



# POLICY MANUAL

<b>Policy title:</b>	<b>SUSTAINABLE PROCUREMENT &amp; CONTRACTS POLICY</b>
<b>Policy number:</b>	<b>1.4.19</b>
<b>Objective:</b>	<b>To provide an overview of the Council Procurement and Contract Framework and principles that <b>MUST</b> be followed by all Council Officers and representatives when purchasing goods and services.</b>
<b>Link to community vision/service:</b>	<b>Leadership and participation – E3. Our decisions and actions are open, transparent, effective and in the interests of all.</b>
<b>Program Area:</b>	<b>Procurement and Contracts</b>
<b>Policy created: 8/07/2008</b>	<b>Council reviewed: 14/05/13, 12/12/17, 9/10/18, 19/01/24</b>
<b>Last reviewed by staff:</b> <b>January 2024</b>	<b>TRIM Ref: ED16/31319[v4]</b>

## 1. Policy Statement

Lismore City Council is committed to ensuring a fair, transparent and accountable process for its procurement of capital items, goods and services.

## 2. Purpose

The purpose of this policy is to document clear guiding principles for Council in its procurement of goods and services which assists in:

- ensuring best value for money and cost effectiveness,
- meeting the needs of the community,
- promoting good management practices,
- ensuring transparency and probity,
- promoting sustainability.

The policy applies equally to Councilors and staff.





## 3. Policy Objectives

The objectives of Lismore City Council's Procurement Policy are to:

- Ensure Council at all times, complies with the NSW Local Government Act, 1993 and the NSW Local Government (General) Regulations, 2021 and all other relevant laws and regulations, in relation to the procurement of goods and services.
- Clearly define Council's philosophy of fair, transparent and accountable procurement processes.
- Assist Council in achieving the most advantageous "value for money" procurement outcomes.
- Promote and ensure a sustainable approach to decisions around community, environment and financial aspects of procurement.
- Support local business where possible in procurement outcomes.
- Ensure cooperation and understanding from contractors and suppliers by fostering open engagement and demonstrating consistent and regulated procurement practices.
- Ensure Council's procurement, practices, and procedures are benchmarked and as such, meet the highest level of public scrutiny and probity.
- Evaluate tender and contract opportunities through a Total Cost of Ownership approach.
- Ensure all procurement activities are conducted in accordance with Council's Code of Conduct.

#### 4. Sustainable Procurement

The Local Government Act, 1993 and the Local Government NSW Sustainable Procurement Guide contain specific requirements and direction for councils in relation to sustainability. Section 55 of the Act requires councils to apply good governance to procurement activities. Sustainable procurement takes into account the total cost – economic, environmental and social within a wider framework of good governance.<sup>1</sup>

	Governance and Leadership: traceability, accountability, reporting, leadership in the community, adherence to local government rules and regulations.
	Social Impacts: local employment, diversity, accessibility, ethics, cultural impacts and social cohesion
	Environmental Impacts: pollution, energy use, water use, waste generation, use of toxic chemicals, impacts on air quality, biodiversity, land use and litter, climate change.
	Economic Impacts: cost, quality, maintenance and repair costs, replacement parts, total cost over the full life cycle of the product or service.

Lismore City Council promotes sustainability in its procurement processes and are applied to the Council's business operations.

#### 5. Roles and Responsibilities

Position	Responsibilities
Council Officers and Representatives	Accountable for managing procurement and contracts in accordance with council's financial delegations, Legislation, and this Policy. Council Officers are required to demonstrate due diligence in each of the PLAN, SOURCE, MANAGE stages based on the value and risk of the project.
Procurement Manager / Team	Overall responsibility of this Policy, its implementation and ongoing operational compliance. Provide support and guidance in the interpretation and use of this Policy and associated Procurement and Contract Management Framework and Legislation.
Executive Leadership Team (ELT)	Demonstrate leadership through commitment to Sustainable Procurement and Contract Management. Provide stewardship, oversight through review of "health checks" of procurement and contract management through consideration of regular reporting.

