



“Local Jobs for Local Workers?”

The Efficacy of Local Construction Participation in State
Funded Construction Projects in the Latrobe Valley Region

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Abbreviations

ABS- Australian Bureau of Statistics

ANZCERTA- Australia New Zealand Closer Economic Relations Trade Agreement

ANZGPA- Australian New Zealand Government Procurement Agreement

LGA- Local Government Areas

LJF- *Local Jobs First Act 2003*

LVA – Latrobe Valley Authority

RDV- Regional Development Victoria

SME - Small and Medium sized enterprises, businesses which employ 1-19 people and 20-200 people, respectively.

SPF – Social Procurement Framework

VIPP- Victorian Industry Participation Policy

Key Terms

local

For the purposes of this report, local written with a lower-case L refers to the immediate region relating to a town or a small district rather than an entire state or country.

Local

‘Local’ written with a capital L, in single quotation marks, refers to “industry and other businesses based in Australia or New Zealand” in line with the *Local Jobs First Act 2003*.

Principal Contractor

“The owner is the principal contractor of the workplace where the construction project is to be carried out unless the owner appoints a principal contractor for the construction work performed for or on behalf of the owner; and authorises the principal contractor to manage or control the workplace to the extent necessary to discharge the duties imposed on a principal contractor under this Subdivision.”¹

Subcontractor

“A subcontractor is a person who is hired by the principal contractor to complete a specific job as part of the overall project and is normally paid for services provided to the project by the principal contractor. The most common concept of a subcontractor is in construction. For small businesses not quite ready/capable of performing as a principal contractor, subcontracts can be an excellent way to break into the contracting market. For example, a construction company can offer external staff/subcontractors and better handle temporary periods of high work volumes by subcontracting portions of their projects to other businesses/sole traders.”²

¹ “Victorian Consolidated Regulations: Occupational Health and Safety Regulations 2017: Reg 333,” Australasian Legal Information Institute, accessed 7 October 2019.
http://classic.austlii.edu.au/au/legis/vic/consol_reg/ohasr2017382/s333.html.

² “Subcontracts,” Australian Tenders, accessed September 14, 2019.
<https://www.australiantenders.com.au/subcontracts/>.

Executive Summary

The State Government of Victoria has some of the most successful government procurement legislation and guidelines in Australia. This is a clear demonstration that the State Government has the intention of ensuring that government funds benefit all Victorians – in line with the theory of social procurement. However, as this report will demonstrate, there are limitations to the legislation and guidelines in achieving their intended purposes. These limitations become apparent in a regional and rural context and are exacerbated within the existing complex economic transition of the Latrobe Valley Region.

One major criticism of current legislation, the *Local Jobs First Act 2003 (LJF Act)*, is its misleading definition of ‘Local’. Under the Act’s definitions, ‘Local Content and industry’ is defined as “industry and other businesses based in Australia or New Zealand.” This definition coincides with Victoria’s obligation as a signatory to the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) that stipulates all government procurement must consider all parties of the agreement equally.

However, this definition is not only misleading in relation to the purpose of the *LJF Act*, it is also problematic in a regional setting where state-funded projects are assumed to be carried out by local workers. Furthermore, the Local Industry Development Plan (LIDP) is a lengthy document and a time-consuming practice for businesses to complete. As a result, this deters small and medium-sized enterprises (SMEs) such as those in the Latrobe Valley from applying for government contracts.

In a region such as the Latrobe Valley, which has been designated as an Economic Growth Zone, it makes sense to ensure that all government funding that enters the region, assists the region in its economic transition, by ensuring as much local participation as possible on local projects. However, it has been suggested that due to a lack of compliance auditing, that principal contractors from outside the region have not fully met their obligation in their LIDP. This in some instances has meant that local subcontractors are unable to participate in local government contracts.

Therefore, this report makes the following recommendations to ensure that State Government funding for construction projects in the electorate of Morwell and the Latrobe Valley region are carried out by ‘local’ workers to the greatest potential, where possible.

Recommendation 1:

The State Government should investigate ways to challenge their obligation of adhering to trade agreements, which prohibits the State from creating procedures within the procurement process that give preference to regions. This could be done by opening a discourse with signatories to the ANZCERTA to create an exemption, which could ensure struggling economic regions such as the Latrobe Valley region receive reasonable preference in government tender processes. Additionally, if the State Government is unable to find ways of amending the definition of 'Local', then there should be clear and concise understanding of what 'Local' means to all stakeholders, as well as a clear explanation as to why the State must adhere to this definition. Furthermore, by doing so, local industries should be given the necessary support in enabling them to compete under the framework of the *LJF Act*.

Recommendation 2:

Investigate ways to simplify the LIDP that would allow SMEs, such as those in the Latrobe Valley region, to easily compete in the tender process as it is for larger construction businesses. This could be done by changing the requirements of the LIDP, such as allowing regional SMEs to submit a further in-depth LIDP, after they have submitted an initial simplified version. But also assisting organisations such as the ICN in promoting their free available service that can assist businesses in completing their LIDPs.

Recommendation 3:

Greater compliance auditing by the Local Jobs First Commissioner in line with their functions, as set out by the *LJF Act*. Therefore, ensuring that local subcontractors who were listed on completed and signed LIDPs are in fact the subcontractors completing the work.

Recommendation 4:

Support existing organisations, departments and initiatives that operate in the Latrobe Valley region in reaching their objectives, by creating better awareness of the assistance and services available to local businesses. In turn this would create a better rapport between local businesses and these organisations, departments and initiatives. Furthermore, the Government should conduct an independent investigation into the current image and reputation of respective Government initiatives such as the Latrobe Valley Authority and Regional Development Victoria, in the Latrobe Valley region, to determine whether their current relationships with local stakeholders impacts on the success of services being offered.

Introduction

The Victorian State Government Department of Jobs, Precincts and Regions acknowledges that “the Latrobe Valley is a region with many strengths and advantages such as highly skilled workers, abundant natural resources, excellent education and training facilities and well-developed infrastructure. However, significant challenges such as high unemployment rates, some areas of disadvantage and the closure of the Hazelwood mine and power plant have had an adverse impact on the local economy.”³ Yet as this report will discuss there are non-local workers completing State Government funded construction projects in the region. This report will focus on some of the reasons why and provides recommendations to improve local participation.

