbling and the case of bottleneck congestion.

> **The findings indicate that Industry are likely to consider procedural fairness (i.e., engaging with Traditional Owners), but less likely to consider distributive fairness (i.e., specifically discussing the justification of shared benefits).**

Distributive fairness can lead to fairness acceptance, in turn producing the bedrock of a Cultural Licence to Operate and favourable agreement terms. It is important that the categories of fairness framed within CSR and ESG standards that apply to Industry are evident in the standards for First Nations negotiations. Fairness concepts are not new, however the lack of First Nations consideration towards inclusion in the fairness yardstick is still surprising.

4.5.3. Limitations and future work

The study involved a small sample size of less than 30 and this can impact upon the ability to detect an effect when there is one to be detected. The next iteration of assessing fairness needs the consideration of a wider scope of First Nations who engage and/or interested in working alongside Blue Economy industries.

Future work is needed to assess the feasibility of defining a comprehensive set of expectation metrics for meeting procedural, distributive and interactional fairness. Also, there is a need to set up appropriate methods, involving a possible combination of methods (questionnaires, testing of readiness and indicator scoring) to gauge the level of tilting in the fairness yardstick given user-satisfaction input. The method to determine the tilting in the Fairness Yardstick is still lacking.

4.5.1. Conclusion – approaching fairness from both sides

Fair change is often not a straightforward process, there is time for sense-making, time to learn, and time to re-new thinking.

Transitioning to change has to be cognizant of the lengthy amount of time required to functionally work through how, why and when to make the change. In the context of First Nation-Industry relationships, it is not functionally just about First Nations understanding the Blue Economy space, but rather the partnering work of Industry to dig deep into their own bias, dysfunctions, assumptions and thin skin.

Breakdowns of trust occur when definitions and terms of partnerships are ill-defined and fairness only operates one way to Industry standards. When fairness is only defined by Industry terms, then the bottleneck that is the narrow scope of the fairness yardstick will grow disproportionately to greater disadvantage for First Nations. We need to foster and accelerate the value proposition to working together by convening spaces and settings that bring diverse sectors together to build co-benefits rather than falling short of missed opportunities.

Part 5

Zone of possible agreement

5. Scoping towards an agreement between Indigenous Peoples and Industry

5.1. Introduction

5.1.1. Sustainable developments occurring with consent and on acceptable terms

Indigenous Peoples' traditional lands, waters and seas are often rich in sought-after natural resources and this increases their exposure to large-scale extractive industry developments (Meadows et al., 2019). The last two decades has seen increased recognition of Indigenous peoples' right to control, co-manage and benefit from resource development on their lands and seas (Kung et al., 2022).

Against this backdrop, negotiated agreements have emerged as a mechanism though which relationships and partnerships between extractive companies and Indigenous People as formalised and governed. Resource extraction companies either have legal requirements, ethical and moral obligations, inherent expectations and/or goodwill to negotiate with Indigenous Peoples who hold or may hold (native title or cultural heritage) rights and interests in the area of the proposed development.

Once signatories' partners agree to the terms, the finalised agreement are variously framed under different accords, such as, impact and benefit agreements, Indigenous land-use agreements, co-benefits agreements, benefit-sharing agreements, community development agreements, cultural partnership agreement and other terms.

The literature emphasises that Traditional Custodians are commonly at a legal, economic, informational and political disadvantage to the companies they are negotiating with (Langton et al., 2006; O'Faircheallaigh, 2006; O'Neill et al., 2019).

There are growing mechanisms around legal, ethical and equitable goodwill that is helping to provide opportunities for Indigenous Peoples to negotiate an agreement with Industries, yet, there are lacking mandated levers for ensuring a favourable agreement is reached. As described by O'Faircheallaigh (2007), it is a seat at the table but no guarantee of success.

O'Faircheallaigh (2016) studied 45 agreements from Australia and Canada to come up with examples of good and bad practice agreement making. Also, an assessment framework was developed by O'Faircheallaigh (2004) to provide baseline criteria against which Traditional Custodians can gauge negotiation offers. This work provides important learnings.

There are gaps as other important learnings are often missing from the literature around the delivery process to working through procedural fairness. This delivery is important and is recognised in the literature that reaching an outcome can be as important as the outcome of the final agreement itself (Lacey et al., 2017; Lacey et al., 2016; Moffat et al., 2016).

Yet, because delivery is intertwined with confidential elements around financial terms the nature of the negotiation interactions are not often shared publicly. The evolution of the delivery method with agreement making is aided by a deeper examination of the agreement dialogue itself. How divergence and convergence dialogue between First Nations and Industry translates into the emergence of an agreement has had little research in the context of the Cultural Licence to Operate. Our study focusses on the emergence of the agreement. Literature argues for more nuanced, emergent means for the agreeance of signatory partners as the dialogue exchange is intrinsically intertwined with relationship-building and the development of mutual understandings (Mercer-Mapstonea et al., 2019).

5.1.2. Constructive dialogue through understanding emergence towards acceptable terms

There is significant recognition in the literature that a strong agreement will almost always be preceded by a fair and robust negotiation (O'Neill et al., 2019; Owen & Brereton, 2011).

However, the process and dialogue for reaching an agreement is likely to remain in the dark given a lack of shifts to de-couple the negotiation dialogue from the confidentiality terms around agreements. The confidential nature of most Indigenous land access agreements, and their highly context-specific nature, means that assessing the strength of agreements at a general level inevitably involves value judgments (O'Faircheallaigh, 2004; O'Neill et al., 2021).

While it is important to respect the confidentiality around finalised terms of benefit sharing, there are important learnings around the agreeance, that is, how agreeance is reached rather than what was agreed to. Some studies have gone below the surface of agreement making to share insights and learnings around inherent challenges (Brereton & Everingham, 2016; Langton, 2015). Yet, there are still a lack of studies that ask critical learning questions about how First Nations and Industry agreements come to be formed.

The design process of taking a deeper reflection journey with agreement making could potentially occur without comprising any commercial confidentiality. Sharing inherent lessons around agreement making between First Nations and Industries helps to avoid repeating poor practices and strengthens the ability to accelerate fair and robust partnership pathways.

> **Partnerships can be a powerful tool in driving business success and competitive advantage, but they also come with their own set of challenges with delivery and emergence of agreed terms.**

An agreed partnership needs to emerge through all the intensity of constructive discussions and progressive steps in reaching an agreement. There are approaches that recognise the meaningful dialogue between First Nations and Industry although there are differences with how frameworks situate, conceptualise, and seek to operationalise the dialogue (see dialogue work by Mercer-Mapstonea et al., 2019).

The framework that we focus on in this study is on framing that the dialogue exchange around divergence and convergence factors that are the inherent forces to the emergence of an agreed pathway. Linking the divergent and convergent process of collaborative creativity is a foundational process in areas like science and technology development (Coursey et al., 2019; Roco, 2020). Communication is also key to building and maintaining open and regular exchanges for strengthening the willingness to be flexible and adaptable.

Getting the implementation and delivery right around agreement making helps to ensure a well facilitated negotiation process that constructively works through the complexities of delivering fair and personalised reconciling. We address the need to give visibility to divergence and convergence factors and dialogue to agreement making between First Nations and Industry as this often remains hidden.

5.1.3. Aims of Part 5

In this part of the study, the aims were to:

△ Examine divergence and convergence factors and dialogue in agreement making between First Nations and Industry.

△ Examine the divergence and convergence mechanisms identified by participants to help to build greater understanding and clearer expectations around the process and dialogue for reaching an agreement.

△ Empirically define what divergence and convergence factors looks like in practice to support the theoretical and applied research about what drives the path towards acceptance.

5.2. Conceptual framework of the divergence & convergence towards an agreement

Our conceptual framework works towards an agreement by understanding the divergence, emergence and convergence components that builds the tailoring involved in reaching a workable pathway (Figure 22).

The divergence zone helps to diagnose challenging and contested elements. With a skilled facilitator, such as a cross-cultural navigator, this supports the process and helps to discuss, deliberate and work through the negotiation process in the emergence zone. With dialogue around available resources, benefit justification and trade-off's, it narrows down the options and the collective group can build the convergence to an agreed pathway.

Figure 22. The divergence, emergence and convergence of working towards an agreement between First Nations and Industry.
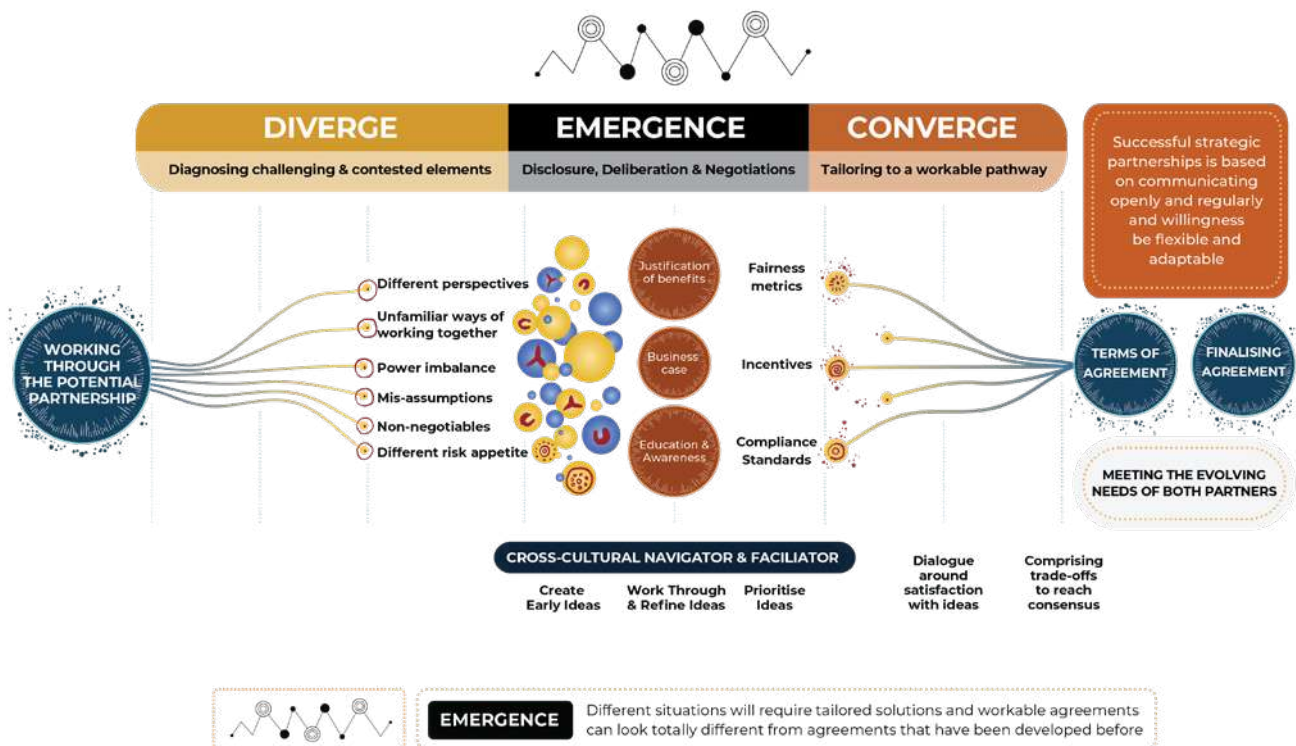
5.3. Results

5.3.1. Responses

The responses used in this part of the study were drawn across several events. Of the eleven figures presented or referred to in this part of the study, 41% are based around polled questions asked during an online Indigenous Forum, 36% from an online cross-sector workshop and 23% from an online Industry-focused WebCast. The structure of the results is based firstly around examining divergent challenges and then secondly around examining convergent behaviour.

