

## **ALENZ Submission on Proposed Rules of Government Procurement 5th Edition**

The Aluminium Extruders Association of New Zealand (ALENZ) supports the review of the Government Rules of Procurement and the Government's intent to make it easier for New Zealand business to win government contracts. We believe that there are further improvements which need to be made and we have detailed those below.

### About ALENZ and the Aluminium Industry in New Zealand

ALENZ is made up of the four independent businesses that account for almost 90% of aluminium extruded products manufactured in New Zealand.

New Zealand aluminium extrusions provide low carbon, added-value manufacturing in New Zealand supplying tailored solutions for building and construction, transport and marine sectors. Our members supply local manufacturing of residential windows, commercial building facades along with truck bodies for our transport sector and structural materials for our marine industry.

As local manufacturers, our members compete with imported products "like those manufactured in New Zealand". Imports currently comprise approximately 20% of the New Zealand market-place, The bulk of these imports are from China, where exports of aluminium structures currently receive significant export incentive incentives.

Thank you for the opportunity to contribute. We are happy to discuss our comments further.

Please acknowledge receipt of this submission.

Yours faithfully



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## Part one - Core values Rules 1-5

This part is focussed on the values or behaviours expected of agencies and suppliers when conducting all procurement activities. These core values, which include integrity, accountability, transparency and fairness, are critical for creating and maintaining public confidence in how government uses public money. Key new elements are requirements to publish agency procurement policies and clear expectations on acting with integrity and being accountable.

1. Are these the core values that contribute to improved public trust and confidence?

ALENZ supports initiatives to improve public confidence/trust. However, public confidence/trust is low with respect to agencies' adherence to the Procurement Rules, particularly with construction procurement. There are numerous construction examples agencies have bought on price, rather than delivering to "broader outcomes" or even "economic benefits".

For example, the most recent example is Dunedin Hospital Inpatient facility. The facade is sourced direct from China, with little regard to past performance of imported facades which frequently:

- leak
- surface finishes degrade impacting on building aesthetics
- whistle in the wind.

This is one of a number of construction examples of government agency procurement practices that do not deliver as per Government Procurement Charter, to

1. *Deliver Economic Benefits to New Zealand*
3. *Engage with businesses with good employment practices*
4. *Promote Inclusive economic development within New Zealand*
5. *Manage risk appropriately*

Rule 3. Accountability re adhering to *Rule 1 - Agencies **must** adhere to the five Principles of Government Procurement and the Government Procurement Charter.*

The "Application" lacks information on the "**how**" agencies will be held accountable for their procurement performance. ALENZ suggests that the Rules should mandate post project evaluation. Completing post project evaluation will provide a valuable opportunity to learn and demonstrate accountability.

We recommend that

**Rule 3 be amended to include a requirement for agencies to complete post project delivery performance accountability matrix post completion of the contract rating performance against the Rules.**

**The post project performance accountability matrix to published annually.**

2. Are there other values, requirements or applications that should be added?

Transparency is critical in building public confidence and trust.

Previous versions of Government Procurement Rules have in the context section detailed the

Application to agencies, (for example page 5 of the 4th Edition)

*"The Rules are mandatory for the agencies listed in Rules 5.1 and 5.2.*

*For these agencies, where the Rules use the term **must**, the Rule is compulsory and non-compliance is a breach of the Rules. Where the Rules use the term **should**, this indicates good practice"*

We recommend that

**Draft Rules be amended to include the definitions of must and should as in previous versions of the Rules.**

## Part two - Procurement lifecycle steps

### Planning Rules 6-9

Planning is critical to achieving good outcomes. The Rules in this section set out requirements focused on enabling agencies to realise the best possible public value from government contracts. This includes a requirement to undertake appropriate planning for the size, risk and complexity of the procurement, and detail on the elements to be addressed when planning a good procurement. A new Rule requiring agencies to include economic benefits to New Zealand in every procurement replaces the Broader Outcomes Rules. The new Rule enables agencies to consider a wide range of matters that contribute economic benefit to New Zealand. There is also a new requirement to award below threshold procurements to capable New Zealand suppliers.

3. Tell us what you think about these proposed changes?

We have four concerns with respect to Rule 8: Economic benefit to New Zealand.

1. Agencies actions are not specifically detailed.

There is a requirement that agencies must *require that suppliers demonstrate....*

However, there is NO requirement for agencies to act on that information.

In "Application "Agencies *must consider* the following opportunities.... Similarly, there is NO specific requirement for agencies to act; just to consider.

Likewise *Agencies are **expected** to award*. Again, there is NO requirement for an agency to act, just an expectation.

We recommend that

**Rule 8 be amended so agencies must demonstrate how their procurement decisions deliver economic benefit to New Zealand.**

## 2. Agencies must lead by quantifying economic benefit to New Zealand

Suppliers lack the knowledge / resources to quantify the value to New Zealand of suppliers delivering employment, skills, paying taxes etc... deliverables listed in Application 3a to 3i. Agencies need to work with Treasury to quantify the multiplier benefit of these deliverables. Then Agencies need to collaborate with suppliers to estimate the added value to New Zealand that their business will deliver from the contract.

