Australian Government
Department of Industry
Innovation, Science, Research
and Tertiary Education

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Decision Regulation Impact Statement

Strengthening Australian Industry Participation

Contents

Glossary

AIG	Australian Industry Group
AIP	Australian Industry Participation
AIPP	Australian Industry Participation Plan
AMWU	Australian Manufacturers Workers Union
BCA	Business Council of Australia
DIISRTE	Department of Industry, Innovation, Science, Research and Tertiary Education
EPBS	Enhanced Project By-laws Scheme
EPCM	Engineering, Procurement and Construction Manager
ESAA	Energy Supply Association of Australia
FEED	Front End Engineering and Design
FID	Final Investment Decision
FTA	Free Trade Organisation
GVA	Gross value added
ICN	Industry Capability Network
ICNL	Industry Capability Network Limited
ICNV	Industry Capability Network Victoria
LIP	Local Industry Participation Plans
MRRT	Mineral Resources Rent Tax
OEM	Original Equipment Manufacturer
PAA	Program Acceptance Application
RIS	Regulatory Impact Statement
SAMP	Supplier Access to Major Projects program
SME	Small and medium sized enterprises
TCO	Tariff Concession Order
TCS	Tariff Concession Scheme
VCEC	Victorian Competition and Efficiency Commission
VIPP	Victorian Industry Participation Policy
WTO	World Trade Organisation

1 Background

Introduction

Australian companies have demonstrated that they can successfully compete against global companies to win work supplying major projects. However, Australian companies face ongoing challenges in gaining access to global supply chains and major investment projects. For example, the trend towards greater use of global Engineering, Procurement and Construction Managers (EPCMs) and established global supply chains by investors can create significant impediments to Australian industry participation in major projects if Australian companies are not known to overseas based EPCMs or not part of established global supply chains. In addition, concerns have been raised that some projects may specify overseas standards or overseas certification and testing requirements that exclude local suppliers. The paucity of verifiable data has contributed to controversy over the benefits of investment and foreign investment in particular.

The Australian Industry Participation (AIP) National Framework was signed by Commonwealth, State and Territory Governments in 2001 to encourage a national approach to maximising opportunities for Australian industry to participate in major investment projects. The purpose of the AIP National Framework is two fold: firstly to provide Australian industry with full, fair and reasonable opportunity to participate in major projects in both the public and private sectors, in Australia and overseas; and secondly to promote, develop and maintain a sustainable competitive Australian industry capability by encouraging competitive Australian industry participation in investment projects. Consistent with the AIP National Framework, each jurisdiction has its own industry participation policies, but there are gaps and overlaps in the implementation of these policies.

The Commonwealth introduced the Enhanced Project By-law Scheme (EPBS) in 2002 to encourage Australian industry participation and investment in major projects. The EPBS is a voluntary scheme that waives the five percent tariff on eligible goods not produced in Australia for projects over $10 million in applicable sectors. To qualify for the scheme the projects must prepare and implement an AIP Plan (amongst other requirements). An AIP Plan outlines how the project will give Australian industry full, fair and reasonable opportunity to participate in the project alongside their established supply chain partners (see section 5.1.3.1 for details). A number of States have also introduced requirements for their own versions of AIP Plans for Government procurement and major projects; these are known as Local Industry Participation (LIP) Plans. For AIP and LIP Plans the final decision on who wins the work is up to the project proponent, although some LIP Plans specify local content targets.

As a result of a number of factors over the last decade including increasing globalisation, the strength of the Australian dollar and the move towards modularisation, Australian industry is facing increasing challenges in accessing global supply chains for major projects. Governments have responded by boosting arrangements to assist industry.

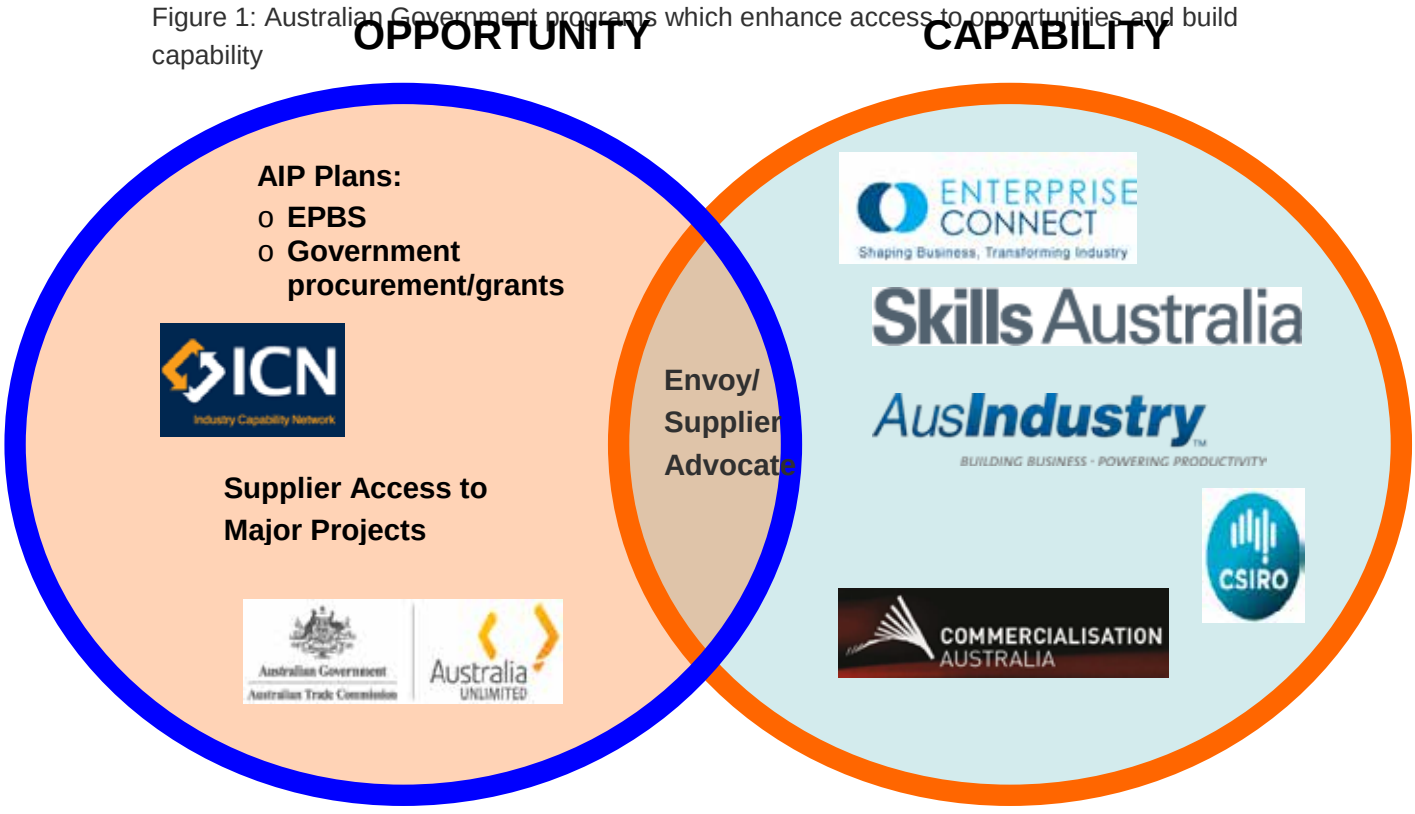
In 2009, the Commonwealth released an *Australian Government Procurement Statement* which required the preparation of an AIP Plan by the companies bidding for major

Government procurement contracts. In addition, AIP provisions for the EPBS were tightened to require AIP Plans to be developed earlier in the life of the project. The Supplier Advocates Program was also introduced to facilitate the access of SMEs to domestic and global opportunities (in partnership with AusTrade) and to existing programs that help SMEs improve their competitiveness (such as Enterprise Connect).

In 2010, the Government introduced the *Buy Australian at Home and Abroad* program to further support Australian industry participation in major resource projects. The program included funding for the Supplier Access to Major Projects (SAMP) program that supports the State based Industry Capability Network in providing information about Australian suppliers to major resources projects. The program funds supply chain improvement programs delivered by Enterprise Connect to improve competitiveness. It also funds Resources Sector Supplier Advocates and the Resources Sector Supplier Advisory Forum to boost linkages between suppliers and the major project proponents in the resources sector.

In summary, the Government presently has a range of programs designed to improve opportunities and build capabilities, and number of industry leaders (advocates or envoys) who seek to ensure that those programs operate in a coordinated fashion. The range of programs is illustrated in Figure 1. This Regulation Impact Statement canvasses additional measures that the Government has under consideration.

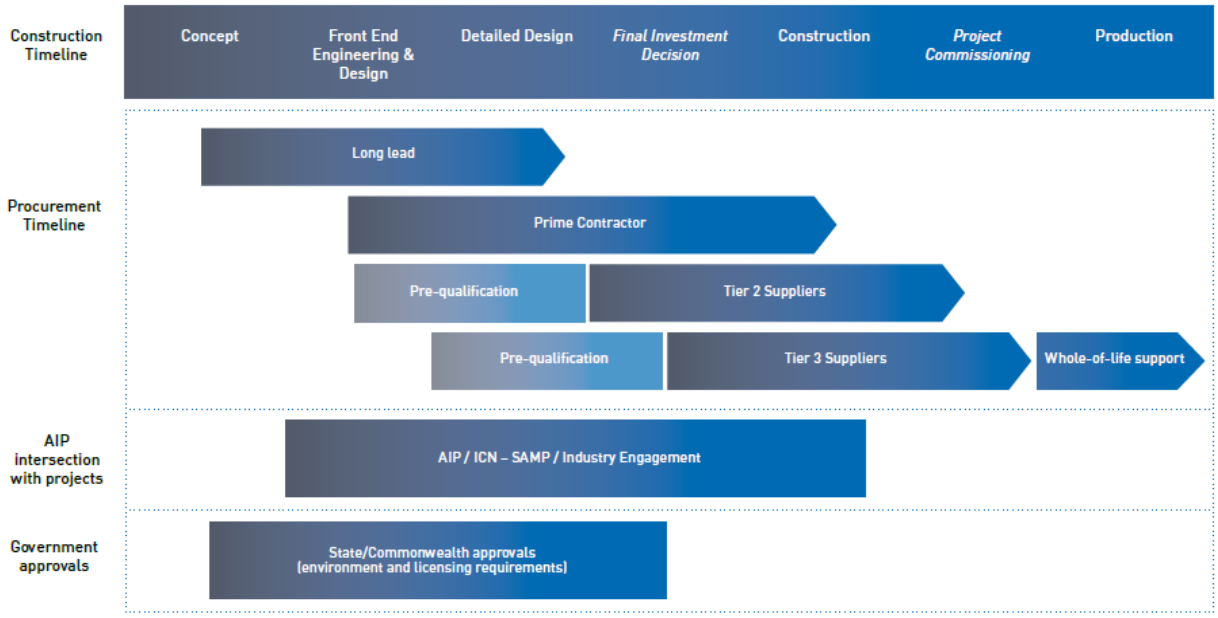
Figure 1: Australian Government programs which enhance access to opportunities and build capability



Procurement Processes in Practice

It is important to understand the procurement process for major projects, as this is an important part of the context in which AIP Plans operate. Figure 2 below shows how project construction timelines relate to procurement timelines, Government approval processes (eg environmental impact statements) and AIP implementation. A high level description of the key concepts covered in the diagram is given below. It should be noted however that no two projects will proceed in exactly the same way.

Figure 2 is an illustration of a major project's construction and procurement timelines and intersection with Government requirements.



1.1.1 The construction timeline

The construction timeline illustrates moving from a concept/feasibility stage of a project through the first stage of engineering and design (FEED). FEED is the essential process of developing sufficient strategic information with which owners can address risk and make decisions to commit resources in order to maximise the potential for a successful project.[1] Importantly it is the time when the ability to influence changes in design is relatively high and the cost to make those changes is relatively low.

As the project moves into the detailed design phase flexibility decreases.

[1] https://www.construction-institute.org/scriptcontent/index.cfm

Final Investment Decision (FID) is a determination made by directors and/or management as to how, when, where and how much capital will be spent on investment opportunities.

Following FID the project moves into the construction stage – the construction process is often subcontracted by the owner/operator to an EPCM whose job it is to undertake the entire procurement process. Often they become part of the project team at the FEED stage (shown as the prime contractor in the figure).

Project commissioning is the process of assuring that all systems and components of the project meet the operational requirements of the owner or final client.

The project then moves into the production phase, which will often be accompanied by a hand over of responsibilities from the EPCM to the owner/operator.

What is not shown on this diagram, but makes up a final stage of many projects, is decommissioning and remediation.

1.1.2 The procurement timeline

As noted above, often the procurement manager, or EPCM, is employed at the FEED stage of the project.

Part of the role of the EPCM is to help the company collect information to inform the FID, i.e. to detail what has to be built and at what cost. For a major project, it may be obvious from the outset that some major pieces of equipment (eg undersea pipe laying) have to be purchased from global specialists, so the EPCM will 'reserve' key goods and services to lock in prices and availability.

They will also start the process of pre-qualifying companies that they believe will be in a position to support the construction of the project. As demonstrated in the figure this can be a staged process where the EPCM identifies a Tier 1 supplier who then cascades requirements down to Tier 2 and 3 suppliers that they or the EPCM has identified.

Many, but not necessarily all, of the Original Equipment Manufacturers (OEMs) which contribute to the build phase will transition from the EPCM to the owner/operator as the supplier of ongoing maintenance and replacement equipment. However, at this point in the process the decision rests with the owner/operator who may look to take advantage of cost savings offered by competitors to the OEM.

1.1.3 Government approvals

Governments place varying conditions on projects before they are allowed to begin and also when they are operating. This may include a licence to extract oil/minerals from a particular deposit or environmental approvals to control for how they are going to do this in an environmentally responsible operation or at a particular construction site.

Key approvals have to be in place before the board/management will feel able to make a FID.

1.1.4 AIP intersection with major projects

The timing of AIP Plans is important as the construction /procurement timelines must be taken into account when trying to achieve the goal of influencing Australian industry participation in major projects.

As noted above FEED and even pre-FEED are critical as this is the time when specifications start to get locked-in and suppliers can inadvertently become excluded.

Ideally AIP Plans are put in place at the very early stages of the project. This should be before approaching the market for provision of goods and services or pre-qualifying suppliers. This same period of time is usually when parallel Government approvals are occurring – as such these may be appropriate triggers for having companies submit AIP Plans.

Recent Developments and Consultations regarding AIP

The Australian Government reiterated its commitment to supporting Australian industry participation at the Jobs Forum in October 2011, where the Prime Minister announced further measures to strengthen AIP requirements and appointed a working group to advise on how these would be implemented. Part of this process called for submissions through a public consultation process, resulting in a wide range of views from stakeholders being considered.

The consultation process focussed on how to implement the key aspects of the Government's announcement: publishing summaries of AIP Plans; increasing requirements and scrutiny of AIP Plans for EPBS customers; applying AIP Plans to large Government grants and other payments; and working with the States and Territories to maximise Australian industry participation policies applied to major infrastructure projects receiving funding from the Australian Government but managed by the States. The submissions to this process were varied, with some stakeholders suggesting that there should be further extension of AIP Plans beyond what was being canvassed.

The report by the non-Government members of the Prime Minister's Manufacturing Taskforce canvases AIP issues. So too have the two EPBS reviews and post-benefit surveys, consultations by Supplier Advocates in the resource and non- resource areas, the Resources Sector Supplier Envoy as well as a range of consultancies commissioned by the Department in support of the Resources Sector Supplier Forum (see section 7.1.7 for a summary of outcomes). Many of these suggest that more needs to be done.

2 Policy Context

A Changing Industry

The general shift in the way major projects are now designed and constructed is causing new challenges for Australian manufacturers. These issues include:

§ The increasing use of modular construction technology (as opposed to the on site stick build methodology used in the past).[2] This has meant that previously non-traded construction and fabrication services can be replaced with manufactured modules that are internationally traded.

§ The size and scope of work packages – many are now more complex and beyond the capabilities of Australian suppliers to bid for entire scope of works, even if they may be capable in part.[3] Larger projects and modularisation can mean that local suppliers find it difficult to achieve the required scale to bid for work. Tiering of procurement arrangements may mean that lower tier local suppliers are locked out if the first tier supplier is overseas based.

§ Design, procurement and contract management moving offshore – experience shows that engineering/procurement location has a strong impact on the choice/selection of suppliers.[4] Overseas based Engineering, Procurement and Construction Managers (EPCMs) may not have an understanding of local supply capabilities and therefore work packages may not be appropriately scoped for local industry to be able to compete. In addition, overseas EPCMs may specify overseas standards or overseas certification and testing processes that are not readily available to local suppliers.

§ Rising use of global supply chains and EPCMs makes it difficult for Australian suppliers to break in – particularly in risk averse industries.[5] High safety and quality requirements and intense due diligence of those standards mean that sub-contractors must be pre-qualified well before tender processes start. A failure to initiate these pre-qualification arrangements sufficiently early can lock out local suppliers from the opportunity to tender.

§ The strong Australian dollar makes it difficult for Australian suppliers to compete on cost even when they do get the opportunity to compete. AIP plans are not a silver bullet, local suppliers must be competitive to win work.

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[2] Dr Martin West, 'Modular Fabrication in the Resources Sector in WA: Current Practices and Strategies for Improvement', Report for WA Departments of Commerce and State Development, November 2011

[3] ibid.

