

# 5th Annual Buy Local Plan Compliance Report of the Buy Local Industry Advocate of the Northern Territory



February 2023

**BUY LOCAL**

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## Contents

<b>1. Executive Summary .....</b>	<b>4</b>
<b>2. Background.....</b>	<b>6</b>
<b>3. NT Government's response to the 4th Annual Buy Local Plan Compliance Report.....</b>	<b>7</b>
<b>4. Advocacy .....</b>	<b>10</b>
<b>5. Promoting Buy Local Principles to Industry and Government .....</b>	<b>12</b>
<b>6. Value for Territory Assurance Program .....</b>	<b>14</b>
6.1. What is Value for Territory .....	14
6.2. Value for Territory Assurance Program Framework .....	14
6.3. Outcome of Value for Territory audit reviews .....	16
6.4. Compliance with Procurement Rules 26 and 28.....	16
6.5. Auditor General of the NT.....	17
6.6. Use of Certificates of Exemption.....	19
6.7. Has Value for Territory been delivered?.....	19
<b>7. The Buy Local Plan .....</b>	<b>21</b>
7.1. Effectiveness of the Buy Local Plan.....	21
7.2. Investigation of Complaints.....	24
7.3. ICAC .....	26
7.3.1. Matters referred to ICAC.....	26
7.3.2. Status of matters previously referred to ICAC.....	26
7.3.3. ICAC Procurement Investigations.....	26
7.3.4. ICAC Agency Procurement Review.....	26
7.4. Authority of the Buy Local Industry Advocate.....	27
7.5. Unintended Consequences .....	27
<b>8. Recommendations For Improvement.....</b>	<b>28</b>
8.1. Whole of Government Procurement and Reporting System .....	28
8.2. Contract Management.....	28
8.2.1. Contract Management Planning.....	29
8.2.2. Contract Management.....	29
8.2.3. Trax (formerly known as Contrax) .....	29
8.2.4. Training .....	30
8.2.5. Conclusion .....	30
8.3. Procurement Staff Career Development.....	30
8.4. Alternative Tenders .....	31
8.5. Tender Specifications.....	31
8.6. Tender Debriefs .....	32
8.7. Local Content Assessment and scoring .....	32
8.8. Grants .....	33
8.9. Value for Territory .....	34
8.10. Assessment of VFT in Tier 1 & 2 procurement activities .....	34

8.11. Across Government Baseline Spending Data .....	34
8.12. Defensible Decision Making.....	35
8.13. Territory Enterprise.....	35
8.14. Pre Tender Market Assessment.....	36
8.15. Improved Consistency in Scoring of Past Performance, Timeliness and Capacity.....	37
8.16. Referee Checking .....	37
8.17. Past Experience.....	37
8.18. Contractor Performance Reporting .....	37
8.19. Use of Alternative Procurement methods .....	38
8.20. Tier 1 Procurement Process and Procurement Tier levels .....	38
8.21. Oversight of Agency Issued Certificates of Exemption.....	38
<b>9. Other Matters.....</b>	<b>40</b>
9.1. Procurement Framework Review .....	40
9.2. BLIA Office Staffing.....	41
9.3. ICNNT Dashboard .....	42
9.4. Territory Benefit Policy .....	42
9.5. Perceptions of the Buy Local Industry Advocate's role .....	43
<b>10. Conclusion.....</b>	<b>44</b>
10.1. Effectiveness of the Buy Local Plan .....	44
10.2. Delivery of Value for Territory.....	45

## 1. Executive Summary

This is the fifth Annual Report that I have issued in respect of my assessment of the Northern Territory Governments compliance with the Buy Local Plan.

My report is generally released in December each year, but has been delayed this year due to some health issues that I experienced, and a reduction in resources available to assist me. I apologise for this delay.

Information and statistics available from the government's procurement systems continues to be incomplete and unreliable. This is something I have mentioned in my previous four annual reports and requested government to address. This has not yet occurred.

I have been criticised in the past for saying I was unable to conclude whether the Buy Local Plan has had a positive effect in increasing procurement spending by the NT Government with Territory Enterprises. With a lack of reliable procurement data upon which to make comparisons and conclusions I am in a similar position this year. However, from an anecdotal perspective I believe that across government there has been an improved focus on buying local and delivery of best Value For Territory through agency procurement processes. This view is supported by the much improved findings of the Value For Territory Assurance Program (refer [Section 6.3](#)), and also the comparative procurement statistics available to me (refer [Section 7.1](#))

Poor compliance by agencies with Contract Management Planning and Contractor Performance Reporting obligations remains a concern, however it should be noted that it is being undertaken more often and more thoroughly by some agencies than has been the case in the past. The matter however still requires greater focus and commitment to ensure that what was contracted for is actually what is delivered. Contractors need to be made aware of, and held accountable for their performance and delivery. I still hold the view that there needs to be a single point of reference within government for procurement staff to access contractors past performance information. This may occur once Trax is fully implemented across all government agencies.

I commented last year that the use of Agency Issued Certificates of Exemption was increasing. My monthly monitoring of contracts awarded over the last year has led me to conclude the instances of inappropriate use of exemptions is declining.

In my previous Annual Report I identified 21 incomplete Recommendations For Improvement for the NT Government to consider to improve its ability to maximise the effectiveness of the Buy Local Plan, enable its measurement, and maximise best Value For Territory procurement outcomes. In [Section 3](#) of this report I summarise those matters and my understanding of the current status of the actions (if any) taken to address them, together with my assessment of the effectiveness of the government's response over the past year to each of these matters. While it is pleasing to see progress in some areas it is also disappointing to note a lack of progress, or slow progress, in others.

Again this year, [Section 8](#) of this report contains the Recommendations For Improvement that I believe would contribute to a further improved procurement framework, more effective Buy Local Plan and more consistent delivery of Value for Territory outcomes. Some of these recommendations remain from last year or in my view remain only partly addressed.

[Section 5](#) of this report sets out the engagement activities I have undertaken over the last year. It shows that I have continued to undertake a high level of engagement with NT government agencies, with the total number of agency engagements again exceeding the number of industry engagements this year. The overall level of engagements remains similar to the previous year.

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The timely delivery of the Value for Territory Assessment Framework has again been disappointing to both industry and myself this year. Last year I raised concerns around the proposed roll out date for the Local Content component of the framework, which was not met. I am however pleased to report that as of 3<sup>rd</sup> October 2022 the use of the framework for Local Content



became mandatory for all government agencies commencing procurement activities from that date. While this is a positive development I remain disappointed with the timing, as the impact of the framework rollout will not be seen until next year due to the length of time required to get procurement activities into the market and assess the responses.

The remaining components of the Value For Territory Assessment Framework which assess all other assessment criteria are scheduled for full roll out across the whole of government by the end of March 2023. I hope this time frame can be achieved.

The continued lack of reliable procurement statistics makes the task of measuring the effectiveness of the Buy Local Plan difficult, but based on the anecdotal evidence I have received I believe the effectiveness of the Buy Local Plan has improved. I am unable to quantify the improvement.

Delivery of best Value for Territory outcomes in individual procurement transactions remains a challenge for some procurers, and its delivery remains inconsistent both within agencies and across government. I therefore have concluded that again this year that delivery of Value For Territory procurement outcomes remains inconsistent, however I also believe that it was being achieved at a rate that was higher than any other year since the introduction of the Buy Local Plan.

## 2. Background

The position of the Buy Local Industry Advocate was established as part of a series of major procurement reforms announced by the NT Government in February 2017, and which came into force on 1<sup>st</sup> July 2017.

Under the terms of my appointment my responsibilities are:

1. Advocacy.
  - Acting as an independent link between local business and the NT Government;
  - Providing information and assistance to local businesses to strengthen their capability and competitiveness in the NT Government procurement system;
  - Representing the interests of local business and industry as a member of the Procurement Review Board;
2. Promoting the adoption of Buy Local principles to industry and government.
3. Undertaking a Value for Territory Assurance Program, comprised of internal and external audits, designed to measure the effectiveness of agency implementation of the Buy Local Plan.
4. The Buy Local Plan.
  - With the assistance of the Buy Local Subcommittee of the Procurement Review Board:
    - overseeing agency and industry compliance with the Buy Local Plan; and
    - monitoring the overall effectiveness and impact of the Buy Local Plan, including monitoring for unintended consequences;
  - Preparing reports for public release on Buy Local Plan compliance;
  - Investigating complaints relating to adherence to the Buy Local Plan;
  - Making recommendations to government on ways to improve the Buy Local Plan.

The following sections of this report outline my findings and observations insofar as they are relevant to the performance of each of my responsibilities.

### 3. NT Government's response to the 4th Annual Buy Local Plan Compliance Report

My fourth Annual Report was released on 16 December 2021. In accordance with my responsibility to *"Make recommendations to government on ways to improve the Buy Local Plan"*, Section 8 of that report identified 21 incomplete Recommendations For Improvement that I suggested should be addressed by the NT Government to maximise and enable measurement of the effectiveness of the Buy Local Plan, and to maximise Value for Territory procurement outcomes.

I received formal acknowledgement of my fourth Annual Report in a letter from the Hon. Paul Kirby MLA, Minister for Small Business on 23 February 2022. In the Ministers letter he stated that *"The NT Government remains committed to delivering value for Territory and will continue to work closely with you and the Buy Local Plan to ensure government procurement activities provide maximum benefits for Territorians"*.

In his letter the Minister also said *"I understand from your report that the number of industry and agency consultations has reduced over the previous year. It would be beneficial for government and industry to better understand the purpose and outcome of consultations in future reports, ..."*. I have addressed this matter at [Sections 4 and 5](#) of this report.

Again this year I have attempted to assess the progress made over the last year by government in responding to my previous Recommendations For Improvement. To do this I have assigned a rating to each of the recommendations based on the following scale;

Rating	Description
No Rating Assigned	Recommendation not adopted by government
No Progress	No commitment and/or evidence of implementation
Limited Progress	Minimal commitment and/or implementation progress
In Progress	Noticeable commitment and/or implementation progress
Significant Progress	Implementation nearing completion
Complete	Implementation completed

My assessment has been made after due consideration of:

- Feedback received from government;
- Feedback received from industry;
- Discussions with agency procurement staff and management;
- Comments and observations of the members of the Buy Local Sub-Committee;
- Observations made by me from procurement file reviews;
- Observations made by me from complaint review investigations;
- Results of Value For Territory Audits undertaken by agencies;
- Published comments and observations made by The Auditor General of the NT;
- Published comments and observations made by the Independent Commissioner Against Corruption; and

- Anecdotal evidence.

The following table identifies each of the 21 incomplete Recommendations For Improvement referred to in my previous Annual Report and provides my rating of the progress taken by government to address each item over the past year.

Identified Opportunity For Improvement	Rating
The establishment of an integrated whole of government procurement management and reporting system to facilitate, monitor and report on both agency and whole of government procurement activities at all procurement Tier levels Refer <a href="#">Section 8.1</a> of this report for further detail	No Progress
Increased effort by agencies to undertake more effective contract management and reporting as required under procurement rules and policy Refer <a href="#">Section 8.2</a> of this report for further detail	In Progress
Better structured and improved career development pathways for procurement staff within the NT Government Refer <a href="#">Section 8.3</a> of this report for further detail	In Progress
Appropriate use of alternate tenders Refer <a href="#">Section 8.4</a> of this report for further detail	Limited Progress
Improved accuracy and relevance of tender scoping specifications and information Refer <a href="#">Section 8.5</a> of this report for further detail	In Progress
More transparent and instructive tender debriefs including disclosing to tenderers their scores for each scoring criteria Refer <a href="#">Section 8.6</a> of this report for further detail	Complete
Increased consistency and transparency of Local Content assessment and scoring Refer <a href="#">Section 8.7</a> of this report for further detail	Significant Progress
Clear direction to grant recipients of how Buy Local policy intent is to be applied, assessed and enforced in respect to all NT government grant funding Refer <a href="#">Section 8.8</a> of this report for further detail	Unable to Comment
Wider and more detailed education of both industry and NT Government staff of the concept of Value for Territory, its benefits, how it is assessed, and its impact on procurement decision making Refer <a href="#">Section 8.9</a> of this report for further detail	In Progress
Development of guidance for NT Government staff on how to assess Value for Territory in Tier 1 & 2 procurement activities Refer <a href="#">Section 8.10</a> of this report for further detail	Limited Progress
Determination of accurate across government baseline data to inform the assessment of the effectiveness of the Buy Local Plan Refer <a href="#">Section 8.11</a> of this report for further detail	No Progress
Improvement in the production and retention of relevant documentation to support defensible decision making Refer <a href="#">Section 8.12</a> of this report for further detail	In Progress

Identified Opportunity For Improvement	Rating
Consistent interpretation and application of the definition of a Territory Enterprise by procurement staff Refer <a href="#">Section 8.13</a> of this report for further detail	Significant Progress
Improved pre tender market assessment and research by procuring agencies Refer <a href="#">Section 8.14</a> of this report for further detail	In Progress
Improved consistency in scoring of Past Performance, Timeliness and Capacity Refer <a href="#">Section 8.15</a> of this report for further detail	In Progress
Development of clear policy on when and to what level reference checks are required Refer <a href="#">Section 8.16</a> of this report for further detail	In Progress
Development of clear policy on how non NT Government past performance is to be assessed when assessing Past Performance and Capacity Refer <a href="#">Section 8.17</a> of this report for further detail	In Progress
Improved compliance with Performance Reporting rules and contractor performance reporting Refer <a href="#">Section 8.18</a> of this report for further detail	In Progress
Review of Section 6.2 of the Procurement Rules Refer <a href="#">Section 8.19</a> of this report for further detail	Limited Progress
Review of Tier 1 procurement process and Tier level thresholds Refer <a href="#">Section 8.20</a> of this report for further detail	Limited Progress
Oversight of Agency Issued Certificates of Exemption Refer <a href="#">Section 8.21</a> of this report for further detail	Complete

## 4. Advocacy

Again this year I have continued to engage one on one with industry participants, and more generally through industry bodies, seminars and conferences whenever opportunities have arisen. The number of consultations that took place are set out in the table in [Section 5](#) of this report.

