



**Supply Nation**

# Standing Committee on Indigenous Affairs

Supplementary Submission by Supply Nation to the Inquiry into

***Pathways and Participation Opportunities for Indigenous  
Australians in Employment and Business***

February 2021

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## Introduction

Supply Nation welcomes the opportunity to make a supplementary submission to the House Standing Committee on Indigenous Affairs' Inquiry into Pathways and Participation Opportunities for Indigenous Australians in Employment and Business. This follows our initial submission of December 2020 and subsequent appearance as a witness before the Committee on 4 February 2021.

This supplementary submission responds to several questions from the Committee that required additional information and detail. In particular, this supplementary submission responds to the following issues:

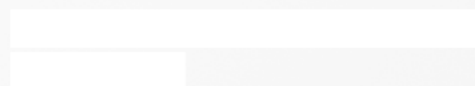
- The definition of 'black cladding' and Supply Nation's understanding of it;
- The regional distribution of Supply Nation Indigenous businesses across Australia;
- The procurement spend associated with this regional distribution;
- The constraints that prevent Indigenous companies setting up in areas where there might be a concentration of Indigenous people;
- Challenges associated with Supply Nation's certification process;
- Reasons for the removal of Indigenous businesses from the Supply Nation register.

## About Supply Nation

Supply Nation is the Australian leader in supplier diversity, and since 2009 has worked with Aboriginal and Torres Strait Islander businesses along with procurement teams from government and corporate Australia to help shape today's rapidly evolving Indigenous business sector. Supply Nation's world-leading 5-step verification process provides peace of mind by ensuring that all businesses listed on Australia's largest national directory of Aboriginal and Torres Strait Islander businesses, Indigenous Business Direct, are not only Indigenous owned but are also regularly audited for changes in company structure and ownership. Supply Nation partners with its members from the government, corporate and not-for-profit sectors to develop procurement policies that can enable the greater participation of the Indigenous business sector.

More recently, Supply Nation also established an internal research capacity to deliver evidence-based programs—providing a stronger platform to advocate for the needs and benefits of Indigenous business and Indigenous procurement. As custodian of Australia's most respected data base of Indigenous businesses, a focus of our research is understanding the contours, trends and contributions the Indigenous Business sector makes to the broader national economy as well as its contribution to the well-being and self-determination of Aboriginal and Torres Strait Islander people.

Our research is the product of collaboration with a range of university centres, government and independent research agencies on projects of relevance to Indigenous Australians and Indigenous business.



## The definition of 'black cladding'

'Black cladding' can mean different things to different people and can therefore be subjective and nuanced depending on how an individual decides to define an Indigenous business.

Supply Nation considers 'black cladding' the practice of a non-Indigenous business entity or individual taking unfair advantage of an Indigenous business entity or individual for the purpose of gaining access to otherwise inaccessible Indigenous procurement policies or contracts. Unfair advantage involves practices and arrangements that result in the disadvantage or detriment to an Indigenous business, or that do not represent a genuine demonstrated level of equitable partnership and benefit. Supply Nation undertakes checks to ensure that the business arrangement is equitable, and the Indigenous party is protected. Given these challenges, the certification and verification provided by Supply Nation is highly valued by the business sector and the processes we undertake are reviewed and updated as needed to ensure the best possible mitigation against 'black cladding'. We acknowledge that there will always be those who seek to undermine legitimate process and policy and have a formal, dedicated complaints handling process in place for the reporting of suspected 'black Cladding'.

In addition to subjective interpretation of 'black cladding', the term can be contentious due to a lack of clarity or misinformation around what constitutes legitimate business practice. Attached as Appendix 1 is a Supply Nation factsheet on 'black cladding' prepared in 2020 and available on our website that provides further information on Supply Nation's position, and includes examples of what 'black cladding' is not.

<https://supplynation.org.au/wp-content/uploads/2020/12/Supply-Nation-what-is-black-cladding-2020.pdf>

A related fact sheet outlining compliance requirements and guidelines for Indigenous joint ventures is attached as Appendix 2, and also available from our website.

<https://supplynation.org.au/wp-content/uploads/2019/11/Supply-Nation-Joint-Ventures-A4-FINAL.pdf>

Supply Nation welcomes policy changes at federal level aimed at minimising the risk of 'black cladding' and have put forward recommendations to NIAA that we believe would further strengthening our verification process. These include:

- Having mandatory directorship requirements for Indigenous owners of companies;
- Changing the definition of Indigenous ownership to minimum 51%;
- Mandating that all Indigenous businesses complete certification requirements including additional compliance requirements designed to strengthen commercial independence;
- Expanding audit requirements to include the demonstration of benefits to Indigenous parties and beneficiaries;
- Mandatory periodic reporting for all Indigenous suppliers;
- Strengthening of Joint Venture governance through pre-contract workshops and pro-bono legal support for Indigenous businesses during contract negotiations.

