NAIF– Indigenous Engagement Strategy Guideline

September 2020

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Acknowledgement of Country

The Indigenous estate of Northern Australia is significant, with 40 percent of the land mass directly owned or managed by Indigenous peoples. The Indigenous population currently averages 15 percent across Northern Australia, comprising over 60 percent in some sub-regions and over 25 percent of the Northern Territory (Australian Bureau of Statistics 2016). The Indigenous population is projected to increase to over 50 percent of the permanent population of Northern Australia by 2040.

Indigenous cultures are integral to the identity of Northern Australia. Historically, Indigenous people's cultural knowledge of Country has been vital in developing industries across Northern Australia including pearling, pastoral, mining and agriculture. Today, Indigenous people and their cultural knowledge has continued to support and drive these industries and broaden to other sectors such as tourism, urban development, fishing, environment protection and Indigenous niche markets like bushfoods.

NAIF recognises the unique relationship between Indigenous people and country throughout Northern Australia. For many Indigenous people, country is the foundation to their identity, both as individuals and as a community. NAIF acknowledges the continuing connection to land, waters and culture and pays its respects to Elders past and present.

Use of Term

When referring to First Nations People and Aboriginal and Torres Strait Islander people in this guideline the term Indigenous or Indigenous Australians is used. This is not intended to cause any disrespect.

Contents

1. Introduction

The Northern Australia Infrastructure Facility (NAIF) Investment Mandate, contains the following mandatory criterion that Proponents are required to meet to be eligible for NAIF finance.[1]

Mandatory criteria	Description
5. Indigenous engagement strategy	The Project Proponent must provide a strategy which sets out objectives for Indigenous participation, procurement and employment that reflect the Indigenous population in the region of the proposed Project

In making Investment Decisions, the NAIF Board must be satisfied that the Proponent has met all mandatory eligibility criteria including the Indigenous Engagement Strategy (IES) criterion.

A satisfactory IES is one that provides appropriate opportunities for participation, procurement and employment which reflects the regional Indigenous community commensurate with the nature, scope and location of the Project, and the capacity of the Proponent.

This guideline provides practical advice to Proponents in the development of a satisfactory IES. The guideline also outlines how NAIF assesses the IES as part of the Project Investment Proposal.

2. Assessment Framework

The Assessment Framework below provides a guide to what the NAIF Board and NAIF staff may look for when assessing the appropriateness of an IES. The Assessment Framework is designed to provide examples Proponents may consider, particularly where existing initiatives or activity may not exist.

The focus is on ensuring the IES is realistic, achievable and takes into account any existing approach to Indigenous engagement in Northern Australia adopted by the Proponent and how this can be best applied to the Project.

NAIF looks for an IES to:

- Be informed by existing documents, where relevant, including for example native title and other agreements, Indigenous Land Use Agreements, Reconciliation Action Plans, and existing engagement, training, education, employment and procurement initiatives, processes, policies and operations.

- Identify the opportunity the Project provides across participation, procurement and employment.

- Detail strategies and actions that can enable those opportunities to be taken up by Indigenous peoples.

- Provide opportunities across the construction and operational phases of the Project – as appropriate for the Project and commensurate to the length of the NAIF loan.

- Be tailored to provide opportunities to local Traditional Owner groups and the regional Indigenous population as appropriate to the community, region and the Project.

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[1] Schedule One of the NAIF Investment Mandate issued by the Minister for Resources and Northern Australia under subsection 9(1) of the *Northern Australia Infrastructure Facility Act 2016*