5.3.2. Summary of insights about divergent challenges

The summary insights gathered about identifying and addressing divergent challenges and contested elements with progressing agreement making between First Nations and Industry (Table 4).

Table 4. Summary of insights about divergent challenges.

Type of Challenges	Insights about the challenge either through survey questions or feedback responses	Working towards a resolution: Insights about how to work through the challenge either through survey questions or feedback responses
Power imbalances	Participants identified significant impact of a hierarchy and skewness in the balance of power between First Nations and Industry, see Figure 11 as discussed in Part 4.	Top mechanism identified as a more effective means to balancing power sharing between First Nations and Industry was the mechanism of checking fairness through a compliance process (Figure 23). *"You have to have a system that helps design power-sharing"* *"If the values of the Industry and Indigenous group share same values, then it's not about the power dynamic"*
Lacking cross-cultural perspectives	Participants identified that the lack of ability to see viewpoints from different perspectives would have the greatest impact on eroding the ability to pragmatically work through the agreement making between First Nations and Industry (Figure 24).	*"Genuine interest on each side to understand the aspirations and vision of the prospective partner - usually involves listening and asking questions"*
Different risk appetite	Participants identified too much risk and uncertainty with achieving an advantage, see Figure 17 as discussed in Part 4 Participants identified that co-benefit were more likely to be scoped around consideration of risk then competitive advantage (Figure 25).	*"Take the issues and risks seriously and work on these together. Celebrate and communicate your wins"*

5.3.3. Results around factors shaping divergent challenges

Working towards resolving power imbalance: By asking First Nations participants their thoughts on the mechanisms to enable a more balanced power sharing, we built comparative insights about the potential factors influencing the power sharing dynamics between First Nations and Industry.

The highest mechanism identified to shape power balance was checks of fairness through a compliance process, followed by regulation of practices (Figure 23). No participants in Australia selected Voice, Truth or Treaty as a mechanism to have effectiveness in balancing power. Note, this response was before the 2023 Referendum was held. This indicates that in Australia there needs to be more than Indigenous rights having the ability to overturn the balance of power, there needs to be reforms and interventions powerful enough to tackle power regimes.

The topic of power imbalance raised some important points by Indigenous participants. It was discussed in the Indigenous Forum that power imbalances are hard to work through given the inherent strong hold regimes. Instead, if the values of corporation and group share same values, then it's not about the power dynamic, but rather negotiating a fairness of co-benefits around values.

The demands on Indigenous Peoples to be stretched across multiple sectors of Blue Economy engagement is a distraction from enacting cultural integrity into the negotiation process. If poor fairness practices are enabled by weak ethical, equity and compliance foundations, then power imbalances are vastly tipped against First Nations communities.

Figure 23. The ranking to identify the top three mechanisms in shaping effectiveness in balancing the power so that First Nations and Industry are working fairly together. The higher the ranking number the more likely it was ranked in the top three responses. Information was gathered from an online Indigenous Forum run in May 2023; n = 7.

Select the top three mechanisms that would have some effectiveness in balancing the power so that First Nations and Industry are working fairly together?

Mechanism	Ranking
Checks of fairness through a compliance processes	1.39
Regulation of practices	0.86
Cultural Authority	0.57
National laws	0.57
Agreeing to act in a respectful & inclusive manner	0.43
Consensus building agreement making	0.43
Full disclosure on intentions	0.43
Mediation	0.43
Whole of Industry committing to a statement of intent	0.43
UN convention	0.43
Effective negotiations	0.29
Institutional Reconciliation Action Plan	0.14
Voice, Truth, treaty	0

The challenge identified as having greatest impact on eroding the ability to pragmatically work through agreements between First Nations and Industry was the challenge around the lack of ability to see viewpoints from different perspectives (Figure 24).

This was followed by lacking efforts to see circumstances from a deeper understanding of issues having second greatest impact. This suggests that more investment needs to be placed around understanding the deeper context to how First Nations and Industry are connected to people, planet and profits.

Figure 24. The ranking to identify the top three challenges that have the greatest impact on eroding the ability to pragmatically work through the agreement making between First Nations and Industry. The higher the ranking number the more likely it was ranked in the top three responses. Information was gathered from an online cross-sector workshop run in August 2023; n = 11.

Which challenges currently have the greatest impact on eroding the ability to pragmatically work through the agreement making between First Nations & Industry? Select your top two responses

Challenge	Ranking
Lacking ability to see viewpoints from different perspectives	1.09
Lacking efforts to see circumstances from a deeper understanding of issues	0.64
Poor mechanisms to help resolve conflict	0.46
Narrow views about relationship benefits	0.36
Poor approach to bridge consensus	0.27
Lacking willingness to accommodate fairness principles	0.18
Questioning about why to work pragmatically	0

With the challenge around the extent of risk appetite, participants identified that co-benefit were more likely to be scoped around consideration of risk then competitive advantage (Figure 25). This may be interpreted as a positive signal that Industry would be partisan in its support of First Nations enterprises, where competitive advantage is seen as an Industry-wide gain rather than individual business interests.

Risk covers many categories, including reputation to financial, and requires two-way learning to understand what risks are involved for First Nations and Industry in partnerships with the Blue Economy and how it impacts the Cultural Licence to Operate.

Figure 25. The ranking to identify the approach Industry is likely to take with scoping co-benefits. The higher the ranking number the more likely it was ranked in the top responses. Information was gathered from an Industry-focussed WebCast run in June 2023; n = 15.

In your learnings, what approach is industry likely to take with scoping co-benefits?
Select your two top responses

Approach	Ranking
Co-benefits scoped around careful consideration of risks	1.13
Co-benefits scoped around highest competitive advantage	0.80
Co-benefits scoped around a simplistic option	0.47
Co-benefits based around tiers and gradually maturing to higher benefits	0.33
Co-benefits scoped around a high achievement bar encompassing social, educational and economic outcomes for First Nations	0.20
Co-benefits scoped around levels of resourcing	0.07
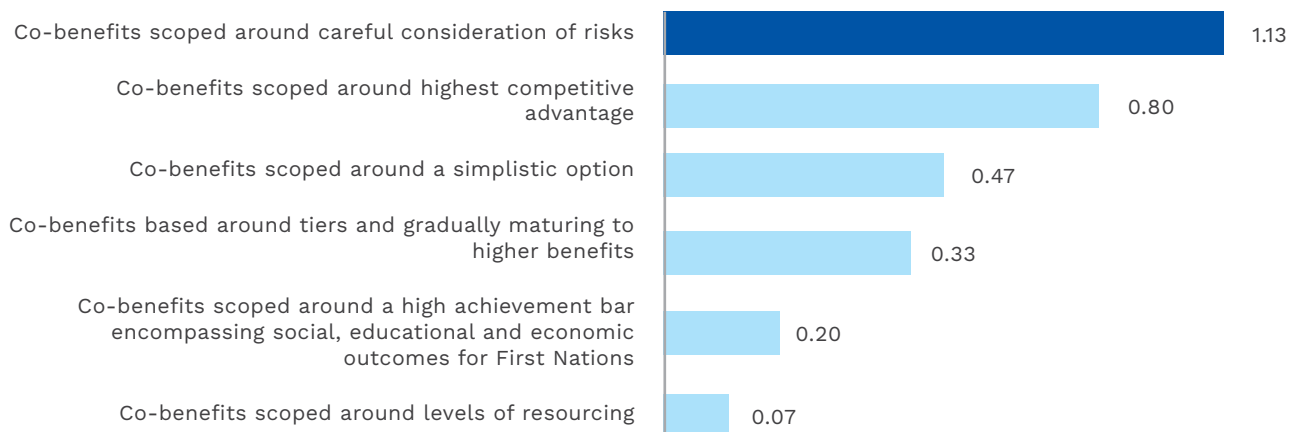
5.3.4. Insights about convergent behaviour

Insights were gathered about indicative convergent factors encouraging a pathway towards an agreed partnership between First Nations and Industry (Table 5).

They are considered indicative factors because while they have been confirmed by participants to encourage or strengthen convergence, the factors themselves have not been explicitly measured to determine the level of the convergence force. Each factor is likely to have a different convergence force yet is not within the scope of this study to characterise this.

5.3.2. Summary of insights about divergent challenges

The summary insights gathered about identifying and addressing divergent challenges and contested elements with progressing agreement making between First Nations and Industry (Table 4).

Table 5. Summary of insights about convergent behaviour.