[4] Western Australia Legislative Assembly, Economics and Industry Standing Committee, 'The Potential for the Development of a Centre of Excellence in LNG Industry Design in Western Australia. A Discussion Paper', Report No. 3 in the 38th Parliament, 2010.

[5] ibid.

Information Asymmetries, Market Failures & Global Supply Chains

Large complex projects bring into sharp focus the many reasons that, while markets can be highly effective ways of allocating scarce resources, much economic activity occurs within firms or in arrangements amongst firms that do not reflect simple transactional contracts[6].

Contracts may be incomplete because the project is not fully designed from the outset or future technological or economic changes may provide opportunities for changes over the life of large projects. Asymmetric information about the capabilities of supplying firms in meeting strict quality and safety requirements of large projects imposes a need for expensive due diligence and pre-qualification processes before suppliers can be permitted to bid for work on the project. A need for specialised capabilities that may be transaction-specific mean that the supplier and project can have strong inter-dependencies. All these factors can mean that the relationship between firms, especially along global supply chains, is relationship-based rather than transactional. The existence of these long term relationships can make it hard for new entrants to enter existing supply chains.

There may also be a principal-agent problem in large companies where procurement managers may seek to make their own life simple rather than maximise profits by seeking new competitive suppliers. This principal-agent problem is difficult to distinguish from legitimate reasons for utilising an established supply chain.

The presence of market failures associated with the incomplete contracts, relationship-specific investments and principal-agent problems does not mean that heavy-handed Government intervention is warranted. It is not appropriate to require firms to change their contracting arrangements. Rather, the very complexity of the relationships between firms suggests that any intervention should be focussed on seeking to improve the flow of information rather than interfere in these relationships.

There are incentives to find information on local firms in terms of broadening the supply base, potential cost savings in finding new competitive suppliers, proximity of suppliers and access to local repair and maintenance capability. However, there is a cost for large firms to find data on local firms. Pressures such as scarce management time, risks associated with deviating from pre-approved vendors, and issues in overcoming existing arrangements such as

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[6] Relevant literature includes: Oliver E. Williamson, the Theory of the Firm as Governance Structure: From Choice to Contract, Journal of Economic Perspectives, 16(3) Summer 2002, pp 171-195; Patrick Bolton and David S Scharfstein, Corporate Finance, the Theory of the Firm, and Organisations, Journal of Economic Perspectives, 16(3) Summer 2002, pp 95-114, Bengt Holmstrom and John Roberts, The Boundaries of the Firm Revisited, Journal of Economic Perspectives, 12(4) Fall 1998, pp73-94., pp 171-195

warranties can diminish motivation to identify and provide opportunities for new local suppliers.

A requirement for the development and implementation of Australian Industry Participation plans is intended to promote the flow of information that is capable of verification by third parties. The information is relatively high level so that commercial-in-confidence arrangements between firms are not compromised. The plans do not prescribe the mechanisms by which firms engage with potential new entrants.

Global EPCMs are often unaware of local industry structure and contracting practices and therefore overlook local suppliers. The standard practice of EPCMs is to break up work packages into certain sectors and categories, which may or may not align with local industry practices. AIP Plans, therefore, are a information mechanism that will provide for both the EPCMs and local industry to better align their procurement models to achieve a mutual benefit.

AIP policy aims to help Australian SMEs to win more work through addressing the information gaps between major project proponents and suppliers concerning supplier capabilities and major project requirements. Projects may overlook competitive local suppliers. Breaking through this barrier and making companies aware of alternative local suppliers is a basic underlying rationale for AIP Plans.

Addressing the Information Gap

The barriers built up through established global supply chains are difficult to lower. However, there is evidence that the Government's current programs are having a positive effect in a limited range of projects through greater dissemination of opportunities and information flows. The Prime Minister's Manufacturing Taskforce discussed some of the current work being done in this area to improve outcomes, however, also recognised the need to go further:

"Some Government initiatives, such as the Resource Sector Supplier Envoy and the Automotive Industry Envoys, support Australian businesses to penetrate national and global value chains. However, these remain the exception rather than the rule even in large industries."

The report also clearly identifies the need to utilise the large pipeline of projects to promote outcomes for local firms.

"The $450 billion pipeline of resource sector and infrastructure related investment provides an excellent opportunity to address some of the cyclical demand side issues.
Australia should use its very large economic projects to leverage outcomes, both because this is the fastest route to lifting standards in technology, management and design, and because this helps to capture national value from these projects. With appropriate linkages to other sectors this can help firms adapt to current cyclical pressures."

The Government utilises a two pronged approach by using AIP Plans to make global projects aware of Australian capabilities, together with facilitation programs to maximise SMEs competitiveness and aims to benefit both communities as well as industry. Through promoting competitive and capable SMEs, industry and the communities in which they operate will benefit from winning the work, with flow on effects in local employment levels and future investment possible.

In its submission to the AIP Working Group, the Australian Steel Institute (ASI) stated that:

"Increased local content is good for Australia and the local economies in which the companies operate. An independent report completed for the Industry Capability Network (ICN) shows that for every $1 million that is new or retained manufacturing business for Australia, the following effects flow through the economy: $713,400 worth of gross value added (GVA) generated, 6 full-time equivalent jobs created, $64,900 worth of welfare expenditure saved, and $225,300 worth of tax revenue generated."

The AMWU and the ACTU also support the extension of measures to increase industry participation. In their submissions to the AIP Working Group they stated:

"with the high levels of spare capacity and distressed conditions confronting Australian industry today, the Commonwealth needs to open a new front on AIP Plans to help "get more work now" into the factories."

AIP Policy reform has been called for specifically by the non-Government members of the Prime Minister's Manufacturing Taskforce to address the current problem of lack of demand being experienced in the construction and metal fabrication sectors. The Steel Industry and the relevant unions have also been vocal in regards to extending the application of AIP Plans. However, as outlined in the impacts section of this document, the potential benefits of AIP Plans can be relevant to other sectors.

Diminishing Influence of the Enhanced Project By-law Scheme (EPBS)

The EPBS has seen fewer companies applying in recent years and has therefore had a diminishing capacity to achieve positive outcomes through the application of AIP Plans to major projects. Drivers of this reduced use of the EPBS include the signing of more Free Trade Agreements, which allow projects to import duty free if the rules of origin are met, and increased use of the Tariff Concession Scheme.

In the absence of any policy response it is likely that a continued decline in the number of projects using the EPBS will further reduce the coverage of AIP plans amongst major projects and thereby reduce the benefits of increased opportunities for Australian suppliers that can result from well executed AIP plans.

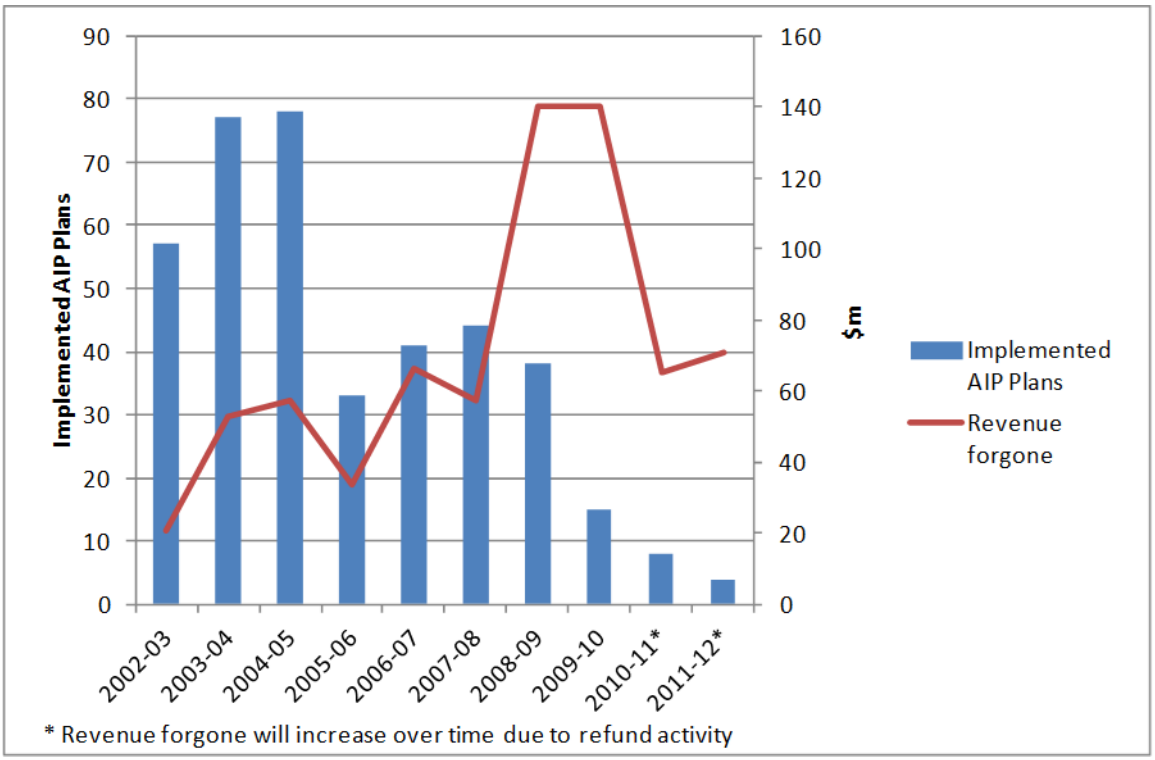
The EPBS waives the 5 per cent tariff on eligible goods not produced in Australia, for projects with more than $10 million of eligible goods in applicable sectors, if they prepare and implement an AIP Plan. An AIP Plan outlines how the project will give Australian industry the same opportunities as established supply chain partners to participate in the project.

Since the EPBS began in 2002–03, 395 private projects have prepared and implemented AIP Plans. However, over the last three years, on average only nine projects annually have prepared and implemented AIP Plans through EPBS, compared with 40 projects annually over the last ten years. See Figure 3 below for an illustration of the decline in EPBS utilisation.

The Department conducted an internal review of EPBS in 2009 and sought submissions from stakeholders. The majority of submissions received were supportive of EPBS, however, some project proponents were concerned that tightening the requirements for the program could result in fewer companies accessing the scheme. A contrasting concern was put by some suppliers, who were of the view that the EPBS benefited imports rather than local industry, although these comprised only a small portion of the views presented.

Figure 3 demonstrates the decline in implemented AIP Plans through EPBS over the last 10 years and contrasts this with a rise in forgone revenue. (Since the EPBS operates with a lag, and involves refunds of tariffs, the estimates of the cost to revenue for most recent periods will rise over time.)

Figure 3 EPBS: Number of Projects and Revenue Forgone



In 2010, Access Economics conducted a review of the efficiency and effectiveness of the EPBS on behalf of the Department. The feedback received by Access Economics was similar to that received in 2009. Project proponents raised issues about compliance costs and sought more flexible requirements (such as the definition of functional units) and suppliers indicated support for increased reporting requirements, more restrictive definitions of functional units and stronger provisions for engagement with local industry.

The following is a quote from a submission to an Access Economics evaluation of EPBS in 2010 highlights both the shift away from the EPBS and importance of AIP Plans in influencing procurement behaviour:[7]

'Obviously, the TCS application procedure is much less onerous on a project than the EPBS and when the benefits are similar you would have to expect a drift away from the EPBS. We have already noticed this with a few smaller projects (values still measured in up to hundreds of millions of dollars though) opting not to bother with the EPBS. Unfortunately, this also means that we risk losing the benefits of local industry participation and advancement that the EPBS encourages.

Whilst most of our clients, and certainly the three mentioned earlier, always show a preference for local companies where all other factors are equal, if the EPBS is not being utilised there is no incentive to go that extra step and, for example, push for inclusion in overseas supply chains or to assist local manufacturers improve their quality, safety, production methods, etc, that will bring them into line with world's best practice. We also commonly see projects being controlled by foreign companies who will have no incentive whatsoever to use local manufacturers if they are not pushed towards the EPBS by the project proponent.'

To fully leverage the pipeline of projects in the private sector, alternate avenues are necessary to ensure subsequent opportunities being made available to local industry through wider coverage of AIP Plans.

This point is made by Dr Martin West[8] in his recent report to DIISRTE and the Western Australian Government where he states the following.

'On a national level the EPBS scheme is used as a "trigger" to require Australian Industry Participation Plans (AIPP). The development of AIPP's and associated reporting requirements are generally considered effective in ensuring full, fair and reasonable access to Australian industries. …

Free trade agreements negate the benefit of the EPBS scheme and subsequent need for AIPP's. To be effective, it needs to be ensured that all major projects produce AIPP's.'

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[7] From a Customs Broker that acts on behalf of numerous clients that use the EPBS, including projects in the resources sector. [APC logistics]

[8] Dr Martin West 2012 Op Cit page ix.

International Policy Initiatives for Local Participation

Similar to the policy initiatives in Australia, other countries have also identified gaps in local industry participation and implemented a range of policies to maximise local content in major projects. These policies range from investing in important projects, influencing decision-making and in some cases mandating levels of local content.

An independent report cited in Western Australia's May 2011 Local Content Report examined the policies and processes used in Canada, Russia, Nigeria, Norway and the UK. The report indicated that the use of prescriptive policies had not led to significantly higher levels of local content than those achieved to date in Western Australia (under the AIP National Framework). Rather, the report found that a stronger influence on local content outcomes was the degree of political encouragement exerted to ensure project proponents focus on this issue.

The two case studies below illustrate two different approaches to local industry practices. As the Canadian example demonstrates, an approach that asks project proponents to consider local suppliers is not unique to Australia. The Canadian approach does however include mandating an office with decision making capabilities as a way of trying to overcome the information gap between major project proponents and local capabilities. The approach taken by Brazil shows the ramifications for a country attempting to mandate a level of local content, resulting in a large scale distortion of the market.

Countries that are mandating levels of local content may risk being investigated by the World Trade Organisation (WTO) as other nations can dispute the legality of the measures. Furthermore, it has been demonstrated that countries mandating local content may suffer unintended consequences including bottlenecks, uncompetitive pricing, as well as both cost and time blow outs. Examples of these consequences include those experienced by Brazil's oil and gas industry.

Whilst many countries are exploring ways to increase local industry participation, mandating local content has often resulted in a detrimental impact on industry. In contrast, the implementation of AIP Plans provides local companies with the same fair and reasonable opportunities afforded to global supply chain partners, rather than reviving protectionist policies of the past.

Case Study: Canada–Newfoundland and Labrador Benefits Plan and Canada–Nova Scotia Benefits Plan

Canada is often cited as an example of a county with an effective local content policy. The Canada–Newfoundland Atlantic Accord Implementation Act and Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act establish the statutory requirement that a Benefits Plan must be submitted and approved by the relevant Offshore Petroleum Board prior to the approval of a development plan.

The legislation established requirements by which it is intended to provide an opportunity for businesses and individuals in the Province, and elsewhere in Canada, to participate on a competitive basis.

Benefits Plans include requirements that:

- Before carrying out any work or activity in the offshore area, the corporation or body submitting the plan shall establish in the Province an office with appropriate levels of decision-making.
- First consideration given to goods manufactured in the Province and services provided from within the Province, where those goods and services are competitive in terms of price, quality and delivery.
- First consideration given to individuals from the Province for training and employment.
- Expenditure is made for research and development to be carried out within the Province.

The legislation requires that businesses in the province and other parts of Canada must have full and fair opportunity to participate on a competitive basis. In practice, this means that contracting procedures must not unfairly disadvantage local suppliers, but the project proponent must demonstrate that all reasonable efforts have been taken to ensure that local suppliers have been afforded an opportunity to participate in the procurement process on a competitive basis.

Case Study: Alternate means of encouraging local content – Brazil

Alternative options to encourage increased local industry participation are currently utilised by Brazil which, according to Dow Jones Newswires, has been imposing local content requirements on oil companies since 1999*. Brazil's policy requires a Concession Agreement for the exploration, development and production of oil and natural gas, including an agreed upon Local Investment Percentage for the project.

The article identified a study by Booz & Co., prepared for Brazil's National Petroleum Industry Organisation (ONIP) which found that Brazilian producers in the oil services industry charge 55% more than their international competitors. Booz & Co. attributed the gap in price as a result of a heavy tax burden, high borrowing costs and infrastructure bottlenecks. Dow Jones also reported that Petrobras (Brazilian state-owned oil giant) forecasts that, if limited to domestic suppliers, there will be no production growth in the next 3 years despite its 16.4 billion barrels oil-equivalent in proven resources. As reported in the Economist, local industry leaders justify local content rules as needed to promote industrial development#

Similar programs in other sectors of the country have also resulted in unintended negative consequences. For example, Brazil's local content requirement in its second phase PROINFINA program were partially intended to increase the use of Brazilian steel in large wind farm developments, but have instead resulted in the substitution of more cost-effective concrete made wind towers in larger projects.

* article reference: Dow Jones Newswires, 18 July 2012, *Brazil Local Content Policy Inhibits Oil Development*.

Eike Batista: The salesman of Brazil: Brazil's richest man is betting on resources and infrastructure. Can he deliver? The Economist (print edition) May 26th 2012

3 Statement of the Problem

There is a concern that Australian companies (suppliers) are not winning work to provide goods and services into major projects within Australia and overseas even where they may be competitive. Suppliers claim that this is occurring for a variety of reasons including the size of tender packages, specification of foreign standards or testing facilities in project requirements and a simple lack of information about local capabilities. DIISRTE analysis indicates that more than half of the current major projects are currently not subject to AIP requirements. The total value of these projects without an AIP plan is approximately $32 billion. Without a comprehensive and consistent approach to AIP, controversy and lack of clarity about what is behind declining Australian industry participation in major projects will continue.

