



Economic Empowerment for Aboriginal Victorians: *The Role of Indigenous Preferential Procurement Programs*

24 October 2022

Proceedings of the Symposium

Introduction

Indigenous Preferential Procurement Programs (**IPPPs**) have been recognised as an important policy approach to facilitating the establishment and growth of Indigenous businesses; supporting improvements in Indigenous employment; and achieving improvements in overall Indigenous well-being. Recognition of the importance of IPPPs has seen them adopted in some form by the Commonwealth Government, five of the eight state and territory governments, by many key resources firms and, more generally in the private sector, through the Business Council of Australia’s “Raising the Bar” initiative and the work of Indigenous Chambers of Commerce.

In Victoria, the state government’s ‘Social Procurement Framework’ (**SPF**) has been in place since 2018. The SPF includes aspects of Indigenous preferential procurement as well as some elements of mandated Indigenous employment targets applicable to all government contracts above certain values. It applies similar policies and targets to other identified groups such as social enterprises and disability enterprises. Despite this longstanding policy, the outcomes for Indigenous businesses achieved under the SPF appear to lag behind the outcomes achieved in other jurisdictions such as the Commonwealth, New South Wales, and Queensland.

For example, in 2019–2020 the value of contracts awarded to Aboriginal businesses under the SPF in Victoria was recorded as \$46.1 million. This figure has subsequently declined. By contrast the value of contracts awarded under the Commonwealth Government’s IPPP for the same period was \$1.09 billion, while NSW reported a total value of contracts of \$173 million for that period. The Queensland Government IPPP reported an increase in the value of contracts awarded from \$322 million in 2020–2021 to \$440 million in 2021–2022.

Background to the Event

The need to focus greater attention on Aboriginal economic development and to change the approach of the Victorian state government to this issue was recognised with the release in June 2022 of *Yuma Yirramboi - the Victorian Aboriginal Employment and Economic Strategy*. The new strategy replaced *Tharmaba Bugheen: Victorian Aboriginal Business Strategy* which had expired in 2021 and coordinated with the ongoing *Victorian Aboriginal Affairs Framework 2018–2023*. One (3.2) of the 23 initiatives in *Yuma Yirramboi* is identified as “Improve outcomes for Aboriginal businesses and accountabilities in the Victorian Social Procurement Framework”. Given the comparative outcomes reported above, the need for this particular initiative to be included in *Yuma Yirramboi* is not debatable.

The *Economic Empowerment for Aboriginal Victorians – The Role of Indigenous Preferential Procurement Programs Symposium* was an Aboriginal led response to the challenge contained *Yuma Yirramboi* to develop a Victorian Government Indigenous preferential procurement program that both improved the accountabilities around its operation and led to better outcomes.

The Symposium was held for a single day on 24 October 2022 at the University of Melbourne. The event was instigated and co-ordinated by the Federation of Victorian Traditional Owner Corporations, Kinaway, Aboriginal Chamber of Commerce and Dilin Duwa Centre for Indigenous Business Leadership at the University of Melbourne.

Both Kinaway and the Federation are member-based organisations advocating for improved economic outcomes for Traditional Owners and Aboriginal owned businesses. Dilin Duwa Centre is the Indigenous led collaboration between the University of Melbourne’s Faculty of Business and Economics and the Melbourne Business School that is committed to innovative growth in the Indigenous business sector.

Close to 100 delegates and participants gathered to listen and take part in four thematic sessions. Delegates were welcomed by the leadership of the three host organisations. Alex Kerr, Wurundjeri man and Trainee Site Supervisor with Barpa Constructions, provided a gracious Welcome to Country. Alex also noted that the topic was particularly important for him, as it was when he was doing a Welcome to Country for Barpa that he was offered a job and became Barpa’s first employee.

The first session, “*The Lived Experience of the Victorian Social Procurement Framework*”, was intended to ‘state the problem’ from the perspective of Aboriginal businesses - both private and Traditional Owner Corporation controlled. What was working, what wasn’t, and why? The second session, “*The Commonwealth IPPP in Victoria and beyond*”, took the case study of the operation of the Commonwealth IPPP and sought to identify what features it had that had led to its manifest success. Beyond this though the session also included critical reflection on what would make a good scheme better.