Incentives (Carrots)	First Nation Incentives	Industry Incentives
	Participants identified employment, long-term outcomes and negotiated benefits suited as the top incentive for First Nations to partner with Industry (Figure 26).	Participants identified that recognised accreditation of First Nation partnerships would be the top Industry incentive to partner with First Nations (Figure 27).
Compliance Standards (Sticks)	Participants identified that regulations and meeting public expectations are the two most influential mechanisms for holding Industry to account to enter into a formal partnership with First Nations (Figure 28).	
Carrot Vs Stick	Participants identified that a combination of carrot and stick is needed for both benefits and accountability in the approach (Figure 29)	
Justification around decision-making	Participants indicated that co-benefits are critical to reaching an agreement, see Figure 14 as discussed in Part 4. Business case justification was identified by participants as being important (Figure 30).	
Pragmatic behaviour	Participants identified that transparency is essential to pragmatically working through agreement making (Figure 31).	

5.3.5. Results focussed around shaping the convergence to an agreement

Incentives: With the indicator convergence factor of incentives (i.e., carrots), participants identified employment, long-term outcomes and negotiated benefits suited to needs would be the top incentives for First Nations to partner with Industry (Figure 26). For Industry incentive, participants identified that recognised accreditation of First Nation partnerships would be the top incentive followed by making profits from the relationship (Figure 27).

Figure 26. The ranking to identify the top two incentive (carrot) measures that would encourage First Nations to partner with Industry. The higher the ranking number the more likely it was ranked in the top responses. Information was gathered from an online Indigenous Forum run in May 2023; n = 8.

First Nations:

Select the top two 'Carrot' (incentives) measures that you think would encourage First Nations to partner with Industry?

Employment	0.63
Long-term outcomes	0.63
Negotiated benefits suited to needs	0.63
Partnership with a road map of progressive benefits	0.50
Leveraging new business	0.38
Nature based markets with Industry support	0.25
Positive benefits	0.00
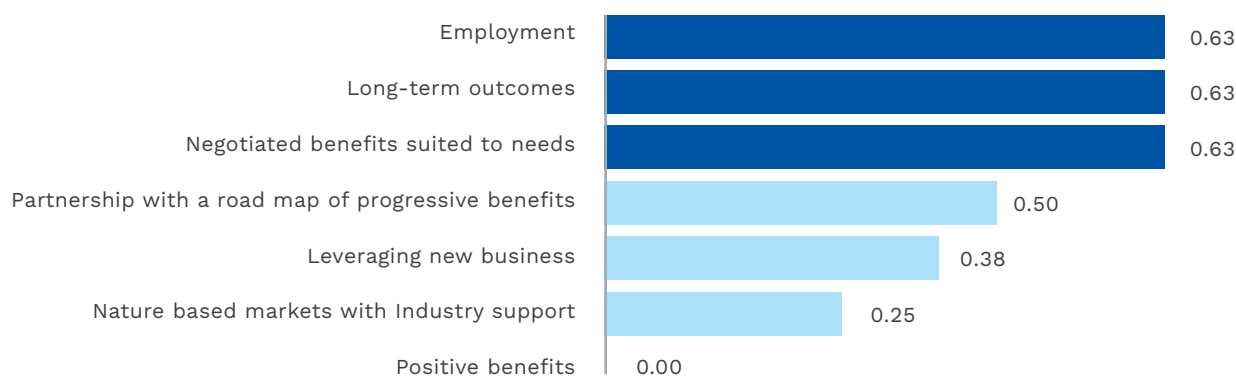
Figure 27. The ranking to identify the top two incentive (carrot) measures that would encourage Industry to partner with First Nations. The higher the ranking number the more likely it was ranked in the top responses. Information was gathered across two events involving an online Indigenous Forum run in May 2023 and Industry-focussed WebCast run in June 2023; n = 19.

Industry:

Select the top two 'Carrot' (incentives) measures that you think would encourage Industry to partner with First Nations?

Recognised accreditation of First Nations Partnerships	0.79
Competitive advantage from relationship	0.67
Grants for supporting First Nation Partnerships	0.64
Making profits from relationship	0.43
Tax offsets	0.34
Showcasing partnerships	0.16
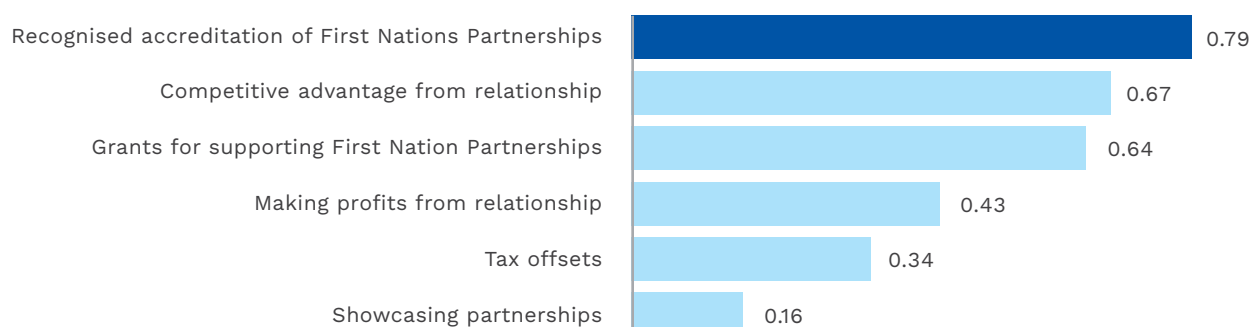
Compliance: With the indicator convergence factor of compliance (i.e., 'sticks'), participants identified that regulations and meeting public expectations as the two mechanisms for holding Industry to account to enter into a formal partnership with First Nations (Figure 28). The less likely 'stick' identified out of the top three responses was the stick of holding Industry to account through meeting corporate responsibility.

Figure 28. Percentage of participants identifying the actual ways to hold Industry to account to enter into a formal partnership with First Nations. Information was gathered across the two events involving an online Indigenous Forum run in May 2023 and online Industry-focused WebCast run in June 2023; n = 17.

Over the next five years, what are the ways you think Industry will be held to account to enter into a formal partnership with First Nations? Select all the actual 'sticks' for towing the line of partnerships

Meeting public expectations	0.655
Regulations	0.595
Meeting corporate responsibility	0.48
Compliance checks	0.41
Cultural rights	0.345
Meeting market disclosure expectations	0.22
Not sure - haven't thought about it	0.00
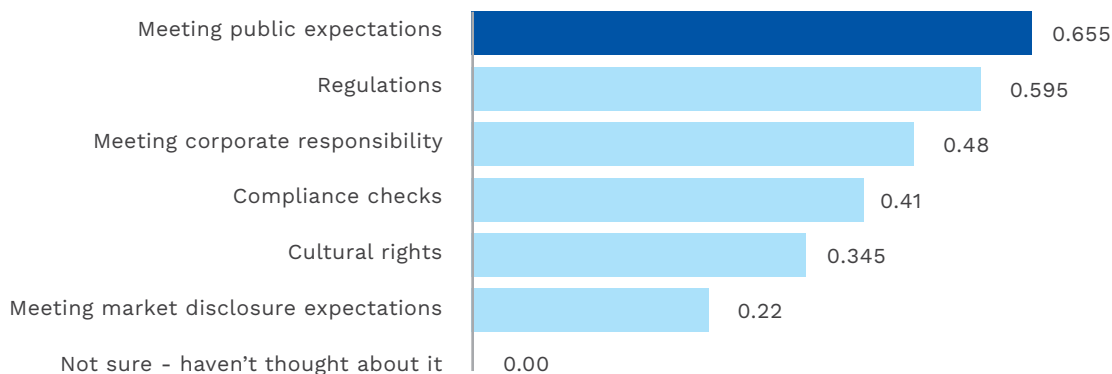
Carrot vs Stick: By asking participants to compare the effectiveness between carrot and stick mechanisms, we tried to differentiate which was more effective in building partnerships. The participants identified that a combination of incentives (carrots) and compliance (sticks) is needed for both benefits and accountability in the approach (Figure 29). A small percentage of participants identified that you start with the carrot and only wave the stick if necessary.

Figure 29. Percentage of participants identifying the more effective way with building long-term partnerships between First Nations and Industry. Information was gathered across two events involving an online Indigenous Forum run in May 2023 and online cross-sector workshop run in August 2023; n = 19.

In your opinion what is more effective with building long-term partnerships between First Nations & Industry?

Carrot approach - benefits & incentives for partnerships	14%
Stick approach - being mandated to toe the line of partnerships	0%
Start with the 'Carrot' and only wave the 'Stick' if necessary	6%
Combination of 'Carrot' & 'Stick' approach as need both benefits & accountability in the approach	80%
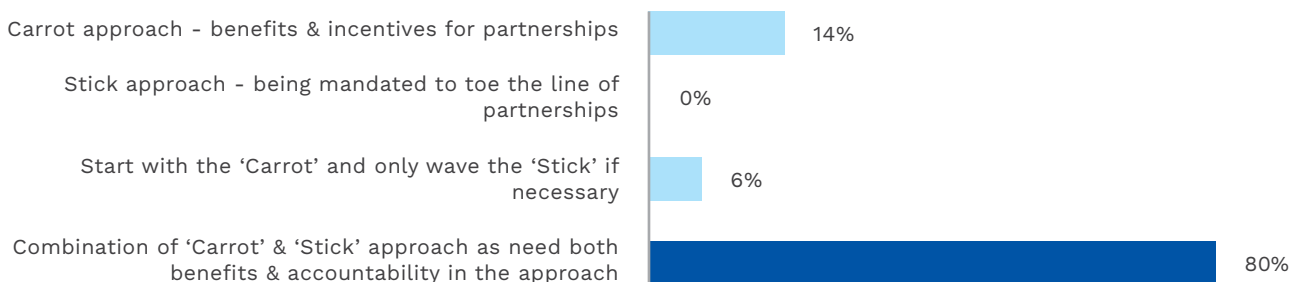
Justification around decision-making: Around 40% of participants identified that a business case of competitive advantage would be highly important towards enabling agreement making (Figure 30). Some were unsure and the rest identified it as having either some importance or it being critically important.

Figure 30. Percentage of participants identifying the important of a business case to competitive advantage around agreement making. Information was gathered during an online cross-sector workshop run in August 2023; n=12.

Do you think a business case of competitive advantage would enable agreement making?

