



Towards a National Local Content Policy

September 2022

Prepared by



Acronyms and abbreviations

Acronym	Meaning
ACA	Australian Construction Association
ACT	Australian Capital Territory
AIP	Australian Industry Participation
AIPA	Australian Industry Participation Authority
AIPP	Australian Industry Participation Plan
AJA	Australian Jobs Act
AJR	Australian Jobs Rule
ANZ	Australia and New Zealand
ANZGPA	Australia and New Zealand Government Procurement Agreement
APCC	Australasian Procurement and Construction Council
ARA	Australasian Railway Association
ARRA	American Recovery and Reinvestment Act
BLP	Buy Local Policy (Tasmania)
CBD	Central Business District
COVID	Coronavirus disease
CRLIPP	Canberra Regional Local Industry Participation Policy
DJPR	Department of Jobs, Precincts and Regions
ECT	Economic Contribution Test
EOI	Expression of Interest
FAIR	Future Australian Infrastructure Rating
FTE	Full-Time Equivalent
HVAC	Heating, ventilation, and air conditioning
ICN	Industry Capability Network
ICT	Information and Communications Technology
ILAS	Industry Link Advisory Service
IPP	Industry Participation Plan
ISCA	Infrastructure Sustainability Council of Australia
ITMM	Infrastructure and Transport Ministers' Meetings
ITSOC	Infrastructure and Transport Senior Officials Committee
JTSI	Department of Jobs, Tourism, Science, and Innovation
LBT	Local Benefits Test
LC	Local Content
LCA	Local Content Advisors
LCP	Local Content Policy
LIDP	Local Industry Development Plan

Acronym	Meaning
LJF	Local Jobs First Policy (Victoria)
LJFA	Local Jobs First Act (Victoria)
MPSG	Major Projects Skills Guarantee
NRAP	National Rail Action Plan
NSW	New South Wales
NT	Northern Territory
NTBLP	Northern Territory Buy Local Plan
NTC	National Transport Commission
NTICN	Northern Territory Industry Capability Network
NZ	New Zealand
OECD	Organisation for Economic Co-operation and Development
PAF	Project Assessment Framework (Queensland)
PPF	Procurement Policy Framework (New South Wales)
PWP	Public Works and Procurement Act (New South Wales)
QCLC	Queensland's Charter for Local Content
QGPS	Queensland Government Procurement Strategy
QIPP	Queensland Industry Participation Policy Act
QPP	Queensland Procurement Policy
QSBPC	Queensland Small Business Procurement Commitment
RISBS	Rail Industry Safety and Standards Board
SA	South Australia
SAIAA	South Australia Industry Advocate Act 2017
SAIPP	South Australia Industry Participation Policy
SIA	Social Impact Assessment
SME	Small and Medium Enterprises
SMERPP	SME and Regional Procurement Policy
SOC	State-owned corporations
TBP	Territory Benefit Policy
TFNSW	Transport for New South Wales
TIPP	Tasmanian Industry Participation Plan
US	United States
VIPP	Victorian Industry Participation Policy
VRSS	Victorian Rollingstock Strategy
VSPF	Victorian Social Procurement Framework
WA	Western Australia
WABLP	Western Australia Buy Local Policy
WAIPS	Western Australia Industry Participation Strategy

List of figures

Reference	Description
Figure 1	Value of construction work done on railways in Australia by quarter (March 2000 - March 2020)
Figure 2	Benefits of a more harmonised approach
Figure 3	Overview of Local Content Policies in Australia
Figure 4	Objectives of a revised National Local Content Policy

List of tables

Reference	Description
Table 1	Common characteristics of LCPs across states
Table 2	Issues and opportunities identified throughout the analysis
Table 3	Case Studies
Table 4	Case Studies' potential bid costs
Table 5	Potential Savings through reduced bid complexity
Table 6	Relationship between the number of bidders and bid price
Table 7	Example savings associated with competition
Table 8	Payroll tax implications
Table 9	Focus areas for recommendations
Table 10	Pathway Recommendations
Table 11	Potential methods for incorporating national content alongside state content
Table 12	Examples of state led social procurement practices
Table 13	Barriers to Implementation
Table 14	Integrating the requirements of the WAIPS outlined in the policy document and the WABLP
Table 15	Stakeholder engagement participants
Table 16	Inclusions and Considerations of the Social Impact Assessment
Table 17	Social Baseline
Table 18	Social Impacts - Community and Stakeholder Engagement
Table 19	Social Impacts - Workforce Management
Table 20	Social Impacts - Local Business and Industry Procurement

Table of contents

Executive summary	8
1. Introduction	13
1.1 Context.....	13
1.2 Project purpose.....	13
1.3 Problem statement.....	13
1.4 Methodology	14
1.5 Report structure	14
2. Background	15
2.1 Investment in the Australian rail industry	15
2.2 The National Rail Action Plan	16
2.3 Overview of local content policies in Australia.....	17
2.4 Impact of existing state-based approaches	18
2.4.1 Challenges	18
2.4.2 Opportunities.....	18
2.5 Benefits of a more harmonised approach.....	18
3. Current local content policy.....	21
3.1 Overview of policies by state	21
3.2 New South Wales	22
3.3 Victoria.....	24
3.4 Queensland.....	25
3.5 Western Australia	26
3.6 South Australia	27
3.7 Federal Government.....	27
4. Stakeholder views	30
4.1 Purpose.....	30
4.2 Findings from consultation.....	30
4.2.1 Findings from industry	31
4.2.2 Findings from jurisdictions	36
5. Issues and opportunities for reform	37
5.1 Identified focus areas.....	37
5.2 Potential for benefits	39
5.2.1 Case studies	39
5.2.2 Reduced complexity	40
5.2.3 Potential offsets	42
6. Defining a National Local Content Policy.....	44
6.1 Objectives and desired outcomes of reforms to local content policy	44
6.2 Process for achieving harmonisation.....	44

6.3	Details of harmonised policy	45
6.4	Desired outcomes and pathway recommendations	46
6.4.1	Definition of local content	47
6.4.2	Harmonisation	49
6.4.3	Geographic scope	50
6.4.4	Federal involvement	51
6.4.5	Evaluation mechanism	52
6.4.6	Auditing and compliance	54
6.4.7	Market awareness	56
7.	Implementation considerations	57
7.1	Transition/implementation mechanisms	57
7.1.1	Sponsorship	57
7.1.2	Governance for jurisdictional coordination	57
7.1.3	Implementation body	58
7.2	Other implementation considerations	58
8.	Summary of recommendations	61
8.1	Recommendations	61

Executive summary

NineSquared was engaged by the Australasian Railway Association (ARA) to review current state-based local content policies (LCPs) and analyse the benefits to government and industry in establishing a National Local Content Policy for the Australian rail industry.

Background and current state of LCPs

State governments across Australia use a variety of different policy approaches for procuring rail infrastructure, assets and services. This ranges from jurisdictions with a strong focus on state-supplied products and resources that stipulate state-based local content requirements, to approaches that emphasise lowest cost and value for money.

Local content requirements across states vary significantly. Differences include:

- the way in which local content is specified,
- varying definitions of 'local',
- inconsistent methods of calculating local content percentages, and
- the inclusion of varying additional data and documentation requests.

Policy and procurement approaches in various jurisdictions apply a state-based definition of local content. This means that for suppliers (particularly those of rollingstock and other rail equipment), operating in multiple states can be equivalent to operating in different countries when it comes to responding to state-based rail project tenders. Rail suppliers interviewed for this project provided examples of the need to duplicate or partially duplicate facilities, cost prohibitive barriers to bidding and 'gaming' of state based local policy requirements by some industry participants. These issues increase costs, inhibit investment, and create inefficiencies.

This policy fragmentation affects industry further because historically the market for new rail projects in Australian jurisdictions has been characterised by small, short term, one-off orders, with no national coordination. Uncoordinated procurement and inconsistent application of LCP results in duplicated investment, restricts the ability to establish economies of scale in rail manufacturing, and the ability to grow the Australian local sub-systems and componentry market.

Pathways for achieving desired outcomes

The review of current policy and engagement with rail industry stakeholders suggests that significant benefits could be achieved by Commonwealth and jurisdictional governments taking a more holistic, national approach to LCP in procurement processes; specifically adopting more national local content requirements in place of or alongside state-based local content requirements. Accessing a larger national market can create more opportunities, increase competition, and address the boom-bust cycle of rail manufacturing by providing a smoother project pipeline. This can facilitate investment, lower costs and improve quality. To realise the benefits of a National Local Content Policy, jurisdictions also need to adopt a more long term and strategic perspective. LCPs should be transparent, simple and facilitate stronger commercial outcomes.

Achieving full policy harmonisation is likely to be very difficult given the markedly different LCPs applied between states, the physical differences between rail networks and political realities of state-based investment. While the political will to adopt a fully national approach in relation to rail procurement and LCPs may be limited, there are significant opportunities for greater consistency and incremental progress towards a more national approach. This report identifies a series of pathways that could achieve the desired outcomes required to shift towards a National Local Content Policy involving reform to policy and contractual settings, institutional arrangements, and governance (see below). These aim to improve

outcomes for industry and demonstrate benefits to jurisdictions during a transition to a more national approach.

Desired outcome	Pathway recommendation
Definition of local content	
<ul style="list-style-type: none"> • Recognition of national (Australia-NZ) content as being equivalent to state-based content • Procurement practices that incentivise multiple forms of local content including local manufacturing and whole of life asset support in addition to more short-term forms of local labour force participation 	<ul style="list-style-type: none"> • A phased approach could be taken to recognise national (Australia-NZ) content as being equivalent to state-based content. For example: <ul style="list-style-type: none"> • for specific components with high potential for harmonisation (as g investigated by the National Transport Commission (NTC) as part of the National Rail Action Plan (NRAP)). • A proportional split between state and national local content applied to projects with links to strategic objectives and plans. • Recognition of national content in addition to state-based content. • Consideration of the duration of benefits associated with local content (e.g., expected job retention) in tender evaluation, with local manufacturing and whole of life support for assets weighted more highly than short term labour force participation. This could be expanded to related manufacturing industries to maximise opportunities for economies of scale.
Harmonisation	
<ul style="list-style-type: none"> • Maximum consistency of componentry, standards and regulatory requirements across the rail industry (passenger and freight) 	<ul style="list-style-type: none"> • Identification of specific components and processes that could be harmonised across jurisdictions as – components being investigated by NTC as an initial priority. • Co-ordination in the development of specifications, functional performance, emission/sustainability targets and other procedures across jurisdictions. • Investigation of options for standardising the people and capability elements, such as a national competency framework and diversity targets.
Geographic scope	
<ul style="list-style-type: none"> • High level of harmonisation across all states and territories • National approach to consideration of benefits – ‘sharing’ of inputs across different jurisdictions 	<ul style="list-style-type: none"> • Bilateral approaches to harmonisation and interoperability as a precursor to national coordination (e.g., NSW/Victoria as the first harmonisation area, underpinned by a Memorandum of Understanding [MoU]). This could also be used to identify existing supplier and manufacturing relationships across state borders. • Strategic assessment of potential market opportunities and natural strengths for local content input across different jurisdictions (a “heat map”), delivered using an accessible platform or tool.
Federal Involvement	
<ul style="list-style-type: none"> • Provision of funding for major rail projects with consistent application, assessment and evaluation of local content requirements • Coordination of the development of state/territory policies • A national rail procurement pipeline, underpinned by ministerial/intergovernmental collaboration 	<ul style="list-style-type: none"> • Ministerial/intergovernmental forum(s) to encourage greater collaboration and the foundation for a national rail procurement pipeline as part of the NRAP process. • More effective use of Australia and New Zealand Government Procurement Agreement (ANZGPA) to coordinate the design of relevant state/territory policies. • Commonwealth to include in the National Partnership agreement requirements for projects with federal funding to have national LCPs. This would be an integrated approach that includes both rollingstock and rail infrastructure.
Evaluation mechanism	

Desired outcome	Pathway recommendation
<ul style="list-style-type: none"> Outcome based approaches to setting local content requirements in procurement that recognise the social and environmental benefits associated with local content in addition to economic impacts 	<ul style="list-style-type: none"> Adoption of a standard, national social procurement framework in tender processes. Redefine value for money with the inclusion of social and environmental outcomes in tender evaluation, including any community benefits of local manufacture. Consideration of the duration of benefits in tender evaluation (see above on Definition of Local Content).
Auditing and compliance	
<ul style="list-style-type: none"> Accountability in the fulfilment of local content requirements post-contract award through independent auditing and consistent penalties that incentivise compliance Post-contract completion review processes that consistently assess compliance with LCP requirements and lessons learnt. 	<ul style="list-style-type: none"> National guidelines for LCP audits. LCP audits following major procurement processes, conducted separately from procuring agencies and teams.
Market awareness	
<ul style="list-style-type: none"> Open access to and knowledge of suppliers across market 	<ul style="list-style-type: none"> Independent, govt-funded centralised networking function focused specifically on the rail industry that can identify advantages and opportunities to and from other industry sectors. Could be manifested in the form of a capability directory like Industry Capability Network's (ICN) role in Victoria, however without a compliance arm.

Implementation challenges and opportunities

Stakeholder feedback suggests that there is a strong preference for some jurisdictions to maintain state-based definition of local content, despite the acknowledged disbenefits of this approach. While this is clearly a significant barrier to implementation of a National Local Content Policy, the pathway process is designed to provide a transition to this long-term goal. It is also likely that there will be some reluctance for jurisdictions to move towards any harmonisation if the benefits to their own industries, and economies more broadly, are not well articulated. A strong advocacy position by industry, supported by jurisdictional sponsors, will help to communicate the benefits of a more national approach to LCP to government and procuring agencies.

Achieving meaningful reform to LCP will require ministerial support, a forum for coordination, and an implementation body.

We recommend that a federal minister sponsor reforms to harmonise LCP. Governance could be established using an existing group or setting up a sub-group that would be responsible for guiding and managing local content harmonisation and reform projects across jurisdictions. The desired outcomes of LCP reform align strongly with the work of the Harmonisation and Common Standards stream of the NRAP, that reports to the Infrastructure and Transport Ministers.

Given its remit as a national transport reform body and the links between LCP and the Harmonisation and Common Standards stream of the NRAP, the NTC appears well suited to lead and coordinate national reforms to LCP. The NTC will require additional resourcing to take on this role.

An independent rail industry advisor, such as the federal government's proposed Rail Supplier Advocate should drive a more national approach to LCP in the rail industry. Key functions of the role could include:

- Providing advice to support implementation of pathway recommendations.
- Chairing cross-jurisdictional/project working groups where appropriate.
- Where required, providing general other advice to governments on the rail interoperability agenda and the NRAP.

Given the scale of investment in major rail projects, policy improvements have the potential to generate significant benefits. As an example, Australia's largest four jurisdictions are currently investing almost \$14 billion in new rollingstock projects, all with varying LCPs. Analysis suggests that even modest improvements in bid processes could generate material cost savings to industry, which in turn can benefit procuring entities. Our analysis has considered short to medium term benefits that could result from LCP reform. Developing a more national market for rail equipment, enabled by a National Local Content Policy, may provide long-term benefits such as reducing the cost of equipment, increasing industry employment and providing greater opportunities for exporting Australian products and services overseas.

Recommendations

Based on the findings, and recognising the barriers to implementation, the report's recommendations are as follows:

Recommendation 1: Tender requirements across all jurisdictions to include:

a) National content equivalency	Recognise national content as having equivalency to state-based where there are natural synergies e.g., specific components with high potential for harmonisation, demonstrated linkages to state plans or similar which validate the preference for state-based content over comparable input from other states.
b) Duration of benefits	Include calculations in bid evaluation processes that consider the duration of benefits associated with local content: <ul style="list-style-type: none"> • Job retention, or employment tenure (compared to 'personnel count'). • Whole of life support for assets (maintenance function) given a higher weighting than labour force participation.
c) Value for Money Definition	Redefine value for money assessment criteria to better consider social procurement considerations including the development and adoption of a national social procurement framework.
d) Non-Compliance Penalties	Adopt a longer-term approach to assessing project outcomes and penalties for non-compliance with local content provisions included in value for money assessment.

Recommendation 2: Appointment of an Independent Rail Industry Advisor to:

a) Endorse local capacity	Profile local capabilities and capacity of Australian rail suppliers through a regularly maintained tool providing details and geographic information in relation to national supply chain capabilities.
b) Deliver a networking function	Develop and deliver a networking function to provide improved market awareness and connectivity between different elements of the rail market supply chain. This function should provide an opportunity for existing and emerging businesses within the industry to connect with other market participants to expand, diversify their current service offering and improve knowledge of market capabilities across jurisdictions.
c) Develop national guidelines	Oversee the development of national guidelines for LCP audits and a national social procurement framework.
d) Promote the need for reform at	Include reforms to LCP for rail project within interjurisdictional forums such as ITMM/ITSOC work program, to encourage greater

interjurisdictional forums	<p>collaboration and the review of tender requirements as described above. Reforms should be overseen by a national mechanism that includes representation from all jurisdictions, such as the NTC using existing governance established for implementing the NRAP.</p> <p>Hold discussions with representatives of the Department of Infrastructure, Transport, Regional Development and Communications regarding including an item on LCP reform as part of the ITMM/ITSOC agenda.</p>
e) Encourage greater application of standards	Harmonisation of specifications and performance requirements, as well as the adoption of new digital technologies to ensure interoperability.
f) Identify strategically important capabilities	<p>Encourage jurisdictions to identify which local (state and/or national) capabilities they wish to foster for strategic sovereign importance.</p> <p>Review opportunities for heavily state-content based states (e.g., Queensland and Western Australia) to highlight particular skills or key industry capabilities critical to their state.</p>
g) Facilitate collaboration	Facilitate collaboration and information sharing between jurisdictions, focusing initially on NSW and Victoria, and involve other jurisdictions as the benefits of greater harmonisation and improved co-operation are demonstrated over time.
h) Advocate on behalf of industry	<p>Receive advice and input from industry experts and use this to better advocate for harmonisation within the industry.</p> <p>Hold discussions with representatives of the federal government on proposed reforms to LCP, and their commitment to deliver an Australian manufacturing plan.</p>

1. Introduction

1.1 Context

The ARA is the peak body for the rail sector in Australia and New Zealand, and advocates for more than 170 member organisations across the industry.

The Australian Rail Supply Chain report published by the ARA in March 2021 identified a range of issues with state-based rail procurement including:

- fragmented and varying investment and procurement processes and;
- planning and policy developed in isolation from other states.

The report recommended reforms to LCPs, commencing with a review of current local content arrangements across all Australian jurisdictions.

NineSquared has been engaged to review current state-based LCPs and analyse the effectiveness and benefits to government and industry in establishing a National Local Content Policy for the Australian rail industry.

1.2 Project purpose

The purpose of the project is to:

- Gain a better understanding of the current policy settings which are contributing to inefficiencies in procurement and delivery across the Australian rail industry.
- Build on this understanding to identify opportunities for changes in policy to develop a more consistent approach to local content across state borders.
- Identify recommendations and actions which would enable the industry to move towards a more co-ordinated national approach to local content.
- Identify reforms that can ensure that local suppliers are not disadvantaged as a result of state-based LCPs.

1.3 Problem statement

The domestic rail industry has numerous well-known legacy issues which impact its ability to improve efficiency and innovate. Many of these are a function of federation, a lack of interoperability across state borders and the operation and delivery of rail systems using different physical infrastructure. Another significant contributor is the disparate and unconnected approach to rail procurement and LCPs across Australian jurisdictions.

Different requirements across state borders, together with an often substantial focus on state-based content, has led to industry confusion and inefficiencies in the rail procurement process and project delivery. In many jurisdictions, the need to demonstrate an in-state presence creates unnecessary duplication of resources, and results in a lack of competition and missed opportunities for investment and innovation.

Given that the Australian and New Zealand rail market is already relatively small by global standards, this further fragmentation increases costs, risks and is a strong disincentive for innovation and investment.

This review examines the current approach and looks at how this could be improved through a more co-ordinated national approach.

1.4 Methodology

To undertake this assessment, NineSquared:

- Undertook a review of existing LCPs and procurement approaches for each jurisdiction.
- Engaged with stakeholders via group discussions and individual consultations, both from industry and jurisdictions, to understand the implications of these policy settings, their objectives and their impacts on the rail industry more broadly.
- Identified common themes and issues and analysed the causes behind these.
- Proposed and defined solutions and actions that would address the issues and identified opportunities to improve existing policy.
- Identified processes and governance arrangements to allow for implementation of proposed changes and assessed impacts and benefits of these changes.

The recommended actions have been developed in collaboration with the ARA, together with representatives from the rail industry.

1.5 Report structure

The report is structured as follows:

- Section 2 provides the background and context of the project, including an analysis of the impact of current local policy approaches and the rationale for a more harmonised approach. It also examines other work programs designed at improving co-ordination across the rail industry.
- Section 3 analyses different local content requirements across different jurisdictions, including the policy documentation.
- Section 4 describes the stakeholder engagement undertaken on the project and provides case studies on the impact of current policy settings from an industry perspective.
- Section 5 summarises the issues and opportunities identified throughout the analysis.
- Section 6 identifies actions that can be taken to establish a National Local Content Policy.
- Section 7 provides recommendations for implementing reforms.
- Section 8 presents key recommendations.

