

11<sup>th</sup> November 2022

## Bigambul Native Title Aboriginal Corporation Submission

### Inland Rail Independent Review

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

**Contact:** Justin Saunders, Executive Director

**Organisation:** Bigambul Native Title Aboriginal Corporation

**Confirmation:** Submission can be made public

#### Background

Some 140kms of Inland Rail (IR) traverses the traditional lands of Bigambul country from around the Queensland / New South Wales border near Goondiwindi to outside Millmerran, Queensland. The Bigambul nation is the registered Native Title holder across this section of the rail corridor.

As Traditional Owners and consent determined Native Title holders with a determination area (December 2016 and June 2017) covering more than 17,000 sq km in Queensland's south-west region, the Bigambul Native Title Aboriginal Corporation (BNTAC) – the Registered Native Title Body Corporate (RNTBC) – represents Bigambul People (Bigambul) in Native Title matters, managing rights and interests for the benefit of their community.

The IR project (the project) presents a unique opportunity to redress past and present impacts and address social and economic disadvantages of First Nation communities. In doing so, the project outcomes will align with broader policy drivers such as Closing the Gap.

At this point in the project, Bigambul hold serious concerns for the impact to cultural and ecological values and lost economic development opportunities for Traditional Owners.

#### Context

BNTAC commenced engagement with IR in 2017 with IR proposing a Cultural Heritage Management Plan (CHMP). The development of the CHMP was flawed. For example, it was developed in six weeks by lawyers and representatives of IR while Bigambul was in a transition of leadership and did not have legal representation, with limited engagement with the Board.

Engagement thereon culminated in a Bigambul led formal commitment to deliver outcomes between IR and Bigambul through the Statement of Commitment (SoC) – (Ref. Attachment 1).

BNTAC recently completed a review of the Environmental Impact Statement (EIS) which identified substantial matters concerning Native Title impacted lands and waters, Cultural Heritage and a lack of engagement on environmental impacts and offsets. Further engagement with IR revealed changes in commitments regarding business opportunities for economic development and prosperity of Bigambul people.

These concerns are reflected by themes in the Independent Review into the delivery of Inland Rail Program Terms of Reference (ToR), with primary concerns including ToR points:

- c) *...the processes for selecting the Inland Rail route to confirm it is fit for purpose and has considered both impacts and potential broader economic benefits to regional economies and communities;*
- e) *...opportunities for enhancing community benefits along the route;*
- f) *...ARTC's engagement and consultation approach, including options to improve engagement with communities and other stakeholders along the route; and develop a pathway to consider community concerns with the alignment.*



11<sup>th</sup> November 2022

Disappointingly, the ToR for this current Federal review do not refer to Traditional Owners on whose lands and waters the project traverses and significantly impacts.

## **Project Overview**

### **Engagement**

Bigambul initiated the SoC with IR in December 2019 (ref. Attachment 1), agreeing to work together on cultural preservation, social projects, and employment and business opportunities resulting from the IR project for Bigambul. SoC outcomes were expected to be aligned with Federal initiatives under Closing the Gap and policies such as Indigenous Participation Policy 2020, as well as prioritising Cultural Heritage processes, engagement and understanding.

Notable positive aspects to engagement with IR to date has included a level of support to assist Bigambul in developing opportunities. Although progress has been slow and key issues yet to resolved are outlined herein.

### **Impacts**

Of primary concern are permanent impacts to Native Title determined lands and waters and Cultural Heritage. Native Title impacts were not raised during the corresponding social performance engagement, EIS or communications process. Bigambul were not informed by IR of impacts to Native Title lands.

Additionally, a significant cultural area, which was the site of a massacre of Bigambul people during colonisation (Rainbow Reserve) is being permanently impacted. The rail corridor and a road alignment are proposed to be constructed directly on this site. Further, there has been no consideration for totemic relationships, landscape and visual amenity and associate cultural values.

