

Aboriginal Procurement Policy Review 2023

Stakeholder feedback report September 2023

treasury.nsw.gov.au



Acknowledgement of Country

We acknowledge that Aboriginal and Torres Strait Islander peoples are the First Peoples and Traditional Custodians of Australia, and the oldest continuing culture in human history.

We pay respect to Elders past and present and commit to respecting the lands we walk on, and the communities we walk with.

We celebrate the deep and enduring connection of Aboriginal and Torres Strait Islander peoples to Country and acknowledge their continuing custodianship of the land, seas and sky.

We acknowledge the ongoing stewardship of Aboriginal and Torres Strait Islander peoples, and the important contribution they make to our communities and economies.

We reflect on the continuing impact of government policies and practices, and recognise our responsibility to work together with and for Aboriginal and Torres Strait Islander peoples, families and communities, towards improved economic, social and cultural outcomes.

Artwork:
Regeneration by Josie Rose



Regeneration

Josie Rose is a Gumbaynggirr woman who expresses her contemporary Gumbaynggirr cultural heritage through art. For *Regeneration* her chosen medium is acrylic paint on canvas and the design embodies both creative and cultural expression. The inspiration for her artworks comes from a deep place of spiritual connection to her family, community, culture and respect for Mother Earth. Gumbaynggirr Country is beautiful land with both freshwater and saltwater waterways which inspire her holistic connection to the Ancestors.

Josie Rose
Artist

Contents

1. Executive summary	5
1.1 Our objective: growing NSW's first economy	6
1.2 APP Review 2023	6
1.3 APP Review findings 2023	7
1.4 Stakeholder feedback and recommendations	8
2. APP: the story so far	9
2.1 Previous Aboriginal procurement policies	10
2.2 Current policy: Aboriginal Procurement Policy 2021	12
2.3 Progress against APP targets	13
3. Desktop review	16
3.1 Literature review	17
3.2 Jurisdictional review	20
3.3 2022–23 Aboriginal participation audit findings	22
4. Consultation	24
4.1 Extensive stakeholder consultation	25
4.2 Targets and reporting	27
4.3 Implementation and monitoring	29
4.4 Working better with Aboriginal businesses	32
5. Recommendations	34
6. Appendices	37
Appendix A: 2019 APP Review – recommendation progress	38
Appendix B: 2022 APP Audit – recommendations	42
Appendix C: Bibliography	43
Further information and contacts	44



Notes

All monetary values in this report exclude GST unless stated otherwise. This report fulfils a commitment in the existing Aboriginal Procurement Policy to review the operation of the policy after two years. It is an action under the NSW Closing the Gap Implementation Plan 2022-24.

The report and associated recommendations reflect the views of stakeholders consulted during the review period and do not represent official Government policy.

The NSW Government will consider the recommendations in this report as it develops a new Aboriginal Procurement Policy that makes it easier for government to work with Aboriginal businesses and deliver better outcomes for community.



Acknowledgements

The Aboriginal Procurement Policy team in NSW Procurement would like to thank the following people and organisations for their contribution to this review. Their collective wisdom, guidance and feedback has helped the development of this review report:

- Aboriginal businesses and Community members who responded to the Have Your Say survey and provided their time for further insight and understanding in follow up interviews regarding the challenges Aboriginal businesses face.
- Elders and representatives of the communities we visited who welcomed us onto their lands
- Members of the Coalition of Aboriginal Peak Organisations
- Members of Treasury's First Nations Advisory Council
- The NSW Indigenous Chamber of Commerce, Supply Nation and Yarpa Hub.
- The many staff of NSW Procurement, Investment NSW, Schools Infrastructure, Aboriginal Affairs NSW, NSW Treasury, Special Activation Precincts, Department of Customer Service, Small Business Commission, Department of Community and Justice, Department of Education, Department of Enterprise, Investment and Trade, Department of Planning and Environment, Department of Regional NSW, NSW Health, Premier's Department, The Cabinet Office, Transport for NSW and associated agencies of the NSW Government.

Executive Summary



1.1 Our Objective: Growing NSW's First Economy

The NSW Government values the economic, social and cultural contributions made by the Aboriginal community in New South Wales. The Aboriginal Procurement Policy (APP) contributes to growing NSW's First Economy and priority reform 5 of the NSW Closing the Gap Implementation Plan by supporting employment, business growth and economic prosperity for Aboriginal people in New South Wales.

The NSW Government's procurement capacity can be leveraged to support Aboriginal employment opportunities and the participation and growth of Aboriginal businesses. The Government is committed to working collaboratively with businesses to create a viable and competitive sector that benefits both Aboriginal peoples and the broader community.

1.2 APP Review 2023

The Aboriginal Procurement Policy commenced in January 2021, with two objectives:

- support employment opportunities for Aboriginal and Torres Strait Islander peoples
- support sustainable growth of Aboriginal businesses by driving demand via government procurement of goods, services and construction.

The current version of the NSW Government's Aboriginal Procurement Policy (APP) has been in effect since 1 January 2021. The 2021 APP includes a commitment to review the policy after two years of operation. The APP Review is also a commitment under the NSW Closing the Gap Implementation Plan 2022-2024. The review is intended to assess how well the policy has met its objectives and to identify potential improvements.

The APP Review 2023 evaluated the APP's effectiveness and explored potential improvements. The review considered agency compliance and implementation of the APP, examined the policy targets and requirements, and assessed stakeholders' understanding of the policy.

NSW Treasury (Treasury) undertook extensive consultation with stakeholders from within Government, Aboriginal and non-Aboriginal businesses, and the Aboriginal community. This inclusive approach allowed for a wide range of perspectives to be considered. We wanted to understand the issues that are important to all stakeholders who interact with the policy. Over the course of 11 months, we collated over 2,000 individual pieces of feedback.

The Government is committed to working collaboratively with businesses to create a viable and competitive sector that benefits both Aboriginal peoples and the broader community.



2,000+

individual pieces of feedback collected over 11 months

The review identified opportunities to improve the APP's effectiveness to drive the Government's objectives. This paper synthesizes the diversity of stakeholder views into proposed actions, providing recommendations to better achieve the APP objective of growing NSW's First Economy.

These recommendations will help NSW Government develop and deliver a new APP that makes it easier for government to work with Aboriginal businesses and delivers better outcomes for community.

1.3 APP Review 2023 findings

A positive start

- The APP has been successful in increasing the scale of NSW Government procurement from Aboriginal businesses.
- There are now over 1,000 Aboriginal business registered to supply to the NSW Government on the NSW Government Supplier Hub.
- The all-of-government targets for procurement spend and contracts with Aboriginal businesses, and to contribute to employment opportunities for Aboriginal people, have been met and in some cases significantly exceeded.
- The review found positive commitment to the APP objectives and policy parameters across Aboriginal businesses and the NSW Government, with the policy requiring refinement rather than substantial changes.

But improvements could be made

- Aboriginal businesses and the Aboriginal community have high expectations for the APP, and NSW Government delivery has not consistently met their expectations.
- While the targets have been met to date, the NSW Government could do more to ensure the benefits of the APP are experienced more widely by Aboriginal businesses and community.
- Feedback throughout the review focused on how the NSW Government is currently implementing, monitoring and measuring the APP.
- Agency groups have achieved or exceeded the APP targets to date, but there has been limited engagement with more aspirational targets.
- There is evidence of inconsistency in NSW Government staff understanding of the APP and how to apply it properly.
- There is a perception among Aboriginal businesses that some NSW Government staff are either trying to evade APP requirements, or when applied, are fulfilling the minimum obligations without ensuring meaningful Aboriginal participation.

The review identified opportunities to improve the APP's effectiveness to drive the Government's objectives.