<sup>1</sup> <https://lgnsw.org.au/common/Uploaded%20files/PDF/esstam-sustainable-procurement-guide-30.05.17.pdf>

## 6. Procurement and Contract Management Framework

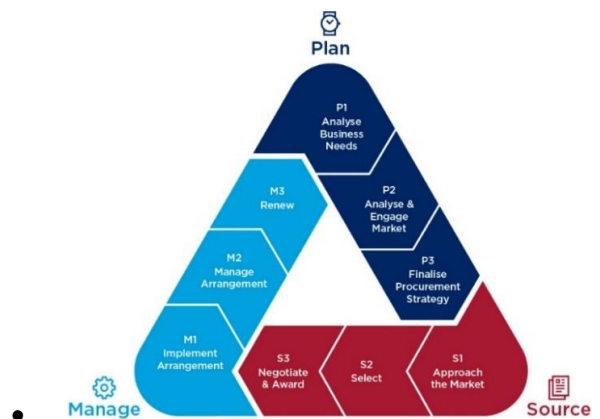
The Council Framework aligns to the PLAN, SOURCE and MANAGE stages of the NSW Procurement Framework<sup>2</sup>. Utilising this framework as a guideline will provide the best chance of reaching a successful Procurement outcome, achieving value for money, mitigating risks and establishing appropriate contract management standards.

Considerations around project value and risk in relation to procurement strategy and contractual instruments will be applied.

The benefits of applying this framework include:

- Application of a rigorous, proven approach that can ensure the achievement of lowest total costs for specific spend categories being sourced.
- A common language and process for sourcing professionals across council and broader local procurement.
- Availability of a consistent framework for capturing best practice tools, templates and behaviours across the council.
- These guidelines are organised in a

manner that are intended to be user-friendly and resourceful for users of the procurement system.<sup>3</sup>



<sup>2</sup> [https://info.buy.nsw.gov.au/\\_data/assets/pdf\\_file/0020/1065503/Procurement-Policy-Framework-1.9-April-2022-Full-V1.pdf](https://info.buy.nsw.gov.au/_data/assets/pdf_file/0020/1065503/Procurement-Policy-Framework-1.9-April-2022-Full-V1.pdf)

<sup>3</sup> This Framework, while being an original creation, acknowledges and incorporates elements from the NSW Procurement Framework, and we respect the Creative Commons Information by affirming that this work is based on the principles and guidelines set forth by NSW Procurement.

## 7. Procurement Principles

**Accountability** – Council is committed to ensuring accountability and transparency in its procurement activities. Accountability means that Council officers are responsible for their actions and decisions that they take in relation to procurement and for the resulting outcomes. Council officers **MUST** be able to demonstrate the basis of all decisions that can withstand any scrutiny.

**Confidentiality** – Council officers **MUST** maintain the integrity and security of confidential information in their possession, or for which they are responsible. In addition to general obligations relating to the use of council information, Council officers **MUST** only access confidential information that they have been authorised to access and only do so for the purposes of exercising official functions and only release confidential information authorised to do so. Refer to Council's Model Code of Conduct for further information.

**Conflicts of Interest** – A conflict of interest exists when a reasonable person might perceive that a public official's personal interest(s) could be favoured over their public duties. Conflicts of interest do not, in themselves, usually constitute corrupt conduct. Corrupt conduct can, however, arise when a conflict of interest is concealed, understated, mismanaged, or abused. Officers **MUST** declare, record, and save on file all identified conflicts.

**Emergencies** – From time-to-time there may be a need to purchase goods or services due to an emergency whereby the requirements of Legislation and this Policy cannot be applied. An emergency is a situation that poses an immediate risk to health, life, property, or environment. Emergency procurement is only an option where Council must act immediately and take all reasonable and necessary action to mitigate any continuing risk associated with the emergency. This may only be used in cases of genuine emergency and not to remedy poor planning. Authorisation for emergency procurement **MUST** only be given under delegation to the Chief Executive Officer (CEO) or elected delegate.