The Australian Government utilises a two pronged approach to address this issue by using AIP Plans to make project investors aware of Australian capabilities, together with facilitation and capability programs to maximise SMEs competitiveness. These policies aim to benefit the community as well as industry.

Lack of Access driven by lack of Information and Changed Procurement Processes

Industry procurement process will always aim to achieve value for money for the customer, but this is difficult to achieve and there can be disincentives for major procurement projects to look beyond their current supply chain to new suppliers.

Information about Australian industry capabilities may not be readily available to major project proponents. Australia has a large number of small and medium enterprises (SMEs) and this can raise the cost of discovering information about industry capabilities and capacity. Information about innovative Australian companies providing new technologies may not be readily available. For example, an innovative supplier used by one project may confer competitive advantages that the customer would prefer to keep to itself. Customers may not have the incentive that suppliers have to identify major customers as reference sites. A report[9] by Dr West for the Western Australian Department of Commerce, makes the following observation.

" Even though the WA resources sector is relatively small in terms of number of players, some resource developers indicated that they were not aware of which company provides which type of product service. Similarly some fabricators indicated that they were not aware of

[9] Dr Martin West, 'Modular Fabrication in the Resources Sector in Western Australia: Current Practices and Strategies for Improvement', Report for Western Australian Department of Commerce, November 2011, p29

some potential tender opportunities. This Industry Capability Network (ICN) has been active in providing a market place where RD's and fabricators and other providers can meet."

During the resources investment boom there has been a perception that local companies will be operating at full capacity and therefore procurers look to imports as a risk mitigation strategy. Where there are multiple potential projects in a region, all may presume that the local capacity will be fully utilised and all will arrange for a non-local supply chain. In the absence of information and testing of the market, the local suppliers can be overlooked.

The modern procurement practice of utilising a tiered supply chain (to manage risk and complexity) can mean that smaller companies are locked out of procurement by tier one procurement decisions that may or may not be in the best interest of the project. Procurement is complex and difficult and mistakes are made. For example, there has been at least one identified case where procurement decisions have ignored differential transport costs and locked out local suppliers who were cheaper on a whole of life basis and where the procurement decision ran counter to company policy about supporting the local community.

A report prepared for DIISRTE by Developmental Impacts[10] which surveyed project proponents, ICN representatives and 20 SMEs made the following observation.

"In contrast to the … situation where an EPCM is providing clearly articulated and segmented information about work packages aimed at Tier 2 and lower providers within the online environment, feedback received as part of this study suggests that this is frequently not the norm. The perception amongst the SME sector appears to be that more often than not, EPCMs do not segment the larger project work packages they have successfully tendered for. These remain elusive to the SME market in so far as there appears to be no mechanisms to enforce Australian Industry Participation (AIP) requirements on the EPCM sector. Regardless of whether this is in fact the case, the current SME market perception certainly sees this as a major impediment to enabling SMEs to win work in the Australian resources sector. Participating SMEs stated on numerous occasions that consideration should be given to how to more effectively stipulate and enforce AIP requirements not only on project proponents, but also onto EPCMs. SMEs felt strongly that EPCMs need to be made to abide by the AIP framework and that avenues should be investigated which support and provide incentives for EPCMs to contract smaller work and project packages out to Australian companies."

Increasing role of overseas-based EPCMs and engineering

Because project activities such as FEED, EPCM may be undertaken by overseas entities who may be unaware of local industry capabilities and this may restrict the opportunities for local suppliers.

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[10] : Resources Sector Supplier Online Communication Study, Developmental Impacts Pty Ltd, August 2012. Commissioned by DIISRTE at the behest of the "How to Win Work" Working Group of the Resources Sector Supplier Advisory Forum.

To create opportunities for local firms, project proponents need to have an understanding of the market place so that they can design work packages to suit local capabilities and capacity, if that is appropriate. Taking the steel fabrication industry as a example, where there is a lack of early project engagement it can result in isolation of medium size companies who are either unable or not willing to tender for the work. The factors influencing these fabricators' decisions can be numerous, but they include a perception that the work will be sourced offshore, the scale of the work is too large and would involve working with local competitors, and not having the knowledge about the project at a sufficiently early stage to tender a competitive bid. Lack of detailed understanding means that tenderers' pricing includes an allowance for risk that makes the tenderer uncompetitive.

Information received from industry stakeholders, such as BlueScope Steel, has stated that for the industry to secure larger resource projects, strategies to ensure early engagement in projects need to be implemented. If early engagement is achieved for larger resource projects it is much easier to identify those packages in which the industry has an opportunity at being competitive. Early engagement with proponents will enable companies to better understand the scope of supply, intended tendering, and design and construction methodologies to be used by EPCMs. This information allows companies to properly match capacity and expertise ultimately enabling them to guarantee delivery, resulting in project flexibility for the end client. It also means that the tenderers do not need to include inappropriate risk margins.

The loss of local engineering opportunities means that it is more difficult for local suppliers to be known or familiar to the overseas engineering and procurement teams. Therefore the local suppliers are at a disadvantage to those based in the region where the engineering and procurement is undertaken. The Government of Western Australia agrees, stating that:[11]

"The business model adopted by a project proponent is also important. Projects managed by proponents new to Western Australia, which have long-standing relationships with global supply chains or employ engineering, procurement and construction managers (EPCMs), may have little interest in trying to source material locally. Supply opportunities will be greater for projects whose proponents are well established locally and which provide design, engineering and procurement internally."

The Prime Minister's Manufacturing Taskforce in its Report to Government identified the difficulty Australian firms have in accessing global value chains:

"Australia's penetration of value chains is extremely weak. [The Global Competitiveness Report ranks Australia 75th for global chain breadth]…. This is a real concern, as most collaboration and innovation occurs within these value chains."

[11] Government of Western Australia, Local Content Report, May 2011

Similarly, the AIP Working Group recognised this issue as a significant barrier for Australian industry participation:[12]

"… the trend towards greater use of EPCMs and established global supply chains by investors can create significant impediments to Australian industry participation…Australian companies are not known to overseas based EPCMs or not part of established global supply chains."

Reflecting on this perceived information gap, the WA Government reports that both project proponents and industry acknowledge the need for increased communication:[13]

"Communication is also essential to identify new and emerging opportunities where (Western) Australian industry can be competitive. This requires an understanding of international trends in technology, business models and procurement by suppliers. Both companies and industry associations recognise the need for improving communications between suppliers and proponents."

Contractors can only bid for packages if they are aware of them, conversely suppliers need to make packages widely available to ensure competitive bids with a high value proposition. The bottom line is that awarding contracts will always remain a commercial decision, but if firms do not look outside their current scope then this results in an opportunity lost for Australian industry.

For example, a report by Dr Martin West found that:[14]

"Some reservations have been expressed concerning the offshore allocation of FEED as FEED engineers often tend to use suppliers or contractors for advice and basis for specifications which are near to them. In addition, an international FEED company may be less aware of the local vendor (WA) capabilities. It also makes it harder to engage with the FEED procurement group."

Declining local content outcomes

The manufacturing industry has highlighted the spare capacity they currently have in an environment of resources 'boom', as they see work packages awarded to overseas suppliers. AIP Plans seek to address this issue through encouraging large projects to become increasingly aware of local suppliers and their capabilities.

The capacity exists to increase supply to major projects if companies are provided with the opportunities to tender and if they can be competitive. The steel fabrication sector is one

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[12] Australian Industry Participation Working Group, 'Report to the Australian Government on implementation of measures to extend Australian Industry Participation', February 2012.
[13] Government of Western Australia, Local Content Report, May 2011
[14] Dr Martin West, 'Modular Fabrication in the Resources Sector in WA: Current Practices and Strategies for Improvement', Report for WA Departments of Commerce and State Development, November 2011

sector that was expected to directly benefit from increased demand from the resources investment boom. However, a survey of a group of steel fabricators commissioned by DIISRTE in 2010 indicated that at the time of the survey (July/August 2010), despite the resources boom, the companies interviewed were operating at 51.6 per cent utilisation on average.[15]

The Government of Western Australia reports these trends have resulted in a decreased proportion of local content, particularly in offshore energy projects.[16]

As an example, Liquefied Natural Gas (LNG) Train 4 of the Woodside North West Shelf project had 72 per cent local content,[17] while local content for LNG Train 5 fell to an estimated 45 per cent.[18] The main differences in the two projects were that Train 5 involved modular construction overseas, and engineering design work for Train 5 was undertaken in the United Kingdom, rather than Perth.

Lack of application of AIP Plans

To the extent that AIP plans lead to improved opportunities for Australian industry, the absence of formal AIP plans will lead to reduced opportunities for competitive Australian suppliers.

Lost opportunities for Australian suppliers

Analysis by DIISRTE suggests that each year there are 23 major projects (with an investment of over $500 million) that currently do not have a formal AIP Plan and 19 with a plan through the EPBS scheme. This means that more than half of the current major projects are currently not subject to AIP requirements. The total value of these projects without an AIP plan is approximately $32 billion. ICNL analysis suggests that well implemented AIP plans for these projects would lead to increased opportunities for Australian Industry of at least $1.6 billion (see section 6.1.1.3 for additional details).

In a recent report[19], which focused on the issues of modular construction the following question was asked of survey respondents (12 project proponents and 7 EPCMs) - how frequently their selection process for suppliers included any guidelines regarding the use of Australian suppliers? Figure 4 shows that around 57% actively looked at local industry

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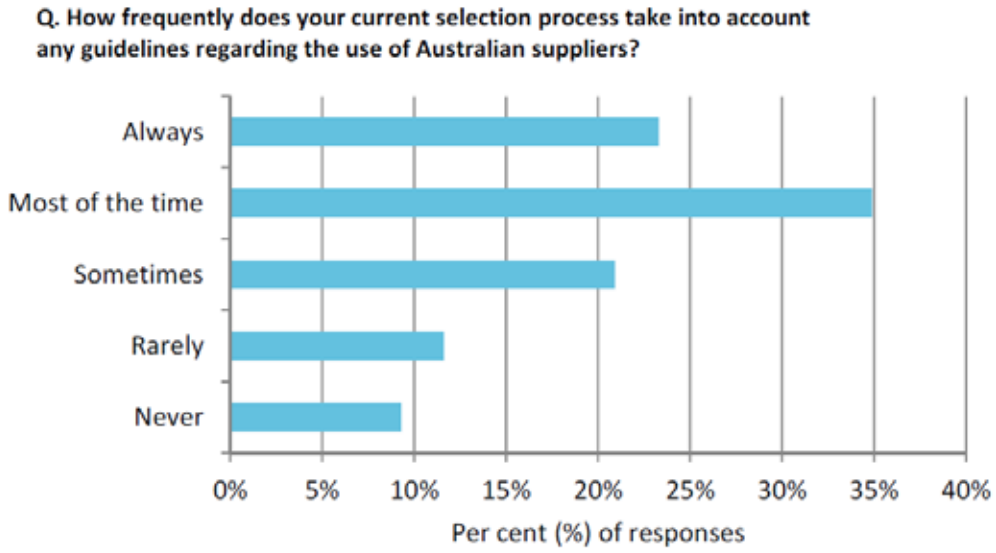
[15] Industry Capability Network (ICN) Queensland, Capacity Survey conducted for the Commonwealth Department of Industry, 2010
[16] Government of Western Australia, Local Content Report, May 2011.
[17] ibid.
[18] Industry Capability Network Western Australia, reported in article from EWN Publishing Ltd, http://www.erisk.net/erisk7/article/453383/australian_steel_institute_accuses_bp_chevron_shell_mitsubishi, August 2005, downloaded on 1 November 2012.
[19] Dr Martin West, 'Improving Australian Industry Participation in the Resources Sector Supply Chain', October 2012. Report for DIISRTE and the West Australian Department of Commerce. Pages 25-26.

participation while the remaining 43% sometimes, rarely or never take into account guidelines regarding the use of Australian suppliers. This figure is of concern and reflects the contemporary problems in this area.

Figure 4 demonstrates usage of guidelines for involvement of Australian suppliers



Lack of comprehensive and verifiable information about Australian industry participation in major projects has contributed to controversy about the benefits of the resources boom and foreign investment in Australia. A series of articles in The Australian is representative, with titles such as Mining contracts 'lock out Aussies with 'buy Chinese' clauses (17 January 2012), $6bn port builder urged to buy Chinese (18 January 2012), Cheap finance being used to hook local miners (18 January 2012), Chinese favouritism row of made-to-measure contracts (19 January 2012). The misinformation and controversy that can erupt in the absence of comprehensive and verifiable independent information can lead to the development of sovereign risk fears by potential foreign investors, leading to reduced investment if investors believe an inappropriate regulatory response may occur as a result of controversy.

It is expected that collecting and reporting information from project proponents through the AIP process will ensure that the community, Australian business and the Government all have a strong understanding of how major projects are operating. This will contribute to reducing unnecessary controversy based on inadequate information.

Inconsistent Industry Participation approaches

The AIP National Framework is a set of principles for Australian industry participation policy. Each jurisdiction gives action to these principles through their own policies and programs. Some State and Territories have a Local Industry Participation (LIP) policy that is applied when Government funding is involved and others have the capacity to 'deem' projects 'significant' warranting an AIP Plan. The ability for States and Territories to implement differing LIP policy leads to a perception by global EPCMs of inconsistency in requirements. This may lead to increases in project cost and time. Some industry stakeholders have also

expressed concerns about whether State Governments see local as within the State itself or with the country.

The changes to the Commonwealth AIP policy in July 2012 extended the application of AIP Plans to grants and funding to the States, in addition to existing procurement policy. Although this has extended the coverage of AIP Plans, it is limited to Commonwealth funding recipients. A large majority of the major projects in Australia are within the resources sector, however Commonwealth and even State investment or procurement is very limited in this sector. Generally private projects are not covered through this policy unless EPBS is accessed or there are relevant State and Territory policies.

Jurisdictional inconsistencies and the inherent flexibility to change policies create uncertainty for industry, concerns about jurisdictional bias and questions about compliance with international trade obligations. This can lead to confusion from the private sector about what sectors are required to submit a LIP, whether Government funding is or is not a requirement for an LIP Plan, and what the link is with the Commonwealth AIP requirements. This issue was canvassed in a recent report by Don Scott-Kemmis[20].

"Mining activity and METS firms are widely distributed across Australia, with strong concentrations in Perth and Brisbane. Amplifying this fragmentation, in some States 'local content' means local to that State."

As demonstrated by the two examples below, State Governments are adopting very different approaches to AIP, ranging from mandating local content by legislating for LIP plans to encouraging companies to complete LIP plans.

[20] Leveraging Resource Development for Industry Development, Don Scott-Kemmis, June 2012. Report for DIISRTE.

Victoria

Under the VIPP guidelines, the Victorian Government is able to declare certain large projects with a whole-of-life value of $250 million or more, or a capital cost of at least $100 million as having strategic significance to the Victorian economy.

The Project declaration enables the Victorian Government to set minimum local content requirments and other conditions relating to delivering outcomes for local industry. During 2011-12 there were five VIPP Strategic Projects underway across Victoria totalling $5.553 billion. These projects were:

1. Procurement of 50 new trams
2. Victorian Comprehensive Cancer Centre
3. Regional Rail Link
4. Melbourne Park Redevelopment
5. New Bendigo Hospital

(Victorian Industry Participation Policy 2011-12: Annual Report to Parliament prepared under Section 10 of the Victorian Industry Participation Policy Act 2003, Page 4); available at http://www.dbi.vic.gov.au/projects-and-inititatives/victorian-industry-participation-policy/vipp-parliamentary-report-archive

Western Australia

State Government Actions to support actions for improved accountability and communication strategies:

- Following the amendment of relevant State Agreement Acts, negotiation with BHP Billiton and Rio Tinto to introduce Industry Participation Plans covering all future expansions, which are subject to these Acts. These plans will focus on linking procurement and business models to the principle of full, fair and reasonable oppportunity for local suppliers, and the continuation of forthcoming purchasing patterns.

- It is State government policy that all future Agreement Acts will include this requirement and any amendments to existing Acts will also incorporate this initiative.

Communication with approximately 40 projects, not covered by the State Agreements Acts, to encourage voluntary reporting of local content outcomes and community benefits of project activity.

[Local Content Report May 2012, Department of Commerce, Government of Western Australia, page 7 available at www.commerce.wa.gov.au/localindustry participation]

Government Objectives

The Government's objective is to ensure that Australian industry is provided with opportunities to compete for work in major projects and that the effort major project proponents invest in providing opportunities to local industry is understood and recognised by the community.

The Government is pursuing a parallel strategy to enhance the capabilities and competitiveness of Australian industry to improve their chances of winning work when provided with the opportunities. The Government also wishes to improve the coordination of these existing programs. A further objective is to minimise overlaps and gaps in industry participation policies between levels of Government that can add complexity and uncertainty for industry.

4 Options

Option 1: Legislation and AIP statutory body

The Government would introduce new AIP legislation to require all major projects (above a capital expenditure threshold) to submit an appropriately detailed AIP Plan and report on its implementation. Legislation would also establish a new agency to focus on identifying and maximising opportunities for Australian industry. The agency would be tasked with administering the new AIP legislation.

Compliance processes will include public reporting of non-compliance and a range of non-monetary penalty provisions for not submitting or implementing an AIP Plan.