1,000+

Aboriginal business registered to supply to the NSW Government on the NSW Government Supplier Hub

1.4 Stakeholder feedback and recommendations

APP Pillar	Recommendations
Targets and reporting	<ol style="list-style-type: none"> 1. Streamline the targets to drive APP objectives: <ol style="list-style-type: none"> a. set a higher annual addressable procurement spend target, with incremental increases each year b. remove the annual contracts target for agency groups. 2. Measure the success of the APP across agency groups by publicly reporting on outcomes, including: <ol style="list-style-type: none"> a. procurement spend with APP-verified Aboriginal businesses b. procurement spend across regions and product or service categories c. the number of unique APP-verified Aboriginal businesses awarded contracts d. the number and value of contracts awarded to APP-verified Aboriginal businesses. 3. Improve policy and procurement reporting processes. 4. Publicly communicate APP results and case studies beyond the buy.nsw webpage. 5. Share case studies of APP successes and challenges across government through an expanded APP Community of Practice.
Implementation and monitoring	<ol style="list-style-type: none"> 6. Introduce mandatory non-price evaluation criteria for Aboriginal participation plans on all government contracts valued over \$7.5 million. 7. Develop a comprehensive APP guidance framework to enhance understanding and implementation of the APP. 8. Explore mechanisms and develop further guidance to effectively apply the APP to government panels and schemes, in particular, applying measures at head agreement or customer contract level. 9. Develop a risk-based assurance framework with evaluation criteria to assist agencies to monitor APP participation commitments by suppliers. 10. Collaborate with Aboriginal Affairs NSW to develop guidelines for government agencies to identify and manage black cladding in procurement, in line with the NSW Roadmap for Aboriginal Business Growth. 11. Introduce a standing APP agenda item at Procurement Board meetings. 12. Increase visibility of APP-verified Aboriginal businesses on the buy.nsw supplier hub.
Working better with APP-verified Aboriginal businesses	<ol style="list-style-type: none"> 13. Create guidelines addressing how agencies can better support APP-verified Aboriginal businesses throughout the tendering process, ensuring due process and probity is maintained. 14. Create pre-project communication protocols to increase engagement with APP-verified Aboriginal businesses and community during project planning. 15. Develop a communication strategy to raise awareness of support services available to APP-verified Aboriginal businesses. 16. Continue to deliver coordinated Gather and Grow events with partner agencies, bringing together APP-verified Aboriginal businesses, head contractors and government buyers. 17. Increase the number of APP-verified Aboriginal businesses enrolled on NSW Government's Supplier Hub through ongoing stakeholder engagement.

APP: the story so far





2.1 Previous Aboriginal procurement policies

Aboriginal Participation in Construction Policy

The Aboriginal Participation in Construction (APIC) Policy was implemented to support greater participation by Aboriginal and Torres Strait Islander peoples in Government infrastructure and construction projects across New South Wales.

The APIC policy came into effect on 1 May 2015, replacing the 2007 Aboriginal Participation in Construction Guidelines. The policy mandated minimum levels of Aboriginal participation on NSW Government infrastructure and construction projects. Its goal was to stimulate opportunities for Aboriginal peoples in the construction industry by encouraging head contractors to employ Aboriginal people and engage Aboriginal-run businesses on NSW Government projects.

On 1 July 2016, the 1.5 per cent project spend targets became mandatory for Category 1 and Category 2 construction projects as defined in the policy:

Category 1: Projects nominated by an agency that are primarily directed to one or more Aboriginal communities. This includes projects where an Aboriginal community is the sole or predominant beneficiary, a key user group or a predominant stakeholder.

Category 2: All other construction projects where the estimated value exceeds \$10 million.

Category 3: All other construction projects where the estimated value is over \$1 million.

The APIC policy was further updated from 1 July 2018. The revised policy extended the mandatory 1.5 per cent project target to cover category 3 projects. It also introduced a new provision allowing agencies to negotiate directly with suitably qualified Aboriginal businesses for procurements of construction goods and services valued up to \$250,000.

2018 Aboriginal Procurement Policy

The first Aboriginal Procurement Policy commenced 1 July 2018 and applied to goods and services procurement, excluding construction. The policy, in conjunction with the 2018 APIC policy, aimed to stimulate and support employment opportunities for Aboriginal and Torres Strait Islander peoples and businesses.

Under the policy, all NSW Government agencies were required:

- to publish an annual Aboriginal Participation Strategy that outlined how the agency would meet its Aboriginal participation obligations
 - for contracts valued over \$10 million, identify and address upcoming opportunities for Aboriginal participation
 - for contracts up to \$250,000, first consider Aboriginal-owned businesses on pre-qualification schemes before proceeding to market
 - report contracts with Aboriginal businesses valued over \$50,000 to the NSW Procurement Board within 45 days of coming into effect.
- The 2018 APP also allowed agencies to negotiate directly with suitably qualified Aboriginal businesses for the procurements of goods and services valued up to \$250,000.
- For all contracts covered by the APP and valued over \$10 million, suppliers were required to:
- provide an Aboriginal Participation Plan
 - provide monthly progress reports against the Aboriginal Participation Plan in a format specified by the NSW Procurement Board.

2019 Policy Review

A review of the APP and APIC policy was undertaken in 2019. This review included extensive consultation with Aboriginal businesses, non-Aboriginal businesses, the broader community and NSW Government agencies. This ensured the government received a wide range of perspectives and opinions on how to better include Aboriginal businesses in the NSW Government supply chain and help these businesses build capacity and capability.

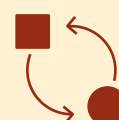
The review made 38 recommendations across nine themes. As at December 2022, 35 of the recommendations have been implemented and three are ongoing actions. The full list of recommendations and their status can be found at [Appendix A](#).



Implemented
recommendations

35

as at December 2022



Ongoing actions

3

as at December 2022

2.2 Current policy: Aboriginal Procurement Policy 2021

The current APP came into effect on 1 January 2021. It encourages NSW Government agencies and suppliers to create opportunities for Aboriginal businesses and communities via government procurement.

The policy has two primary objectives:

- Supporting employment opportunities for Aboriginal and Torres Strait Islander peoples.
- Supporting sustainable growth of Aboriginal businesses by driving demand via government procurement of goods, services, and construction.

The policy supports Aboriginal businesses and employment through multiple measures, including:

All-of-government targets

- A target that requires NSW Government agency groups to direct 1 per cent of the agency group's addressable procurement spend to Aboriginal businesses.
- A target that requires NSW Government agency groups to award 3 per cent of total goods and services contracts (excluding construction) to Aboriginal businesses.
- A target to support 3,000 full-time equivalent (FTE) opportunities for Aboriginal and Torres Strait Islander peoples through NSW Government procurement activities by the end of 2021.

Participation requirements and preferencing

- Agencies must publish an annual Aboriginal Participation Strategy that identifies and addresses upcoming procurement opportunities for Aboriginal participation, at a minimum for procurements valued at \$7.5 million or above.
- Agencies must include requirements for a minimum 1.5 per cent Aboriginal participation in all contracts valued at \$7.5 million or above. Participation can include subcontracting to Aboriginal businesses, employing Aboriginal or Torres Strait Islander peoples, and/or providing education, training or capability building for Aboriginal staff or businesses directly contributing to the contract.
- Agencies should, whenever feasible, give first consideration to Aboriginal businesses for contracts valued up to \$250,000.
- Agencies may negotiate directly with an Aboriginal business for all procurements valued up to \$250,000, even if there is a mandated prequalification scheme or panel in place.

Improving procurement processes

- Agencies are required to provide a length limit for tender responses when seeking more than one quote and minimise tender and contract requirements wherever possible.
- Agencies are encouraged to disclose all contracts with Aboriginal businesses on the eTendering website, even where the values are below the *Government Information (Public Access) Act 2009* contract disclosure threshold.
- Agencies should, wherever feasible, provide constructive feedback to unsuccessful tenderers on their tender responses. This feedback should be provided with a view to building the capability of the Aboriginal business to apply successfully for future opportunities.



3,000

Full-time equivalent opportunities for Aboriginal and Torres Strait Islander peoples by end of 2021