Not sure	17%
Not important	0%
Low importance	0%
Some importance	25%
High importance	42%
Critically important	17%
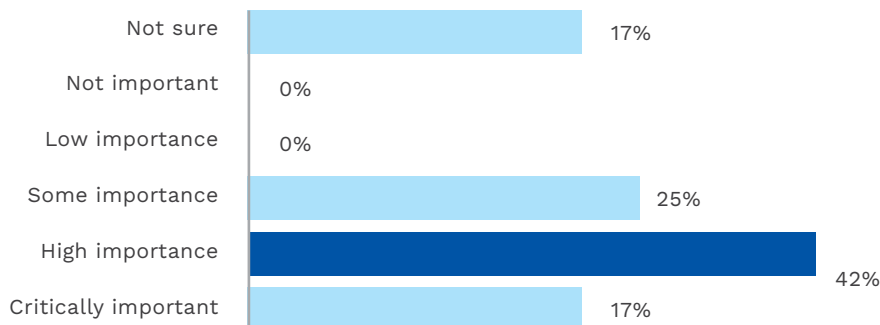
Pragmatic behaviour: Participants identified transparency as the top factor for pragmatically working towards agreement making between First Nations and Industry (Figure 31). The factors that did not get selected within the top three factors were concession and consensus. This may be because there are considered inherent rather than needing to be selected as an actual enabling factor.

Figure 31. The ranking to identify the top three factors for helping with pragmatically working through the agreement making between First Nations and Industry. The higher the ranking number the more likely it was ranked in the top responses. Information was gathered during an online cross-sector workshop run in August 2023; n = 12.

What top three factors do you think would help with pragmatically working through agreement making between First Nations and Industry?

Transparency	2.00
Trust	1.56
Joint vision	1.56
Flexibility	0.67
Justification	0.08
Performance	0.08
Concession	0
Consensus	0
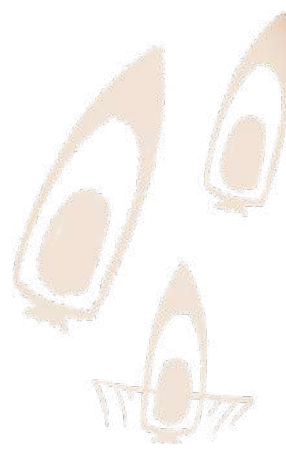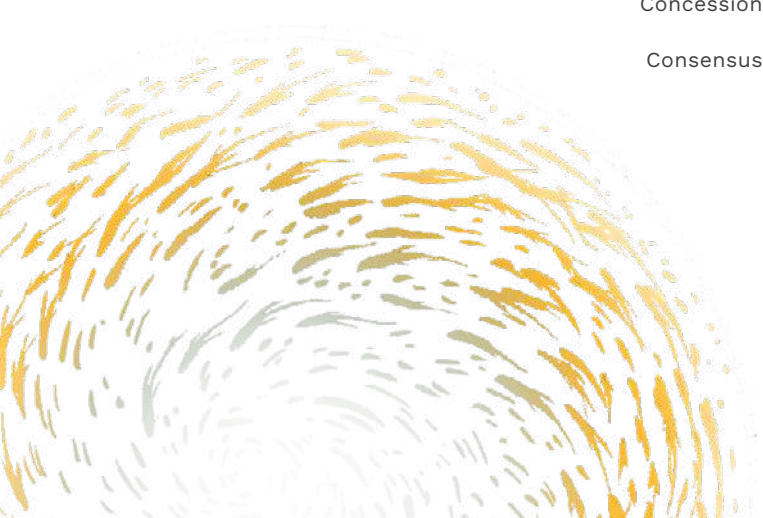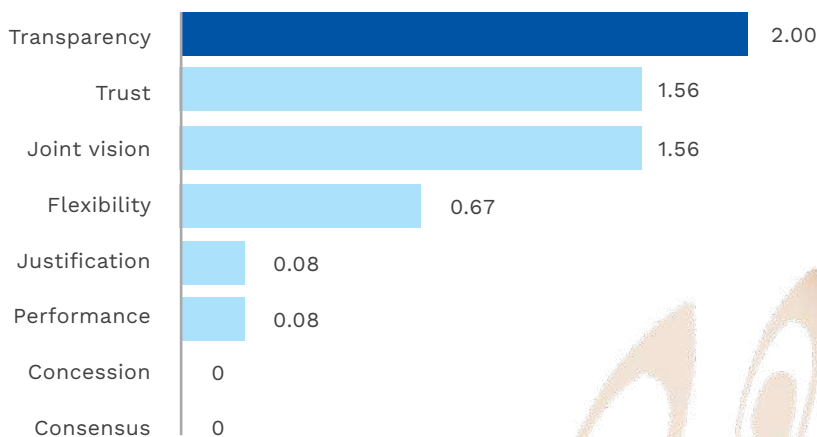
5.4. Discussion

5.4.1. Finding just solutions to the resolution of contested tensions

Behind the narrative of sustainable blue growth is the inherent reality of meeting the moral and ethical way of working through conflict resolution practices to ocean conflict (Haas et al., 2022; Voyer et al., 2018).

Addressing ocean conflicts can help develop models for better governance by working across sectors. Assumptions can be made that conflict is disruptive to a blue-growth agenda (Tafon et al., 2022). Yet, contestable tensions can be translated from the perspective of it mobilising new ways of thinking and catalysing transformative change (Lederach, 2003). Conflict can generate trust among actors and foster intellectual and emotional growth as new perspectives can form (Alexander, 2019).

Alongside this is the capacity for reflective leadership, dialogues around addressing challenges, and modifications away from outdated institutional arrangements (Tafon et al., 2022). This means that conflicts, if approached 'right' through inclusive participation and consultation, can be opportunities to surface concerns and non-negotiables, define why goals are partially compatible, and find alignment.

There is a need to raise the leadership and scholarship focused on the distinctive challenges associated with ocean conflict and possibilities for transformation beyond specific conflicts. We join with others in the transitioning efforts with conceptualising improved frameworks for understanding and transforming conflict to leverage sustainability frames and visions of co-produced transformative co-benefits.

> **A successful ocean economy is based around understanding why conflict happens and how to better manage conflict. It's central to rightsholders, stakeholders, business, agencies, and governments to develop this understanding.**

We need to be looking at cases that have confirmed success in resolving conflicts as potential pathways to conflict resolution. By tapping into the 'environmental peace-building literature' (Hachmann et al., 2023; Ide et al., 2021) researchers are coming to the conclusion that the Ocean Decade has a considerable untapped potential to become an instrument of peace.

Re-setting the tendency to keep at arm's length from conflict needs the capacity development, moral and ethical investment to truly understand how engaging early and often with key rightsholders and stakeholders can help to avoid future conflicts.
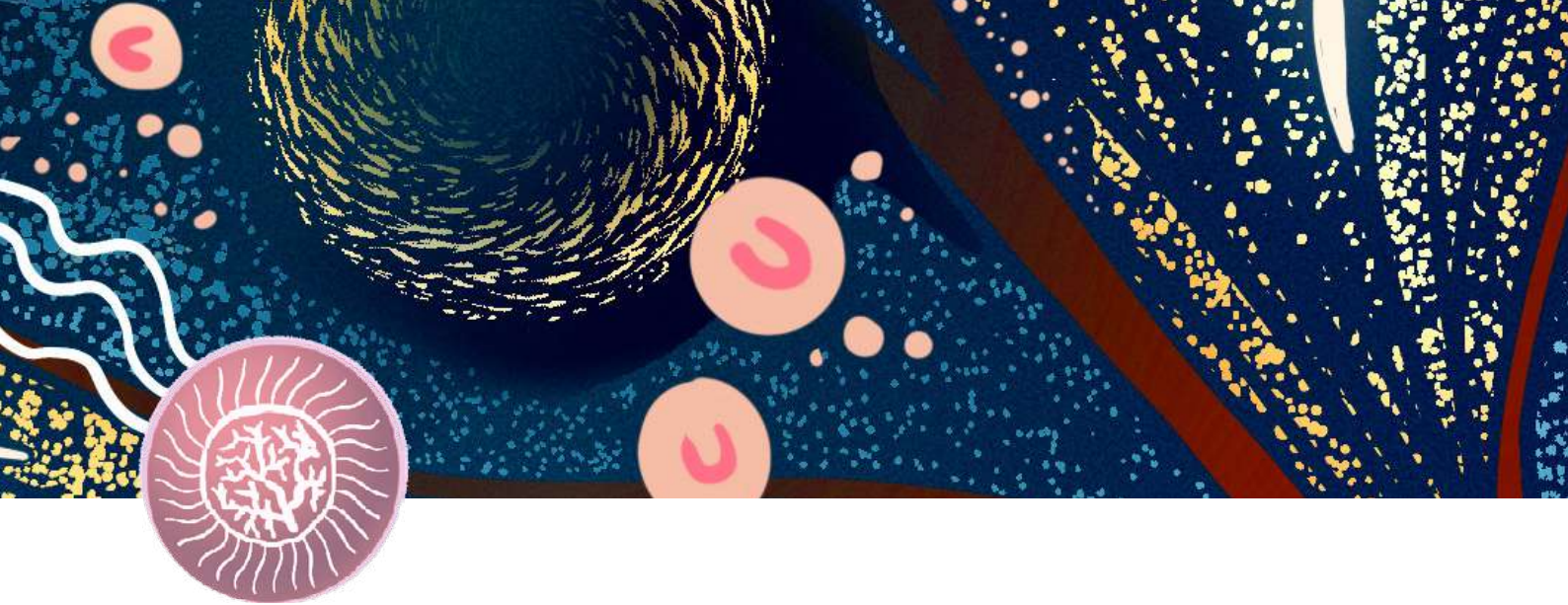
5.4.2. Openness of lessons vs confidentiality of agreement

The inconsistent progress made with conflict resolution in ocean sustainable development is likely to be impacted by the lack of sharing about lessons learnt.

This means we are likely to have repeated poor practices rather than applying best practices. We understand that a finalised agreement might have confidentiality clauses to give the reassurance that sensitive and valuable information will be protected. Yet, the dynamics of how resolutions are reached is often not necessarily needing to remain confidential but is likely to have wider benefit to the sectors by it being shared.

5.4.3. Removing blind spots from agreement making

Agreement making occupies a considerable amounts of time within the work-in-progress (emergence) zone (Brereton & Everingham, 2016). By working through the resolvability of challenges through divergence and convergence dialogue it helps to reduce blind spots within the emergence zone of deliberations.