2. Background

2.1 Investment in the Australian rail industry

The Australian rail industry generates almost \$30 billion in economic activity each year, supporting 165,000 direct and indirect jobs¹. There is significant investment in the rail network either underway or planned with a record \$155 billion rail investment pipeline over the next fifteen years². This level of investment is significant in comparison to the past two decades of investment in rail where there has been substantially less investment by public and private entities in the rail industry.

Figure 1: Value of construction work done on railways in Australia by quarter (March 2000 - March 2020)



Source: BITRE (2020), Engineering Construction Activity.

Investment in new infrastructure, technologies and communication systems is expected to achieve a significant improvement in the productivity, safety, and reliability of metropolitan passenger operations in Australian cities.

While rising investment has improved the health of the local supply chain in recent years, challenges to its longer-term sustainability remain. In particular, the domestic rail industry has numerous well-known legacy issues which impact its ability to scale up, innovate, increase efficiency and effectively compete against international rivals³.

¹ Rail Supply Chain Blueprint, Australasian Railway Association (2021), <https://ara.net.au/wp-content/uploads/ARA_Rail_Supply_Chain_Blueprint.pdf>

² The Australian Rail Supply Chain: State of Play, Challenges and Recommendations, Australian Railway Association (2021), <<https://ara.net.au/wp-content/uploads/Report-The-Australian-Rail-Supply-Chain.pdf>>

³ Opportunities for Greater Passenger Rolling Stock Procurement Efficiency, Australasian Railway Association (2013), <<https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-economics-passenger-rolling-stock-procurement-efficiency-opportunities-270913.pdf>>

Recent developments in NSW indicate growing dissatisfaction in the industry with overseas produced rollingstock components⁴ and the associated industrial action points to a need to act urgently to prevent further disruption.⁵

The combination of new investment and the need to replace existing equipment has created a unique opportunity to review the way in which rail clients procure major projects and manage on-going contracts for rail operations and maintenance. There is an opportunity to rethink procurement procedures to increase harmonisation within the rail industry and greater opportunities for local rail manufacturers and suppliers.

2.2 The National Rail Action Plan

In addition to the work undertaken in relation to local content by the ARA, other organisations are working together to address other issues and opportunities across the rail industry as part of the NRAP approved by Infrastructure and Transport Ministers in 2019. Key areas of focus for the NRAP are summarised below. These work programs are closely related to local content and are expected to improve consistency of rail assets, people and processes across jurisdictions. Any recommendations implemented in response to this review should build on work already being undertaken in the sector.

Interoperability

The National Rail Action Plan is supporting nationwide action on interoperability by bringing governments, industry, operators and builders of the network together to help overcome historical challenges. Different rail gauges, rules and signalling can make seamless travel difficult and inefficient networks alone. Across the country there are multiple rail infrastructure managers and train operators, each making project decisions based on their own needs. A lack of interoperability means that:

- Trains are fitted with multiple sets of onboard equipment. Complex and expensive track-side equipment is duplicated
- There are extra costs in management, maintenance and training
- Productivity is decreased as fewer trains can run on shared tracks
- Safety risks are increased as there is more room for human error because of the different systems.

To address the challenges, transport ministers approved the development of a National Rail Interoperability Framework to drive national consistency. The framework is being developed by the NTC and is made up of four key elements:

- **An Interoperability Advisory Group**
- **A national network for rail interoperability will define critical routes and key interfaces where the framework applies.**
- **A memorandum of cooperation will be developed between ministers and rail operators and builders**
- **A Future Rail Technologies Forum will bring together governments and industry to learn from international experts. The forum will focus on technology and innovation that can help Australia improve interoperability so new rail technologies know no borders**

⁴ Rail workers forced to take further industrial action, RTBU Express (2021), <https://rtbuexpress.com.au/rail-workers-forced-to-take-further-industrial-action/>

⁵ Premier wants to see an end to cheap overseas transport fleets, Sydney Morning Herald (2022), <https://www.smh.com.au/politics/nsw/premier-wants-to-see-an-end-to-cheap-overseas-transport-fleets-20220214-p59w8q.html?js-chunk-not-found-refresh=true>

Harmonisation

Rail Harmonisation through the development of common standards for rollingstock components and major infrastructure elements has been identified as a key focus of the NRAP. The Common Standards for Components for Rollingstock and Infrastructure Committee (or Harmonisation Committee) was created to accelerate harmonisation across the Australian rail industry. The Harmonisation Committee is being led by the RISSB. RISSB develops, manages, and promotes a suite of more than 200 standards, rules, guidance materials and other documents to assist the rail industry, maximise safety and improve efficiency.

The Harmonisation Committee's work has led to national standards in bogies, windows and glazing now being incorporated into tender documents in NSW and Victoria, and the development of a 3-year Harmonisation Plan. The Harmonisation Plan sets out national priorities that, if adopted by jurisdictions prior to procurement, could help develop local manufacturing, build scale, support jobs growth, develop export markets, improve safety and reduce costs to governments.

Skills and Labour

Work on skills and labour entails plans to grow critical rail sector skills and plans for the development of rail specific skills to build, operate and maintain a national rail network. The Skills and Labour Committee was established to oversee this work and identify the critical skill needs.

2.3 Overview of local content policies in Australia

LCPs define the requirements in relation to the location of the source of inputs into contracts. They can relate to manufacture or assembly of products, input materials or personnel. Further details of each state or territory's individual LCPs are found in Section 3.

State governments across Australia use a variety of different procurement models for public transport vehicles and their components. This ranges from:

- Victoria's approach of long-term contracts to local suppliers.
- NSW's historic approach of importing a large portion of assets from overseas.
- Queensland and Victoria's principle of local manufacture in regional areas and areas of special need.
- South Australia's approach of attaching a local preference clause to the procurement of some infrastructure.
- Western Australia's focus on state-based production and supply with high priority given to Small to Medium Enterprises (SMEs).

Different procurement approaches affect industry because they effectively constrain market size. The market for new rollingstock in Australia has been characterised by small, short term, one-off orders, with no national coordination. **Stakeholders cited in the Senate Standing Committee on Rural and Regional Affairs and Transport⁶ have argued that this approach results in a 30 per cent price premium for all rollingstock procurement.**

Constraints on market size and price premiums erodes value and impacts on the competitiveness of the Australian market. This can stifle innovation and impact upon the industry's ability to invest in technology and research.

⁶ Australia's rail industry, Senate Standing Committee on Rural and Regional Affairs and Transport (2017)

Various stakeholders have argued that the development of a nationally consistent set of procurement guidelines could improve efficiencies across the Australian rail network – particularly in relation to rollingstock projects⁷. These stakeholders have argued that awarding railway equipment contracts to Australian-based suppliers can generate significant direct and indirect economic benefits, including a fiscal return to government because of expenditure and employment.

2.4 Impact of existing state-based approaches

Current approaches to procurement have significant implications for businesses operating in the Australian rail market. While a number of jurisdictions acknowledge 'local' as Australia and New Zealand, this is not consistent, and there is often a priority for local supply from their particular jurisdiction. This poses challenges for how rail suppliers operate their businesses, shapes investment decisions and influences the growth of the market more broadly. There are opportunities to broaden the rail market in Australia and New Zealand and enable the industry to better adapt and evolve products and services in response to changing technology and emerging skills.

2.4.1 Challenges

The Australian rail market is highly fragmented. Existing investment and procurement processes vary significantly, with each state's planning and policy having been developed in isolation from the other states. There is limited consideration given to opportunities associated national approaches or broader economic outcomes.

For rail suppliers, operating in multiple jurisdictions can be equivalent to operating in different countries due to variations in jurisdictional requirements. This can increase costs, dilute investment, and create inefficiencies.

By international terms, the Australian rail market is comparatively small which compounds inefficiencies from state-based approaches. The short-run and 'lumpy' nature of rail investment in individual states can make location-specific investments more difficult to justify and reduce the number of potential participants in each procurement. Overseas suppliers may be better equipped to respond due to the size of their facilities and the scale of their work programs.

Duplication of facilities can reduce the opportunity for increased investment, and the benefits associated with consolidation, streamlined manufacturing and economies of scale.

2.4.2 Opportunities

Increasing the effective size of the Australian market through a more consistent approach to procurement and LCPs can improve export competitiveness and support research and development opportunities. Automation trains and the need to decarbonise supply chains create further opportunities for technology and skills development in the rail sector.

2.5 Benefits of a more harmonised approach

Local content intends to boost domestic market production and provide local economic benefits through increased consumer spending, employment and investment. According to the OECD⁸, there appears to be a correlation between population scale and the implementation of local content requirements. In markets with a large population base and

⁷ Ibid.

⁸ Emerging Policy Issues: Localisation Barriers to Trade, Stone, S., J. Messent and D. Flaig (2015), OECD Trade Policy Papers, No. 180, OECD Publishing

a strong investment portfolio, the stipulation of a domestic content can provide economic benefits.

In government procurement, local content requirement can increase domestic market power by limiting the range of suppliers that can tender for a contract. However, in situations where the domestic market is constrained by size, like in Australia and New Zealand, this can have impacts on competition. Any limits to competition have a flow-on effect on the value chain, with cost increase passed down the value chain, and distortions to the market⁹. Anecdotal feedback from industry stakeholders suggests there may be product quality benefits associated with local content that can offset (at least partially) increased costs.

Experience suggests that poorly designed and executed LCPs can constrain the benefits that are achieved from them. In the context of Australian states, an LCP can have unintended consequences of increasing costs when inappropriately applied to industries that require a large population base to provide economies of scale, such as heavy rail – a high cost, low volume production industry characterised by large peaks and troughs.

There is an opportunity to better plan and co-ordinate requirements across states so that LCPs can more effectively deliver economic benefits. This can help to grow the Australian rail market and provide opportunities for increased efficiency in production and development.

A more harmonised approach could have a positive ‘flow on’ effect for industry, as described in Figure 2.

Figure 2: Benefits of a more harmonised approach



⁹ Ibid

The following sections examine LCPs in more detail and identify steps required to work towards a more national approach.

3. Current local content policy

3.1 Overview of policies by state

Figure 3 provides an overview of the policies applicable in each state. The common characteristics of the LCPs are described in Table 1. Many of the policies have similar characteristics and objectives, although their application can be inconsistent and confusing. This presents a challenge for the industry in both responding to and delivering projects across the rail industry and can often detract from the focus of delivering the optimal outcome at best value for money.

Figure 3: Overview of Local Content Policies in Australia

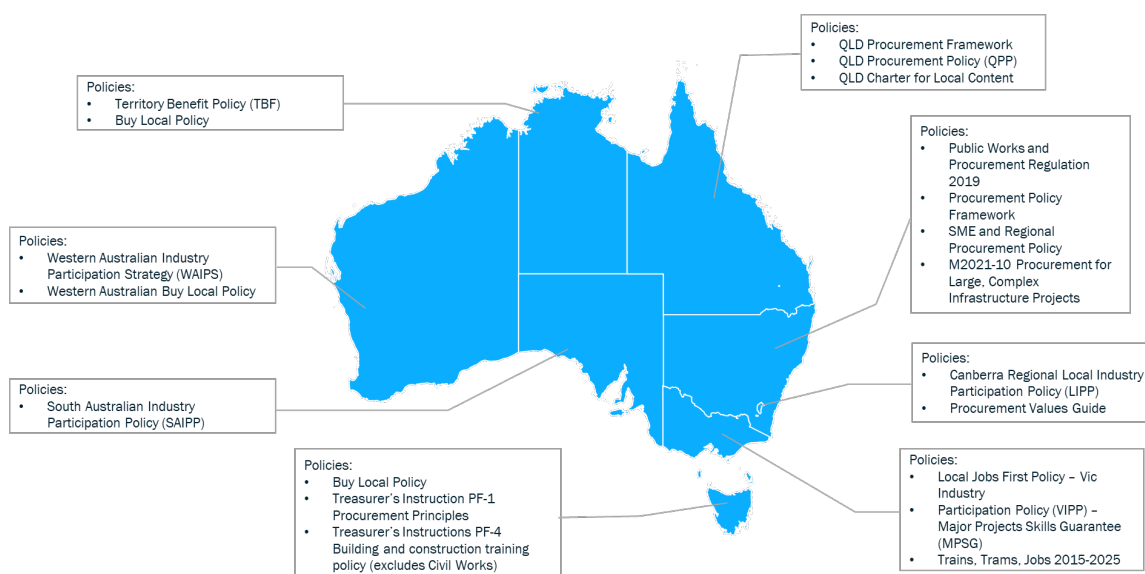


Table 1: Common characteristics of LCPs across states

Common LCP Characteristics	
Objectives	<ul style="list-style-type: none"> Create new jobs, and develop local industry and economy. Opportunities for local businesses and industry. Opportunities for apprentices and trainees, and investment in skill development. Raise awareness of local industry. Encourage greater transparency in government expenditure. Link to other state economic and social policies, including Aboriginal economic participation.
Deliverables	<ul style="list-style-type: none"> Industry development/participation plans. Benefits statements. Statements of intent.
Requirements	<ul style="list-style-type: none"> Applied to projects valued at over a certain threshold e.g.: <ul style="list-style-type: none"> In Vic, projects over \$50m must meet mandated LCPs. In WA, projects value at or above \$25m or those the Minister considers of significance to the WA economy will require additional LC commitments. NSW govt agencies must first consider purchasing from local SMEs for procurements up to \$3m.

Common LCP Characteristics

	<ul style="list-style-type: none"> Queensland emphasis is on local supply in regional areas, related to “significant procurement” of over \$100m.
Evaluation	<ul style="list-style-type: none"> A certain percentage of workforce should comprise of apprentices, trainees or cadets. For example: <ul style="list-style-type: none"> In Vic, all projects \$20m+ should use registered apprentices, trainees or cadets for a minimum of 10% of total labour hours. Weightings and requirements associated with indigenous participation. A certain weighting is applied to tender evaluations to be allocated towards Local Content and SME's. For e.g.: <ul style="list-style-type: none"> In NSW, at least 10% non-price evaluation criteria are to be allocated to small and medium enterprise participation. In SA, a minimum of 20% industry participation weighting must form part of the overall evaluation criteria. Government ‘advocate’ of LCP may be involved in the procurement process and collect information on application of LCP in delivery (e.g., SA).

The following section provides a more detailed overview of the requirements of LCPs for each state. Commentary is provided on the requirements and documentation as well as the impacts and challenges of each approach. The focus for this section is on the states that undertake the most procurement activities, although analysis has been undertaken on all states. More details on the requirements in each state are found in Appendix A.

Note that some of the commentary and analysis provided below has also been informed by advice from stakeholders. Stakeholder engagement is described in Section 4.

3.2 New South Wales

New South Wales places an emphasis on SME participation and regional procurement rather than adherence to specific local content requirements. Compared to other states, NSW policies focus more on self-reliance and are more oriented to maintenance rather than infrastructure or construction.

In NSW, the Procurement Policy Framework (PPF)¹⁰ acts as a guiding policy document for NSW government agencies and suppliers in government procurement. Requirements relating specifically to local content are captured in the SME and Regional Procurement Policy (SMERPP)¹¹, outlined in the PPF. The state's focus is on the economic, social, environmental, and ethical sustainability of procurement as well as on the involvement of local suppliers and SMEs in government procurement.

Goods and services contracts exceeding \$3 million require that as a minimum, government agencies include in the non-price evaluation criteria:

- 10 percent allocated to SME participation; and

¹⁰ Procurement Policy Framework, NSW Government (2022), https://buy.nsw.gov.au/__data/assets/pdf_file/0020/1065503/Procurement-Policy-Framework-1.9-April-2022-Full-V1.pdf

¹¹ Small and Medium Enterprise and Regional Procurement Policy, NSW Government (2021), <https://buy.nsw.gov.au/policy-library/policies/sme-and-regional-procurement-policy>

- 10 percent allocated to support for the NSW Government's economic, ethical, environmental, and social priorities.

Under the SMERPP, NSW government agencies are required to monitor supplier delivery of commitments under SME and Local Participation plans submitted in the tendering process for goods and services contracts valued \$3 million or more ¹². These are binding at the discretion of the procuring agency.

The PPF also refers to the Premier's Memorandum (M2021-10), on Procurement for Large, Complex Infrastructure Projects¹³ which provides guidance on the objectives and desired outcomes of procurement in NSW. These procurement objectives include¹⁴:

- Value for money.
- Fair and open competition.
- Easy to do business.
- Innovation.
- Economic development, social outcomes, and sustainability.

Key to this are the concepts of competition, the importance of participation and the impact this has on value for money.

Recent issues with light rail and ferries have created a renewed interest in local manufacture and supply within NSW. This represents a significant shift given the state's reliance on overseas suppliers for the last decade, a position reflected in comments on the lack of ability of Australia and NSW to build new trains in mid-2020¹⁵. The rationale for this approach is based on value for money, with estimates of the cost difference at 25 per cent more for locally manufactured trains, due to higher energy, labour, and raw material costs¹⁶.

Recent comments by the current Premier indicate that this approach may be set to be reviewed, with boosting local manufacturing cited as a key government priority¹⁷. This policy shift illustrates the highly political nature of LCPs.

While the current less stringent approach of NSW towards local content approach is designed to maximise competition and improve efficiency and value for money, the Premier's recent signal of a more local focus for manufacturing and transport infrastructure supply provides an opportunity to improve NSW LCP and better align with other states.

The establishment of Investment NSW also provides an opportunity to measure and track this improvement and provide valuable indicators on the benefits of any local investment.

¹² Small and Medium Enterprise and Regional Procurement Policy, NSW Government (2021), <<https://buy.nsw.gov.au/policy-library/policies/sme-and-regional-procurement-policy>>

¹³ M2021-10 Procurement for Large, Complex Infrastructure Projects, NSW Government Premier & Cabinet (2021), <<https://arp.nsw.gov.au/m2021-10-procurement-for-large-complex-infrastructure-projects/#:~:text=Description,for%20Establishing%20Effective%20Project%20Procurement>>

¹⁴ Procurement objectives, NSW Government, <<https://buy.nsw.gov.au/buyer-guidance/get-started/procurement-objectives>>

¹⁵ Bereklikian criticised for NSW train manufacturing comments, RailExpress (2020), <<https://www.railexpress.com.au/bereklikian-criticised-for-nsw-train-manufacturing-comments/>>

¹⁶ *ibid*

¹⁷ NSW-built electric buses power local manufacturing jobs, Transport for NSW (2022), <<https://www.transport.nsw.gov.au/news-and-events/media-releases/nsw-built-electric-buses-power-local-manufacturing-jobs>>

3.3 Victoria

Victoria's key policy relating to local content is the Local Jobs First Policy (LJF)¹⁸, comprising the Victorian Industry Participation Policy (VIPPP), the Trains, Trams and Jobs (2015-2025) strategy and the Major Projects Skills Guarantee (MPSG). The Victorian LCP places an emphasis on the prioritisation of SMEs as well as the state's "future workforce" – apprentices, trainees, and cadets¹⁹.

Under the LJF policy, local content includes value added activity reflecting goods, construction activities and services produced/supplied by local industry, determined on a cost basis. Moreover, local content in Victoria is defined as Australia and New Zealand content under the LJF policy to maintain consistency with the ANZGPA²⁰. Local content requirements are set by the Minister for Industry and Employment but are set at no less than the following values for LJF strategic projects:

- 90% for a construction project.
- 80% for a services project or a maintenance project.
- 80% for the maintenance or operations phase of an LJF Strategic Project.

The Victorian approach to government procurement reflects the strongest commitment to national local content in procurement, with a strong level of involvement from the Victorian Industry Capability Network, the Department of Jobs, Precincts and Regions (DJPR) and the Victorian Local Jobs First Commissioner (The LJF Commissioner) as well as relevant government agencies in policy implementation.

The ICN is a membership-based organisation. In Victoria, it comprises two divisions:

- Industry-facing, which provides compliance support for tenderers in completing and complying with requirements during the procurement process.
- Jurisdictional-facing, which provides an assurance function for the content submitted.

The obvious benefit of the Victorian approach for industry is that 'local' content is considered to be Australia or NZ, meaning that participants are not required to be Victorian based to qualify. Discussions with stakeholders indicate that this is a strongly preferred model of local content, and it would be beneficial from an industry perspective to adopt a similar approach more broadly across Australia.

That said, there is a perception by Australian rail suppliers that they need to be located in Victoria to meet local content requirements and that some rail suppliers believe that they have not been successful in winning work due to being located in a different jurisdiction. So while a commitment to national local content may be stated in Victorian legislation, Victorian based procurement outcomes, and the promotion of Victorian based companies is a reality in Victoria.

For a larger state such as Victoria, with a strong pipeline in infrastructure and rail-based projects, there is a clear financial incentive for rail companies to establish a state presence, and local content requirements may not be a significant consideration in this decision.