**Enhancing Indigenous Engagement and Participation in Procurement Processes** - Council commits to enhancing local Indigenous business engagement in procurement processes, by aligning with state and federal guidelines, and prioritising suppliers who employ Aboriginal individuals. Council will collaborate with NSW Office of Local Government and local Aboriginal organisations, to foster Indigenous participation and business development. Our procurement principles balance economic, social, environmental, and governance outcomes, considering not only financial cost, but also promoting local employment, diversity, accessibility, cultural impacts, and social cohesion<sup>4</sup>.

**Modern Slavery** - Council is committed to maintaining high ethical standards and conducting its business responsibly. In alignment with the NSW Modern Slavery Act 2018, which came into effect on 1 January 2022, the Council diligently undertakes reasonable steps to ensure that goods and services procured are not the products of modern slavery. As a local government entity, we recognise our obligations under the NSW Act and strive to ensure transparency in our business transactions and procurement processes. Our officers, contractors, and suppliers are expected to promptly raise any concerns or suspicions about potential instances of modern slavery in any segment of our organisation or supply chains.

**Probity** - Probity in procurement refers to the adherence to ethical principles, ensuring fairness, integrity, and transparency; in essence, we do what we said we would do. Council officers **MUST** make every effort to uphold the principles of probity and good governance in all procurement activities. This commitment reinforces Council's dedication to responsible and accountable practices.

**Purchase Cards** – Council provides a purchasing card facility to enable the secure purchase of goods and services in support of legitimate Council business. Purchasing cards are intended to provide an efficient method of purchasing ad-hoc travel, accommodation and minor expenses or urgent items where no preferred supplier agreement is in place. Council officers issued with a corporate purchasing card are in a position of trust regarding the use of public funds. Expenditure on a purchasing card **MUST** be in

<sup>4</sup> [https://info.buy.nsw.gov.au/\\_data/assets/pdf\\_file/0007/949174/app\\_policy\\_jan\\_2021.pdf](https://info.buy.nsw.gov.au/_data/assets/pdf_file/0007/949174/app_policy_jan_2021.pdf)

accordance with your financial delegation and the fundamental requirements set out in this Policy, considering specific requirements of the Purchase Card Procedure.

**Purchase Orders** – Suppliers MUST not be engaged to supply any goods or commence any services without first being issued with a valid purchase order. Invoices issued by contracted suppliers must have a valid Council purchase order reference number that is referenced on their invoice, or it may not be paid.

**Record Keeping** – The Council's records are its corporate memory, provide evidence of actions and decisions and represent a vital asset to support its daily functions and operations. Council officers MUST ensure appropriate documents and records are maintained in accordance with Council's Records Management Policy.

**Risk Analysis and Management** – Risk analysis and management are techniques applied to ensure that procurement processes contracts are successful. By adopting a 'what-if' mind-set it allows procurement to identify and assess the risks and prioritise them by aligning relevant resources to monitor, control and minimise or overcome the impact. Consideration of risk should be managed in accordance with the Council's Enterprise Risk Management Policy and Procedures.

**Direct Dealing** – Direct Dealing or Sole sourcing is a direct arrangement with a single supplier to provide goods or services without conducting a competitive process. Caution should be exercised in determining that a market consists of a single supplier. Further guidance on planning and executing direct dealings are available in the [ICAC Guidelines](#) contained in the NSW Buy framework.

**Sustainability (QBL)** – Council's top priority is to procure sustainably and with positive planetary health outcomes a focus wherever possible (i.e., socially, environmentally, and economically sustainable results delivered through excellent governance and leadership practices) . When procuring or contract managing for Council, Council officers MUST demonstrate that opportunities for sustainable outcomes have been adequately assessed and enacted, in accordance with Council's current procurement and contract management framework.

**Tender Thresholds** – The estimate value of the contract is inclusive of Goods and Services Tax (GST) for all goods and services for the life of the contract, e.g., if you plan for a contract for an initial period of 3 years with a 1-year option to extend, the contract value is based on 4 years of spend. If you are making a once only purchase, the contract value is the total quoted price. The current tender threshold is \$250,000 including GST for the life of the contract. Council officers MUST not split purchase orders or contract value estimates to avoid defined or legislative process.