I made a commitment to industry last year to visit regional areas on a more regular basis to undertake industry procurement forums and provide one on one face to face industry consultation opportunities. During those visits I also undertook the opportunity to present to staff of NT government agencies who were interested in engaging with me on procurement related matters.

My regional visits occurred as follows:

Region	March	September	October	November
Alice Springs	✓	✓		✓
Bachelor		✓		
Katherine	✓	✓	✓	
Nhulunbuy	✓	✓		
Tennant Creek	✓	***		

\*\*\* The planned September visit had to be cancelled due to flight cancellations.

Engagement levels with industry vary in each region, depending upon the industry profile and level of economic activity within the region at the time, with higher engagement levels seen at the larger centres. Engagement is offered as both group forums and individual meetings, and is undertaken based on the regions requirements.

Engagement levels with agencies also vary depending upon regional agency presence and requirements.

In his response to my previous Annual Report the minister noted that it would be beneficial for government and industry to better understand the purpose and outcome of consultations. The primary purposes of both industry and agency consultations are as follows:

- To facilitate improved education and awareness of the government's procurement policy position as articulated in the Buy Local Plan;
- Facilitate education and awareness of the concept of Value For Territory as envisaged under the Buy Local Plan;
- Provide opportunities to receive industry and agency feedback in relation to procurement related issues that affect them;
- Better understand factors that impact on industry's ability to adequately comply with tender requirements;
- Provide an opportunity for the Advocate to present "lessons learnt" examples and observations to both industry and agencies, to assist in improving ongoing process management and tender submissions;

- Provide an opportunity for the Advocate to explain why the procurement process requires something to be done in a particular manner, and to receive suggestions for improvement to the process.

It is difficult to articulate the outcome of consultations as it is often the case that the parties will have a different perception as to the value and usefulness of the discussion. I can only assume that my engagements are generally seen as valuable as I continue to be asked to attend engagement opportunities in conjunction with industry bodies and agencies.

The issues raised by industry are many and vary over time. The specific issues raised with me that I have agreed to advocate on are contained in my Recommendations For Improvement as outlined in [Section 8](#) of this report.

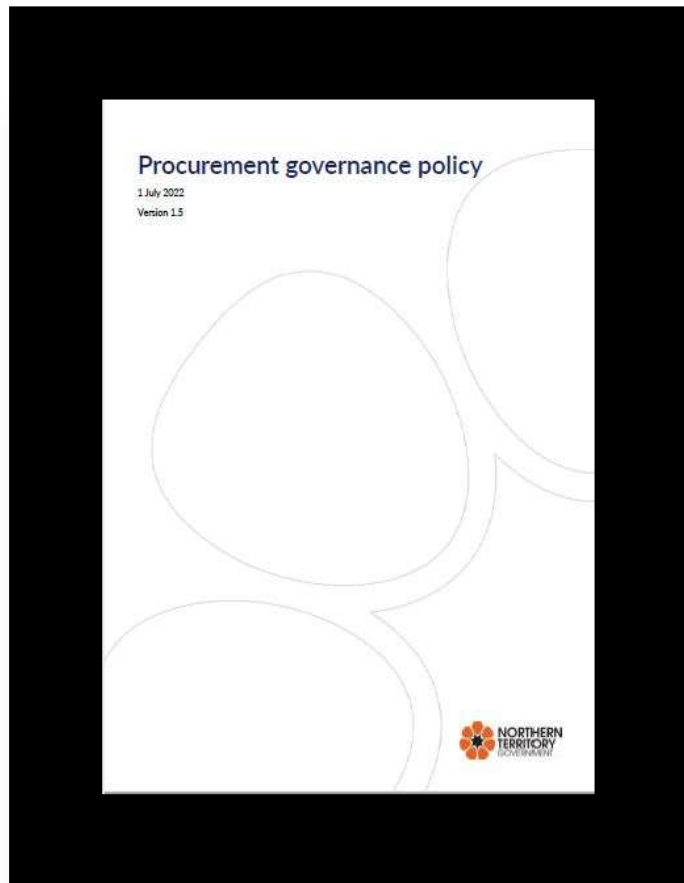
I acknowledge the co-operation and willingness of parts of government to support the changes to procurement policy that have been planned to date. However as I stated in my report last year I feel a growing sense of frustration that matters I advocate on behalf of industry are often dealt with too slowly, which gives rise to a perception of government that they are unwilling to implement change in a timely manner.

Procurement NT is the government agency in charge of procurement policy. Procurement NT regularly say that they are unable to deliver on planned projects due to a lack of resources. I urge the government to commit to increased resourcing of the Department of Industry, Tourism and Trade, specifically Procurement NT, to enable effective and timely implementation of policy review, implementation and education.

Further I note that in November 2022 a contract was awarded to an external consultant to undertake a Review of Northern Territory Government Procurement Framework and Practice (refer [Section 9.1](#) of this report for further detail of the review). The aim of the review was stated as;

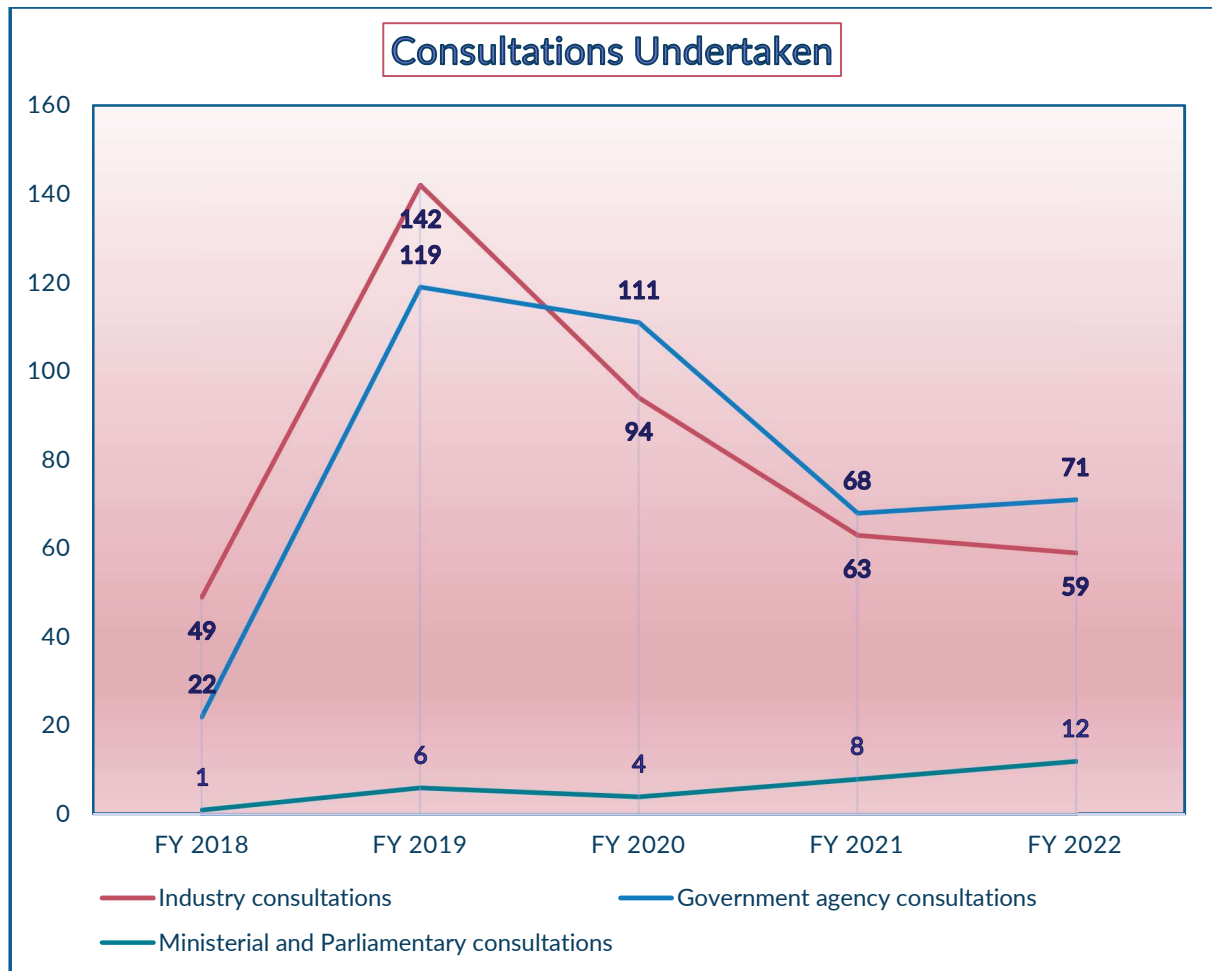
*The NT Government is looking to engage a consultant to undertake a review of their current procurement framework. It is envisaged this review will identify opportunities to build and improve NT Government procurement practice and value for Territory outcomes; and assess and make recommendations to improve the operation of the procurement governance model.*

I look forward to having the opportunity to engage fully with the consultant undertaking the review and to provide my perspectives and outline my views on the improvement of procurement practice, value for Territory outcomes and the procurement governance model.



## 5. Promoting Buy Local Principles to Industry and Government

The following Graph shows the number of formal consultation activities undertaken by my office over the last 5 financial years.



In addition to these formal consultations I regularly engage in informal consultation opportunities when opportunities arise. The promotion of both the Value for Territory and Buy Local principles remains at the core of all of these consultations.

There is no statistical evidence available to indicate if business to business support for sourcing from NT businesses is growing year on year, however I believe that awareness of the value of buying locally continues to build both within the business community and also government agencies. I again this year acknowledge the efforts of both the NT Government and industry bodies in continuing to focus efforts around educating everyone on the benefits of supporting other local businesses.

I was approached by Territory Families during the year to participate in a video they produced for staff training on procurement matters and the Buy Local Plan. This showed a clear demonstration by Territory Families of the importance for their staff to have a proper understanding of the Buy Local Plan principles, and I applaud them for this initiative.

I have also noted an increased willingness by agencies to involve me in industry briefings before tenders are put to market, especially Across Government Contracts, and proposed large procurement activities, such as the Rum Jungle Rehabilitation project. I thank them for these opportunities to explain the Value For Territory principles to prospective tenderers.



As the Buy Local Plan and delivery of best Value For Territory relates to all government agencies I would like to remind all Ministers and agency heads that I am available to discuss with them at any time the impact of the Buy Local Plan and Value For Territory on their agencies procurement process and activities.