In theory, a supplier could establish a base in another state and supply materials and/or labour for a Victorian project and still meet the requirements of Victorian local policy. Industry experience suggests that this is not always applied in practice.

¹⁸ Key documents, Local Jobs First, <<https://localjobsfirst.vic.gov.au/key-documents>>

¹⁹ Ibid

²⁰ Australia and New Zealand Government Procurement Agreement, Department of Foreign Affairs and Trade (2013), <<https://www.dfat.gov.au/sites/default/files/government-procurement-agreement-september-2013.pdf>>

Analysis indicates there are naturally strong advantages for sourcing required materials and labour within the state, regardless of policy settings. For many projects, the materials required are readily available locally and there is limited necessity to look to other states or overseas to source project inputs, except for specialist products, such as signalling.

The Victorian government's strategic objectives also support the promotion of local content, as outlined in the new Made in Victoria for Victoria, Victorian Rollingstock Strategy (VRSS). The document identifies the 'locally built' content as one of its eight strategic focus areas, with the aim of championing Victoria as the hub of rollingstock manufacturing in Australia.

Victoria's strong pipeline of infrastructure and rail-based projects make it a naturally attractive location for establishing any manufacturing or assembly facilities, and many rail- or infrastructure-based suppliers already have operations in Victoria. This strong base has attracted overseas suppliers to partner with locally based firms, further increasing the depth of the local market. Victoria has a strong base of manufacturing which could be leveraged by other states, particularly NSW given its proximity.

3.4 Queensland

The Queensland government currently has a strong commitment to local content in rail, which has been influenced by public perceptions of recent rail projects where supply was sourced from overseas and issues arose with compliance. The key objective of Queensland's LCP is to demonstrate investment in Queensland and state-based products and labour.

Queensland's Charter for Local Content (QCLC) under the Queensland Industry Participation Policy Act 2011 (QIPP Act) aims to facilitate an efficient and effective assessment of a broad range of suppliers with 'best practice principles' and to maximise local content with industry participation. The charter does not mandate the use of local suppliers in procurement, and local industry is defined as suppliers of goods produced, or services provided, wholly or partly in Australia or New Zealand to maintain consistency with the ANZGPA.

Parallel to the QCLC is the Queensland Small Business Procurement Commitment (QSBPC). This includes a commitment to develop a measurable target that drives small business participation in government procurement activities. The QCLC targets 25% target (30% target by 30 June 2022) of government procurement spend by value from Queensland SMEs.

In addition to the QCLC and QSBPC is the overarching Queensland Procurement Policy (QPP), placing an emphasis on the economic benefit to Queensland in procurement, maximising Queensland suppliers' opportunity to participate, supporting regional and remote economies, supporting disadvantaged Queenslanders, and stimulating the ICT sector to drive innovation. The QPP is informed by, and reflects, the objectives of the Queensland Government Procurement Strategy (2017 [QGGS]). The QGGS notably makes a specific commitment to prioritising 'local suppliers' within a 125 km radius of where the goods or services are to be supplied (local zone one), extending searches for suppliers progressively through zones two (local region), three (Queensland) and four (Australia) until a suitable supplier is found.

The benefits of Queensland's approach are the creation of local jobs and the preservation of the strong association and cultural ties, particularly areas in regional Queensland with rail manufacture and production. Key to this position is the political desire to establish and maintain manufacturing industry and become a (more) prominent participant in manufacturing industries within Australia.

Under current settings, the Queensland government is able to be far more prescriptive with the maintenance phase of contracts, which enables a focus on longer term investment

rather than solely on short term jobs in manufacturing. This facilitates opportunities in longer-term investment, where the government is partnering with local educational facilities to plan for future skills requirements and ensure that courses and accreditations offered are a suitable match to the skills required. The Queensland government is also invested in local manufacturing and maintenance facilities, such as the recent opening of the government owned facility at Maryborough.

Stakeholder feedback suggests that there is unlikely to be a strong appetite for change in current procurement policy from the Queensland government. There is currently a very strong focus on investment into and support for Queensland-based industry in LCPs, particularly associated with regional development. Public perception considerations, previous experience with overseas-supplied product and negative media coverage have informed and may reinforce Queensland's current policy position.

3.5 Western Australia

The focus of LCP within WA is on investing in and supporting the local economy and more broadly across Australia and New Zealand. In WA, the Western Australia Buy Local Policy 2020 (WABLP) and Western Australia Industry Participation Strategy (WAIPS) deliver local content related objectives to government procurement. The WABLP, which was originally implemented in 2002, and updated in 2020 gives preference to local and regional content in tenders but is constrained by the free trade agreements stipulated under the ANZGPA. The policy promotes economic efficiency (value for money) and linking procurement to socio-economic outcomes as well as focussing on state workforce and skill development.

The government policy of local manufacture and local content was emphasised by the opening of the new manufacturing facility at Bellevue in June 2021 for the new Metronet trains for Perth²¹.

The WA policy provides a significant focus for regional procurement. Some key requirements of the WABLP include:

- Agencies participate in pre-procurement briefings at regional centres to offer regional businesses early tender advice and additional details on upcoming contracts.
- WABLP endorses agencies applying a "buy close to home" principle in procurement, prioritising the regional location and its regional industries in contract delivery.
- In evaluation, regional price preferences may be applied where a prospective supplier makes a successfully verified claim. Up to \$250,000 may be discounted in tender evaluation, offering a significant advantage to eligible businesses. The contract point of delivery must be in regional WA and that the prospective supplier is either an eligible regional business or uses suppliers or sub-contractors located within the prescribed distance.

The policy setting acknowledges the sensitivity of local content requirements, particularly in a regional setting. Assessment of tenders is mostly undertaken on a qualitative basis but must still provide best value for money.

²¹ McGowan Government returns railcar manufacturing to WA, Government of Western Australia (2021), <<https://www.mediastatements.wa.gov.au/Pages/McGowan/2021/06/McGowan-Government-returns-railcar-manufacturing-to-WA.aspx>>

3.6 South Australia

South Australia's (SA) main policy document relating to local content, the South Australia Industry Participation Policy (2021 [SAIPP]), prioritises economic development for the state, efficient public expenditure, and the provision of equitable opportunity for SA businesses. An emphasis is on strategically important industries in the state, including the SA steel industry. SA has an Industry Participation Plan (IPP) similar in nature to the majority of states and territories, the IPP acts as a tool to effectively assess the economic contribution of a project to the SA economy while balancing other criteria like price, quality and contract delivery. An IPP is required for all procurements valued greater than \$550,000.

The SAIPP implements a "benefits realisation" as a means of validating project delivery outcomes in alignment with the strategic objectives of the policy. SA monitors the performance of the policy against key areas of performance, including:

- Employment for residents of South Australia.
- Investment and capital expenditure that builds capacity in the South Australian economy.
- Retention of economic benefit to South Australia or a region through the use from suppliers who employ and source inputs from South Australia or a region.
- Expanded economic development, including economic participation for disadvantaged and socially excluded groups.

SA also has an Industry Advocate, established through their Industry Advocate ACT (2017 [SAIAA]), who aims to use public procurement as a mechanism to deliver the South Australian Government's broader economic and social objectives. Some functions of the advocate that are relevant to LCP include:

- to take action to further the objectives of the South Australian Industry Participation Policy (SAIPP) (including, without limitation, by building the capability and capacity of businesses based in South Australia to participate in government contracts).
- to review, and assist in the negotiations of industry participation plans to ensure they comply with the SAIPP prior to the finalisation of contract conditions
- to investigate and monitor compliance with the SAIPP by participants in government contracts.
- to take action to promote and ensure compliance with the SAIPP.
- to encourage the adoption of industry participation policies by local government to investigate and monitor compliance with local government industry participation policies by participants in contracts to which such policies apply.

Note that limited consultation with representatives from SA was undertaken due to lack of availability.

3.7 Federal Government

The Federal Government has limited involvement in direct procurement in the rail industry. Although funds are provided for rail projects, historically this has been limited to investment in infrastructure and funding is not provided for rollingstock projects.

More broadly, federal procurement is not prescriptive in relation to local content. Specific levels of content are not mandated, but tenderers must have considered capacity within Australia to deliver requirements and Australian Standards must be adhered to.

The Federal Government administers several acts and requirements which influence the application of state policy in relation to procurement. These include:

- The Australian Jobs Act.
- Australian Industry Participation (AIP) National Framework.
- Australia New Zealand Government Procurement Agreement (ANZGPA).
- The Public Governance, Performance and Accountability Act 2013 (PGPA Act).

At the centre of the Federal Government's legislation relating to industry participation in and local content in Australian procurement is The Australian Jobs Act²² (2013 [AJA]). The AJA's focus is on upholding the principle of providing Australian suppliers with the full, fair, and reasonable opportunity to supply key goods and services to project proponents of major Australian projects, emphasized in the AIP Framework.

The aim of the AIP is to achieve transparency in procurement to ensure a 'level playing field' of participants and build capability across industry more broadly for procurements or projects receiving Australian Government funding of \$20 million or more. Its intention is to build a national and holistic view across industry and to provide a market indicator of how to best participate in procurement through the provision of feedback and training. The overall objective of the AIP is to increase and improve competition.

The AIP Framework is complementary with the ANZGPA, and that government procurements of all goods and services are not covered by the framework consequently. The ANZGPA, complementing the AIP Framework, covers government procurement of all goods and services by states and territories in Australia, aiming to establish a single market (Australia and New Zealand) for government procurement. The ANZGPA aims to block discrimination in government procurement while promoting transparency, simplicity, and consistency in execution.

The ANZGPA agreement provides for certain government business enterprises (e.g. state owned corporations) to be excluded from the application of the provisions of the agreement. An objective of the agreement is to ensure the absence of inter-state and trans-Tasman application of preference schemes and other forms of discrimination in government procurement, based on the place of origin of goods and services. To provide services, goods and suppliers of the other Parties equal opportunity and treatment no less favourable than that accorded to their own domestic services, goods and suppliers. Procuring agencies can ensure consistency with the ANZGPA by ensuring quotes are obtained for services from non-state-based firms. However, many jurisdictions are able to circumvent the requirements of the Free Trade Agreements (FTA) in the ANZGPA through the application of preferences in relation to local SMEs and participation schemes, such as the WA Jobs Act²³. The South Australian Productivity Commission²⁴ notes the distinction between local industry preference and local industry participation schemes, whereby "participation schemes generally aim to broaden the opportunity for local businesses to be considered in procurement...the design of the individual program have the effect of enforcing minimum local content".

The Joint Select Committee on Government Procurement made amendments to the Commonwealth Procurement Rules (CPRs) that came into effect on 1 March 2017. The amendments are designed to mitigate the disadvantages faced by Australian suppliers accessing government procurement opportunities. Clause 10.30: Economic benefit describes that Commonwealth officials are required to consider the economic benefit of the procurement to the Australian economy. Guidance by the Department of Finance listed

²² Australian Jobs Act 2013, Australian Government (2013),
<<https://www.legislation.gov.au/Details/C2021C00410>>

²³ WAIPS - Frequently Asked Questions, Government of Western Australia (2021), <http://industrylink.wa.gov.au/system/files/documents/2021050311/WAIPS%20Frequently%20Ask%20Questions%20-%20FAQ_0.pdf>

²⁴ Inquiry into Government Procurement Stage 1, South Australian Productivity Commission (2019), <https://www.sapc.sa.gov.au/__data/assets/pdf_file/0006/109392/Government-Procurement-Inquiry-Stage-1-Final-Report.pdf>

several factors that could be taken into account when considering economic benefit, these include:

- employing workers in Australia,
- providing skills and training that benefit Australian communities,
- using indigenous businesses.

Clause 10.31: International agreements clarify that the policy operates within the context of relevant national and international agreements and procurement policies where Australia is a signatory, including the ANZGPA. The DFAT are confident that, if all tenderers are treated equally the new clauses will not contravene Australia's international obligations. As the main consideration of the ANZGPA is that all suppliers, regardless of origin, are to be treated equally in government procurement decisions and to provide equal access and opportunity to any ANZ supplier.

The PGPA Act applies to all officials of Commonwealth entities and establishes rules for financial management and greater governance, performance and accountability for the public sector. The act imposes the duty to govern a Commonwealth entity in a way that promotes the economical and efficient use of public resources. The Federal Government has the power to control the timing of payments available to entities in such instalments as the Finance Minister considers appropriate. Overall, the systems of controls and obligations under the PGPA framework provides a rigorous control over future Budget lock-in and protects the ability of Government to respond to emerging priorities

The above demonstrates the complex and inter-connected nature of federal procurement policies. While the objectives of the ANZGPA are sound, and provide for an integrated national base for procurement, state-based application of industry participation plans and preference for local jobs means that this is not always applied in practice.

4. Stakeholder views

4.1 Purpose

Stakeholder engagement was undertaken to better understand policies and their application in a practical sense, and key challenges and opportunities of an improved approach to local content across the rail industry. A total of 26 organisations were consulted on their experiences with LCPs in Australia, which included both industry and government/procurement entities. Key themes discussed included:

- Objectives of current LCPs and how well these objectives were being achieved.
- Challenges faced by industry in fulfilling local content requirements, both in terms of delivery of components, parts or manufacturing obligations, job creation, skills and training requirements and responding to tender documents.
- Implications of existing policies on investment decisions and flow-on effects on technology, research and skills development.
- The will for change and what would be required to effect that change, both from a political and public perspective.
- Cost implications of current policy settings.
- Where improvements could be made and how these could be implemented.

Participants spoke generally about the challenges faced by the industry, the objectives behind current local policy settings, and the impacts of these on the way in which businesses operate. Many participants provided examples of these impacts and the consequences on individual operations and the industry more broadly.

The findings are summarised below and are key inputs into the description and characterisation of the issues and challenges across the industry. Participants are listed in Appendix B.

4.2 Findings from consultation

The consultation process identified issues and challenges across the rail market, both across jurisdictions and within industry. These included:

- **Smoothing of the pipeline** is important to manage supply – there are differing views of how this could be achieved (federal involvement vs 'agreement between states').
- **Increased vulnerability of overseas supply chains** has been highlighted during Covid-19 and current high international freight costs, and emphasises the importance of securing access to inputs domestically particularly high usage and critical components.
- The **Federal Government could provide funding for above rail assets** and influence specific projects.
- There is the **need for states to work together** to develop consistent definitions, specifications, measures and requirements for local content, but there is acknowledgement that this is difficult to achieve.
- **Local jobs are becoming more difficult to establish** as a result of skills shortages, impact of COVID and the low unemployment rate, as well as length of projects.
- Domestic production is not feasible for all project components but **there is scope for certain components to be manufactured or technologies developed in Australia.**
- Generally, manufacturing local content results in some cost premium, however, greater **harmonisation could reduce (or may eliminate) the cost differential.**

4.2.1 Findings from industry

Findings from the stakeholder consultation are summarised below.

Requirements in tender documentation can be difficult to understand and fulfil

Respondents reported that it is often difficult to understand and comply with the required percentages or calculation methodologies used to determine the local content requirements. This is made more challenging by the inconsistency in methodologies and requirements across states. Respondents indicated that in many tenders, there is a focus on key components, often at the detriment of other components or inputs such as design, which were not considered in local content requirements.

There is also a lack of transparency in how local content is evaluated in terms of cost outcomes. Without such guidance, suppliers are unable to make trade-off decisions about local content versus additional costs incurred.

Local content is sometimes not 'local'

Discussions with stakeholders identified a common theme across many jurisdictions – while local content requirements are stipulated via percentage amounts of various input or output measures, this is a narrow and imperfect gauge of the actual state-based content that was included. For example, in some jurisdictions it was reported that local content can be satisfied through importing rail components and onshore assembly, with little regard to the source of materials or the labour involved in assembly. Similarly, it was reported that some 'Australian-based' organisations are owned by overseas entities, leading to some confusion and wariness regarding calculations of 'local' content and the recipients of any benefits of these policies.

While many of the LCPs are designed to stimulate state economies and boost local jobs, the focus on proportional calculations is open to gaming and manipulation by tenderers. This can have the unintended consequence of excluding participants from the procurement process, limiting competition, and providing a disproportionate focus on elements of the tender (see case study below).

Case study A: What does local really mean? Where does the ‘buck stop’?

An example was given of a supplier in the rail industry that provides various railway parts, some of which consist of many sub-components. Some of these are sourced and imported from overseas and the remainder are subcontracted for local manufacture.

The supplier has considered setting up local manufacture for the parts that cannot be sourced in Australia; however, the market is not large enough to make it viable. This is particularly true when some states stipulate in-state manufacture, effectively constituting a “lock out” for this supplier.

There are three main competitors in the sector. They all have Australian based manufacturing facilities that are well established. However, these companies are all owned by very large multinationals who then import a lot of the components from their overseas facilities for final assembly here. Further to this, their design, project management and R&D is done offshore at the parent companies. While this satisfies some LCPs *prima facie*, the objective of improving Australian manufacturing and research is not achieved.

The supplier considers that they are looked upon unfavourably in some states because they are seen to not manufacture the “big” steel parts locally. Their experience suggests that the tender process does not look at the whole assembly or process that goes into the supply of the product – design, project management, freight and logistics, smaller ancillary components (which often cost more than the big steel parts etc).

This limited definition of ‘local’ content results in restricted competition within the market and the perception of ‘gaming’ by some participants in local content requirements.

Focus on job creation can have contrary impacts

Many participants recognised the importance of LCPs in creating local jobs and agreed on the value of this. However, the creation of jobs for a particular project in a particular location was perceived by many stakeholders to create duplication and inefficiency. Many cited difficulties in relocating staff to particular locations and/or creating and building skills and knowledge in some locations, particularly those with skills shortages.

State LCPs often necessitate the establishment of facilities within specific states, even where these may exist in other states, and have a well-established track record for delivery in those locations. The cyclical and heavily ‘peaked’ nature of rail procurement, particularly in some smaller states means that establishment costs have a shorter life span over which to amortise, resulting in a cost premium that could otherwise be avoided with a broader view of local content. It is also likely that any jobs created are short term. As soon as the relevant contract is completed, they become uneconomic to maintain. They will likely join a flow of resources to the next project in another state.

The impact of this policy is that companies may refrain from bidding when there is no guarantee that they would win the tender and these costs would be repaid. Further, proponents often have to bid for a large number of packages of work to justify the establishment of a local supply base. This approach severely limits competition, increasing costs and potentially compromising the quality of the delivered product.

Case study B: The same resources in a different location

The Metronet projects in Western Australia provide an example of the impacts of a state-focused LCP.

For previous rail procurement under Transperth (until 2019), train sets were built in Queensland. However, for the latest Metronet procurement announced in 2019, a decision was taken by the WA Government that content had to be sourced locally. The project will deliver 102 new railcars (17 six-car sets) needed for Metronet projects and 144 railcars (24 six-car sets) to replace existing rollingstock.

The Railcar Program was identified as a strategic project under the WA Jobs Act 2017, which included requirements for local job creation and 50% local content for the manufacturing of new trains. Manufacturing of the trains is being undertaken at a state-owned facility in Perth. The plant was constructed by the state and delivery of the rail cars by the private sector is anticipated between 2022 and 2029.

A facility has been established for the manufacture of the new trains along with an adjacent maintenance facility. The contract is able to use the facility for rollingstock maintenance, but there is also the option for using the manufacturing facility for new contracts.

To comply with the local content requirements, industry participants were compelled to establish a local presence. Due to the relatively limited duration of the project, and the 'lumpy' nature of the supply chain, the requirement to establish a local presence did not allow for businesses to build a sustainable or efficient model unless there was already a presence in the state.

Establishing a base in Western Australia for the purposes of bidding on this project was cost-prohibitive for many participants, limiting competition for the tender process.

Respondents noted the importance of LCPs in building expertise in longer term maintenance over the life of the asset and acknowledged the positive impact this can have on local economies. However, some expressed concern that investment in, or consideration of longer-term employment and the resulting benefits, was not adequately accounted for in some procurement processes. This is particularly significant in an environment of 'peaks and troughs' where the manufacture and assembly processes are relatively short-term, but maintenance and operation occur over longer periods.

Local content requirements can compromise project resources

The complexity of understanding arrangements across different jurisdictions can necessitate additional resources within a tender team to ensure that requirements are adequately addressed. This adds complexity and cost to bidding teams, and costs must be recouped over time within the tendered price.

Additionally, the emphasis on the specific location of a resource can lead to duplication or inefficiency and the 'creation' of roles within a specific state with the sole purpose of fulfilling location requirements, rather than fulfilling skills requirements with the right personnel. This leads to inefficiencies and has implications for cost and the ability to supply the best team and resources for the project.

Case study C: Putting the right people in the right places

Essentially all three (NSW, Victoria, Queensland) government tenders ask the 'same but different' versions of questions on their tenders in relation to local content requirements.

The principles the policies are trying to achieve are easy to understand and reasonable, but the difficulties arise in meeting specific weightings and percentages for local content requirement calculations. In recent submissions, with local content requirements of 90% and 97%, this has caused significant resourcing issues in providing the most suitable team to fulfil the project and responding to the tender documentation and adhering to timelines.

