

Government Procurement Rules Consultation

Loss of clear core values

The proposed 5th edition of Government Procurement Rules represents a sharp discontinuity with the 4th edition, with regards to core values. Put simply, they've been all but abandoned.

The 4th edition was described as “Rules for sustainable and inclusive procurement”. The proposed 5th edition replaces this with “responsible expenditure of public funds.”

So, the previous edition has a set of clearly stated core values to guide decision-making for all government procurers. The new edition does not. “Responsible expenditure of public funds” is a bald statement of function, not values.

In fact, the word “sustainable” is not *one* of the words that appears among the 23,710 words in the proposal.

The message to users of this documents seems to be: do not consider sustainability at all in government procurement.

Here's a list of other value-laden words and phrases that are notably absent from the proposed rules, also suggesting they should no longer be specifically considered in government procurement:

- Carbon
- Climate
- Greenhouse gas emissions
- Circular economy

“Inclusive”, of course, had been one of the two major core values of the previous edition. It appears three times in this proposal. One of those is in the sentence “inclusive of economic benefits”.

The other two references are contained here:

“The New Zealand government directs agencies to:...4. PROMOTE INCLUSIVE ECONOMIC DEVELOPMENT WITHIN NEW ZEALAND. Engage with Māori, Pasifika, and regional businesses and social enterprises in order to actively contribute to our local economy. Openly working to include and support these businesses and enterprises through procurement will promote both skills development and a diverse and inclusive workforce.”

This directive is to be welcomed. However, without embedding the consideration of inclusive economic development more thoroughly throughout the proposed rules there appears to be limited scope for effective prioritisation of inclusivity in government procurement.

“Waste” appears once in the document, in the sentence: “Public value means getting the best possible result from your procurement, using resources effectively, economically and without waste.”

It's difficult to imagine how such procurement could ever be “without waste” if waste only warrants this single mention in the entire document.

The circular economy - the principle means of eliminating waste in modern industrial economies - is entirely absent. The total absence of any connected plan to prevent waste suggests that it won't be prevented, applying the well-known dictum: “Failing to plan is planning to fail.” So we can only assume that “waste” in this context is very narrowly limited to: “paying more than the cheapest possible price.”

This flies in the face of all the work done on previous versions of this guidance, and decades of development in government procurement across the OECD.

In essence, the likely effect of the proposed rules is to take an enormous powerful and important tool for sustainable development in our economy, and switch it off.

In 2022, 92% of surveyed OECD countries had adopted national Green Public Procurement (GPP) frameworks or policies. These frameworks are often aligned with national environmental commitments, such as those under the Paris Agreement. They help to reduce greenhouse gas (GHG) emissions through environmentally friendly purchasing practices.¹

Public procurement is being widely used in sectors like infrastructure, health services, and public transportation, where governments represent a significant share of market demand. This incentivizes industries to develop greener products and services. It spurs on the vital innovations we need to create a sustainable, thriving economy into the future.

Many OECD countries have developed operational tools such as ‘ready-to-use’ GPP criteria, templates, and helpdesks to support procurement practitioners in implementing green procurement strategies effectively.

Aotearoa New Zealand is, and should remain, a world leader on this. In 1989, the New Zealand Government took a pivotal step in environmental leadership, by publishing a discussion paper on *Labelling of Environmentally Friendly Goods*. It invited public responses to a proposed voluntary ecolabelling scheme.

This led to the establishment of Environmental Choice New Zealand as the nation’s official ecolabel. Now called Eco Choice Aotearoa, it’s one of the world’s oldest and most respected ecolabels. It is part of the Global Ecolabelling Network (GEN) a membership of Type 1 ecolabels (ISO 14024) hailing from nearly 60 countries. It works with a host of companies, including high street names like Canon, Brother, Dulux and FujiFilm. It’s been recommended as part of the US Federal Purchasing Program for 20 years.

After much internal and external advocacy, the Ministry for the Environment commissioned a review of the ecolabel in 2024, conducted with experts from Eunomia and Berl research. This found that a lack of integration with government procurement and New Zealand’s relatively weak greenwashing laws were the key barriers to the label scaling its impact.

This current proposal looks set to all but entirely abandon the progress that has been made.

Governments spend a good deal of money in our economies on behalf of their people. This is presumably with the intention of making the country a more sustainable, resilient and equitable place in which to live and raise our families. So it’s important that drivers towards this are built into the processes of procurement themselves. If this is not done, and done so explicitly, then other drivers are likely to default all procurement to the cheapest legal option.

There is some emphasis in the document to “create opportunities for local businesses and small-to-medium enterprises to participate in your procurement processes” and to “engage with Māori, Pasifika, and regional businesses and social enterprises in order to actively contribute to our local economy.”