The legislative option is considered appropriate because: the Government requires certainty about compliance; universal application is required; there is a history of systematic non-compliance with industry-led or softer regulatory approaches; and existing industry bodies do not have comprehensive coverage or are not committed to the need to change behaviour[21]. While positive AIP practices exist, there has been limited evidence of implementation of industry-wide and industry-led approach to AIP.

4.1.1 A new agency

The agency would provide assistance to companies developing their AIP Plan and assist organisations to achieve full, fair and reasonable opportunity for Australian industry, including by providing education programs and promoting good practice in procurement. It would evaluate and approve AIP Plans and publish Executive Summaries of those Plans, monitor and report to Parliament on their implementation and impose penalties on non-compliant firms when required by legislation. The agency would also administer agreements to support operation of Australian Industry Opportunities Officers for the EPBS as well as existing AIP requirements for EPBS, Government procurement, grants and loans.

To maximise coordination and focus the new agency could deliver existing Government support and facilitation services including:

§ Continue the work of the Buy Australian at Home and Abroad initiative to connect Australian suppliers with the resources sector including the Resources Sector Supplier Advocates and Advisory Forum;

§ Continue the Supplier Advocates in non-resources sectors including water, clean technology, rail, ICT and TCF; and

[21] The legislated AIP approach is similar in some ways to the approach taken to address equal opportunities for women in the workplace, see Reform of the Equal Opportunity for Women in the Workplace Act 1999, Regulatory Impact Statement, Office of Best Practice Regulation, page 20.

§ Continue support for activities funded through Industry Capability Network Limited (ICNL) including the Supplier Access to Major Projects (SAMP) program.

4.1.2 Legislation

The legislation would require mandatory AIP Plans for all major projects in Australia with $500 million capital expenditure and above. The legislation would provide for the establishment of a statutory authority (the Agency referred to in 5.1.1) that will be responsible for the administration of AIP Plans and associated policy initiatives.

The subsidiary regulations would stipulate what is required in the content of an AIP Plan and would set out a range of non-monetary penalties for failure to have a compliant AIP Plan. These penalties could include disqualification from Government contracts and grants and/or seeking adverse publicity orders.

4.1.2.1 Thresholds

A variety of thresholds have been canvassed during the consultations. Some of the organisations consulted, such as BlueScope and Australian Industry Group, suggested a lower threshold than the proposed $500 million should apply. The Steel Supplier Advocate has suggested $300 million as an appropriate threshold, as higher thresholds could exclude too many projects that the Steel and Fabrication Industry may otherwise be eligible to participate in.[22] This conclusion has also been backed by Dr Martin West's most recent report[23].

The estimated impact on the number of projects and sectors is listed below. The table provides a snapshot of projects, as at the end of June 2012, with an estimated capital expenditure of various thresholds. It includes projects that are have been announced but construction has not yet begun ('committed') and projects where a decision whether to proceed is expected in the reasonably near future ('under consideration'). This is a current snapshot of projects that could be captured by the proposed legislation. However, some projects may have already progressed past the point where an AIP Plan would be useful (see section below on timing).

[22] Cadmean Management Services Pty Ltd, 'Steel Supplier Advocate's Report for Australian Participation in Large Resource and Infrastructure Projects'.
[23] Dr Martin West 2012 Op cit.

Table 1: Current Projects listed as Committed and Under Consideration in Australia as at June 2012

Current Projects listed as Committed and Under Consideration

	Number of Projects				
Sector	>=$100m	>=$300m	>=$500m	>=$1b	>=$2b
Construction This includes construction and redevelopment of hotels and resorts, offices, non-residential buildings, warehouses and shopping centres and retail developments. Construction of radio networks and telecommunications towers.	61	33	21	8	4
Mining This includes oil and gas extraction, iron ore and coal mines and metal ores (such as zinc, lead and gold).	54	41	35	29	15
Power This includes power stations, gas and wind turbines.	39	25	21	7	1
Transport This includes road, rail and port upgrades and developments.	26	16	14	11	2
Total	180	115	91	55	22

Source: Deloitte Access Economics Investment Monitor June 2012

The $500 million threshold strikes a balance between capturing the major projects undertaken by large EPCMs with global supply chains and the compliance burden on proponents and the administrative burden of monitoring and implementation of the AIP Plan by the agency.

Lowering the threshold below $500 million would result in a far greater number of projects being captured, but the effectiveness of AIP monitoring would thereby diminish as a result. It also can be argued that targeting the larger projects would, given time, have flow on effects at the lower end of the project scale, as many of the same EPCMs are involved in those types of projects. This threshold was accepted by at least some of the organisations consulted for this RIS, once the issue of effective monitoring and compliance was raised.

4.1.2.2 Sectoral Coverage

The legislation does not propose to limit the application of AIP legislation to a particular sector, as currently occurs for EPBS. Rather it will use a project threshold, as outlined above. This will ensure that all major projects are captured.

However, an examination of those projects currently being tracked by Deloitte Access Economics Investment Monitor gives a good sense of the likely projects that will be covered. As noted in Table 1, current projects above $500 million in Australia are in four broad areas.

- Construction: including construction and redevelopment of hotels and resorts, offices, non-residential buildings, warehouses and shopping centres and retail developments. This category also covers construction of radio networks and telecommunications towers.
- Mining: including oil and gas extraction, iron ore and coal mines and metal ores (such as zinc, lead and gold).
- Power: including power stations, gas and wind turbines.
- Transport: including road, rail and port upgrades and developments.

While consideration was given to restricting the legislation to particular sectors (for example, mining and/or construction) this was not pursued. If legislation was restricted to specific sectors, careful consideration would be required to define the sectors to which the legislation would apply. Restricting the sectors could lead to both boundary issues (ie projects arguing they are in or out of certain categories), and calls for further action to broaden legislation to other sectors. There is also a risk that the sector definition in the legislation may not capture projects that, in a policy sense, should be captured.

Given the range of risks involved with applying a sectoral approach to the legislation, the logical outcome would be for the legislation to apply to all sectors regardless, using the threshold as the defining marker. This model would be the ideal approach in dealing with the problem statement outlined in this document.

4.1.2.3 Timing for AIP Plans

The legislation would require AIP Plans to be prepared at the earliest possible stage of a project. It has been suggested that this be at environmental approval stage, concurrent with undertaking a feasibility study, prior to engaging a design or engineering contractor, or prior to site modification other than initial exploratory drilling. Some of the comments made during the consultation indicated that timing of an AIP Plan is a critical issue and that one model may not suit all the sectors. The regulations would seek to address these issues by providing a number of alternative mechanisms for triggering an AIP Plan.

4.1.2.4 Mutual recognition

To avoid duplication of processes, implementation of the legislation could draw upon State or Territory based Local Industry Participation (LIP) Plans. It is expected that credible LIP Plans could be used so long as the relevant State policy met or exceeded the requirements of Commonwealth legislation in terms of developing, monitoring and reporting on AIP Plans. The legislation will outline an appropriate administrative process for assessing requirements for mutual recognition.

The Commonwealth will consult, through the ongoing review of the AIP National Framework, with the jurisdictions to seek agreement on common requirements for AIP/LIP plans. The existence of a transparent legislated AIP plan requirement is expected to assist in creating policy stability, encouraging a 'National Approach', and reducing the frequency of changes to LIP policies that have occurred over recent years.

4.1.2.5 Moving from construction to operation

It is not proposed that the legislation apply retrospectively. What is proposed however is that projects which enter into the system continue to be monitored during the operations phase. Whether a project continues to report during the operations phase will be determined by the Agency based on the potential opportunities that will be available. It is proposed that consultation with industry on these requirements occur once the agency is operational (January 2014). It is anticipated that there will be a reasonable lead time for the agency to determine these requirements while it waits for projects with AIP Plans to move from construction into operation.

4.1.3 Operation of Australian Industry Participation Plans

This section explains in some detail what an AIP Plan is and the criteria by which AIP plans are evaluated under the EPBS and Government procurement. These same requirements would apply for legislated AIP Plans. It also canvases the use of Australian standards.

AIP Plans outline how project proponents will provide full, fair and reasonable opportunity to Australian industry to supply goods and services to the project. There is a focus on providing these opportunities to Australian small and medium sized enterprises (SMEs), noting that a reference to SMEs includes those from New Zealand for the purpose of Government procurement.

It is important to note that a requirement for an AIP Plan does not detract from the ordinary principles of procurement, such as value for money, and is not intended to delay procurement and project timeframes. Nothing in AIP Plan requirements state that opportunities or preferences must be given to Australian industry; it merely asks organisations that are conducting major projects in Australia to look at what possible opportunities there may be for Australian industry and to make those opportunities available in a reasonable manner.

4.1.3.1 What are the contents of an AIP Plan?

Currently, AIP Plan criteria includes:

1. Communication Strategy

§ A communication strategy is fundamental in demonstrating how opportunities will be conveyed to Australian industry, along with the length of notice given to participate in projects (i.e. when the communication strategy is implemented).

2. Opportunities through all tiers of supply and in all stages of the project

§ The tenderer must outline actions to be taken to provide Australian industry with full, fair and reasonable opportunity through the entire supply chain (from prime contractors, EPCMs and first tier suppliers) and the measures they propose to encourage this in all stages of the project (i.e. through design, procurement, construction, operation and whole-of-life support). This recognises that participation opportunities may be more realistic in the operation and maintenance phase of the project.

3. Opportunities for longer-term participation by Australian industry on a commercial basis

§ The project developer must explain how the actions in (2) above will assist SMEs develop capabilities and participate in the project developer's supply chain over time. Proposed actions should promote long term industry participation by SMEs especially through integration and connection to global supply chains for major projects.

4. Procedures and Resources

§ Companies must demonstrate that they have appropriate resources and procedures in place to effectively implement the actions they have outlined when addressing the criteria.

4.1.3.2 AIP Plans in practice

AIP Plans ask whether the company has given any consideration to whether there could be a local, cost competitive and capable supplier that could be brought into the supply chain. As demonstrated in Figure 5, there will always be components of a project that must be sourced from overseas for various reasons, similarly there are components (such as local construction and transport services) that have to be sourced from Australia, what AIP is focused on is the contestable space i.e. where it can be sourced from either Australia or overseas.

In projects where existing supply chains are established, and in some cases are reliant on a commercial arrangement or stipulation for supply, AIP does not attempt to prevent or interfere in these situations.

The AIP Executive Summary[24] for Paradise Phosphate's Georgina Basin Phosphate Project further demonstrates the concept of contestability (see Appendix B). The Summary details the steps the Company is taking to meet its AIP requirements for EPBS (as per the steps outlined above). It also outlines at a high level the goods and services to be procured for the project and the expected opportunities for industry participation. The list identifies a mixed procurement strategy – with design, construction and engineering services sourced from Australia; stainless steel, dozers and slurry pumps sourced from overseas and the remainder of the items including steel beams, steel fabrication, information technology services and dump trucks being contestable.

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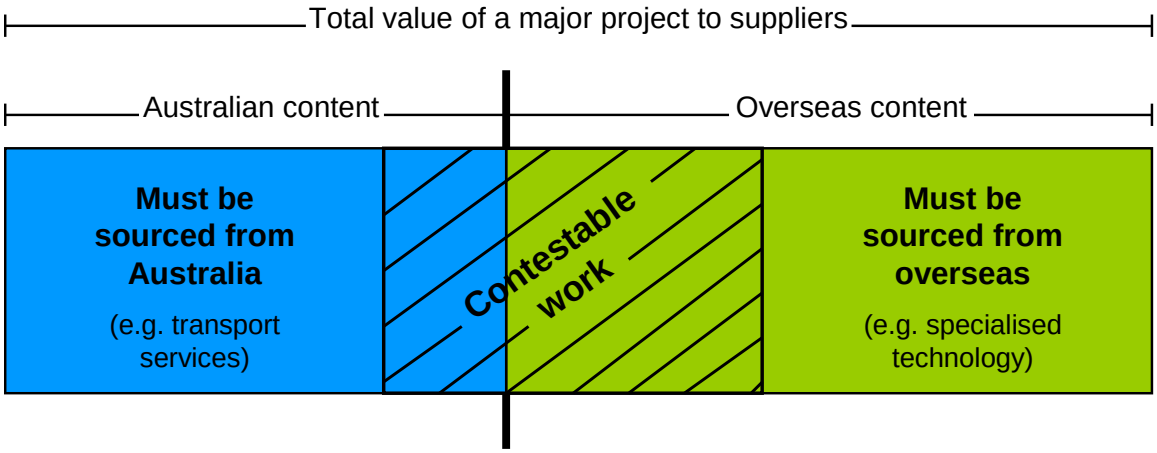
Figure 5: Shows in visual terms that any project has a component of Australian, overseas and contestable content.



[24] This AIP Plan Executive Summary is currently being finalised for public release in November 2012. It will be one of, if not the first, AIP Executive Summary released under the changes to EPBS reporting announced by the Prime Minister in 2011.

4.1.3.3 Reporting requirements for AIP Plans

Reporting requirements for AIP Plans would be broadly based on existing requirements, including recommendations made by the AIP Working Group in February 2012.[25]

This includes reporting, and providing evidence, that actions agreed to in the AIP Plan have been implemented. In addition, the AIP Working Group recommended that companies should provide a breakdown of the key goods and services to be procured for the project, and the estimated percentage of Australian industry value added as a measure of Australian content.

The Working Group also recommended that where companies can identify specific items that will be procured for the project these should be published. While companies should provide an estimate of Australian versus overseas content to DIISRTE, this should not be published where it is commercial-in-confidence. For public reporting purposes, only an aggregate percentage of Australian industry value added should be published for each company or project.
The Working Group's recommendations on AIP Plans were accepted by the Australian Government and came into effect on 1 July 2012 for all programs requiring AIP Plans.

4.1.3.4 AIP Plans and Australian Standards

Technical specifications should not be an impediment to providing opportunities for local industry to supply goods and services.

Major projects use a range of local, global and company specific standards. Consistent with existing AIP Plan requirements, a mandatory element of AIP Plans is information on standards to be used in the project. Design specifications should take Australian industry capabilities and Australian standards into account so that Australian industry is not "designed out" of the project (i.e. tender documentation cites Australian standards or equivalent standards that Australian industry can meet). In addressing this element, if the project proponent is not using Australian standards it should indicate whether these standards can be met by Australian industry and what impact not using Australian standards may have on the ability for Australian industry to participate.

4.1.4 Additional requirements for EPBS

The EPBS is a voluntary scheme that provides significant financial benefits to companies that apply for it and meet the requirements, which include the preparation of an AIP Plan. Given that all projects of $500 million or more would be required by legislation to develop and implement AIP Plans, it is proposed to make changes to the EPBS for large projects that are

[25] Australian Industry Participation Working Group report is available at http://www.innovation.gov.au/Industry/AustralianIndustryParticipation/Documents/AIPWorkingGroupReport.doc

seeking to access the scheme. This information is provided for the sake of completeness of understanding given EPBS is a voluntary scheme.

The Government's expectation is that projects receiving financial benefits through the EPBS should perform beyond the standard AIP requirements. For large projects in the EPBS (greater than $2 billion), it is proposed that project proponents will be required to appoint an Australian Industry Opportunity officer within their procurement teams or global supply office. The costs associated with this will be the responsibility of the company and would be an additional requirement for large projects in order to access tariff concessions through the EPBS.

The AIP officer, who will be selected and appointed by the company, could undertake a range of activities including:

§ identify capable Australian suppliers and assist them to bid into global supply chains;

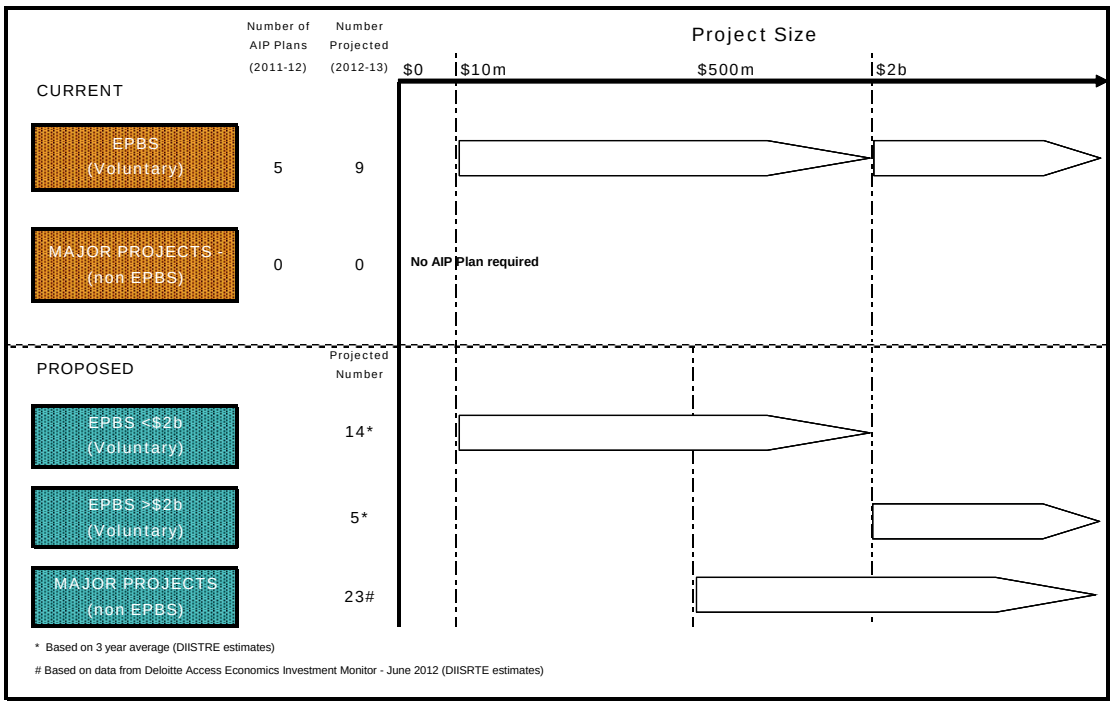
§ marketing assistance for SMEs

§ training programs

§ international marketing advice; and

§ preparing biannual reports to the Commonwealth.