This report will analyse current State Government legislation and guidelines in evaluating the efficacy of local participation in State Government funded construction projects in the Latrobe Valley region. By doing so it will look at the background and purpose of procurement Acts such as the *Local Jobs First Act*, as well as guidelines and frameworks established in carrying out social procurement. This report will also provide context and explanation for the economic situation in the Latrobe Valley. Which will then demonstrate the inconsistencies and limitations of these Acts in ensuring local jobs, particularly within the Latrobe Valley region. In doing so it will provide an explanation of how and why these limitations exist. It will go on to explain the importance of local jobs particularly within the Latrobe Valley region. The report will then offer four recommendations in creating greater success of local business participation on State Government funded projects in the Latrobe Valley region.

This report is to investigate local participation in the State electorate of Morwell, however as this is an issue that affects not only the electorate of Morwell, but the surrounding region, it will discuss the efficacy of local participation in the Latrobe Valley region. The Latrobe Valley region is comprised of three local government areas (LGAs); Latrobe City, Wellington Shire and Baw Baw Shire. The report will primarily use statistics from the LGA of Latrobe City, due to the considerably larger set of statistics available, as well as the similarity between the LGA of Latrobe and the State electorate of Morwell which differs slightly in boundary, however major centres such as Morwell and Traralgon coincide in both localities.

³ “The Latrobe Valley Economic Development Program,” Victorian State Government Jobs Precincts and Region, accessed October 10, 2019. <https://djpr.vic.gov.au/significant-projects/latrobe-valley-economic-development>.

Limitations

It should be noted that this report has been limited in the ability to access non-publicly available information from government departments. Furthermore, the interviews used for this report have been used to supplement publicly available information, however the implementation of a long-term study within the Latrobe Valley region would have been more favourable and able to demonstrate further in-depth findings. Therefore, the findings and recommendations within this report are initial findings and should require further consultation with community members, as well as further synthesis of data from relevant government departments. Furthermore, names of individuals and businesses, including examples which would implicate businesses, have not been used to ensure confidentiality. Therefore, this report only alludes to issues and signifies that there are some much larger issues at play that require further in-depth analysis.

Procurement Explained

Before analysing current legislation and policy that affects local content in the Latrobe Valley region, it is essential to understand what procurement is, but more specifically how procurement can affect businesses and communities. Procurement, in short, is the process of purchasing and obtaining goods and services.⁴ Therefore, government procurement is the purchasing of goods and services by governments from the private sector, normally through the process of tendering. An important point that McCrudden states is that within government procurement, “governments rather than regulating the market, participate within the market as an influential actor.”⁵ Furthermore, it is estimated that 15-20 % of total gross domestic product around the world is attributed to the government procurement of goods and services.⁶ This demonstrates that governments are an extremely influential factor within the market. Therefore, most developed countries will have government procurement laws which ensure government departments purchase goods and services domestically, rather than abroad.⁷ This is done under the concept that there are more incentives to buying locally, thus supporting the domestic economy rather than supporting a foreign economy or the ‘lowest price for best quality’ concept.

This rationale falls under the concept of social procurement, which is an important aspect for governments to follow. The State Government of Victoria states, “social procurement is when organisations use their buying power to generate social value above and beyond the value of the goods, services, or construction being procured. In the Victorian Government context, social value means the benefits that accrue to all Victorians when the social and sustainable outcomes in this Framework are achieved.”⁸ The not-for-profit association, Social Procurement Australasia contends, “social procurement involves organisations choosing to purchase a social outcome when they buy a good or a service. For example, a local government area with high levels of unemployment could strategically use their procurement to help address this issue by requiring successful tenderers to employ a percentage of their labour force from the local unemployed population.”⁹ This is a relevant

⁴ Sunil Chopra and Peter Meindl, *Supply Chain management, Strategy, Planning, and Operation*, (Essex: Pearson Education Limited, 2013), 67.

⁵ Christopher McCrudden, *Buying Social Justice* (Oxford: Oxford University Press, 2007), 3.

⁶ Caroline Flammer, “Competing for government procurement contracts: The role of corporate social responsibility,” *Strategic Management Journal* 39, (2018): 1300, doi: 10.1002/smj.2767.

⁷ Charles Sawyer and Richard Sprinkle. *Applied International Economics* (New York: Routledge publishers, 2015), 187.

⁸ “Social procurement, Victorian Government approach: Find out what social procurement means and how the Victorian Government approaches it,” *Buying for Victoria*, accessed September 12, 2019. <https://buyingfor.vic.gov.au/social-procurement-victorian-government-approach>.

⁹ “Social Procurement,” Social Procurement Australasia, accessed 2 October 2019. <http://socialprocurementaustralasia.com/>.

definition and example of how 'social government procurement' applies to local jobs within the Latrobe Valley region.

Background of Victorian Procurement Acts and Frameworks

A Joint Select Committee that was established to report on the Federal Government's procurement framework, acknowledged Victoria's Industry Procurement Policy as one of the most successful in Australia and offered an example for the Federal Government to base a federal procurement system on.¹⁰ The Victorian Parliament and Government have made great progress in establishing legislation such as the *LJF Act*, previously known as the Victorian Industry Participation Policy Act up until its amendment in 2018.¹¹ As well as the Local Jobs First Commissioner, to promote, facilitate and ensure compliance of the Act by all relevant stakeholders.¹² Additionally, the State Government also has guidelines such as the Social Procurement Framework. The purpose of these Acts and guidelines is to ensure that small and medium businesses have the same opportunity to compete for Victorian Government contracts as their larger counterparts. The Victorian Government acknowledges that it "is the largest procurer of goods, services and construction works in the State, and is committed to using its substantial purchasing power to develop local industries, create jobs and boost economic activity across Victoria."¹³ This is a clear representation that the State Government is committed to implementing strategies that will benefit all Victorians by spending government funds in a way which will reap social advantages.

Social Procurement framework

Victoria's Social Procurement Framework (SPF) was established in 2018 to create economic opportunities for all Victorians by ensuring social procurement is used by all State Government Departments and agencies.¹⁴ By doing so "the framework sets the clear expectation that social procurement is part of everyday business for the Victorian Government, ensuring that social and environmental outcomes are considered in every procurement activity as part of assessing value for money."¹⁵ The SPF has 10 clear objectives in achieving the framework's intended purpose,

¹⁰ "Australian procurement models," Parliament of Australia, accessed October 2, 2019.