Encountering blind spots can be more threatening to consensus making than the challenge of complexity as a 'blind sighted' risk can immediately escalate a red flag and put a stop to proceedings, where as, known complexity stretches out a long and windy road as more time investments is required with reaching a workable pathway.

By explicitly addressing points of contest (divergence factors), it can avoid the threats of blind spots halting the journey because concerns have been unintentionally overlooked. The nuancing around workable agreements acknowledges the inherent compromising across parties to reach an agreed pathway forward.

5.4.4. Conclusion

Our study is trying to bring visibility to agreement making while also advocating for more sharing of lessons learnt around First Nation-Industry agreements so that a holistic understanding of agreement making is built. Sharing lessons learnt about partnerships will play an increasingly important role in driving the required culture of building the trajectory of favourable agreements. Education is key to building a deeper understanding.

Any reform efforts would need a renewal in Industry education and training models in order to uproot existing institutional misconceptions, ill-informed workplaces and outdated practices that unnecessarily leads to fears rather than positives.

Part 6

Challenges of engagement between Indigenous peoples & industry

6. Exploring the challenges of engaging and partnering between Indigenous People & Industry in the Blue Economy

6.1. Introduction

6.1.1. What makes a successful risk leader

There are challenges and opportunities with First Nation-Industry partnerships. A successful risk leader is able to convert unavoidable risks into opportunities for successful operations. Within the Blue Economy Sector, efforts have been invested in understanding and reviewing the risks and solutions as a way of building the constructive and pragmatic dialogue around future pathways achieving a more just and inclusive ocean economy (Bennett et al., 2021; Burgess et al., 2018).

The challenges for the Blue Economy Sector are largely ingrained in the complexity of working at scale, as more holistic approaches necessitate a larger and more complex system for coordinating the sense-making and consensus across diverse groups. Key learnings around integrated ocean management, across seven case study areas in Australia, found that stakeholders and rightsholders engagement is an essential factor in enabling successful cross-sector outcomes (Stephenson et al., 2023).

> **Transforming the agenda of the Blue Economy towards goal posts of Ocean Sustainable Development requires capable risk and governance leadership for working through trade offs in reconciling and resolving festering tension points.**

Festering ocean conflict can hamper efforts across short or long term horizons. However, conflict in and of itself is not necessarily bad (Tafon et al., 2022), as risk frameworks have the potential to serve as a unifying concept and bring disciplines together (Hodgson et al., 2019). By groups intersecting with conflict, it can lead to the rise and spread of ocean justice movements and environmental defenders across the world as key agents of sustainability transformation (Temper et al., 2018).

For transformative change, leadership is required to enable shifts from shallow to deeper approaches of handling conflicts. Renn and Benighaus (2013) proposed a hierarchical framework and deepness for handling risk given how individuals perceive risk as it filters through their cultural background, social-political institutions in which they exist, cognitive factors and individual information processing. Across the Blue Economy Sector, we see champions that catalyse the agency and collective motivations to work deeply with understanding and leveraging risk.

This championship work was acknowledged by Stephenson et al. (2023) who highlights the positive impact of individual political leaders or champions in Ocean sustainability and management. Cross-sector champions bring values aligned to the mutuality principles of respectfully working with others. By reorienting towards coexistence and mutuality, the settings and spaces are designed to help fortify the inclusivity of all key users into the agenda of Blue Growth (Voyer et al., 2018).

6.1.2. Connected nature of risk

A siloed approach to risk management completely ignores the intersection of risks and their connected nature. Organisations need to be aware of this interconnectivity when working through risk tolerance and risk appetite.

There are connection points for cross-disciplinary engagement around risk (Hodgson et al., 2019), equitable development (Bennett et al., 2019; Issifu et al., 2023), governance structure (Lombard et al., 2023) and other key interdisciplinary components.

Businesses that have a clear understanding of the holistic landscape and their risk tolerance and appetite within the ecosystem are more likely to develop and implement a successful risk strategy. With more investment into education and awareness around inherent expectations, ethical and moral obligations, and legal requirements for First Nations-Industry partnerships, then more informed decision making can be made about the pursuit of inherent opportunities alongside the management of risk exposures.

Achieving sustainable human-nature relations is preconditioned around handling of points of concerns around risks and behaviour.

Understanding the triggers for concern is important for understanding how injustices are sparked and what potential remedies could help eliminate concerns. We focus in this study on identifying triggers of concern around First Nations-Industry partnerships.

6.1.3. Aims of Part 6

In this part of the study, the aims were to:

- ⬩ Highlight participant dialogues to inform an evidenced-based approach to assessing views about triggers of concerns.
- ⬩ Understand and detect challenges and points of concern as this helps to eliminate any potential surprises by overlooking alarm or lack of attention.

6.2. Results

6.2.1. Responses

The responses used in this part of the study were drawn across several events. Of the four figures presented in this part, 63% are based around polled questions asked during the online Indigenous Forum, 25% from the Industry-focused WebCast and 12% from the session run at the Blue Economy CRC Participant Workshop.

The structure of the results is based around understanding the trajectory we are on, detected points of First Nation views about Industry behaviour and detected points of Industry views about First Nation behaviour.

6.2.2. The playing out of challenges - what trajectory we are on?

With the opportunities and challenges playing out, it is important to understand the trajectory of the partnerships between First Nations and Industry.

In Australia, the audience indicated that there will be an emergence of partnerships becoming more visible over the next five years (Figure 32). However, there was little confidence across our surveyed audience that in five years' time the progress in Australia would have pivoted towards partnerships being embedded in Industry.

Over the next 5 years, what path do you think we will be on in Australia with partnerships between First Nations and Industry?
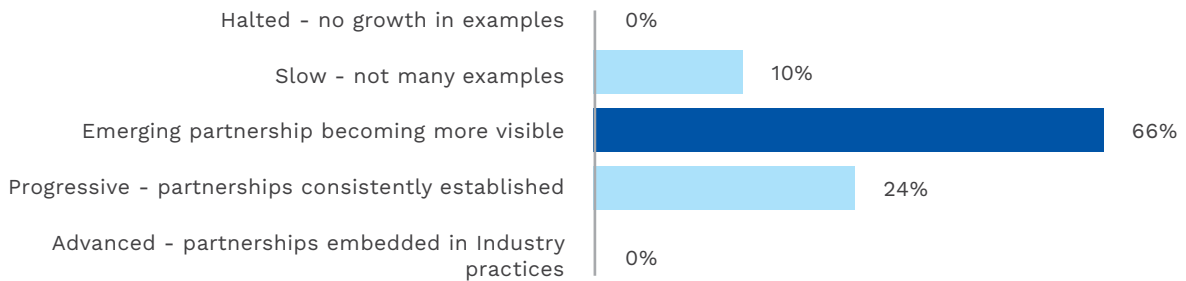
6.2.3. Challenges – detected points of First Nations views about Industry behaviour

By asking First Nations participants during the Indigenous Forum about their thoughts to the reasons for First Nations disengaging in a relationship with Industry, we built comparative insights about the potential factors impeding the progression of a partnership. The highest challenges identified was Industry not doing enough to build and hold trust with First Nations (Figure 33). The power of Industry over decisions and the concern about the primary focus on profits was detected. No participant selected institutional racism within their top three reasons.

Figure 33. The ranking to identify the top three reasons for First Nations to disengage in a relationship with Industry. The higher the ranking number the more likely it was ranked in the top three responses. Information was gathered from an online Indigenous Forum run in May 2023; n = 8.

What do you think are the top three reasons for First Nations disengaging in a relationship with Industry?
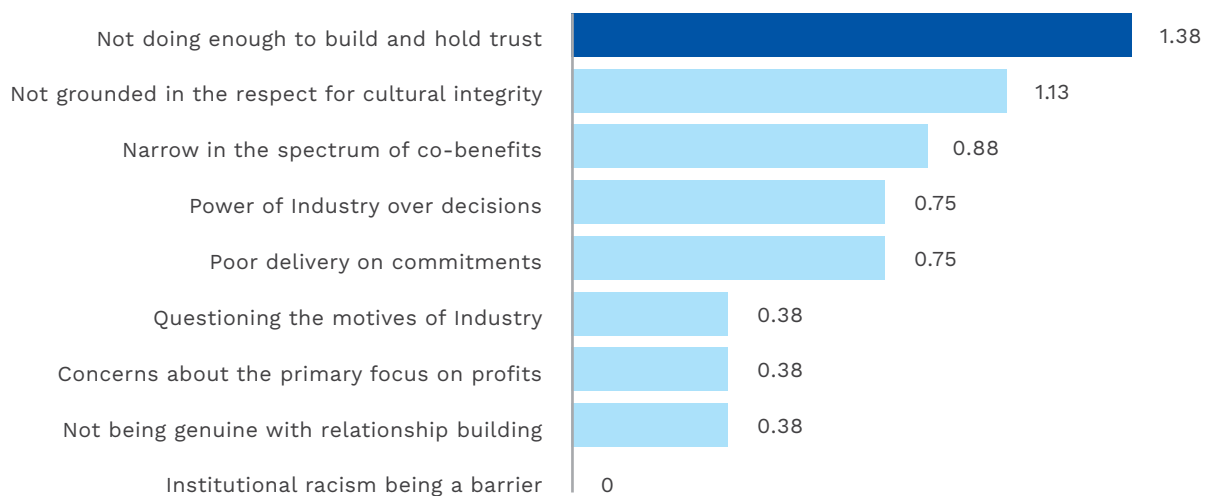
By flipping the perspective and asking First Nations participants to imagine wearing an Industry hat through providing their thoughts about why Industry might disengage in a relationship with First Nations, it provided a way to help gather insights about the perceived factors impeding the progression of a partnership.

This type of flipping perspective is important for trying to work through perceptions and mis-assumptions. Across the participants, the highest identified reason for disengagement was the fear of Industry about unpredictability (Figure 34). This was followed by a lack of confidence to engage and being unprepared for inherent challenges. Concerns about the impact to profit was identified to be of less concern than aspects around unpredictability.

Figure 34. The ranking of the top three reasons identified by Indigenous participants for Industry to disengage in a relationship with First Nations. The higher the ranking number the more likely it was ranked in the top three reason. Information was gathered during an online Indigenous Forum run in May 2023; n = 8.

From your learnings, what do you think are the top three reasons for Industry to disengage in a relationship with First Nations?