## 6. Value for Territory Assurance Program

### 6.1. What is Value for Territory

The Buy Local Plan states:

*The primary goal of any NT Government procurement activity is to achieve the best value for Territory outcome.*

The definition of Value for Territory is:

*Achieving Value for Territory involves determining the extent to which a response will deliver the best combination of whole-of-life costs and quality (non-cost) factors.*

*Factors that may be considered in assessing Value for Territory include:*

- *fit for purpose and quality*
- *whole of life costs (including support, warranty, licensing and disposal)*
- *efficiency and effectiveness*
- *timeliness*
- *flexibility*
- *innovation*
- *local benefit*
- *intangible costs and benefits*
- *contribution to NTG priorities*

The Buy Local Plan provides further context to the concept of Value for Territory, wherein it states:

*Value for Territory does not just entail the lowest price, but broader considerations such as whole of life costs, support capabilities, past performance, commercial risk and local factors. NT Government's assessment of the local content criteria – and indeed all criteria – occurs with the overarching goal of achieving best value for Territory.*

### 6.2. Value for Territory Assurance Program Framework

The Buy Local Plan tasks the Buy Local Industry Advocate with the responsibility to provide an audit and assurance role with respect to government procurement (the Value for Territory Assurance Program). The Value for Territory Assurance Program is described in the NT Procurement Governance Policy as:

*The Value For Territory Assurance Program is an overarching program of audit and assurance activities that evaluates:*

- *Internal government compliance with the Procurement Framework (including the Procurement Act, Procurement Regulations, Procurement Governance Policy and Procurement Rules)*
- *Internal government and external industry compliance with the Buy Local Plan*
- *The effectiveness of the Buy Local Plan*
- *The impact of the Buy local Plan (including unintended impacts)*

All NT government agencies currently undertake an annual internal Value for Territory Audit. A copy of the resulting Audit Report for the previous calendar year is required to be provided to my office by the 31st of March each year. The audits are designed to test the ability of agencies internal processes to deliver procurement activities that comply with all of the NT governments Procurement Rules.

I note that currently there is some agency resistance to the undertaking of the Value For Territory audits. It is said that the audits can be time consuming and resource hungry, and comment has been made that each year's report provides little value to the agency as it keeps identifying the same findings. On this basis, some contend that they should be discontinued as they deliver little value to the agency. I argue that the identification of the same issues year on year is precisely the reason why these audits should continue, as the audits highlight an agencies inability or unwillingness to address the problems identified, and without there being the opportunity to have this brought to the agencies attention in a timely manner then any expectation that deficiencies may be addressed is unrealistic. Agencies need to address the root cause of the issues, not remove the process that identifies them. If the root cause is inefficiency in the framework then refine the framework to remove the inefficiencies. I am hopeful that the review to be undertaken under Q22-0222 (refer [Section 9.1](#) of this report) will consider this issue and recommend a sensible way forward.

There are 5 key principles that must be applied in every NT Government procurement activity. They are:

1. Value for Territory;
2. Ethical Behaviour and Fair Dealing;
3. Open & Effective Communication;
4. Enhancing the Capabilities of Territory Enterprises and Industries; and
5. Environmental Protection

The procurement framework used by the NT Government is described as a Value for Territory procurement framework, which if followed should deliver the best Value for Territory outcome for every procurement activity undertaken. As a consequence an effective Value for Territory Assurance Program must focus on all aspects of compliance with the procurement framework, not just those aspects relating to Local Content. Assessing agency compliance with all aspects of the procurement framework therefore continues to be the cornerstone of the Value for Territory Assurance Program.

My overall assessment on the delivery of Value for Territory is based upon information gathered by me through;

- Monitoring, reviewing and providing feedback on the results of the annual Value for Territory Audits undertaken by procuring agencies;
- Review of agency specific Procurement activities;
- Review of agency compliance with specific Procurement Rules;
- Review of procurement complaints referred to me for investigation;
- Observations made by the Auditor General of the NT;
- Observations made by the Independent Commissioner Against Corruption;
- Industry consultation and feedback; and
- Agency consultation and feedback.

### 6.3. Outcome of Value for Territory audit reviews

This year there were 19 NT Government agencies that provided Value for Territory Audit Reports to me for review and consideration. As outlined above, these reports are used by me as an integral part in my determination of whether agency procurement processes are being adequately complied with to deliver best Value for Territory.

The reports covered the calendar year ending 31 December 2021, and were due for submission to me by 31 March 2022. Some agencies requested, and were granted, extensions of time for lodgement of their reports.

All 19 agencies submitted their Value for Territory Audit reports to me for the year ended 31 December 2021, however four agencies were unable to submit their reports by their due date, or the agreed extended due date. They were:

- Department of Chief Minister and Cabinet (due 30/04/22, received 04/05/22);
- Department of Education (due 31/03/22 received 01/04/22);
- Aboriginal Areas Protection Authority (due 06/04/22, received 07/04/22);
- Department of Infrastructure, Planning & Logistics (due 30/04/22 received 16/05/22);

In a pleasing development this year I was able to conclude that all 19 agencies were likely to have delivered satisfactory Value for Territory through their procurement process during the period 1 January 2021 to 31 December 2021. This is the first time since the introduction of the Buy Local Plan that I have been able to reach this conclusion.

I would especially like to mention NT Police Fire and Emergency Services (NTPFES). NTPFES has not previously been rated by me as satisfactory in any year since the introduction of the Buy Local Plan. I have seen a steady year on year improvement in their procurement process since my first rating, and would like to acknowledge and thank them for their commitment to address the identified deficiencies in their systems over the last five years that have enabled them to achieve this result this year. Without the detailed findings identified in their annual Value For Territory audits it is highly unlikely that the agency would have become aware of the extent of the issues within their procurement processes, and therefore it is unlikely that they would have taken subsequent action to rectify them – well done.

### 6.4. Compliance with Procurement Rules 26 and 28.

Breaches of Contract Management Planning (Procurement Rule 26) and Performance Reporting (Procurement Rule 28) are matters that are still identified in Value For Territory Audits for nearly every NT government agency. These breaches appear in agency Value For Territory Audits nearly every year. The non-compliance rates identified are slowly decreasing but, in my opinion, remain far too high.

In discussions with agencies I am often told that the non-compliance rates are as high as they are due to insufficient agency resources to ensure adequate compliance. While this may be a reason for the high non-compliance rates, it is not an excuse. If poor contract management planning occurs, which leads to ineffective or non-existent performance reporting, then the government cannot just assume that they have received the best Value For Territory for the contract deliverable.



Contractor Performance Reports are often not done, or are done without sufficient thought and candour that reflect the agencies true assessment of performance. Sometimes this occurs as the person preparing the report does not feel comfortable to record things which may lead to conflict with the supplier. While this is understandable, it is not excusable. Contractors need candid feedback to be able to identify areas for future improvement.

Poorly documented evidence of past underperformance by contractors may also lead to them being rewarded with future works. This is unlikely to lead to the best Value For Territory procurement outcome on both the current and the next procurement deliverable.

## 6.5. Auditor General of the NT

The Auditor-General of the Northern Territory tabled a Report to the Legislative Assembly in August 2022. Within that report the Auditor-General published the results of Agency Compliance Audits that were undertaken in respect to 16 agencies.

The scope of these audits related to a number of focus areas. One of the focus areas was *"the extent to which agencies had complied with promulgated requirements with respect to compliance with the Procurement Act 1995, Regulations made under that Act and Procurement Rules"*.

The control weaknesses identified in respect to procurement were as follows:

- Tier 1 transactions for which approval to invite quote was unable to be provided.
- Tier 1 transactions were identified where evidence of one quotation being obtained was unable to be provided.
- The approval to accept a quotation was unable to be provided for two tier 1 transactions.
- The approval provided for one tier 1 transaction did not state the total contract value being approved.
- One tier 2 transaction was incorrectly classified as tier 1 based on the Goods and Services Tax exclusive amount. As a result, the transaction was approved by a delegate with insufficient authority and was also non-compliant with all tier 2 procurement requirements.
- One tier 2 transaction was identified for which the notification of outcome was sent to suppliers prior to the approval of the 'Recommendation to accept quote'.

- One tier 2 transaction was identified where an addendum was issued, however this information was not updated in APRO nor in the *'Recommendation to accept quote'*.
- One tier 2 transaction was identified where the following instances of non-compliance with procurement rules were observed:
  - Evidence that the agency sought a minimum of three quotes was unable to be provided;
  - The *'Authority to invite quotation'* form was unable to be provided;
  - The conflict of interest declaration forms were not submitted by members of the assessment panel; and
  - The notification of outcome was not sent to the unsuccessful supplier.
- The approval for one addendum issued was unable to be provided for a tier 3 transaction.
- Two tier 3 transactions were identified where the delegate signing the Project Specific Procurement Plan (PSPP) did not expressly indicate that 'approval' of the PSPP and its attachments had been granted.
- One tier 4 transaction was identified where the delegate signing the *'Authority to purchase supplies'* form did not expressly indicate that approval had been granted. In addition, this transaction breached the following procurement rules:
  - APRO was not used; and
  - A procurement assessment was not performed.
- There were four tier 1 transactions where the agency could not demonstrate approval was given to obtain a quote.
  - The evidence of one quote being obtained for one tier 1 transaction could not be provided.
  - Conflict of interest documentation for one tier 2 transaction was unable to be provided.
  - One tier 2 transaction was identified where the delegate signing the Project Specific Procurement Plan (PSPP) did not expressly indicate that approval of the authority to invite offer (as part of the PSPP) had been granted.
- NT Procurement Rules Section 13.2 states: *'The agency must ensure that at least two Territory enterprises are invited to provide an offer for Tier 2 supplies.'* At one agency, three instances (from a sample of five Tier 2 procurements) were identified where the agency only invited one Territory enterprise to quote.
- NT Procurement Rules Section 19.7 states: *'The assessment should identify, assess and document any risks in the offers.'* At one agency, two instances (from a sample of 25 procurement activities) were identified that did not have a documented Procurement Assessment Recommendation and thus could not demonstrate that the Section 19.7 requirement had been met.

The Auditor-General noted that *"Whilst none of the exceptions identified in the audits were indicative of pervasive across-government weaknesses leading to material misstatements of the Treasurer's Annual Financial Statements, a number of controls weaknesses and issues were identified at many agencies during the agency compliance audits."*

It is no surprise to me that the Auditor General's review identified the above non-compliance instances, which are consistent with the types of non-compliance instances noted by my office during my procurement activity reviews, as well as those identified in agency Value For Territory Audits. It is comforting to note that the Auditor-General does not consider these non-compliance instances to be indicative of pervasive across-government weaknesses.

The volume of non-compliance instances noted in respect to Tier 1 procurements (value less than \$15,000) is not surprising and lends weight my view that the Tier 1 procurement is too complex and not really fit for purpose. I make further comment on this in [Section 8.20](#) of this report.

## 6.6. Use of Certificates of Exemption

The Procurement Rules allow agencies to utilise Agency Issued Certificate of Exemption to allow the use of alternate or restricted (non-standard) procurement methods.

In my previous Annual Report I commented that I had seen instances of the use of certificates to justify approaches to limited or sole source procurement of consultancy services, where in my opinion, the procurement activity has been documented to support selection of a pre-determined preferred supplier rather than putting the work to market to test for other alternative providers.

As part of my monthly routine I review all contracts awarded in the previous month as recorded on Quotes and Tenders Online (QTOL). One of the things I note during these reviews is the instances of the use of Certificates of Exemption. Depending on the detail of the information contained within QTOL to support the use of certificates, I sometimes question agencies for further justification. The enquiries that I have made with agencies during the past year have shown an improvement in the quality of documentation of the reasons to support the use of certificates. Further, I have formed the view that while there are still instances of the use of certificates to support the selection of pre-determined suppliers, I believe overall that it has diminished.

I will continue to monitor the use of alternate procurement methods through the use of Agency Issued Certificates of Exemption to ensure that their use is properly supported.

## 6.7. Has Value for Territory been delivered?

This past year has seen a considerable step forward in the government's ability to equitably assess tenders in accordance with the intent of the Buy Local Plan.

The first stage of the Value For Territory Assessment Framework (Local Content assessment) was rolled out for use by all government agencies in all procurements undertaken after the 3<sup>rd</sup> of October 2022. While this step has been a long time coming, and one where I have criticised the government in the past for its slow implementation, I thank the government for its eventual roll out.

I have received positive feedback from agency staff who believe the framework will provide them the opportunity to make more consistent and defensible procurement decisions. I do also note that there were some initial teething issues with the internal processes being used, however I am confident these will be overcome in the near future. Industry is yet to provide any significant feedback on it given that it has only just been introduced across government.

I have also received some negative feedback from agency staff on the framework. This feedback relates to the functionality of the framework that has been rolled out rather than to the intent and purpose of the framework.