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Former_Committees/Government_Procurement/CommProcurementFramework/Report/section?id=committees%2Freportjnt%2F024068%2F24816.

¹¹ *Local Jobs First Act 2003* (Vic) s 4.

[http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/60F673D544B79308CA2582EB001BD2AF/\\$FILE/03-72aa006%20authorised.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/60F673D544B79308CA2582EB001BD2AF/$FILE/03-72aa006%20authorised.pdf).

¹² *Local Jobs First Act 2003* (Vic) s 18.

¹³ "Starting a Project," Local Jobs First Commissioner, accessed October 8, 2019.

<https://localjobsfirst.vic.gov.au/agency-guidance/starting-a-project>.

¹⁴ State Government of Victoria, *Victoria's Social Procurement Framework: Building a fair, inclusive and sustainable Victoria through procurement* (State Government of Victoria, Victoria), 1.

<http://www.procurement.vic.gov.au/files/76320119-eeaf-4926-87f1-a8ce00bda72f/Victorias-Social-Procurement-Framework.pdf>.

¹⁵ *Ibid*, 1.

importantly objective number seven is ‘sustainable Victorian regions’.¹⁶ The purpose of this objective is “to create employment opportunities and skills-based training for people in Victorian regions that are experiencing entrenched disadvantage.”¹⁷ This is done by giving weighting to government buyers who fall under this category.¹⁸ The “framework applies to all of Victoria’s procurement activity and covers goods, services, and construction”, unlike the *LJF Act* which only applies to projects over a certain value, which is further explained down below.¹⁹

Victorian Industry Participation Policy

The Victorian Industry Participation Policy (VIPP) is the former name of the *LJF Act* that was introduced by the Bracks Government in April 2001. The intention for the VIPPs creation was to increase the opportunity for the participation of local industry, thereby generating more jobs for Victorians and stimulating business growth and investment.²⁰ In 2003 the *VIPP Act* was enacted, with the purpose of implementing the Bracks Governments original VIPP policy, whilst requiring reports to Parliament on agencies’ compliance and the policy’s implementation.²¹ The VIPP is an industry developed policy created to ensure SMEs are given the full and equal ability to compete for Victorian Government contracts.²² The policy applies to standard projects over \$1 million in regional and rural Victoria or projects worth over \$3 million dollars outside of regional and rural areas, unless the relevant Minister declares the project a strategic project which is under stated value.²³

¹⁶ State Government of Victoria, *Victoria’s social procurement case studies and highlights: Supporting the implementation of Victoria’s Social Procurement Framework: Building a fair, inclusive and sustainable Victoria through procurement* (Melbourne, State Government of Victoria, 2018), 7.

https://buyingfor.vic.gov.au/sites/default/files/2018-08/Case-Studies-and-Highlights-report_0.PDF.

¹⁷ Ibid,7.

¹⁸ State Government of Victoria, *Victoria’s Social Procurement Framework: Buyer Guidance, Guide to evaluation* (State Government of Victoria, Victoria), 1-19. https://buyingfor.vic.gov.au/sites/default/files/2018-08/Guide-to-Evaluation_0.PDF.

¹⁹ State Government of Victoria, *Victoria’s Social Procurement Framework: Building a fair, inclusive and sustainable Victoria through procurement* (State Government of Victoria, Victoria), 1.

<http://www.procurement.vic.gov.au/files/76320119-eeaf-4926-87f1-a8ce00bda72f/Victorias-Social-Procurement-Framework.pdf>.

²⁰ State Government of Victoria, *Jobs for Victorians Victorian Industry Participation Policy* (Melbourne, 2001), 1.

²¹ Victorian Parliamentary Debates, Legislative Assembly, June 5, 2003.

²² Ibid.

²³ *Local Jobs First Act 2003* (Vic) ss 3; *Local Jobs First Act 2003* (Vic) s 7.

Local Jobs First Act

The *Local Jobs First Act 2003* title came out of the VIPP amendment in August 2018, which saw not only a name change of the Act but established a new Commissioner.²⁴ The amendment outlines that the purpose for the Local Jobs First Commissioner is to promote, facilitate, and engage relevant stakeholders of the Local Jobs First Policy.²⁵ But more importantly, the Commissioner will be able “to monitor and report on compliance with the Local Jobs First Policy and Local Industry Development Plans” and “to take enforcement action in relation to breaches of the Local Jobs First Policy, Local Industry Development Plans and this Act.”²⁶ The amendment also sets out policy, which mandates a minimum of 10% trainee and apprenticeship content on Strategic projects valued over \$20 million dollars, under the Major Projects Skills Guarantee within the *LJF Act*.²⁷ Minister for Industry and Employment, Mr Carroll stated the amendment and its “new measures will create new opportunities for local businesses, promote industry development and create local jobs.”²⁸

²⁴ Victorian Parliamentary Debates, Legislative Assembly, June 20, 2018, 2073-2074.

https://www.parliament.vic.gov.au/images/stories/daily-hansard/Assembly_2018/Assembly_Daily_Extract_Wednesday_20_June_2018_from_Book_8.pdf.

²⁵ *Local Jobs First Act 2003* (Vic) s 18.

²⁶ *Local Jobs First Act 2003* (Vic) ss 18 h-i.

²⁷ *Local Jobs First Act 2003* (Vic) s 7C.

²⁸ Victorian Parliamentary Debates, Legislative Assembly, June 20, 2018, 2073-2074.