Fears about unpredictability	1.38
Confidence to engage is not strong	1.13
Being unprepared with inherent challenges	1.00
Relationship hitting some hurdles	0.63
Facilitation seen as pressuring into a corner	0.50
Motivations to partner is not strong	0.38
Questioning the benefits sought by First Nations	0.25
Concerns about impact to profits	0.13
Fears about the relationship not working out	0.13
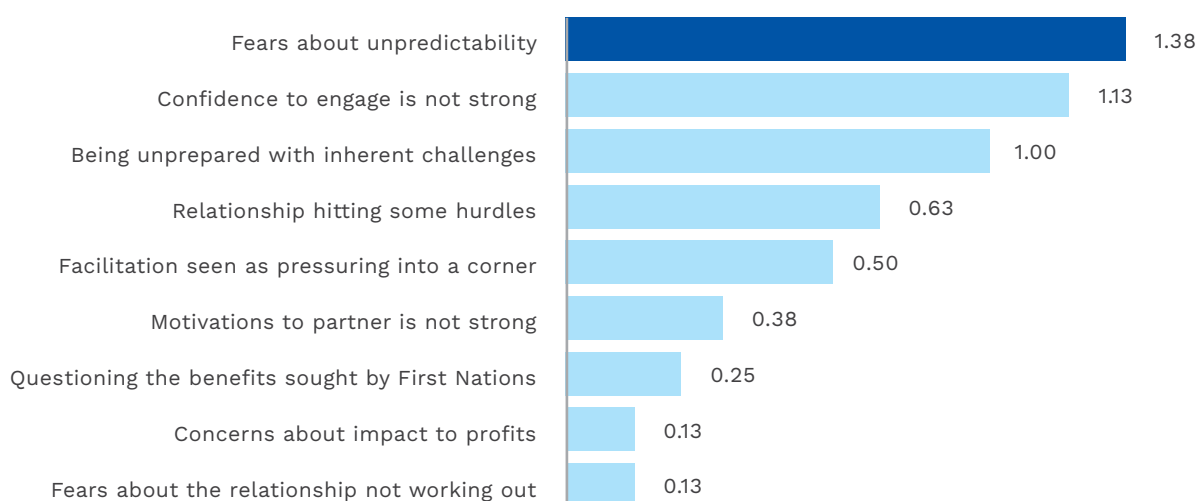
6.2.4. Challenges - Detected points of Industry views about First Nations

By asking participants during the Industry-focused WebCast about the common Industry reaction to building partnerships with First Nations, we gathered insights about the potential factors that could impede the progression of a partnership.

The highest identified reason for Industry disengagement was the time and resourcing constraints making it hard for partnerships to be considered (Figure 35). The impact around the lack of keenness from Industry Executives was detected. The only positive response detected was around the moral obligation of it being the right thing to do, but it scored below most other responses.

No participant selected the turning down of partnership requests within their top three common reactions. The audience scored that the aspect of First Nations asking for was less than the reason of Industry members feeling uncomfortable about knowing what to do. This indicates that Industry readiness has more influence on a partnership pathway than the co-benefit request put forward by First Nations.

From your learnings, what are common Industry responses to developing partnerships with First Nations? Select your top three responses

CONSTRAINTS - Impacts of time and resources constraints makes it difficult to consider — 1.13

TOO HARD BASKET - Industry members feeling uncomfortable about knowing what to do — 1.00

PARTNERSHIP - We see benefits of partnerships with First Nations — 0.93

REQUIREMENT - We will consider because we need to meet a required code of conduct — 0.87

COST - We will consider as long as it is not too costly for business — 0.60

RISK - Time is needed to assess the risks to profits before agreeing to anything — 0.40

Not sure — 0.27

TOO MUCH - asking for more than deserved through a partnership — 0.27

MORAL- Lets try to make it work because it is the right thing to do — 0.27

EXECUTIVES - Great to see change but I know our management executive won't be keen — 0.13

RECOGNITION - We will consider only if we get publicly recognised for our involvement — 0.13

OVERLOOK - Our involuntary involvement means we can turn down particular requests — 0
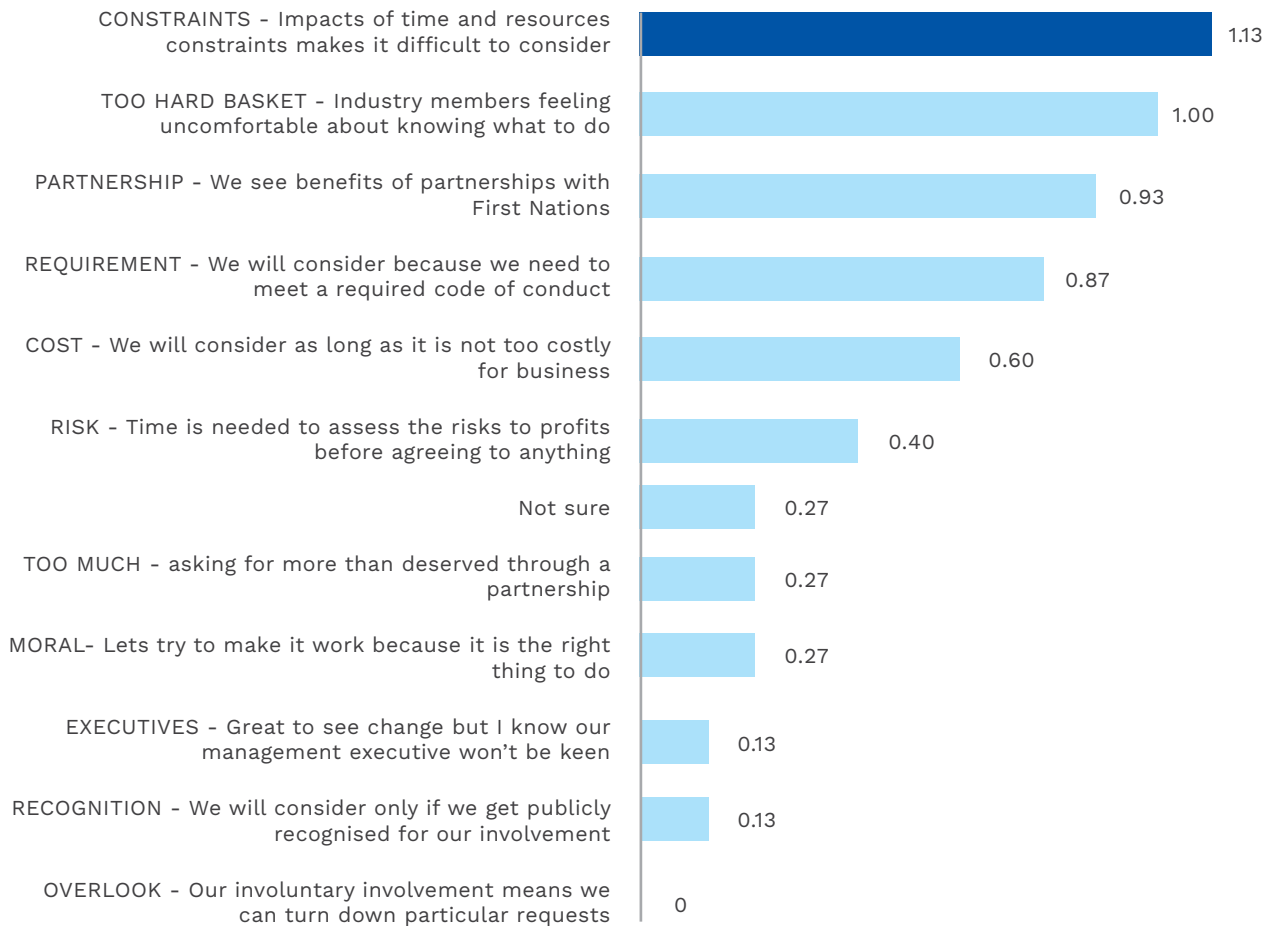
While this study tried to address misassumptions by asking parties to wear a respective hat (i.e., First Nations to wear an Industry hat) we did not carry this out extensively enough to identify the misassumptions in a comprehensive manner. Instead, future works would need to be carried out to create the specific settings that appropriately works through misassumptions and ill-informed perceptions.
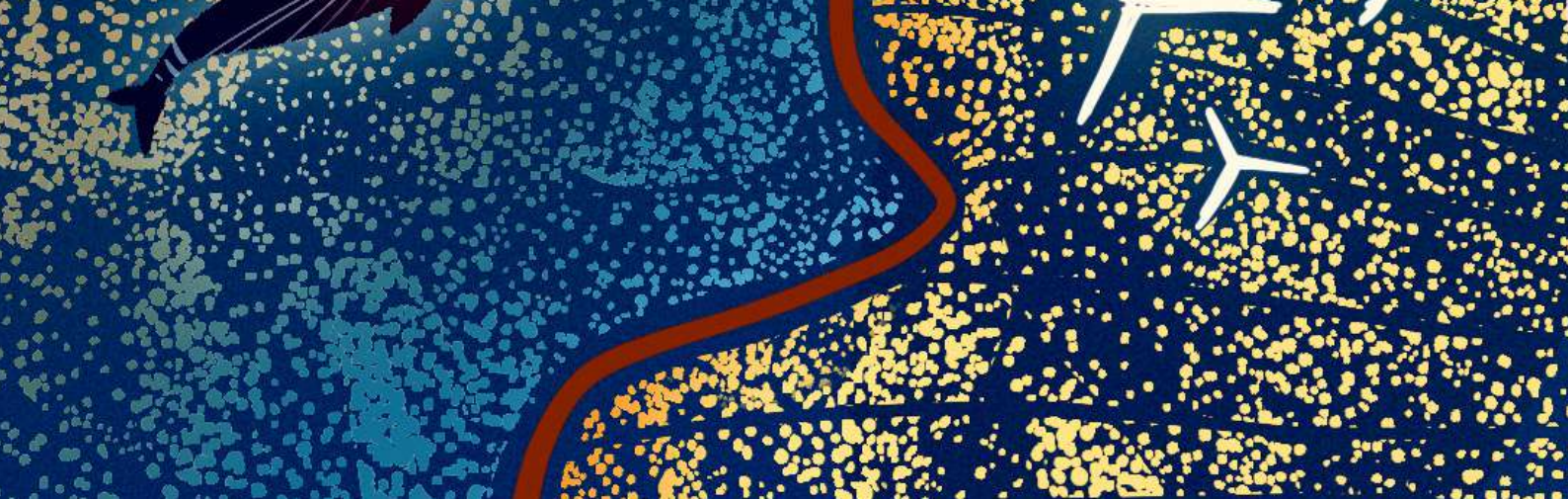
6.3. Discussion

6.3.1. Balancing risks with rewards – moving through unpredictability

Dialogue and knowledge are opening the doors to understanding the depth to risks. When risks have been carefully planned and budgeted for there is a building of the risk tolerance and a reduction in the feeling of setting out into the unknown.