Table 1: Assessment Framework

Component	What to look for	Benchmark
Participation		
The IES identifies and engages with the correct stakeholders	Engagement with Land Councils, Native Title Representative Bodies, Prescribed Bodies Corporate, Registered Native Title Bodies Corporate, Indigenous business owners, the National Indigenous Australians Agency, State and Territory Governments.	Supported through cross-checking with the Commonwealth and State or Territory Government Departments or with community or other groups such as Land Councils, Native Title Representative Bodies, and Registered Native Title Bodies Corporate. Documentation demonstrates consultation with appropriate Indigenous stakeholders.
The IES is based on sound data	Research into regional employment, participation, capacity and other matters. Proponents take a broad approach to the regional context of the population including consideration of neighbouring regions where appropriate.	Data is supported through cross-checking with the Commonwealth and State or Territory Government departments or with local councils, Regional Development Australia or community groups. Independent experts may be engaged to assist in compiling and assessing data.
The IES identifies aspirations of the community	Appropriate engagement to identify community aspirations and how these can be supported through the IES. Culturally sensitive identification of any local issues.	Based on consultation with appropriate Indigenous stakeholders. Evidence of strategies to work with Indigenous stakeholders to progress aspirations. Supported through cross-checking with the Commonwealth and State or Territory Government departments or community groups.
The IES reflects appropriate cultural protocols	Early engagement with regional Indigenous authorities. Engagement approaches that are tailored to regional cultural protocols. Commitment to understanding Indigenous culture through cross cultural awareness training.	Local and regional leaders are key partners in the IES. Cross cultural awareness training carried out by local Indigenous organisation or other appropriately qualified provider.

Component	What to look for	Benchmark
Participation		
The IES seeks opportunities to work with local and regional communities to realise Project benefits	Early engagement with appropriate Indigenous leaders or authorities. Leveraging Commonwealth and State/Territory resources and programs to support objectives.	Evidence of mechanisms to monitor and update IES.
The IES is based on best practice engagement	Engagement started early in the development process or builds off established relationships. Adequate time has been given for community members to consider issues and engage productively. Financial support for community members to engage adequately. Compliance with statutory consultation requirements. Consideration of language and cultural differences when negotiating and consulting.	Structured, documented engagement practices that ensure communication is clear and understood by all parties. Evidence of best practice engagement principles e.g. respect and integrity, commitment, accountability, inclusion, clarity, working together. Document any evidence of shared commitment to the Project by community leaders.
The IES commits to ongoing engagement	A forward plan for regular meetings to discuss development status, any issues that may have arisen. Mechanisms for Indigenous representative support for inclusion in and influencing of decision making. Communication is clear and well understood, including following up on engagement outcomes,	Local or regional Indigenous representatives within governance structures. Key performance indicators or monitoring mechanism.
Indigenous interest in the Project	Indigenous organisations having a pecuniary or decision-making interest in the Project.	Land Council or Traditional Owners body providing capital or co-investment. Local or regional Indigenous leaders and/or communities involved in decision-making processes and/or governance structures.

Component	What to look for	Benchmark
Procurement		
The IES commits to viable, sustainable procurement targets	Considering Industry Capability Network, Supply Nation, Indigenous Business Networks and/or the Black Business Finder to source Indigenous businesses.	Giving preference to suppliers that are Indigenous owned, or joint venture with an Indigenous business (including native title groups) or provide other benefits to Indigenous communities (employment, training).
The IES commits to viable, sustainable local content targets	Targets for a certain percent of goods and services to be procured from regional Indigenous businesses (including subcontractor arrangements). Commitment to bind subcontractors to the terms and conditions of the IES. Fair and preferential opportunity for local and/or regional Indigenous businesses and suppliers.	Proponent develops preferred supplier panel arrangements utilising Indigenous businesses.
The IES commits to enterprise development	Opportunities for Indigenous led development. Business development assistance. Assistance to access existing business support programs. Business mentoring.	Business start-up support, including referral to Indigenous Business Australia, assistance to meet industry accreditation requirements Industry briefing and tender papers proactively include opportunities for Indigenous businesses. 14-day payment terms to Indigenous businesses.
Employment		
The IES commits to viable, sustainable employment targets	Details of the Proponent's existing Indigenous workforce Identification of skills needed for the Project and numbers of positions the regional Indigenous population might fill for these requirements – these targets reflect the regional Indigenous population.	Long-term opportunities, apprenticeships and traineeships are prioritised. The Proponent has engaged with relevant government agencies to leverage existing programs. Literacy and other employment ready initiatives in place.