Latrobe Valley Region

Before analysing and discussing the participation of local businesses in State Government funded projects in the Latrobe Valley region, it is important to comprehend the complex and unique economic situation that the region has faced and continues to face. During the 20th century, the Latrobe Valley was well known as the electricity powerhouse for the State of Victoria and continues to be so today, due to the abundance of coal in the region. However, since the privatisation of the electricity sector in Victoria in the 1990s, thousands of employees in the region have lost their jobs, which has forced other businesses in the region to close, aggravating unemployment rates and forcing an exodus of people from the region.²⁹ This situation was only further exacerbated in 2017 with the closure of the Hazelwood power station and mine which saw 450 employees and 300 contractors directly affected.³⁰ This added to the LGA of Latrobe city's pre-existing unemployment rate of 11.2% in December 2017, which is now down to the current rate of 7.1% for March 2019.³¹ However more strikingly the unemployment rate in Morwell was recorded at 13.7% in March 2019, well above the national average of 5.2%.^{32*} In response to the closure of the Hazelwood power station and mine closure, the State Government invested \$266 million over 4 years, with \$20 million of that to create the Latrobe Valley Authority (LVA), to "support the revitalisation of the Latrobe Valley region."³³ Therefore the LVA is an important government stakeholder in "support[ing] workers and businesses affected by the closure of the Hazelwood Power Plant and Mine."³⁴ Furthermore, the LVA is responsible for overseeing the implementation of the Latrobe Valley

²⁹ Jarrod Whittaker, "Latrobe Valley population numbers fall after privatisation of Victorian power industry," *ABC Gippsland*, 15 April 2019. <https://www.abc.net.au/news/2019-04-15/figures-show-latrobe-valley-youth-population-drop/11000784>.

³⁰ Regional Development Victoria, "Gippsland Regional Partnership Roadmap," (Victoria, 2018), accessed on October 8, 2019, 2. https://www.rdv.vic.gov.au/data/assets/pdf_file/0003/1733250/Gippsland-Outcomes-Roadmap_May-2019.pdf.

³¹ "Economy Profile: unemployment," Latrobe City, accessed October 10, 2019.

<https://www.economyprofile.com.au/latrobe/trends/unemployment>;

Australian Bureau of Statistics, *Department of Employment, Skills, Small and Family Business: March quarter 2019*, (Canberra, ACT, 2019), 5.

https://docs.employment.gov.au/system/files/doc/other/small_area_labour_markets_-_march_quarter_2019.pdf.

³² Ibid, 16.

* Morwell in this instance refers to the ABS's Statistical Area Level 2, which they state "are designed to reflect functional areas that represent a community that interacts together socially and economically. They consider Suburb and Locality boundaries to improve the geographic coding of data to these areas and in major urban areas SA2s often reflect one or more related suburbs."

³³ Parliament of Victoria, "Budget Estimates," accessed October 9, 2019.

https://www.parliament.vic.gov.au/images/stories/committees/paec/2017-18_Budget_Estimates/specific_q/DPC_2017-18_BE_SpQ_response_rcvd_12072017.pdf.

³⁴ "About LVA," Latrobe Valley Authority, accessed October 1, 2019. <https://lva.vic.gov.au/about>.

Economic Develop Program, a \$40 million program intended to “support economic diversification, growth and resilience in the region”, as well as the \$50 million Latrobe Valley Economic Growth Zone.³⁵ The Economic Growth Zone is a program which offers financial incentives for businesses in the Latrobe Valley. These incentives include “reimbursement of state and local government fees and charges associated with starting a new business or expanding an existing one.”³⁶ However, since the creation of the LVA in late 2016 and the closing date of the 4 year package of the \$266 million closely approaching in 2020, many have voiced frustration in the progress and success of the LVA in reaching its objectives.^{37*} Furthermore, two out of four, of the business people who were able to be interviewed for this report mentioned they only engaged with the LVA once and did not continue to engage with the authority as they felt there was no added advantage for their business in continuing relations.^{38**} Additionally, as part of the \$40 million Latrobe Valley Economic Development Program, \$10 million has been directed for the creation of the Latrobe Valley Economic Facilitation Fund.³⁹ Within this fund, RDV gave a grant to manufacturing company Steelvision, with a partial payment of \$400 000 in July 2018.⁴⁰ Shortly after receiving the payment, Steelvision entered into

³⁵ Latrobe Valley Authority, *Latrobe Valley New Energy Jobs and Investment Prospectus* (Victoria: Victorian Government, 2018), 6. <https://lva.vic.gov.au/wp-content/uploads/2018/06/latrobe-valley-new-energy-jobs-and-investment-prospectus-digital.pdf>.

³⁶ Ibid, 28.

³⁷ Bryce Eishold, “LVA future uncertain,” *Latrobe Valley Express*, January 25, 2018. <https://www.latrobevalleyexpress.com.au/story/5189340/lva-future-uncertain/>.

*A previous internship report from 2018 by Manning Clifford titled ‘Beyond the Latrobe Valley, improving how governments assist regions in transition’ goes into further depth explaining issues which the region faces, as well recommendations which would not only attribute positively to the overall economic transition of the region but in some instances would also benefit the participation of local businesses in State funded projects.

³⁸ Interviewee A, Interview with Thomas Boucher-Hill (Morwell, September 23, 2019); Interviewee b, Interview with Thomas Boucher-Hill (Traralgon, September 23, 2019);

Interviewee C and D, Interview with Thomas Boucher-Hill (Morwell, September 24, 2019). ** For the concern of ensuring anonymity and privacy for interviewees this report will only refer to the four businesspeople as interviewee, A, B, C, D. These businesspeople either have their own construction business within the region or are in senior management positions. Therefore, the decision has been made not to disclose their identities to protect their ability to be to voice their concerns without facing ramifications as they are active ongoing participants in government tender processes.

³⁹ “Latrobe Valley Economic Facilitation,” Regional Development Victoria, accessed October 4, 2019. <https://www.rdv.vic.gov.au/grants-and-programs/latrobe-valley-economic-development-program/latrobe-valley-economic-facilitation>.

⁴⁰ Regional Development Victoria, “Peer review of RDV’s Steelvision Pty Ltd’s (Steelvision) Latrobe Valley Economic Facilitation Fund (LVEFF) grant,” accessed on October 8, 2019, 2, https://www.rdv.vic.gov.au/_data/assets/pdf_file/0006/1835259/DJPR-Internal-Peer-Review-Feb-2019.pdf; Regional Development Victoria, “Grants Program Framework Department of Jobs, Precincts and Regions (DJPR) Steelvision Pty Ltd Case Study,” (KPMG, 2019). https://www.rdv.vic.gov.au/_data/assets/pdf_file/0007/1835260/KPMG-Report-for-Publication-2019.pdf.

liquidation owing thousands of dollars to businesses around the region of Latrobe.⁴¹ There has since been anger within the community, that a government department allowed a failed business to locate to the region with government funding, that has had tremendous economic consequences for the region.