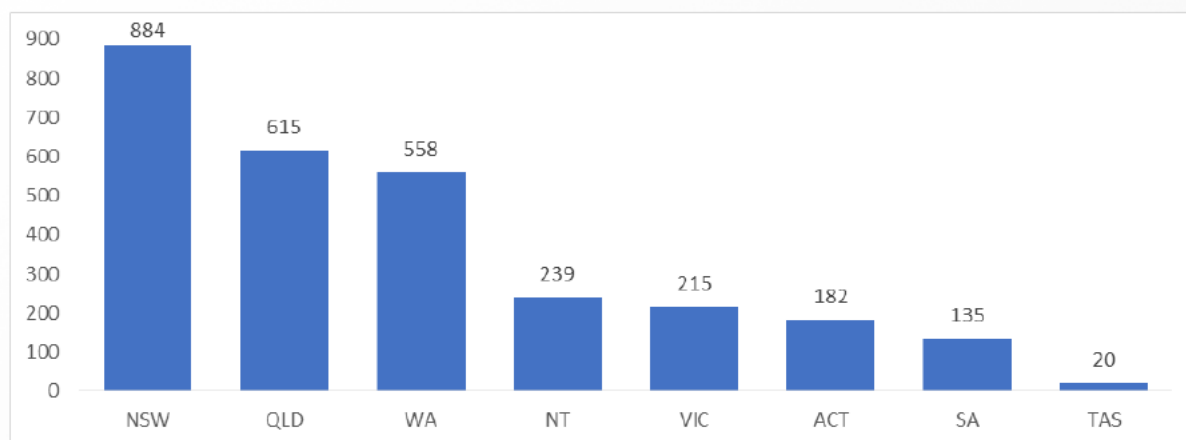
## The regional distribution of Supply Nation Indigenous businesses

Figure 1 shows the number of Indigenous businesses registered with Supply Nation by State. The majority of businesses are from NSW (31%) and Queensland (22%). One-fifth (20%) of all registered businesses are from



Western Australia, with the remaining businesses from Northern Territory (8%); Victoria (7%); ACT (6%); South Australia (5%) and less than 1% from Tasmania.

**Figure 1** Supply Nation Indigenous businesses by State (February 2021)



Overall, Table 1 shows that just 501 or just under one-fifth (18%) of all Indigenous businesses registered with Supply Nation are from rural areas (*based on postcodes categorised as rural by the National Indigenous Australians Agency*).

**Table 1** Supply Nation Indigenous businesses from rural areas

| Rural Postcode        | Number of Suppliers |
|-----------------------|---------------------|
| 0801                  | 9                   |
| Darwin                | 6                   |
| DARWIN CITY           | 1                   |
| East Arm, Darwin      | 1                   |
| Winnellie             | 1                   |
| 0810                  | 15                  |
| ALAWA                 | 1                   |
| Brinkin               | 1                   |
| Casuarina             | 1                   |
| COCONUT GROVE         | 3                   |
| Coconut Grove, Darwin | 1                   |
| Millner               | 1                   |
| Moil                  | 1                   |
| Nhulunbuy             | 1                   |
| NIGHTCLIFF            | 2                   |
| TIWI                  | 1                   |
| Wagaman Darwin        | 1                   |
| Winnellie             | 1                   |
| 0811                  | 2                   |
| BERRIMAH              | 1                   |
| Nakara                | 1                   |
| 0812                  | 13                  |
| Darwin                | 2                   |

|                       |           |
|-----------------------|-----------|
| <b>Karama</b>         | 2         |
| <b>LEANYER</b>        | 5         |
| <b>MALAK</b>          | 1         |
| <b>MARRARA</b>        | 2         |
| <b>WULAGI</b>         | 1         |
| 0820                  | <b>14</b> |
| <b>Darwin</b>         | 1         |
| <b>FANNIE BAY</b>     | 1         |
| <b>LARRAKEYAH</b>     | 2         |
| <b>Parap</b>          | 2         |
| <b>Winnellie</b>      | 6         |
| <b>WOOLNER</b>        | 2         |
| 0821                  | <b>4</b>  |
| <b>Winnellie</b>      | 3         |
| <b>WOOLNER</b>        | 1         |
| 0822                  | <b>12</b> |
| <b>EAST ARM</b>       | 4         |
| <b>East Arnhem</b>    | 1         |
| <b>GUNBALANYA</b>     | 1         |
| <b>Maningrida</b>     | 1         |
| <b>McMinns Lagoon</b> | 1         |
| <b>Milingimbi</b>     | 1         |
| <b>Tivendale</b>      | 1         |
| <b>WADEYE</b>         | 1         |
| <b>WAGAIT BEACH</b>   | 1         |
| 0828                  | <b>14</b> |
| <b>BERRIMAH</b>       | 9         |
| <b>EAST ARM</b>       | 1         |
| <b>Knuckey Lagoon</b> | 3         |
| <b>Knuckey Lagoon</b> | 1         |
| 0829                  | <b>7</b>  |
| <b>BERRIMAH</b>       | 1         |
| <b>Darwin</b>         | 1         |
| <b>Holtze</b>         | 2         |
| <b>Pinelands</b>      | 3         |
| 0830                  | <b>13</b> |
| <b>DRIVER</b>         | 1         |
| <b>DURACK</b>         | 2         |
| <b>PALMERSTON</b>     | 1         |
| <b>YARRAWONGA</b>     | 9         |
| 0832                  | <b>12</b> |
| <b>BAKEWELL</b>       | 1         |
| <b>BELLAMACK</b>      | 2         |
| <b>FANNIE BAY</b>     | 1         |
| <b>Gunn</b>           | 1         |
| <b>JOHNSTON</b>       | 1         |