There are further references to “economic benefit to New Zealand” in Rule 8.

These include:

- “ a) providing skills and training that benefit New Zealand communities
- b) employing workers in New Zealand
- c) paying taxes in New Zealand
- d) using New Zealand businesses, including SMEs, regional businesses and Māori and Pacifica businesses in delivering goods and services, either directly or as a subcontractor or in the supply chain
- e) creating export opportunities for New Zealand goods and services
- f) developing New Zealand industry capabilities or capacity
- g) developing and adopting innovative products or practices that benefit New Zealand communities

- h) the environmental benefit of the proposed solution to New Zealand
- i) contributing to positive social and cultural outcomes in New Zealand communities”

There are also references to “Managing National Security Risks” in Rule 27.

However, this notion is somewhat undercut by the “non-discrimination” aspect of the proposed Rule 4, which prohibits discriminating against foreign owned businesses.

Without clearly stated core values, plans or criteria, it’s hard to see how trade-offs like this are going to be made consistently. It also makes it difficult to imagine how New Zealand companies might win out against foreign firms from low cost countries in what fundamentally appears to be ‘race to the bottom’ in other key respects, most notably cost.

An example of the risks of lowest-cost procurement is the recent free school lunch contract, which was awarded to a large offshore-owned provider. This decision led to the loss of contracts for a number of local providers, many of whom had developed strong relationships with schools and delivered fresh, culturally appropriate meals. The backlash from schools, communities and local businesses highlights the consequences of stripping values such as quality, local engagement, and social impact from procurement decisions.

Meanwhile, Australia is actively implementing green public procurement (GPP) through its Environmentally Sustainable Procurement (ESP) Policy. This aims to leverage government purchasing power to drive sustainability and climate action.

It:

- prioritizes procurement of goods and services that minimize greenhouse gas emissions, reduce resource consumption, and limit pollution.
- encourages the reuse, recycling, and reduction of waste, while mandating the use of recycled materials in construction projects.
- supports local economies and promotes ethical practices among suppliers.

Policy tools employed include requiring suppliers to meet sustainability benchmarks, such as reducing waste and using recycled materials for a range of contracts. It applies to construction contracts over AUS\$7.5 million and ICT goods, furniture, fittings, equipment and textiles for contracts above AUS\$1 million.

Suppliers must submit a Supplier Environmental Sustainability Plan (SESP) with their tenders. This must detail how they will achieve sustainability outcomes. These plans are evaluated during the tender process. They’re monitored during contract delivery. They’re and reported to the Department of Climate Change, Energy, the Environment and Water. The ESP Policy aligns with Australia's commitment to net-zero emissions by 2050 and its transition to a circular economy.²

Updating these rules is an opportunity for New Zealand to learn from, and build on, the success of sustainable public procurement internationally. The current proposal falls far short of realising this opportunity.

The New Zealand government spends approximately \$51.5 billion a year on goods and services procured from third-party suppliers.³ So public procurement plays a significant role in the country’s economy and its potential to drive broader social, economic and environmental outcomes. This potential is ignored or dismissed by this proposal.

To take just one example, the City Rail Link Project in Auckland, prompted by the previous government’s procurement rules, redistributed 52 tonnes of usable materials and recovered/recycled 18,000 tonnes of materials. The project has achieved a 98% diversion of waste from landfills, with only 410 tonnes disposed of.⁴

The power of procurement to stimulate positive outcomes is clear, but will not be realised by the proposed new rules.

Under the proposed new rules, the next time tenders for such projects go out, the necessity of taking measures such as material recovery will, apparently, be removed. This will mean companies like Downer will be competing with others, here and from overseas, on what is essentially a 'cost only' basis, on infrastructure projects with enormous social ramifications.

According to the company's 2025 half-year report, approximately 90% of Downer's work-in-hand portfolio is government-related.⁵ This reflects its strong involvement in public sector contracts across various industries, including transport, utilities and infrastructure. The very real likelihood is that the company will be forced to cease to prioritise sustainability and inclusiveness to continue to compete. This will be to the detriment of everybody involved, as well as Aotearoa's landscapes, waterways and seas.

Such will be the polluting outflow of this proposal throughout New Zealand's supply chains, and beyond.

The government's *Going for Growth* strategy includes this statement:

"Using new ideas, knowledge and technology to develop better ways of doing things helps the New Zealand economy grow. Having more businesses investing in technologies and innovation will create higher-paying jobs for New Zealanders and diversify the economy into new industries and markets."

Government procurement could be a major driver of innovation in sustainable business, which would support that ambition for diversification and better ways of doing things. There is a clear need for innovation and change in the New Zealand economy to respond the global poly-crisis we are living in, but it cannot happen at the scale or pace needed without investment and clear incentives, such as inclusion in procurement requirements.