As with all new processes the framework will require refinement and adjustment over time to ensure it provides the required functionality while at the same time delivering its intended benefits.

The balance of the remaining components of the Value For Territory Assessment Framework are scheduled for government wide implementation by the end of March 2023. Given some of the functionality issues experienced with the rollout of Local Content, I think it will be unlikely that the rest of the framework will be delivered by that date.

I review only a very small percentage of the total government procurement activities each year. Of those activities I review, I find departures from the Procurement Rules, many of which may be considered minor and which do not affect the overall assessment outcome and delivery of best Value For Territory. There are however some departures from the Procurement Rules which lead me to conclude that the best Value for Territory tender response may not have been selected.

Once again this year I have again seen instances of procurement activities where I do not believe that the selection of the successful tenderer has delivered the best Value for Territory outcome. This number has again diminished comparatively to previous years, which is encouraging based on the fact that the number of procurement activities I have reviewed has increased. On a



proportional basis I believe that there have been less instances of not delivering best Value For Territory than in previous years.

As noted in [Section 6.3](#) of this report I was able to conclude of the 19 agency Value For Territory Audit Reports I reviewed, all were likely to have delivered satisfactory Value for Territory through their procurement process during the period 1 January 2021 to 31 December 2021.

As stated in [Section 6.4](#) of this report, and notwithstanding the noted slight improvement in the level of contract management and performance reporting observed across government, I remain concerned about the high level of non-compliance. These concerns continue to reduce my confidence that the NT Government is receiving the level of goods or services it has contracted and paid for, and that due to the poor level of performance reporting, that it continues to deal with businesses that have not met an adequate level of service delivery in past contracts.

The continued poor contract management and performance reporting practices, at times inappropriate use of Agency Issued Certificate of Exemptions, and identified departures from the Procurement Rules undermines my confidence that best Value for Territory is what is being delivered in all procurements.

However, notwithstanding the reservations I have expressed above, I have concluded that a very high percentage of procurement awards made by the NT Government in the last year are likely to have been determined based on the selection of the best Value for Territory outcome as anticipated under the procurement framework.

Given the subjective nature of the assessment of Value For Territory the question of whether or not it has been delivered is also subjective. In my view the optimisation of the delivery of Value For Territory by the NT Government through its procurement processes in the period since my last Annual Report has improved to a level that is higher than in any previous period since the introduction on the Buy local Plan.

## 7. The Buy Local Plan

The Buy Local Plan is an overarching policy document of the government which sets out a broad framework for how it intends to meet its stated objective of ensuring that the largest possible proportion of every dollar spent by the NT Government is retained within, and delivers benefit for, the Northern Territory economy and community.

The Buy Local Subcommittee was established under the Buy Local Plan, and is a subcommittee of the Northern Territory Procurement Review Board. It was established at the same time as the role of the Buy Local Industry Advocate.

Since publishing my fourth Annual Report the subcommittee has met on 4 occasions. The members of that subcommittee during last year were;

- Denys Stedman – Buy Local Industry Advocate (chair)
- Andrea Moriaty – Kalo Real Estate – industry representative
- Margaret Michaels – Clayton Utz – industry representative
- Kevin Peters – ICNNT representative
- Greg Ireland – NT Chamber of Commerce representative

In addition, the chair of the Procurement Review Board, Mr Doug Phillips, has a standing invitation to attend as an observer at the subcommittee meetings, as does a representative from Procurement NT.

Margaret Michaels resigned her position on the Procurement review Board on the 23 November 2022, and therefore also her position on the Buy Local Subcommittee. I would like to thank Margie for her wise counsel and valuable contribution to the subcommittee over the past 5 years. A new member is yet to be appointed to replace Margie.

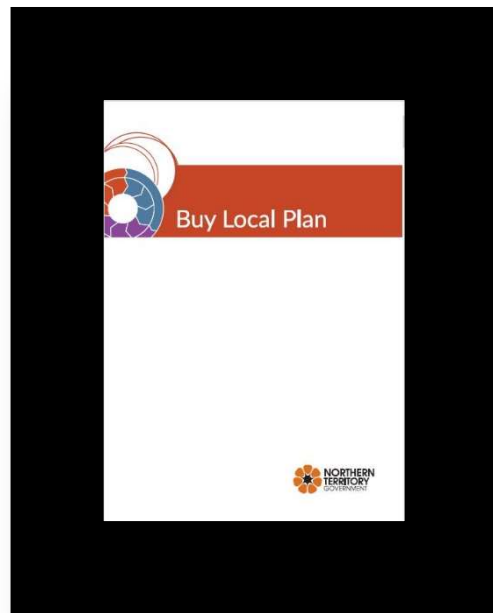
I also thank the remaining members for their input and counsel in respect to matters which the subcommittee has considered, and for their ability to bring a balanced industry related focus to our discussions.

### 7.1. Effectiveness of the Buy Local Plan

The measurement of the effectiveness of the Buy Local Plan is subjective in nature and continues to remain a challenge due to the reliability of whole of government procurement data.

The ability to measure the effectiveness of the Buy Local Plan would be strengthened by incorporating a number of recommended changes into the procurement framework, as discussed in [Section 8](#) and elsewhere in this report.

The principles contained in the Buy Local Plan continue to receive support both from government and industry regarding the importance of supporting Territory Enterprises and buying local.



## Year on Year Comparison of Contracts Awarded

The reporting of agency and whole of government spending covering all procurement Tier levels is still not available.

For the fifth year running I urge the government to commit the resources required to introduce a procurement management and recording system capable of capturing and accurately reporting all of this information at both an agency and whole of government level.

The current NT Government systems can only provide NT Government contract award data for Tier 2 to 5 procurements (\$15,000 and above). The data does not include government owned corporations and purchases made under pre-existing period/panel contracts during the reporting period.

The data provided to me last year showed the number and value of contracts awarded by the NT Government for the 5 years to 2020/21 was as follows:

**Table 2020/21**

Financial Year	Total Contracts Awarded		Contracts awarded to Territory Enterprises			
	No of contracts	Awarded Value of contracts	No of contracts	% of Total	Value of contracts	% of Total
2016/17	1860	\$657,297,081	1493	80.3%	\$536,519,272	81.6%
2017/18	2319	\$1,492,627,918	1892	81.6%	\$1,134,262,795	76.0%
2018/19	1645	\$935,873,098	1497	81.9%	\$848,667,326	90.7%
2019/20	2183	\$1,405,299,198	1771	81.1%	\$1,045,325,097	74.4%
2019/20 adjusted*	2183	\$1,405,299,198	1780	81.5%	\$1,154,416,096	82.1%
2020/21	1658	\$1,158,018,063	1245	75.1%	\$934,957,505	80.7%

The data provided to me this year shows the number and value of Tier 2 to Tier 5 contracts awarded by the NT Government for the past 4 years to 2020/21 is as follows:

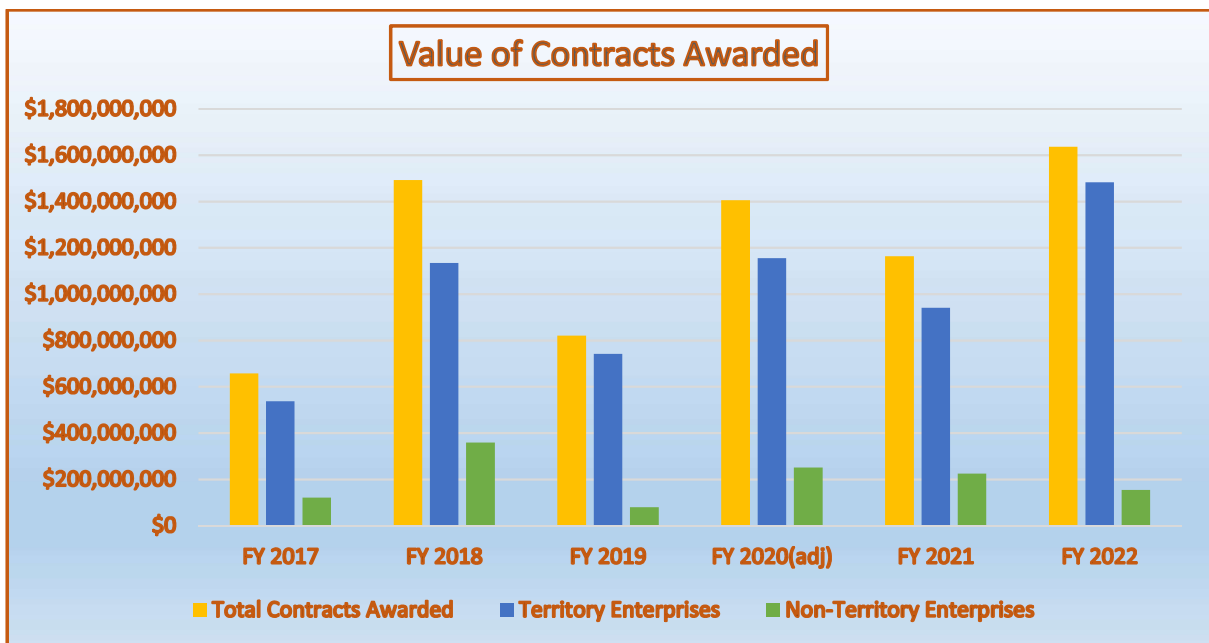
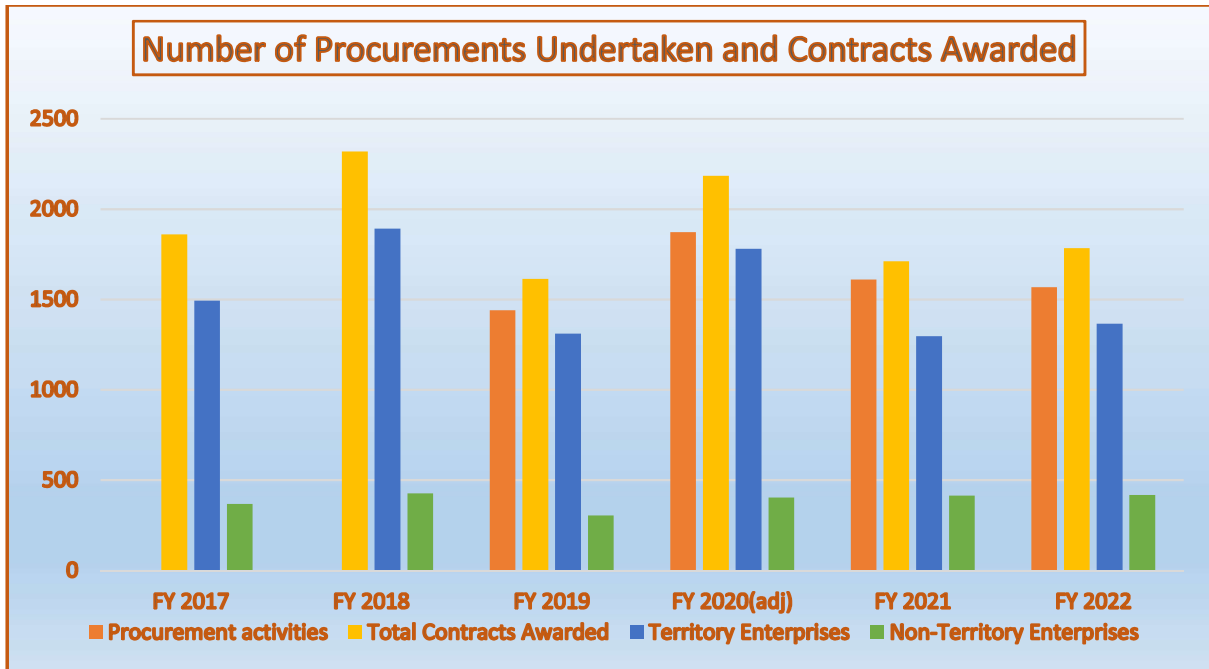
**Table 2021/22**