Suitable team nomination

The local content requirements can be considered a hindrance to providing the most appropriate and best resources for a project. The requirements can also place constraints on providing long term knowledge transfer. Under the current approach, the emphasis seems to be the location of the resources rather than focussing on how well the resources fulfill requirements of the position within the project team.

Responding to tender documentation

Tender participants experience the need to continually adjust hours and people (creating re-work) to ensure percentage requirements are met during a time constrained bidding process. Every time a person is swapped in and out of a submission, the costings and other proposal components need to be re-developed to ensure they meet relevant local content requirements. In larger submissions, this necessitates having resources committed and finalised early in the process, particularly when the Industry Capability Network (ICN) is involved in the process.

The ICN is a membership-based organisation with divisions and different roles in a number of states. In Victoria, their function is to provide support for tenderers in complying with tendering requirements and provide an assurance function for the content submitted.

In the Victorian context, the ICN have been co-operative in addressing the ambiguity of having to submit local content submissions for panel arrangements by offering support and advice on the wording of submissions. Additionally, the online system has proven to be useful. However, the involvement of ICN creates the need to run to two deadlines – one for submission to ICN for review and acknowledgement and another for the tender submission.

Some industry stakeholders report that it is counter-productive for ICN to advise that the local content requirements are acknowledged by the government department, even when the content submitted could still be determined unacceptable by the procuring entity once the tender is submitted. These stakeholders believed that it should be the responsibility of the government department to advise whether the mandatory requirements are met.

The tender process is not always seen as transparent and objective

Partially as a result of the difficulty in completing and complying with local content requirements, respondents feel that current LCPs can reduce market competition. This was particularly so in those states which have prescriptive local content requirements, where it was felt that firms with existing presence have a near 'unassailable' advantage. This can lead to a decision not to bid on particular tenders, impacting on the range and availability of skills and expertise for particular projects.

Many participants also feel that local content requirements could create the perception of an unfair evaluation process and believe that there is a general lack of transparency in the procurement environment. This has led to a perceived need to improve the audit and compliance of the tender process, a function which many respondents felt was lacking, and could lead to 'gaming' or manipulation of outcomes. Respondents acknowledged that the process of managing compliance through the contract and delivery phases was difficult and that any penalties or abatement regimes are difficult to administer and often ineffective in addressing non-compliance which is incentivised by the significant values of contracts.

Case study D: Out of state, out of mind

A manufacturing facility in Sydney has a long history (in operation since 1992). It attempts to respond to a tender to supply an out-of-state project that is both, state and federally funded, however the response from the procurement entity is that "delivering from Sydney is the same as from Turkey". There is no recourse to challenge decisions made regarding local manufacture.

Purchases made with a single-minded focus on in-state manufacturing result in cost premiums on the end product. As an example, a small turnout manufacturing facility employing 10 staff would have a setup cost of \$5-10M and take 1-2 years to establish. This comes with no guarantee of a contract win to recoup the cost of establishing the facility meaning that this cost must be 'priced-in' to the tender.

The manufacturer understands that their price and lead times are competitive but feel they are disadvantaged due to not manufacturing in the state of the procurement. This limits competition and erodes value for money.

The manufacturer also distrusts the process due to the lack of auditing of critical areas of the winning tender, to ensure alignment with the tender documentation. A number of inconsistencies are observed including:

- An over-estimate of the required staff for the project - 30 extra staff would be employed to deliver the project in the winning tender, against the losing tender with the best price, but employing only two extra staff to deliver to the program provided. The reason for this would be that the winning tender would better fulfill LCP requirements (more local jobs) despite being cost ineffective.
- A distorted definition of 'local content', stating that the product is made in Australia, where the product is manufactured overseas but with Australian steel.
- Providing compliance statements to policies and procedures within the

Stakeholders maintain that a fair and transparent process is fundamental to the objectives of competitiveness and value for money and the importance of providing a 'level playing field' was essential to achieving these objectives.

The above issues, together with the need to establish a base each location where LCPs require, impacts on project cost, both in delivering the project itself and the cost of bidding. The overall cost of projects is also impacted upon by the irregular purchase and delivery of assets, and the lack of co-ordination across jurisdictions. Better management of the project pipeline can encourage greater investment.

Limited opportunities for specialist entrants

It is recognised within the industry that there are specialist parts and products that are not manufactured within Australia, and these are readily sought overseas. However, where an opportunity exists for components of these parts to be developed within Australia, it is often difficult to identify a local manufacturer or supplier that has the required capability.

4.2.2 Findings from jurisdictions

There was a wide range of views expressed by jurisdictional representatives, with input heavily influenced by current local policy settings. Common themes amongst jurisdictional stakeholders are discussed below.

Need for greater standardisation

There is a common theme across all stakeholders (both industry and jurisdictional) of the need to achieve a higher level of local content and a greater standardisation of requirements and processes across the states, but it is also acknowledged as a challenge, due to state authority, differing political will and cycles of government. There is also a recognition of the need for states to work together in developing consistent definitions, measures and requirements for local content.

Vulnerability of the Australian market

Many stakeholders discussed the variability of the project pipeline and the way this could impact on industry capacity and cost. Many agreed that smoothing of the pipeline is important to manage supply, but there were differing views presented of how this could be achieved (federal involvement vs 'agreement between states').

The impacts of Covid-19 and international freight costs have exposed the susceptibility of Australian supply chains to issues in overseas markets. This made the focus on local jobs particularly difficult with skills shortages and lack of access to overseas labour.

Most jurisdictions agreed that the federal government's involvement should be limited to a facilitation role, with scope for conditional funding provision on specific projects.

5. Issues and opportunities for reform

5.1 Identified focus areas

The federation and its effect on the national rail industry receives significant attention due to differences in infrastructure requirements between states, and the resulting lack of interoperability. Within this environment, the multiplicity of state-based LCPs adds complexity and impacts upon competition and the efficiency of procurement. The stakeholder consultation process highlighted the highly fragmented approach currently taken across states, and the impact that this has on business in terms of the inefficiencies it creates and the disincentive for investment in research and development. Issues and opportunities for reform are summarised in more detail Table 2.

Table 2: Issues and opportunities identified throughout the analysis

Focus Area	Issues and opportunities identified
Definition of local content	<p>The definition of local content is highly variable across Australian jurisdictions, particularly with regards to geographic boundaries and the extent of local content requirements. Some states, such as Victoria, theoretically consider national content originating in Australia or New Zealand as local, whereas others such as Queensland have strict geographic requirements that stipulate that local content needs to originate from within the state, and even specify a particular local area within the state.</p> <p>Additionally, the extent to which local suppliers are required to be involved in the delivery of a good or service also varies across jurisdictions. While some states consider the setting up of a warehouse or assembly of imported components sufficient for fulfilling the local content requirements, others are increasingly considering more substantial involvement of local suppliers such as manufacturing and whole of life maintenance support. There is a significant opportunity to apply more consistent definitions of local content across the Australian rail market.</p>
Harmonisation	<p>Stakeholder feedback indicates that there is an opportunity to better harmonise components, and apply consistent standards and regulatory requirements between states, leading to more repeatable procurement processes and delivery approaches. While it is recognised that standardisation of componentry may conflict with the regulatory framework for rail can stifle innovation, significant efficiencies could be achieved by the harmonisation of requirements and standards for those components that have relatively minor differences in design and operation between jurisdictions. This is where a centralised body could assist in the harmonisation and approval process, which could support a more consistent approach to local content requirements.</p>

Focus Area	Issues and opportunities identified
Geographic scope	<p>While the desired outcome for industry stakeholders is a unified national approach to local content, many acknowledged the difficulties in achieving this given the realities of the national rail network and state focused investment. Acknowledging the different requirements of each jurisdiction and the need to demonstrate benefits for each individual state, industry stakeholders nevertheless believe that there are opportunities for a greater coordination of knowledge and local strengths.</p> <p>For states where there is a greater focus on state-based local content, such as Queensland, adopting a more national approach to local content may be perceived as detrimental to state-based outcomes. For states which have already developed a competitive market in manufacturing, such as Victoria, and to a lesser extent Western Australia, this approach may be seen as beneficial and provide opportunities to expand existing industry. Any reforms will need to recognise the needs of each jurisdiction and aim to ultimately provide long term benefits for those jurisdictions.</p>
Federal involvement	<p>While there was general support for the idea of greater federal involvement in rail investment, there were also some concerns expressed about risk of additional government involvement in the rail sector adding further complexity to what is already a fragmented market. A number of participants identified the opportunity for greater federal government stipulation of a national perspective for local content requirements, where federal funding is provided.</p> <p>Stakeholders also identified an opportunity for greater federal involvement in co-ordination between states. Many stakeholders discussed formal consultation arrangements, such as through NRAP or the NTC as examples of where national leadership and coordination can have an impact in delivering national rail reforms.</p>
Evaluation mechanism	<p>Stakeholder feedback and review of policy documentation suggests that local content evaluation processes across all jurisdictions are opaque and not well understood. Some jurisdictions, such as NSW, have a formal minimum requirement for local participation (as described in the PPF) but do not enforce the requirements. Rather, stakeholder feedback has revealed that local content is evaluated with varying weightings and approaches on a case-by-case basis.</p> <p>Other jurisdictions such as Victoria have established entities such as the Industry Capability Network (ICN), for the purpose of supporting the implementation of the state's Local Jobs First policy by helping local suppliers meet local content tender requirements. However, industry feedback suggests that there are opportunities to improve ICN membership model and the state's informal preference for Victorian suppliers. While some states have published policies that outline weighting and percentages to be applied to local content, there is a general lack of understanding as to how these proportions are calculated and evaluated.</p>
Auditing and compliance	<p>Feedback from stakeholders suggests that there is a lack of transparency associated with the compliance with and auditing of local content requirements. While requirements are documented in the tender process, some stakeholders reported that these are not checked or necessarily upheld during the contract implementation and delivery phases of the project. Jurisdictional stakeholders reported the difficulty in administering compliance regimes and the challenges associated with developing and applying penalties.</p> <p>The ICN provides some auditing and compliance for tenders, but stakeholders noted the potentially contradictory roles delivered in their industry- and jurisdictional-facing functions. The functions themselves itself are considered effective, however, there was a strong sentiment that separation between compliance and support functions is necessary for improved transparency.</p>

Focus Area	Issues and opportunities identified
Market awareness	<p>Many jurisdictional and industry stakeholders, felt that there was a lack of awareness across the industry of skills and capabilities and where these already existed, leading to the perceived need for duplication, or re-establishment in other jurisdictions.</p> <p>Further, stakeholders identified the opportunity for better connections within the market to identify existing capabilities which could be expanded or modified to serve requirements. While the ICN provides some services to improve market awareness, some stakeholders suggested the need for an independent nation-wide perspective on capabilities and their location would better serve the industry as a whole.</p> <p>Stakeholders also indicated a wariness of business models where participants pay for membership. The perception from many was that this meant that market awareness was limited to those who had membership, providing a restricted view of market capabilities.</p>

5.2 Potential for benefits

Throughout the stakeholder engagement, a range of potential benefits associated with the harmonisation of LCPs were discussed. The most discussed impacts related to a reduction in complexity for potential bidders and a reduction in bid price for jurisdictions through increased market competition. Estimating the materiality of these impacts is challenging for a range of reasons, such as the availability of data, and commercial and confidentiality issues for both bidding and procuring organisations. Recognising these challenges, four case studies have been developed to illustrate the potential range of cost savings associated with reduced complexity that could be achieved through a National Local Content Policy.

5.2.1 Case studies

Four recent rollingstock projects have been considered, reflecting a range of jurisdictions, project costs and the rollingstock types. All information is sourced from ministerial announcements, news reports and other publicly available sources.

The four projects used as case studies in this assessment are:

1. **Queensland Train Manufacturing Program:** The Queensland Train Manufacturing Program is a \$7.1 billion project for 65 new 6-car trains to be manufactured at a new facility in Torbanlea, with 3 main bidders in competition for the project. The project is expected to support up to 800 construction and manufacturing jobs in Queensland and includes the cost of new facilities and the ongoing maintenance of the trains.
2. **Victoria High-Capacity Metro Trains:** The High-Capacity Metro Trains (HCMT), which have commenced delivery over the past few years, is a \$2.3 billion project for 65 new 7-car trains and new facilities at Pakenham East and Calder Park plus an additional 5 trains for the Airport Link at a cost of \$123 million. The project is reportedly supporting more than 1,100 Victorians throughout the manufacturing supply chain.
3. **Western Australia C-series electric trains:** C-series electric train cars are being built at a new facility at Bellevue, delivering 246 cars over a 10-year period with a cost of \$1.6 billion. There is an aim to develop 200 long term jobs as a result of a 50% LCP.
4. **New South Wales New Regional Rail Trains:** The New Regional Rail Trains project involves 117 cars representing 29 new trains being manufactured in Spain for \$2.8 billion, and a maintenance facility in Dubbo, with the first cars due in 2023. The

maintenance facility will provide 200 jobs during construction and 50 during maintenance.

The intent of selecting these projects for the case studies is to provide inputs that align with actual examples of major projects, to help provide a tangible illustration of how more consistent LCPs could improve outcomes for industry and government. The case studies are not intended to consider or provide commentary on the effectiveness or value of these projects either individually or as a group. Table 3 summarises the relevant information for each case project considered. In total, jurisdictions are investing almost \$14 billion in these four projects.

Table 3: Case Studies

	Estimated cost of project	Estimated jobs from project
Queensland Train Manufacturing Program	\$7.1 billion	800
Victoria High-Capacity Metro Trains	\$2.3 billion	1,100
Western Australia C-Series Electric Trains	\$1.6 billion	200
New South Wales Regional Rail Trains	\$2.8 billion	250

5.2.2 Reduced complexity

Having bespoke LCPs for each jurisdiction makes bidding challenging for potential respondents, particularly where organisations tender in multiple jurisdictions. Aligning policies across jurisdictions would simplify the bidding process, which lowers the associated bid cost. While there is often a perception in some parts of government that bid costs are an issue only for bidding entities, procuring entities ultimately pay bid costs either directly or indirectly as private organisations recover these costs through the profits they earn on projects they successfully win. For this reason, it has become more common for governments to reimburse bid costs (or a portion of these costs) on major projects.²⁵

Reduced bid costs can result in lower costs and improved products for procuring entities in various ways, for example through enabling an increase in the number of entities that can bid for projects, allowing bidders to develop better quality bids (at the same level of cost), or allowing bidders to reduce profit margins (i.e., returns required to justify bid costs).²⁶

This can be an important consideration for bidders, where bid costs can be in the millions. For example, research from the United Kingdom found that the average bid cost for a winning bid was 0.65% of the project value.²⁷ The table below shows the impact of applying this average to the case studies.

In some cases, bid costs may be much higher. Infrastructure Australia notes that bid costs can represent 2% of total project costs, and rail sector projects have cited bid costs

²⁵ \$20m in compo to be paid to losing WestConnex bidder, Sydney Morning Herald (2018), <<https://www.smh.com.au/national/nsw/20m-in-compo-to-be-paid-to-losing-westconnex-bidder-20181017-p50a8c.html#:~:text=The%20loser%20of%20the%20tender,in%20compensation%20from%20NSW%20taxpayers.>>

²⁶ PPP Procurement: Review of Barriers to Competition and Efficiency in the Procurement of PPP Projects, KPMG (2010), <https://www.infrastructureaustralia.gov.au/sites/default/files/2019-06/Barriers_to_Competition_and_Efficiency_in_the_Procurement_of_PPPs_KPMG_May_2010.pdf>

²⁷ Bid Cost Survey Blog 1: Bid Cost as % of Project Value, Constructing Excellence, <<https://constructingexcellence.org.uk/4015-2/>>

between 0.8% and 1.4% of total project costs.²⁸ In these cases, the bid costs could be three times greater than those shown in the table below.

Table 4: Case Studies' potential bid costs

Case Study	Potential Bid Cost
Queensland Train Manufacturing Program	\$46m
High Capacity Metro Trains	\$15m
C-Series Electric Trains	\$10m
New Regional Rail Trains	\$18m

The largest part of bid costs is usually the Request for Proposal (RFP) preparation, interactive tender processes and responding to clarifications section of a bid, which comprises 60-75% of bid costs.²⁹ This is also the area where reduced complexity would lead to cost savings, thus having the greatest impact on the total cost of the bid.

Reduced complexity can also make it easier for new entrants to bid, as they may have the ability to enter the market due to lower upfront establishment and bid costs. There is also the risk that reduced complexity could, in the long run, lead to shorter and simpler procurement processes which see less value for money and innovation, and governments retaining significant project risk. This is considered unlikely given that current governments usually focus on value for money and innovation quite highly in their bid preferencing processes.

The exact contribution of bespoke LCPs on this bid cost is unknown. A range of potential scenarios is shown in the table below. Savings have been estimated on the assumption that bidding costs constitute 0.65% of the total project value of the winning bidder.³⁰ Scenarios have been calculated for 4 projects with potential for savings for the individual bidder that won each of these projects. This does not include cost savings that could occur for unsuccessful bidders. Even with a 5% reduction in bid cost, the potential savings for each procurement process range between \$500,000 and \$2.3m.

²⁸ PPP Procurement: Review of Barriers to Competition and Efficiency in the Procurement of PPP Projects, KPMG (2010), <https://www.infrastructureaustralia.gov.au/sites/default/files/2019-06/Barriers_to_Competition_and_Efficiency_in_the_Procurement_of_PPPs_KPMG_May_2010.pdf>

²⁹ Reducing Procurement Bid Costs, NSW Treasury (2015), <https://www.treasury.nsw.gov.au/sites/default/files/2017-03/Bid%20costs%20-%20Report%20-%20Reducing%20Private%20Sector%20Bid%20Costs%20_%20Final%20Draft.pdf>

³⁰ Bid Cost Survey Blog 1: Bid Cost as % of Project Value, Constructing Excellence, <<https://constructingexcellence.org.uk/4015-2/>>

Table 5: Potential Savings through reduced bid complexity

	QLD	VIC	WA	NSW
5%	\$2,307,500	\$747,500	\$520,000	\$910,000
10%	\$4,615,000	\$1,495,000	\$1,040,000	\$1,820,000
20%	\$9,230,000	\$2,990,000	\$2,080,000	\$3,640,000
30%	\$13,845,000	\$4,485,000	\$3,120,000	\$5,460,000

5.2.3 Potential offsets

For jurisdictions, LCPs have a benefit generating employment opportunities within their state or territory. This employment has many benefits for a jurisdiction, such as economic impacts and social impacts. A direct benefit for jurisdictions is an increase in payroll tax. This acts as a potential offset to any increase in cost associated with complexity or reduced competition.

To calculate the payroll tax benefits for each state, the average weekly total earnings for the Manufacturing and Construction sectors (sourced from the ABS) were used to extrapolate the total wage bills for each project. The relevant payroll tax rates for each state were then estimated and applied to these wages to calculate the net payroll taxation revenue for each state that may be attributable to their LCPs. The payroll tax rate is different for each state because each state is allowed to choose their own thresholds and rates to apply to their local businesses. These results are presented in the table below.

Using the QTMP as an example, if the LCP may result in 800 new jobs for Queensland, this would generate payroll tax revenues of approximately \$3m. Without the LCP, these jobs and tax revenues would potentially be lost to other states, or could become unemployment costs.

Table 6: Payroll tax implications

	Total cost of project	State Payroll tax rate	Local jobs from project ³¹	Total wages of jobs	Payroll tax revenue
Queensland Train Manufacturing Program	\$7,100,000,000	4.95%	800	\$60,891,200	\$3,010,550
High-Capacity Metro Trains	\$2,300,000,000	4.85%	1100	\$83,626,400	\$4,055,880
C-Series Electric Trains	\$1,600,000,000	5.50%	200	\$15,204,800	\$836,264
New Regional Rail Trains	\$2,800,000,000	5.45%	250	\$20,863,440	\$1,137,057

While this represents a tangible benefit, reductions of 5-10% in bid costs alone (excluding other potential benefits such as increased competition) could exceed these for most jurisdictions. As such, there is an argument that more national approach to local content can provide better overall outcomes for jurisdictions even if some employment benefits are realised by other states. Our analysis has not considered broader or indirect economic benefits that may result from sourcing local content from within a particular jurisdiction. Experience suggests that local manufacturing in one jurisdiction usually provides benefits beyond that jurisdiction anyway as a result of inputs and outputs being sourced and distributed across multiple locations.

Furthermore, this report has considered short to medium term benefits that could result from LCP reform. Developing a more national market for rail equipment, enabled by a National Local Content Policy, may provide long-term benefits such as reducing the cost of equipment, increasing industry employment and providing greater opportunities for exporting Australian products and services overseas. The following sections provide recommendations for a more national approach to local content and addressing the issues identified from the consultation and analysis process. They provide:

- An outline of the objectives and desired outcomes of reform.
- Details of policy improvements and the process for achieving these.
- Recommendations, actions and implementation considerations.