Expanding risk appetite of a firm does not mean throwing out the rule book and launching campaigns that are entirely off-brand, instead it requires the appropriate risk leadership to build dialogues and strategies around managing uncertainty and guarding against needless additional risk.

Currently, our results indicate that some Blue Economy Industries could see partnering with First Nations as unnecessary or within the 'too hard basket' of taking on additional risk especially given the unpredictability of consensus building with First Nations.

Risk management requires constant analysis and the specific capabilities, resources and commitment to develop strategies that meet responsibility demands. It is important that key questions around why (e.g.., why does First Nation partnering impact upon successful business continuity) is worked through otherwise there is an overlooking of expected responsibilities.

In the past, there has been a dissociation between Corporate Social Responsibility (CSR) and a firm's profitability. The work by Latapí Agudelo et al. (2019) describes an evolution of corporate responsibility from it being viewed in 1950's and 60's as it limiting the generation of economic profits, then to the belief that business exists to serve society in the 1970's, and then to the belief in the 2010's that the purpose of corporations should be to generate shared value.

In today's business environment CSR has proven to contribute to a firm's profitability given the focus around how economic value is created and shared (Renouard & Ezvan, 2018). As a result, the cost associated with becoming sustainable should not be regarded as a cost, but rather, as an investment. The world is following a path where environmental, social, and governance (ESG) principles are at the forefront of business, and alongside this in the Blue Economy is the need for the embedding of critical practices around cultural legitimacy to operate. Building and maintaining a partnership agreement through progressive stop-go checks provides the chance to transform risk into reward through creativity and out-of-the box thinking by offering decision makers with new opportunities to consider the transition to change within their processes.

Responding to transitions can enable firms to build, transfer, and integrate new market and business environment knowledge by relaxing routine and structural inertia to explore new strategic alternatives (Wei et al., 2014). There may be a compelling business case for making a substantial commitment to CSR, but a firm must assess the extent to which its business case for CSR applies to its specific circumstances (Smith, 2003). Strategic flexibility, which is the ability of a firm to adapt to changes in the external environment and make necessary organisational modifications quickly, can help firms align their CSR and corporate political activities to evolving expectations (Kamasak et al., 2018).

> **Tapping into the power inherent to business uncertainty requires a willingness to embrace unorthodox approaches, expand understanding of the risk factors, developing a value-focused strategy and investment in education and awareness. It can be an uphill climb, but putting in the time and work into partnership development can yield rich rewards.**

The uphill climb with **Risk Tolerance** can come **Rewards**

Working through risk

Building ideas

Building understanding & trust
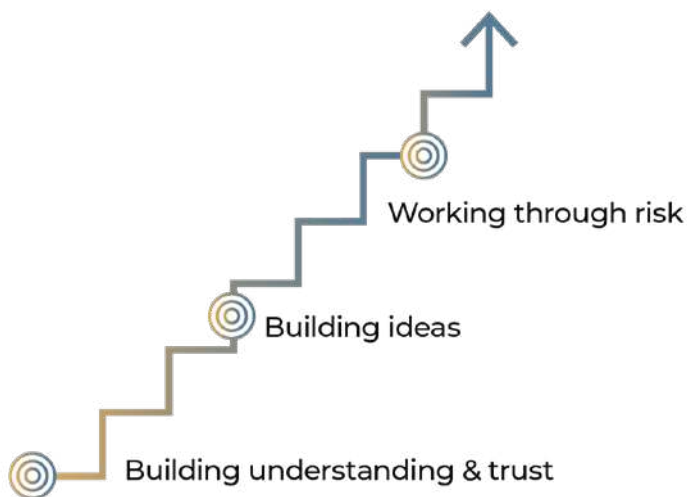
6.3.2. Building the trajectory of partnership pathways with maximum co-benefits

Partnerships with First Nations are core to sustainable development of our Oceans (Fischer et al., 2022; Maxwell et al., 2020). To diffuse the change and transition to cross-sector partnerships we need the socio-political-economic elements to be geared towards providing sufficient resources for supporting infrastructure and coordination (Markard et al., 2021). Yet, this gearing is often lacking or not fit-for-purpose and means the pace of growth in Indigenous economic participation is too slow for First Nations to be able to fully unlock Blue Growth.

In Australia, we are seeing different strategies ([1]First Nations Platform for Shared Benefits, [2]First Nation Clean Energy Strategy, [3]Sustainable Ocean Plan) to help build the agency, dialogue, and transition to stronger collective efforts to ethical and equitable sustainable development. These strategies are needed given the few examples illustrating Blue Economy sector partnerships with Indigenous Peoples (Lyons et al., 2023).

> **Currently, in Australia, the inertia and partnership trajectory we are tracking on is lacking the required maturity. Although benefits of co-beneficial partnerships have long been recognised, implementation has been slow and modest in most places in Australia.**

Concern is further heighten when competition for use of the ocean is intensifying (Hodgson et al., 2019) and there is a recognised need to ensure respectful co-existence between sectors (Schupp et al., 2019).

Previous studies have acknowledged that Ocean Developments can operate within a strong regime situation by being 'locked in' around the legacies of structure of how power, equity and politics flows from the 'old power' (Alexander et al., 2022).

The ways that initiatives shake up the conventional regime is by constructively working through opposing forces and development. While breaking into a strong hold regime is not straightforward, there are learnings growing within the Blue Economy sectors and outside the sector around sustainability transition (Markard et al., 2021; Rudolph et al., 2020). The transitional learnings recognise that a change to a regime often requires contested institutional changes and a nuanced picture of niche–regime interactions, in which new niche agency can emerge and break into the regime. Building the legitimacy of the First Nation-Industry 'niche' is one way to reconfigure the regime.

Our goal is to encourage transition to improved ways of ethical, equitable and sustainable Blue Growth. The Blue Economy sector needs to break routine regimes that obliges firms to operate within a locked of 'fit-and-conform' rather than 'stretch-and-transform' approach.

To reconcile change and better orchestrate sustainability transitions, the literature draws attention to the important role of the state in the development and diffusion of sustainable innovation and green growth (Mazzucato & Perez, 2015). States can fund, coordinate and align efforts in ways that markets cannot.

We contend that more attention is therefore merited to other types of operations that stretch and transform towards sustainability transitions.

6.3.3. Conclusions - recognising stretch and transform leaders

We recognise and call for more leaders to invest in risk-tolerant and agile approaches that have the strategic foresight in the complementary visions that optimise synergies between First Nations and Industry.

The script needs to be flipped for Industry to be consistently considering the competitive advantage of working directly alongside First Nations.

We hope that the Cultural Licence to Operate framework helps to transition to opportunities rather than it being seen as an unnecessary cost associated with operating in an ethical, equitable and socially responsible way.
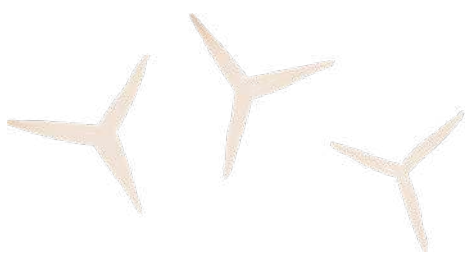
Footnote

[1]Reference to First Nation Benefit Sharing Platform
[2]First Nations Clean Energy Strategy
[3]Sustainable Ocean Plan

Part 7

Recommendations and conclusion
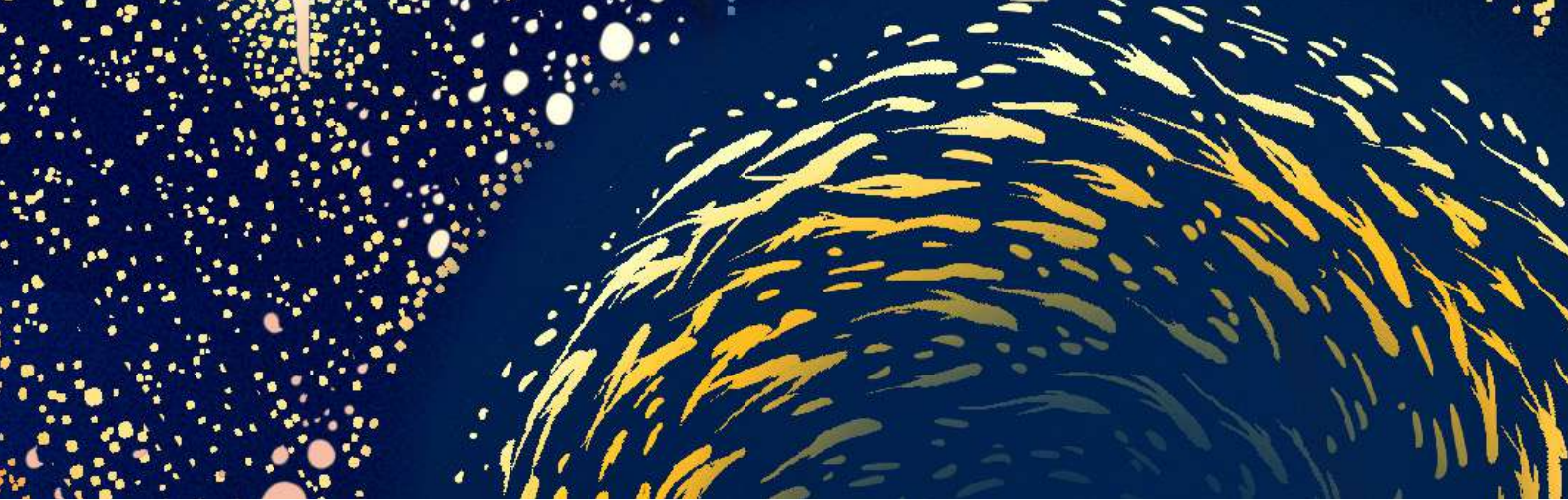
7. Recommendations

7.1. 5 key recommendations for shifting behaviours and approaches

For the future of Ocean Sustainable Development, the Blue Economy must be at the forefront of transformative commitments.