Component	What to look for	Benchmark
Employment		
The IES includes appropriate recruitment practices	Recruitment that targets regional Indigenous populations, for example preferential opportunity for regional Indigenous employees. Recruitment processes that provide fair and equal opportunity for local and regional Indigenous employees. Working through networks including employment services providers for Jobactive, Australian Government Community Development Program, VTEC, or participation in the Employment Parity Initiative or relevant jurisdictional program. Access to financial literacy programs.	Work ready programs.
The IES commits to career and skills development for Indigenous employees	Structured support mechanisms for Indigenous employees (e.g. Indigenous recruitment advisers, access to financial literacy programs, retention plans). Identified career paths for Indigenous employees. Cross-cultural awareness programs. Educational scholarships or cadetships	Mentoring or corporate champion programs.
The IES considers employment retention planning	Retention plans. Access to financial literacy programs. Social support programs including mental health, disability and aged care.	Employee retention program. Literacy and / or other education programs. Social, emotional, wellbeing and aged care initiatives and support. Leadership development and cultural strengthening programs. Financial assistance for local activities or foundations. Support for childcare services including after school care. Support for travel to or from work sites.

Component	What to look for	Benchmark
Other		
Identification and recognition of the importance of cultural heritage protection	Identification of key local or regional cultural heritage issues (e.g. significant cultural heritage areas). Commitment to protect cultural heritage. Guarantees for Indigenous participation in these activities. Cultural heritage processes are compliant with, but are not limited to, State/Territory statutory approvals and regulatory processes, and are responsive to local or regional cultural heritage values and priorities.	Specific initiatives to protect cultural heritage, including initiatives that research and record local or regional cultural heritage. Dedicated cultural heritage teams which include local or regional Indigenous leaders. Agreed and endorsed processes are documented by all parties as appropriate.
Where environmental protection activities are a component of the Project, Indigenous participation in environmental protection activities	Indigenous inclusion in planning for environmental protection activities, including offsets or rehabilitation plans.	Programs for improving local or regional environmental issues. Programs for environmental protection, offsets or rehabilitation include direct Indigenous employment, or contracting to Indigenous businesses and groups, such as Indigenous ranger groups.
Commitment to action	Statements of intent to publish the IES, its actions and opportunities for engagement (in full, or in part). Statements of intent to recording the results of the plan and regularly publish or report on these (IES Report).	A dedicated website or section of their annual report to provide public updates. Identified components of IES, as suitable, for publication. Publicly reporting case studies on IES performance. Methods to capture outcomes of the IES e.g. tracking Indigenous labour hours.

3. NAIF IES process

The process for developing the IES is engaging, iterative and supportive.

A key focus of NAIF's approach is to engage as earlier as possible with a Proponent to discuss the IES Guideline and key components of the Assessment Framework (refer to Section 2 above) that can potentially be applied to a particular Project.

NAIF will provide advice, information and relevant contacts to the Proponent to assist in the development of the IES. This includes feedback on drafts of the IES as it is developed.

NAIF will consult stakeholders as part of its due diligence process seeking information on the nature of the relationship between key stakeholders and the Proponent. NAIF is looking for feedback of a positive and functional relationship to enable the opportunities in the IES to be successfully delivered.

NAIF will request the Proponent provide contact details for relevant Indigenous stakeholders and other stakeholders relevant to the Project and the IES, for the due diligence process.

4. Performance Reporting

Proponents will be required to report to NAIF on IES performance typically every six months during the construction phase and annually in the operational phase. Proponents are to use best endeavours to implement the IES.

Monitoring and reporting requirements will be agreed with Proponents and included in the finance documentation.