Figure 6: Represents the current AIP Framework participation numbers relative to project size and the proposed approach with the projected participation number based on a $500 million threshold.



This option as originally conceived in the consultation process was to apply from $500 million, not $2 billion. This figure was revised upwards following consultation with industry stakeholders who expressed concern that this requirement would impact smaller companies more heavily than larger firms who can more readily manage the costs.

Option 2: Maintain existing mechanisms

The Government currently encourages private sector projects to develop and implement an AIP Plan through the EPBS. AIP Plans have also recently been extended to cover Government spending over $20 million in a range of areas including procurement, grants and loans. This approach addresses AIP as related to Government procurement, grants and loans, but as outlined elsewhere the coverage afforded by EPBS is limited and declining.

As indicated above, the coverage of the EPBS is limited to fewer than half of large private sector projects and coverage has been declining. In the absence of any policy response the coverage of AIP Plans in large private sector projects is likely to continue to decline. To the extent that AIP Plans lead to increased opportunities for Australian industry (estimates are provided at section 6.1.1.3), the declining coverage of AIP plans will lead to reduced opportunities. The increasing importance of globalisation and global supply chains is also likely to lead to fewer opportunities for Australian industry in the absence of policy responses.

The declining coverage of AIP Plans is also likely to mean that even less information will be available on the success or otherwise of major projects in providing opportunities for local suppliers.

The current approach to AIP provides opportunities for Australian industry to win work supplying goods and services to major projects through:

- Requiring publication of AIP Plans and outcomes through the EPBS;
- Requiring more comprehensive evidence of opportunities being made available to Australian industry through all stages of the EPBS;
- Requiring project proponents to list details of opportunities for Australian industry to participate in major projects on a public website for large EPBS projects (greater than $2 billion);
- Requiring project proponents to report more regularly on AIP Plans and their outcomes, for large EPBS projects (greater than $2 billion);
- Requiring as part of the EPBS guidelines, all projects to seek approval of eligible goods as an additional step for large projects (greater than $2 billion);
- Requiring AIP Plans for projects which receive Commonwealth grants over $20 million; and
- Requiring AIP Plans for large infrastructure projects where funding over $20 million is provided by the Commonwealth through the States and Territories.

Option 3: Self-regulation

An alternative to a regulation based approach could be through an industry-led Code of Practice in relation to Australian Industry Participation which would have voluntary compliance mechanisms. In this instance, because of the large coverage it could require four or more separate codes to span the range of projects in areas as diverse as construction, mining, power and transport sectors.

Self-regulation is generally characterised by industry formulating rules, standards and codes of conducts, and having sole responsibility for enforcement. This can require the use of industry councils to develop industry standards or codes of practice that are essentially voluntary, but are enforced by industry.

In this instance, industry would need to define how it would approach issues such as what constitutes 'full, fair and reasonable'. Specific performance standards would need to be developed and an approach to transparent industry reporting. Data collection will be paramount to achieving reporting goals, demonstrating outcomes and for informing Government policy.

For a Code of Conduct, the onus on enforceability and monitoring would shift to the industry. As the major projects would include a range of sectors, this would require a high level of cross sectoral industry cooperation and there is unlikely to be a single existing industry grouping positioned to prepare an equivalent 'code of practice'.

While it is understood that some State-based industry associations may be exploring this option as a way of working to improve Australian content in major projects, this option is not favoured. It is difficult to see how a group of diverse industry stakeholders might come together to agree an approach to AIP, and produce consistent reporting. To date, the closest that the industry has come to a code of practice was APPEA's Best Practice Guide for Maximising Australian Industry Participation in Petroleum Exploration and Production.[26]

This approach is not likely to meet the Government's objectives of achieving certainty of compliance and establishing clear verifiable data about outcomes and AIP practices in industry. The absence of verifiable data could lead to continued controversy and calls for stronger regulatory and protectionist approaches.

[26] As referenced in the 2007 Department of Resources, Energy and Tourism's Offshore Acreage release website, this document is no longer available on the APPEA website.
http://www.ret.gov.au/resources/documents/acreage_releases/2007/html/overview/overview_5.html

4.1.5 Legislating for AIP Plans

4.1.5.1 Cost to the Government

To establish AIP legislation and a separate agency to administer and monitor AIP Plans, excluding the delivery of associated industry facilitation policy measures, will be a total cost over forward five year estimates of $18.9 million. This includes a 24 ASL per year for these functions once the agency has been established.

These costs include corporate and initial setup costs for the new agency.

Regarding the EPBS, there will be no revenue impact to Government as projects will be able to move between the various tariff concession schemes to access their relevant benefit.

4.1.5.2 Cost to companies

Background

There are two components to the direct cost associated with developing and implementing an AIP Plan. At the low-cost end of the spectrum, costs are primarily associated with submitting, implementing and reporting on the AIP Plan and the outcomes for Australian industry. This assumes that the AIP Plan reflects actions or procurement processes the company already undertakes, so there is minimal additional cost associated with implementing the AIP Plan.

The second component is the cost associated with implementing the actions identified in the AIP Plan, where these actions go above and beyond existing company procurement practices. However, a well executed AIP Plan would often involve business-as-usual procurement processes to identify and ensure opportunities are provided to capable suppliers.

Information on the cost of developing and implementing an AIP Plan for major projects comes primarily from the EPBS. It should be noted that EPBS includes costs associated with the AIP Plan as well as costs associated with applying for duty free entry of eligible goods, which varies according to the number and nature of the goods.

The range of examples below suggest that full AIP costs for a large project are in the range of $50,000 to $150,000.

Direct Costs – development and reporting on AIP Plans

To estimate the minimum direct costs of developing and reporting on AIP plans, the time spent on developing an AIP Plan and reporting biannually has been estimated and incorporated into the business costs calculator based on information from discussions with EPBS applicants.

The start up cost of developing an AIP Plan is estimated to be $9,000 and the ongoing annual cost is $9,000. The start up cost is based on 1 employee spending 2 weeks on completing an AIP Plan at $119 per hour. The hourly rate is based on an annual salary of $200,000 plus oncosts. The ongoing cost is the cost of reporting biannually, and based on 1 employee spending 1 week per reporting period at the hourly rate.

While some projects have reported costs as being significantly higher than those estimated using the business calculator, the decision to expend a higher amount on AIP is purely a matter for the company. The costs calculated by DIISRTE represents the lowest compliance cost for completing and reporting on a satisfactory AIP Plan.

It is important to note that DIISRTE has taken feedback regarding the time taken to complete AIP Plans and used it to improve the template and clarify requirements in an effort to reduce compliance costs.

Direct Costs – implementation of AIP Plans

A more significant direct compliance cost than developing the AIP plan is its implementation. Again a range of estimates have been identified over the life of the EPBS.

One major project proponent in the resources sector has estimated that costs in developing and implementing the AIP Plan in-house have been between five and twenty per cent of a procurement manager's time. The higher end of this scale has been at key preparation and submission events. For the remainder of the time, this project has used ICN who "do much of the legwork" and the "contracting and procurement departments at each of the project engineering locations prepare packages for posting and evaluate nominated companies received from ICN." Assuming 12.5 per cent of a person's time is spent on the AIP Plan, this is approximately $29,000 per year, using the same salary assumptions as above.

Other project proponents have stated that the activities associated with complying with an AIP Plan (e.g. holding industry seminars, advertising procurement packages, holding stakeholder forums, engaging the Industry Capability Network (ICN) etc.) all incur significant costs. It is difficult to estimate the costs of implementing an AIP Plan as the range of activities can vary significantly.

Direct Costs – stakeholder views

Through previous consultation processes, most companies that have developed AIP Plans have stated that it is not an onerous process. In an Access Economics evaluation of EPBS in 2010, several major project proponents and EPBS consultants provided their views of the compliance costs associated with EPBS, including the AIP Plan. Note that these submissions were provided to Access Economics in confidence, so the companies have not been identified.

"Beginning with the PAA, the associated compliance costs are minimal. The document itself is not overly burdensome and can usually be completed (for the most part) with little disruption to the applicants operations."

"The main costs involved are ensuring the development of an appropriate Australian Industry Participation Plan using the right resources and then the costs involved in ensuring industry understand the plans for a project and also the cost of community engagement. Costs of compliance are relatively small as the interest in recording which companies for what values within a project is a base Project Control parameter.
…
"Compliance with an AIPP has costs attached which for some projects have been partially covered by the State Government via the ICN."

When asked how the EPBS could minimise its compliance costs, one major project proponent answered,

"I don't believe the compliance costs are a major driver in larger projects (more than $50 million)"

It should be noted that there have also been dissenting views, due to companies completing AIP Plans for the first time:

"We see the system as excessively time consuming and costly to undertake, with limited benefit the extent of which being uncertain."

The Victorian Competition and Efficiency Commission (VCEC), the State equivalent of the Productivity Commission, completed an inquiry into Victorian Manufacturing in 2011. The report referenced an Ernst & Young review of Victorian Government procurement policy, commissioned by the Victorian Department of Business and Innovation. The VCEC report states:[27]

"The Ernst & Young review found that bidders reported significant variability in the time and effort involved in the development of a VIPP Plan and the process of receiving certification by ICNV [Industry Capability Network Victoria]. Development and certification of a [first] VIPP Plan could consume from two days to two weeks, though subsequent plans took considerably less time (up to 75 per cent less)."

As an example, in its submission to VCEC, Bombardier stated that compliance costs associated with completing the plan were insignificant.[28]

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[27] Victorian Competition & Efficiency Commission, 'Victorian manufacturing: meeting the challenges. Inquiry into a more competitive Victorian manufacturing industry', Final Report, September 2011.
[28] Bombardier Transportation Australia, submission to Victorian Competition & Efficiency Commission, 'Victorian manufacturing: meeting the challenges. Inquiry into a more competitive Victorian manufacturing industry', submission MDR53, 22 July 2011.

Summary of direct costs

The costs of approximately $9,000 for developing an AIP Plan, and $9,000 per year for reporting twice a year represent the lowest compliance cost for completing and reporting on a satisfactory AIP Plan. Over a five year reporting period, this results in $54,000 as the lowest compliance cost over this period.

From the information provided by one major resources company, the five-year cost of developing, implementing and reporting on the AIP Plan is estimated as $145,000.

As a comparison, DIISRTE has considered other information associated with the cost of EPBS applications. In EPBS major projects often engage consultants to assist in the EPBS application. However, projects are under no obligation to use a consultant as DIISRTE is available to provide assistance in completing an AIP Plan. Where projects choose to use a consultant, this usually involves a suite of services, including the AIP Plan but also administrative and compliance functions associated with tariff concession applications through EPBS and other mechanisms. DIISRTE understands that between $50,000 and $100,000 is a reasonable estimation of the cost of engaging a consultant to comply with AIP Plan documentation across the construction of the project.

Some 'mega' projects spend considerably more than smaller projects on implementation of the AIP Plan, including dedicated resources to ensure that Australian industry has been given full, fair and reasonable opportunity. It is not surprising that some very large projects will spend more on the AIP Plan, as the effort required to communicate with Australian industry, the key element of an AIP Plan, should be commensurate with the opportunities available in the project.

Indirect costs

There is a risk that increased regulation can add time and indirect costs to projects, however this has not been the case based on DIISRTE experience with the EPBS. As noted in the Productivity Commission (PC)[29] report into Upstream Petroleum the costs of attaining approvals are modest, relative to the total costs of the project, and that delays in the approvals process impose far more significant burdens. It is important to note that submission of an AIP Plan does not have a material impact on progress with the project itself. While environmental approvals and other licensing requirements are often required before a project may start, development and lodging of an AIP Plan can continue alongside the implementation of the project. Departmental procedures and practices ensure that turn around times for AIP Plan approvals are prompt and avoid any unnecessary delays.

There is a concern that completing an AIP Plan means that a proponent is required to buy from Australian companies even where this incurs an additional cost, however this is not the

[29] Review of the Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector April 2009.

case. AIP Plans operate alongside procurement principles of value for money and leaves the decision of who to purchase from with the proponent. As such it does not add to costs for a project by influencing specific purchasing decisions.

Some proponents will have existing supply chains, which in their view are optimised. The requirement to complete an AIP Plan will mean that they have to look to their supply chains to determine if an alternate approach can be adopted that engages Australian firms. Whether or not this will lead to a reduction in costs for the firm will depend on the outcome of the procurement process.

Some companies such as Chevron are currently allocating funding to national media campaigns explaining how they are meeting their social licence to operate. How they are managing Australian industry participation in their projects is one element of this. Compliance with and reporting on AIP Plans offers firms a means of promoting their good efforts.

Non-compliance costs

Where a project proponent does not comply with the legislation they may be subject to compliance action including financial and non-monetary penalties.

4.1.5.3 Benefits of Legislating AIP Plans

The benefits of legislating is that it will ensure universal application of AIP Plans across all major projects and it will ensure there is comprehensive coverage across sectors, which would be difficult to achieve otherwise.

The benefits of an AIP Plan can be significant to both major projects and Australian industry, but are expected to be more important for small and medium enterprises that would not otherwise have an opportunity to supply to major projects and enter global supply chains.

Increased opportunities for Australian industry

Experience with the EPBS indicates that the majority of major project proponents have agreed that their preparation of an AIP plan has benefited both the project proponent themselves as well as local suppliers. There have also been benefits to the regional economy and positive employment and skill benefits for employees.

Surveys of EPBS participants since 2003 showed that over 70 per cent of respondents agreed that their AIP Plan had a positive impact on procurement outcomes for their company. Similarly, 71 per cent agreed that their AIP Plan also had a positive impact for their Australian producers, over 75 per cent agreed AIP plans had a positive regional development impact and over 90 per cent agreed AIP plans had a positive employment and skill acquisition impact on the Australian economy through their suppliers.

The surveys also found that AIP Plans lowered transaction costs and addressed information asymmetries and that Australian suppliers that were identified through AIP plans were found by project proponents to be suitable to the projects needs. Around 79 per cent of EPBS

survey respondents agreed that the Australian producers identified by their prime contractors were competitive and capable. Furthermore, many respondents found that using Australian suppliers had no negative impact on costs, with only 12 per cent stating that the Australian producers increased costs immediate procurement costs. These figures suggest that tangible and mutual benefits can be achieved through well implemented AIP Plans.

Industry Capability Network (ICN) experience over 20 years suggests that a well executed AIP Plan that effectively engages with local suppliers and utilises the business capability matching services of the ICN can increase local content by between five and twenty per cent, depending on the nature of project.[30] Analysis by DIISRTE indicates that each year about 23 major projects (with an investment of over $500 million) currently do not have a formal AIP Plan. Over the past two years the average size of these 23 projects is $1.4 billion, suggesting that major projects valued at $32 billion do not have a formal AIP Plan. Using the lower end of the ICN estimate (five per cent increase in local content for a well executed AIP Plan utilising ICN services), a requirement for AIP Plans for these 23 projects valued at $1.4 billion could increase opportunities for competitive local industry by about $1.6 billion per annum.

As mentioned above, this figure is based on a conservative use of ICN estimates of the impact of AIP Plans. For comparison, ICNL reports that in 2011–12, the ICN worked on 20 major projects receiving support through the Supplier Access to Major Projects Program. Eight of these projects, with the majority having an approved AIP Plan, relate to specific major project developments in Australia. ICNL estimates that contracts worth more than $3 billion were awarded, with the help of ICN, to Australian and New Zealand companies that may have otherwise gone overseas.[31] ICNL's report on actual outcomes is more than double the theoretical estimate above.

There is currently no information collected on the nature of companies benefiting from AIP Plans. In any case, such information - on the companies receiving access to contract opportunities - would be difficult to collect and track, particularly as many of the beneficiaries will be unaware that their opportunity resulted from implementation of an AIP Plan.

However, in an AIP program delivered by the Industry Capability Network (ICN) - Supplier Access to Major Projects (SAMP) - ICN does have established systems in place to identify companies that it has nominated for contracts in major projects. For Australian-based projects supported through the former SAMP Australia program, since 2008 ICN reports 56 per cent of contracts since 2009 have been awarded to SMEs, and 29 per cent of contracts have been awarded to suppliers classified as being in regional areas.

Table 2: ICNL contracts reported under SAMP Australia

Reporting Period	Number of	SMEs	Regional

[30] Advice to DIISRTE from D. Lark, Executive Director ICNL based on information from ICN State Executive Directors.
[31] ICNL Annual Report 2011–12.

	contracts	(%)	(%)
2008	311	76	4
2009 (Jan–Jun)	404	58	46
2009-10	496	36	29
2010-11	34	96	36
2011-12	75	76	41
TOTAL		56	29

Note that the SAMP Australia has been replaced with other SAMP programs. Hence, data in the last two years represented the final project reporting under the SAMP Australia program.

In addition to these quantitative estimates of benefits, there are a number of qualitative measures of the benefits of AIP Plans to both major project proponents and Australian suppliers, especially SMEs. In surveys of EPBS projects since 2003, over 70 per cent of respondents agreed that their AIP Plan had a positive impact on procurement outcomes for their company. Similarly, 71 per cent agreed that their AIP Plan also had a positive impact for their Australian producers.