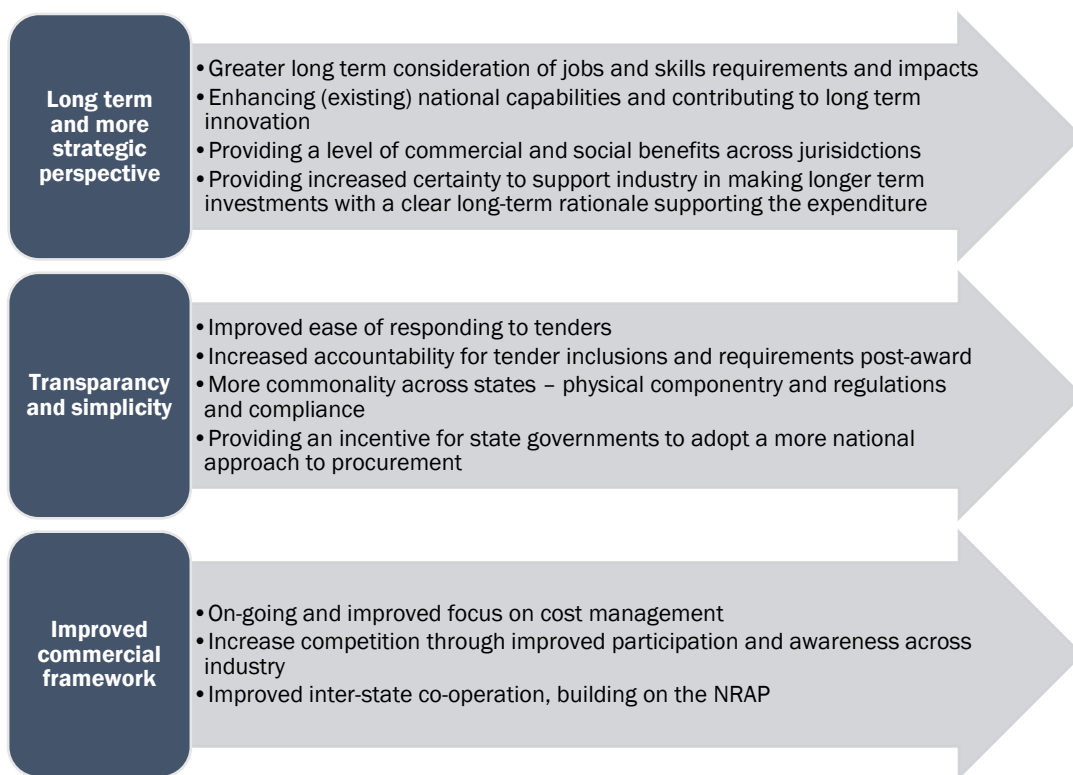
³¹ The methodology for job estimation is often unknown for many government projects, and almost never evaluated, and as such there could be a high risk of overestimating job employment impacts.

6. Defining a National Local Content Policy

6.1 Objectives and desired outcomes of reforms to local content policy

A National Local Content Policy could address issues identified with LCPs and provide benefits for both industry and procuring agencies. Proposed objectives for reforms are described in Figure 4. These objectives have been used to frame recommendations and actions that could enable a transition to a National Local Content Policy.

Figure 4: Objectives of a revised National Local Content Policy



6.2 Process for achieving harmonisation

Achieving full policy harmonisation is likely to be very difficult given the markedly different LCPs applied between states, significant physical differences between rail networks that make standardisation unviable (such as differences in gauges) and political realities of state-based investment. While the political will to adopt a fully national approach in relation to rail procurement and LCPs may be limited, there are significant opportunities for greater consistency and incremental steps towards a more national approach.

Proposed reforms to LCPs focus on two horizons:

- A National Local Content Policy – the policy and contractual settings which would be in place for a harmonised and unified approach to local content across the states.

- A 'pathway' towards a more harmonised approach – this recognises the challenges in achieving a National Local Content Policy and proposes a 'first step' in achieving that goal. It focuses on policy and contractual settings, but also on institutional arrangements and governance, which would improve the overall outcomes for both industry and jurisdictions.

The focus of our recommended actions and approach is on the 'pathway', recognising the need to progress towards National Local Content Policy, but acknowledging the challenges of achieving this.

6.3 Details of harmonised policy

Note that the recommendations go beyond documented policies for each jurisdiction. The consultation process has identified institutional and process-related issues that impact on the application of the policies and provide opportunities for greater harmonisation and standardisation, we have therefore considered these in our analysis.

The focus areas for each of these categories are described in Table 9 below.

Table 7: Focus areas for recommendations

<p>Definition of local content – the way the location element of local content is classified i.e., how specific to the project's location is the local definition</p> <p>Harmonisation – how specification inputs and regulatory requirements are aligned across jurisdictions</p> <p>Geographic scope – to understand the extent of jurisdictions' involvement and the way in which jurisdiction requirements could be integrated</p> <p>Federal involvement – to understand the way in which the federal government could better facilitate and manage state and territory involvement and how they may have a role for the future</p> <p>Evaluation mechanism – the way in which tenders, and particularly their local content outcomes are evaluated and calculated</p> <p>Auditing and compliance – to ensure that information provided by tenderers is accurate and complies with regulations and requirements</p> <p>Market awareness – to effectively provide a network for suppliers and manufacturers to increase knowledge of and familiarity with each other's capabilities and requirements.</p>
--

The following section describes the specific pathway recommendations for each focus area.

6.4 Desired outcomes and pathway recommendations

Table 10 below provides details on the recommendations for both the ultimate desired outcome and the pathway for each category.

Table 8: Pathway Recommendations

Desired outcome	Pathway recommendation
Definition of local content	
<ul style="list-style-type: none"> • Recognition of national (Australia-NZ) content as being equivalent to state-based content • Procurement practices that incentivise multiple forms of local content including local manufacturing and whole of life asset support in addition to more short-term forms of local labour force participation 	<ul style="list-style-type: none"> • A phased approach could be taken to recognise national (Australia-NZ) content as being equivalent to state-based content. For example: <ul style="list-style-type: none"> • for specific components with high potential for harmonisation (as currently being investigated by the NTC as part of the NRAP). • A proportional split between state and national local content applied to projects with links to strategic objectives and plans. • Consideration of the duration of benefits associated with local content (e.g., expected job retention) in tender evaluation, with local manufacturing and whole of life support for assets weighted more highly than short term labour force participation. This could be expanded to related manufacturing industries to maximise opportunities for economies of scale. • Recognition of national content in addition to state-based content.
Harmonisation	
<ul style="list-style-type: none"> • Maximum consistency of componentry, standards and regulatory requirements across the rail industry (passenger and freight) 	<ul style="list-style-type: none"> • Identification of specific components and processes that could be harmonised across jurisdictions as – components being investigated by NTC as an initial priority. • Co-ordination in the development of specifications, functional performance, emission/sustainability targets and other procedures across jurisdictions. • Investigation of options for standardising the people and capability elements, such as a national competency framework and diversity targets.
Geographic scope	
<ul style="list-style-type: none"> • High level of harmonisation across all states and territories • National approach to consideration of benefits – ‘sharing’ of inputs across different jurisdictions 	<ul style="list-style-type: none"> • Bilateral approaches to harmonisation and interoperability as a precursor to national coordination (e.g., NSW/Victoria as the first harmonisation area, underpinned by MoU). This could also be used to identify existing supplier and manufacturing relationships across state borders. • Strategic assessment of potential market opportunities and natural strengths for local content input across different jurisdictions (a “heat map”), delivered using an accessible platform or tool.
Federal Involvement	
<ul style="list-style-type: none"> • Provision of funding for major rail projects with consistent application, assessment and evaluation of local content requirements 	<ul style="list-style-type: none"> • Ministerial/intergovernmental forum(s) to encourage greater collaboration and the foundation for a national rail procurement pipeline as part of the NRAP process. • More effective use of ANZGPA to coordinate the design of relevant state/territory policies.

<ul style="list-style-type: none"> • Coordination of the development of state/territory policies • A national rail procurement pipeline, underpinned by ministerial/intergovernmental collaboration 	<ul style="list-style-type: none"> • Commonwealth to dictate some requirements for projects with federal funding. This would be an integrated approach that includes both rollingstock and rail infrastructure. • Commonwealth to consider broader policies to increase supply of local content.
Evaluation mechanism	
<ul style="list-style-type: none"> • Outcome based approaches to setting local content requirements in procurement that recognise the social and environmental benefits associated with local content in addition to economic impacts 	<ul style="list-style-type: none"> • Adoption of a standard, national social procurement framework in tender processes. • Redefine value for money with the inclusion of social and environmental outcomes in tender evaluation, including any community benefits of local manufacture. • Consideration of the duration of benefits in tender evaluation (see above on Definition of Local Content).
Auditing and compliance	
<ul style="list-style-type: none"> • Accountability in the fulfilment of local content requirements post-contract award through independent auditing and consistent penalties that incentivise compliance • Post-contract completion review processes that consistently assess compliance with LCP requirements and lessons learnt 	<ul style="list-style-type: none"> • National guidelines for LCP audits. • LCP audits following major procurement processes, conducted separately from procuring agencies and teams.
Market awareness	
<ul style="list-style-type: none"> • Open access to and knowledge of suppliers across market 	<ul style="list-style-type: none"> • Independent, govt-funded centralised networking function focused specifically on the rail industry that can identify advantages and opportunities to and from other industry sectors. Could be manifested in the form of a capability directory like ICN's role in Victoria, however without a compliance arm.

The pathway recommendations are discussed in more detail in the following sections.

6.4.1 Definition of local content

Given the fragmented nature and varying requirements of LCPs across jurisdictions, there is a need to redefine local content. This includes introducing national content as being equivalent to, or in addition to state-based content and adopting procurement practices that incentivise longer-term and more substantial local participation. The following pathway recommendations are proposed to achieve this:

- Adopting a two-tiered approach that considers both national and state content
- Consideration of the duration of benefits associated with local content in tender evaluations.

A two-tiered approach

It is unrealistic to expect jurisdictions to shift towards a completely national LCP that does not consider state-based content at all. A more achievable approach would be a phased shift that increases the amount of national content as an alternative to, or in addition to state-based content. This could be achieved in several ways, with some examples listed in the following table:

Table 9: Potential methods for incorporating national content alongside state content

Approach	Benefits
Consideration of national procurement of specific components with high potential for harmonisation (as currently being investigated by NTC as part of NRAP)	
<p>One way of achieving the two-tiered approach is by mandating the procurement of content that has high potential for harmonisation from the wider national market while allowing more flexibility in sourcing all other components and services. The potential benefits of adopting harmonised rollingstock components across Australian jurisdictions is currently being investigated by the NTC as part of the NRAP.</p> <p>Once the components with potential for harmonisation, along with their domestic suppliers have been identified, all jurisdictions could agree to procure these components from the same suppliers regardless of which jurisdictions they are located in. This would be considered 'national local content. More flexibility could be allowed for all other components or services, with procuring entities accessing the in-state or international markets as appropriate.</p>	<p>If jurisdictions could agree on the utilisation of more standardised assets and localise their production, then this could potentially generate domestic demand and volumes for these components, which in turn could create economies of scale and build local manufacturing pipelines and capacity.</p>
A proportional split between state and national local content applied to projects with links to strategic objectives	
<p>A two-tiered approach could be adopted which divides the local content between state and national based on the state's strategic capability objectives. This approach towards a two-tiered system would require states to demonstrate a clear link between capability objectives highlighted in existing strategic plans and the state-based content preferences being used to meet these objectives. Some examples of this could include:</p> <ul style="list-style-type: none"> • Industry-specific strategic plans such as Victoria's Trains, Trams, Jobs 2015-2025 rollingstock strategy³² • Overarching skill-building strategies such as Queensland's Skills for Queensland: Great training for quality jobs³³ 	<p>This approach would allow states to target their job-creation and skill-building objectives, while at the same time allow the broader Australian rail industry access to major projects across all Australian jurisdictions.</p>

³² Trains, Trams, Jobs 2015-2025, Premier of Victoria (2015), <<https://www.premier.vic.gov.au/trains-trams-jobs-2015-2025>>

³³ Skills for Queensland – Greater training for quality jobs, Dept. of Employment, Small Business and Training (2019), <https://desbt.qld.gov.au/__data/assets/pdf_file/0012/10236/skills-for-queensland-strategy.pdf>

Procuring agencies could prioritise state-based local content that supports the capabilities objectives highlighted in the relevant strategy, while extending tenders to the larger national market for content/components that are not explicitly identified in strategic plans.

Supporting the states' existing capabilities by considering all content that can be sourced from in-state suppliers as state-based content and reaching out to the wider national market for all other content.

An alternative two-tiered approach could involve focusing on states' existing capabilities and procuring content that supports those capabilities from within the state. Any remaining content that cannot be fulfilled by the state's existing capability or industry could then be tendered out at the national level. Finally, content that cannot be fulfilled by either state or national suppliers could be procured internationally.

If adopted nationally, this approach could help consolidate investment into states' existing capabilities and could allow states to differentiate from each other and develop specialised industries without having to compete for the limited domestic demand and narrow pipeline.

Consideration of the duration of benefits associated with local content

In addition to adopting a two-tiered approach that considers both state and national content, redefining local content should also involve a shift towards more meaningful and substantial local participation. Jurisdictions could prioritise local content that involves more substantial economic activity such as componentry manufacturing or long-term asset maintenance, and to prioritise this over short-term local activity such as warehousing or the assembly of imported parts as local content.

High skilled activities such as manufacturing would consider long-term benefits associated with local content such as the development of sustainable skills and job retention. This focus on the duration of benefits could be stipulated in tender evaluations as a key aspect of the required response from proponents.

6.4.2 Harmonisation

The variation between componentry used across jurisdictions is a major obstacle towards more local manufacturing in Australia. The lack of harmonisation of componentry dilutes the market and consequently, the demand for the fleet-specific components making local production unviable. Additionally, industry expends large amounts in capital and administrative costs in attempting to fulfill varying standards and requirements. To address these issues, jurisdictions should aim to maximise the consistency of specifications, standards and regulatory requirements across the rail industry. The following pathway recommendations are proposed to achieve this:

- Identification of specific components that could be harmonised across jurisdictions.
- Co-ordination in the development of specifications, functional performance, emission/sustainability targets and other procedures across jurisdictions.
- Investigation of options for standardising the people and capability elements, such as a national competency framework and diversity targets.

Identification of components with potential for harmonisation

As part of the NRAP, work is currently being undertaken by the NTC to explore the potential benefits of harmonising selected components across Australian jurisdictions. If jurisdictions could agree on the same or similar types of rollingstock components and localise their production, then this could potentially generate domestic demand and

volumes for these components which in turn could create domestic economies of scale and build local manufacturing pipelines and capacity. The harmonisation committee, as part of NRAP, has identified a number of components with high potential for harmonisation across jurisdictions:

- Brake pads, discs, or shoes.
- Wheels, wheel sets, or wheel discs.
- HVAC and filters.
- Seat fabric.
- Window glazing.

Any efforts towards componentry harmonisation would need to focus on componentry performance and technical specifications as opposed to standardising the manufacturing process or componentry design. A prescriptive approach to componentry design or manufacturing may be contrary to objectives Rail Safety National Law which empowers rail transport operators and infrastructure managers with the discretion to apply standards and use equipment appropriate to safety risk. A prescriptive approach could also lead to other adverse impacts such as a lack of investment in research and development and inhibit competition.

Jurisdictional coordination in type approval processes

Stakeholder engagement has identified a particular need for reform in the current state of type approval processes. In the current state, if a manufacturer wants to supply a particular rail component to a jurisdictional operator, they will generally need to go through a multiple-year-long type approval process to ensure that component meets the minimum regulatory, technical and safety requirements. These processes vary by jurisdiction, which means if the supplier wants to supply to multiple state operators, they typically need to take part in multiple type approval processes. This presents a major barrier to domestic supply and innovation. Some solutions for coordination on type approval processes include:

- In the short term, the agreement of national type approval principles across jurisdictions; the review of Australian Standard AS7702 Rail Equipment Type Approval by the Rail Industry Safety and Standards Board; and the creation of a platform for jurisdictions to share information and coordinate type approvals.
- In the longer term, the creation of a centralised body that is legislated to specify and manage a standardised type of approval process for all Australian jurisdictions.

Investigation of options for standardising skills frameworks and employment targets

Another opportunity for harmonisation lies in the skills and capability, including competency frameworks and diversity targets. A first step would be to determine the existing need for rail infrastructure and rollingstock skills and whether a jurisdiction has the capability and capacity to meet that need. Although some recent work has been done on the labour market for the rail sector in Victoria, these investigations have not been carried out for all states with significant rail industries. Learnings could be gained from work done by the Victorian Skills Authority on the Skills Demand Snapshot of Victoria's Rail Infrastructure Sector.³⁴ Once the skills deficit has been identified by each state, jurisdictions could then implement reforms to coordination and harmonisation on national platforms such as NRAP's Skills and Labour stream committee and its related activities.

6.4.3 Geographic scope

Formal and informal arrangements have been in place between jurisdictions to foster cooperation on rollingstock and other rail infrastructure projects. A number of stakeholders

³⁴ Skills Demand Snapshot – Victoria's Rail Infrastructure Sector, Victorian Skills Commissioner, <https://www.vic.gov.au/sites/default/files/2021-06/4536-VSC-Skills-Demand-profile-snapshot-Victorias-Rail-Infrastructure-Sector_V31.pdf>

cited informal sharing arrangements between transport agencies in Victoria and NSW as an example. The following pathway recommendations could achieve greater cooperation between states on LCP:

- Bilateral approaches to harmonisation and interoperability as a precursor to national coordination (e.g., NSW/Victoria as the first harmonisation area, underpinned by MoU).
- Strategic assessment of potential market opportunities and natural strengths for local content input across different jurisdictions (a “heat map”), delivered using an accessible platform or tool.

Bilateral approaches to harmonisation and interoperability as a precursor to national coordination

As the largest markets for rail projects, it is recommended that NSW and Victoria are the initial focus of attempts to harmonise and improve interoperability. Continued strong support from these states may also help other jurisdictions to progress towards more consistent approaches to procurement and LCP. Learnings and improvements can also be expanded bilaterally across other jurisdictions. This arrangement could also be used to identify existing suppliers and manufacturers across state borders and allow this information to be shared with infrastructure providers and the rail industry more broadly.

Strategic assessment of potential market opportunities and natural strengths for local content

It is recommended that a more detailed national ‘heat map’ and detailed capability directory is developed to provide an ongoing and strategic assessment of:

- Existing market capabilities and strengths of local content input in various jurisdictions.
- Potential opportunities and natural strengths in various jurisdictions
- Capacity.

This would enable procuring entities to better understand national capabilities and to identify potential suppliers and manufacturers. This task has already been initiated by the ARA³⁵ but requires regular mapping and surveying to identify and maintain full industry capabilities across the sector.

6.4.4 Federal involvement

Building on the existing relationships between states and jurisdictional representatives, a number of stakeholders cited the need for greater federal involvement in co-ordination and improved collaboration. This could be achieved through the following pathway recommendations:

- Ministerial/intergovernmental forum(s) to encourage greater collaboration and the foundation for a national rail procurement pipeline as part of implementing the NRAP.
- More effective use of ANZGPA to coordinate the design of relevant state/territory policies.
- Influencing requirements for rail projects that involve federal funding.

Ministerial/intergovernmental forum(s) to encourage greater collaboration

The recommended approach for this included building on the foundation established by the NRAP and the framework provided by the NTC, to establish a national rail procurement

³⁵ The Australian Rail Supply Chain: State of Play, Challenges and Recommendations, Australian Railway Association (2021), <<https://ara.net.au/wp-content/uploads/Report-The-Australian-Rail-Supply-Chain.pdf>>

pipeline. Governance established for the NRAP also provides the ideal forums for establishing a national approach to LCP.

More effective use of ANZGPA to coordinate the design of relevant state/territory policies

In the current state, federal procurement policies have limited impact on the delivery of rail projects and do not influence state-based LCP. Policies such as the Australian Industry Participation (AIP) requirements only apply to procurements or projects receiving Australian Government funding of \$20 million or more.³⁶ Given rollingstock procurement in Australia receives no federal funding, there is no incentive for states to apply this policy to rollingstock procurement. The AIP framework complements the ANZGPA, which aims to create and maintain a single ANZ government procurement market to maximise opportunities for competitive ANZ suppliers and reduce costs of doing business for government and industry. The ANZGPA however has a host of exemptions that allow rail rollingstock and infrastructure procuring agencies to limit its application to their operations. The federal government could make these policies more effective by limiting exemptions and making other changes to better encourage procuring agencies to consider suppliers within ANZ borders.

Commonwealth to dictate some requirements for projects with federal funding.

Increased commonwealth funding for rail investment provides an opportunity to set consistent local content requirements for major rail projects. This could initially apply to all rail infrastructure projects that receive federal funding and expanded to rollingstock in the future if the federal government is to provide funding in this area.