|                             |           |
|-----------------------------|-----------|
| <b>ROSEBERY</b>             | <b>2</b>  |
| <b>Zuccoli</b>              | <b>4</b>  |
| 0834                        | <b>3</b>  |
| <b>Virginia</b>             | <b>3</b>  |
| 0835                        | <b>4</b>  |
| <b>Darwin</b>               | <b>1</b>  |
| <b>Holtze</b>               | <b>1</b>  |
| <b>HOWARD SPRINGS</b>       | <b>2</b>  |
| 0836                        | <b>9</b>  |
| <b>Darwin</b>               | <b>1</b>  |
| <b>HERBERT</b>              | <b>2</b>  |
| <b>Herbert (Humpty Doo)</b> | <b>1</b>  |
| <b>HUMPTY DOO</b>           | <b>5</b>  |
| 0837                        | <b>1</b>  |
| <b>Noonamah</b>             | <b>1</b>  |
| 0838                        | <b>4</b>  |
| <b>Berry Springs</b>        | <b>4</b>  |
| 0839                        | <b>1</b>  |
| <b>Holtze</b>               | <b>1</b>  |
| 0845                        | <b>1</b>  |
| <b>Batchelor</b>            | <b>1</b>  |
| 0846                        | <b>1</b>  |
| <b>ADELAIDE RIVER</b>       | <b>1</b>  |
| 0850                        | <b>12</b> |
| <b>COSSACK</b>              | <b>1</b>  |
| <b>KATHERINE</b>            | <b>7</b>  |
| <b>KATHERINE EAST</b>       | <b>1</b>  |
| <b>Katherine South</b>      | <b>3</b>  |
| 0851                        | <b>2</b>  |
| <b>KATHERINE</b>            | <b>2</b>  |
| 0852                        | <b>5</b>  |
| <b>FLORINA</b>              | <b>1</b>  |
| <b>Kalkaringi</b>           | <b>1</b>  |
| <b>Robinson River</b>       | <b>1</b>  |
| <b>Timber Creek</b>         | <b>1</b>  |
| <b>Yarralin</b>             | <b>1</b>  |
| 0854                        | <b>1</b>  |
| <b>BORROLOOLA</b>           | <b>1</b>  |
| 0860                        | <b>10</b> |
| <b>TENNANT CREEK</b>        | <b>10</b> |
| 0870                        | <b>29</b> |
| <b>ALICE SPRINGS</b>        | <b>22</b> |
| <b>BRAITLING</b>            | <b>1</b>  |
| <b>CICCONE</b>              | <b>2</b>  |
| <b>EAST SIDE</b>            | <b>2</b>  |
| <b>GILLEN</b>               | <b>1</b>  |

|                           |           |
|---------------------------|-----------|
| <b>Via Alice Springs</b>  | <b>1</b>  |
| 0871                      | <b>10</b> |
| <b>ALICE SPRINGS</b>      | <b>10</b> |
| 0872                      | <b>5</b>  |
| <b>Haasts Bluff</b>       | <b>1</b>  |
| <b>PUKATJA</b>            | <b>1</b>  |
| <b>SANDOVER</b>           | <b>1</b>  |
| <b>YUENDUMU</b>           | <b>1</b>  |
| <b>YULARA</b>             | <b>1</b>  |
| 0875                      | <b>1</b>  |
| <b>LARAPINTA</b>          | <b>1</b>  |
| 0880                      | <b>5</b>  |
| <b>Nhulunbuy</b>          | <b>4</b>  |
| <b>Yirrkala</b>           | <b>1</b>  |
| 0885                      | <b>3</b>  |
| <b>Alyangula</b>          | <b>2</b>  |
| <b>Angurugu Community</b> | <b>1</b>  |
| 0886                      | <b>5</b>  |
| <b>JABIRU</b>             | <b>4</b>  |
| <b>via Jabiru</b>         | <b>1</b>  |
| 2835                      | <b>3</b>  |
| <b>Cobar</b>              | <b>3</b>  |
| 2838                      | <b>1</b>  |
| <b>GOODDOGA</b>           | <b>1</b>  |
| 2839                      | <b>2</b>  |
| <b>Brewarrina</b>         | <b>2</b>  |
| 2840                      | <b>2</b>  |
| <b>Bourke</b>             | <b>2</b>  |
| 4101                      | <b>10</b> |
| <b>South Brisbane</b>     | <b>3</b>  |
| <b>WEST END</b>           | <b>7</b>  |
| 4470                      | <b>1</b>  |
| <b>CHARLEVILLE</b>        | <b>1</b>  |
| 4725                      | <b>1</b>  |
| <b>BARCOLDINE</b>         | <b>1</b>  |
| 4821                      | <b>1</b>  |
| <b>HUGHENDEN</b>          | <b>1</b>  |
| 4824                      | <b>2</b>  |
| <b>CLONCURRY</b>          | <b>2</b>  |
| 4825                      | <b>10</b> |
| <b>HAPPY VALLEY</b>       | <b>1</b>  |
| <b>Mount Isa</b>          | <b>8</b>  |
| <b>PARKSIDE</b>           | <b>1</b>  |
| 4830                      | <b>1</b>  |
| <b>Doomadgee</b>          | <b>1</b>  |
| 4874                      | <b>5</b>  |