There of course, has been major success by the Government in implementing programs that have been influential in bringing down the unemployment rate in the region as well as other factors. However, the Government has injected large amounts of funds into the region whilst there continues to be occurrences where workers from the Latrobe valley region are unable to work on local construction projects funded by the State. This combined with mismanagement of funds has created a poor rapport between local businesses and State Government, including their relevant departments and initiatives within the Latrobe Valley region. It has created an extremely frustrating situation for local construction businesses. This frustration has been further exacerbated when the State Government promotes their *LJF Act* in the region, stating that they're creating 'Local' construction projects for 'Local' workers, when in numerous instances local workers from the Latrobe Valley region have been knocked back in preference for businesses from outside the region.⁴² Interviewees B and D for example, believe that current State Government legislation limits their business's ability to be an equal bidder for government contracts, and thereby does not enable their businesses to reach its full potential and grow.⁴³ This frustration and distrust towards the State Government is problematic for the region, where cooperation and engagement with all relevant stakeholders is paramount in reaching successful outcomes for the Latrobe Valley region.

The economic background and politics within the Latrobe Valley region are significant to understanding the current climate. In some instances, it has had major effects for local businesses, where some are so frustrated that they have disengaged from politics and from the services that government departments offer. As an interviewee stated: "why would a businessperson seek business advice from a group of people who have made bad business decisions themselves?"⁴⁴ This has impacted on services from organisations who are not directly related with government, such as the Industry Capability Network, which is a non-for-profit organisation promoted by the LJF

⁴¹ Jarrod Whittaker, Beth Gibson and Emma Field, "Steelvision manufacturing company owes thousands, Latrobe Valley businesses claim," ABC Gippsland, January 22, 2019, <https://www.abc.net.au/news/2019-01-22/claims-government-funded-company-steelvision-owes-thousands/10726004>.

⁴² Heidi Kraak, "Locals not on Local Jobs," *Latrobe Valley Express*, June 19, 2017. www.latrobevalleyexpress.com.au/story/4735685/locals-not-on-local-jobs/.

⁴³ Interviewee B, Interview; Interviewee D, Interview.

⁴⁴ Interviewee B, Interview.

Commissioner, to help businesses apply for construction projects and to support industry development.⁴⁵ Interviewees have directly stated that they would not engage in current services from the LVA and the RDV in the current situation.⁴⁶ As a result, businesses are missing out on services which would be of benefit to the growth and stability of their business. But by missing out on services it further contributes to their inability to compete in Government contracts and contributes to a lack of further participation of local workers on state funded projects in the region. Nonetheless, from analysing the situation in the Latrobe Valley region, it is understandable why some businesses have disengaged from services that the State Government offers.

⁴⁵ "Industry Capability Network," Local Jobs First Commissioner, accessed October 12, 2019.

<https://localjobsfirst.vic.gov.au/about/industry-capability-network-icn>.

⁴⁶ Interviewee B, Interview; Interviewee D, Interview.

Limitations of Local Jobs First Act and Social Procurement Framework

As Mr Carrol (Minister for Industry and Employment), stated in the second reading of the Victorian Industry Participation Policy (Local Jobs First) Amendment Bill in 2018: “the Government is a major purchaser of goods and services in Victoria, and we are committed to using our investments to support local businesses, create new training opportunities, and create new local jobs.” As stated earlier this demonstrates that the State Government has the right intention and purpose of creating legislation that benefits all Victorians. The State Government has been successful in some instances of reaching these objectives through their various procurement legislation and policies. This success was acknowledged by the Australian Council of Trade Unions’ submission to the Federal Inquiry on Procurement Practices in 2016, stating that the VIPP has brought great economic benefits to Victoria and mentioned specifically the success the VIPP achieved in the \$989 million Victorian Comprehensive Cancer Centre project, where it delivered “92 per cent local content and supported 2,084 local jobs including 185 apprentices and trainees. Four times the original number of jobs anticipated.”⁴⁷ Although the State Government have implemented procurement legislation to benefit SMEs it has only been successful in some cases. The success of the *LJF Act* and the SPF are hindered in a regional setting, where their inadequacies are exacerbated, particularly in the Latrobe Valley region.

Defining ‘Local’

One major criticism of the *LJF Act* has been the misleading definition of ‘Local’. Under the Act’s definition, ‘Local Content’ is referred to as: “goods that are produced by local industry; or services that are supplied by local industry; or construction activities carried out by local industry.” The meaning for ‘Local Industry’ is defined in the Act as “industry and other businesses based in Australia or New Zealand.”⁴⁸ This definition has been shown to be problematic in a regional context and especially within the Latrobe Valley region, where there has been a misconception that businesses within the region would be given first choice for Government contracts that take place in the region.⁴⁹ However, the business people willing to partake in an interview for this report acknowledge that there have been instances where “out of towners” have been needed to carry out particular contracts due to the size of the projects or the genuine nature of the projects, which have required a specialised skills base that is not available within the Latrobe Valley region.⁵⁰ Nonetheless, this

⁴⁷ Parliament of Australia, “Australian procurement models.”

⁴⁸ *Local Jobs First Act 2003* (Vic) s 3.

⁴⁹ Heidi Kraak, “Locals not on Local Jobs.”

⁵⁰ Interviewee A, Interview; Interviewee B, Interview; Interviewee C, Interview. Interviewee D, Interview.

definition has been argued as being misleading with one interviewee comparing the definition of 'Local', with an analogy stating "it's like an airline advertising a sale on international flights, then in the fine print stating that international only means interstate flights."⁵¹ This further exacerbates the previously mentioned contentious and complex relationship between local businesses and the State Government.