For First Nations, these commitments are a vital opportunity to change course, move from rhetoric to action and breakthrough to better co-existence and partnership models premised on Cultural Partnership Pathways of the Cultural Licence to Operate framework. Industry leaders are called upon to step up ambition, drive co-benefit transformation and renew awareness in fairness as an ethical and sustainable cornerstone of First Nations partnership pathways that contribute to Blue Economy gains overall.
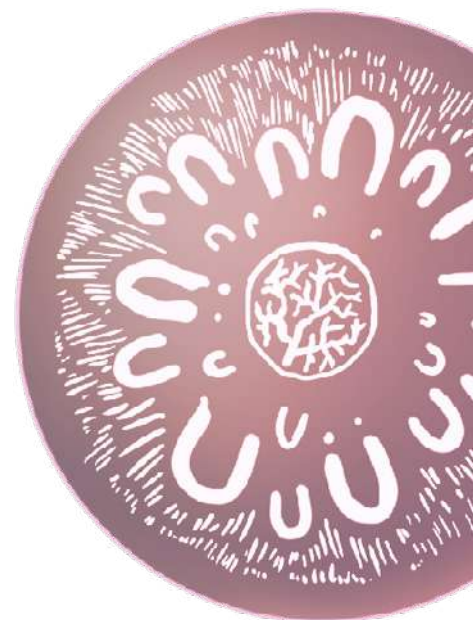
7.1.1. Recommendation ONE for a transformative commitment – Investment to implement and test the Cultural Licence to Operate Framework

Looking to the next logical step there is a fundamental need to implement and test the Cultural Licence to Operate Framework for building Cultural Partnership Pathway (CCP) at place with integrity and agreeance. In order to reimagine equitable landscapes, Industry need to be reoriented to align with the multi-dimensions of the fairness yardstick and the reallocation of appropriate resources towards equitable fairness and co-benefits.

CCP builds on the efforts already underway and guides the path towards commitment and consistency in pivoting Industry and business models on a trajectory with mutual understanding, goals and purpose.

From rhetoric to breakthrough:
The proposed framework could be ringing hollow if it is not tested and refined.
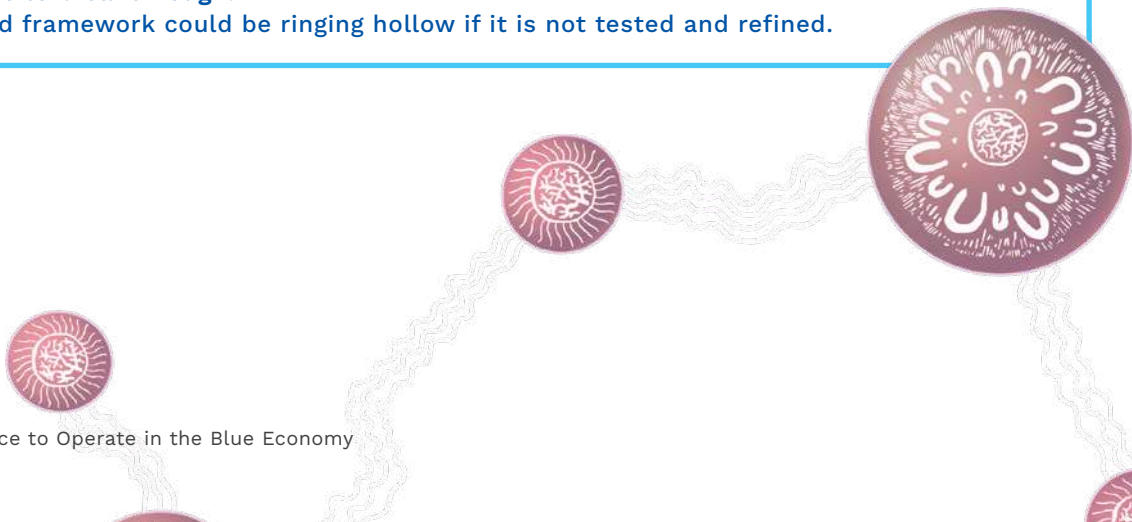
7.1.2. Recommendation TWO for a transformative commitment - Convene diverse sectors to surface and address tension points

The value proposition to working together can be better unlocked through the convening of spaces and settings that bring diverse sectors together to re-think where outcomes are falling short given missed opportunities and/or eluded challenges.

Taking a deep dive into challenges builds the required deep subject matter expertise that enables more practical ways to build co-benefits as inherent challenges are identified and discussed rather than shelved.

> **From rhetoric to breakthrough:**
> Partnership efforts are ringing hollow if not working at the depth required to deliberate on differences and synergies.

7.1.3. Recommendation THREE for a transformative commitment – Investment to continuously clarify and disseminate expectations and capacity to meeting standards

By reorienting collaborative environments towards spaces and settings, it allows trust to be developed around sharing the risks, responsibilities and resources. While these reform efforts help to re-orientate practices, these efforts alone cannot lead to transformation. Education is key to building a deeper understanding.

Any reform efforts would need a renewal in Industry education and training models in order to uproot existing institutional misconceptions, ill-informed workplaces and outdated practices that unnecessarily leads to fears rather than positives. Knowledge and execution of expectations about ethical, equitable and sustainable partnership helps to dismantled outdated practices that come to put a handbrake on opportunities for First Nations. Effective compliance is then built on mutuality and shared standards of fairness.

> **From rhetoric to breakthrough:**
> The framework could be ringing hollow if it is members are not aware of the expectation.

7.1.4. Recommendation FOUR for a transformative commitment - Mandate leadership performance to meeting standards

Adhoc leadership creates gaps with unifying and bringing together stakeholders and rightsholders to achieve outcomes. By holding leadership performance to account with a mix of compliance and economic benefits, Industry standards can be elevated and co-designed to meet fairness for all partners in agreement making.

Importantly, mandating leadership requires leaders to take ownership of challenging issues, instead of avoiding them, by working through the inherent ups and downs with honesty and integrity.

From rhetoric to breakthrough:
The building and maintaining of cross-cultural relationships could ring hollow if leadership performance is not held accountable to meeting required standards of practice.

7.1.5. Recommendation FIVE for a transformative commitment – Empower strategic foresight that optimises synergies

It is necessary to invest in more risk-tolerant and agile approaches that have the strategic foresight in complementary visions that optimise synergies between First Nations and Industry.

We need to flip the script for Industry to be consistently considering the competitive advantage of working directly alongside First Nations and see the Blue Economy benefit as a whole from Industry-First Nations partnerships.

From rhetoric to breakthrough:
Frameworks could be impartially achieving process and ringing hollow if not optimising to maximum co-benefits and synergies between First Nations and Industry.

7.2. End state the recommendations are trying to pivot towards

The end state the recommendations are pivoting towards modifying the formula of corporate responsibility through a more legitimised and objective way of implementing and earning a cultural partnership pathway that maximises co-benefits.

This opens the door to empowering First Nations to be involved within the socio-economic-political-environment systems by changing the gate keeper approach through being open to improved change. We expand on the recommendations further by providing specific points for the BE CRC, Industry, Government and Public (Table 6).

This table is just a start and more specific work needs to be developed around specific guidance documents and directions forward. Across all sectors, it is important for each to be a catalyst of change by continuing to ask the question, 'how do we individually and collectively achieve change' given that responsibilities sit on many shoulders.

By approaching the uplift in improved change through a whole system change piece, that is, building trust and sense-making, convening sectors, guiding principles and frameworks, education & training and strengthening leadership, this will help to drive the breakthrough to a better co-existence and partnership model in the Global Blue Economy.

Table 6. Expanding on the recommendations further by providing specific points for the Blue Economy CRC, Industry, Government and Public.

Sector	Specific points and practical steps around the recommendations
BE CRC	△ Investment into supporting further phases of developing and piloting the cultural pathways partnership approach around the CLO framework. △ Support stronger Indigenous governance positions through an Indigenous Board member and overarching Indigenous Reference Group. △ Building a portfolio of Indigenous-led projects. △ Support the convening of cross-sector engagements and creating safe spaces to ask the reluctant questions.
Industry & Business	△ Industry education and training models around Indigenous Engagement and Partnership. △ Supporting cultural partnership pathways and cultural navigators to work across cross-sector boundaries. △ Investment into understanding co-benefits models and ways of achieving competitive advantage.
Government	△ Knowing what is in scope and out-of-scope for the State and Commonwealth Governments to help improve First Nations and Industry Partnerships. △ Investment into improved agreement making based around supporting best practice models of partnership. △ Addressing the ad hoc nature of Indigenous Leadership of Ocean Sustainable Development through consistent support of Indigenous governance positions across key Boards and Advisory roles. △ Regulatory decision making is consistently made based around ethical and equitable engagement and partnerships.
Public	△ Awareness building around the difference between rightholders and stakeholders. △ A willingness to understand how Ocean Sustainable Development can be fair across a diversity of groups. △ Joining up efforts towards improved outcomes for all of society.

7.3. Overall Concluding Statement – A cultural shift by flipping the script

As Blue Economy Industries strengthen their evolving reporting commitments to the ESG agenda, SGD goals and business ethics standards, our Cultural Licence to Operate framework provides a responsive way to guide and pivot the implementation pathway of improve change so that Industry reporting can actually measure an improved change and not some other statistics.

Independently substantiated metrics behind the reporting outcomes by Industries means outcomes required confirming satisfaction. Reorienting collaborative environments towards the ethical and equitable earning of trust, consent, and approvals through spaces and settings enables healthy working relationships.

A shared vision of co-benefits flips the script for Industry to consistently consider the competitive advantage of working directly alongside First Nations. We call upon industries and innovative business owners to embrace, rather than fear, uncertainty from being receptive and flexible to new ideas.

With a willingness to look beyond traditional risk management and a commitment to agility, Industries can meet demands in innovative ways, and find exciting new pathways and markets to strengthening co-benefits by working alongside First Nations.

Part 8

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