|                          |           |
|--------------------------|-----------|
| <b>Weipa</b>             | <b>5</b>  |
| 4875                     | <b>19</b> |
| <b>Badu Island</b>       | <b>1</b>  |
| <b>Darnley Island</b>    | <b>1</b>  |
| <b>Erub</b>              | <b>1</b>  |
| <b>Hammond Island</b>    | <b>1</b>  |
| <b>Horn Island</b>       | <b>1</b>  |
| <b>Moa Island</b>        | <b>1</b>  |
| <b>Murray Island</b>     | <b>1</b>  |
| <b>THURSDAY ISLAND</b>   | <b>9</b>  |
| <b>Torres Strait</b>     | <b>3</b>  |
| 4876                     | <b>5</b>  |
| <b>Bamaga</b>            | <b>3</b>  |
| <b>Seisia</b>            | <b>2</b>  |
| 4881                     | <b>7</b>  |
| <b>KOAH</b>              | <b>2</b>  |
| <b>KURANDA</b>           | <b>5</b>  |
| 4892                     | <b>4</b>  |
| <b>AURUKUN</b>           | <b>1</b>  |
| <b>Coen</b>              | <b>1</b>  |
| <b>KOWANYAMA</b>         | <b>1</b>  |
| <b>Lockhart River</b>    | <b>1</b>  |
| 4895                     | <b>3</b>  |
| <b>COOKTOWN</b>          | <b>2</b>  |
| <b>HOPE VALE</b>         | <b>1</b>  |
| 5433                     | <b>1</b>  |
| <b>QUORN</b>             | <b>1</b>  |
| 5607                     | <b>1</b>  |
| <b>Yallunda Flat</b>     | <b>1</b>  |
| 5608                     | <b>1</b>  |
| <b>Whyalla Norrie</b>    | <b>1</b>  |
| 5690                     | <b>4</b>  |
| <b>Bookabie</b>          | <b>1</b>  |
| <b>Ceduna</b>            | <b>3</b>  |
| 5700                     | <b>4</b>  |
| <b>PORT AUGUSTA</b>      | <b>3</b>  |
| <b>PORT AUGUSTA WEST</b> | <b>1</b>  |
| 5710                     | <b>1</b>  |
| <b>Stirling North</b>    | <b>1</b>  |
| 5732                     | <b>1</b>  |
| <b>Copley</b>            | <b>1</b>  |
| 6430                     | <b>5</b>  |
| <b>Kalgoorlie</b>        | <b>3</b>  |
| <b>South kalgoorlie</b>  | <b>2</b>  |
| 6431                     | <b>1</b>  |
| <b>Tjukurla</b>          | <b>1</b>  |

|                                   |  |           |
|-----------------------------------|--|-----------|
| 6432                              |  | <b>3</b>  |
| <b>BOULDER</b>                    |  | 2         |
| <b>Kalgoorlie Boulder</b>         |  | 1         |
| 6433                              |  | <b>1</b>  |
| <b>KALGOORLIE PO</b>              |  | 1         |
| 6440                              |  | <b>1</b>  |
| <b>LAVERTON</b>                   |  | 1         |
| 6450                              |  | <b>2</b>  |
| <b>ESPERANCE</b>                  |  | 2         |
| 6525                              |  | <b>1</b>  |
| <b>Dongara</b>                    |  | 1         |
| 6530                              |  | <b>7</b>  |
| <b>Geraldton</b>                  |  | 4         |
| <b>UTAKARRA</b>                   |  | 1         |
| <b>WEBBERTON</b>                  |  | 2         |
| 6532                              |  | <b>4</b>  |
| <b>DEEPPDALE</b>                  |  | 1         |
| <b>MOONYOONOOKA</b>               |  | 1         |
| <b>Narngulu</b>                   |  | 2         |
| 6536                              |  | <b>1</b>  |
| <b>KALBARRI</b>                   |  | 1         |
| 6537                              |  | <b>1</b>  |
| <b>Denham</b>                     |  | 1         |
| 6630                              |  | <b>3</b>  |
| <b>MULLEWA</b>                    |  | 2         |
| <b>Murchison</b>                  |  | 1         |
| 6642                              |  | <b>1</b>  |
| <b>MEEKATHARRA</b>                |  | 1         |
| 6701                              |  | <b>2</b>  |
| <b>Carnarvon</b>                  |  | 1         |
| <b>KINGSFORD</b>                  |  | 1         |
| 6710                              |  | <b>1</b>  |
| <b>Onslow</b>                     |  | 1         |
| 6713                              |  | <b>1</b>  |
| <b>DAMPIER</b>                    |  | 1         |
| 6714                              |  | <b>26</b> |
| <b>GAP RIDGE</b>                  |  | 2         |
| <b>Karratha</b>                   |  | 12        |
| <b>KARRATHA INDUSTRIAL ESTATE</b> |  | 6         |
| <b>Karratha LIA</b>               |  | 1         |
| <b>NICKOL</b>                     |  | 4         |
| <b>Pegs Creek</b>                 |  | 1         |
| 6718                              |  | <b>5</b>  |
| <b>Roebourne</b>                  |  | 5         |
| 6720                              |  | <b>1</b>  |
| <b>Porth Hedland</b>              |  | 1         |