The IES Schedule of Obligations (Annexure 1) provides a template for specifying deliverables and appropriate timeframes for delivery. The Schedule of Obligations attaches to and forms part of the complete IES. An IES Report template is provided in Annexure 2.

An IES clause to support performance will be included in the finance documentation. The IES Clause steps out the process where IES performance is unsatisfactory. This process includes the opportunity for discussions between NAIF and the Proponent to understand the challenges being encountered and the opportunity to provide a revised IES where appropriate. Where the outcomes of this process are unsatisfactory to NAIF, the consequences for the Proponent may include a higher interest rate and/or restrictions on equity distributions until the situation is rectified.

5. Communication

The IES and its delivery provides key communication opportunities promoting the benefits of NAIF infrastructure investment in Northern Australia and the positive outcomes for Indigenous people.

NAIF will work with Proponents to promote the IES and its outcomes. A short public version of the IES will be developed by the Proponent and NAIF for publication following the Investment Decision by the NAIF Board.

NAIF will also look to support the Proponent in developing appropriate communication materials on IES performance outcomes which may include case studies, short stories, articles and sharing lessons learnt to benefit future Proponents,

NAIF will work with Proponents and relevant Indigenous stakeholders to exclude or appropriately modify any commercially sensitive, culturally sensitive or otherwise confidential information, from materials identified for publication.

6. Guideline Review

This Guideline is reviewed annually, or more frequently if required, by or on behalf of the NAIF Executive, to ensure it remains aligned with governing legislation and best practice.

The NAIF Board approves all material amendments and reviews this Guideline at least every two years.

7. Definitions

Board means the NAIF Board of directors.

Country is often used by Indigenous Australians and is often referred to complex connections and inherited relationships Indigenous people have with particular areas of land, water and natural resources.

Indigenous Engagement Strategy or IES **is** the strategy prepared by the Proponent to address Mandatory Criterion Five in the Investment Mandate.

IES Obligations are the undertakings, commitments and obligations identified in the IES.

Finance Documents mean the loan facility agreement, the securities and any other finance documents entered or to be entered into by or on behalf of the Proponent in connection with any NAIF finance for the Project.

IES Schedule refer to the template at Annexure 1 which is expected to be included in the IES listing all of the IES Obligations.

Investment Decision has the meaning given in the Investment Mandate.

Investment Mandate refers to the *Northern Australia Infrastructure Facility Investment Mandate Direction* 2018.

Investment Proposal means the application for NAIF finance submitted by a Proponent.

Mandatory Criterion Five **means the mandatory criterion number 5 contained in Schedule 1 to the Investment Mandate namely the following:** The Proponent must provide a strategy which sets out objectives for Indigenous participation, procurement and employment that reflect the Indigenous population in the region of the proposed Project.

Prescribed Bodies Corporate or Registered Native Bodies Corporate under the *Native Title Act 1993* (Cth), ss 55-57, as part of the determination of native title, native title groups are required to nominate a 'prescribed body corporate' or PBC to hold (as trustee) or manage (as agent) their native title.[2]

Project means the project the subject of the Proponent's Investment Proposal which incorporates Northern Australia economic infrastructure.

Proponent means the entity responsible for the relevant Project.

Traditional Owner is an Aboriginal and/or Torres Strait Islander person who has directly descended from Aboriginal and/or Torres Strait Islander people who occupied a particular culturally defined area before European settlement and have cultural traditions, customs and beliefs of that area.

First Nations People an appropriate reference to Aboriginal and Torres Strait Islander peoples of Australia recognising over 500 different language groups or '**Nations**' around the continent, with distinctive cultures, beliefs and languages. Today, Indigenous people make up 3.3 per cent of the total Australian population totalling an estimated 798,400 people.

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[2] https://aiatsis.gov.au/research/research-themes/native-title-and-traditional-ownership/prescribed-bodies-corporate

Annexure 1 – Template for Schedule of IES Obligations

This template is provided to Proponents to **incorporate into their IES**. The purpose of this template is to collate all undertakings, commitments and obligations in the IES into one schedule so they are clearly identifiable and can be reported against.