The VCEC report recognised that industry participation plans can be an effective way of addressing information asymmetries:

"The Commission considers that VIPP Plans can be an effective way to address information gaps by encouraging shortlisted bidders to acquire information about the local supplier market, and to develop links and networks with local suppliers."

In the 2010 review of EPBS, Access Economics noted that whilst is it difficult to measure the benefits of the AIP requirements of the scheme to Australian suppliers:

"Feedback from consultations indicated there are a range of benefits and the scheme has had a favourable impact in breaking down some preconceived notions of local industry capabilities. To the extent the scheme helps disseminate market knowledge and information on Australian industry capability at a relatively low cost, this part of the scheme has the potential to provide worthwhile and ongoing benefits.

In this vein, it appears the scheme has its biggest (marginal) impact where proponents are new to the Australian business environment, such as overseas resource companies, or where new production processes are being established. In such cases, the scheme can play a crucial role in compelling proponents to genuinely investigate Australian supplier opportunities and engage with local communities."

Benefits for Projects

The most reported benefit of using Australian suppliers is that it saves companies time and money in terms of quicker response times. Major project companies report that having a supplier located in Australia cuts out long delivery times from overseas. Australian suppliers have shorter deliver times and can respond quickly in the event of a breakdown. This means that the down time at plants is shortened and the potential for loss in production is decreased.

Australian suppliers can also carry out general maintenance, provide spare parts and are a phone call away if problems arise.

"One of the advantages of using Australian suppliers is that delivery is much faster, and large parts, such as the chimney stack, do not have to be assembled from many smaller parts, as would be the case if they were shipped from overseas.

"There are also quality control benefits. For instance, if one of our parts needs servicing, the manufacturers close by. In the energy business, we require extremely fast repair times. "And this is a lot easier if a parts manufacturer is just down the road."[32]

Major project companies have also commented that developing and implementing an AIP Plan had unexpected benefits on procurement practices. A number of companies reported that the process of implementing the AIP Plan resulted in better practices such as forcing the company to consider procurement at the early stages of the project, giving the company time to plan and put in place good practices. Companies report that the AIP Plan process made it standard practice in procurement to identify the capabilities of Australian suppliers from the outset.

"Doing an AIP Plan had a positive impact on procurement outcomes for the project, it broadened our existing network of suppliers and helped in identifying new Australian suppliers."[33]

A key message from major project companies is that developing and implementing an AIP Plan prompts companies to consider the capabilities of Australian suppliers. Whilst major project companies may already use Australian suppliers for some goods and services, in a number of cases doing an AIP Plan resulted in companies looking beyond existing procurement arrangements to find out what goods and services could be sourced in Australia.

This is highlighted in examples such as Quality Bakers breadline project. Rather than accept the existing arrangements with the overseas major equipment provided, Quality Bakers considered components that could be made in Australia.

"We are now more aware of Australian suppliers and look for Australian supply rather than importing goods."[34]

Benefits for Suppliers

A number of projects that have implemented AIP Plans report success in their suppliers going on to win work in other projects either in Australia or overseas.

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[32] Tallawarra Power Station, EPBS Customer Story, November 2007.
[33] Foster's Group Yatala Brewery Expansion Project, Major Projects AIP Bulletin, June 2007.
[34] Quality Bakers Australia Breadline Project, Major Projects AIP Bulletin, December 2006.

As an example, Gordon Brothers, an Australian company, upgraded a refrigeration and CO2 recovery plant to match the increase in production capacity as part of the Yatala Brewery Expansion Project. The CO2 recovery plant captures CO2 from fermenters and reuses it in brewery processes, reducing greenhouse emissions. Using cutting edge technology, Gordon Brothers developed its capabilities to supply to the project. Gordon Brothers has since gone on to expand its operations in the United Kingdom.

"Gordon Brothers Industries built a carbon dioxide recovery plant which had not been available in Australia before."

"They're now selling their system in Europe."[35]

The AIP Plan for the TRUenergy gas-fired Tallawarra Power Station project led to the use of Australian components, including:[36]

§ Generator transformer, which was expected to come from China or Europe, being sourced from Australia;

§ Water treatment plant, which was originally to be made in Malaysia, instead being supplied by Australian company Osmoflo; and

§ Chimney stack, which was to be shipped from Malaysia in many parts, was instead made by a local company and was constructed in only two parts.

Developing an AIP Plan early in the project, and effectively implementing the Plan, raises the awareness of Australian suppliers and prompts major project companies to look for Australian capabilities.

"Putting plans in place from the start resulted in good AIP outcomes for the project."[37]

Through EPBS it has been demonstrated that firms that have developed AIP Plans and discussed their implementation with the Department have improved their procurement outcomes on projects. Legislating AIP Plans can be expected to improve procurement outcomes for a larger number of projects and firms.

4.1.6 Establishing a new agency

4.1.6.1 Cost to the Government

Establishing a new agency has a modest additional cost to the Commonwealth compared with using established agencies. There will be adjustment costs and additional reporting costs

[35] Foster's Group Yatala Brewery Expansion Project, AusIndustry EPBS Customer Story, March 2008.
[36] Tallawarra Power Station, EPBS Customer Story, November 2007.
[37] Foster's Group Yatala Brewery Expansion Project, Major Projects AIP Bulletin, June 2007.

associated with a separate Authority, but those are expected to be minor given the low numbers of staff involved, as indicated in section 6.1.1.1.

4.1.6.2 Benefits of establishing a new agency

A separate agency will provide additional transparency in reporting requirements. It will provide a more focussed and coordinated specialist agency to deliver related programs.

To maximise coordination and focus, all Australian Government requirements for AIP Plans and the related support activities that boost industry capability and capacity will be collected under a single agency.

There are flow on benefits to Australian suppliers and major projects through combining the AIP Plan requirements with facilitation functions in a single agency. Including the ability to easily and more effectively connect projects with identified capable and competitive suppliers and build capability within industry to compete for and win work on major projects. Major projects could also benefit through cost savings in finding new competitive suppliers and access to local repair and maintenance capabilities.

4.1.7 Strengthening the Enhanced Project By-law Scheme

4.1.7.1 Cost to the Government

There will be a small cost to the Government to monitor and evaluate reporting on additional opportunities under the Australian Industry Opportunity officer requirement to be eligible for the tariff concession.

4.1.7.2 Cost to companies

The EPBS is a voluntary scheme for major projects to access a tariff concession and alternative mechanisms such as the TCS and FTAs are also available. Should the EPBS be strengthened for large projects, to require project proponents to embed Australian Industry Opportunity officers within procurement teams or global supply offices, the costs associated with this will be the responsibility of the company and will be an additional requirement for access to the tariff concession.

DIISRTE estimates that the benefits of EPBS are approximately one per cent of the total project value. For a $500 million project, this would equate to a minimum benefit of $2.5 million in tariff concessions. It is assumed that the cost of embedding an Australian Industry Opportunity officer is one full time employee, approximately $232 000 per annum. If the average project runs for five years, compliance costs for the project would be approximately $1.16 million, which is less than the tariff concession.

4.1.7.3 Benefits of strengthening the Enhanced Project By-law Scheme

The benefits of AIP Plans developed through the EBPS have been canvassed elsewhere in this document.

By adding additional reporting requirements for AIP Plans associated with the EPBS, the Government is making it clear that higher standards apply where a company is receiving a financial benefit from the Government, in this instance a tariff concession.

Maintain existing mechanisms

4.1.7.4 Cost to the Government

There is no additional cost to the Government to maintain the existing mechanisms.

4.1.7.5 Cost to companies

There are no additional costs to companies above current requirements for this option. Any cost incurred by companies under the EPBS to complete an AIP Plan are voluntary and both EPBS and Government procurement and grants provide a benefit for companies that the companies are not compelled to seek.

This option does not imply no change in the circumstances faced by industry. The ongoing globalisation of supply chains and reducing coverage of the EPBS is likely to mean that the challenges facing SME suppliers are likely to grow. To the extent that AIP plans provide benefits to local suppliers, their declining importance is likely to lead to increased forgone opportunities.

4.1.7.6 Benefits of maintaining existing mechanisms

Without legislation, the only mechanism for applying AIP Plans to private projects is through the voluntary EPBS. The benefits to Australian suppliers of maintaining the existing mechanisms are limited, with the applications for EPBS reducing in recent years to an average of nine applications per year, covering fewer than half of the major projects in the country.

Self-regulation

4.1.7.7 Cost to the Government

There is a cost to the Government in situations where industry has decided to self-regulate but the Government wishes to monitor compliance with the self-regulated system. If companies will be completing an AIP Plan, the Government will need to monitor and report on the content of the AIP Plans. Given the quantum of self-regulation can not be determined by Government, the cost can not be calculated.

The cost to the Government of this approach is predominantly the forgone certainty that the AIP measures will be implemented that is provided by the legislated option.

4.1.7.8 Cost to companies

Direct compliance costs associated with self-regulation or an industry-led Code of Practice would be unlikely to significantly different to those of regulation if the same level of compliance was achieved. It could be expensive for industry to create the new system, especially as a range of sectors and many industry associations would need to be involved to achieve a comprehensive scheme.

As a voluntary compliance mechanism it would be up to individual companies as to how involved they are in implementing industry participation initiatives.

4.1.7.9 Benefits of self-regulation

There could be benefits from self-regulation for Australian suppliers from increased opportunities to tender for work.

Major projects could also benefit from broadening their supply base, potential cost savings in finding new competitive suppliers and access to local repair and maintenance capability. Companies could also view this option as good publicity for the company as they would be seen to be proactive rather than complying with Government legislation.

However, as a voluntary scheme it has the advantage for firms of not having statutory enforcement of compliance and penalties and as such reduced reputational risk.

Industry Consultations

As will be evident from the preceding sections, Australian Industry Participation Policy has been the subject of much debate and discussion, particularly over the last few years as the Government considers its response to the current issues facing the Australian manufacturing sector.

During October 2012, DIISRTE provided an Australian Industry Participation Options for Further Reform (the discussion paper) to a select number of industry stakeholders. The stakeholders selected represented a cross section of companies and industry bodies and those wishing to be publicly identified are as follows:

§ Australian Industry Group (AIG)

§ Australian Manufacturers Workers Union (AMWU)

§ Business Council of Australia (BCA)

§ BlueScope Steel Limited

§ Energy Supply Association of Australia (ESAA)

Critically they represent investors in projects (ESAA); producers of services and Australian manufactured goods (Bluescope, BCA, AMWU, AIG) as well as importers of services and manufactured goods (BCA and AIG).

Due to the confidential nature of the policy proposal, the consultation process was limited and subject to non-disclosure agreements. The discussion paper (at Attachment C) was provided a few days prior to the consultation and was intended to facilitate discussion about the options the Government is exploring in the context of concerns being expressed that Australian companies (suppliers) are not winning work to provide goods and services into major projects within Australia and overseas where they may be competitive. Those consulted where then offered the opportunity to follow up with additional comments over the following weeks and given an opportunity to approve their comments for inclusion in this document. The project proponent that was consulted declined to have their comments included in the public version of the regulatory impact statement.

The discussion paper outlined the options the Government is considering as a possible solution and sought feedback on a number of specific questions:

§ particular views on the application of the legislated model for AIP Plans;

§ the project value threshold of $500 million capital expenditure;

§ at what early stage or process is it appropriate to prompt the requirement to submit an AIP Plan;

§ views on administering and monitoring the legislation under a new statutory authority;

§ lead time required by industry to adapt and implement this new legislation;

- views on the imposition of penalty provisions and public disclosure on non-compliance;
- views on the requirement of Australian Industry Opportunity officers as an additional requirement of EPBS;
- if a code of practice model was implemented how would this work and what would be the timeframe for implementation; and
- is there an opinion of the costs associated with developing and implementing an AIP Plan and are the cost estimates outlined in the discussion paper accurate.

Additional verbal consultation was undertaken in November 2012 with EPCMs and project proponents.

Consideration was given to additional consultation with investors in Australian projects, in light of concerns raised by the BCA that AIP Plans could lead to increased uncertainty in projects and could add to time delays at an additional cost. This issue was further explored with project proponents and EPCMs during the November discussions. The concensus was that there will be issues of perception (as outlined in secton 6.1.1.2) that will need to be carefully managed during implementation.

Other industry consultations

A series of industry consultations conducted since 2009 have suggested that current AIP Plan requirements do not sufficiently address the underlying issues with Australian industry participation and a number of stakeholders have proposed further action to ingrain AIP into major project procurement. The consultation processes included: the 'Inquiry into a more competitive Victorian manufacturing industry' report released by the Productivity Commission's Victorian equivalent, the Victorian Competition and Efficiency Commission (VCEC) in September 2011; the report by the non-Government members of the Prime Minister's Manufacturing Taskforce in August 2012; and two separate EPBS reviews in 2009 and 2010. In addition, the Government's Resources Sector Supplier Forum, chaired by the Hon Peter Beattie, and Supplier Advocates in a range of non-resources sectors have conducted extensive consultations about AIP Plans in major projects (see section 7.1.7 for details).

Other views expressed by industry

While consideration was given to additional consultation with project proponents through organisations such as APPEA and MCA, it was determined that previous consultations had provided ample information on their likely views regarding extensions of Australian Industry Participation Plans. As outlined in sections 7.1.8 and 7.1.9 both make the case that the government should look to improve the capability of suppliers rather than look to regulation as the solution for improving industry participation in major projects.

7.1 Main Views of the Stakeholders

7.1.1 Australian Industry Group

The Australian Industry Group (AIG) is a peak industry association in Australia which along with its affiliates represents the interests of over 60,000 businesses in an expanding range of sectors including: manufacturing; engineering; construction; automotive; food; transport; information technology; telecommunications; call centres; labour hire; printing; defence; mining equipment and supplies; airlines; and other industries.

AIG indicated to the Department that they were supportive of the preferred policy option in the discussion paper, being the legislative option, as long as the policy was broadly consistent with the EPBS and did not attempt to mandate any level of local content. They went on to raise a number of implementation issues that if not handled correctly would be of concern to their membership.

Firstly in relation to timing for submission of an AIP Plans, AIG stated that the legislation must be clear about when an AIP Plan must be submitted. Their view was that industry needs appropriate and clear markers to comply with the process otherwise there will be confusion within industry about when and what to do at a particular stage during a project.

In relation to reporting, the Department was requested to ensure that the AIP template was of a high quality and did not contain too frequent or burdensome updates. AIG suggested a minimum of 6 monthly updates.

In regards to the penalty provisions, AIG noted that any penalty applied will need to be weighted in proportion with the size of the projects. This is to avoid larger projects simply absorbing the penalty, for not completing an AIP Plan, into its procurement costs.

A minimum project threshold of $250 million was suggested and AIG generally agreed with the Department's estimates on the cost impact on a company for completing an AIP Plan. The point was made that many of the companies undertaking major project procurement are already doing this kind of work regardless.

AIG predicted that some of their impacted members would voice concerns initially about the increased requirements, however these members would understand the need and rational behind the policy. With the EPBS changes, the AIG stated that this should not mean a company would have to employ an additional person; rather the role can be allocated to existing procurement personnel.

There was no support for the Code of Conduct approach by the AIG, as in their view this does not provide the industry with a definite or consistent approach and could be difficult to apply from sector to sector. If the Government wishes to strengthen AIP than it would be better, from an industry point of view, to proceed with legislation.

Australian Manufacturers Workers Union

The Australian Manufacturing Workers Union (AMWU) represents over 100 000 workers in all areas of manufacturing, including: food and confectionery; metal and engineering; printing and packaging; technical, supervisory and administrative areas; and vehicle building.

Overall the AMWU were supportive of the legislated policy approach and mentioned that this policy represents an important opportunity for the Government to restructure important areas to better address some of the issues facing the Australian economy.

In regards to the proposed project threshold, the union representatives on the Manufacturing Taskforce would prefer the lower threshold of $100 million. However, AMWU mentioned that if the Government proceeded with the $500 million threshold, a lower threshold could be revisited if there is a policy case to do so.

The AMWU stated that it is appropriate for the Government to look to request an AIP Plan during the Environmental Impact Statement stage, this conclusion is based on their discussion with ECPMs. During the discussion with the Department the AMWU canvassed projects where an Environmental Impact Statement approval is not required and alternative mechanisms, such as board approval of a project, that could trigger when an AIP will need to be submitted.

On the issue of costs to businesses, the AMWU stated that as far as gross costs, our projections and estimates outlined in the discussion paper are somewhat accurate. However, they felt that benefits may have been understated and that these would offset some of the costs involved. The AMWU went on to say that the costs discussion would also raise the issue of how competitive the local suppliers were comparative to the overseas suppliers.

The AMWU stated that whether the Government decided to have a separate agency or one built within the Department, consultations would be required on how the Industry Capability Network Limited (ICNL) best fits within the new arrangements. Ultimately while ICNL is a private company, its funding is primarily from the Commonwealth. Consultations, including with the State ICN network, should be undertaken and the Commonwealth must then act to best enhance AIP arrangements.

As far as the potential for an industry led Code of Conduct approach, the AMWU felt that this approach could be part of a AIP model where legislation would take care of projects above $500 million and a Code of Conduct model could be set for projects from $100 - $500 million. The AMWU stated that they are currently canvassing an MOU with industry super funds undertaking construction projects to voluntarily complete AIP type Plans. However the AMWU were not of the opinion that a Code of Conduct model was a viable alternative to legislation, rather it was complementary initiative.