|                           |            |
|---------------------------|------------|
| 6721                      | <b>13</b>  |
| <b>Port Hedland</b>       | 7          |
| <b>WEDGEFIELD</b>         | 6          |
| 6722                      | <b>14</b>  |
| <b>BOODARIE</b>           | 1          |
| <b>South Hedland</b>      | 10         |
| <b>WEDGEFIELD</b>         | 3          |
| 6725                      | <b>45</b>  |
| <b>BILINGURR</b>          | 5          |
| <b>Billingur (Broome)</b> | 1          |
| <b>Broome</b>             | 35         |
| <b>Broome</b>             | 1          |
| <b>DJUGUN</b>             | 3          |
| 6726                      | <b>3</b>   |
| <b>Cable Beach</b>        | 3          |
| 6728                      | <b>11</b>  |
| <b>DERBY</b>              | 11         |
| 6740                      | <b>1</b>   |
| <b>Wyndham</b>            | 1          |
| 6743                      | <b>15</b>  |
| <b>Kununurra</b>          | 12         |
| <b>Warmun</b>             | 3          |
| 6751                      | <b>2</b>   |
| <b>TOM PRICE</b>          | 2          |
| 6753                      | <b>4</b>   |
| <b>NEWMAN</b>             | 4          |
| 6765                      | <b>5</b>   |
| <b>Fitzroy Crossing</b>   | 5          |
| 6770                      | <b>4</b>   |
| <b>HALLS CREEK</b>        | 4          |
| Total                     | <b>501</b> |

## Procurement spend by geographical location

Table 2 shows the value of procurement spend by Supply Nation members (corporate and government buyers of goods and services from Indigenous businesses) by State. Western Australia represents the greatest procurement spend with just under one-third of the dollar value of all procurement spend with Supply Nation Indigenous businesses. NSW recorded just over one-fifth of the dollar value of total procurement spend.

**Table 2 Procurement spend by Supply Nation members by State (FY 2019 – 2020)**

| State | \$m            | %          |
|-------|----------------|------------|
| WA    | 520.1          | 32         |
| NSW   | 346.6          | 21         |
| ACT   | 187.8          | 12         |
| QLD   | 183.8          | 11         |
| SA    | 138.4          | 9          |
| VIC   | 137.3          | 8          |
| NT    | 101.2          | 6          |
| TAS   | 0.4            | 0          |
|       | <b>1,615.5</b> | <b>100</b> |

*Note:* Data represents dollar value of procurement spend for the period 1 July 2019 to 30 June 2020 as reported by Supply Nation corporate and Government members with verified Indigenous Businesses listed on Supply Nation's Indigenous Business Direct during the same period. Approximately 25% of members did not report spend during the same period.

Table 3 shows the value of procurement spend by Supply Nations members (corporate and government buyers of goods and services from Indigenous businesses) by State and rural or non-rural location. Western Australia not only represents the greatest procurement spend by State, but the highest proportion of rural spend with just under two-thirds of the dollar value of all procurement spend with Supply Nation Indigenous businesses in rural areas. This is followed by the Northern Territory with one-third of the dollar value of all procurement spend with Supply Nation Indigenous businesses in rural areas. The proportion of rural spend by members in other States and Territories is minimal.

**Table 3 Procurement spend by Supply Nation members by State (Rural vs non-rural)**

|       | Rural        | % of total rural | Non-rural      | % of total non-rural | Total          | % of total  |
|-------|--------------|------------------|----------------|----------------------|----------------|-------------|
| State | \$m          | %                | \$m            | %                    | \$m            | %           |
| WA    | 193.7        | 64               | 326.4          | 25                   | 520.1          | 32          |
| NSW   | 0.05         | 0                | 346.6          | 26                   | 346.6          | 21          |
| ACT   | -            | 0                | 187.8          | 14                   | 187.8          | 12          |
| QLD   | 9.4          | 3                | 174.4          | 13                   | 183.8          | 11          |
| SA    | 0.3          | 0                | 138.1          | 11                   | 138.4          | 9           |
| VIC   | 0.1          | 0                | 137.2          | 10                   | 137.3          | 8           |
| NT    | 98.1         | 33               | 3.1            | 0                    | 101.2          | 6           |
| TAS   | -            | 0                | 0.4            | 0                    | 0.4            | 0           |
|       | <b>301.7</b> | <b>100%</b>      | <b>1,313.8</b> | <b>100%</b>          | <b>1,615.5</b> | <b>100%</b> |

*Note:* Data represents dollar value of procurement spend for the period 1 July 2019 to 30 June 2020 as reported by Supply Nation corporate and Government members with verified Indigenous Businesses listed on Supply Nation's Indigenous Business Direct during the same period. Approximately 25% of members did not report spend during the same period.

## Set-up constraints for Indigenous businesses

The constraints that prevent Indigenous businesses being set up in parts of Australia where there are a relatively higher proportion of Indigenous Australians were summarised in our initial submission and also detailed in Supply Nation's research report *State of Indigenous Business: driving growth across the Indigenous business sector*, included as an attachment in that submission.