Some of the impacts could have been balanced by social and economic development outcomes for Bigambul People. Until recently, IR supported a significant legacy outcome. A workforce accommodation camp proposed by IR for Millmerran was planned collaboratively between IR and BNTAC, which was to be converted to a Conservation Park post construction (ref. Attachment 2). However, BNTAC has recently been advised by IR that the camp has been removed from scope with no replacement option commitment.

## **Key Themes – Bigambul responses**

The following responses are to the Federal key themes and guiding questions which are in direct relation to the major concerns for Bigambul. These underpin BNTAC's submission to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

### **1: ARTC governance and management arrangements for the delivery of the Inland Rail Program.**

- *How could ARTC improve its management arrangements and structures to better facilitate the delivery of the Inland Rail Program?*

Early engagement with Bigambul, such as the Statement of Commitment 2019 (Attachment 1), has lacked implementation and commitment. Where commitments have been made, IR has changed position at the direct detriment of Bigambul People, without alternative commitments. A notable example is the workforce accommodation camp planned on BNTAC land.

Whilst some aspects of stakeholder management have been positive, the Social Impact Assessment has failed in capturing the cultural considerations and values, and economic development and prosperity objectives of Bigambul.



11<sup>th</sup> November 2022

Improvement in these arrangements are recommended as follows:

- Increase support through more robust resourcing and advocating Closing the Gap, indigenous participation measures and developing opportunities through collaborative agreements with BNTAC
- Provide detail and commit to opportunities and develop outcomes collaboratively
- Deliver on commitments made
- Set clear and transparent targets aligned to policy for indigenous participation, employment and business opportunities for local indigenous people along the corridor; and to achieve them collaboratively.

Early engagement with Head Contractors was supported from June 2022 by the IR delivery team for the Northern Section with Beilby Hull Qbirt Joint Venture (BHQ JV). Although in its infancy, this is developing to be a potentially solid relationship between Bigambul and project delivery operations.

Replicating this type of engagement with head contractors and providing clarity on indigenous participation employment and business development should be part of ongoing management.

## **2: The role of Inland Rail in meeting Australia's growing freight task and providing a Service Offering to meet freight sector needs.**

- *How could Inland Rail and access to intermodal terminals create new opportunities and benefits for your region/industry/community?*

Bigambul have not been engaged in the broader opportunities in the region. Through engagement and inclusion, Bigambul would add significant value and potentially build opportunities for the social and economic betterment of Bigambul People.

Bigambul fully supports this aspect for the Goondiwindi region and benefits to the agricultural sector and would like to see how we can be involved as a critical and key stakeholder.

## **3: The processes for the selection and refinement of the Inland Rail route and whether these processes are fit-for-purpose, including consideration of benefits and impacts.**

- *Do you consider ARTC's approach to engaging communities on the route is fit-for-purpose?*

### **Impacts**

The Queensland section of Border to Gowrie (B2G) arrives via a viaduct and lands on and traverses a significantly culturally sensitive area known as Rainbow Reserve and Rainbow lagoon, impacting:

- A known massacre site where nearly 300 Bigambul people were massacred and buried in the 1800's
- A large parcel of Native Title determined land with the rail corridor and Eukabilla Road re-alignment into the reserve.

The lack of engagement, in particular Native Title impacts, is completely inappropriate. This has led directly to an absence of benefits relative to the significant impacts.

Indigenous Peoples concerns for IR have been previously identified, such as at last year's Senate enquiry. Concerns included; sites of significance, broader implications on cultural heritage, Native Title and economic development opportunities.

Considering the unique size of the IR project in terms of investment spend and impacts, IR have an obligation to benefit social, economic and cultural spheres; as well as obligations for investment and change in Closing the Gap for Traditional Owners.



11<sup>th</sup> November 2022

Bigambul are fully aware of the potential benefits for all Australians as a result of the IR project, therefore our objectives remain to work collaboratively with IR to develop this potential for the Aboriginal and wider community.