The importance of stimulating solution development by New Zealand businesses is also clear in the Second Emissions Reduction Plan (ERP2), which is highly dependent on new technology and innovation. Moreover, the Climate Change Commission has consistently recommended stronger gross emissions reductions *across all sectors*, including businesses, to meet New Zealand's climate targets.⁶ Ensuring that policy settings and incentives are aligned to encourage and reward businesses reducing their own emissions and developing innovative solutions is key to achieving the reductions needed. We see the government procurement rules as one of the most powerful levers that could be used to achieve this.

To improve this proposal, we propose the following:

- 1. A full review of Version 4 of these rules that this proposal aims to supersede**, enabling the inclusion of what is valuable from the previous thinking and development on sustainable and inclusive government procurement into the new version of the rules.
- 2. A similar review, or publication of any review already completed, into the learning from the development of the ITPs and associated work on the importance and value of the circular economy in Aotearoa New Zealand.** We believe that these previous pieces of work could be used to inform the development of procurement rules that would enable much better outcomes.
- 3. Collaboration with sustainable procurement professionals across all sectors of the economy of Aotearoa New Zealand**, to ensure that the government's procurement rules benefit from existing expertise and can support sustainable procurement to be embedded across the public and private sector.

The results of those reviews and collaboration should inform the inclusion of clear, specific, measurable, mandatory requirements for sustainable public procurement in the new edition of the rules, supported by appropriate operational tools.

In addition, we support the New Zealand Green Building Council's call for keeping NABERSNZ and Green Star for use in government procurement of larger new buildings or leases. This will continue to ensure quality infrastructure and working conditions for government workers. It will

also help sustain the important innovations and work in the construction sector to reduce a waste stream that accounts for up to 50% of the nation's landfill.⁷

Inconsistency of expectations between departments and organisations makes it harder for suppliers to respond either to specific requests for information, or to signals and incentives to innovate or improve their practices. That will be especially true for smaller businesses with less expertise, time, and resources available.

The Government's rules, supported by operational tools as mentioned above, could be the benchmark that large private sector procurers use, and suppliers to government use with their own suppliers. That would amplify the benefits and enable a more level and consistent playing field for businesses of all sizes to meet the urgent need to reduce and reverse the damage being done to our natural life support systems.

If nothing else, businesses in government supply chains need some consistency in the requirements made by successive government administrations. This is so that they can make the necessary investments to develop the new methods and innovations to meet the unavoidable challenges of our times. These developments will also pay dividends in export dollars. Many of the companies involved also seek to sell at a premium in jurisdictions that will increasingly require sustainability and inclusion credentials and are keen to invest in solutions to these global issues.

This wholesale removal of previous sustainable procurement requirements from the rules doesn't help anyone. It's disrespectful of the work done by many, many experts over many years. It makes it likely that the entire policy direction will once again need to be reset in future, setting this country back years on what is now an inevitable path to sustainability.

We urge you to reconsider.

¹ OECD Public Governance Reviews. Harnessing Public Procurement for the Green Transition. Good Practices in OECD Countries. [Online] Available at: https://www.oecd.org/content/dam/oecd/en/publications/reports/2024/06/harnessing-public-procurement-for-the-green-transition_ef16c8d4/e551f448-en.pdf Accessed 3 April 2025

² Australian Public Service Academy. Procurement Guide. [Online] Available at: <https://www.apsacademy.gov.au/news/sustainable-procurement-guide> Accessed 3 April 2025

³ New Zealand Government Procurement. Government procurement insights for the financial year 2023/2024 [Online] Available at: <https://www.procurement.govt.nz/about-us/system-leadership/government-procurement-insights/> Accessed 3 April 2025

⁴ Downer. Sustainability in Procurement: Shifting the dial at Downer. [Online] Available at: https://www.downergroup.co.nz/Content/cms/media/2024/Sustainable_Procurement_Downers_Journey_FINAL.pdf Accessed 3 April 2025

⁵ Downer. Half Year Report 2025. [Online] Available at: https://www.downergroup.co.nz/Content/cms/media/2025/FY25_HY_Results/Half_Year_Report_2025.pdf Accessed 3 April 2025

⁶ He Pou a Rangī. Climate Change Commission. Monitoring report: Emissions reduction. Assessing progress towards meeting Aotearoa New Zealand's emissions budgets and the 2025 target. (July 2024) [Online] Available at: https://haveyoursay.climatecommission.govt.nz/comms-and-engagement/cc2f075f/user_uploads/monitoring-report---emissions-reduction---july-2024--final-web-ready.pdf Accessed 3 April 2025

⁷ Ministry for the Environment. Ngā tatauranga para | Waste statistics [Online] Available at: <https://environment.govt.nz/facts-and-science/waste/waste-statistics/> Accessed 7 April 2025