In summary, the barriers to entry are more significant in some sectors due to a range of factors. These include the capital intensity and quality assurance requirements in the sector, as well as market congestion. These factors limit the ability for all SMEs to participate in these sectors. As Indigenous businesses are predominantly SMEs, these factors particularly limit their participation in these sectors. There are few Indigenous businesses supplying into the heavy industrial manufacturing sector, for example, as the capital requirements are typically significant. Similarly, Indigenous business presence in the food sector is limited due to capital and quality assurance requirements, and the highly congested nature of that market.

## Supply Nation's certification process

To be eligible for listing on Supply Nation's directory, a business (referred to as 'Suppliers') must be a minimum 50% owned by Indigenous Australians. Supply Nation has two tiers of businesses listed:

- **Certified** – Businesses that are majority owned (51% or more), controlled and operated by Indigenous person(s); and
- **Registered** – Businesses that are a minimum 50% owned by Indigenous person(s)

Supply Nation had over 2,800 Suppliers on its national directory, Indigenous Business Direct (IBD) as of January 2021.

While Supply Nation's certification process is robust it can be onerous for business in terms of compliance requirements and commitment of time to attend in-depth interviews and responding to any requests for additional documentation. Certified suppliers (as opposed to registered suppliers) can access additional benefits from Supply Nation including, but not limited to:

- direct notification of procurement opportunities posted on the Member Opportunity Board;
- access to member communications through the Indigenous Business Development (IBD) portal;
- participation in the JumpStart capability building program.

More significantly, the greater benefits of certification come from buyers having greater confidence in dealing with certified suppliers compared to those only registered with Supply Nation. Some Supply Nation members, for example, buy only from certified suppliers and analysis of our spend data also indicates that the majority of Supply Nation member procurement spend by value is directed towards certified suppliers.

In spite of the advantages of certification, Supply Nation does not have sufficient resources to take approximately 2,000 suppliers through its certification process. To deliver such an outcome would require a significant investment in staffing resources. As previously outlined, increasing and strengthening certification also minimises the risk of 'black cladding'.



## Removal of Indigenous businesses from the Supply Nation register

The Supply Nation register has a low degree of 'churn'. In the calendar year 2020, for example, approximately 90 Indigenous businesses dropped off the register with approximately 400 new businesses added. The overall retention rate is high at approximately 98 per cent. Supply Nation also declines applications for registration. In calendar year 2020, for instance, Supply Nation declined 81 businesses that did not meet our registration requirements. The reasons that Indigenous businesses drop off the register vary and include:

- Business restructuring, with some businesses that drop off the register returning as a new corporate entity sometimes with different ownership;
- Business closure;
- Non-registration with ASIC;
- Non-compliance on reaudit with Supply Nation.

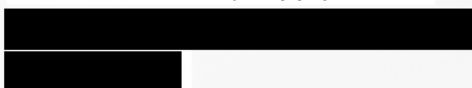
While Supply Nation does not collect data on the number and reasons that Indigenous businesses cease trading, anecdotal evidence from our suppliers and members suggests the reasons range from the lack of access to resources, capital as well as a general lack of capability of many Indigenous businesses. We acknowledge the invaluable support provided by organisations such as Indigenous Business Australia and First Australians Capital with respect to capital requirements as well as improvements such as more favourable payment terms for suppliers, which has reduced the burden on capital requirements, since COVID-19.

With respect to capability, while there are several initiatives within the sector aimed at helping Indigenous business develop capability, more recently Supply Nation commenced designing and delivering its own capability building programs for Indigenous business, especially in the area of procurement. Supply Nation offers free training sessions and workshops to our suppliers aimed at building knowledge and key competencies. With adequate resourcing for Supply Nation's capability hub, we could make an even greater contribution to ensure that Indigenous businesses survive and thrive.

We would of course be happy to assist the Inquiry further in any way.

For further information contact:

Dr Gianni Zappalà  
Head of Research, Supply Nation



## Appendix 1

# What is black cladding?

### What is black cladding?

Black cladding can mean different things to different people and can therefore be subjective and nuanced depending on how an individual decides to define an Indigenous business.

Supply Nation's definition of an Indigenous business is at least 50% owned by an Aboriginal or Torres Strait Islands person(s). This definition is also applied by Federal and State Government and most corporate organisations. Any business that is 50% or more owned by Indigenous Australians is eligible under the IPP and state-based Indigenous procurement policies. The Indigenous party in the business should receive equal benefit from the arrangement. This is why Supply Nation undertakes checks to ensure that the business arrangement is equitable, and the Indigenous party is protected.

Supply Nation considers 'black cladding' the practice of a non-Indigenous business entity or individual taking unfair advantage of an Indigenous business entity or individual for the purpose of gaining access to otherwise inaccessible Indigenous procurement policies or contracts. Unfair advantage involves practices and arrangements that result in the disadvantage or detriment to an Indigenous business, or that do not represent a genuine demonstrated level of equitable partnership and benefit.