Commonwealth to consider broader policies to increase supply of local content

Commonwealth directed fiscal incentives could be used to incentivise greater purchasing of local content through the application of tools such as tax allowances or write-offs. Stakeholder engagement revealed that certain tax incentives implemented during the COVID-19 pandemic in an attempt to stimulate economic growth have been particularly useful for certain manufacturing companies. An example of this is the Temporary Full Expensing³⁷ measure that allowed a full tax write-off for eligible assets which in turn helped companies that required more assets but could not accommodate them on their balance sheets. Given that income tax matters fall under Commonwealth jurisdiction, the federal government could introduce tax incentives targeted at the rail industry which would make it easier for industry to acquire assets required for more local content.

6.4.5 Evaluation mechanism

In their current state, local content evaluation mechanisms across jurisdictions tend to focus primarily on the short-term contribution that can be achieved from the fulfillment of their local content requirements. This includes economic measures such as job creation and local business involvement. While these metrics are important, evaluation mechanisms should also aim to capture the full range of positive impacts that can be achieved through LCP. As a first step, this could include social benefits such as purchasing from and inclusion of marginalised and disadvantaged communities or environmental benefits such as maximising recyclable and recovered content, or minimising greenhouse gas emissions.

Improvements to evaluation could be achieved with the following pathway recommendations:

³⁶ Australian industry participation, Department of Industry, Science, Energy and Resources, <<https://www.industry.gov.au/regulations-and-standards/australian-industry-participation>>

³⁷ Temporary Full Expensing, Australian Taxation Office, <<https://www.ato.gov.au/Business/Depreciation-and-capital-expenses-and-allowances/Temporary-full-expensing/>>

- Adopting of a standard, national social procurement framework in tender processes.
- Redefining value for money with the inclusion of social and environmental outcomes in tender evaluation, including local community benefits.
- Considering the duration of benefits in tender evaluation (see above on Definition of Local Content in Section 6.4.1).
- Defining the tender evaluation model in a transparent way, so that the contribution of local content and its impact on tender success are well defined.

Adopting a standard, national social procurement framework

The majority of Australian jurisdictions recognise the importance of achieving social and environmental outcomes and have varying degrees of social outcome considerations as part of their procurement activities. However, none consider these outcomes as part of their LCP. Examples of state led social procurement practices are shown below.

Table 10: Examples of state led social procurement practices

Victorian Social Procurement Framework³⁸	NSW Government Procurement Policy Framework³⁹	Queensland Procurement Policy⁴⁰
The Victorian Social Procurement Framework (VSPF) encourages procuring agencies to consider broader social enterprises, Aboriginal businesses, and other social benefit suppliers, including Victorian Australian Disability Enterprises. The VSPF further sets out requirements and expectations to be applied to all procurement activities, based on a scalable approach linked to procurement activity expenditure.	In NSW, although social objectives are considered within the NSW Government Procurement Policy Framework as part of the Buy NSW initiative, there are no mandatory requirements or obligations towards achieving those objectives. Rather, procurement agencies are “encouraged” to meet social objectives.	Queensland has a distinct approach of advising government procuring agencies to ask prospective suppliers to demonstrate their social impact to advance the three overarching social objectives in the Queensland Procurement Policy.

Given most states recognise the importance of achieving social and environmental outcomes but have varying ways of evaluating and implementing them within procurement practices, it is recommended that jurisdictions work towards adopting a national social procurement framework as a first step towards broader harmonisation. This framework would ideally then be applied to each individual jurisdiction’s local content requirements.

The aim should be to move away from the current approach of primarily considering geographic locations of local suppliers, and instead move towards a more meaningful evaluation of potential proponents that considers their impact on society and the environment.

Given the success of the VSPF, the national framework could adopt a similar scalable approach linked to the size of procurement, where social and environmental requirements

³⁸ Victoria’s social procurement framework, Victoria State Government (2018), <<https://www.buyingfor.vic.gov.au/sites/default/files/2018-08/Victorias-Social-Procurement-Framework.PDF>>

³⁹ NSW Procurement Policy Framework, NSW State Government (2022), <https://buy.nsw.gov.au/_data/assets/pdf_file/0020/1065503/Procurement-Policy-Framework-1.9-April-2022-Full-V1.pdf>

⁴⁰ Queensland Procurement Policy 2021, Queensland Government (2021), <https://www.forgov.qld.gov.au/_data/assets/pdf_file/0034/187297/qldprocurementpolicy2021.pdf>

would be more targeted, with requirements scaled according to project size. Potential social procurement inclusions could include:

- Economic and social change for disadvantaged groups.
- Aboriginal and Torres Strait Islander engagement.
- Gender diversity.
- Police and veteran engagement.
- Energy and sustainability rating schemes such as the ISCA or the ACA-FAIR rating schemes.

Redefining value for money

Although achieving value for money is a key objective for all jurisdictional procurement practices, social and environmental variables are given varying importance. NSW for example, does not explicitly incorporate social or environmental impacts in value for money assessments. Rather, NSW's guidance for value for money splits procurement benefits, costs and risks into three categories – Upfront, After-Purchase, and Fitness for Purpose – none of which tackle social procurement in depth.⁴¹

On the other hand, VSPF states that it aims to ensure value-for-money considerations are not solely focused on price but encompass opportunities to deliver social and sustainable outcomes that benefit the wider community. This explicit inclusion of social and environmental impacts as part of value for money guidance has the potential to strongly influence procurement outcomes and focus on the community benefits of local manufacture. Redefining value for money to include social procurement can provide an efficient platform to introduce social procurement into LCPs.

Consideration of the duration of benefits in tender evaluation

As discussed in Section 6.4.1, tender evaluation mechanisms should consider the duration of benefits that can be achieved, with more substantial and long-term local economic prioritised over short-term forms of local content/participation.

6.4.6 Auditing and compliance

The need for an audit function is widely supported by stakeholders engaged for the project. The purpose of this should be to monitor and report on consistency between information contained in the tender and what is implemented by the successful tenderer in relation to local content requirements. This function is currently delivered by various organisations within jurisdictions, including the Industry Capability Network (ICN) in Victoria. In Victoria, the ICN has end-to-end involvement in the procurement process. The organisation has an industry-facing division that provides compliance support to supplier, advising them on how to comply with the state's local content requirements. The organisation also has a government-facing division that provides assurance/auditing advice to procuring agencies by providing a detailed assessment of tender responses received from suppliers. Stakeholders have acknowledged their constructive and practical contribution of the ICN in this area.

There is concern, however, about the coupling of both the audit and compliance function within the one organisation. Stakeholder feedback indicated that these functions should not be undertaken by the same agency as there is an inherent conflict of interest with the dual functions, in providing advice to both industry (on compliance) and jurisdictions (on assurance). The compliance function is considered obsolete if tender requirements are clearer and more consistent across agencies. The following pathway recommendations are proposed address these issues:

- National guidelines for LCP audits.

⁴¹ Value for money, NSW Government, <<https://buy.nsw.gov.au/buyer-guidance/before-you-buy/procurement-objectives/value-for-money>>

- LCP audits following major procurement processes, conducted separately from procuring agencies and teams.

National guidelines for LCP audits

National Guidelines for LCP audits could provide direction for both jurisdictions and industry on compliance with and completion of tender documentation.

LCP audits following major procurement processes, conducted separately from procuring agencies and teams

The difficulty in applying penalties is acknowledged by stakeholders and it was suggested that they are unlikely to be effective at changing behaviour. For larger contracts, where significant capital is being invested, financial penalties may be seen by contractors as minor inconveniences to achieve desired outcomes. The overall aim of any requirement should be to work with the tenderers to ensure desired outcomes are achieved, rather than relying heavily on the imposition of penalties. Where tenderers are more easily able to fulfil requirements and develop a willingness to do so through a more straightforward procurement process, this can reduce forms of non-compliance. Appropriate, and consistent application of penalties, together with a longer-term view of their function would help to address this issue. This could be considered as part of a broader review of evaluation mechanisms and value for money.

6.4.7 Market awareness

There is acknowledgement across the industry that awareness of industry capability and skills is generally lacking. Knowledge is often confined within individual jurisdictions, specific sectors and even specific agencies and people. This limits the industry's ability to expand and diversify, and results in inefficiencies and missed opportunities for expansion and adaptation.

It was acknowledged that this function is provided by existing organisations, but the requirement for membership fees and the state-based focus of these agencies can limit their independence and effectiveness. The following pathway recommendation could address these issues:

- Independent, government-funded centralised networking function focused specifically on the rail industry that can identify advantages and opportunities to and from other industry sectors.

Independent, government-funded centralised networking function focused specifically on the rail industry

An independent, government-funded networking group focused specifically on the rail industry could raise awareness of industry capability and skills.

Key features would include:

- Free membership.
- Facilitated connection between supply chain organisations.
- Broadened characterisation of market to include suppliers/manufacturers who may be able to easily adapt existing operations.
- Connections between 'naturally aligned' companies.

The above recommendations consider steps that should be taken along the pathway to greater local content harmonisation. These examine the actions and activities that need to be undertaken to move towards a National Local Content Policy. The following section examines mechanisms and processes for how these activities will be delivered and their outcomes achieved.

7. Implementation considerations

7.1 Transition/implementation mechanisms

The pathway recommendations in the previous section consider the realities of the existing state-based approaches of LCPs in Australia. Our recommendations focus heavily on increased jurisdictional coordination and, where feasible, greater harmonisation. In this context, implementation actions need three key requirements: ministerial sponsorship, a forum for coordination, and an implementation body. Our recommendations in relation to these areas are discussed below.

7.1.1 Sponsorship

Given ministers' role in administering, implementing, amending, and creating policy and legislation, ministerial sponsorship will be critical to enable any LCP reform. The Minister of Infrastructure, Transport and Regional Development would be best suited to sponsor reforms to harmonise LCP, given their role as chair of the Infrastructure and Transport Ministers' Meetings (ITMM). Support should be sought from other relevant ministers, including the Minister for Industry or Minister of Employment, Workforce, Skills, Small and Family Business.

Noting that LCP resides in different agencies across jurisdictions, the ITMM provides a forum for intergovernmental collaboration, decision-making and progressing priorities of national importance. The meetings facilitate work with the Commonwealth, state, territory and local governments to drive national reforms that improve the safety and productivity of Australia's transport and infrastructure systems. The purpose of the ITMM is to:

- Consider and develop responses to emerging issues in transport and infrastructure.
- Support an international competitive transport and infrastructure industry
- Pursue further opportunities for national consistency in regulatory and policy frameworks.
- Delivers on responsibilities under legislation, national agreements, national partnerships and other governance arrangements.

The ITMM is supported by the Infrastructure and Transport Senior Officials Committee (ITSOC) which provides a forum for senior officials to smooth the way for ministerial agreement, negotiate through contentious issues before Ministerial consideration and provide operational advice on the implementation of Ministerial decisions. ITSOC consists of secretaries from each jurisdiction with portfolio responsibility for transport and infrastructure issues.

The ITMM and ITSOC's remit make them ideal forums for sponsoring national reforms to LCP and increasing jurisdictional coordination in the application of these policies.

7.1.2 Governance for jurisdictional coordination

Reforming LCP will require structured governance. This could involve an existing group or setting up a sub-group that would be responsible for guiding and managing local content harmonisation and reform projects across jurisdictions. Governance arrangements established for the implementation of the NRAP could provide a suitable forum for this and could be expanded to encompass consideration of LCP. The desired outcomes of LCP reform appear to align strongly with the work of the Harmonisation and Common Standards stream of the NRAP.

A sub-group could be established under the Harmonisation and Common Standards committee to assist with implementation of pathway recommendations. This sub-group could be tasked with:

- Information sharing on rail procurement, and exploration of opportunities for harmonisation prior to market engagement.
- Assessment of potential market opportunities and natural strengths for local content across different jurisdictions.
- National guidelines for LCP audits.

7.1.3 Implementation body

Setting up a new statutory body to oversee reforms to rail procurement processes and LCP is likely to be costly and take a long time to fully establish. Establishing a new national body focused specifically on the rail industry may also receive limited support given that existing entities are already delivering the NRAP. Given its remit as a national transport reform body and the links between LCP and the Harmonisation and Common Standards stream of the NRAP, the NTC appears well suited to lead and coordinate national reforms to LCP. The NTC will require additional resourcing to take on this role.

LCPs have a direct impact on rail sector. This means that any reform initiatives related to LCPs will require substantial industry input. An industry advisor could act as an intermediary between policy makers, fleet operators, and suppliers. An independent rail industry advisor, funded by government, could be established to support the development and implementation of reforms proposed from this review. This advisor could advocate for a more national approach to LCP in the rail industry. Key functions of the role could include:

- Providing advice to support implementation of pathway recommendations.
- Chairing cross-jurisdictional/project working groups where appropriate.
- Where required, providing general other advice to governments on the rail interoperability agenda and the NRAP.

This role has some similarities with the proposal to re-establish a Rail Supplier Advocate as part of the Labor government's National Rail Manufacturing Plan but would have a broader focus and involve a more collaborative approach with government. As part of establishing any new functions/roles in this area, it will be important to evaluate lessons learned from the Rail Supplier Advocate, whose role was discontinued in 2013. Learnings could also be gained from the current Victorian Rail Advocate and the South Australian Industry Advocate.

7.2 Other implementation considerations

As outlined above in Section 6.2, stakeholder feedback suggests that there is a strong preference for some jurisdictions to maintain state-based definition of local content, despite the acknowledged disbenefits of this approach. While this is obviously a significant barrier to implementation of a National Local Content Policy, the pathway process is designed to provide a transition to this long-term goal.

It is likely that there will be some reluctance for jurisdictions to move towards any harmonisation if the benefits to their own industries, and economies more broadly, are not well articulated. A strong advocacy position by industry, supported by jurisdictional sponsors will help to communicate the benefits of a more national approach to LCP to government and procuring agencies.

Barriers to implementation and suggested steps to minimise these are described in Table 13. Appendix C provides further qualitative analyses the benefits and impacts of the

pathway recommendations. The lack of quantitative data has precluded financial assessment as part of this review, although with greater access to industry information, this analysis could be undertaken in the future.

Table 11: Barriers to Implementation

Potential barrier	Description and details	Suggested steps to minimise barriers
Political will/impetus – state governments	In states which have a strong preference for state-based content, particularly Queensland and Western Australia, a significant political barrier exists in any move away from this position.	<ul style="list-style-type: none"> • Demonstration of broader benefits of harmonisation. • Strong advocacy from industry on the importance of harmonisation. • Defined examples of increased opportunities for existing state industries in other jurisdictions. • Identification of sponsors within each jurisdiction to help facilitate changes.
Political will/impetus – federal government	Many of the recommendations and actions rely on commitment from the federal government towards greater harmonisation, despite having limited involvement in the actual delivery of rollingstock or rail projects more broadly. While this ‘arm’s length’ arrangement provides some independence, it may also impact on the ability to generate buy-in and commitment.	<ul style="list-style-type: none"> • National leadership in developing and implementing reforms, using existing national forums, organisations and relationships between jurisdictions. • Strong advocacy from industry on the importance of federal involvement. • Clearly defined benefits for industry and the market more broadly. • Identification of an appropriate industry advocate and support from both government and industry. • Seek increased cooperation between state and territories if minimum federal government involvement is desired.
Industry buy-in	Recommended actions require some participation from industry including the provision of information and willingness to challenge existing procedures and methodologies.	<ul style="list-style-type: none"> • Demonstrated bilateral commitment to improvements in the sector. • Appointment of a strong advocate for the rail industry and commitment to implement reforms.
Hinderance to innovation	Any move to standardisation of components or inputs to manufacturing or assembly may be seen to hinder innovation and commit suppliers to a ‘template’ approach.	<ul style="list-style-type: none"> • Harmonisation based on output or performance specifications and less on the physical componentry. • Focus on utilising national standards and consistency of requirements and specifications.

Potential barrier	Description and details	Suggested steps to minimise barriers
Threats to small business	Any increase in competition, or perceived opening of state rail markets may cause concern for smaller businesses uneasy at the prospect of being 'pushed out' of the local market by larger and/or international participants.	<ul style="list-style-type: none"> Continued commitment to SME requirements or quotas in tender documents. Well-structured contract packages to ensure a range of businesses can participate. Well-developed market network to improve awareness of small businesses across the industry and provide additional opportunities for expansion or diversification. The improved reach and implementation of the market awareness function will assist 'Tier 2 and 3' companies to raise their profile across the industry..
Lack of perceived action/ awareness	Many of the actions and recommendations rely on participation and buy-in through a coordinated mechanism. Some participants have expressed concern over the potential for 'talk over action' and lack of demonstrable action or progress.	<ul style="list-style-type: none"> Opportunity to raise profile of recommended actions in light of change of government and alignment with election commitments, requiring strong advocacy and support from industry. Funding support for the implementation of reforms.

It is important to note that a number of the recommendations represent "quick wins" or smaller improvements in process and procedures that will help jurisdictions and industry begin the process of reform. They are designed to provide 'non-threatening' incremental changes that can easily demonstrate benefits of reform and set a path for more significant changes into the future.

8. Summary of recommendations

8.1 Recommendations

Based on the pathway recommendations provided in Section 6.4 and the implementation mechanisms provided in Section 7.1, we recommend two immediate reforms:

Recommendation 1: Apply tender requirements consistently across all jurisdictions to include:

a) National content equivalency	Recognise national content as having equivalency to state-based where there are natural synergies e.g., specific components with high potential for harmonisation, demonstrated linkages to state plans or similar which validate the preference for state-based content over comparable input from other states.
b) Duration of benefits	<p>Include calculations in bid evaluation processes that consider the duration of benefits associated with local content:</p> <ul style="list-style-type: none">• Job retention, or employment tenure (compared to 'personnel count').• Whole of life support for assets (maintenance function) given a higher weighting than labour force participation.
c) Value for Money Definition	Redefine value for money assessment criteria to better consider social procurement considerations including the development and adoption of a national social procurement framework.
d) Non-Compliance Penalties	Adopt a longer-term approach to assessing project outcomes and penalties for non-compliance with local content provisions included in value for money assessment.

Recommendation 2: Appoint an Independent Rail Industry Advisor to:

a) Endorse local capacity	Profile local capabilities and capacity of Australian rail suppliers through a regularly maintained tool providing details and geographic information in relation to national supply chain capabilities.
b) Deliver a networking function	Develop and deliver a networking function to provide improved market awareness and connectivity between different elements of the rail market supply chain. This function should provide an opportunity for existing and emerging businesses within the industry to connect with other market participants to expand, diversify their current service offering and improve knowledge of market capabilities across jurisdictions.
c) Develop national guidelines	Oversee the development of national guidelines for LCP audits and a national social procurement framework.
d) Promote the need for reform at interjurisdictional forums	<p>Include reforms to LCP for rail project within interjurisdictional forums such as ITMM/ITSOC work program, to encourage greater collaboration and the review of tender requirements as described above. Reforms should be overseen by a national mechanism that includes representation from all jurisdictions, such as the NTC using existing governance established for implementing the NRAP.</p> <p>Hold discussions with representatives of the Department of Infrastructure, Transport, Regional Development and Communications regarding including an item on LCP reform as part of the ITMM/ITSOC agenda.</p>
e) Encourage greater application of standards	Harmonisation of specifications and performance requirements, as well as the adoption of new digital technologies to ensure interoperability.
f) Identify strategically important capabilities	<p>Encourage jurisdictions to identify which local (state and/or national) capabilities they wish to foster for strategic sovereign importance.</p> <p>Review opportunities for heavily state-content based states (e.g., Queensland and Western Australia) to highlight particular skills or key industry capabilities critical to their state.</p>
g) Facilitate collaboration	Facilitate collaboration and information sharing between jurisdictions, focusing initially on NSW and Victoria, and involve other jurisdictions as the benefits of greater harmonisation and improved co-operation are demonstrated over time.
h) Advocate on behalf of industry	<p>Receive advice and input from industry experts and use this to better advocate for harmonisation within the industry.</p> <p>Hold discussions with representatives of the federal government on proposed reforms to LCP, and their commitment to deliver an Australian manufacturing plan.</p>

A. Detailed policies by state

a. New South Wales

Policy Settings

In NSW, the Procurement Policy Framework (2022 [PPF])⁴² acts as a guiding policy document for NSW government agencies and suppliers in government procurement. The document provides a consolidated overview of NSW government procurement policies and is, in itself, a policy document. The PPF includes requirements and guidance on best practice for suppliers and government agencies in procurement, including requirements and recommendations pertaining to local content, small and medium enterprises (SME) as well as skills, training, and diversity⁴³. Requirements relating specifically to local content are captured in the SME and Regional Procurement Policy (2021 [SMERPP])⁴⁴, outlined in the PPF. The state's focus across government procurement is on the economic, social, environmental, and ethical sustainability of procurement as well as on the involvement of local suppliers and SMEs in government projects.

As has been noted, within the PPF various obligations, requirements and recommendations are cited under other NSW government procurement policies, government memorandums, and regulations alike. Requirements vary by the *type* of the procurement and its value. An outline of some key requirements of the SMERPP are included below:

- Contracts exceeding \$3 million require that suppliers submit an “SME and Local Participation Plan”, referencing SME participation and local content, consistent with international procurement agreements. The contract requirements should require that suppliers report on their progress quarterly.
- Goods and services contracts exceeding \$3 million as a minimum require that government agencies include in the non-price evaluation criteria:
 - o 10 percent allocated to SME participation; and
 - o 10 percent allocated to support for the NSW Government's economic, ethical, environmental, and social priorities.
- Additional measures to simplify supply to the government - NSW Government agencies are required to provide suppliers with as much notice as possible of upcoming and open procurements, in addition to facilitating pre and post tender briefings for SMEs and regional suppliers where requested. Tender and contract requirements should be minimized, and tender responses should be limited in length where feasible.
- Agencies may purchase goods and services from a small business (valued at up to \$50,000) directly. Notably, this government initiative was poorly recognised by relevant stakeholders⁴⁵. Only 40% of SMERPP review survey respondents were aware of the initiative⁴⁶.

⁴² Procurement Policy Framework, NSW Government (2022), https://buy.nsw.gov.au/__data/assets/pdf_file/0020/1065503/Procurement-Policy-Framework-1.9-April-2022-Full-V1.pdf >

⁴³ Ibid

⁴⁴ Small and Medium Enterprise and Regional Procurement Policy, NSW Government (2021), <https://buy.nsw.gov.au/policy-library/policies/sme-and-regional-procurement-policy>

⁴⁵ Small and Medium Enterprise and Regional Procurement Policy - Review Report, NSW Government, https://buy.nsw.gov.au/__data/assets/pdf_file/0007/992896/0621-01_Procurement-Policy-Reports_SME-and-Regional-Procurement-Policy_Review_v4a.pdf

⁴⁶ Ibid

The PPF also refers to the Premier's Memorandum (M2021-10), on Procurement for Large, Complex Infrastructure Projects⁴⁷. The memorandum provides guidance on the objectives and desired outcomes of procurement in NSW. The purpose of this memorandum is to set out expectations for the procurement for large, complex infrastructure projects (including rail, metro, and light rail projects), to enable the sustainable delivery of the infrastructure pipeline as set out in Infrastructure NSW's "Framework for Establishing Effective Project Procurement"⁴⁸. The memorandum specifically notes that agencies and state-owned corporations (SOCs) should require international contractors, for recognition of their international experience, engage in specific practices. International contractors should (1) partner with tier 1 and 2 domestic contractors, (2) provide easily accessible bonding and guarantees and (3) inject the market with skills, people and systems that meaningfully contribute to the market in the delivery of projects. The NSW PPF, the SMERPP and M2021-10 each place an emphasis on increasing participation, competition, and efficiency in NSW infrastructure delivery, providing *value for money*⁴⁹ for NSW citizens in government procurement.

Contractual Settings

In New South Wales, government procurement is guided by the New South Wales Procurement Board (The Board) under the PPF. The Public Works and Procurement Act (1912 [the PWP Act]) sets out the objectives of the board, citing ensuring '*value for money*' is achieved in the procurement of goods and services by and for government agencies⁵⁰.

In alignment with the state's definition, achieving '*value for money*' requires a holistic assessment of value delivered throughout the lifecycle of the good and/or service. A focus is on community benefits under '*value for money*' principles, specifically for larger government procurement projects. The board is responsible for, among other key responsibilities, monitoring government agency compliance with the PWP Act and investigating complaints relating to government agency procurement activities. The board also holds the authority to issue directions to government agencies under the PWP act. "2019-05 Enforceable Procurement Provisions"⁵¹ outlines multiple requirements relating to procurement, local content, SMEs, and supplier engagement. For example, where agencies are subject to the direction, discrimination against suppliers due to their foreign affiliation or ownership, the origin of their goods and/or services, or location is prohibited⁵². Multiple categories of procurement are exempt from this direction. TfNSW procurements exempt from this direction, for example, include procurements of transport vehicles and rollingstock⁵³.

Under the SMERPP, NSW government agencies are required to monitor supplier delivery of commitments under SME and Local Participation plans submitted in the tendering

⁴⁷ M2021-10 Procurement for Large, Complex Infrastructure Projects, NSW Government Premier & Cabinet (2021), <<https://arp.nsw.gov.au/m2021-10-procurement-for-large-complex-infrastructure-projects/#:~:text=Description,for%20Establishing%20Effective%20Project%20Procurement>>

⁴⁸ Framework for Establishing Effective Project Procurement, Infrastructure NSW, <https://www.infrastructure.nsw.gov.au/media/2944/procurement-framework_3-june-21_final.pdf>

⁴⁹ Value for money, NSW Government, <<https://buy.nsw.gov.au/buyer-guidance/before-you-buy/procurement-objectives/value-for-money>>

⁵⁰ Public Works and Procurement Act 1912 No 45, NSW Government, <<https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1912-045>>

⁵¹ Enforceable procurement provisions, NSW Government (2020), <<https://buy.nsw.gov.au/policy-library/policies/enforceable-procurement-provisions/#:~:text=Procurement%20Board%20Direction%20PBD%202019,started%20on%2029%20November%202019.>>>

⁵² Ibid

⁵³ Ibid

process for goods and services contracts valued \$3million or more⁵⁴. Suggested contractually binding commitments to SME content in the Aboriginal, SME and Local Participation Plan Template⁵⁵ include:

- Estimated SME subcontractor counts.
- An estimated value of SME products/goods and services procured.
- Estimated contracts spend (as a proportion of total spend) on SME's.

For goods and services contracts valued \$3M+ (and excluding construction contracts), there are suggested contractually binding NSW jobs, local content, and capital expenditure commitments noted, including:

- Estimates of the number of full-time equivalents (FTE) employed in NSW (where possible).
- Estimates of the value of products/goods and services/labour procured in NSW (where possible).
- Estimates of the value of capital expenditure in NSW (where possible).

Contractors are required to provide quarterly reports on their submitted Aboriginal, SME, and Local participation plans, including information on the engagement of apprentices and trainees in procurement, labour costs assigned to apprentices and trainees as well as performance against targets in alignment with the Training and Skills Policy. In the rollingstock context, Transport for NSW maintains a suite of tendering and contracting templates that help ensure NSW government procurement policies are complied with and compliance is reported on where necessary. For example, the "Appendix to Sydney Trains Contracts" template refers specifically to the SMERPP where contractors are, in alignment with the policy, required to provide *monthly* reports to Sydney Trains on SMEs engaged in contract activities and disclose amounts paid to those SMEs.

b. Victoria

Policy Settings

Victoria's key policy relating to local content is the Local Jobs First Policy (2020 [LJF])⁵⁶, comprising the Victorian Industry Participation Policy (2020 [VIPP]) and the Major Projects Skills Guarantee (2020 [MPSG]). The Local Jobs First Act (2003 [LJFA])⁵⁷ legislates the policy. The Victorian LCP places an emphasis on the prioritisation of SMEs as well as the state's "future workforce" – apprentices, trainees, and cadets. LJF applicable projects fall broadly under the purchase of goods and/or services, construction projects as well as grant and loan projects. The policy is applied to projects that meet thresholds for *LJF Strategic or Standard Projects* or that meet *LJF Grant or Loan Project* requirements.

LJF Strategic Projects are projects valued at \$50 million+ or declared to be a strategic project by the Minister for Industry and Employment. On the other hand, an *LJF Standard Project* is characterised as a project that:

- Has a budget of \$1M or more in rural and regional Victoria; or
- Has a budget of \$3M or more for state-wide projects in Metropolitan Melbourne; or
- Is declared to be a standard project by the Minister for Industry and Employment.

Under the LJF policy, local content includes value added activity reflecting goods, construction activities and services produced/supplied by local industry, determined on a

⁵⁴ Small and Medium Enterprise and Regional Procurement Policy, NSW Government (2021), <<https://buy.nsw.gov.au/policy-library/policies/sme-and-regional-procurement-policy>>

⁵⁵ Ibid

⁵⁶ Key documents, Local Jobs First, <<https://localjobsfirst.vic.gov.au/key-documents>>

⁵⁷ Local Jobs First Act 2003, Victorian Legislation, <<https://www.legislation.vic.gov.au/in-force/acts/local-jobs-first-act-2003/007>>

cost basis. Moreover, local content in Victoria is defined as Australia and New Zealand content under the LJF policy to maintain consistency with the Australia and New Zealand Government Procurement Agreement (ANZGPA) for the procurement of goods and services⁵⁸. Local content requirements are set by the Minister for Industry and Employment but are set at no less than the following values for LJF strategic projects:

- 90% for a construction project.
- 80% for a services project or a maintenance project.
- 80% for the maintenance or operations phase of an LJF Strategic Project.

Other projects are assessed on a case-by-case basis by the accountable minister. Requirements may also be set for LJF Standard Projects by the minister. Victoria's rollingstock strategy, "Trams, Trains, Jobs 2015-2025", commits to a minimum local content requirement of 50% for all new rollingstock orders⁵⁹.

The MPSG, a workforce development policy, requires construction projects greater than \$20 million in value to utilise Victorian registered apprentices, Victorian registered trainees, or cadets for at least 10% of the contract works' total estimated labour hours. A key deliverable under the LJF policy is the Local Industry Development Plan (LIDP). Standard and Strategic Projects require an LIDP, including information on how the requirements of the LJF policy will be met or exceeded as well as an outline of the local and total content for the project. A minimum 10% weighting in tender evaluations is applied to:

- Industry development including VIPP commitments (10%); and
- Jobs outcomes (10%). MPSG-applicable projects will be scored against their commitments to providing opportunities for apprentices, trainees, and cadets.

Contractual Settings

The Victorian approach to government procurement reflects the strongest commitment to local content in procurement nationally, with a strong level of involvement from the Victorian ICN, the Department of Jobs, Precincts and Regions (DJPR) and the Victorian Local Jobs First Commissioner (The LJF Commissioner) as well as relevant government agencies in policy implementation. As has been noted, the policy ensures compliance with international agreements like the ANZGPA by enforcing the LJF policy under an ANZ (single market) interpretation of local content.

The DJPR is responsible for the policy, guidelines, and model clauses development as well as the broader monitoring, reporting, and auditing of LJF policy activities. The DJPR provides advice and reporting to the responsible minister and the broader Victorian Government. The DJPR is responsible for:

- Managing the services delivered by the Victorian ICN under the policy.
- Leading inter-governmental engagements, including international arrangements, on the policy.
- Preparing the LJF Annual Report on the application of the Policy, including compliance, to provide to the Minister to table in Parliament as required under the LJFA.
- Regularly conducting monitoring and auditing as well as reporting on LJF projects at major project stages.

⁵⁸ Australia and New Zealand Government Procurement Agreement, Department of Foreign Affairs and Trade (2013), <<https://www.dfat.gov.au/sites/default/files/government-procurement-agreement-september-2013.pdf>>

⁵⁹ Trains, Trams, Jobs 2015-2025, Premier of Victoria (2015), <<https://www.premier.vic.gov.au/trains-trams-jobs-2015-2025>>

In addition to the DJPR's responsibilities, the LJF Commissioner maintains multiple responsibilities relating to compliance while linking government agencies with industry. Under the LJFA, some specific functions of the commissioner include:

- Collaborating with agencies to target specific companies and workers in specific sectors and regions as well as to improve Victorian industry access to government procurement.
- Providing advice on Victorian industry involvement in government procurement, including support on the development and provision of advice on government procurement policies and initiatives.
- Monitoring and reporting on LJF policy compliance, including taking enforcement action on compliance breaches.

The Victorian ICN is uniquely involved in the delivery of the LJF policy. The Victorian ICN, under the policy, is responsible for coordinating with government agencies to support policy implementation. The Victorian ICN plays two primary roles independent of each other:

- Aiding key stakeholders in the identification and delivery of local content in government procurement. Some forms of assistance include providing local suppliers with opportunities to submit EOI's for upcoming government procurements, connecting Victorian SMEs with relevant opportunities as well as managing the ICN Gateway and Victorian LJF Management Centre portal.
- Acknowledging and evaluating bidder LIDP commitments relating to local content and jobs as well as conducting post-contract verifications on the delivery of LIDP commitments.

Government agencies play a central role in the implementation of the policy to all Victorian Government LJF projects. Agencies are required to nominate an LJF Administrator who supports implementation, monitoring, reporting and compliance activities. While the DJPR, Victorian ICN, and LJF Commissioner participate in facilitative, monitoring and reporting roles, it is the responsibility of agencies and engaged suppliers to ensure compliance with the commitments made under the LIDP as well as the broader LJF policy and any other additional contractual obligations made on a case-by-case basis. Agencies must:

- Ensure contracted local content and job commitments are being monitored, are on track and being achieved. Agencies are required to act on commitments that are not being monitored, are not on track or being achieved.
 - o Retaining relevant documentation relating to the LJF policy to demonstrate outcomes and compliance with commitments.

Reporting on agency policy compliance at the end of each financial year in operations reports under Part 7 of the Financial Management Act (1994)⁶⁰, requiring the retention of documentation relating to the delivery of LJF policy commitments and compliance with the broader policy.

c. Queensland

Policy Settings

Queensland's Charter for Local Content (2021 [QCLC])⁶¹ under the Queensland Industry Participation Policy Act (2011 [QIPP Act])⁶² aims to facilitate an efficient and effective assessment of a broad range of suppliers with 'best practice principles' and to maximise local content with industry participation. The charter does not mandate the use of local suppliers in procurement, and local industry is defined as suppliers of goods produced, or

⁶⁰ <https://www.legislation.vic.gov.au/in-force/acts/financial-management-act-1994/066>

⁶¹ <https://www.statedevelopment.qld.gov.au/industry/industry-support/qld-charter-for-local-content>

⁶²

<https://documents.parliament.qld.gov.au/tp/2011/5311T4852.pdf#:~:text=The%20objective%20of%20the%20Act,practice%20by%20all%20Queensland%20Governments>

services provided, wholly or partly in Australia or New Zealand to maintain consistency with the ANZGPA⁶³. Transparency, value for money, regional development, compliance with international obligations as well as full, fair, and reasonable opportunity for local suppliers in tendering processes underpin the charter for local content, reflecting the principles of the Australian Industry Participation Framework⁶⁴ (AIP Framework). In practice, the QCLC is employed to uphold its principles either through a statement of intent, by acknowledgement of the QCLC's principles and by reporting project outcomes via the charter's "project outcome report".

Parallel to the QCLC is the Queensland Small Business Procurement Commitment⁶⁵ (2019 [QSBPC]). This includes a commitment to develop a measurable target that drives small business participation in government procurement activities. This commitment manifests itself in the establishment of a collective 25% target (30% target by 30 June 2022) of government procurement spend by value from Queensland SMEs.

In addition to the QCLC and QSBPC, is the overarching Queensland Procurement Policy (2022 [QPP])⁶⁶, placing an emphasis on the economic benefit to Queensland in procurement, maximising Queensland suppliers' opportunity to participate, supporting regional and remote economies, supporting disadvantaged Queenslanders, and stimulating the ICT sector to drive innovation. The QPP is informed by, and reflects, the objectives of the Queensland Government Procurement Strategy (2017 [QGPS]) which contradicts the QCLC. The QGPS notably makes a specific commitment to prioritising 'local suppliers' within a 125 kilometre (km) of where the goods or services are to be supplied (local zone one), extending searches for suppliers progressively through zones two (local region), three (Queensland) and four (Australia) until a suitable supplier is found.

Under the QPP, agencies must apply "value for money" and "advancement of economic, environmental and social objectives" principles in part by completing a Local Benefits Test (LBT). The LBT is used to evaluate the benefits a business may offer to the local area if awarded work for the Queensland Government. The LBT can be weighted at up to 30% in the procurement process, with criteria focussing on employment, the utilisation of local businesses in the supply chain and creating opportunities for apprentices and trainees as well as employment opportunities Aboriginal and Torres Straight Islanders. The QPP also ensures that at least one regional and one Queensland supplier, where possible, is invited to submit a quote or tender. Under the QPP, and in alignment with the QGPS, a local supplier is defined as a supplier of goods or services that maintains a workforce whose usual place of residency is located within a 125-kilometre radius of where the good or service is to be supplied.

The QPP outlines government targets and commitments broadly relating to local content, including:

- Increasing the participation of Queensland suppliers and local workforces in procurement opportunities.

⁶³ Australia and New Zealand Government Procurement Agreement, Department of Foreign Affairs and Trade (2013), <<https://www.dfat.gov.au/sites/default/files/government-procurement-agreement-september-2013.pdf>>

⁶⁴ Australian Industry Participation National Framework, Department of Industry, Science and Resources (2001), <<https://www.industry.gov.au/sites/default/files/australian-industry-participation-national-framework.pdf>>

⁶⁵ Queensland Small Business Procurement Commitment – Action Statement, Department of Employment, Small Business and Training (2019), <<https://desbt.qld.gov.au/small-business/strategic-documents/procurement-action-statement>>

⁶⁶ Queensland Procurement Policy 2021, Queensland Government (2021), <https://www.forgov.qld.gov.au/__data/assets/pdf_file/0034/187297/qldprocurementpolicy2021.pdf>

- For major Queensland projects more than \$100 million in value, government agencies utilise contractors and suppliers, including manufacturers, that employ local workforces.
- Government procurement utilise Aboriginal and Torres Strait Islander businesses to meet its government spend target on these businesses of 3% of addressable spend.
- Government sources at least 25% of procurement by value from Queensland SMEs, increasing to 30% by 30 June 2022.

Contractual Settings

The Queensland Government maintains an agency-led operating model in procurement, within which agencies are accountable for their own procurement activities. Agencies operate within a whole-of-government framework of legislation, policies and standards that govern and inform best practice. It is the responsibility of agencies to ensure that relevant policies are followed, and agency practices and procurement procedures are consistent with the principles of the QPP. Under Queensland's framework for procurement, the Office of the Chief Advisor in government procurement acts as a lead on inter-agency coordination and collaboration, agency guidance relating to economic, social, and environmental benefits and opportunities as well as overseeing consistent approaches to procurement and whole of government procurement performance reporting⁶⁷. The remainder of the procurement governance framework is made up of:

- Queensland Government Procurement Committee: Providing guidance on whole-of-government procurement activities.
- Procurement Industry Advisory Group: Providing targeted and industry specific strategic guidance on procurement
- Category Councils: Manage procurement activities relevant to the specific category, governing the category's strategy and engaging with industry reference groups.

Under the Transport Infrastructure and Services category sits the Transport Infrastructure Project Delivery System, a procurement related policy providing detailed guidance on the application of the QPP and other relevant government procurement policies, including the QCLC⁶⁸. The policy document also provides guidance on tendering processes and prequalification in the category. The Queensland Government's public sector Project Assessment Framework (PAF) is cited in the policy document, which focuses on the realisation of value for money in procurement through the execution of a benefits realisation. The PAF requires that agencies comply with the procurement related policy in the "acquisition, maintenance or improvement of significant assets" under the Financial and Performance Management Standard (2009).

The Queensland Government also maintains guidance documents on best practice in contract management, specifically on approaches to performance measurement and modes of monitoring by agencies, suppliers and/or third parties in contract delivery. Guidance on best practice in contract-specific auditing is also provided, as well as guidance on the SME procurement target set in the QPP⁶⁹. The Queensland Government maintains a QPP Compliance Unit to ensure tenderers for government contracts meet their commitments under the QPP and the "Buy Queensland" approach, specifically functioning

⁶⁷ Queensland Government Performance Management Framework: An Overview, Queensland Government (2020),

<https://www.forgov.qld.gov.au/__data/assets/pdf_file/0018/184113/performance-management-framework.pdf>

⁶⁸ Transport Infrastructure Project Delivery System, Department of Transport and Main Roads (2021), <<https://www.tmr.qld.gov.au/business-industry/Technical-standards-publications/TIPDS.aspx>>

⁶⁹ Small and medium enterprise procurement target, Queensland Government (2021), <https://www.forgov.qld.gov.au/__data/assets/pdf_file/0024/188106/small-medium-procurement-target-guide.pdf>

to manage and address supplier-related complaints⁷⁰. Under the Transport Infrastructure Project Delivery System, contracts may include “contract administrator,” “construction verifier,” “design verifier,” “independent certifier” and/or “independent verifier” roles, responsible for the auditing and testing of compliance of the contractor with contract requirements.

⁷⁰ Backing Queensland Jobs, Queensland Government,
<https://www.hpw.qld.gov.au/__data/assets/pdf_file/0019/3169/complianceinformationgovernmentbuyers.pdf>

d. Western Australia

Policy Settings

In Western Australia (WA), the Western Australia Buy Local Policy⁷¹ (2022 [WABLP]) and Western Australia Industry Participation Strategy⁷² (2020 [WAIPS]), under the Western Australia Jobs Act⁷³ (2017 [WA Jobs Act]) deliver local content related objectives to government procurement. The purpose of the WABLP is to provide full, fair, and reasonable opportunity for local businesses to supply the government in procurement, specifically tailoring policy initiatives to benefit *regional businesses*. The policy promotes economic efficiency (value for money) and linking procurement to socio-economic outcomes as well as focussing on state workforce and skill development. The policy is applied to all state government procurements regardless of their value.

Some key requirements of the WABLP include:

- Agencies participate in pre-procurement briefings at regional centres to offer regional businesses early tender advice and additional details on upcoming contracts.
- WABLP endorses agencies applying a “buy close to home” principle in procurement, prioritising the regional location and its regional industries in contract delivery.
- In evaluation, regional price preferences may be applied where a prospective supplier makes a successfully verified claim. Up to \$250,000 may be discounted in tender evaluation, offering a significant advantage to eligible businesses. The contract point of delivery must be in regional WA and that the prospective supplier is either an eligible regional business or uses suppliers or sub-contractors located within the prescribed distance. To maintain compliance with the ANZGPA, tenders received from businesses outside of WA, within ANZ, and the offer is considered in the final analysis, the regional price preference is not applied.

The WAIPS complements the WABLP, applied to selected State Government procurements that meet value thresholds across procurement forms. Similarly, to the WABLP, the objective of the strategy is to target supply opportunities for local industry to boost the economy and strengthen SMEs. The policy also aims to promote apprenticeship, training, and job opportunities in the state. In application of the WAIPS, prospective suppliers will need to complete a core (less detailed) or full (more detailed) participation plan, subject to the value of the procurement. The participation plan is intended to help communicate the prospective suppliers’ intent to employ Western Australians and involving local businesses in a supply opportunity.

Under the WABLP and WAIPS, agencies can apply a non-mandatory imported content impost in procurement, where a 20% price impost is applied to goods and services imported *directly* into Australia as a component of the contract. Australia and New Zealand are considered a single market in this context, to align with the objectives of the ANZGPA⁷⁴

⁷¹ Western Australian Buy Local Policy 2022, Western Australian Government (2022), <<https://www.wa.gov.au/government/document-collections/western-australian-buy-local-policy-2022>>

⁷² Western Australian Industry Participation Strategy, WA Industry Link, <<http://industrylink.wa.gov.au/about/western-australian-industry-participation-strategy>>

⁷³ Western Australian Jobs Act 2017, WA Industry Link, <<https://industrylink.wa.gov.au/about/western-australian-jobs-act-2017>>

⁷⁴ Australia and New Zealand Government Procurement Agreement, Department of Foreign Affairs and Trade (2013), <<https://www.dfat.gov.au/sites/default/files/government-procurement-agreement-september-2013.pdf>>

and AIP Framework⁷⁵. Electing to use an imported content impost, therefore, does not impact imports from New Zealand or other Australian states.

Table 12: Integrating the requirements of the WAIPS outlined in the policy document and the WABLP

Form of Procurement	WABLP	Core Participation Plan	Full Participation Plan	Additional Commitments
(WAIPS Supply)	Applied	(Less detailed)	(More detailed)	
Goods and Services Metropolitan and Regional Contracts	Yes	\$1 million - \$5 million (Metro) \$500,000 - \$5 million (Regional)	Above \$5 million	Above \$25 million (Strategic Project) or deemed a Regional Strategic Project
Housing and works Regional Contracts	Yes	\$500,000 - \$5 million	Above \$5 million	Above \$25 million (Strategic Project) or deemed a Regional Strategic Project
Housing and works Metropolitan Contracts	Yes	\$3 million - \$10 million	Above \$10 million	Above \$25 million (Strategic Project) or deemed a Regional Strategic Project

Evaluation weighting: Restricted to a value of 10% or 20%. Subject to the discretion of the issuing agency.

Exemptions: Applied on a case-by-case basis or as a standing exemption (associated with the “Delivering Community Services in Partnership Policy”).

Contractual Settings

Western Australia has multiple approaches to procurement depending on what is being supplied, the subsequent type of procurement and the value of the contract. The WABLP and WAIPS provide a whole-of-government approach to industry participation and local content in WA, providing detailed guidance on the monitoring and reporting of outcomes and maintenance of compliance with relevant policy documents throughout the lifecycle of a government procurement. The WABLP requires that agencies prepare an “initial draft implementation agreement” that states the agency’s commitment to meeting the objectives of the policy, reviewed by the Department of Jobs, Tourism, Science, and Innovation (JTSI) and relevant Local Content Advisors (LCA) that are located in each of the state’s Regional Development Commissions. LCAs are considered champions of local content in state funded projects⁷⁶. The implementation agreement is reviewed annually for the assessment of outcomes in procurement. As the agreement reflects a commitment by the agency to the objectives of the policy, agencies and head contractors are subject to audit by an independent auditor. The JTSI is responsible for working closely with agencies on their application of the policy across contexts under the WABLP.

⁷⁵ Australian Industry Participation National Framework, Department of Industry, Science and Resources (2001), <<https://www.industry.gov.au/sites/default/files/australian-industry-participation-national-framework.pdf>>

⁷⁶ Local Content Adviser Network, Department of Primary Industries and Regional Development, <[72](http://www.drd.wa.gov.au/regions/Pages/LOCAL-CONTENT-INITIATIVE.aspx#:~:text=The%20Labor%20Government%20is%20delivering,jobs%20in%20regional%20Western%20Australia.></p>
</div>
<div data-bbox=)

Under the WA Jobs Act, setting the legislative framework for local content in the state⁷⁷, the responsible minister is required to report on the implementation of the act and the WAIPS in the financial year. In turn, agencies are required to provide the minister with requested information on the implementation of the act and the WAIPS for reporting purposes, subject to exclusions. Moreover, contracted suppliers are required to provide annual reports, and a final report (subject to the length of the contract), on the commitments made in submitted participation plans. Annual reporting on participation plan commitments under the WAIPS is a contractual obligation⁷⁸. The Minister for Jobs may request an independent auditor confirm the agency and supplier's effective application of the WAIPS. Compliance with the WAIPS is monitored by the Industry Link Advisory Service (ILAS), simultaneously providing guidance on the application of the WAIPS across the procurement lifecycle. The ILAS plays a role similar in nature to the JTSI in the application of the WAIPS. The ILAS provides close support to agencies and prospective suppliers in meeting the objectives of the policy, addressing reporting requirements, understanding relevant obligations under the policy, and assessing participation plans.

e. South Australia

SA's main policy document relating to local content, the South Australia Industry Participation Policy (2021 [SAIPP]), prioritises economic development for the state, efficient public expenditure, and the provision of equitable opportunity for SA businesses. An emphasis is on strategically important industries in the state, including the SA steel industry. SA has an Industry Participation Plan (IPP) similar in nature to the majority of states and territories, the IPP acts as a tool to effectively assess the economic contribution of a project to the SA economy while balancing other criteria like price, quality, and contract delivery. An IPP is required for all procurements valued greater than \$550,000.

The SAIPP establishes a framework for evaluating the economic contribution and cost efficiency of a tender and/or grant. The policy is designed to deliver economic development by promoting employment opportunities for SA residents and facilitating capital expenditure in the state, including through businesses and supply chains that employ SA residents. The implementation of the policy, in alignment with the above priorities, is given a minimum weighting in a tender assessment criterion of 15%. For contracts that involve the purchase of structural and reinforcing steel or the fabrication of structural steelwork, the minimum prescribed weighting is increased to 20%. Where significant economic and social growth opportunities are identified from a specific procurement, the SAIPP recommends raising the industry participation plan weighting, but with limited contextual specificity.

The SAIPP implements a "benefits realisation" as a means of validating project delivery outcomes in alignment with the strategic objectives of the policy. SA monitors the performance of the policy against key areas of performance, including:

- Employment for residents of South Australia.
- Investment and capital expenditure that builds capacity in the South Australian economy.
- Retention of economic benefit to South Australia or a region through the use from suppliers who employ and source inputs from South Australia or a region.
- Expanded economic development, including economic participation for disadvantaged and socially excluded groups.

The retention and creation of jobs are evaluated holistically in project appraisals. An emphasis is on economic development under the SAIPP. Some specific consideration is

⁷⁷ Local Content Initiative – How it Works, Peel Development Commission (2017), <<https://www.peel.wa.gov.au/local-content-initiative-how-it-works/>>

⁷⁸ Reporting for Participation Plans, WA Industry Link, <<https://industrylink.wa.gov.au/participation-plans/reporting-for-participation-plans>>

given to the following areas of expanded opportunity under the SAIPP procedural guidelines:

- Major infrastructure and construction, where tailored IPP's will focus on the delivery of steel policy and workforce participation policy commitments.
- Programs of small infrastructure projects, designing tailored approaches to industry participation to maximise the economic benefit of the project to the SA economy.
- Economic participation regions; and
- Aboriginal economic participation.

f. Tasmania

Tasmania's Buy Local policy⁷⁹ (2021 [BLP]) represents the extent of the state's local content related policies. The intent of the policy is to increase awareness of the requirements for, and benefits in, buying locally while simultaneously providing better access to government contracts for SMEs in the state.

Agencies are required to evaluate the impact a procurement will have on the local economy while assessing the competitiveness of local businesses in procurement participation. Central to the assessment is ensuring local industry has the full, fair, and reasonable opportunity to participate in a procurement, reflecting the objectives of the AIP Framework⁸⁰. Some additional requirements include:

- Substantial procurement opportunities are to be separated into smaller parts where possible to favor local industry and the Tasmanian economy.
- All competitive procurement processes valued at or more than \$100,000 must approach 2 Tasmanian businesses where possible.
- Processes valued below \$100,000 are encouraged to approach Tasmanian businesses first, where possible.

An Economic and Social benefits test applies to all competitive procurement processes valued at \$100,000 or more. The test is accounted for with an evaluation criterion, with a 25% weighting. A Tasmanian Industry Participation Plan (2019 [TIPP]) is required for procurements with a value greater than (or equal to) \$5 million. The TIPP is intended to increase opportunities for Tasmanian SMEs in government procurement.

- Procurements valued between \$2 million and \$5 million may be required to complete a TIPP, at the discretion of the procuring agency.

Private sector projects receiving government support valued at (or equal to) \$500,000 are required work with agencies to develop at TIPP.

g. Northern Territory

The NT government implements the Territory Benefit Policy⁸¹ (replacing the Building Northern Territory Industry Participation Policy, 2021 [TBP]) and the Northern Territory Buy Local Plan⁸² (NTBLP) in government procurements. The TBP does not apply to government procurement, while the NTBLP does.

⁷⁹ Buy Local Policy, Department of Treasury and Finance (2021), <<https://www.purchasing.tas.gov.au/Documents/Buy-Local-Policy.pdf>>

⁸⁰ Australian Industry Participation National Framework, Department of Industry, Science and Resources (2001), <<https://www.industry.gov.au/sites/default/files/australian-industry-participation-national-framework.pdf>>

⁸¹ Territory Benefit Policy, Department of Trade, Business and Innovation (2019), <<https://industry.nt.gov.au/publications/business/policies/territory-benefit-policy-and-planning>>

⁸² Buy Local Plan, Department of Trade, Business and Innovation (2018), <<https://nt.gov.au/industry/procurement/how-procurement-works/buy-local-plan>>

The TBP applies to:

- Private sector projects awarded NT Major Project Status that are required to have a Territory Benefit Plan under the NT Major Project Status Policy Framework.
- Private sector projects where the NT Government provides support valued at or greater than \$500 000.
- Projects where a Territory Benefit Plan is specified as a condition of a NT Government agreement.

The objective of the TBP is to help project proponents better understand the NT's industry capabilities. The policy helps proponents evaluate local benefits in procurement at all stages of the project, while encouraging transparency, industry engagement, and community engagement. The TBP requires a *Territory Benefit Plan*, outlining supplier commitments to the NT economy as well as commitments to full, fair, and reasonable opportunity for NT enterprises to compete for work based in the NT. While consultation with the Northern Territory ICN is not mandated, it is strongly recommended.

Under the NTBLP, government procurements are subject to measures that aim to increase local participation in procurement, the policy cites shifting to a focus on local obligations as the value of government spend increases. The policy aims to integrate local benefits considerations holistically throughout the tender evaluation.

The NTBLP introduces a local content test for all government quotes and tenders with a minimum weighting of 30% in tender evaluations. Subject to the discretion of the procuring agency, local content test assessment criteria may include references to employment outcomes, skill development, industry participation and development as well as aboriginal and regional development initiatives. The NTBLP also requires that government source at least one quote from an NT enterprise for tier 1 and 2 procurements. In assessing market capabilities, the NTBLP requires that the Northern Territory ICN (NTICN) is engaged by agencies. The NTBLP also focuses on creating a contractual environment that effectively holds tenders accountable for their commitments to the NT under the policy, with an emphasis on improving NT government capabilities and building upon stakeholder relationships through contract management frameworks.

h. Australian Capital Territory

The ACT's LCP, the Canberra Regional Local Industry Participation Policy (2019 [CRLIPP]) under the Government Procurement Regulation (2007)⁸³, aims to give competitive local businesses full, fair, and reasonable opportunity to participate in or compete for government contracts. Increasing the role of local businesses in larger government procurements is a primary objective of the CRLIPP, as well as aiming to promote the development and growth of the ACT economy through local industry capability, innovation, and job opportunities (including workforce skill development). Sector specific guidelines are developed for Community Services, ICT and Building and construction sectors. Policy requirements include:

- Contracts valued at less than \$25,000 require a minimum of one oral quote, with no additional CRLIPP requirements for procurements under this value.
- Contracts valued between \$25,000 and \$200,000 require a minimum of 3 written quotes (unless exempted) and at least one quote should be obtained from a local business and SME respectively.
- Contracts valued between \$200,000 and \$5,000,000 require a public tender (unless exempted) and require an Economic Contribution Test (ECT) submission allocated a 10% weighting in the evaluation process.

⁸³ Policies and factsheets, Procurement ACT, <<https://www.procurement.act.gov.au/policy-and-resources/factsheets-and-policies>>

- An ECT assesses the presence of the respondent in the Canberra Region, opportunities afforded to local businesses, job opportunities and workforce skills development opportunities committed to in the procurement as well as additional undertakings by the respondent to benefit the Canberra Region's economy.
- Contracts valued over \$5,000,000 require a public tender and a Local Industry Participation Plan allocated a 10% weighting in the evaluation process.
 - The Local Industry Participation Plan, similarly, to the ECT, assesses the respondent's commitment to using local content and/or local businesses as well as how the respondent's proposal and business contributes to the territory's economy.

i. Federal Government

Policy Settings

At the centre of the Federal Government's legislation relating to industry participation in and local content in Australian procurement is The Australian Jobs Act⁸⁴ (2013 [AJA]). The AJA's focus is on upholding the principle of providing Australian suppliers with the full, fair, and reasonable opportunity to supply key goods and services to project proponents of major Australian projects, emphasized in the AIP Framework. The AJA has two primary functions:

- To establish a requirement for project proponent submission, for projects characterized as "major projects" valued at \$500m+, an Australian Industry Participation Plan (AIPP).
 - Project proponents are required to demonstrate compliance with the plan, among other requirements relating to the form, structure, and submission of the plan.
 - The plan is intended to detail how a project proponent will provide Australian suppliers with the full, fair, and reasonable opportunity to supply key goods and services to project proponents of major Australian projects.
- To establish the Australian Industry Participation Authority (AIPA).

Following the commencement of the AJA was The Australian Jobs Rule⁸⁵ (2014 [AJR]), specifying the roles, functions, and responsibilities of the AIPA and providing details on exemptions to the AIPP submission requirement in the AJA. A key exception to providing an AIPP to the AIPA is the submission of a plan to a state or territory that is compliant with legislative rules under the AJA.

The AIP Framework complements the AJA and AJR and, as is observed in practice, seems to inform state policies on local content and industry participation. See the Queensland Charter for Local Content (QCLC) for an example of the presence of AIP Framework principles in policy environments relating to state/territory government procurement.

The AIP framework establishes a commitment to national consistency in major Australian public and private projects (500m+), including projects with government funding (20m+). The framework, a common policy, is intended to represent a commitment from states and territories to a consistent national approach to industry participation in major projects domestically or internationally. The AIP Framework notes its complementarity with the Australia New Zealand Government Procurement Agreement (ANZGPA), and that

⁸⁴ Australian Jobs Act 2013, Australian Government (2013), <https://www.legislation.gov.au/Details/C2021C00410>

⁸⁵ Australian Jobs (Australian Industry Participation) Rule 2014, Australian Government (2014), <https://www.legislation.gov.au/Details/F2014L00125>

government procurements of all goods and services are not covered by the framework consequently. Instead, government procurements of all goods and/or services are to be guided by the ANZGPA and state/territory government procurement guidelines. The AJA and AJR reflect the above, where major projects defined as a “designated project” valued at \$500m+ fall within the scope of the AJA and AJR, respectively. Designated projects relate to the establishment, expansion, improvement, or upgrade of a facility. The AIP plan aims to ensure Australian entities have full, fair, and reasonable opportunity to bid for the supply of key goods and/or services for the designated project, including the operational phase in new facility establishment.

The ANZGPA, complementing the AIP Framework, covers government procurement of all goods and services by states and territories in Australia, aiming to establish a single market (Australia and New Zealand) for government procurement. The ANZGPA aims to block discrimination in government procurement while promoting transparency, simplicity, and consistency in execution. Some key requirements include:

- Committing to prioritizing value for money in procurement.
- Aim to achieve maximum simplicity and consistency in the application of procurement related policies and procedures.
- Debrief unsuccessful ANZ suppliers on request.
- Ensure government bodies enforce the agreement within their relevant jurisdictions.
- Providing equal opportunity and treatment of the goods, services and suppliers of other parties (relating to parties other than those considered domestic).
- Conforming with applicable domestic and international procurement agreements.
- A commitment to not engaging in procurement practices discriminating (or promoting bias) against ANZ suppliers.

The ANZGPA allows for exemptions from the agreement. The document cites specific exemptions including some defence procurements, private sector joint ventures and procurements by government bodies under substantial competition with the private sector.

Contractual Settings

While the AIP Framework represents a commitment by relevant governments to the principles of the framework for a consistent approach to maximizing Australian industry participation in investment projects, there are no formal procedures *under the framework policy document* for ensuring governments act in accordance with the principles of the framework. Instead, the document notes strategic approaches to give effect to the framework, including information sharing on Australian Industry Capabilities, identifying opportunities for Australian industry participation proactively, and actively respond to barriers to Australian industry participation domestically and internationally.

The AJA and AJR, requires the establishment of the AIP Authority. The AIP Authority is responsible for assisting stakeholders with obligations under the AJA and monitoring and promoting compliance with the act, among other complementary functions including proactively engaging with stakeholders who may have obligations under the AJA. The AIP Authority primarily conducts evaluations, and issues approvals, of AIPPs. Moreover, the AIP Authority is responsible for monitoring and reporting on the implementation of the plans⁸⁶, publishing plan summaries publicly. The AIP Authority has powers under the AJA to gather information that the body considers relevant to the operation of the act. The AIP Authority, where non-compliance is observed, may take specific actions available to the body under the act including publicizing information relating to non-compliance or executing adverse publicity notices.

⁸⁶ Review of the Implementation of the Australian Jobs Act 2013, Quantum (2018), <<https://www.industry.gov.au/sites/default/files/2019-01/review-of-the-jobs-act-2013-report.pdf>>

The purpose of AIPPs is to help achieve the objectives of the AJA, specifically to provide Australian suppliers with the full, fair, and reasonable opportunity to supply key goods and services to project proponents of major Australian projects. The AJA requires that compliance with the AIPP is reported on by the project proponent. A compliance report is submitted to the AIP Authority within defined reporting periods under the AJA.

Under the ANZGPA, multiple monitoring procedures are in place, particularly for the examination of breaches of the agreement following a submitted complaint. Each party to the agreement is required to identify a point of contact for investigating relevant complaints made. The designated body investigates and reports on the complaint. The ANZGPA defines responsible ministers as ministers for each of the agreement parties with portfolio responsibility for procurement policy and/or the ANZGPA. The Australasian Procurement and Construction Council (APCC) administers the agreement, under which responsible ministers are assigned responsibility for the agreement. The APCC will report to the responsible ministers on issues and developments relating to the agreement. The agreement is reviewed periodically (every 5 years) by the responsible ministers.

B. Industry participants

Participants in the stakeholder consultation were drawn from both industry and government/procurement entities, as shown in Table 15.

Table 13: Stakeholder engagement participants

Industry Participants	Jurisdictional participants
Alstom	Australian Rail Track Corporation
Arup	Department of Industry, Science, Energy and Resources (Federal)
Australian Rail Technology	Department of Infrastructure, Transport, Regional Development and Communications (Federal)
Centre for Railway Engineering	Department of Transport Victoria
Downer	Industry Capability Network (Victoria)
Gemco Rail	Rail Projects Victoria
John Holland	Translink Queensland
Knorr-Bremse	Transport for NSW
Martinus	Western Australian Public Transport Authority
McConnell Dowell	
Network Rail Consulting	
Pandrol Asia Pacific	
Progress Rail	
Salix Products	
Siemens	
STRAILastic Australia	
TTG Transportation Technology	
UGL	