***Proposed Benefits – removed from scope***

As noted, IR planning had previously proposed Bigambul/BNTAC owned land for a worker's camp providing construction phase benefits from housing a significant workforce camp and facilities, i.e. jobs, income, training and operations. The legacy outcome of this was to develop a conservation park as an eco-cultural tourism hub, providing ongoing jobs, training and business opportunities beyond construction.

This camp and its legacy were to provide social and economic outcomes i.e. benefits for what were initially known impacts to traditional lands and songlines where the rail line traverses. This commitment was identified collaboratively to provide benefits to offset some of these impacts. Investments such as the Millmerran work camp are an opportunity for Traditional Owners and our sovereign management and economic development objectives for community health and wellbeing aligned with Closing the Gap measures.

Bigambul has invested significant resources into the development of this opportunity. IR were fully aware and supportive of BNTAC investment in funding and resourcing including the development of a Business Case and master plan for the legacy conservation park and eco-cultural tourism facility following construction camp operations (Attachment 2). Grant money is allocated from private and Government sources, sourced by BNTAC. With the commitment of IR, BNTAC held a number of community and Elders meetings directly regarding the planned camp and park, which has built community expectation of the legacy and positive benefits for Bigambul People.

However, Bigambul were advised earlier this year that the Millmerran camp location will be changed. IR has requested Bigambul support removing the Millmerran BNTAC option from the next round of the EIS. Bigambul have requested this decision be reversed and included in the next EIS process or commit to alternative legacy outcomes. At the time of this submission, IR have not agreed to this request.

Bigambul is at a loss to explain how this decision could be made by IR without consultation or a formal commitment for 'like-for-like' alternatives.

**4: The effectiveness of ARTC's community and stakeholder engagement processes, and opportunities for improvement, including ARTC's approach to addressing community concerns.**

- *What has ARTC done well in engaging with communities, including addressing community concerns?*

Resourcing and general information and engagement on the Inland Rail benefits and outcomes for freight, logistics and agriculture have been positive. Inland Rail has held several meetings on Country to this effect.

Engagement with Bigambul included co-signing a Statement of Commitment in 2019 with the premise of economic and social development opportunities for Bigambul. In the Northern Section, BHZJV have strongly engaged in potential economic and social development opportunities.

Additionally, the First Nations Engagement Advisors have provided great support for Bigambul and bordering nations with listening to our concerns and helping where they can.



11<sup>th</sup> November 2022

- *In what ways could ARTC improve its communication and engagement processes with communities and stakeholders?*

ARTC process could improve in the following areas:

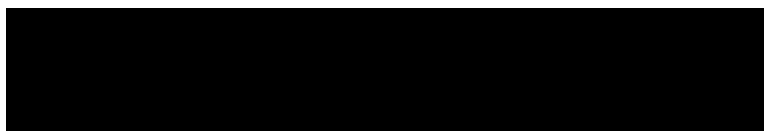
- Developing meaningful engagement and opportunities for Traditional Owners
- Sticking to commitments
- Where commitments are changed, engaging with those potentially affected
- Collaborate and develop alternative commitments for full realisation of benefits from the project's potential.

As noted above, in the last five months a significant business opportunity that had been developed with Bigambul for a workforce accommodation camp on BNTAC land in Millmerran was removed from scope, without making any alternative commitment.

- *How could ARTC improve its engagement with communities and stakeholders in responding to concerns?*

BNTAC has robust governance constructs, consisting of a governance charter backed by our Elders with a cultural decision-making framework, endorsed by our Nation. We have the capability and intent to work collaboratively with IR and assist with optimising social and economic outcomes from the IR project.

The project is an opportunity for meaningful engagement and commitment to involving first nations people as the traditional owners in design and integration of cultural knowledge. BNTAC sentiment as indicated by the responses herein, and as consent determined Traditional Owners, places us as integral stakeholders to the project.



**Attachment 1**

<https://inlandrail.artc.com.au/bigambul-people-look-opportunity-with-inland-rail/>



**STATEMENT OF COMMITMENT BETWEEN BIGAMBUL NATIVE TITLE ABORIGINAL CORPORATION AND THE AUSTRALIAN RAIL TRACK CORPORATION LIMITED (ARTC)**

**BACKGROUND AND PURPOSE**

Inland Rail will be built and operated on the traditional lands of the Bigambul People. ARTC values its relationship with the Bigambul People, recognising their ongoing connection to Country and Culture, and their place as important members of our regions and cities.