### What does Supply Nation do if we receive notification that a business may be 'black clad'?

If Supply Nation is formally notified of a claim that a business may be 'black clad', it will review the notification and determine if the information provided warrants further investigation. Where an investigation is warranted based on the details provided, Supply Nation will follow its investigation process as outlined in its [Supplier Terms and Conditions](#) and [Code of Conduct](#). If the business is found to be 'black clad', Supply Nation will take action against the business under the highlighted actions listed in its Supplier Terms and Conditions and Code of Conduct.

We also have the capacity in the case of serious fraud or criminality as part of the registrations process to consider legal proceedings and referrals to police and/or other relevant statutory authorities.

### What does Supply Nation do to mitigate the risk of black cladding?

Supply Nation exists to help give governments and corporates seeking to diversify their supply chain the benefit of a robust verification system they can depend on. We have the most robust

process in the country for verifying, monitoring and auditing the Indigenous bona fides of businesses.

That gives legitimate, verified Indigenous enterprises the best chance of succeeding in the marketplace and mitigates the risk of 'black clad' businesses on our directory.

Supply Nation actively guards against black cladding through our rigorous, world-leading, [five-step verification process](#). We encourage anyone who believes that they know of a case of black cladding to confidentially [report it](#) to us directly.

### What is not black cladding?

While Supply Nation has a clear working understanding of black cladding, we acknowledge that this is not the only perspective in the sector. Our approach to testing whether or not a business is black clad is aligned to our definition and our verification and audit processes.

We have gathered a list of scenarios that often arise as people question whether or not a business is black clad, and how Supply Nation assesses such scenarios. See overleaf.

## How to report instances of black cladding?

Should you believe a business is 'black clad', please report this to Supply Nation and we will evaluate the business in question against our criteria.

Download the confidential notification form <https://supplynation.org.au/wp-content/uploads/2019/11/Supply-Nation-reporting-form-black-cladding.pdf>

# Is this black cladding?

| Scenario   | Supply Nation's approach   |
|--|--|
| An Indigenous business loses out on business to a genuine joint venture operating under the IPP requirements for joint ventures.   | An Indigenous Joint Venture that has satisfied Supply Nation registration requirements is an Indigenous business and eligible under the IPP because it recognises critical business decisions are made by Indigenous Australians.  |
| Any arrangement that has at least 50% Indigenous ownership.  | Supply Nation's definition of an Indigenous business is one that is at least 50% owned by an Aboriginal or Torres Strait Islander person/s.<br><br>If the business is registered with Supply Nation, it has satisfied that requirement which recognises Indigenous businesses can enter into structures that work for them whilst maintaining control.   |
| An Indigenous business that does not employ a prescribed number of Indigenous employees.   | Indigenous employment is not part of the definition of an Indigenous business.<br><br>If a business is registered or certified with Supply Nation, then they have met or exceeded the requirements of 50% ownership. There are no requirements that Indigenous businesses operate any differently from other businesses in Australia.<br><br>However, the evidence shows that Indigenous businesses are far more likely to invest and employ in their communities.   |
| An Indigenous business that is represented in public or at a meeting by non-Indigenous owners / representatives.   | Businesses may have non-Indigenous employees representing them in public or at meetings.<br><br>If a business is registered or certified with Supply Nation, then they have met or exceeded the requirements of 50% ownership. There are no requirements that Indigenous businesses operate any differently from other businesses in Australia.  |
| Where an Indigenous owned business utilises a relationship with a capability partner supplier to access and use their resources for the benefit of the Indigenous business, where there is a commercial arrangement in place to do so. | Many (Indigenous or non-Indigenous) businesses have commercial relationships in place with other suppliers (Indigenous or non-Indigenous) to deliver their products or services.<br><br>If a business is registered or certified with Supply Nation, then they have met or exceeded the requirements of 50% ownership.<br><br>There are no requirements that Indigenous businesses operate any differently from other businesses in Australia.   |
| An Indigenous business that is not 100% owned by an Indigenous person  | Supply Nation's definition of an Indigenous business is one that is at least 50% owned by an Aboriginal or Torres Strait Islander person/s.<br><br>This allows for equal partnerships with non-Indigenous business owners and allows Indigenous entrepreneurs to enter into business structures that work for them, and for example, access capital and capability as they grow.<br><br>The main issue is that it is a decision taken by Indigenous owners and they retain control of their own fate. If the business is registered with Supply Nation, it has satisfied that requirement. |
| Where an Indigenous owner doesn't look Indigenous.   | It is immaterial that a business owner does not meet an expectation of how an 'Indigenous' person should look. The checks that Supply Nation complete include the Indigenous heritage of the business owner as per the three-part legal definition.  |
| An Indigenous business that does not have a shop-front or physical location in a particular state or region.   | How a business chooses to situate itself in terms of physical presence in a state has no bearing on its status as an Indigenous business.  |
| An Indigenous business that doesn't procure product from another Indigenous business   | While Supply Nation encourages all businesses to procure from Indigenous businesses, there is no expectation or requirement that Indigenous businesses procure from other Indigenous businesses.<br><br>If a business is registered or certified with Supply Nation, then they have met or exceeded the requirements of 50% ownership. There are no requirements that the business operate any differently from other businesses in Australia.   |
| An Indigenous business that doesn't provide a percentage of profits back to community.   | Whilst many Indigenous businesses provide support back to the community, there are no requirements that they do so.  |

# Joint Ventures

## Appendix 2



**Supply Nation**

## Supply Nation and the IPP

### What is a Joint Venture?

For registration purposes, Supply Nation defines an Indigenous Joint Venture as being “a commercially independent incorporated entity that is formed through the incorporation of an Indigenous business and a non-Indigenous business”.