Regarding the EPBS reform, the AMWU considers the approach as a good idea and mentioned that it is important to get the administration aspects of this policy up and running as soon as possible, while the legislation is developed and implemented.

4.1.8 Business Council of Australia

The Business Council of Australia (BCA) is a national institution that provides a forum for Australian business leaders to contribute directly to public policy debates. Their membership is made up of the CEOs of 100 of Australia's top companies. Members represent a range of sectors including mining, retail, manufacturing, infrastructure, information technology, financial services and banking, energy, professional services, transport and telecommunications.

Overall the BCA were not supportive on the preferred policy measure and requested the Department to ensure that the benefits of the increased regulatory burden were clearly expressed to be able to justify the increase in costs.

The BCA expressed a number of key concerns with the preferred legislative policy approach. Their core concern was whether or not the legislative approach would solve the perceived problem. BCA stated that the justification for proceeding with this option should be supported by a detailed cost/benefit analysis.

BCA also stated that this proposal may have an impact on the costs and competiveness of projects in Australia. They noted that AIP costs need to be considered in the context of other Government requirements and costs such as environmental and planning approvals. While AIP may lead to a small additional cost it is the cumulative costs that impact on competitiveness.

The BCA also suggested that international experience on this issue should be examined by the Department.

As far as the analysis into the perceived problem goes, BCA stated that the root cause for the problem needs to be examined and the range of policy options and their impacts should be explored. For example, if AIP Plans did provide additional opportunities, was there was an adequate supply chain to complete the work.

The BCA stated that the increase in regulatory and compliance costs is becoming increasingly prohibitive to investment, especially in a world where companies needed to compete strongly for the investment dollar. BCA expressed a concern that this policy could increase uncertainty in projects, and could add to time delays at an additional cost.

Finally BCA questioned whether there were some alternative, more focused and targeted policy mechanisms available that could be utilised as an alternative to regulation. They did not offer alternatives as part of the discussion.

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4.1.9 BlueScope Steel Limited

BlueScope Steel is a leading steel company in Australia and New Zealand, supplying a large percentage of all flat steel products sold in these markets. The company specialises in the production of flat steel products, including slab, hot rolled coil, cold rolled coil, plate and value-added metallic coated and painted steel solutions. Their steelworks at Port Kembla in New South Wales is the largest steel production facility in Australia.

Overall BlueScope were supportive of the legislated policy approach and understood the benefits of AIP Plans and the Governments reasons for exploring these options. In their view the current mechanisms are not providing effective results. They made a number of comments from the supply perspective on the detail of this policy and its implementation.

They raised the possibility of applying a AIP Plans at a lower threshold than the $500 million being proposed, especially where Government policy such as Renewable Energy Target was the major driver of the projects (wind farms).

In regards to the separate agency model for administration of this policy, BlueScope stated that, while this model could be useful, the agency was not of great importance. In their view the content of the AIP Plan is the component that will make the most difference, not who administers it. BlueScope's strong preference was for the Government to not waste time in setting up the agency, rather focus on implementing the policy as soon as possible.

BlueScope stated that it is important to make the AIP more transparent, especially in being able to discern the steel usage in major projects. BlueScope stated that given the sophistication of large projects, the lead in time required to allow implementation should not be great. Their reasoning was that it should not take companies any length of time to complete an AIP Plan, noting that this is dependant on how onerous the AIP Plan requirement was.

BlueScope noted the importance of reporting, with a focus on public reporting, on detail regarding what is occurring under the AIP Plan process for each project. In essence, they want to see public reporting of what took place and the reasons why certain actions took place.

Regarding the EPBS reform, BlueScope state that they generally supported these increased requirements however noted that this may result in companies opting to use the Tariff Concession Scheme (TCS) instead of EPBS and that the TCS would need to be tightened as a result.

BlueScope were not supportive of an industry led Code of Conduct approach as it lacked meaningful enforcement mechanisms and therefore would not solve the problems currently faced by Australian industry.

4.1.10 Energy Supply Association of Australia

The Energy Supply Association of Australia (ESAA) was established in January 2004 as the peak national industry body for Australia's energy supply sector. The ESAA promotes the policy interests of the electricity supply industry and downstream natural gas sector. Its focus is on strategic, whole-of-industry policy issues affecting Australia's energy supply sector. The ESAA membership comprises the Chief Executives of more than 40 electricity and downstream natural gas businesses.

Overall, the ESAA understood the reasoning behind the preferred policy approach outlined in the discussion paper and what the Government was trying to achieve. However the ESAA would not be supportive of this policy measure as traditionally they do not support market distorting features. They went on to note that even though the cost on business is small and there is no requirement to use local content, it carries with it the potential for market distortion because it adds compliance costs to already large compliance costs.

In regards to the proposed project threshold, ESAA noted $500 million is a reasonable figure and would pick up the larger wind farm projects and some gas projects. However this project threshold may result in a number of project proponents, who are at or just over the threshold, to modify their project sizes to avoid AIP requirements. They mentioned that most if not all construction in Australia is contracted out to joint ventures or global EPCMS.

ESAA noted that over a million tonnes of steel will be required over the next decade for wind towers, but due to a number of factors, a fair proportion of the steel would be sourced offshore. One of the factors mentioned was that the margins being dealt with by EPCMs, who are looking to achieve the lowest possible cost. ESSA mentioned that the margins are often minor and selection of a local supplier would not add a large cost onto the project and has the additional benefit of a positive story around local engagement and flow on community benefits.

Commenting on the potential lead in time required by industry to implement this policy, ESAA stated that implementation must occur in a manner that would avoid, as much as possible, distorting investments into major projects. The ESAA had no comment on how to monitor this policy, whether through a separate agency or otherwise.

In the potential for industry to apply a Code of Conduct, ESAA stated that this can potentially be weaker than the other model preferred by Government; however it could be beneficial as industry would be seen as pro-active. If the Code of Conduct model can deliver the same outcomes as the legislated requirements, this would be preferred by the ESAA as the ahead of Government intervention.

4.1.11 Project Proponents

Project Proponents readily accept and recognise they need to undertake engagement with local industry. Some also present themselves as strong supporters of AIP Plans, appropriately framed for appropriate projects. For projects operating in Western Australia proponents noted that they are already having to report regularly under State Agreements.

The key concern in relation to the introduction of legislation was that this would add to the costs and regulatory requirements already being placed on major project. Further, there were significant concerns expressed regarding implementation of the proposed approach.

A general concern, also expressed by EPCMs, was that compulsory AIP Plans would add an additional compliance cost and burden to the resources sector which is already heavily regulated. It was noted that time means money and that any delays can add to project costs. The point was made during one consultation that project proponents are weary of regulation and the level of pre-approval work required to get a project off the ground. The view was put that they would be particularly concerned if there was duplication between Commonwealth and the State Government requirements. Industry would be looking for a quick and efficient process performed by staff who understand the industry well enough to make quick decisions.

Project proponents would look for the new requirements to be implemented as efficiently as possible, and some questioned the value of a new Agency in achieving this outcome.

Some expressed confidence in the AIP process, based on previous experience while others expressed general uncertainty over the degree to which the proposed legislation will improve AIP outcomes and whether these outcomes would offset the compliance costs for companies.

It was also generally noted that the requirement for AIP Plans would impact smaller companies more heavily than larger firms given that larger companies can more readily manage the cost and workload of managing AIP effectively. Smaller firms, particularly those who do not have operations, will likely need to hire in consultants to undertake this work. It was also noted by one proponent that the Commonwealth would also bear increased costs to monitor and administer an increased number of AIP Plans.

One project proponent expressed a concern that there is a fundamental misunderstanding on what it takes to develop and implement an effective AIP Plan. From their point of view and through their current operating practices, AIP Plan implementation is not just limited to one person. Some have appointed AIP Coordinators who are involved in active management of the AIP Plan on a daily basis. They also noted that AIP requirements flow down to other areas of the company and further, to requirements with the EPCMs and other contractors. This is consistent with feeddback provided by EPCMs.

There is also a misunderstanding, that AIP is simply reporting, however this is a very small part of AIP Plans and the most significant work is in the liaison. Those project proponents consulted all identified that they had staff employed to look at Australian Industry Participation

in their projects. One noted that in addition to the individual employed that costs extend further into the project itself.
Regarding the issue of penalties, if monetary sanctions are imposed, this will be a further increased burden to the cost of AIP. Non monetary sanctions, such as identifying those companies who are non-compliant was preferred.

In relation to AIP Offices, proponents were generally concerned that an additional requirement for EPBS projects would be added (be it introduced at a $500 million or $2 billion threshold).

As to the timing of when to appropriately complete an AIP Plan, one project proponent noted that for EPBS, AIP Plans now need to be completed immediately after commencement of Front End Engineering and Design (FEED). However completing an AIP Plan at this stage is too late as much of the critical contracting has already been completed, while stating that the earlier an AIP Plan is required the harder it is to predict outcomes and actions. To address this challenge the general concensus was that the timing for when an AIP Plan should be submitted should be fluid and dependent on the type of project.

One proponent also noted that the application of the proposal is too broad and the Government should consider targeting the projects where the greatest opportunity lies.

There were limited discussions on the implications of these changes for potential investors. The view was put that overseas export credit agencies may be investors in projects, and part of the motivation for this investment was the potential for their companies to win work. If AIP Policy and the Plans that flow from it remains about full, fair and reasonable opportunity for Australian industry there should be little impact. If the policy is articulated as being about ‘protectionism’ then this will raise concerns with overseas investors.

4.1.12 EPCMs

The views of EPCMs consulted varied somewhat in detail, particularly in relation to concerns regarding implementation, but in general they were against regulation as a mechanism for improving access of local industry to major projects.

It was noted that many large projects are already having to meet AIP requirements (for EPBS or for State Governments) and these requirements flow down to EPCMs in most large projects. EPCMS identified that they are already dedicating resources to meeting AIP requirements with these being full-time roles within their organisations and for larger projects these can expand up to small teams. These teams report back to project proponents on AIP activities and outcomes to assist project proponents meet their reporting requirements.

One EPCM expressed a concern that this would be one more cost added to an industry already burdened down with red-tape. However, they also noted (as alluded to above) that much of this work was already happening as part of standard business practices of project proponents operating in Australia.

When asked if this would cause a concern for potential investors they noted that it was unlikely to be an issue because it was not about mandating local content, which is occuring in some overseas jusidictions. It does add costs to the project, but by being more open there is also an incentive for local industry to keep their costs under control. Australian industry needs to understand - they won't win the work if they aren't competitive.

The $500 million threshold should not present any problems for projects. Whether or not a lower threshold would work really depends on the type of project that is being tendered and the amount of content that can be sourced locally.

The view was expressed that a code of practice might work as well as legislation because projects and EPCMs that work in this country already look to local industry to supply where they are competitive.

How complex it would be to implement would be the main influence on cost. If this is kept high level and firms can work out which Australian industry they are involving along the way, this will make for the most effective approach.

4.1.13 Resources Sector Supplier Advisory Forum

What follows is a background paper prepared for the first meeting of the Resources Sector Advisory Forum held on 25 November 2011. It reflects consultations conducted in September and October 2011 by the Hon Peter Beattie AC, in Adelaide, Brisbane, Launceston, Melbourne and Sydney involving almost 200 participants. Consultations were later conducted in Perth and Darwin which are not reflected in this original paper but were provided as an addendum at the meeting, as the issues raised are largely the same this has not been included here.

ISSUES ARISING FROM CONSULTATION PROCESS

Purpose:

§ Inform the Forum of issues raised in discussions facilitated across Australia with suppliers, project proponents, unions, academics, industry associations and government representatives involved in the resources sector.

§ To assist the Forum in identifying two key issues and recommending strategies and actions to address them.

Below are a number of perceived barriers and impediments to greater local industry participation in the resources sector identified during consultations facilitated by the Resources Sector Supplier Envoy.

Early Engagement

A central theme across the consultation process was the importance of early engagement between potential suppliers and project developers, including Engineering, Procurement and Construction Managers (EPCMs). Many suppliers consider that they are missing out on work because they are not afforded adequate opportunity to prepare tenders and to ready themselves to deliver projects.

§ Suppliers reported that early engagement was sometimes hard to achieve due to difficulties in gaining recognition from customers. A number of project owners and EPCMs invited suppliers to approach them to discuss project requirements, capabilities and pre-qualification. One supplier reported that while it had taken considerable time and effort to establish a relationship with one of the major global EPCMs, this commitment had paid off and resulted in the supplier securing work on more than 60 resources projects, including work overseas.

§ Once tender documents have been issued, it is often too late for suppliers to engage effectively (particularly where specifications limit the opportunity for local industry participation, see below).

§ Early engagement is becoming more difficult to achieve as project development timeframes are shortening.

§ Another barrier to early engagement is the fact that design work and decision making often take place offshore.

§ Some suppliers noted that the short time frame expected from Small to Medium Enterprises (SMEs) between being awarded a contract and delivery was unrealistic and unique to the resources sector.

§ Project developers reported that in many cases “off the shelf” designs are used for large project components or even entire plants, so early engagement is not necessarily an option. Suppliers were urged to look for opportunities to work with the global supply chains that deliver standardised projects and components. Early engagement is a two-way process and project developers also indicated that at times their own efforts had been frustrated, for example when suppliers failed to take up opportunities or meet agreed performance levels.

§ The ICN and many project developers have initiated activities such as web portals and information seminars to increase opportunities for early supplier engagement.

Standards and Specifications

A common issue raised was that of specifications being used in tenders which appear to have the effect of excluding many Australian companies from tendering. In particular, many stakeholders considered that it was inappropriate for project proponents to specify foreign standards.

§ Some stakeholders took a view that Australian standards should be used for all Australian projects. There were differing views as to whether Australia should better align its standards with other international examples to integrate better into supply chains, or retain standards which many considered embodied better safety, quality and whole-of-life performance.

§ It was noted that the specifications of EPCMs were often very prescriptive (it was suggested that in some cases they were perhaps even aimed at a particular provider).

Accreditation and Tendering Processes

The costs, time and effort required to meet pre-qualification, induction and tendering requirements were seen as unnecessarily burdensome by many suppliers.

§ Some suppliers indicated that they had been required to meet very short deadlines for preparing quotes and submitting pre-qualification and tender documents (which were often extremely detailed).

§ Many also considered that they had wasted considerable time, money and effort qualifying, quoting and tendering when they alleged sourcing outcomes were pre-determined (in some cases it was suggested this was due to pressure from, or deals with, overseas investors).

§ Some suppliers queried whether their offshore competitors were being asked to meet the same requirements.

Transparency

Several stakeholders sought greater transparency in tendering processes, including: the structuring of work packages; the channels by which opportunities would be made known; the expected percentage of local content; and, where local content was not expected to be utilised, an explanation as to why this was not considered.

Transparency of procurement requirements and timeframes would allow capacity and capability gaps to be identified and addressed before overseas companies are awarded contracts. Greater transparency of tender outcomes would assist industry to see why their bids might have failed.

Global Supply Chains and Modularisation

Modularisation, the increasing size of many work packages, and EPCMs' growing reliance on established global supply chains were cited as trends which contributed to Australian industry being bypassed.

Quality Issues and Whole of Life Cost Considerations

It was a common perception among the supplier community that work was being awarded offshore based only on lower up-front costs, with too little account taken of other factors such as durability, reliability, quality and delivery which affect the lifetime costs associated with an investment. Stakeholders considered this was disadvantaging Australian suppliers. Some EPCM representatives responded that such major investments were always analysed with respect to all relevant costs, although one oil and gas company reported that it had elected to modify its sourcing processes to ensure that costs were not cut to the detriment of quality and reliability. Resources companies emphasised the critical importance of safety in all aspects of their operations.

Capability

While it was generally agreed that Australia has some strong industrial capability, some stakeholders took a view that this capability is often fragmented, with extended supply chains, and inadequately organised to take advantage of the ever increasing size of resources projects. It was suggested that Australia did not always promote its capabilities clearly enough.

Targeting opportunities

Suppliers were encouraged to focus on the contestable opportunities and identify areas in which Australia was well placed to compete. Then, in areas of particular strength, Australian capabilities could readily be applied abroad. This targeted approach could take into account the size of the contracts that Australian suppliers are best positioned to deliver. Another approach recommended by some participants was to seek opportunities in the global supply chains that resources firms and EPCMs utilise.

Skills

The difficulty and cost of finding and retaining skilled personnel was a concern both for suppliers and for their customers. Representatives from smaller manufacturing companies and unions expressed concern that larger companies were not investing sufficient resources into training and apprenticeships. SMEs also reported problems retaining trained employees when higher wages were often available in larger manufacturing or mining companies. Short project timeframes exacerbated workforce planning issues. Some EPCMs have developed strategies to coordinate their staffing across the multiple sites so as not to put an unnecessary strain on workforce requirements.

Intellectual Property (IP) Issues

The cost of enforcing patents was considered a barrier to tendering as well as doing business overseas. The fact that competitors in some jurisdictions may not pay full price for the use of software and other IP could afford them an unfair advantage.

Local Business Conditions

The strong Australian dollar, infrastructure constraints, taxes, alleged dumping, limited access to finance and industrial relations issues were all raised as impediments to local business. Many participants considered that it was impossible to achieve a “level playing field” where other jurisdictions do not maintain the same standards (for example of occupational health and safety) and levied higher import taxes or subsidised exports.

Minerals Council of Australia

The Minerals Council of Australia (MCA) is the peak industry organisation representing Australia's exploration, mining and minerals processing industry. In December 2011, the MCA made a submission to the Australian Government's AIP Working Group. The Working Group was established to advise the Government to changes to AIP Plan requirements in the EPBS. Through its submission to the Working Group,[38] and other comments in the media,[39] the MCA has made the following comments in relation to Australian content in the mining sector, and suggestions to tighten AIP Plan requirements.