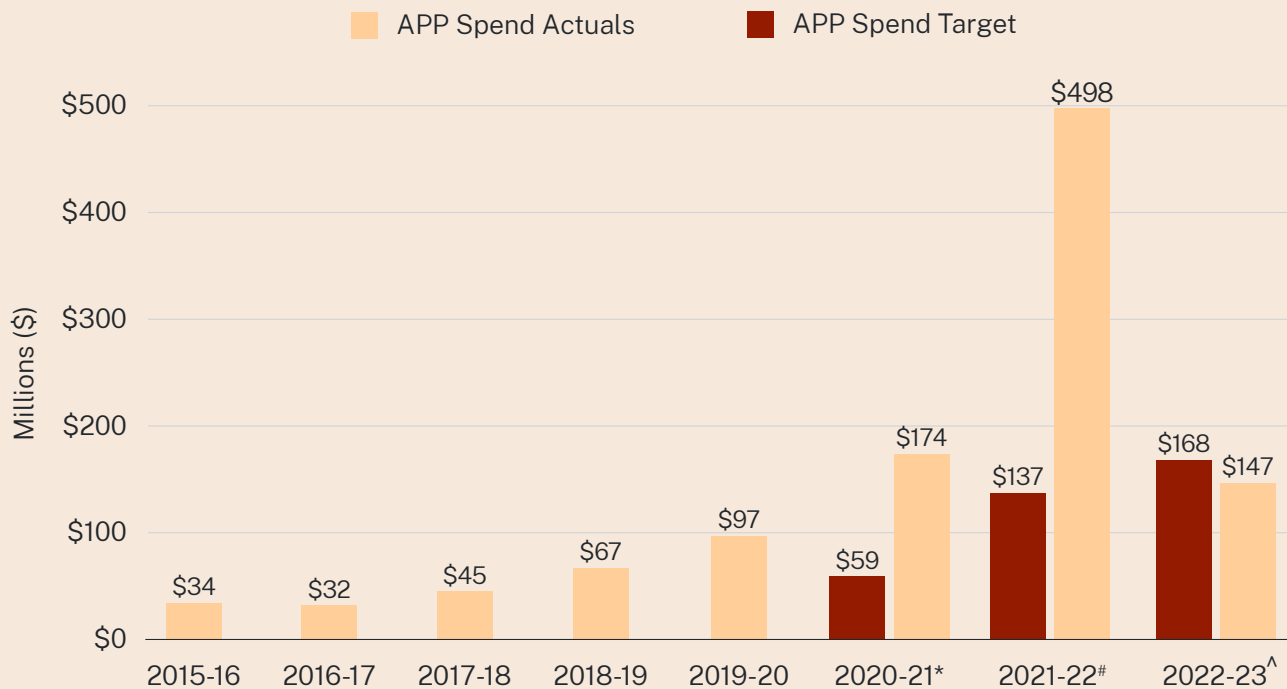
Minimum Aboriginal participation requirement for agencies

\$250K

2.3 Progress against APP targets

With the introduction of the consolidated APP in 2021, agency group targets have driven strong growth in government spending with Aboriginal businesses. NSW Government procurement spend with Aboriginal businesses averaged \$55 million per financial year in the five years prior to the introduction of the targets. Since the introduction of the APP, the annual procurement spend with Aboriginal businesses in any given financial year has more than tripled this average:

APP – Spend and Targets



* The APP came into effect on 1 January 2021, midway through the 2020–21 financial year

The record spend in the 2021-22 financial year was in part due to large one-off contracts related to COVID-19 medical supplies.

The underpinning results were still strong, with all nine NSW Government agency groups surpassing their spending targets, including six that doubled their target.

^ The \$168 million target is for the full 2022–23 financial year, the \$143 million actual spend is for the 6 months to December 2022.

Early results were positive

In the first six months of the APP going live in January 2021, the all-of-government targets were \$59.3 million in spend and 100 goods and services contracts. \$100.5 million was spent, and 126 goods and services contracts awarded to Aboriginal businesses.

The APP target to support 3,000 FTE opportunities for Aboriginal people by the end of 2021 was exceeded with approximately 3,995 FTE opportunities supported since the commencement of the APIC policy in 2018 to the end of 2021.





Record spend with Aboriginal businesses in the first full year of the APP

From July 2021 to June 2022, the targets were \$136.7 million in addressable spend and 200 goods and services contracts. \$479.7 million was spent, and 694 goods and services contracts were awarded to Aboriginal businesses.

The record spend was in part due to large one-off contracts related to COVID-19 medical supplies. The underpinning results were still strong, with all nine NSW Government agency groups surpassing their spending targets, including six that doubled their target.

Agency results against the goods and services contracts target were affected by an adjustment to the original reporting methodology for contract numbers. The change meant agencies could provide manual reports for contracts valued between \$10,000 and \$150,000 (including GST), which fall below the GIPA Act reporting threshold. Of the 694 contracts reported with Aboriginal businesses in the 2021–22 financial year, only 78 were disclosed through eTendering. The remaining 616 were reported manually. The 694 contracts were shared across 174 Aboriginal businesses.

These results demonstrate how the current contracts target incentivises agencies to pursue a high number of contracts (quantity), rather than supporting a broad range of Aboriginal businesses across New South Wales or pursuing higher value contracts (quality, according to feedback received from Aboriginal businesses and the Aboriginal community). There are opportunities to improve APP delivery and the quality of reporting on contract numbers and types.



\$479.7

million was spent
in 2021-22



694

goods and
services contracts
were awarded to
Aboriginal businesses

2022–23 financial year results projected to surpass targets once again

Despite significantly surpassing the 2021–22 financial year targets, most agencies chose not to increase their 2022–23 financial year targets. Three agency groups elected to apply stretch targets, with the all-of-government target rising from \$150 million to \$168 million. This meant that, having surpassed the 2021–22 financial year target by \$343 million, the 2022–23 financial year target increased by \$32 million. Preliminary results for the first six months of the 2022–23 financial year suggest that agency groups will easily achieve these targets.

The results to date indicate the need for more aspirational target setting by NSW Government agencies to drive accountability, better reflect Aboriginal business capability and meet community expectations for agency implementation of the policy.

Year to date (July to December 2022) progress against the 2022–23 financial year addressable spend and goods and services contracts targets, by agency group, is as follows:



All-of-government target rising from \$150 million

\$168 million

Agency group	1% addressable spend targets (2022–23)	Actual direct spend (Jul–Dec 2022)	3% goods and services contracts targets (2022–23)	Actual contracts (Jul–Dec 2022)
Customer Service	\$12.0 million	\$10.4 million	8	11
NSW Education	\$27.9 million	\$24.0 million	12	9
Enterprise, Investment and Trade	\$1.2 million	\$1.8 million	3	1
NSW Health	\$23.0 million	\$26.4 million	63	44
Planning and Environment	\$17.7 million	\$9.0 million	22	17
Cabinet Office and Premier's Department	\$0.7 million	\$1.2 million	8	7
Regional NSW	\$7.1 million	\$3.4 million	4	3
Communities and Justice	\$14.2 million	\$9.5 million	18	25
Transport for NSW	\$61.3 million	\$55.1 million	70	144
NSW Treasury	\$1.0 million	\$1.7 million	5	2
Total	\$166 million	\$142.5 million	213	263

Desktop Review

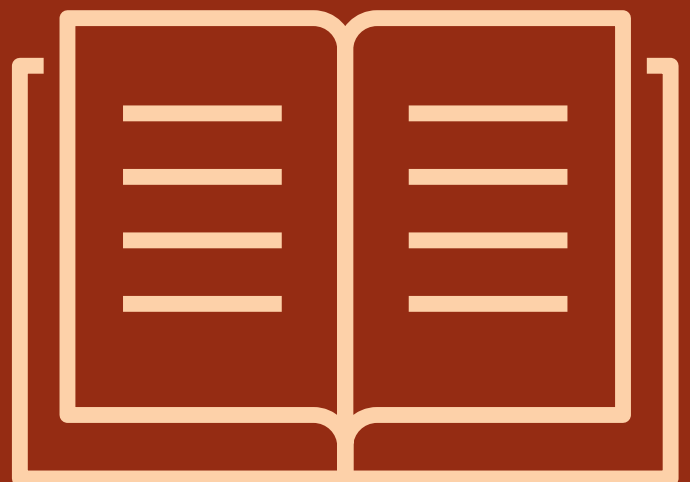


3

3.1 Literature review

‘...the specific social value outcomes of Indigenous procurement include self-determination and empowerment (Landscape), more training and employment opportunities for Indigenous businesses and workers (Resources), business owners and workers becoming positive role models for younger generations to look up to (Ways of working), and reinvesting in communities to fund more strategic initiatives and create a multiplier effect of social value (Learnings)

– Denny-Smith, 2021



This literature review provides a snapshot of the academic writings available on the topic of government procurement with Aboriginal business. This review does not include all academic work regarding government procurement and Aboriginal business – this is due to both capacity and restricted access to some publications. Academic analysis of government procurement policies is limited, and further research is required.

The implementation experience for the APP to date aligns closely with the findings from the academic analysis.

Key themes

Theme	Insights
Positive commentary	<ol style="list-style-type: none"> 1. Social procurement policies can help increase opportunities for Aboriginal business owners. 2. Increased Aboriginal employment has positive social, health and economic benefits for employees and businesses as well as the broader community. 3. Targets are public, aspirational commitments that ensure a policy’s visibility and success. 4. Social initiatives in public procurement use already allocated expenditure to achieve social outcomes. It is an inexpensive and efficient social policy measure.
	<p>APP experience</p> <ol style="list-style-type: none"> 5. Procurement from Aboriginal businesses has significantly increased since the introduction of the APP, with spend, contracts and employment targets all being met. 6. Introducing agency targets in the APP and publishing them on the buy.nsw website has driven accountability, although future targets could be more aspirational.

Theme	Insights
Critiques	<p>7. Traditional value-for-money analysis methodologies can be meaningless for Indigenous communities. There is no uniform meaning of social value across Indigenous Australia.</p> <p>8. Buyers tend to do repeat business with the same suppliers rather than diversifying the Government's supplier base.</p> <p>9. Research identifies the risk of uneven distribution of benefits across regions and sectors.</p> <hr/> <p>APP experience</p> <p>10. The APP has helped the NSW Government expand its Aboriginal supplier base on lower value contracts. However, analysis indicates that higher value contracts have been more concentrated to a few contingent labour and construction firms. This aligns with stakeholder feedback that more can be done to ensure policy benefits are spread more equitably across Aboriginal businesses in all industry sectors.</p> <p>11. Preliminary analysis and feedback through the consultation suggest that to date businesses in regional areas are not benefiting fully from the APP, and greater focus should be placed on distributing opportunities across regions.</p>
Challenges	<p>12. Defining 'value-for-money' in social procurement requires considering benefits and risks beyond the procurement opportunity. Macroeconomic effects must be considered as well as social and health outcomes for the community.</p> <p>13. Government buyers are often cautious of the risk of engaging new suppliers and promoting capable Aboriginal suppliers can be difficult. The literature indicates that this can limit the social benefit of social procurement policies.</p> <p>14. Policy thresholds can limit capability and capacity growth for businesses.</p> <p>15. There is no one-size-fits-all approach to combat black cladding.</p> <hr/> <p>APP experience</p> <p>16. Feedback provided by stakeholders, including Aboriginal business owners and community members, during the review consultation aligns with the challenges identified in the literature.</p> <p>17. NSW Government buyers can be risk averse and reluctant to engage new Aboriginal suppliers. Government buyers are requesting increased guidance and tools to help find verified and capable businesses to engage.</p> <p>18. Feedback from Aboriginal businesses indicates that while the existing policy thresholds have been helpful in winning engagements on low value projects, they can hinder Aboriginal businesses from building the recognition and maturity to win medium-sized or larger projects.</p> <p>19. Black cladding remains an important issue. Treasury will support Aboriginal Affairs NSW to develop guidelines for government to identify and manage black cladding in procurement, in line with the NSW Roadmap for Aboriginal Business Growth.</p>

References are provided in the bibliography at [Appendix C](#).

3.2 Jurisdictional review

This jurisdictional review provides a snapshot comparison of First Nations procurement policies across Australian jurisdictions (excluding Tasmania which does not have a specific First Nations procurement policy). While we also examined equivalent policies in international jurisdictions, for ease of comparison we have only included Australian jurisdictions.

Aboriginal procurement targets: All-of-government level

Jurisdiction	Spend Target*	Contracts Target*
NSW	1% addressable spend	3% of goods and services contracts
Australia	2% value of eligible contracts (increasing 0.25% p.a. to 3% in FY27-28)	3% of number of eligible contracts
ACT	2.0% addressable spend (increased 0.5% p.a. from 1.0% in FY20-21)	No target specified
QLD	3% addressable spend	No target specified
VIC	1% of Government procurement from small to medium enterprises to be from Aboriginal businesses	
NT	5% of contract value	5% of contracts awarded
WA	No target specified	4.0% number of awarded contracts (increased 0.5% p.a. from 3.0% in FY21-22)
SA	No target specified	No target specified

*Spend and contract targets are as of June 2023.

Key findings:



- New South Wales has the equal lowest spending target and, unlike some other jurisdictions, this is a fixed target with no annual increases.
- Of jurisdictions that have a contract target, New South Wales is the only jurisdiction which focuses on goods and services contracts and excludes construction.
- Three jurisdictions are setting their targets to drive growth year-on-year (Australia and the Australian Capital Territory for spend targets, Western Australia for contracts target).

Aboriginal participation requirements on government contracts

Jurisdiction	Mandatory requirements threshold	Aboriginal participation requirements
NSW	≥\$7.5 million	1.5% through subcontracting, employment or capability and capacity building.
Australia	≥\$7.5 million	4% through employment or subcontracting on an individual contract; or an alternative 3% participation across the supplier's entire Australian footprint (both government and non-government projects).
ACT	≥\$5 million	Agencies recommended to consider Indigenous participation as part of economic benefit requirements under the Local Industry Participation Policy.
QLD	A variety of thresholds, depending on procurement category and identified Indigenous projects.	Depending on the procurement category, contracts may be subject to Indigenous Economic Opportunity Plans, Key Result Areas, and specific Indigenous contract clauses.
VIC	≥\$20 million	Agencies recommended to set targets for supplier expenditure.
NT	≥\$15,000	Agencies recommended to evaluate participation as part of the 'Value for Territory' criteria.
WA	≥\$5 million	Suppliers required to meet one of two targets—either a 3.5% subcontracting target (increasing to 4% in 2024); or an employment target based on the contract labour force (either 2%, 5%, or 10% based on the region where the contract is being delivered).
SA	≥\$550,000	Agencies recommended to ensure suppliers include commitments for Aboriginal participation in Industry Participation Plans during tendering.

Key findings:



- The NSW Aboriginal participation requirement is a fixed percentage and does not increase year on year or depending on contract location.
- Two other jurisdictions (Australia and Western Australia) explicitly specify Aboriginal participation requirements. These requirements set higher percentages than New South Wales and focus solely on employment or sub-contracting opportunities.
- Other jurisdictions emphasise a tailored approach, focussing on the details of each specific project (such as the procurement category or location) to inform Aboriginal participation opportunities.
- New South Wales sets minimum Aboriginal participation requirements of 1.5 per cent but encourages agencies to be aspirational where possible. Based on feedback, there is a perception that agencies default to the minimum requirement rather than assessing opportunities to go further.
- The participation requirements in other jurisdictions sit within their broader procurement framework, such as the Australian Capital Territory where Indigenous participation sits within the Local Industry Participation Policy.

3.3 2022–23 Aboriginal participation audit findings

Context

The 2019 APP review included a recommendation to audit 5 per cent of government contracts with Aboriginal participation requirements each financial year to assess compliance with the agreed Aboriginal Participation Plans.

The first audit was conducted in 2022. The audit examined the accuracy of reporting provided by suppliers on NSW Government contracts and their progress towards meeting their Aboriginal participation commitments.

The audit involved consultations with the relevant NSW Government agencies to access the quarterly Aboriginal participation reporting provided by primary contractors, and interviews with primary contractors and their sub-contractors including Aboriginal businesses and First Nations employees, to verify activities associated with the reported outcomes.

Following a competitive process, NSW Procurement engaged an Aboriginal-owned auditing firm to undertake the audit. The auditor reviewed 15 contracts across seven NSW Government agency groups, with a combined total project value of over \$5 billion.

5%

government contracts audited

15

contracts reviewed across seven NSW Government agency groups

\$5 billion

project value

APP audit insights

Overall findings:



- The Audit found that all 15 projects were on track to meet or exceed their minimum 1.5 per cent participation commitments.
- Despite many of the contracts operating under the previous 2018 APIC Policy, the audit provided useful insights into how Government agencies and contractors are approaching Aboriginal participation commitments.
- Engagement with the previous and current Aboriginal procurement policies is generally positive, but there are a range of opportunities to improve understanding and application of the APP.
- The audit found a significant difference in knowledge and buy-in to the APP across NSW Government. While there is positive commitment, this weakens as policy implementation is delegated within contract management teams and deficit model thinking needs to be addressed.
- The auditor provided 14 recommendations to improve implementation of the APP. Twelve of the recommendations were in the remit of this APP Review and have been considered and addressed (see [Appendix B](#)).

Other insights

Theme	Insights
APP targets and participation commitments	<ol style="list-style-type: none"> 1. All contracts that had been completed at the time of the audit showed targets were met or exceeded in terms of participation levels. 2. Some contracts included higher targets than the mandated 1.5% (up to 6%) and this was easier to apply for higher value contracts. 3. Some companies with repeat contracts with government were forward leveraging their investment on Aboriginal participation through capability building initiatives, and this approach could be more widely adopted as best practice. 4. The audit suggested the NSW Government should consider increasing minimum participation requirements for repeat engagements with the same head contractor, or where local demographics based on project location could support higher targets.
APP implementation	<ol style="list-style-type: none"> 5. The audit found there was a lack of understanding across government as to what services the APP applied to and how to apply the minimum requirements and exclusions. 6. Government procurement staff did not consistently understand how to implement the APP across the procurement lifecycle – from applying the APP requirements during tendering, ensuring participation plans are robust and appropriate during the evaluation stage, and implementing effective and fit for purpose monitoring by contract managers. 7. The audit also recommended that government develop a fit for purpose assurance framework to validate the reported APP data, particularly for claims that are met through downstream arrangements in the supply chain.
Working better with Aboriginal businesses	<ol style="list-style-type: none"> 8. The audit found there was inconsistent commitment to APP objectives, with opportunities for improvement at officer level across NSW Government agencies. 9. While there is general and positive commitment to the intent of the APP within NSW Government, there were significant differences in knowledge and engagement across agency groups. 10. Commitment appears to weaken as the APP is implemented within contract management teams, and the auditor identified opportunities to shift deficit model thinking. 11. The auditor found that agency groups that have dedicated APP advisors tend to have greater operational and implementation maturity. 12. By contrast, corporate suppliers demonstrated stronger and more consistent cultural awareness, particularly larger firms with Aboriginal staff who advised in the APP space.
Reporting and sharing best practice	<ol style="list-style-type: none"> 13. The audit found there was no common approach to reporting on Aboriginal participation, both across government and sometimes within agency groups. 14. Reporting tends to focus solely on spend targets, with little to no reporting on challenges or success stories either centrally or within agency groups. 15. The auditor identified opportunities to improve both the capture of quantitative data (through implementing or improving the reporting portal) and qualitative data (sharing success stories within government).

Consultation





4.1 Extensive stakeholder consultation

In reviewing the APP, Treasury undertook extensive consultation with stakeholders from within government and the wider community. We wanted to understand the issues that are important to all stakeholders who interact with the policy. Over the course of 11 months, we collated over 2,000 individual pieces of feedback.

Consultations were conducted between October 2022 and August 2023 with Aboriginal and non-Aboriginal businesses, government staff (including procurement personnel and Aboriginal Affairs NSW) and the wider community:

Method	Business responses	Government responses
Have Your Say survey	111 responses	38 responses
Quick poll		82 responses
Discussion paper		6 submissions
Ideas board		1 submission
Follow up interviews	65 requested, 30 conducted	8 requested, 5 conducted
Government workshops	N/A	168 staff over 9 agency group workshops

Across our consultations, we received 2,050 pieces of feedback, and 1,244 proposals.

Pieces of
feedback



2,050

Proposals



1,244



The most pressing issues differed by stakeholder group

Each stakeholder group raised specific concerns and identified potential improvements for the APP, but a common theme did emerge: the biggest opportunities to improve are in how the APP is currently being implemented across government.

The most significant issues by stakeholder group were:

Aboriginal businesses	One-on-one interviews	NSW Government staff
1. Increase support services for Aboriginal businesses looking to work with Government.	Prioritise preferencing of Aboriginal business.	Refine targets to better support APP objectives.
2. Expand APP reporting and analysis to drive improved policy implementation.	Improve monitoring of black cladding.	Provide education/training to increase understanding of the APP by government staff.
3. Improve Government staff understanding of how to apply the APP.	Greater guidance and scrutiny regarding Aboriginal business verification.	Expand APP reporting and analysis to improve policy implementation.
4. Better communication of procurement opportunities.	Better communication of procurement opportunities.	Produce a single source of truth to find Aboriginal businesses.
5. Simplify procurement processes to make working with government easier.	Increase engagement by NSW Government executives to drive APP outcomes.	Increase sharing of best practice across government.

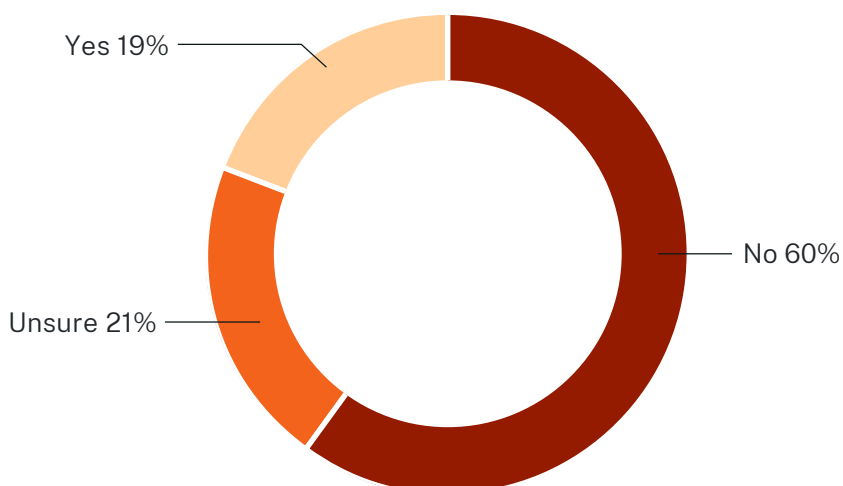
4.2 Targets and reporting

What we heard

Modify APP targets to drive quality, not quantity

- We heard that while the APP targets have helped to drive increased spend with Aboriginal businesses, they may not always be consistent with the policy objectives.
- We heard that the APP targets were a high priority. It was a top three issue based on all feedback received, and the highest priority from the government agency group consultations.
- There were suggestions that the current all-of-government targets are not fit for purpose – being fixed percentages and focusing on the quantity of engagement, rather than quality and diversity of businesses engaged.
- A common theme across both community and government feedback was that ‘what gets measured, gets done’, and that more aspiration was needed in target setting.
- A frequent recommendation was that APP targets should increase year on year. We heard that the targets should focus on spend with Aboriginal businesses, employment of Aboriginal people on government projects, and the number of Aboriginal businesses engaged.
- We heard that the targets should include regional locations, demonstrating Government responsibility to support Aboriginal businesses across all of New South Wales.

Aboriginal businesses: Has the APP made it easier for you to get work with the NSW Government?



I think there's an opportunity to take a step back and look at the outcomes that we're seeking to achieve from the APP ... there's certainly a gap. Spend with Aboriginal businesses doesn't necessarily guarantee the growth of the Aboriginal business sector."

– Government workshop participant.

Meaningful reporting beyond targets

- We heard that more meaningful reporting of APP data was a top priority, ranking second highest in all feedback received.
- We heard that improvements to data collection and broader public reporting could encourage aspiration and shift agency focus away from solely meeting targets.
- There were suggestions to report on agency performance across a range of metrics, including supplier diversity and regional breakdowns. We also heard interest in reporting on social outcomes and consideration of the flow-on effect on communities from Aboriginal procurement.
- We heard that government should analyse APP data to find procurement categories and regions where engagement with Aboriginal businesses is lacking, and identify areas for improvement and opportunity for Aboriginal businesses.

Improved policy and procurement reporting processes

- A leading theme of government feedback was the need to make supplier reporting easier and more streamlined.
- Government buyers said there needs to be better support for agencies and suppliers in capturing Aboriginal participation data.
- We heard that the reporting process needs to allow for greater flexibility to set targets beyond minimum levels, capture feedback and provide data in bulk, and to explore ways to integrate reporting with existing agency systems.
- We heard that reporting processes need to be simplified and made accessible to more users so that agencies and suppliers can confidently report their data and track their progress.

Showcasing success and sharing best practice

- Government staff told us that sharing success stories and learnings around the APP was a priority.
- We heard that sharing contacts and experiences, promoting success stories and discussing challenges across agencies, and summarising good news stories for public release would help showcase how government can increase the capacity and capability of Aboriginal businesses.
- We heard that creating monthly case studies on how government and Aboriginal businesses are making a difference for regional communities would help promote awareness and inspire others to act.



Gather more information or data ... can't really see where it is going and the impact it is having."

– Government workshop participant.



I feel the reporting portal is a good start but need more support/training in using it."

– Government workshop participant.



In addition to statistics have real life stories – how the procurement has impacted Aboriginal communities to see what their work is actually doing."

– Government workshop participant.

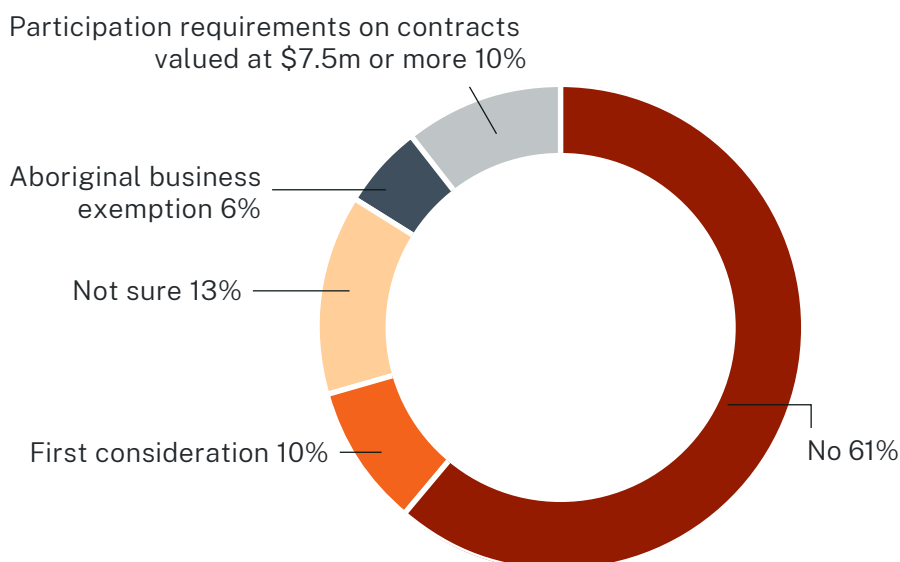
4.3 Implementation and monitoring

What we heard

Review APP minimum requirements

- We heard from both government and business respondents that expanding minimum APP requirements on projects was a high priority.
- We were told that the 'first consideration' value of up to \$250,000 was helpful for direct engagements on small projects, but that Aboriginal businesses weren't getting opportunities once projects move above that threshold.
- Business respondents also suggested lowering the mandatory \$7.5 million threshold, to ensure the APP is applied to a broader range of projects and more opportunities given for Aboriginal businesses.
- Suggestions for revising the thresholds included a 'sliding scale', giving flexibility to agencies to directly engage Aboriginal businesses who had demonstrated capability previously.
- We heard from the Aboriginal community that more meaningful participation was needed on major projects. It was suggested that Government should mandate minimum sub-contracting, employment opportunities or mentoring for inclusion in suppliers' Aboriginal Participation Plans.

Has your business ever been engaged to work with the NSW Government under any of the following measures:



These need to be increased, Aboriginal businesses are growing and expanding by the day.”

– Have Your Say business respondent.

Improve government’s understanding and awareness of APP

- We heard strongly from both community and government respondents that there is a need for improved government understanding of the APP. Developing government APP training resources was the second most common recommendation.
- We heard that training is needed to effectively implement the APP in government procurement processes to ensure staff are fully aware of requirements.
- Stakeholders highlighted the need for extra guidance including quick reference guides to assist with navigating the policy.
- It was recommended that all procurement staff should receive APP and cultural awareness training to better support and engage Aboriginal businesses.
- It was recommended that NSW Procurement explore opportunities to influence local councils to support Aboriginal participation in their procurement practices.

More rigorous agency group monitoring of APP requirements

- We heard that improved monitoring and accountability measures are required so that the APP can be effective on the ground.
- We heard that large companies make promises around Aboriginal participation, but stakeholders lack confidence that these commitments are being delivered in a meaningful way, and that more scrutiny is required from government to keep suppliers accountable.
- From the government agency consultation, we heard that there were inconsistencies across agencies in how APP requirements and progress are tracked and compliance enforced.
- We heard that procurement staff and contract managers need to better understand and monitor compliance, but that greater guidance is needed to support them.



Business owners advised they have on more than one occasion within the last 12-months had to explain the APP to a purchasing officer or representative of an agency, specifically the ‘first consideration’ to Aboriginal businesses for procurements up to \$250,000.”

– **Have Your Say**
business respondent.



Better monitoring and better understanding by Government agencies”

– **Have Your Say**
business respondent.

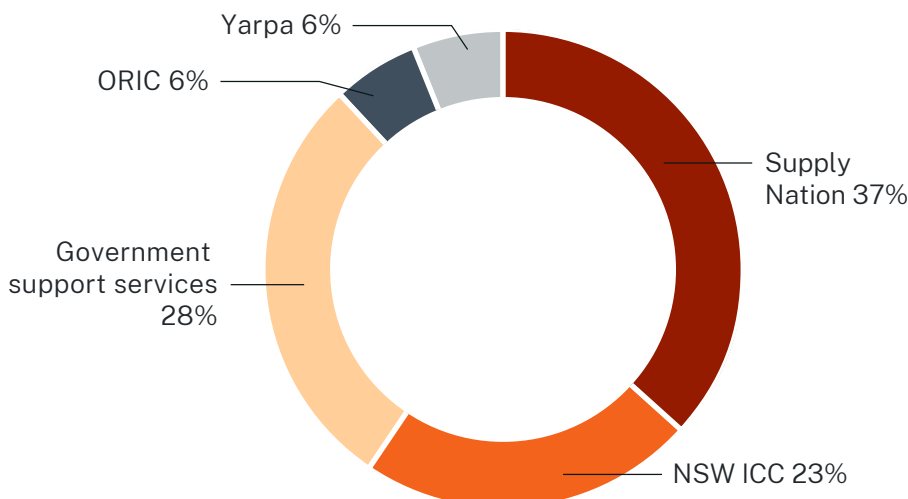
Increased accountability from Leadership Groups

- Feedback from one-on-one interviews indicated stakeholders want enhanced executive level leadership on APP outcomes.
- We heard that the Procurement Board and other interagency leadership groups must take more accountability for oversight of the policy and ensuring transparency to the Aboriginal community about how the APP is being delivered.
- We heard that the Procurement Board needs to be more aspirational in target setting and drive agency awareness and compliance with the APP – using top-down communication and identifying champions within their agencies.

Make finding suitable Aboriginal businesses easier

- The fourth most common recommendation we heard from government respondents was the need to develop a single source of truth to identify Aboriginal businesses. This response made up 31 per cent of all government recommendations on improving the process of finding Aboriginal businesses.
- The [buy.nsw](https://www.buy.nsw.gov.au/) supplier hub provides a comprehensive listing of suppliers to government, including APP-verified Aboriginal businesses, but only 22 per cent of government respondents indicated that they use the supplier hub when searching for Aboriginal businesses.
- Stakeholders recommended that NSW Procurement explore ways to identify engagements with each Aboriginal business over time, and capture qualitative performance feedback to inform future engagement of businesses.
- We heard stakeholders want more information about how Aboriginal businesses are verified, to address black cladding and ensure the policy is benefitting legitimate Aboriginal businesses.

Which verification bodies have you used to identify Aboriginal suppliers?



In this devolved model, there's responsibility on cluster leadership. Between the Procurement Board, the Procurement Leadership Group and Construction Leadership Group, how often do they meet to strategically discuss the APP?"

– Government workshop participant.



Make the process of searching for suppliers and their capabilities more streamlined."

– Have Your Say business respondent.

4.4 Working better with Aboriginal businesses

What we heard

Improve support services for Aboriginal businesses

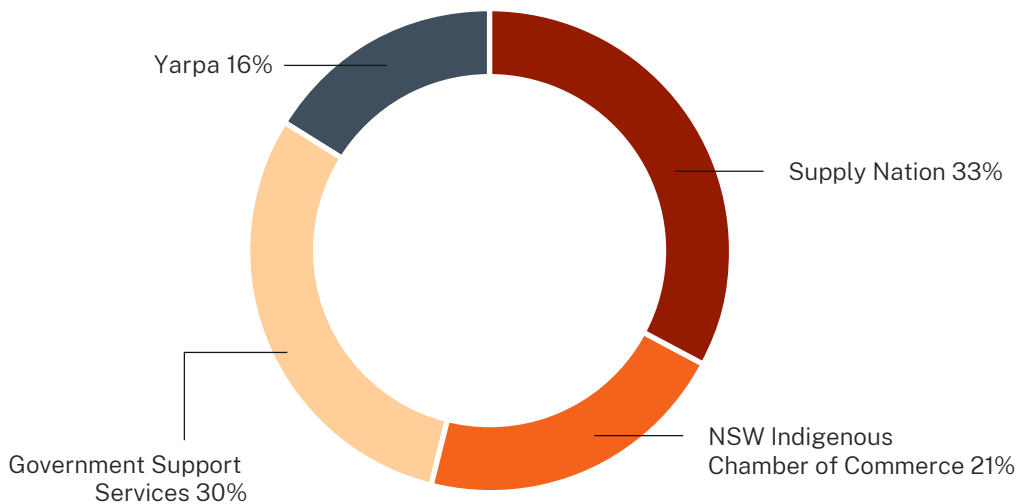
- We heard there is a very strong need for improved education and support services for Aboriginal businesses. Improving support services for Aboriginal businesses was the highest priority for the Aboriginal community, making up 10 per cent of all recommendations.
- Responses to the public Have Your Say surveys indicated a very low level of awareness and use of government support services like Business Connect, the NSW Procurement Concierge Service, the NSW Procurement Service Centre, and the NSW Small Business Commission.
- We heard that there is a need for increased and more constructive guidance and feedback from agencies and head contractors to help Aboriginal businesses mature and increase their capacity to secure government contracts – especially through the tendering process.
- We heard the need for relevant, realistic and effective feedback for Aboriginal businesses who submit tenders but are unsuccessful.
- Respondents said support services need to be more visible and available to Aboriginal businesses, where and when they are needed.



More wrap around support to both gain access to and navigate securing contracts with government.”

– Have Your Say business respondent.

Have you used the following support services?



Simplify Government procurement processes

- We heard that the procurement process for Aboriginal businesses seeking government contracts is currently complex and time-consuming and presents significant barriers to smaller and newer businesses.
- We heard that simplifying the procurement process was a leading priority for both Aboriginal business and community respondents.
- There were suggestions for a series of changes to streamline the procurement process – including simplifying pre-qualification scheme applications, reducing the amount of documentation required, and providing direct support and engagement with Aboriginal businesses.

Expand and enhance communication about contract opportunities

- The Aboriginal community told us about the need for pre-project communication protocols. This was the fourth most common recommendation by the Aboriginal community and made up 10 per cent of all feedback on how to best support Aboriginal businesses.
- We heard that government events in regional areas have been helpful but one-off, and agencies need to be proactive and consistent with engaging with community on upcoming projects and opportunities.
- There is a need for sufficient time for communication and consultation in the lead up to a project commencing to provide Aboriginal businesses and the community with time to adequately prepare.
- There were recommendations that agencies provide regular communication with Aboriginal businesses, on-site supplier briefings and assistance with prequalification scheme registration.

“

Streamlining the procurement process ... So many hoops to jump through it can be daunting for small businesses who want to grow.”

– Have Your Say
business respondent.

“

If we could know what departments are actively seeking out Indigenous businesses, we then know who to market to.”

– Have Your Say
business respondent.



Recommendations



5

APP Stakeholder feedback and recommendations

APP Pillar	Recommendation	Timeframe*	Change medium
Targets and reporting	1. Streamline the targets to drive APP objectives: <ul style="list-style-type: none"> a. set a higher annual addressable procurement spend target, with incremental increases each year b. remove the annual contracts target for agency groups. 	Revised policy Q3 2024 calendar year (CY)	Updated APP
	2. Measure success of the APP across agency groups by publicly reporting on outcomes, including: <ul style="list-style-type: none"> a. procurement spend with APP-verified Aboriginal businesses b. procurement spend across regions and product or service categories c. the number of unique APP-verified Aboriginal businesses awarded contracts d. the number and value of contracts awarded to APP-verified Aboriginal businesses. 	Q1 2025	Reporting
	3. Improve policy and procurement reporting processes.	Q2 2025	Reporting
	4. Publicly communicate APP results and case studies beyond the buy.nsw webpage.	Q1 2025	Reporting
	5. Share case studies of APP successes and challenges through an expanded APP Community of Practice.	Q1 2025	Communications
Implementation and monitoring	6. Introduce mandatory non-price evaluation criteria for Aboriginal participation plans on all government contracts valued over \$7.5 million.	Revised policy Q3 2024	Updated APP
	7. Develop a comprehensive APP Guidance framework to enhance understanding and implementation of the APP.	Q4 2024	Guidance
	8. Explore mechanisms and develop further guidance to effectively apply the APP to government panels and schemes, in particular applying measures at head agreement or customer contract level.	Revised policy Q3 2024	Updated APP Guidance

* Timelines are contingent on release of a revised Aboriginal Procurement Policy by July 2024.

APP Pillar	Recommendation	Timeframe*	Change medium
Implementation and monitoring	9. Develop a risk-based assurance framework with evaluation criteria to assist agencies to monitor APP participation commitments by suppliers.	Q1 2025	Guidance
	10. Collaborate with Aboriginal Affairs NSW to develop guidelines for government agencies to identify and manage black cladding in procurement, in line with the NSW Roadmap for Aboriginal Business Growth.	Q3 2025	Guidance
	11. Introduce a standing APP agenda item at Procurement Board meetings.	Q3 2024	Governance
	12. Increase visibility of APP-verified Aboriginal businesses on the buy.nsw supplier hub.	Q3 2025	Supplier Hub
Working better with APP-verified Aboriginal businesses	13. Create guidelines addressing how agencies can better support APP-verified Aboriginal businesses throughout the tendering process, ensuring due process and probity is maintained.	Q4 2024	Guidance
	14. Create pre-project communication protocols to increase engagement with APP-verified Aboriginal businesses and community during project planning.	Q4 2024	Guidance
	15. Develop a communication strategy to raise awareness of support services available to APP-verified Aboriginal businesses.	Q1 2025	Communication
	16. Continue to deliver coordinated Gather and Grow events with partner agencies, bringing together APP-verified Aboriginal businesses, head contractors and government buyers.	Q4 2024	Events
	17. Increase the number of APP-verified Aboriginal businesses enrolled on NSW Government's Supplier Hub through ongoing stakeholder engagement.	Ongoing	Engagement

* Timelines are contingent on release of a revised Aboriginal Procurement Policy by July 2024.

Next steps

These recommendations will help the NSW Government develop and deliver a new APP that makes it easier for government to work with Aboriginal businesses and delivers better outcomes for the community.

Appendices



Appendix A: 2019 APP Review – recommendation progress

In 2019, NSW Government conducted a review of the Aboriginal Procurement Policy (APP) and Aboriginal Participation in Construction (APIC) policy. The review made 38 recommendations across nine themes. As at December 2022, 35 of the recommendations have been implemented and three are in progress.

Status	Recommendation
Simplify and align	
Implemented	Combine the APP and APIC policy into a single NSW Aboriginal Procurement Policy
Implemented	Simplify policy, requirements, and reporting
Implemented	Align with Commonwealth Indigenous Procurement Policy where relevant.
Implemented	Retain 'Aboriginal' as the key policy naming convention.
Ongoing	Agencies to include construction projects in the annual Aboriginal Participation Strategy.

3 per cent Contract target- goods and services

Implemented	Clusters to award 3% of goods and services contracts to Aboriginal businesses by end 2021.
Implemented	Clusters and Treasury to agree on an annual target for goods and services contracts to be awarded to Aboriginal businesses per year, based on 3% of the cluster's average number of contracts for the past three financial years.
Implemented	Clusters may count the head contractor's sub-contracts with Aboriginal businesses toward their contract target.

1 per cent Spend target- all addressable spend

Implemented	Clusters to direct 1% of addressable procurement spend toward Aboriginal businesses by end 2021. This target will include both construction, goods and services procurement spend.
Implemented	Clusters and Treasury will agree an annual target spend to be directed to Aboriginal businesses based on 1% of the cluster's average addressable spend for the past three financial years.

Status**Recommendation****1.5 per cent Aboriginal participation on high value contracts**

Implemented	For all contracts over \$7.5m, clusters are required to direct at least 1.5% of the contract value to Aboriginal participation. Agencies will have discretion not to apply this requirement if opportunities for Aboriginal participation do not exist (e.g. purchase of equipment from overseas). However, agencies must include evidence in their procurement strategy or relevant documentation that supports the decision.
Implemented	Raise the threshold at which construction contracts must include Aboriginal participation requirements from \$1m to \$7.5m.
Implemented	Lower the threshold at which goods and services contracts must include Aboriginal participation requirements from \$10m to \$7.5m.
Implemented	The requirements for suppliers to direct unspent Aboriginal participation funds to Master Builders Association or Literacy for Life will be removed.
Implemented	Unspent Aboriginal participation funds will be directed to Training Services NSW programs that focus on training for Aboriginal people or capacity building for Aboriginal-owned businesses. The NSW Government will publish information on the value of unspent funds directed to Training Services NSW and the programs supported.

3,000 FTE employment opportunities

Implemented	Support 3,000 FTE employment opportunities for Aboriginal people from construction, and goods and services contracts by the end of 2021.
--------------------	--

Purchasing permissions

Implemented	Retain the recommendation that clusters should give first consideration to Aboriginal businesses on prequalification schemes.
Implemented	Retain the purchasing permission that allows clusters to directly negotiate with suitably qualified Aboriginal businesses up to \$250,000
Implemented	Retain the purchasing permission that allows clusters to run a closed tender with Aboriginal businesses on prequalification schemes up to \$1m.