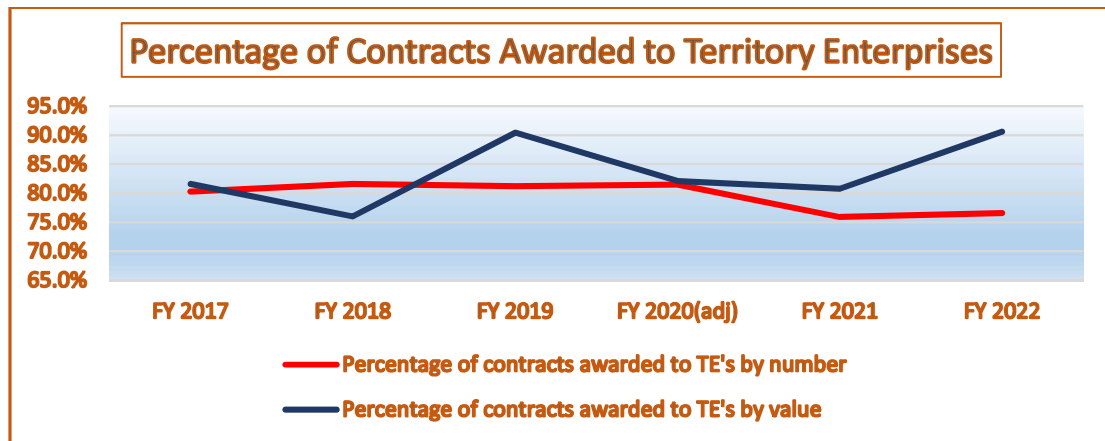
Financial Year	Total no. of procurement activities	Total Contracts Awarded		Contracts awarded to Territory Enterprises			
		No of contracts	Awarded Value of contracts	No of contracts	% of Total	Value of contracts	% of Total
2018/19	1439	1614	\$820,354,293	1310	81.2%	\$741,712,713	90.4%
2019/20	1872	2183	\$1,405,299,198	1771	81.1%	\$1,045,325,097	74.4%
2019/20 adjusted *	1872	2183	\$1,405,299,198	1780	81.5%	\$1,154,416,096	82.1%
2020/21	1610	1710	\$1,163,642,949	1297	75.9%	\$939,984,425	80.8%
2021/22	1568	1783	\$1,636,393,350	1366	76.6%	\$1,482,610,930	90.6%

\* As outlined in my third Annual Report the 2019/20 figures were significantly impacted as a result of the awarding of a 5 year panel contract for the provision of passenger and light commercial vehicles. The value of this contract was estimated to be \$150,000,000 over a five year period, and due to the contractual requirements of the vehicle manufacturers, 8 of the 11 awarded panel contractors are the manufacturers of the vehicles, which are reported for procurement purposes as not being Territory Enterprises. This is despite the fact that the sale and supply of all vehicles will be through NT based dealers associated with those manufacturers. When the figures for 2019/20 are adjusted to

recognise all suppliers as Territory Enterprises (given the vehicle sales and delivery will all be through NT dealers) then the total value and percentage of contracts awarded to Territory Enterprises change to the adjusted amounts shown in the above tables.

The following graphs summarise the above data:





The data provided to me this year, which includes the comparative data for previous years, has again altered when compared to the data provided to me for these same periods last year. This is an example of why I continue to be uncomfortable to rely on statistical information extracted from the current government procurement recording systems.

It should be noted that the total number of procurement activities per the table does not equate to the number of contracts awarded due to some procurement activities being awarded to multiple providers.

As can be seen from the tables and graphs above, the total number of procurement activities undertaken has decreased from the previous year, while total contracts awarded and contracts awarded to Territory Enterprises for the 2022 financial year have increased in comparison to the previous year.

The percentage of total contracts awarded to Territory Enterprises has increased marginally from the previous year to a level of 76.6%, but has not returned to the above 80% level experienced in the first four years.

The value of contracts awarded to Territory Enterprises shows a significant increase when compared to all previous years to its highest ever level of 90.6%.

The Buy Local Plan has been framed to ensure that the largest possible proportion of every dollar spent by the NT Government is retained within and delivers benefits for the Territory economy and community. The above figures suggest that for the last financial year (2021/22) this objective has been met when compared to results obtained in all previous years. This is an encouraging result and one to be acknowledged as positive progress. The sustained benefit of this for the NT will be achieved when spending is maintained at this level or higher, year on year, over a significant period of time.

## 7.2. Investigation of Complaints

When the Buy Local Plan was first introduced a high proportion of complaints focused around understanding or explaining why the cheapest tender did not get awarded the work, or how one tenderer was considered to be more local than another. These topics are still relevant but both industry and agencies have gained an improved understanding of the concept of Value For Territory, which in turn has led to less complaints about these specific issues, and I think less complaints overall. This has also led to the nature of the complaints being reviewed being more complex.

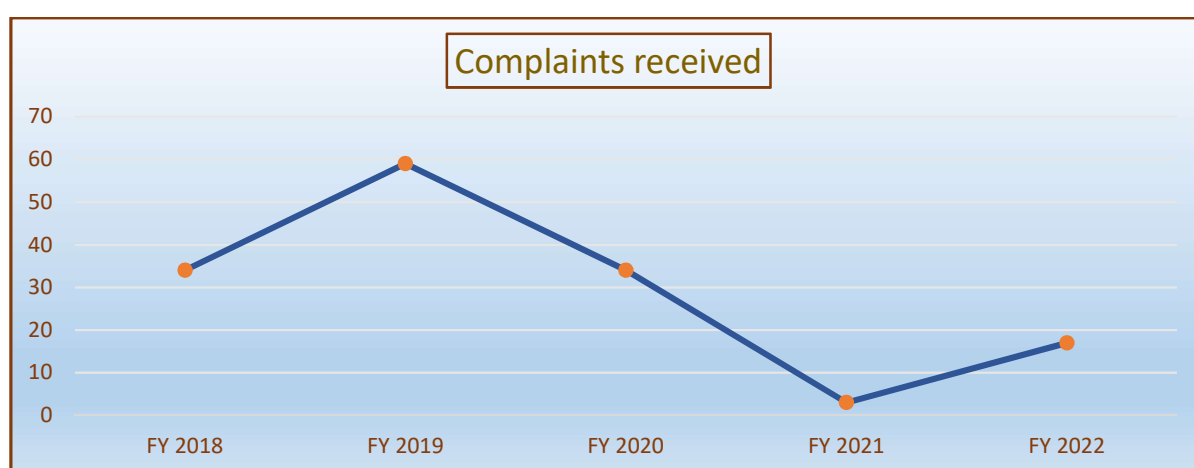
My previous Annual Report noted a significant reduction in the number of complaints received when compared to the previous year. It was a total of 3 complaints.

This past year saw an increase in the number of complaints received, to a total of 17 complaints. This is a 467% year on year increase, which needs to be put into perspective;

1. While it is an increase of 467%, the increase in the actual number is 14.
2. The increase is only 29% to 50% of pre pandemic complaint levels.
3. General economic activity continued to increase throughout the Northern Territory over the past year, causing industry to remain busy to a level higher than what was being experienced pre pandemic. I believe that when industry is busy they tend not to complain as much as when they are not busy.
4. It is possible that the level of complaints has been affected by the improved level of agency compliance with the procurement rules, and therefore there is less business dissatisfaction with the award outcomes. There is anecdotal evidence to suggest that this is perhaps true in some circumstances, however there is also contrary anecdotal evidence to suggest that some businesses are simply not complaining as they are scared about missing out on future works, and/or they have a perception that past complaints have led to little or no compliance improvement by agencies and therefore they do not wish to "waste their time" by complaining.

The following table and chart sets out on an annual basis the number of formal complaints received and actioned by my office for the past 5 financial years.

Formal Complaints	FY 17/18	FY 18/19	FY 19/20	FY 20/21	FY 21/22
Open complaints b/f	-	8	18	6	2
Complaints received	34	59	34	3	17
Complaints closed	26	49	46	7	14
Open complaints c/f	8	18	6	2	5



In addition to the above formal complaints I have also been involved in many other discussions with business owners in respect to concerns relating to specific procurement activities. These concerns have led me to undertake initial investigation into the matters to obtain further context

which has then enabled me to brief the business with additional detail and removed the requirement for the matter to be escalated to a formal complaint requiring review by my office.

## 7.3. ICAC

As a Public Officer as defined under the ICAC Act I have a mandatory obligation to report improper conduct, whether real or suspected. Improper conduct includes Corrupt Conduct, Misconduct and Unsatisfactory Conduct.

### 7.3.1. Matters referred to ICAC

Since the release of my previous Annual Report I have referred 2 further matters to ICAC.

### 7.3.2. Status of matters previously referred to ICAC

ICAC is under no obligation to advise me of the current status of investigations being undertaken by them on matters I have referred, however it does acknowledge receipt of my referrals and advises me of the outcomes of their deliberations.

The status of the matters that I had previously referred and were unresolved at the date of my previous Annual Report, and the matters I have referred in the last year, is as follows:

- ICAC's investigation of the matter I referred to them in 2019 has been discontinued as the allegations were not substantiated;
- The first matter referred to ICAC in 2022 remains under investigation as far as I am aware; and
- I have been advised by ICAC that the second matter I referred to them last year was referred back to the agency for review, who subsequently advised ICAC that they had undertaken a "cleanskin" assessment of the procurement activity and determined that Value for Territory was achieved and the assessment was fair, unbiased and objective. Based on this advice from the agency ICAC determined to take no further action and closed my referral.

### 7.3.3. ICAC Procurement Investigations

Table 7 of the Office of the Independent Commissioner Against Corruption NT Annual Report 2021-22 shows that of the 17 investigations commenced during the year, two were in respect to improper procurement practices. This was the same number of procurement related investigations that were commenced by ICAC during 2020-21.

### 7.3.4. ICAC Agency Procurement Review

In the OICAC 2021-22 Annual Report the ICAC Commissioner stated;

*My office had also received a number of reports relating to impropriety in procurement activities emanating out of the Katherine office of the Department of Infrastructure, Planning and Logistics. I determined to conduct a review of the practices, policies and procedures of that department, focusing upon activities in Katherine. That review is underway and is being conducted by my Executive Director Operations*

I am unaware of either the status or outcome of that review.

## 7.4. Authority of the Buy Local Industry Advocate

The authority to undertake my role is not defined by any specific statute.

My role is outlined in Section 7 of the Buy Local Plan.

Section 7 of the Buy Local Plan states;

*“The Buy Local Industry Advocate ensures that Territory enterprises are provided full, fair and reasonable opportunity to compete for government contracts, that value for Territory is considered in all aspects of government contracting, and promotes the adoption of Buy Local principles by industry”.*

My authority to request information is contained in Procurement Rule 1.7.

As local content is only one component of Value for Territory, I will continue to ensure I consider all aspects of procurement policy and process to ensure that the best Value for Territory outcomes are being delivered in all procurement activities I review.

## 7.5. Unintended Consequences

Anecdotal evidence suggests that the number of businesses who have developed and actively implemented their own “Buy Local” policies which are aimed at supporting regional and other NT based businesses through their supply chains, continues to grow. It is becoming more common to see Territory Enterprises displaying their “Buy Local Policy” on their websites and in brochures and other promotional materials they produce. The adoption of these policies has also grown to incorporate commitments to the support of indigenous organisations and businesses throughout supply chains.

I also continue to see through engagement with industry peak bodies a sustained and increasing focus at an industry level on the value of local business supporting local business. I see this as positive support by business of the Buy Local Plan intent.

I have not identified any additional unintended consequences from the application of the Buy Local Plan.



## 8. Recommendations For Improvement

All of my previous Annual Reports have identified matters that in my opinion presented opportunities for the NT Government to strengthen and improve the procurement framework to deliver more consistent Value for Territory outcomes, strengthen the intent of the Buy Local Plan, and enable meaningful measurement of the effectiveness of the Buy Local Plan.

I no longer receive any progress updates from the Minister for Small Business or his agency as to the status of the progress of the government's response to any of the recommendations previously made by me.

### 8.1. Whole of Government Procurement and Reporting System

There still does not exist one single whole of government procurement management system that collects, collates and reports all procurement information.

As I have stated previously, in order for any reliable assessment of the effectiveness of the Buy Local Plan to occur, reliable baseline and ongoing spending data needs to be captured and reported at an agency level which can then be consolidated into whole of government data. I believe that this information would also provide significant benefit to agencies in monitoring and controlling their entire procurement spend.

I have been advised that this recommendation still does not fit within the governments data strategy priorities. I find it difficult to understand why any large organisation such as the NT government does not see the benefits in having a single integrated procurement management and reporting system for use right across the organisation.

As I noted last year two agencies have already implemented "off the shelf" procurement management systems to support the management of parts of their procurement process, and during the last year I became aware that another agency had developed their own system.

I again call on the government to establish an integrated whole of government procurement management and reporting system to facilitate, monitor and report on both agency and whole of government procurement activities at all procurement Tier levels, before the current situation evolves into a number of agency specific solutions that cannot be consolidated into a whole of government system.