Trade Agreement Obligation

Although the definition for 'Local' is 'Australian and New Zealand' and therefore misleading, it is due to Victoria's obligation to adhere to the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA). The ANZCERTA is a trade agreement which strives to strengthen economic relations between Australian and New Zealand.⁵² ANZCERTA has been acknowledged as one of the most successful and comprehensive trade agreements in existence.⁵³ Nonetheless, this trade agreement has created a definition within a State Act which has impeded on the State Government's ability to create legislation that will give direct preference to regional bidders in government procurement tenders. This is a result of Article 11 of the ANZCERTA which stipulates "in government purchasing the maintenance of preferences for domestic suppliers over suppliers from the other Member State is inconsistent with the objectives of this Agreement, and the Member States shall actively and on a reciprocal basis work towards the elimination of such preferences."⁵⁴ As Victoria is a member to this trade agreement they must adhere to it, furthermore as foreign relations is Federal Government jurisdiction, under section 51 subsection 29 of the Australian constitution, Victoria must adhere to international agreements met by the Federal Government.⁵⁵ Moreover, explicit international Agreements, such as the Australian New Zealand Government Procurement Agreement (ANZGPA), amended in 2013, further limit the State Government from creating effective legislation in prioritising struggling regional centres in their procurement contracts, by "ensuring the absence of inter-state and trans-Tasman application of preference schemes and other forms of discrimination in

⁵¹ Interviewee C, Interview.

⁵² Department of Foreign Affairs and Trade, *Closer Economic Relations: Background Guide to the Australia New Zealand Economic Relationship* (Canberra, ACT, 1997), 6, <https://dfat.gov.au/trade/agreements/in-force/anzcerta/Documents/cer.pdf>.

⁵³ Kamala Dawar and Simon J. Evenett, "Government Procurement," in *Preferential Trade Agreement Policies for Development a handbook*, ed. Jean-Pierre Chauffour and Jean-Christophe Maur (Washington: The World Bank, 2011), 377.

⁵⁴ Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA), 1983. <https://dfat.gov.au/trade/agreements/in-force/anzcerta/Documents/anzcerta1.pdf>.

⁵⁵ "Part V: Powers of the Parliament," Parliament of Australia, accessed September 29, 2019. [https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/~link.aspx?id=AFF6CA564BC3465AA325E73053DED4AA&z=z#chapter-01_part-05_51](https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/~/link.aspx?id=AFF6CA564BC3465AA325E73053DED4AA&z=z#chapter-01_part-05_51).

government procurement, based on the place of origin of goods and services.”⁵⁶ Therefore, the *LJF Act* must be consistent with “the obligations of the State under any conventions, treaties or other international agreements to which Australia is a party.”⁵⁷ However, as noted in *Preferential Trade Agreement Policies for Development a handbook*, the ANZCERTA has “no specific procedure is established to govern disputes related to noncompliance of government procurement provisions; instead, the agreement states that ‘the close and long-standing political relationship between Australia and New Zealand means that any issues of grievance or concern are addressed through discussion between the two Governments.’”⁵⁸ Consequently, therefore, the definition for ‘Local’, must be “industry and other businesses based in Australia or New Zealand.”⁵⁹ The definition of ‘Local’, being Australia and New Zealand, adheres to international agreements signed by the State. But as a result, it limits the State from making legislation which would give preference to regional locations in the procurement process, thereby hindering the State’s ability to ensure local participation on local jobs, as seen in the Latrobe Valley region.

Local Industry Development Plan

Another limitation of the *LJF Act*, within a regional setting, has been the requirement of a ‘Local Industry Development Plan’ (LIDP). The LIDP is a lengthy document which requires businesses applying for the tender of a government project to “clearly identify local content, job commitments, including opportunities for apprentices, trainees, cadets within the project”, thereby ensuring the correct amount of ‘local content’ will be achieved before a contract is awarded.”⁶⁰ The document even requires applicants to fill out the supplies they intend to use, requesting the origin of the particular supply item.⁶¹ This is a great measure to ensure ‘Local’ content is used and also to critically compare all the bidders against one another, to award the most appropriate contractor. However as one business owner pointed out, “the document is extremely time-consuming and takes up too much time to complete, I have to invest lots of time and effort into completing this document, which

⁵⁶ Australia and New Zealand Government Procurement Agreement (ANZGPA), 1991.

<https://dfat.gov.au/trade/agreements/in-force/anzcerta/Documents/government-procurement-agreement-september-2013.pdf>.

⁵⁷ *Local Jobs First Act 2003* (Vic) ss 7 c.

⁵⁸ Kamala Dawar and Simon J. Evenett, “Government Procurement,” in *Preferential Trade Agreement Policies*, 377.

⁵⁹ *Local Jobs First Act 2003* (Vic) s 3.

⁶⁰ “Key Documents,” Local Jobs First Commissioner, accessed October 12, 2019.

<https://localjobsfirst.vic.gov.au/agency-guidance/starting-a-project>.

⁶¹ Local Jobs First Commissioner, *Local Industry Development Plan: Sample Template*, accessed October 2, 2019. https://localjobsfirst.vic.gov.au/data/assets/pdf_file/0013/37201/LIDP-template.pdf.

I don't even know will bring my businesses any advantage in completing."⁶² The current requirements of the LIDP thereby deters SMEs in applying for Government projects, as they have to redirect their resources away from activities which are of guaranteed benefit for their business to complete. Furthermore, SMEs have fewer resources and funds available, compared to larger enterprises who can justify taking the risk of competing in numerous government contracts by completing a LIDP. Therefore, the region is disadvantaged as it only contains construction businesses designated as SMEs.⁶³ As a result, this contributes to fewer businesses competing in government contracts which than impacts on local worker participation in local projects.

⁶² Interviewee B, Interview.

⁶³ Committee for Gippsland, "Our Region Our Future: Securing an Economic Future for Gippsland and Latrobe Valley" (Gippsland and Latrobe Valley: 2016), 40.

Compliance

Another major issue that was brought up by all four interviewees for this report, is the lack of compliance auditing by the Local Jobs First Commissioner. All subcontractors that participated in an interview for this report noted that on numerous occasions principal contractors who have successfully been awarded the government contract, have come back to the subcontractors and informed them that they need to lower their prices substantially, otherwise the subcontract position will be reconsidered for another bidder who can offer the lower price.⁶⁴ In these instances, the price difference between the original price the subcontractor offered to complete the proposed work for, compared to the readjusted price the principal contractor has asked for, is on average 10-15% different.⁶⁵ For projects of significant value, this would be a substantial amount of money, which then limits the ability for subcontractors to oblige for the re-adjusted price. In some instances, this could be an entire year's wage for a worker, signifying that local businesses have less revenue, limiting their ability to employ new workers.⁶⁶ This issue is extremely problematic as the principal contractor must complete a LIDP stipulating the intended subcontractors, which is used to determine the most appropriate contractor for the government contracts. Furthermore, the principal contractor must sign a Statutory Declaration at the end of the LIDP.⁶⁷ As a result, local subcontractors are left wondering if they were only listed in the subcontract position on the LIDP so the principal contractor (who are primarily from a metropolitan area) was awarded the contracts.⁶⁸ These somewhat dubious activities mean that local subcontractors have to let go of work to larger subcontractors, who have the financial ability to carry out the cheaper work. Or in some instances as alluded to by interviewee C, it may be that the principal contractor would rather work with a subcontractor who they are familiar with and instead bluffs for a considerably cheaper price, so they can work with their intended subcontractor who would not be listed on the LIDP, as it could undermine the principal contractors likelihood of being awarded the contract.⁶⁹ This however, may not be the case, but what is clear, is the stipulation by concerned business persons of the region, that local subcontractors who have supplied an initial price to the principal contractor are then being told to lower their price significantly after the principal contractor has been awarded the

⁶⁴ Interviewee A, Interview; Interviewee B, Interview.

⁶⁵ Interviewee A, Interview; Interviewee B, Interview; Interviewee C, Interview. Interviewee D, Interview.

⁶⁶ Interviewee C, Interview.

⁶⁷ Local Jobs First Commissioner, *Local Industry Development Plan: Sample Template*.

⁶⁸ Interviewee A, Interview; Interviewee B, Interview.

⁶⁹ Interviewee B, Interview.

government contract. As a result, local subcontractors who were intended for the project on the LIDP are not the ones carrying them out.

The *LJF Act* amendment in 2018 created the provision for a Local Job First Commissioner with the purpose of monitoring and enforcing the LIDP. However, there has not been any cases where the Commissioner has taken steps to enforce the *LJF Act*. Therefore, all interviewees have stated there is a lack of compliance checking of the LIDP.⁷⁰ It must be noted however that considering the recent amendment of the *LJF Act* and establishment of the Acts Commissioner, that there must be sufficient leniency given to allow for relevant stakeholders to become familiarised with the Act and to adjust their practices accordingly, as it could be argued that any rigid auditing of the current Act may seem to unfair. However, it is implied by interviewees that some businesses are taking advantage of this leniency and are therefore undermining the *LJF Act*.

⁷⁰ Interviewee A, Interview; Interviewee B, Interview; Interviewee C, Interview. Interviewee D, Interview.

Importance of local construction jobs

Local jobs carried out by local people is an extremely important concept for regional and rural communities. Without local jobs people must relocate, often to metropolitan centres, to find a job.⁷¹ This leaves struggling communities such as the LGA of Latrobe City with a lower than State average population growth rate, at 0.4% compared to 2.1 %.⁷² It also puts further pressure on major centres, with exponential growth that has infrastructure struggling to accommodate for the huge growth rate.⁷³ The importance of local jobs especially in the Economic Growth Zone of the Latrobe Valley region is paramount in ensuring all steps are taken in combating a high unemployment rate in the region.⁷⁴ Furthermore as stated in 'Sustainable Operations and Supply Chain Management', "local sourcing and production can lead to several advantages, such as quicker and more dependable deliveries [of services], lower inventory levels and a higher degree of interaction with local clients that enables a better understanding of their specific preferences."⁷⁵ Additionally, the interviewees for this report contended that local workers carry out diligent care and attention to detail when completing jobs, as their reputation within the region would be scrutinised if they were to complete an insufficient job.⁷⁶ But more importantly that the completed projects will often be used by them or their family and friends, such as the Latrobe Regional Hospital for instance, where their children are born and their family and friends are taken care of when facing health problems.⁷⁷ This gives an added incentive for them to complete a project of due diligence compared to a business which is non-local. Furthermore, it ensures that the job is done properly in the first place and that further expenditure isn't required to fix mistakes.⁷⁸ This can mean overall lower costs for government projects but a higher quality completion as well. This is a clear justification that having local workers on local construction projects in regional centres is just common sense.

⁷¹ Anna Watanabe, "What happens when a town's major industry shuts down?" *SBS: Insight*, January 17, 2019. <https://www.sbs.com.au/news/insight/what-happens-when-a-town-s-major-industry-shuts-down>.

⁷² "Community Profile," Latrobe City, accessed October 10, 2019.

<https://communityprofile.com.au/latrobe/trends/population#!trendtable;i=0>; Australian Bureau of Statistics, *Australian Demographic Statistics, March 2019*, Cat. no. 3101.0, Canberra, 2019, <https://www.abs.gov.au/AUSSTATS/abs@.nsf/mf/3101.0>.

⁷³ Infrastructure Victoria, *Growing Victoria's Potential: The opportunities and challenges of Victoria's population growth* (Victoria, 2019), 6. <https://www.infrastructurevictoria.com.au/wp-content/uploads/2019/04/Growing-Victorias-Potential-April-2019.pdf>.

⁷⁴ "The Latrobe Valley Economic Development Program," Victorian State Government Jobs Precincts and Regions.

⁷⁵ Valeria Belvedere and Alberto Grando, *Sustainable Operations and Supply Chain Management*, (West Sussex: John Wiley & Sons Ltd, 2017), 150.

⁷⁶ Interviewee A, Interview; Interviewee B, Interview; Interviewee C, Interview. Interviewee D, Interview.

⁷⁷ Interviewee C, Interview.

⁷⁸ Interviewee A, Interview; Interviewee B, Interview; Interviewee C, Interview. Interviewee D, Interview.

Additionally, “it is estimated that for every dollar spent in a local business, 42 cents is reinvested in the local community, which leads to more jobs and more support for charities, schools and sports clubs.”⁷⁹ Furthermore, there is clear evidence to suggest the stability of the construction industry in the region, with the Latrobe city council approving \$594 million worth of residency and non-residency building approvals in the last 3 years.⁸⁰ With non-residency building approvals expanding by 237% in the 2017-2018 financial year, followed by a further 30.4% for the following financial year of 2018-2019.⁸¹ Representing that investing in the local construction industry would be a stable economic incentive when local workers participate on construction projects in the Latrobe Valley region, thereby helping to combat the regions high unemployment rate and assist in the region’s economic transition.