Registration bodies

Implemented	Retain the requirement for Aboriginal businesses to be registered with the NSW Indigenous Chamber of Commerce (NSW ICC) or Supply Nation, except where engaging an Aboriginal not-for-profit (NFP) or non-government organisation (NGO). In these instances, agencies must make suitable enquiries to satisfy themselves the NFP or NGO is controlled by Aboriginal people or entities.
Implemented	Remove the First Australians Chamber of Commerce and Industry as a registration organisation for Aboriginal-owned businesses, as they do not maintain a readily accessible, online list of suppliers.

Reporting

Implemented	Remove the agency requirement to disclose contracts with Aboriginal-owned businesses valued over \$50,000. Revert to the statutory requirement of disclosing contracts over \$150,000. Agencies may manually disclose additional contracts or provide data from contract management systems.
Implemented	Implement new reporting portal with higher functionality and ease of use.
Implemented	Publish targets and cluster performance toward the targets.
Implemented	Regularly audit a percentage of contracts, ranging from desktop to site audits. Require agency contract managers to sign an audit self-attestation. Conduct an independent random audit of 5% of contracts annually (at an all-of-government level).

Status	Recommendation
--------	----------------

Support and guidance

Ongoing	Provide more support and guidance to Aboriginal businesses and agency staff to apply the policy, through both guidance documents and face-to-face sessions.
Ongoing	Agency procurement teams to simplify tender documentation and language where possible to ensure requirements are understood.
Implemented	Agencies must offer tender debriefs to Aboriginal businesses where reasonably requested.
Implemented	Encourage agencies to set aside funding for third party tender writing support for Aboriginal businesses.
Implemented	Identify an agency-based policy 'champion' to support businesses and staff, with their team's email address published so businesses may make contact.
Implemented	Treasury to create a Community of Practice to support policy implementation.
Implemented	Treasury to implement a 'concierge' service to assist Aboriginal businesses to be registered on prequalification schemes.
Implemented	NSW Government to increase collaboration with NSW ICC and Supply Nation to help guide more Aboriginal businesses onto prequalification schemes and build business capability.
Implemented	Hold networking opportunities for head contractors, Aboriginal businesses and buyers, particularly in regional NSW, including 'meet the buyer' events.
Implemented	Encourage head contractors to engage early with Aboriginal communities and businesses through open forums, roadshows and social media.
Implemented	Agencies to encourage head contractors to engage early with Aboriginal businesses and communities in the project planning stage, to scope availability and capacity of Aboriginal businesses as well as holding 'meet the buyer' sessions when looking for sub-contractors.
Implemented	Publish links to known project pipelines such as Infrastructure NSW pipeline for construction projects over \$50m.
Implemented	Publish information on the Procurement Board complaints process and details of the NSW Deputy Ombudsman and their role in respect to monitoring the policy.

Appendix B: 2022 APP Audit – recommendations

Theme	APP Audit Recommendation	APP Review
Aboriginal Participation Plans	1. Refine the Aboriginal Participation Plan template so that it clearly aligns activities with targets and enables the reporting of quantitative and qualitative outcomes and impacts.	Rec. 7
	2. Augment the APP guidance and plan template to make clear that the APP applies to all procurement contracts over \$7.5m. This could also include how to calculate the threshold with extension options and how to provide appropriate justification for exclusions.	Rec. 7
	3. Work with agency group procurement officers to ensure all contract managers are fully aware of the APP so that procurements and related documentation are up to date, plans are robust and appropriate and contract managers can implement effective and fit for purpose monitoring.	Rec. 7
	4. Work with agency groups to either have clear contract conditions that allow for a transition to new provisions when policy requirements are amended or consider how to embed the APP requirements into existing plans.	N/A
Achieving Outcomes	5. Consider a mechanism to inform industry of future investments in infrastructure.	Rec. 13
	6. Consider a mechanism (either within the APP or at the discretion of agencies) to adjust the minimum or mandatory target based on demographics and/or repeat contracts.	Rec. 7
	7. Work with agency group Procurement teams to ensure contract managers are aware of APP requirements and how to operationalise them in tender conditions for all procurements meeting the thresholds.	Rec. 7
Reporting	8. Consider implementing a reporting portal that enables the capture of both qualitative and quantitative data.	Rec. 3
	9. Develop and provide advice to agency groups about an appropriate risk-based assurance framework.	Rec. 8
	10. Once data is captured summarise good news stories for public release.	Rec. 4
Industry Commitment	11. Consider the development of an industry roundtable on APP implementation.	Rec. 5
	12. For the next Audit, have a higher proportion of non-construction contracts.	Implemented
	13. Provide an indicative category spend impact hierarchy that indicates to industry where deeper social betterment occurs with types of spending.	Rec. 2
Agency Group Commitment	14. Consider promoting success stories and challenges across agencies.	Rec. 5

Appendix C: Bibliography

Australia

Australian Institute of Aboriginal and Torres Strait Islander Studies 2019, Submission in response to Commonwealth's Evaluation Strategy Issues Paper.

Cutcher, L, Ormiston, J and Gardner, C 2020, 'Double-taxing' *Indigenous business: exploring the effects of political discourse on the transfer of public procurement policy*, *Public Management Review*, 22(9), pp. 1398-1422.

Deloitte Access Economics 2014, Economic benefits of closing the gap in Indigenous employment outcomes, Reconciliation Australia.

Denny-Smith, G and Loosemore, M 2017, 'Assessing the impact of Australia's Indigenous Procurement Policy using Strain Theory' in: Chan, P W and Neilson, C J (Eds) *Proceeding of the 33rd Annual ARCOM Conference*, 4-6 September 2017, Cambridge, UK, Association of Researchers in Construction Management, pp. 652-661.

Denny-Smith, G 2021, 'How compliance imperatives stifle the impact of social procurement', *Proceedings of the 37th Annual ARCOM Conference*, pp. 634-643.

Gray, M, Hunter, B and Biddle, N 2014, 'The Economic and Social Benefits of Increasing Indigenous Employment', CAEPR Topical Issue No. 1/2014. Australian National University, Canberra: Centre for Aboriginal Economic Policy Research.

Grieve, B, 2018, *Understanding the Target Process of the Procurement Strategy for Aboriginal Business*, School of Public Administration, University of Victoria.

Janke, T 2017, *True Tracks: Indigenous Cultural and Intellectual Property Protocols: Indigenous Knowledge and Digital Infrastructure Futures*, Terri Janke and Company Lawyers & Consultants.

Loosemore, M, Alkilani, S and Mathenge, R 2020, 'The risks of and barriers to social procurement in construction: a supply chain perspective', *Construction Management and Economics*, 38(6), pp. 552-569.

Productivity Commission 2020, *Indigenous Evaluation Strategy*, Commonwealth of Australia.

Storey, M 2017, *Factors affecting the efficacy of the Commonwealth's Indigenous Business Exemption*, DBA thesis, Department of Management, Deakin University.

International

Chandra, F and Young, L 2017, *Recommendations for evaluating social procurement policy within the Canadian Federal Government*, School of Public Administration, University of Victoria.

Cravero, C 2017, 'Socially Responsible Public Procurement and Set-Asides: a Comparative Analysis of the US, Canada and the EU', *Artic Review on Law and Politics*, vol. 8, pp. 174-192.

Dragicevic, N and Ditta, S 2016, 'Community Benefits and Social Procurement Policies: A Jurisdictional Review', *The Prosperous Province: Strategies for Building Community Wealth*, Mowat Research no. 121.

Mah, E 2014, 'An evaluation of Canada's procurement policies for Aboriginal business', *Manitoba Policy Perspectives*, 1(1), pp. 65-81.

McCrudden, C 2007, *Buying Social Justice: Equality, Government Procurement and Legal Change*, Oxford: Oxford University Press.

NSW Treasury

Published by NSW Treasury

First published September 2023

T23/01292

This publication is protected by copyright. With the exception of (a) any coat of arms, logo, trade mark or other branding; (b) any third party intellectual property; and (c) personal information such as photographs of people, this publication is licensed under the Creative Commons Attribution 3.0 Australia Licence.

The licence terms are available at the Creative Commons website at:
creativecommons.org/licenses/by/3.0/au/legalcode

NSW Treasury requires that it be attributed as creator of the licensed material in the following manner: © State of New South Wales (NSW Treasury), (2022).

Image credits: Adobe Stock, iStock, Renee Nowytarger

52 Martin Place
Sydney NSW 2000

W: treasury.nsw.gov.au

GPO Box 5469
Sydney NSW 2001

Further information and contacts

For further information or clarification, please contact:

NSW Procurement, NSW Treasury

Telephone: 1800 679 289

Email: nswbuy@treasury.nsw.gov.au