Due to the governments continuing lack of commitment to address this recommendation I consider the progress of advancing the recommendation over the past twelve months as **No Progress**.

### 8.2. Contract Management

In his 2020-21 Annual Report the ICAC Commissioner made the following observation:

**Oversight must not end when a procurement decision has been made. Ensuring that goods or services have been delivered, carefully scrutinising the rationale for contract variations, and ensuring timeframes are met, must also occur.**

The importance of effective contract management cannot be understated.

### 8.2.1. Contract Management Planning

My review of Value for Territory Audit Reports this year indicated that instances of non-compliance in the application of procurement rules relating to contract management planning has improved in some agencies, however across the whole of the NT government I consider it has improved only slightly.

I consider the improvement of compliance with the Contract Management Planning rules across the whole of government remains **In Progress**.

### 8.2.2. Contract Management

Substitution of nominated sub-contractors and suppliers post tender award has been an area of concern in past years. The oversight and management of this practice appears to have improved this year with very few instances of it coming to my attention.

The Value For Territory Audit Reports provided to me by agencies this year again identified that poor contract management practices continue to be an ongoing non-compliance issue for many agencies. They also identified that some agencies have made significant effort to improve their practices, and as a result their compliance with contract management requirements is improving.

I thank those agencies for their efforts and improved results, however the improvement of contract management practices is not an issue that has been actively embraced by all agencies. In the words of the ICAC Commissioner, "oversight must not end when a procurement decision has been made".

Changes in contract management practices have been noted, ranging from no improvement in some agencies to significant improvement in other agencies. Overall across government I consider improvement in contract management is **In Progress**.

### 8.2.3. Trax (formerly known as Contrax)

I have previously recommended that the adoption and use of the Trax contract management and reporting platform be made mandatory for all agencies. Both the Minister for Small Business and the Procurement Review Board have supported this recommendation and have been advocating for its implementation.

The Procurement Reference Group (PRG) of the NT government has been tasked with overseeing the implementation of the mandated use of Trax across all government agencies.

At the time of preparing this report an implementation plan to mandate the use of Trax by all agencies is being developed for the consideration of the PRG. Department of Infrastructure Planning and Logistics works contracts will not be mandated to use Trax as they will continue to be managed by an existing proprietary contract management system.

The use of Trax across government remains inconsistent and its functionality has been subject to some criticisms by its users, however I note it is slowly being embraced. Once the implementation plan is finalised and rolled out, consistent use by all agencies should be the result. We have not yet reached that point, and are unlikely to do so before 30 June 2023. I consider that implementation of this recommendation is now **In Progress**.

### 8.2.4. Training

As noted in my previous Annual Report the government had engaged a training provider and made online Contract Management Training available for all agencies to provide to their staff.

From my role on the Procurement Review Board I am aware that from 1 January 2022 to 30 September no Advanced Contract Management courses were delivered and that during the same period 552 NT government staff members completed the online *Introduction to Contract Management* training module.

In late September 2022 a new contract was awarded for the provision on non-accredited procurement training, including Advanced Contract Management. The course was delivered in Darwin in late November, and has also been scheduled for delivery in Darwin and Alice Springs over February, March and May 2023.

Training is an ongoing requirement if government is to ensure that new staff are adequately trained, and existing staff are kept up to date with changes. The progress has been slow in re-establishing this training, but I acknowledge that progress has been made, and encourage the government to ensure that Advanced Contract Management courses will remain available every year from now on.

While it may be argued that training is never complete due to the requirement to ensure staff remain up to date at all times, I consider the progress on this matter to be **Complete** from my perspective, subject to its ongoing use.

### 8.2.5. Conclusion

My assessment of the progress on each of the four components of this recommendation varies between In Progress to Complete. This is an improvement on the assessment I made in my previous Annual Report.

Progress has been made in respect to Contract Management and Contract Management Planning, as well as a demonstrated commitment to improved training, and there has now been some progress on the implementation of the mandated use of Trax. Overall, I consider the progress of advancing this recommendation over the past twelve months remains **In Progress**, and I look forward to seeing further positive results in this area next year.

## 8.3. Procurement Staff Career Development

As noted in my previous Annual Report the government introduced a Procurement Capability Development Framework for procurement staff in 2019/20, which was to be fully implemented within 3 years.

The emergence of Covid-19 had a significant effect on the implementation of the framework, particularly with face-to-face training.

Completion of online procurement E-Learning modules remains at high levels but has shown a decline across the first three quarters of 2022, with 1,434 modules having been completed in quarter 1, 1,272 in quarter 2, and 1,075 in quarter 3. I do not have access to the module completion rates for quarter 4.

As noted in **Section 8.2.4** above there has only been one instance of non-accredited procurement training delivered during 2022.

At the commencement of the year there were 40 staff enrolled in procurement related accredited (Certificate and Diploma) courses. At the end of September 2022, there was only one enrolled staff member remaining with 14 having completed their courses, and 25 having withdrawn. The withdrawal of more than 50% of enrolled students is a cause of concern, noting that some withdrawals may have been due to staff resignations.

A provider for the delivery of Certificate IV in Procurement & Contracting, and Diploma of Procurement & Contracting courses is currently being sourced with commencement being planned for 2023.

The ongoing commitment to develop and deliver this framework is key to the delivery of good procurement outcomes. I consider the progress of advancing this recommendation over the past twelve months as **In Progress**, and note that once the reintroduction of both accredited and non-accredited courses has been fully implemented then it is likely this recommendation can be considered complete.

## 8.4. Alternative Tenders

In April 2020 Procurement NT undertook to develop a process to identify ways to strengthen guidance for agencies on how to assess alternate tenders.

In late January 2023 Procurement NT delivered its first “knowledge share” on the topic to staff of DCDD Procurement Services. I am unaware of the content of the knowledge share.

Due to the late and limited action taken in respect to this recommendation I consider the progress of advancing this recommendation over the past twelve months as **Limited Progress**.

## 8.5. Tender Specifications

The accuracy and relevance of tender scoping specifications and information continues to be raised with me by industry on a regular basis. This is particularly notable with engineering and construction works.

This issue has been acknowledged by some agencies who have advised that they have made internal changes to improve in this area, but shortages of technical and professional staff of both the agencies, and consultants engaged by the agencies to assist them, has been hampering their ability to deliver improvement.

There have been 475 staff over the first three months of the last calendar year who have completed the Introduction to Scope Writing eLearning module. In late September 2022 a new contract was awarded for the provision on non-accredited procurement training, including a “Writing a specification/scope” course. The course was delivered in Darwin in late November, and has also been scheduled for delivery in Darwin and Alice Springs over February, March and May 2023.

The Department of Corporate and Digital Developments’ procurement services group support agency staff to develop scopes, however they also rely on subject matter experts to ensure specifications are appropriate.

In my previous Annual Report I commented that procurement is often tasked to agency staff who have neither the technical expertise nor the experience to understand the full nature of the specific procurement requirements. I also commented that this was not a criticism of these staff, but an acknowledgement of the fact that expertise and experience is not always available when

needed. The availability of skilled professional and technical staff across many industry groups in the NT has worsened over the last year, which has contributed to this issue continuing to occur.

I acknowledge the government's efforts made over the last year to ensure agency staff have been able to access appropriate training of staff.

While there remains a high level of negative industry feedback on this issue I consider there has been progress made by the government in advancing this recommendation over the past twelve months. The availability to access the necessary technical and professional skills within the NT will continue to hamper the government's ability to deliver this recommendation, and therefore I consider it remains **In Progress**.

## 8.6. Tender Debriefs

Since the release of my previous Annual Report it has been the policy that all NT Government agencies make available to tenderers their scores and assessment notes prior to debrief. I do not have access to information which shows me how many tenderers have received their scores, nor how many have undertaken formal debriefs.

Anecdotally however I have had feedback from agency staff that the number of tenderers requesting formal debriefs has reduced. In addition I have had feedback from industry to the effect that they often do not seek formal debriefs as the assessment notes and scores give them the information they seek. This is an encouraging outcome.

Industry feedback indicates that this change in approach by the government is generally well received. Tenderers generally remain positive about the quality of debriefs received, particularly with those delivered by Department of Infrastructure Planning and Logistics. That is not to say that all debriefs are well received, but improvement continues.

I understand that it is unlikely that every tenderer will be happy with either the outcome or quality of debriefs. Releasing of their scores and assessment notes prior to debrief has enabled some tenderers to understand why they were unsuccessful and remove the need for a formal debrief. I will continue to monitor industry feedback on this matter, however I consider that this recommendation is now **Complete**.

## 8.7. Local Content Assessment and scoring

In my previous Annual Reports I have been very critical of the government over the development and delivery of the development of the Value For Territory Assessment Framework (VFTAF), particularly in meeting the many proposed implementation dates. Business does not have the capacity to regularly monitor government's progress in implementing proposed changes. It relies on me to do this for them. Government's inability to meet timeframes reflects badly not only on government, but also on me. I remain critical about those various missed timeframes.

The Local Content component of the framework was first discussed with industry in mid to late 2018. Subsequent to those initial discussions a proposed framework was developed by industry for scoring of Local Content, which was then passed on to the Procurement Review Board (PRB) for consideration. In May 2019 the PRB requested Procurement NT to progress development of the Local Content Assessment Framework. In January 2020 the government committed to the development of the VFTAF when it released a VFTAF fact sheet.

The Local Content component of the VFTAF was finally rolled out for use by all NT government agencies going to market on or after 3 October 2022. Some technical issues were experienced upon rollout which delayed its use by a further week.

Initial feedback I received from agency staff was that they supported the rollout of the Local Content component of the framework and its intent of providing the guidance, consistency and certainty around how tenders were to be assessed, along with its inbuilt ability to provide a documented defensible decision. This initial enthusiasm was later tempered after some agency staff expressed concerns around the functionality of the process and the allocation and calculation of scores. Concerns have also been raised around the quality of training provided in the use of the tool developed. I understand that these concerns are currently being addressed.

The Local Content component will need further modifications and changes as time progresses and as improvements are identified and constructive feedback is received. This was always to be expected.

I have received little industry feedback about the new Local Content component of the framework as it was only used in a small number of procurements throughout last year. As it is now in use by all agencies I expect to receive more industry feedback over the forthcoming months as tenders released using the framework will have moved through the assessment process and be awarded. I will also make a point of requesting feedback in my various industry engagement opportunities.

The implementation of all remaining elements of the framework is scheduled for completion at the end of March 2023. I remain sceptical that this timeframe will be met.

The delivery of the Local Content component of the framework is to be applauded. The delivery of the remaining components of the framework is eagerly awaited by industry.

As I have said many times before, the delivery of the VFTAF has been slow with many missed timeframes. The eventual rollout of the Local Content component in late 2022 demonstrates the government is committed to the VFTAF. I thank the government for reaching this milestone, and urge it to continue to focus on the timely delivery of the remaining components of the framework. I consider that there has been **Significant Progress** on implementing the framework this year.

## 8.8. Grants

Grants are not covered under the Procurement Act 1995. Therefore I have no remit to oversight and review grant spending to ensure it is delivering the best Value For Territory outcomes. This function is left to the agency who administers the grants provided.

I have no visibility of the level of grant spending by government, nor where that grant funding was ultimately spent.

I reiterate my previously expressed view that if the NT is to gain more Buy Local benefit from the spending of grant funds the Grant funding provisions need further strengthening to reflect the policy intent of the Buy Local Plan (including oversight and reporting requirements). I am **Unable to Comment** on whether any progress has been made on this recommendation during the past year.

## 8.9. Value for Territory

The concept of Value for Territory is becoming more widely understood by both industry and government. I have no statistical information available to me to form this view. It is based purely on observation and anecdotal evidence.

I think that from an industry perspective the concept is becoming more widely accepted. There are still many industry participants who have different views as to what Value For Territory looks like for them, however I have noted over the last few years the divergence of these views is narrowing.

From a government perspective I have had many discussions with agency staff about what Value For Territory is, and I have been encouraged by their responses which demonstrate an increasing understanding of the concept. I have also noted an increasing willingness for agency staff to reach out to me to discuss their interpretation of elements of Value For Territory.

I believe that the publication of the *“Value For Territory Assessment – A guide for tendering with the Northern Territory Government”*, released in July 2021 has been a key tool in building improved awareness of the concept of what Value For Territory is.

I consider that this recommendation remains **In Progress**, and will remain so until the Value For Territory Assessment Framework is fully implemented.