⁷⁹ “Unemployment Falls Across Gippsland,” Darren Chester Latest News, accessed October 10, 2019. <https://darrenchester.com.au/unemployment-falls-across-gippsland/>; Roger Balch, “Community brings big benefits to small business,” *The Sydney Morning Herald*, October 15, 2018.

<https://www.smh.com.au/business/small-business/community-brings-big-benefits-to-small-business-20181009-p508ku.html>.

⁸⁰ “Economy Profile: building approvals,” Latrobe City, accessed October 10, 2019.

<https://www.economyprofile.com.au/latrobe/trends/building-approvals#table>

⁸¹ Ibid.

Key findings and recommendations

From analysis of relevant data, publications and interviews as discussed throughout this report, the following key findings have been met. Demonstrating the limitations of local participation in state Funded Construction Projects in the Latrobe Valley region.

Key findings

Key finding 1.

As a result of international trade agreements that the State of Victoria must adhere to, the State Government cannot create legislation that gives preference to a regional location in the government procurement process. Therefore, this adversely affects the ability for the Government to create legislation in ensuring local participation on State Government funded projects in the Latrobe Valley region. Furthermore, the definition of 'Local' has been extremely misleading, confusing and bureaucratic to many businesses, which has in some instances resulted in resentment or a sense of betrayal, that has led to disengagement by local businesses in participating for government contracts, or utilising government services, limiting the overall content of local participation.

Key Finding 2.

The LIDP is a lengthy document which deters regional businesses from applying for government contracts, as they do not have the extensive resources available which limits their justification for applying for Government contracts. This thereby limits the number of local businesses applying for government funded projects in the region, which then limits the number of local businesses participating in local projects.

Key Finding 3.

Principal contractors are not adhering to their commitments that they have stipulated in their legally binding LIDP. In many instances, local subcontractors have had to readjust their initial prices after the principal contractor has won the Government contract. In many cases, local subcontractors have not been able to compete with larger subcontractors from outside of the region, who have the financial ability to complete subcontract positions at a lower price. The price difference between the original quote and the readjusted quote is a difference of 10-15%, therefore on larger projects with a large budget, this could mean the financial equivalent of an average worker's annual salary, thereby limiting the local businesses ability to employ more workers. As a result of questionable actions from principal contractors, due to a lack of auditing, local subcontractors are unable to participate in local state funded projects.

Key Finding 4.

Many businesses are disengaged with current government services that can assist local businesses in participating in state funded projects. The disengagement is a result of mismanagement by government initiatives in the region which have adversely affected their reputation and angered local businesses in the process. As a result, local businesses are not utilising government services which would otherwise help create greater local participation in local state funded projects in the Latrobe Valley region.

Recommendations

Recommendation 1: In response to Key Finding 1 and 4.

The State Government should investigate ways to challenge their obligation of adhering to trade agreements, which prohibits the State from creating procedures within the procurement process that give preference to regions. This could be done by opening a discourse with signatories to the ANZCERTA to create an exemption, which could ensure struggling economic regions such as the Latrobe Valley region receive reasonable preference in government tender processes. Additionally, if the State Government is unable to find ways of amending the definition of 'Local', then there should be clear and concise understanding of what 'Local' means to all stakeholders, as well as a clear explanation as to why the State must adhere to this definition. Furthermore, by doing so, local industries should be given the necessary support in enabling them to compete under the framework of the *LJF Act*.

Recommendation 2: In response to Key Finding 2

Investigate ways to simplify the LIDP that would allow SMEs, such as those in the Latrobe Valley region, to easily compete in the tender process as it is for larger construction businesses. This could be done by changing the requirements of the LIDP, such as allowing regional SMEs to submit a further in-depth LIDP, after they have submitted an initial simplified version. But also assisting organisations such as the ICN in promoting their free available service that can assist businesses in completing their LIDPs.

Recommendation 3: In response to Key Finding 3

Greater compliance auditing by the 'Local' Jobs First Commissioner in line with their functions, as set out by the *LJF Act*. Therefore, ensuring that local subcontractors who were listed on completed and signed LIDPs are in fact the subcontractors completing the work.

Recommendation 4: In response to Key Finding 2 and 4.

Support existing organisations, departments and initiatives that operate in the region in reaching their objectives by creating better awareness of the assistance available to local businesses. This, in turn, would create a better rapport between local businesses and these organisations, departments and initiatives. Furthermore, the Government should conduct an independent investigation into the current image and reputation of respective government initiatives such as the LVA and the RDV in the Latrobe Valley region, determining whether it impacts upon the success of existing initiatives that are being offered, which would assist in creating greater local participation in local construction projects that are funded by the State Government.

Conclusion

In conclusion, the State Government of Victoria has established some great procurement legislation and policies which have seen some successful results. However, the success of legislation and policies such as the *LJF Act* become limited in a regional context such as the Latrobe Valley region. Although the Latrobe Valley region is considered an Economic Growth Zone with higher than national average unemployment, there are non-local workers completing government funded projects in the region, which is counterintuitive to efforts being made to assist the region in its economic transition.

The overall handling by government departments and initiatives in the region in assisting the region in its economic transition has at times has been questionable and has led to some ambiguity and confusion for relevant stakeholders, particularly local construction businesses. This, as a result, has affected some businesses in the region from utilising services that these respective departments and initiatives offer, that would assist local businesses in participating in government funded projects within the Latrobe Valley region.

However, limitations from current government legislation such as the *LJF Act* are a result of numerous reasons, in particular, the State Governments obligation to adhere to international trade agreements which requires the cornerstone term 'Local' of the *LJF Act* to be defined as "industry and other businesses based in Australia or New Zealand." This limits the State Governments ability to create a definition which would seek to assist local businesses in participating in government funded projects.

Furthermore, current government procurement processes require every principal contractor applicant to fill out a LIDP. As the LIDP is a lengthy and time-consuming document, some local businesses have been deterred from participating in government funded projects, instead opting to focus their resources on viable job opportunities.

Lastly, the somewhat recently established Local Jobs First Commissioner is yet to enforce any noticeable actions in enforcing the *LJF Act*. As a result, some principal contractors have dishonoured their obligations set out in their signed LIDPs which stated that they would be using local subcontractors, instead opting for non-local subcontracts, which has affected local content on state funded projects within the region.

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