## **8. Contract Management Principles**

A contract is an agreement made between two or more parties that creates rights and obligations enforceable in law. Council recognises that the effective management of contracts with suppliers is essential in maximising the business benefits, achieving value for money and minimising contractual risks. This Policy applies until all contractual obligations have been completed. The following are excluded from this Policy:

- Employment contracts,
- Non-binding Memoranda of Understanding,
- Partnering and collaborative contracts with other Local or State organisations
- Council Insurance Contracts

Requirements applying to contracts:

- All Council Contracts valued at \$75,000 (including GST) or more must be registered and identified with a Contract Number - issued by Council's Contract Management System (CMS)
- Council will maintain and publish a register of all Council contracts that records key information about each contract Council enters into with the private sector which has or is likely to have a value of \$150,000 (including GST) or more.

## **9. Local Content**

As a regional centre in NSW, Lismore City Council forms an integral part of the local economy in the region. One of Council's key strategic priorities is economic development with stated initiatives to support business and assist in job creation. Council seeks to meet these initiatives by measuring the amount of local content in its procurement activities.

The use of local content in the selection Criteria within procurement is an appropriate way to make an informed assessment of a submission's direct benefit to the local economy. The amount and/or type of local content is assessed using the selection Criteria framework, coupled with the standard weighted score system of assessment.

The objectives of Council's local content considerations are to:

- Provide benefits to the local economy in Council's procurement processes.
- Allow tenderers to easily demonstrate the benefits of their bids to the local economy, by using a standard tender schedule format.
- Allow a more simplified assessment by Council within the tender evaluation system.
- Encourage suppliers from outside the Lismore City Council area to submit tenders by providing a transparent method of assessing local content.
- Promote the use of local contractors, materials and services.
- Have a fair and transparent system that addresses probity.
- Ensure tenders are evaluated on an equal footing.

Local content will be weighted at a minimum of twenty per cent (20%) of the selection Criteria. The local content weighting can be higher than 20% if considered appropriate for the goods or services being procured.

Notwithstanding the above Local Content inclusions, the council endeavours to maximise procurement and opportunities across all the Neighbouring Local Government Areas.

## **10. Prescribed Person Contract procurement and application of Local Content**

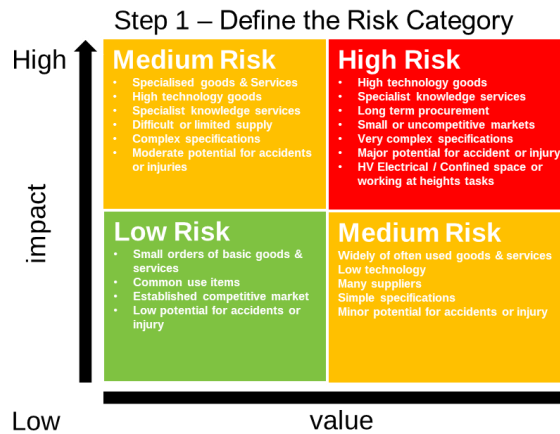
Supply and service contracts are available through NSW State Government and Local Government Procurement (LGP), with LGP being fully owned subsidiary of Local Government NSW.

Council supports the use of prescribed contracts due to the reduction in tendering timeframes, cost and the benefits typically realised.

Where local suppliers are not included in a Prescribed Person panel contract, consideration will be given to the potential impact on local suppliers and if considered unreasonable, an open tender process will be followed.

## **11. Risk Management**

All suppliers must comply with current Environmental, Work Health and Safety and Workers Compensation legislative requirements where applicable in the delivery of goods and services to Council. They are therefore expected to be aware of and consider these requirements in preparing quotations or tenders for Council. Suppliers are also required to have appropriate insurance policies to cover their activities undertaken on behalf of Council and as specified in the agreements.



**Step 2 - Contracting Decisions**

	<\$75,000	>\$75,000	>\$150,000	>\$250,000
		<\$150,000	<\$250,000	
High Risk	●	●	●	●
Medium Risk	●	●	●	●
Low Risk	●	●	●	●
			Spend	

**Contracting Instruments**

- Purchase Order terms and conditions issued as part of the Authority systems order issuance process.
- LDC prescribed contracts which may include Local Government approved templates (MW and MW21 GC21) and other contracts approved by Procurement.
- Note: Purchasing may alter the contracting decision determinant on other procurement factors.