## 8.10. Assessment of VFT in Tier 1 & 2 procurement activities

In my 2<sup>nd</sup> Annual Report released in December 2019 I first raised the matter of the development of guidance for consistent approaches to the assessment of Local Content and Value For Territory in Tier 1 & 2 procurements.

In last year's Annual Report I noted that Procurement NT had commenced working with other agencies to progress the review of Tier 1 process and guidance material, and review Tier 2 terms and conditions and templates. The scope of works contained in the review being undertaken under Q22-0222 (refer **Section 9.1** of this report) refers to some work that is currently being undertaken by the DITT Policy Unit, and requests the successful consultant to consider this matter in its review under Q22-0222.

I am unaware how much progress has been made on the matter by the DITT Policy Unit, and given that contract Q22-0222 was awarded in late November 2022 with work scheduled to commence in early 2023 I consider that there has only been **Limited Progress** in implementing this recommendation.

## 8.11. Across Government Baseline Spending Data

I have highlighted in all of my previous Annual Reports that there was no accurate across government baseline spending data established at the introduction of the Buy local Plan, upon which subsequent periodic comparisons could be made to measure changes. The lack of accurate baseline information remains.

In addition, for the reasons outlined in **Section 8.1** of this report, the government also remains unable to establish reliable baseline data for any of the years since the introduction of the Buy Local Plan.

The absence of this information continues to leave me unable to make a reliable assessment of the effectiveness of the Buy Local Plan based on verifiable data.

I am unable to reliably report on the effectiveness of the Buy Local Plan until accurate baseline information is available, and given that the government has done nothing this past year to address this matter I consider that **No Progress** has been made on this recommendation this year.

## 8.12. Defensible Decision Making

Instances of poorly constructed procurement files which do not contain adequate evidence to support defensible decision making or the procurement outcome reached still come to my attention. This weakness undermines confidence that the procurement outcome was reached through proper due process and that the best Value for Territory was delivered.

I have noted a general improvement in the quality of the reasons for decisions and scoring recorded in some of the procurement files I have reviewed this year. I believe that the factors leading to this improvement have predominantly been the increased effort devoted to providing tenderers written feedback prior to debrief and increased internal scrutiny by some agencies prior to assessment finalisation. The trialling and subsequent introduction of the Local Content component of the Value For Territory Assessment Framework (VFTAF) has also strengthened documentation of defensible decisions.

I have however noticed a deterioration in the documenting of reasons to support assessment scoring for Past Performance and Capacity. I am hopeful that with the rollout of the remainder of the VFTAF that this issue will be addressed.

In both instances of procurement activities I referred to ICAC this year poor documentation of reasons to support a defensible decision were contributing factors in those referrals.

The importance of adequate and relevant record keeping should remain a priority for all procurement staff regardless of the system used to manage the process. Properly documented defensible decisions protect the decision maker, the agency and the government from criticism and potential further action.

I consider that due to the improvements noted this year, when considered with the further improvements that can still be made through the rollout of the remaining components of the VFTAF, that this recommendation remains **In Progress**.

## 8.13. Territory Enterprise

The definition of a Territory Enterprise has not changed since the inception of the Buy Local Plan. It is as follows:

*A Territory Enterprise is an enterprise operating in the Northern Territory, with a significant permanent presence in the NT and employing NT residents.*

I continue to undertake monthly reviews of all Tier 2 through 5 awarded contracts to consider (among other things) if the Territory Enterprise status of awarded tenderers has been properly assessed and recorded by awarding agencies.

I am pleased to report that instances of incorrect classification is something that now rarely occurs, and when it does it is more likely due to a data entry error in the recording system, rather than an incorrect classification having been made.

The proper identification of a Territory Enterprise is important in respect to the statistics recorded by the government (see **Section 7.1** of this report). Any misrepresentation or misreporting of this information can have a significant impact on both agency and whole of government reported statistics in the case of large value procurement activities.

The implementation of the Local Content component of the Value For Territory Assessment Framework will also assist in standardising the assessment of a business' Territory Enterprise status.

During the year I put a proposal to the Procurement Review Board (PRB) which suggested that the determination of a tenderers Territory Enterprise status could be determined by a body independent of the government, such as ICNNT. My proposal was not supported by the PRB as it was considered that the delivery of the Value For Territory Assessment Framework would adequately address the matter.

The determination of the Territory Enterprise status of a business will at times remain difficult, however I am pleased by the progress made to date.

The further reduced level of incorrectly recorded Territory Enterprise status of awarded contractors signifies that there has again been **Significant Progress** in addressing this recommendation over the past year.

## 8.14. Pre Tender Market Assessment

In my previous Annual Report I noted that Procurement NT were considering developing training on improving pre tender market assessment practices. I believe that training is yet to be developed.

Despite the lack of training, discussions with agency staff, ICNNT and industry, have brought to light more and more examples of where agencies have been able to identify new products and suppliers prior to going to market. This has perhaps been driven to some degree by the impacts of Covid19 which forced purchasers to look closer to home for suppliers and/or alternative products.

Situations where procurement planning tends to default to a known supplier (either within or outside the NT) without consideration of other potential providers capabilities or products available in the NT still occurs, but I believe is diminishing.

In order to optimise Value for Territory outcomes proper pre tender market assessment must occur. I am disappointed that from a whole of government perspective that the response to my recommendation from last year has not progressed. I do however note the apparent progress that has been made in any event. I consider the progress made on this recommendation during the year is sufficient enough to consider implementation of the recommendation as **In Progress**, and I urge the government to consider the completion and rollout of the training previously identified.

## 8.15. Improved Consistency in Scoring of Past Performance, Timeliness and Capacity

As indicated in my previous Annual Report, the introduction of the Value for Territory Assessment Framework (VFTAF) is government's response to addressing the issue of inconsistent scoring of Past Performance, Timeliness and Capacity.

The government has been developing the VFTAF throughout this year and hopes to implement the Past Performance and Capacity components of the VFTAF by the end of March 2023. I consider the implementation of this recommendation to be **In Progress**.

## 8.16. Referee Checking

As indicated in my previous Annual Report, the introduction of the Value for Territory Assessment Framework (VFTAF) is government's response to addressing the development of consistent guidelines for checking of referee's.

The government has been developing the VFTAF throughout this year and hopes to implement the remaining components of the VFTAF by the end of March 2023. I consider the implementation of this recommendation to be **In Progress**.

## 8.17. Past Experience

How non NT Government past performance is to be assessed when assessing Past Performance and Capacity will be now addressed and rolled out through the Value for Territory Assessment Framework (VFTAF).

The government has been developing the VFTAF throughout this year and hopes to implement the remaining components of the VFTAF by the end of March 2023. I consider the implementation of this recommendation to be **In Progress**.

## 8.18. Contractor Performance Reporting

Poor contract performance reporting continues to be a significant risk to government as it contributes to inaccurate perceptions of suppliers' abilities, poor delivery outcomes and inaccurate assessment of past performance in future tender assessments. It also does not provide the contractor with appropriate and measured feedback to enable them to improve performance, where necessary. These outcomes do not support delivery of best Value for Territory procurement outcomes.

The government's response to addressing this issue was to mandate the use of Trax across the whole of the government (excepting works contracts delivered by Department of Infrastructure Planning and Logistics). See [Section 8.2.3](#) of this report for more detail.

The implementation plan for the mandatory use of Trax is still being developed. Some agencies are already using Trax and have identified system issues which need attention.

I am unaware as to the timeframe of when the system will be ready for mandated use by all agencies.

The progress on this recommendation is encouraging and leads me to conclude that the matter is currently **In Progress**.

## 8.19. Use of Alternative Procurement methods

**Section 6.6** of this report refers to the use alternative procurement methods, in particular, Agency Issued Certificates of exemption, wherein it notes that the inappropriate use of these certificates is diminishing.

I had previously raised concerns that Clauses 6.2 a) and 6.2.1 of Section 6.2 of the Procurement Rules appear to be ambiguous in respect to their application. Last year the government advised me that Procurement NT would work with the NT Government's Procurement Reference Group to identify the ambiguities. The scope of works contained in the review being undertaken under Q22-0222 (refer **Section 9.1** of this report) refers to some work that is currently being undertaken by the DITT Policy Unit, and requests the successful consultant to consider this matter in its review under Q22-0222.

I am unaware how much progress has been made on the matter by the DITT Policy Unit, and given that contract Q22-0222 was awarded in late November 2022 with work scheduled to commence in early 2023 I consider that there has only been **Limited Progress** in implementing this recommendation.

## 8.20. Tier 1 Procurement Process and Procurement Tier levels

In my previous Annual report I recommended that the Tier 1 procurement threshold be raised from \$15,000 to some higher amount, and that a "de-minimis" rule be considered for transactions of less than \$500.

Through my discussions with agency staff over the last year I received significant support from them for reform along the lines I outlined. The process used for Tier 1 transactions is considered by the users to be time consuming, complex and confusing, and does not reflect the risk inherent in this level of procurement spend.

The levels of non-compliance with Tier 1 procurement rules identified through agency Value For Territory Audits, and the Auditor General of the NT in her August 2022 Report to the Legislative Assembly, supports the position that these rules may be too complex and not fit for purpose.

The scope of works contained in the review being undertaken under Q22-0222 (refer **Section 9.1** of this report) refers to some work that is currently being undertaken by the DITT Policy Unit, and requests the successful consultant to consider this matter in its review under Q22-0222.

I am unaware how much progress has been made on the matter by the DITT Policy Unit, and given that contract Q22-0222 was awarded in late November 2022 with work scheduled to commence in early 2023 I consider that there has only been **Limited Progress** in implementing this recommendation.

## 8.21. Oversight of Agency Issued Certificates of Exemption

There is still no formal oversight of the use of Agency Issued Certificates of Exemption. Perhaps the work to be undertaken under Q22-0222 (refer **Section 9.1** of this report) many consider this matter and provide recommendations for an oversight mechanism.

In **Section 6.6** of this report I have noted my observations in respect to the use of Agency issued Certificates of Exemption.

The diminishing instances identifying the inappropriate use of certificates has lead me to conclude that this recommendation is no longer required and therefore I consider it to be **Complete**.

## 9. Other Matters

There are some other matters that I would like to mention of this year that are in addition to those that I usually make comment on in my Annual Report.

### 9.1. Procurement Framework Review

A contract (Q22-0222) was awarded by the Department of Tourism, Industry and Trade on 22 November 2022 to ArcBlue Consulting (Aust) Pty Ltd to undertake a review of Northern Territory Government Procurement Framework and Practice.

The objective is to undertake a review of;

- a) NT Government procurement framework to make recommendations which will:

- maintain and improve adherence to NTG procurement policy and procurement rules
- increase ease of practitioner and supplier navigation
- reduce cost and time attributed to procurement
- encourage outcomes focused procurement practices
- increase industry engagement

- b) Roles and responsibilities of the procurement governance groups to make recommendations which will maximise the value of:

- guidance, oversight and strategic advice to Government.