The parties have entered into a Cultural Heritage Management Plan (CHMP) under the Aboriginal Cultural Heritage Act 2003 (ACHA) to manage Bigambul Cultural Heritage on Inland Rail projects within the Bigambul Native Title Determination area.

This Statement of Commitment supports the partnership between Bigambul Native Title Aboriginal Corporation and ARTC, building on the CHMP between the two parties.

The Statement of Commitment reflects the intent of both parties to actively work together to support the preservation of Bigambul Cultural Heritage, and to support the social, economic and health aspirations of the Bigambul people.

**OUR SHARED VISION**

Our shared vision giving effect to this Statement of Commitment is for a sustainable and thriving Bigambul Nation.

This is consistent with the Vision of Bigambul Native Title Aboriginal Corporation to preserve pride through cultural identity and see Bigambul People become resilient, strong and empowered through leadership, knowledge and education that encapsulates self-determination, economic prosperity and independence.

**OUR COMMITMENTS**

Bigambul Native Title Aboriginal Corporation and the ARTC are committed to working in partnership to enable Bigambul People to share in the benefit that Inland Rail will bring to Australia's regions and cities. In doing so, the parties will work to preserve the Cultural Heritage of the Bigambul Nation and promote and support the social, economic and health aspirations of Bigambul People.

**WE COMMIT TO:**

- I. Undertake joint and individual responsibilities, as set out in the Cultural Heritage Management Plan, and in accordance with the ACHA
- II. Promote and support cultural and social connection and participation through preservation of Cultural Heritage and targeted social investment, with a focus on participation and leadership of Bigambul People
- III. Actively support local economic development that contributes to the economic prosperity, participation and independence of Bigambul People
- IV. Build workforce capability and skills of Bigambul People through a targeted workforce development plan focusing on real job outcomes
- V. Seek opportunities to support Bigambul business and enterprise
- VI. Actively support local education, training and skill development pathways and opportunities for Bigambul People
- VII. Promote the health and wellbeing of Bigambul People through targeted social investment and local partnerships, with a concurrent focus on poverty alleviation and response to the social determinants of health.

Justin Saunders  
Executive Director, Bigambul – Native Title Aboriginal Corporation (BNTAC)

Rebecca Pickering  
Director Engagement, Environment and Property – Inland Rail

Bigambul Artist: Elle Binge Harrison

The Australian Government is delivering Inland Rail through the Australian Rail Track Corporation (ARTC), in partnership with the private sector.





**BIGAMBUL**

Native Title Aboriginal Corporation  
· BNTAC ·

11<sup>th</sup> November 2022

## Attachment 2

<https://inlandrail.artc.com.au/supporting-bigambul-people/>

The Statement of Commitment initiated by the Bigambul People reflects the intent of both parties to work together to support the preservation of Bigambul cultural heritage at locations where the Inland Rail alignment progresses through traditional lands.



Inland Rail Acting Chief Executive Rebecca Pickering said the Australian Rail Track Corporation (ARTC) is excited to work with the Bigambul People on opportunities, such as a proposed conservation park, which has the potential to be a culturally significant eco-tourism facility.

"The development of a conservation park has the potential to create longer-term social, environmental and economic opportunities for the Bigambul People," Mrs Pickering said.

"And this in turn creates a sense of excitement within ARTC as we continue to develop in partnership a pathway that creates meaningful employment and social outcomes for the Bigambul community."

Visit our [website](#) to learn more about how we're working with Indigenous communities along the alignment.

*IMAGE: 'Bigambul Country' by Peter Carlo. The painting, which tells the story of the Bigambul People through totems and symbols, was commissioned for the Inland Rail Goondiwindi office to show our respect for and recognition of Indigenous communities along the alignment*