In the Australian Financial Review on 18 January 2012, Dr John Kunkel, Deputy Chief Executive of MCA, said *"if there is seen to be a problem, our preference is for enabling measures where government and industry work together to improve the capacity of local suppliers rather than reaching for a new regulation as a first step."*

In its submission to the AIP Working Group process, MCA provided the following views:

"MCA member companies already make substantial purchases locally on major projects and generally achieve high levels of Australian content. In 2009, the mining industry's total demand for goods and services was $85.7 billion, of which $75.8 billion (88%) was supplied by local industry. Within this total:

- *53.3% of iron and steel used by the mining industry was locally supplied;*
- *64.6% of structural metal products used by the mining industry was locally supplied; and*
- *71.7% of sheet metal products used by the mining industry was locally supplied.*

More recent data from major mining states highlights further the degree to which both local business opportunities and broader societal benefits are being generated by the mining sector in Australia. For example, in 2010-11 the Queensland resources sector purchased $20.5 billion in goods and services from employing QLD businesses, up from $18.8 billion in 2009-10. Around 80% of QLD postcodes benefited directly from this expenditure."

The following series[40] of quotes are extracts from the MCA submission to the AIP Working Group report.

"A recent internal study for Western Australia's resources industry shows a continuing high level of local industry participation in mining sector supply chains with 86% of spending sourced domestically in the construction phase and 95% in the operations phase of WA projects. With the large expansion of WA mining projects, operations expenditure has increased substantially providing sustained opportunities for local suppliers."

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[38] Available at http://www.innovation.gov.au/Industry/AustralianIndustryParticipation/Documents/Submissions/2011AIP_CP_Sub_MCA.pdf

[39] For example, in The Australian Financial Review, Wednesday 18 January 2012.

[40] MCA submission to AIP Working Group, December 2011

"The MCA considers that the Consultation Paper [on changes to tighten AIP Plan requirements for EPBS] proposes a series of regulatory changes which:

- *have not been grounded in sound economic analysis;*
- *would expose companies to having to reveal commercially sensitive information;*
- *would open up companies to commercially unrealistic ambit claims by third parties with a vested interest in overturning normal commercial decision-making;*
- *are highly complex and likely to result in considerable compliance costs; and*
- *would, in some cases, duplicate existing measures and result in additional and costly regulatory overlap with other Federal and state government processes.*

Specifically, the MCA regards the proposed changes to the EPBS as unnecessarily complex and counter-productive, especially in light of recommendations to government only a year ago that made a strong case for streamlining the scheme."

"Overall, the MCA views the measures proposed as lacking firm underpinning in economic analysis. The premise of the paper is that there is a "trend towards greater use of established supply chains by investors (which) can create significant impediments to Australian industry participation in major projects". Yet nowhere is this trend explored with any empirical evidence. Equally, nowhere in the paper is there a cogent, economy-wide case made for extending and tightening what are already complex processes around AIP Plans and access to tariff concessions under the EPBS."

"Consistent with what the MCA recognises as the policy objective in this area, the Australian Government should refocus its efforts on measures that actually build the capacity of Australian firms (especially SMEs) to participate in major project supply chains, including in the resources sector. The focus should be on enabling actions, with a focus on unlocking synergies between private sector and government investments, rather than on imposing greater regulatory complexity and costs on companies.

Areas where enabling actions either have or could prove fruitful include:

- *jointly funded studies of resource sector supply chains to identify areas of opportunity for local industry and to understand how these opportunities can be realised;*
- *collaborate R&D initiatives that would assist local industry in capturing higher value areas in resource supply chains; and*
- *innovation programs designed to address particular knowledge and technology gaps among suppliers to the Australian mineral resources sector.*

The MCA stands ready to be part of a constructive approach to ensuring even wider benefits flow to Australian industry from a period of strong mining investment."

4.1.14 Australian Petroleum Production and Exploration Association

The Australian Petroleum Production and Exploration Association (APPEA) is the peak industry organisation representing Australia's exploration, mining and minerals processing industry. In December 2011, APPEA made a submission to the Australian Government's AIP Working Group. The Working Group was established to advise the Government to changes to AIP Plan requirements in the EPBS. Through its submission to the Working Group,[41] APPEA has made the following comments in relation to Australian content in the oil and gas sector and suggestions to tighten AIP Plan requirements:

While APPEA has stated that *"the oil and gas sector supports a policy framework based on the principle of full, fair and reasonable opportunity for competitive local suppliers"*, it has expressed concerns about the tightening of AIP Plan requirements and whether this would be effective in increasing Australian content in oil and gas projects:

"….it is unclear how the measures proposed would address these factors and create additional opportunities over and above the work already underway. It is likely that more benefit would be delivered by enabling suppliers to compete internationally than applying an additional regulatory layer on projects."

"It is also important that any additional initiatives are aligned with initiatives and obligations that already exist under the different levels of government. Alignment of State and Federal initiatives in relation to local industry participation is critical to achieving traction and reducing duplication.

In summary, the industry:

- *supports the development of high quality and competitive local supplier industries as of vital importance both during construction and in the longer operations and maintenance phase for projects i.e. the full life cycle of projects;*
- *respects and is committed to work within the framework that local suppliers be provided with full, fair and reasonable opportunity to compete for work within major resource projects;*
- *seeks improved alignment of government initiatives at Commonwealth, State and Territory level, particularly in relation to the preparation of industry participation plans;*
- *supports a real and on-going dialogue between project proponents, engineering and procurement companies and governments regarding opportunities, competitiveness and outcomes; and*

[41] Available at http://www.innovation.gov.au/Industry/AustralianIndustryParticipation/Documents/Submissions/2011AIP_CP_Sub_APPEA.pdf

- *sees the need for clearer linkages between the proposed measures outlined in the consultation paper and how they will deliver increased local industry participation.*

While it is the experience of the upstream petroleum industry that local industry is competitive in many areas, it remains important that there is a focus on identifying and addressing the key drivers that will improve competitiveness."

Conclusion

There is sufficient evidence to demonstrate that Australian industry participation in major projects could be enhanced through initiatives that require major project investors to consider local suppliers.

The benefits of a well developed and executed AIP Plan can be significant to both major projects and Australian industry. However, the full extent of the benefits is difficult to quantify in financial terms as it can be difficult to distinguish from routine procurement practices. The evidence available on the benefits is limited to company specific case studies and narratives, which demonstrate that properly implemented AIP Plans have led to Australian suppliers winning work in multiple projects and integrating themselves into global supply chains. AIP Plans also have the advantage of making more transparent to industry and the community the steps project proponents and EPCMs are taking to engage with Australian industry.

Under existing arrangements more than half of the current major projects are not subject to AIP requirements. This represents $32 billion worth of projects without an AIP Plan. As such the status quo doesn't deliver against the government's objectives to the same extent that the legislated option provides. Further, the envisaged complexities of industry successfully implementing the self-regulation option across the multiple sectors, brings into question its potential to meet the government's objectives to the same extent as the legislated option. The legislated option is therefore considered the most appropriate choice to meet the stated objectives. The key then is to consider what threshold best applies to the legislated option and how best to implement it.

Taking into consideration the factors raised in some of the consultations, the $500 million threshold represents a compromise between effective Government administration of AIP Plans and capturing a sufficient number of major projects to achieve the Government's objective. Limiting the number of projects, per annum, also allows the statutory agency to dedicate more time in ensuring the quality and content of the AIP Plans are sufficient, that administration is efficient and the Plans are delivering the right outcomes for Australian industry.

Legislating for AIP Plans is not a unique concept, as demonstrated by the successful implementation of similar programs in Canada (refer Section 2.5). While legislating for AIP Plans would place costs on companies and slightly increases their regulatory burden, these costs are marginal especially given that the project threshold is at high end of the project spectrum. Project Proponents and EPCMs caution however that this would be another regulatory requirement added to a resource sector already facing high regulatory burdens.

While concerns about the compliance costs were stated by some parties during the consultation process, it was also noted by many that companies involved in procurement on the large scale are already undertaking the type of activities required by an AIP Plan. There was a strong call for efficient administration of the scheme, with some raising concerns regarding the need for a new agency to administer the legislation. There was also a call for ensuring an implementation approach which integrates with the existing local industry

requirements of State and Territory governments, particularly Western Australia, to minimise overlaps and ensure that duplication does not emerge in regulatory practices.

The evidence suggests that the impact of requiring an Australian Industry Opportunity officer within procurement teams through the EPBS is modest compared with the financial benefits of the EPBS. While some voiced concerns regarding the additional impost it should be noted that the EPBS remains a voluntary scheme.

Establishment of a statutory agency, to coordinate and implement the Australian Government's two pronged approach to AIP policy, benefits suppliers and major projects by housing all the legislative and facilitation initiatives within a single agency. As noted above, ensuring it delivers on its full potential will require efficient and effective administration of the AIP legislation.

Balancing the costs and benefits between the options and taking into consideration the input from the consultations, implementing legislation and a new AIP agency is the appropriate option to achieve the Government's objectives to ensure that Australian industry is provided with opportunities to compete for work in major projects and that the effort major project proponents invest in providing opportunities to local industry is understood and recognised by the community.

5 Implementation and Review

Implementation of the preferred option would occur over the next year, 2013. It is anticipated that legislation, including establishment of the new agency, would come into effect on 1 January 2014.

Stakeholders will be engaged in implementing this policy through the public exposure of the draft legislation process which could assist in managing a transition into mandated AIP Plans and to put in place the necessary mechanisms for implementation prior to commencement of the legislation.

Implementation of compulsory AIP Plans and establishing an agency is dependent on passage of the legislation. The definition of legislation parameters is a significant implementation risk. For example, eligible corporations and defining ‘capital expenditure’ thresholds of a project will need to be carefully defined in the legislation.

A review of implementation will be completed approximately 12 months after the agency is established. This will ensure that the organisational structure is appropriate and that the appropriate data, both qualitative and quantitative, is being collected to support the KPIs and that the implemented policy will achieve the stated objectives.

A review will be undertaken in 2016–17 to determine the efficiency, effectiveness, appropriateness, integration, strategic policy alignment and performance assessment of each measure. The KPIs could include trends in opportunities provided to Australian suppliers based on data collected from external sources.

Appendix A Business Cost Calculation

Business Cost Calculator report (variable ongoing cost)

Proposal name	Opening up opportunities through Australian industry participation
Reference number	to be completed
Problem and objective	

Problem	The Commonwealth is implementing reforms to strengthen its Australian Industry Participation (AIP) initiatives in order to provide greater opportunity for Australian industry to participate in major projects in both the public and private sectors, in Australia and overseas, and to assist Australian industry generally. The reform program also aims to promote, develop and maintain a sustainable, competitive Australian industry capability by encouraging competitive Australian industry participation in investment projects.
Objective	the broad objective of Government action is to increase the fair and competitive access of Australian firms to a wider range of major project work opportunities. Early engagement with Australian industry by major project proponents is vital to ensure that local firms are not overlooked throughout the procurement process. Success in supplying to major projects in Australia is the platform to win work in global projects.
Explanatory information	
Not applicable	
Option 1	
Option name	Legislating AIP Plans
Option description	The Government could introduce new AIP legislation to require all major projects (above a certain capital expenditure threshold) to submit an appropriately detailed AIP Plan and report on its implementation. Legislation could also establish a new agency to focus on identifying and maximising opportunities for Australian industry.
Businesses affected	23
Timeframe (years)	4

	Cost per business	Total cost for all businesses
Start up cost	$8,922.75	$205,223.25
Average ongoing compliance cost per year	$8,922.75	$205,223.25
Option 2		
Option name		EPBS Applicants
Option description		All projects over $2 billion applying for a tariff concession through EPBS will be required to embed an Australian Industry Opportunity officer within the company's procurement team.
Businesses affected		5
Timeframe (years)		4
	Cost per business	Total cost for all businesses
Start up cost	$0.00	$0.00
Average ongoing compliance cost per year	$231,991.50	$1,159,957.50

Note: An assessment of compliance costs in iteself do not provide an answer to the most effective and efficient regulatory proposal. Rather, it provides information that needs to be considered alongside other factors when deciding between policy options.

Appendix B AIP PLAN Executive Summary

Australian Industry Participation Plan Executive Summary
Paradise Phosphate– Georgina Basin Phosphate Project

General Project Details

Company Name: Paradise Phosphate Limited
Description of the project: The project involves the establishment of a fertiliser complex which will manufacture ammonium fertilisers and side products for the Australasian and South Asian region.
Project Location: Georgina Basin near Mount Isa, Queensland
Link to Project information: http://paradisephosphate.com.au/
Project contact for procurement information (name, phone and email):
Mr Ed Walker - General Manager - Project Development
+61 3 8532 2810
+61 447 340 287
edw@paradisephosphate.com.au
Date Australian Industry Participation Plan approved:
14 December 2011 (AIP conditions endorsed).

Opportunities for Australian industry involvement

List of goods and services to be procured for the project and the expected opportunity for industry participation	*Australia yes/no*	*Overseas yes/no*
Design services	Yes	No
Construction services	Yes	No
Steel I beams	Yes	Yes
Stainless Steel	No	Yes
Steel fabrication	Yes	Yes
Engineering services	Yes	No
Information technology services	Yes	Yes
Slurry pumps	No	Yes
Mobile mining equipment – dump trucks	Yes	Yes
Mobile mining equipment – dozer	No	Yes

Disclaimer: The information provided in the table above is based on an initial assessment by the company. Any questions or issues should be raised with the project contact.

Communication of opportunities for Australian Industry (Communication Strategy)

- Paradise Phosphate has engaged the Industry Capability Network (ICN) for identification of potential Australian suppliers. Project details will be published on the ICN Project Gateway website and potential Australian suppliers will be able to register their interest in the project at: http://gateway.icn.org.au/project/2923/paradise-south-phosphate-project
- Paradise Phosphate's Australian Industry Participation policy for the project, together with project details and contacts will be published on Paradise Phosphate's website at: http://paradisephosphate.com.au/
- Paradise Phosphate's website will provide a link to the ICN website to enable potential suppliers to register their interest in the project.

- Information about the project will be included in articles and public announcements in the media, tender opportunities and project updates in local and national media, press releases and project updates published on the ICN and Paradise Phosphate websites.
- Paradise Phosphate will attend the annual Mount Isa Industry Forum to discuss the project and tender opportunities.

Opportunities through all tiers of supply and in all stages of the project

- Suitable Australian suppliers will be identified from advice from the ICN and from Paradise Phosphate's industry knowledge of potential suppliers.
- Details of functional units or components of functional units, technical specifications required for the project as well as Paradise's Australian Industry Participation policy have been provided to ICN and will be published on the ICN website.
- Contact details of suitable Australian suppliers will be provided to overseas suppliers contracted for the project.
- Selection of vendors and suppliers, both Australian and overseas, will be assessed on technical suitability and commercial competitiveness.
- Tenders from Australian suppliers will be assessed on the same basis as overseas suppliers.
- Tender documents will be available at the same time to Australian companies as overseas companies.
- Cost of tendering will be kept as low as possible in line with Australian industry norms.
- Design specifications in tender documents will take into account Australian capability and will specify adherence to Australian standards, where they exist.
- Tender documents will be available on both the Paradise Phosphate and ICN websites.
- Assessment of Australian and overseas suppliers will include consideration of full aspects such as whole-of-life costs, appropriate quality and performance indicators.

Opportunities for Australian industry to supply key components for larger items of capital equipment (EPBS Functional Units)

- The project has been designed around functional units to make the project as small and as simple as possible to assist Australian industry to participate in the tender process.
- Meetings will be held with the ICN to identify Australian producers of key components of functional units for the project prior to any expressions of interest being sought for functional units.
- Overseas suppliers will be provided with ICN contact and Australian supplier details to encourage overseas suppliers of functional units to subcontract to Australian suppliers of key components.
- An Australian Industry Participation clause has been included in all project contracts with overseas suppliers of functional units to encourage Australian industry involvement in the project.

Opportunities for longer-term participation

- Partnering between overseas and local industry will be encouraged by introducing identified local suppliers to overseas suppliers. Where goods or services are obtained from overseas companies, introductions will be sought with appropriate internationally competitive local suppliers to facilitate the establishment of alliances.
- All reputable Australian suppliers (e.g. suppliers: able to provide goods/services on time and on budget; with financial capability to provide the project/service; with good OH&S and QA/QC systems; and with good track record and credibility within the industry) will be added to Paradise's database and/or prequalified supplier list.
- Feedback will be provided to both successful and unsuccessful Australian producers to encourage improved performance in future tenders.
- Research and development outcomes will be transferred to Paradise Phosphate personnel or Australian suppliers.

Procedures and Resources

- The Project will be managed by Paradise Phosphate's own Project Team. **Mr Ed Walker- General Manager Project Development** is the project contact and will be responsible for goods procurement and implementation and monitoring of the Australian Industry Participation plan.
- Paradise Phosphate's Australian Industry Participation policy will be published on its project website (http://paradisephosphate.com.au/).
- ICN is to be engaged for identification of potential Australian suppliers. Project details and a copy of the policy will be on the ICN Project Gateway website (http://gateway.icn.org.au/project/2923/paradise-south-phosphate-project).
- An Australian Industry Participation clause has been included in tender documents to encourage overseas suppliers to subcontract to capable Australian suppliers.

Appendix C Consultation Paper