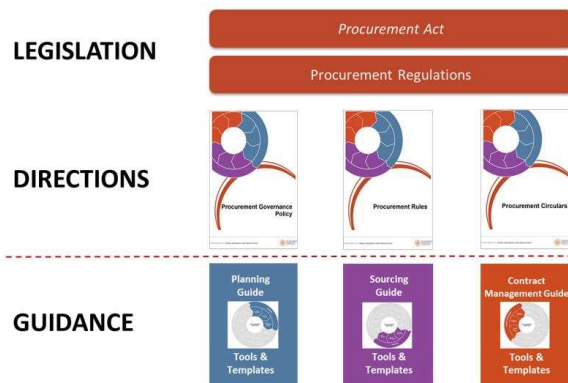


Figure 1. NTG Procurement Framework

The scope of work of the review is;

The review will include but is not limited to appraising and making recommendations on the following:

- Framework to identify inconsistencies, gaps and duplication and opportunities to streamline, simplify and improve use and language
- Comparative analysis of other Jurisdictions including governance structures and buy local policies
- Governance groups roles and responsibilities to ensure they meet the needs of a contemporary procurement function and provide adequate oversight of adherence to the procurement governance policy and procurement rules
- Procurement tiers to ensure appropriate alignment of time and effort to procurement risk and value
- An appraisal of the Buy Local Plan and its support of the Procurement Framework
- Current reporting and assurance requirements

In addition the following current works commenced by the DITT Policy unit are to be considered when undertaking whole of framework review

- Tier 1 (up to \$15k) process review
  - Proposal to undertake procurement within this tier as direct purchasing – currently complex for low value procurement
  - Review value of tier threshold
- Tier 2 (\$15k up to \$100k) conditions update

- Replace simplified conditions with more robust conditions. Currently this tier has no Conditions of Quoting and limited Conditions of Contract (10 for one off purchases and 11/12 for period contracts)
  - c) Building the Northern Territory Industry Participation Policy – Industry Participation Plan replacement proposal
    - Superseded in 2019 by Territory Benefits Policy which is not procurement focussed
    - Originally implemented into the NTG framework in 2003 to support the Federal Governments Industry Participation (IP) policy
    - Currently applies to all procurements with resultant contracts estimated at \$5m and over.
    - a replacement position for procurements in order to comply with the IP Policy is to be sought
    - Propose to apply only to those IP applicable requirements (Federally funded projects over \$20m) and not as a blanket application to all projects – supported by DIPL.
  - d) Review of Exceptions and Exemptions
    - Currently complex comprising Agency Issued Certificate of Exemptions, and Standing Exemptions issued by the Minister. There are some duplications under the two sections which is causing confusion within NTG. Review required to simplify this area.
- Additional considerations:-
- e) Tier thresholds
  - Tier 1 (up to \$15k) – may be too low
  - Tier 2 (\$15k up to \$100k)
  - Tier 3 (\$100k up to \$500k) – Referred to as a “Tender” within the Procurement Governance Policy (Definitions - i.e.: “Public Tender”, Select Tender) – conditions currently do not align
  - Tier 4 (\$500k up to \$5m) and Tier 5 (\$5m and over) – \$500k threshold whereby NTG implements compliance with Free Trade Agreement requirements. No difference between the two tiers EXCEPT the requirement for an IPP to be completed for contracts with an estimated value of \$5m and over (Tier 5) – refer c) above.

I support the intent of the review and look forward to being able to provide my perspectives to the review team on the various matters outlined in the scope of works, some of which I have already touched on elsewhere in this report.

## 9.2. BLIA Office Staffing

When the role of the Buy Local Industry Advocate was introduced in July 2017 it was envisaged that the entire functions of the role could be performed by the Advocate, and no support staff would not needed.

It became apparent after only a few months that I would not be able to handle the volume of work required on my own, particularly as I had indicated at the outset of my appointment that my contract would be for a part time role of two and a half days per week. In May 2018 I was given approval for the recruitment of a full time Executive Officer to support and assist me in fulfilling the requirements of my role. Brylie Neve was selected as the successful candidate to fill that role, and commenced in June 2018.

Brylie was employed on a contract basis which was linked to the tenure of my contract (3 years), and as such was not employed in a full time permanent role. Over the past couple of years she has undertaken secondments to other teams within the NT government to broaden her experience. She was recently successful in gaining a full time permanent role with another

agency, and therefore no longer works in the role of the Buy Local Industry Advocate Executive Officer.

I would like to take this opportunity to thank Brylie for her loyal and valuable service while in the Executive Officer's position, and for her common sense approach to the matters which we have dealt with. I wish her all the best in her new role.

Margi Peet has recently commenced as the new Executive Officer. Welcome Margi.

If the government is committed to the continuation of the Buy Local Industry Advocate's role, regardless of the tenure of the person appointed to the role, then employment of a permanent full time Executive Officer would provide a clear demonstration of that commitment. The current arrangement does not provide comfort that that commitment exists.

### 9.3. ICNNT Dashboard

During the past year the Industry Capability Network of the NT (ICNNT) developed a dashboard reporting system to enable interrogation of publically available contract award information contained in the Quotes and Tenders Online (QTOL) database.

The dashboard facilitates an improved level of search functions and reporting when compared to what is currently available through QTOL.

ICNNT and the NT government are currently in discussions to determine how the dashboard may be made available for use within government.

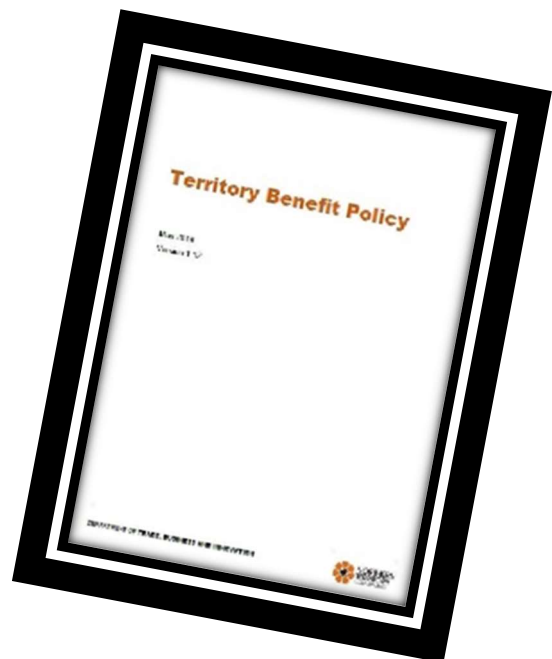
I would like to acknowledge ICNNT's commitment in producing the dashboard.

### 9.4. Territory Benefit Policy

The NT government has a Territory Benefit Policy which is applied to private sector projects awarded Major Project Status. Major Projects are not procurement activities of the NT government, and the Territory Benefit Policy does not apply to NT government procurement activities.

The objective of the Territory Benefit Policy is stated in the policy as follows:

*The primary objective of the Territory Benefit Policy is to maximise the contribution to the NT economy by private sector projects in the NT. Project proponents articulate in a Territory Benefit Plan how they will achieve their commitments and strategies, and how they will engage with, and communicate to, local stakeholders on their plan and achievements.*



The primary objective of the Buy Local Plan is to ensure that the largest possible proportion of every dollar spent by the NTG is retained within and delivers benefits for the Territory economy and community. In my opinion there is

considerable similarity and overlap of the objectives of the Territory Benefit Policy and the Buy Local Plan.

I play a significant role in the delivery of the Buy Local Plan objective, yet no role in the delivery of the Territory Benefit Policy objective.

I understand that the government has recently commenced a review of the Territory Benefit Policy. I am keen to provide my input into the review process to assist in identifying areas where the Buy Local Industry Advocate may support the Territory Benefit Policy, and actively engage in the delivery of its intended benefits.

## 9.5. Perceptions of the Buy Local Industry Advocate's role

I am well aware that there are staff within government agencies that feel my role is an encumbrance to them performing their roles.

I am also aware that there are some who have little regard for me or my knowledge and would seek to do away with my role altogether.

There are also those who think that my role is ineffective as my powers are limited. I was once referred to by the NT News as having "no teeth".

I don't agree with these points of view, however I do understand why others may have them.

The Auditor General of the NT does not have the resources to oversight compliance with the Procurement Rules by all agencies on a regular basis or to any significant degree.

ICAC does not have the remit to oversight agency compliance with the Procurement Rules on a regular basis.

Agencies are not always adequately resourced to monitor and ensure compliance with the Procurement Rules.

Agencies do not always have the commitment to regularly monitor and ensure compliance with the Procurement Rules.

The NT governments' Procurement Governance Model is set out in Figure 3 of the Procurement Governance Policy. It is reproduced here and clearly shows the Assurance role that the Buy Local Industry Advocate has within the Model:

I pose the following question to those who do not support the role of the Buy Local Industry Advocate;

If the Buy Local Industry Advocate was not here to hold government and industry to account to deliver the best Value For Territory, who will?

A high-level overview of the NTG Procurement Governance Model is show in Figure 3 below, illustrating the key decision making and advisory roles and bodies, and their associated relationships.

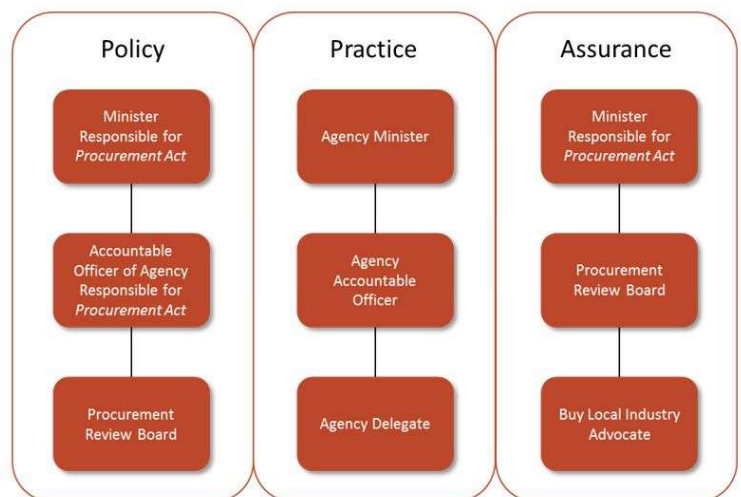


Figure 3. NTG's Procurement Governance Model

## 10. Conclusion

Due to the lack of an agreed benchmark and unreliable procurement reporting systems the measurement of the effectiveness of the Buy local Plan remains a challenge and open to interpretation. Once a benchmark is established and reliable reporting systems are in place then this can be properly measured and evaluated.

The contracts awarded data shown in the table at [Section 7.1](#) of this report highlights;

- The total number of procurement activities declined from the previous year;
- The total value of all procurements increased to its highest ever level over the past five years;
- The total value of all contracts awarded to Territory Enterprises increased to its highest ever level over the past five years;
- The percentage of the value of contracts awarded to Territory Enterprises last year increased to its highest ever level at 90.6% of the value of all procurements awarded.

These results are pleasing and indicate that the delivery of the primary objective of the Buy Local Plan,

*“to ensure that the largest possible proportion of every dollar spent by the NTG is retained within and delivers benefits for the Territory economy and community”,*

is improving.

I believe that this objective was achieved over the reporting period, however it should be noted that the data upon which this conclusion was reached does not cover all NT Government procurement spending, and for reasons outlined in [Section 7.1](#) of this report care needs to be exercised when drawing this conclusion.

The results from last year should be acknowledged as positive progress. The sustained benefit of this for the NT cannot be underestimated. Continued focus by government on the application of the Buy Local Plan and its policy intent is vital to ensuring that spending is maintained at this level or higher each year from now on.

The commencement of the implementation of the Value for Territory Assessment Framework (VFTAF) in October 2022 was welcomed by industry. It's implementation has gone some way to restoring industry's confidence in the government's commitment to improving the procurement process to deliver more consistent delivery of best Value for Territory procurement outcomes, but the continued building of that confidence relies upon the successful and timely implementation of the remainder of the framework.

### 10.1. Effectiveness of the Buy Local Plan

In my previous Annual Report I advised I was not prepared to draw a conclusion on the effectiveness of the Buy Local Plan while the incomplete and unreliable nature of the currently available procurement information remained. As I have stated elsewhere in this report this situation still remains.

For the above reasons I have been reluctant in the past to form a view on whether the Buy Local Plan has delivered an increased amount of procurement outcomes to Territory Enterprises.



However, this year the data that is available to me suggests to me that spending with Territory Enterprises has reached its highest level since the introduction of the Buy Local Plan.

Anecdotally I have also noted a generally increased awareness by agency procurement staff of the requirements of the Buy Local Plan, which I believe has positively impacted their willingness to buy locally.

I therefore have concluded that over the last year the Buy Local Plan has been effective in ensuring the largest possible proportion of every dollar spent by the NTG was retained within and delivered benefits for the Territory economy and community.

## 10.2. Delivery of Value for Territory

Delivery of Value for Territory procurement outcomes is still challenging for some agencies and staff, and while the complexities of the current procurement process exist, those challenges will remain.

The results of the Value For Territory Assurance Program, observations I have made from my reviews of procurement files, and discussions with agency staff and industry point to an increasing number of instances where best Value For Territory has been delivered through individual procurement activities.

That is not to say that all procurements deliver best Value For Territory and that further effort is not required to improve the situation – it is. This will remain a constant challenge for government each year regardless of what progress may have been made in previous years.

In each of my previous Annual Reports I concluded that the maximisation of Value for Territory outcomes in individual procurement transactions was inconsistent.

Again this year I believe delivery of best Value For Territory has been inconsistent, however I believe that the inconsistency has reduced markedly, and has in my view reduced to a point where this year I am prepared to conclude that across the NT government as a whole the delivery of Value For Territory is being achieved at a rate that is higher than in any previous year since the introduction of the Buy Local Plan.

Denys Stedman

Buy Local Industry Advocate

07 February 2023