Indigenous Engagement Strategy: Schedule of Obligations

The Schedule of Obligations forms part of the Proponent's IES and is a compilation of the commitments and undertakings within the IES.

Reporting timeframes on the IES Obligations are provided in the Facility Agreement.

PROPONENT   \<xxxx\>
PROJECT   \<name – brief description and location\>
DATE   \<date of receipt of Final IES from proponent\>

KEY AREA[1]	SPECIFIC UNDERTAKINGS[2]	TIMEFRAME FOR DELIVERABLES[3]
Participation • Engagement with correct stakeholders • Use of culturally appropriate protocols and cultural awareness training delivered • Early and ongoing engagement (best practice) • Community support for the project • Community development principles and benefits *Examples* • *Identifying stakeholders and regular meeting schedule.* • *Committing to cultural awareness training delivered by appropriate local/regional provider.* • *Appoint a Liaison Officer*	1. 2. 3. 4. 5. 6. 7. 8.	

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[1] **Key Areas** from *NAIF Indigenous Engagement Strategy Guideline – April 2018.*

[2] **Specific Undertakings** compiled from the commitments in the Proponent's final version of the project IES.

[3] **Timeframe for Deliverables** compiled from the indicative timeframes for delivery of the commitments in the Proponent's final IES – can be phases 'pre-construction', 'construction' and 'operational'. "TBA" indicates an unknown timeframe that can be clarified in consultation between the Proponent and NAIF.

Annexure 1 – Template for Schedule of IES Obligations

Indigenous Engagement Strategy: Schedule of Obligations

Procurement • Commitment to viable and sustainable procurement and local content targets • Commitment to Indigenous enterprise development *Examples* • *Provide a range of contract and/or work opportunities for identified/targeted businesses.* • *Notify contractors of Indigenous contracting obligations and use best efforts to procure contractors with appropriate Indigenous participation processes.* • *Develop list of preferred Indigenous suppliers, provide prior written notice of upcoming tenders/work packages* • *Directly targeting relevant Indigenous businesses from Supply Nation/Black Business Finder/ WA Aboriginal Business Directory etc.* • *Provide existing contractors with information on local candidates suitable for employment and introductions to Indigenous businesses capable of supplying good and services.* • *Include Indigenous employment in assessment criteria for all tenders* • *Create purchase order terms and conditions that encourage the use of local Indigenous businesses*	9.	
	10.	
	11.	
	12.	
	13.	
	14.	
	15.	
	16.	

Annexure 1 – Template for Schedule of IES Obligations

Indigenous Engagement Strategy: Schedule of Obligations

Employment • Commitment to viable and sustainable employment targets • Appropriate recruitment, retention, career and skills development. *Examples* • *Establish a database of suitable candidates to directly contact when opportunities arise.* • *Interview and employ local Indigenous people (where at least equally qualified and experienced as others)* • *Implement retention strategies including supervised on the job training, inductions, mentoring, upskilling, financial literacy training.* • *Support Indigenous employees to build capacity including numeracy, literacy and basic vocational skills* • *Promote Indigenous traineeship and/or cadetship programs where appropriate*	17.	
	18.	
	19.	
Overarching commitments including Cultural Heritage, community development • Commitment to action • Cultural heritage recognition and protection • Indigenous participation in environmental protection activities • Leveraging Territory/State/Federal resources and programmes to support outcomes. *Examples* • *Cultural Heritage Management Plan*	20.	
	21.	
	22.	

Annexure 1 – Template for Schedule of IES Obligations

Indigenous Engagement Strategy: Schedule of Obligations

• consideration of any Commonwealth, State/Territory Government programs which could assist delivery • Financial assistance for scholarships/training opportunities, community events, community organisations etc	23.	
Reporting, Monitoring & Communication • Mechanisms for monitoring and updating IES – eg. annual review of the IES, in consultation with Traditional owner reference group.	24.	
	25.	
Reporting as per agreed Schedule with NAIF • Collaborating with NAIF to develop and cross-promote communication materials on IES outcomes	26.	
• Report outcomes in Annual Report	27.	