### Indigenous Procurement Policy and joint venture registration with Supply Nation

The Federal Government has announced changes to the Indigenous Procurement Policy (IPP) to strengthen registration requirements of joint venture arrangements.

From 1 January 2019, to be eligible to bid for Commonwealth contracts under the IPP, incorporated Indigenous joint ventures must:

- Be an incorporated company (registered with ASIC or ORIC as an Aboriginal Corporation) formed through the incorporation of an Indigenous business and a non-Indigenous business
- Be at least cumulatively 50% owned by an Aboriginal and/or Torres Strait Islander person(s)
- Be able to demonstrate at least 50%

Indigenous control (involvement) of the joint venture and Indigenous involvement in the management of the joint venture

- Be for-profit in that the joint venture is able to distribute its equity to its shareholders and not be a registered charity in its own right
- Be able to trade as a business in its own right
- Be registered in Australia
- Demonstrate commercial independence

In addition to the new requirements, the joint venture must also have in place:

- a strategy to build the capability and skills of the Indigenous business partner
- an Indigenous workforce strategy.

We have developed templates for both in partnership with the National Indigenous Australians Agency and these are available through Supply Nation.

### Who do these changes apply to?

The changes apply to all incorporated joint ventures who are seeking to bid for Commonwealth contracts under the Indigenous Procurement Policy (IPP).

### What constitutes commercial independence of a joint venture?

To be commercially independent, a JV must “reflect a collaboration of the JV parties’ resources, skills and assets and not totally or fundamentally depend on non-commercial relationships and use of resources (e.g. equipment, personnel, facilities, financial or bonding support) with another non-Indigenous enterprise or enterprises to deliver its core service offering(s).” The JV must demonstrate that it has its own commercially incorporated identity with Indigenous management and control (involvement) at the highest level with Indigenous interest being responsible for the provision of clearly defined portions of the work conducted by the JV.

There are also other specific requirements. Contact Supply Nation for details.



## What are the documentary proofs required to demonstrate compliance for registration as a joint venture?

To register a joint venture with Supply Nation, the joint venture MUST provide to Supply Nation:

1. a completed registration application
2. confirmation of Aboriginality or Torres Strait Islander heritage documents for its Indigenous owners and executive management in positions of management and control, including board members
3. a copy of the businesses current and up-to-date company constitution
4. a copy of the businesses joint venture agreement or shareholders agreement which clearly outlines profit distribution, delegations of authority and power, clearly defined work portioning levels and the businesses trade/branding and procurement permissions or restrictions
5. a copy of a shared services agreement or commercial agreement with its non-Indigenous partners defining the arrangement for the joint venture accessing the partner's resources
6. a skills and capability transfer plan which should identify what the Indigenous JV partner is hoping to gain from their non-Indigenous business partner and through the JV relationship; including how the joint venture company will demonstrate how the transfer of capability to the Indigenous business will occur, such as the inclusion of milestones, KPIs, annual reporting etc.
7. an Indigenous workforce plan which should include identifying Indigenous employment goals and continued skills training of Indigenous employees

## What is the process to register a Joint Venture with Supply Nation?

From 1 January 2019, to register your joint venture with Supply Nation, newly formed joint ventures should:

1. go to the Supply Nation website and complete the registration process
2. during the process, identify the business ownership structure as an "Incorporated Joint Venture"
3. answer the specific additional questions relevant to a joint venture structure
4. upload the required documentation
5. complete and submit the application
6. take part in a verification interview/site visit

## How will Supply Nation verify the application for registration as a joint venture?

In verifying an application for registration as an incorporated joint venture, Supply Nation will follow its five step verification process, which includes:

1. assessing your online application for accuracy and compliance, including examining the provided supporting documentation
2. verifying the ABN/ASIC for company name and current registration
3. verifying owners Confirmation of Aboriginality documents
4. verifying ownership document to identify owners – ensuring that at least 50% of the business is Aboriginal and/or Torres Strait Islander owned
5. conducting interviews/site visits to verify Indigenous involvement in the management and control of the joint venture

## How long will my registration application take to be approved?

From the date the initial application is complete with all of its documentation and meets initial criteria examination, your application will be processed within four weeks of its completed lodgement (dependent on the availability to conduct a site visit/interview).

## How will Supply Nation ensure joint ventures continue to meet the new eligibility requirements?

All registered joint ventures will be reviewed annually to confirm that the joint venture is operating in accordance with the plans submitted to Supply Nation. In addition, random spot checks will be conducted.

These reviews will include conducting a follow up site visit/interview and may require the submission of updated governance documents and plans.

## How do I keep up to date with any changes or receive any further information?

To keep informed on the new registration process for incorporated Indigenous joint ventures visit, the National Indigenous Australians Agency website – [niaa.gov.au](http://niaa.gov.au).