The crucial third session turned attention to the key challenge to be addressed over the day: how can we meet the challenge in *Yuma Yirramboi* and advocate for the development of a Victorian Government Indigenous procurement system that is both more effective and more accountable. The final session of the day represented a slight change of pace. The focus of this session was the vital, but often overlooked, local government sector. Across Victoria, but particularly in the regions, local governments are key economic agents and facilitators. This session took the example of two local government authorities, one metropolitan and one regional, and explored how they were encouraging the growth of Aboriginal and Traditional Owner businesses through the development of local procurement partnerships.

This paper presents a summary of the discussion in each of these sessions. More importantly though, it provides a thematic analysis of what features were identified in each session as essential for an effective IPPP and contains recommendations for the process of policy development necessary to achieve the implementation of these measures. The intent of the symposium organisers is that these recommendations will be incorporated into the formal processes of achieving the *Yuma Yirramboi* objectives.

Session 1 The Lived Experience of the Victorian Social Procurement Framework

*Participants Liz Allen, Alan Holmes, Scott McCartney
Rodney Carter (Facilitator)*

Given the very limited value of contracts associated with the SPF it was not very surprising that participants reported challenges in engaging with state government procurement. A range of reasons were explored these included structural difficulties such as union membership requirements, payment terms, structures around supply panels and inadequate weighting being given to Aboriginal business to justify the term ‘preferential’.

There was a consistency around what could be described as procurer awareness and attitude issues. There were reports of procuring officers not wanting to leave their well-travelled comfort zone and investigate opportunities with Aboriginal businesses and disinterest in understanding the requirements and opportunities under the SPF. There were also many reports (throughout the day) of blatant tokenism (classically small, uneconomic contracts awarded around Reconciliation Week that led to no ongoing orders).

In this regard there was a clear feeling that within many departments there were blockages caused by the resistance of key individuals to implement an IPPP. These individuals were often referred to variously as ‘gatekeepers’ or ‘mission managers’. There were also reports of procurement ‘champions’ who were committed and determined to make the program work. Unfortunately, it was also reported that inevitably, in the nature of the public service, these champions moved on to different roles. The ‘salt in the wound’ being that in these cases the investment in developing a business in expectation of an ongoing relationship was thrown away when the hoped-for contracts were not awarded under the new management.

There was a broad consensus that many of the blockages reflected the fact that there was a perception in procuring officers/ departments that Aboriginal procurement (and the SPF in general) was not a key government priority and so it got relegated to the officer level.

It was noted that the political leadership at the ministerial level about the importance of Aboriginal procurement had been sadly lacking over many years and that the social return on investing in Aboriginal businesses as often overlooked or not understood. This stood in stark contrast to the overarching theme of Aboriginal self-determination and Treaty that is otherwise touted by the current government.

It was also commented though that Aboriginal people had been working for many years to bring home to Victorian governments both the benefits of a successful IPPP and the steps needed to achieve them. There was a positive feeling that, if nothing else, *Yuma Yirramboi* signalled a genuine willingness on the part of the state government to listen to Aboriginal business on this issue, but that the initiatives stated in the strategy were weak and did not provide the necessary accountabilities to further the matter.

Session 2 The Commonwealth IPPP in Victoria and beyond

Participants Jeremy Clark, Avinash Clarke, Michelle Evans, Jasmin Herro
Liz Allen (Facilitator)

The symposium was fortunate to have relevant officers from the Business and Economic Policy Branch of the National Indigenous Australians Agency which managed the Commonwealth IPPP and who had travelled to Melbourne specifically for the Symposium. These officers ran through the basic elements and history of the Commonwealth program. They noted that Indigenous preferential procurement was first introduced to the Commonwealth Government in 2011 when the *Commonwealth Procurement Rules* were amended to include an exemption from the usual tender requirements for Indigenous businesses of less than 200 employees. This was the Indigenous Business Exemption (IBE). However, from 2011 to 2015 the total value of contracts attributable to the IBE was only \$10.4 million.

In 2015 the IBE was expanded to the current Indigenous Preferential Procurement Program was expanded with the inclusion of the following elements:

- Commonwealth Government departments and agencies were required to *ensure* that a percentage of the total number of all procurement contracts (originally 0.5 per cent in 2015-16 increasing to 2.5 per cent by 2018-19) were awarded to Indigenous-owned firms
- A requirement for Commonwealth departments to publicly report annually against achievement of the targets

- a mandatory requirement that procurements of a value between \$80,000 and \$200,000 for provision of goods and services in remote areas *must* be awarded to Indigenous firms.

In 2019 the IPPP was further amended by introducing a requirement that the total *value* of all procurement contracts was at least 1% increasing to 3% by 2027–28. Since the change from the basic IBE to the current IPPP the Commonwealth has awarded over \$5.3 billion in contracts to 2,603 Indigenous business or on average \$850 million a year.

After this introduction to the policy elements of the Commonwealth IPPP discussion focussed on the *human* element in its success. Other participants (Jeremy Clark from Barpa and Jasmin Herro from JHerro Pty Ltd) all agreed that the policy elements were an essential foundation to the success of the policy but what made it really work were two related features.

The first of this was the development of personal relationships. The data suggested that the overwhelming value in the Commonwealth IPPP came from construction contracts. It was in this sector that personal relationships could develop, that successive contracts could be grown along with the Indigenous business and the key employments opportunities existed. A further feature of construction work was the extent to which it created the ability for an Indigenous head contractor (project manager) to sub-contract work to smaller Indigenous businesses. Participants noted the importance of the Defence Department in this regard and the scope this created to develop a relationship with a single client. The NIAA officers noted that over 90% of the Commonwealth IPP spend *by value* was on construction and related work.

The second key feature was the public reporting requirements that were part of the IPPP. Again, there was a strong consensus that having a department publicly accountable for their success (or failure) in achieving the IPPP objectives had fundamentally altered the attitude to the program commencing at a Departmental Secretary level but then flowing down through the structure. It was felt the accountability requirements also represented a demonstration that achieving the IPPP objectives was a *political* goal of Government. This was emphasised by regular Ministerial statements celebrating IPPP successes.

A number of symposium participants with resources sector experience commented that this phenomenon was also a feature of that industry. They noted that when Indigenous procurement targets were incorporated into management performance indicators (and remuneration packages) previous resistance to Indigenous procurement policies evaporated. Relevant personnel moved from finding reasons not to engage an Indigenous business to finding ways to make sure these engagements were long-lasting and successful.

The session included discussion of the Supply Nation indigeneity verification processes and the emergence of black-cladding, meaning that reporting on the success of the IPPP was distorted. Participants began an actual analysis of the issue rather simply identifying it. From

the discussion it became clear that what is often broadly described as black-cladding represented several distinct issues. One was where a business was established by a 'late-identifier' purely for the purpose of exploiting the IPPP. Another was where there was only nominal Indigenous management or control. This could occur where there was a joint-venture, and the Indigenous joint-venturer had no real role in either or both the business or developing their own capacity. It could also occur where there was a 'token' Indigenous owner of a business, but effective ownership and control was with non-Indigenous interests. A third identified form was where there was a (small) legitimately Indigenous business that won a government contract but outsourced the entirety of it to a non-Indigenous firm.

Solutions suggested in this regard were a more rigorous certification process (such as that adopted by Kinaway compared with the basic and less robust Supply Nation registration). Kinaway provided the anecdote of having approved 92 new memberships in the last 12 months but concurrently declining 83 membership applications, many of which were found to be black-cladded. It was also noted that in (for example) the United States there was less emphasis on percentage of Indigenous equity and a greater emphasis in ongoing monitoring of genuine Indigenous management and (in a joint venture) capacity development.

Session 3 Empowering Victoria – Implementing Yuma Yirramboi

*Participants Hans Bokelund, Rodney Carter, Lionel Dukakis, Scott McCartney, Tim McCartney
Matthew Storey (Facilitator)*

The session commenced with the question being posed: what was missing from the Victorian scheme that it had such clearly sub-optimal outcomes when compared with (for example) the Commonwealth scheme?