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Supporting documents:

For example, Engagement Schedule, Cultural Heritage Management Plan, Procurement Plan/Strategy, Indigenous Land Use Agreement, Land Access Agreement, Native Title Agreements

Key Contacts:

PROPONENT: <name> <position> <email> <mobile>

NAIF: <name> <position> <email> <mobile>

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Annexure 2 – Template for IES Reporting

This template is provided to Proponents to report on their performance against the IES Obligations.

Indigenous Engagement Strategy: Report <#>

The IES Report documents the achievements and outcomes from the IES Obligations (as articulated in the Schedule of Obligations) and meets the reporting requirements specified in the Facility Agreement.

PROPONENT   <xxxx>
PROJECT   <name – brief description and location>
DATE   <date of receipt of Final IES from proponent>

KEY AREA[1]	SPECIFIC UNDERTAKINGS[2]	TIMEFRAME FOR DELIVERABLES[3]	PROGRESS[4]
Participation • Engagement with correct stakeholders • Use of culturally appropriate protocols and cultural awareness training delivered • Early and ongoing engagement (best practice) • Community support for the project • Community development principles and benefits	1.		
	2.		
	3.		
	4.		
	5.		

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[1] **Key Areas** from *NAIF Indigenous Engagement Strategy Guideline – April 2018*.

[2] **Specific Undertakings** compiled from the commitments in the Proponent's final version of the project IES.

[3] **Timeframe for Deliverables** compiled from the indicative timeframes for delivery of the commitments in the Proponent's final IES – can be phases 'pre-construction', 'construction' and 'operational'. "TBA" indicates an unknown timeframe that can be clarified in consultation between the Proponent and NAIF.

[4] **Progress** only needs to be documented for those obligations to be delivered within the relevant reporting period.

Annexure 2 – Template for IES Reporting

Indigenous Engagement Strategy: Report <#>

Employment • Commitment to viable and sustainable employment targets • Appropriate recruitment, retention, career and skills development.	6.		
	7.		
	8.		
Procurement • Commitment to viable and sustainable procurement and local content targets • Commitment to Indigenous enterprise development	9.		
	10.		
	11.		
Overarching commitments including Cultural Heritage, community development • Commitment to action • Cultural heritage recognition and protection • Indigenous participation in environmental protection activities • Leveraging Territory/State/Federal resources and programmes to support outcomes.	12.		
	13.		
	14.		

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Annexure 2 – Template for IES Reporting

Indigenous Engagement Strategy: Report <#>

Reporting, Monitoring & Communication • Mechanisms for monitoring and updating IES – eg. annual review of the IES, in consultation with Traditional owner reference group. • Reporting as per agreed Schedule with NAIF • Collaborating with NAIF to develop and cross-promote communication materials on IES outcomes • Report outcomes in Annual Report	15.		
	16.		
	17.		
	18.		
	19.		

Supporting documents:
For example, Engagement Schedule, Cultural Heritage Management Plan, Procurement Plan/Strategy,

Case Studies: *opportunity to expand on outcomes and experiences from the positive delivery of IES obligations, for example Indigenous business relationships and outcomes, staff profiles, further details of 'good news stories' etc*

Where possible including images authorising use and promotion by NAIF would be greatly appreciated (consent form to be supplied)

Annexure 2 – Template for IES Reporting

Indigenous Engagement Strategy: Report <#>

Issues affecting delivery: *opportunity to outline any issues, externally or internally, that have impacted on the delivery of IES obligations within the reporting period. For example, extreme weather events, unanticipated events etc. Please briefly refer to actions taken to address any issues and outcomes.*

Authorising Officer: <name>, <position>

Signed:

Date:

Email: