

CASE STUDY

AUSTRALIA: UPSTREAM LINKAGES

FOSTERING LOCAL PROCUREMENT THROUGH REGULATION AND LOCAL INCENTIVES

OVERVIEW

LEVEL OF OPERATION:

National; state level

GOVERNMENT ROLE:

Regulator; program facilitator; funder

LINK TO POLICY ADOPTED:

See [Australian Industry Participation National Framework](#) and [Buy Australia at Home and Abroad initiative](#)

KEY COMMODITIES:

Iron ore and coal (world's largest net exporter of coal accounting for 29 per cent of global coal exports)¹

**TOTAL NATURAL RESOURCE RENTS
(AS % OF GDP) (2015):**

4.8 per cent²

NATIONAL EXTRACTIVES COMPANY:

N/A (although a number of large multinational mining firms are based in Australia, including BHP Billiton, Rio Tinto, Fortescue Metals Group and Newcrest Mining)

UNDP HUMAN DEVELOPMENT INDEX VALUE (2016):

0.939 (Global Rank 2)³

Australia has implemented a combination of demand- and supply-side policy options, defined at national and state levels, with emphasis on preferential procurement from local suppliers and reporting on measures to encourage local procurement (see Table 1).

Table 1. Summary of policy options in Australia

Demand-side policy options

Requiring a local procurement plan

Community development agreements with provisions on local procurement

Supply-side policy options

Supplier portal

Supplier development programs

Tax incentives

¹ Central Intelligence Agency (CIA). (2017). *The world factbook*. Washington, DC: CIA. Retrieved from <https://www.cia.gov/library/publications/the-world-factbook/fields/2111.html>

² World Bank Group. (2017). *Total natural resource rents (% of GDP)*. Washington, DC. Retrieved from <https://data.worldbank.org/indicator/NY.GDP.TOTL.RT.ZS>

³ United Nations Development Programme. (2016). *Human Development Reports: Australia*. Geneva, Switzerland. Retrieved from <http://hdr.undp.org/en/countries/profiles/AUS>



The Australian Industry Participation National Framework “seeks to promote industry capability and maximise participation in investment projects.”

DEFINING “LOCAL” PROCUREMENT

The Australia Industry Participation plan, a key mechanism that drives local procurement, identifies “local” procurement as an Australian entity. An Australian entity is defined as an entity that has an Australian Business Number or an Australian Corporation Number.⁴

State Agreements and Indigenous Land Use Agreements (types of community development agreements [or CDAs]) also often include local procurement provisions, which specify the definition of “local” within the agreement. For example, the agreement held between Rio Tinto’s Argyle Diamond Mine and Traditional Owners in Western Australia defines “local” as originating from the East Kimberley Region.⁵

DEMAND-SIDE POLICY OPTIONS

REQUIREMENT TO PROVIDE AN AUSTRALIAN INDUSTRY PARTICIPATION PLAN

Signed in 2001 by Commonwealth, state and territory industry ministers, the Australian Industry Participation National Framework is a federal regulatory framework that “seeks to promote industry capability and maximise participation in investment projects.”⁶ The framework focuses on creating a consistent national approach, with each

jurisdiction tailoring policies to their relevant context. At the national level, the Australian Jobs Act 2013 advances the Australian Industry Participation National Framework, requiring any project with a capital expenditure of over AUD 500 million in Australia to develop an Australian Industry Participation Plan (AIP plan).

The key components of the plan include “expected opportunities to supply goods and/or services to the project; how these opportunities will be communicated to potential suppliers; and how Australian businesses will be assisted in longer-term participation, including encouraging capability development and integration into global supply chains.”⁷

The following is a simplified outline of this Act:

- An Australian Industry Participation plan (AIP plan) is required for a major project to establish, expand, improve or upgrade a facility.
- An AIP plan will deal with:
 - (a) the project phase of a major project; and
 - (b) if a major project involves establishing a new facility—the new facility’s initial operational phase.
- The key objective of an AIP plan is that Australian entities should have a full, fair and reasonable opportunity to bid for.
 - (a) the supply of key goods or services for the project; and
 - (b) if the project involves establishing a new facility—the supply of key goods or services for the new facility’s initial operational phase.

⁴ Government of Australia. (2013). *Australian Jobs Act 2013, No. 69, 2013*. Retrieved from <https://www.legislation.gov.au/Details/C2013A00069>

⁵ Organisation for Economic Co-operation and Development (OECD). (2017). *Local content policies in minerals-exporting countries: Case studies*. p. 18. Retrieved from [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/TC/WP\(2016\)3/PART2/FINAL&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/TC/WP(2016)3/PART2/FINAL&docLanguage=En)

⁶ Government of Australia. (2001). *Australian Industry Participation National Framework*, p. 3. Retrieved from <https://industry.gov.au/industry/IndustryInitiatives/AustralianIndustryParticipation/Documents/AIPFramework.pdf>

⁷ Government of Australia (2013), Id. note 4.



- This Act sets up the Australian Industry Participation Authority.
- The Authority's functions include:
 - (a) approving AIP plans; and
 - (b) monitoring compliance; and
 - (c) other functions relating to Australian industry participation matters.
- The Minister may establish the Australian Industry Participation Advisory Board.

Figure 1. Outline of the Australian Job Act, 2013⁸

Templates for the local procurement plan and compliance reporting are provided by the Australian government.⁹ Reporting on implementation of the plan is required, and AIP plans must be published on a company's website, along with state agreements, Indigenous Land Use Agreements and various other reports.¹⁰ Executive summaries of AIP plans can be found online at the Australian Government's Department of Industry, Innovation and Science.¹¹

In addition to the AIP plan components described above, states may require additional details and reporting. For example, in Western Australia companies are required by the state government to complete the following as part of their industry participation plans:

- "Describe the project including the direct economic impacts of the project on Australian industry, in terms of employment, skills transfer, strategic alliances and regional development.

- Describe the type number of and size of procurement packages.
- Provide a clear statement on how the proponent will maximise the use of competitive Australian business in goods, services and works purchased in terms of full, fair and reasonable opportunity through all project stages including specific procurement approach.
- Include a communication strategy for the project and its supply chain partners which provides:
 - early identification of opportunities for Australian participation.
 - transfer of information on opportunities for Australian industry participation through all tiers of supply (e.g., along sub-contracting chains).
 - Report on project outcomes during the construction phase and as appropriate during the operational phase. The proposed arrangements and frequency for monitoring and reporting of outcomes will be determined on a case by case basis.¹²

The Native Title Act 1996 asserts that Traditional Owners have the right to negotiate over land.

The frequency of reporting on the industry participation plan is determined in consultation with the Department of Commerce in Western Australia, but usually the requirement is to report

⁸ Reprinted from Government of Australia (2013), Id. note 4.

⁹ Templates are provided on the Australian Government's website at <https://industry.gov.au/industry/IndustryInitiatives/AustralianIndustryParticipation/Pages/AIP-plans-required-Jobs-Act-2013.aspx>

¹⁰ OECD. (2017), Id. note 5.

¹¹ Government of Australia: Department of Industry, Innovation and Science. (n.d.). *Published executive summaries of Australian Industry Participation Plans*. Retrieved from <https://industry.gov.au/industry/IndustryInitiatives/AustralianIndustryParticipation/Pages/PublishedExecutiveSummariesofAIPPlans.aspx>

¹² The Government of Western Australia (2015). *Building local industry policy: Procedural guidelines*. p. 12. Retrieved from https://www.commerce.wa.gov.au/sites/default/files/atoms/files/building_local_industry_policy_procedural_guidelines_0.pdf



every six months.¹³ Across Australia, the frequency of reporting varies by state from monthly, yearly, or to “when requested.”¹⁴

LOCAL PROCUREMENT REQUIREMENTS INCLUDED IN INDIGENOUS LAND-USE AGREEMENTS

In Australia, the Native Title Act 1996 asserts that Traditional Owners have the right to negotiate over land.¹⁵ An Indigenous Land Use Agreement (ILUA) is a “voluntary agreement between a native title group and others about the use of land and waters” and “[w]hen registered, ILUAs

definition of “local” specific to the region and community, requirements to give advanced notice of contracts that exceed a certain price point and required preferential treatment to bidding suppliers that could have a potentially positive effect on the local economy.¹⁷ The ability to negotiate and enforce these agreements hinges on the community and their networks.¹⁸ This can leave many communities vulnerable to the agreement-making process, where they lack critical insight and data required to inform the provisions that are included in such negotiations.

The ability to negotiate and enforce land-use agreements hinges on the community and their networks. This can leave many communities vulnerable.

bind all parties and all native title holders to the terms of the agreement.”¹⁶ These agreements can cover economic opportunities for Indigenous title groups, among other issues such as compensation, cultural heritage and access to an area. Commitments are made in the form of tripartite agreements between the state government, community and mining company. Land-use agreements can include elements such as enterprise support and development, a

SUPPLY-SIDE POLICY OPTIONS

SUPPLIER PORTAL AND SUPPLIER DEVELOPMENT PROGRAMS

From 2011 to 2014, new initiatives were released within the AIP framework. These included the Buy Australia at Home and Abroad program, which was funded by the

Commonwealth with subprograms such as the Supplier Access to Major Projects (SAMP). Developed in 1997, SAMP has provided over AUD 18.5 million to create linkages between Australian suppliers and project developers.¹⁹ In particular, SAMP provided funding to the Industry Capability Network Limited to “assist in identifying capable and competitive Australian suppliers for major projects.”²⁰ The Industry Capability Network

¹³ Ibid.

¹⁴ OECD (2017). Id. note 5, p. 17.

¹⁵ El Source Book, (2011). *Good practice note: Community development agreements*, p. 4. Retrieved from http://www.eisourcebook.org/cms/files/csr_m_good_practice_notes_on_cdas_document_final_260911.pdf

¹⁶ National Native Title Tribunal. (n.d.). *About Indigenous Land Use Agreements (ILUAs)*. Retrieved from <http://www.nntt.gov.au/ILUAs/Pages/default.aspx>

¹⁷ OECD (2017), Id. note 5, p. 18.

¹⁸ O’Faircheallaigh, C. (2012a). Community development agreements in the mining industry: an emerging global phenomenon. *Community Development* 44(2), 222–238; O’Faircheallaigh, C. (2012b). Women’s absence, women’s power: indigenous women and negotiations with mining companies in Australia and Canada. *Ethnic and Racial Studies*, 36(11), 1789–1807.

¹⁹ The program was extended in 2011 to include networks of organizations including Industry Capability Network Limited, whose program helps facilitate linkages between Australian and New Zealand. See OECD (2017), Id. note 5, p. 15.

²⁰ Australian Government: Department of Industry, Innovation and Science. (n.d.). *Australian industry participation related programmes and policies: Supplier access to major projects*. Retrieved from <https://industry.gov.au/industry/IndustryInitiatives/AustralianIndustryParticipation/Pages/>



manages a national database (ICN Gateway) of Australian industry capabilities and project opportunities: it also provides information and markets Australian businesses. The ICN Gateway works as follows:

1. Government and private projects (such as mining companies) list their opportunities.
2. Potential suppliers search for work using the database.
3. Staff of the Gateway work with project owners and suppliers to “build the right procurement partnerships.”²¹

Supplier search results return the company profile, products and services, accreditations and contact details. For projects, search results return project details including the owner, location, status, project value and contact details as well as procurement contracts. For contracts, a comprehensive list of open, awarded and closed listings is provided with relevant documents and a portal to submit an expression of interest. It is estimated that 162 projects have been supported through SAMP, earning Australian firms over AUD 4 billion in contracts that would have otherwise been awarded to overseas competitors.²² SAMP funding closed in December of 2014, and project reports are expected to be released in March of 2018.²³

Policy is also oriented around the competitiveness of Australia’s Mining Equipment, Technology and Services sector (METS). The sector has grown due to demand by foreign firms facing challenges accessing needed skills and specializations. Responding to this need, policies now exist to ensure that the country’s education system is aligned with METS sector needs; universities and

colleges now carry a host of METS-focused and state-sponsored programs.

Additionally, there are a number of programs that address financing for small businesses. They include the Indigenous Capital Assistance Scheme (ICAS), Industry Capability Network Limited (ICNL), and the New Enterprise Incentive Scheme (NEIS).

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TAX INCENTIVES

From 2002 until 2016, the federal government funded the Enhanced Project By-Law Scheme (EPBS). The Scheme granted duty-free tariff concessions to goods not available in Australia. Eligible firms were those that had been deemed successful in implementing their set AIP plans.²⁴

[SupplierAccessToMajorProjects.aspx](#)

²¹ Search ICN Gateway at http://gateway.icn.org.au/#search_anchor; ICN Gateway. (n.d.). What is ICN? Retrieved from http://gateway.icn.org.au/#search_anchor

²² OECD (2017), Id. note 5, p. 15.

²³ Australian Government, Department of Industry, Innovation and Science. (n.d.). Id. note 20.

²⁴ OECD (2017), Id., note 5, p. 6.



KEY LESSONS

- The Government of Australia uses a balanced approach to local procurement policies, employing both supply- and demand-side provisions, and is not overly dependent on any one mechanism to advance local procurement. Multiple contact points are created between mining companies and the government on their performance related to local procurement through the development and submission of a local procurement plan as well as online information on transactions generated through the use of a portal. These measures are combined with stricter agreements (Indigenous Land Use Agreements) which create specific, enforceable local procurement requirements. However, the varied capacities to negotiate and implement the Indigenous Land Use Agreements leave the success of agreements vulnerable to situational factors, such as the strength of local advocacy networks.
- In Australia, the government has the capacity to source and use data to inform decision making. This is evidenced by the measures currently being used to target the contract tendering process, where data showed local businesses were “deemed to fall short of full competitiveness.”²⁵
- AIP plans include specific reporting requirements, with particular emphasis on public reporting on both mining company and government websites. This focus on public accountability regarding the increase of monitoring and enforcement of local procurement plans is unique in this set of case studies and serves as a model for other countries.
- Continuing to respond to critical needs, the Government of Australia noted skills gaps forming in the Australia METS sector and responded with investments to align the education system and government-funded programs for universities and colleges.

²⁵ OECD (2017), Id. note 6, p. 21.



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