## 12. Modern Slavery Prevention

Council is committed to ensuring:

- its operations and supply chains do not cause, involve, or contribute to modern slavery; and
- its suppliers, relevant stakeholders, and others with whom we do business respect and share our commitment regarding minimising the risk of modern slavery.

This applies to all persons employed by Council or on Council's behalf in any capacity. The prevention, detection, and reporting of modern slavery in any part of Council's operations or supply chain is their responsibility.

Statement of Intent Council is committed to combating Modern Slavery by:

- Identifying where our modern slavery risks are in our supply chain and assessing the degree of those risks.
- Where Modern Slavery may be present, completing a risk checklist prior to making a purchase.
- Where risk is identified, engaging with our suppliers to provide further information on their commitment to minimising the risk of modern slavery in their own supply chains and operations. This will primarily be done by asking suppliers to complete a Modern Slavery Questionnaire.
- Including modern slavery criteria in Request for Tender documents and Contracts.
- Providing adequate training for all staff to ensure they are aware of what modern slavery is, what Council's modern slavery risks are and how to raise any identified or potential concerns.
- Utilising Council's complaint process to enable staff and others to raise concerns about modern slavery.

## 13. Review

The policy be reviewed once during the term of each Council.

## 14. Scope of Policy

This policy applies to:

- All Council staff involved in the procurement process
- Any contractors or consultants appointed by Council to assist with procurement
- Councillors

## 15. DEFINITIONS

Aboriginal and Torres Strait Islander	Means a business that is at least 50% owned by an Aboriginal or Torres Strait Islands person(s)
LCC Contract	An approved Lismore City Council (LCC) written agreement between two or more parties that creates an obligation to perform a particular duty (Not a PO).
Criteria	An attribute / characteristic that is comparable across a range of suppliers for a particular good or service. Normally at least three Criteria will be applied to assist in comparing suppliers.
Local	A supplier is defined as local when they have an office located within the Lismore City Council area and or a greater % of their workforce are locally engaged for a specific scope.
Purchase Order	An order which has attached terms and conditions which creates an obligation to perform a particular duty.
Sustainability	Has the meaning given to the term in ISO 20400:2017 (Sustainable Procurement - Guidance) being “[a] state of the global system, including environmental, social and economic aspects, in which the needs of the present are met without compromising the ability of future generations to meet their own needs.”
Tender	An advertised process for the supply of goods or services which must be conducted in accordance with the Local Government Act. This typically relates to a contract which has a value of over \$250,000 (inclusive of GST).
Common Use Agreements (CUA's)	CUA's are pre-established panels of providers that should be used for commonly purchased goods and services.
Panel Agreements	Panel Agreements are contracts created to engage a select group of providers to carry out works for and on behalf of the Lismore City Council from time to time on fixed and /or schedule of rates basis.

## 16. Further Document Information and Relationships

Related Legislation	<ul style="list-style-type: none"> <li>• NSW Local Government Act 1993 – Section 55</li> <li>• NSW Local Government (General) Regulation 2021</li> <li>• DLG Tendering Guidelines for NSW Local Government</li> <li>• NSW Government Information (Public Access) Act 2009</li> <li>• Work Health and Safety Act, 2011</li> <li>• Work Health and Safety Regulation, 2011</li> <li>• Competition and Consumer Act 2010</li> <li>• Modern Slavery Amendment Act 2021</li> </ul>
Related Policies	<ul style="list-style-type: none"> <li>• Lismore City Council Code of Conduct</li> <li>• Lismore City Council Business Ethics</li> </ul>
Related Guidelines	Lismore City Council Procurement Guidelines

In addition to this documentation bodies such as the Office of Local Government NSW, NSW Ombudsman, Independent Commission Against Corruption (ICAC) and the Australian Competition and Consumer Commission (ACCC) are all in a position to monitor local authorities to ensure that any procurement process complies with the relevant legislation.