There were several responses to this question. The first and perhaps most strongly articulated was that Aboriginal procurement needed to be moved out of the Social Procurement Framework. There were several reasons for this. One was that inclusion in the broader SPF structure clouded the political leadership that needed to be shown to make an IPPP really work (as discussed in the context of the Commonwealth scheme). The second, and it was felt perhaps more important reason, was that Aboriginal procurement was about more than improving employment numbers as may be the case with socially disadvantaged or disabled individuals. Aboriginal procurement was about developing Aboriginal economic empowerment and recognising the broader social aspects that investing in Aboriginal businesses can provide, both at an individual family level but also in being able to contribute to social programs or initiatives that resulted in better social outcomes. It was also about creating role-models. This view was expressed strongly in the context of both private and Traditional Owner Corporation controlled business. All the enterprises taught younger generations that not only was it possible for Aboriginal Victorian to run successful businesses but *how* to do it, and many were actively investing in the development of youth. These

matters noted it was also identified that the employment generation experience of a growing Aboriginal businesses was of the magnitude that the academic work suggested.

There was also some discussion as to whether Treaty impacted upon procurement issues. There was a broad feeling that, while Treaty may have a role in creating a level playing field freed of the inequalities created by historical colonization and dispossession, creating an effective Victorian Aboriginal Procurement Program could not wait for Treaty negotiations and implementation, that it was unclear to what extent Aboriginal Economic Development would feature in the Treaty making process, and that there was simply no justification to delay adopting an Aboriginal Procurement Policy, particularly given that further economic empowerment could actually contribute to better Treaty outcomes.

A second reason identified for the shortcomings of the existing SPF approach was that there was a looseness in approach and accountabilities. Decisions about whether to approach an Aboriginal business and even what Aboriginal businesses could do were left to individuals unaware (and sometimes frankly racist) officers. There was no structure in the approach to Aboriginal procurement. The worst features of this aspect were reported in the context of Recognition and Settlement Agreements under the *Traditional Owner Settlement Act* where individual officers refused to accept the legitimacy of legally enforceable obligations.

The third reason and one that was seen as absolutely key (in combination with the others) was that there was a need for clear and public accountability. Accountability required not only a requirement for regular public reporting and sanctions for non-compliance but also required the publication of clear and measurable targets (which should be seen as 'floors not ceilings') against which the publicly reported targets were measured.

There was (unresolved) discussion as to whether the Aboriginal procurement framework should be directly legislated (through amendment to the existing legislative procurement framework) to give delegated statutory status to the targets and reporting obligations. While all felt the objective was desirable some felt the effort of achieving legislative reform would be better utilised advocating for administrative change.

There was subsequent discussion that with these measures in place other aspects of the success of schemes such as the Commonwealth's would naturally fall into place. The example given was if there was a clear measurable and consequential target in place then a procuring officer (or department) would have a reason to reach out and develop an ongoing relationship with Aboriginal businesses. Generally, disproportionate onus was being placed on Kinaway and the Federation to pursue or chase these relationships on behalf of members rather than departments being proactive in relationship building. Without the incentive of the institutional obligation, the initial contact and the motivation to develop the relationship was entirely dependent on the 'whim' of an individual officer or section which could be defeated by personnel churn or resistance by that officers' superiors.

Session 4 Keeping it Local (Government)

*Participants Dan Miller, Alex Martins, Philip O'Brien, Fiona Weigall
Scott McCartney (Facilitator)*

The session opened with some discussion of the opportunity created by engagement with local government particularly arising from the size and geographic directness of the spend represented by local government.

Session Four focussed to a greater extent than other sessions on successful case studies. The Local Government officers that attended were from both metropolitan and regional Local Government Authorities (LGAs) both of which had successfully engaged with both private and Traditional Owner Corporation controlled businesses. There were three key reasons suggested for the successful engagement.

First, there was the 'personal factor' — at a local government level the political and managerial LGA level knew the individuals in local Aboriginal businesses, or had been introduced through Kinaway, and *wanted* their LGA to engage with these businesses. However, it was also noted in this regard that the 'personal factor' could operate negatively. There were several anecdotes of Aboriginal businesses being frozen out by racist LGA leadership and of business owners being reluctant to identify as Aboriginal because they knew or were apprehensive of negative consequences.

The second key to success was the regulatory framework. It was reported that recent amendments to the LGA regulatory structure had allowed LGAs much greater flexibility in how they approached procurement, and this had facilitated several LGAs being able to put in place (formal and informal) IPPPs. (The substance of this regulatory change is still being investigated by the authors). There was also discussion that at an LGA level greater familiarity with detail often created an effective substitute for published targets and reporting mechanisms. For example, there was local awareness of the awarding of a significant contract to a local Aboriginal business. This local knowledge was an effective (if informal) form of accountability.

The third, and it was suggested most important, factor in successful engagements was the relationship development. At an LGA level procurement was not merely transactional as it may be at a state or Commonwealth level. LGA procurement was more about long-term relationship development. When you all lived in the same community (metropolitan or regional) the emphasis on relationship development was inevitable and powerful.

There was also a related discussion, in the context of regional centres, regarding the possibilities the Commonwealth Games created and how these may be best maximised. It was felt this was a matter that should be further pursued with the State Government.

Thematic Analysis

Reviewing the discussion in each of the sessions there is a notable consistency in themes. This is not to suggest there was repetition. In each session the themes that can be distilled were articulated in a distinct way relevant to the focus of that session. This perhaps explains the fact that (despite a struggling air conditioning system) nearly 80% of participants remained for the whole of the symposium and concluding remarks. There was certainly participant appetite to keep the discussion going into the future.

The themes that emerged were:

The importance of **political leadership**. At its most basic this could be represented simply by an organisation's leadership saying that Indigenous procurement was important and supported. At its more developed the political leadership was shown through the development, implementation and regular referencing of an IPPP. In the case of Victoria there was a unanimous view that this needed to be manifested by having a dedicated Victorian Aboriginal Preferential Procurement Program independent of the SPF.

The need for a **clear, well understood program structure**. The structural issues extended to the setting of clear targets around both volume and value, the need for accountability mechanisms with respect to those targets (both public accountability and organisation accountable). Accountability required that the reporting unit was itself responsible for the achievement of its targets (and not for example an aggregated "cluster"). The targets set should be a genuine achievable 'stretch'. Merely putting in place improved reporting of existing Aboriginal suppliers did not achieve the purpose of a program.

The program purpose should also be articulated. In this regard it needed to be clear that while employment generation was certainly one benefit of a program Aboriginal economic empowerment was just as, if not more, important.

Program structure issues extended to putting in place mechanisms to give confidence regarding the **legitimacy of the Aboriginality of a business** (black-cladding). While the basis and manifestation of black-cladding may be various, it was clear that resources needed to be allocated to this issue to ensure program structure integrity.

The third key theme that emerged was the importance of **ongoing relationships** between procuring agencies (and individuals) and Aboriginal businesses. An important aspect of the relationship approach is the development of the capacity of an Aboriginal business over time. A clear example is seen with the Commonwealth IPPP in the approach of the Department of Defence to increasing the capacity of several Aboriginal construction firms over time to the point where very significant projects could now be the subject of competitive tender amongst several Aboriginal business in many parts of the country. It is important that this approach is developed in the broader context of a Victorian Aboriginal Preferential Procurement Program.

In this regard the point that clearly came through the Symposium was the connection between each of these elements. In the absence of political leadership and a clear program structure the development of ongoing relationships, if this occurred, would be personal and random. Similarly, without authoritative political leadership and political commitment the clearest and best designed program structure (even with embedded accountabilities) runs the risk of sitting underutilised. The three elements are each essential but also consequential.

Conclusion and Recommendations

Participants expressed a clear commitment to the outcome many of them had been pursuing for nearly a decade. That is seeing Victoria develop a nation leading Aboriginal Preferential Procurement Program that would bring both Aboriginal employment outcomes and provide additional impetus to the growth of Aboriginal economic empowerment, and the social flow-on and intergenerational impacts of this.

Two clear next steps were articulated by Symposium participants to support this goal. The first was that the outcomes of the Symposium (in the form of this record of the Symposium Proceedings) should be communicated to the members of the Yumi Yirramboi Council. The intent is that the Yuma Yirramboi Council would endorse the approach outlined and encourage the incorporation of these views into the State's *Yuma Yirramboi* implementation policy development processes.

The further step that was articulated was a need for further development of the detail of implementation of the several themes that had been identified in the Symposium. What did appropriate targets and accountability structures in the Victorian public sector look like? What measures can be put in place to ensure the legitimacy of the Aboriginality of a business? How can relationship development be supported? It was felt that these issues were common with IPPPs generally — not just in the Victorian public sector. Accordingly, the other action that was felt useful was seeking the host organisations to work to put on a further symposium in early 2023 with a focus on exploring IPPP design issues across sectors involving all levels of government and the private sector.