## 3. Economic benefit to NZ of buying local needs to be better understood and valued in the Procurement Process

Where is the evidence to support a minimum of 10%?

What is the actual incremental value to the New Zealand economy of buying local across the metrics detailed in Application 3a to 3i?

How can you compare local content with imported content when the cost of the imported content may be significantly reduced through subsidises in the exporting country?

For example, processed aluminium extrusion assemblies exported from China currently benefit from a 13% export incentive. In addition, subsidies provided at a regional/city level are considerable and well documented, and as recently as Feb 2025.

*"....there are cases of very large subsidies, exceeding 15% of revenue. These cases are dominated by companies based in The People's Republic of China (hereafter "China"), especially in the aluminium, cement, glass, and semiconductor industries, which receive not only large but long-running government support. Moreover, total subsidies in relation to revenue tend to be larger for smaller firms and for state enterprises."*

refer [https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/02/how-governments-back-the-largest-manufacturing-firms\\_64f9eef0/d93ed7db-en.pdf](https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/02/how-governments-back-the-largest-manufacturing-firms_64f9eef0/d93ed7db-en.pdf)

We recommend that

**Further work be done across key procurement agencies and Treasury to value procurement from local suppliers. Rule 8 then needs to be amended providing specific multipliers for each of the benefits listed in 3a - 3i, rather than limiting it to an arbitrary minimum 10%. This also needs to include known subsidisation of imports.**

## 4. The shift from delivering BROADER OUTCOMES to focusing on "Economic Benefit" doesn't assist New Zealand meeting its 2030 and 2050 Climate goals.

The 4th Edition Rules defined government as taking a lead in the journey to a low emission circular economy and to meeting our 2030 / 2050 commitments.

"Broader outcomes" (as detailed in Rule 16 of the 4th Edition Rules) and "Transitioning to a net-zero emissions economy and designing waste out to the system" (as detailed in Rule 20 of the 4th Edition Rules) provided clear future direction in responding to the challenges of climate change.

By contrast "Economic Benefit" as defined in the Rules is relatively simplistic.

In construction and local manufacturing for construction there has been considerable shift under the period of the 4th edition rules - i.e. from October 2019.

Local manufacturing has been preparing for climate change developing new, innovative and low carbon solutions.

The average age of New Zealand buildings is more than 50 years. We have one chance to influence new buildings prior to 2050 when New Zealand has committed to Carbon Zero.

Draft 5th Edition Rules ignore the transition to a circular, low emission economy and the challenges of climate change. In doing so the draft 5th edition Rules actually undermine the value that local manufacturing businesses deliver to New Zealand's future. NZ based manufacturing generally produces goods of a lower carbon footprint than those imported manufactured goods sourced from Asia which have high embodied carbon owing to fossil fuel energy and carbon component of freight.

For example:

New Zealand aluminium extrusions provide added-value manufacturing in New Zealand supplying tailored solutions for building & construction, transport and marine sectors. Our members supply local manufacturing of residential windows, commercial building facades and truck bodies for our transport sector and structural materials for our marine industry.

The majority of aluminium billet extruded in New Zealand is sourced from the Tiwai Point smelter, ensuring New Zealand made extrusions have a very small carbon footprint – approximately 1/5th of imports sourced from fossil fuel powered smelters/manufacturing facilities in Asia, where the vast majority of imports originate.

Downstream New Zealand manufacturing, whether it be in construction, ( windows, doors and building facades), or in transport and marine manufacturing similarly have a low carbon footprint.

We recommend that

**Rule 8 be amended so agencies must demonstrate how their procurement delivers to New Zealand's future low carbon circular economy and our 2030 and 2050 commitments.**

## **Approaching the Market Rules 10-27**

The Rules in this section provide certainty around approaching the market. They aim to clarify that processes other than traditional tendering are acceptable as long as the minimum expectations for open competition are met. The requirements around ensuring suppliers have sufficient time to respond when bidding for a procurement have been streamlined. As many contracts use subcontractors, there is a new requirement focusing on improving transparency of subcontracting. A significant area of change is in

respect of panel contracts. There are several new requirements when setting up and managing panel arrangements.

4. Tell us what you think about these proposed changes?

**Rule 11 OP-OUT requirements.** An improvement to have these specifically defined in Appendix 1, rather than the messy Rule 12 in 4th edition.

**Rule 14 :Subcontracting.** Continues to be a serious omission for Construction Procurement which needs to be addressed or there will be limited delivery of economic benefit to New Zealand.

Given that the Main/Prime contractor subcontracts almost all work/procurement in construction the subcontractor **must be bound to commitments made by the main contractor.**

Failure to do so seriously undermines the Core Values of the Rules and the economic benefit to New Zealand.

We recommend that Rule 14 be amended to include

**For construction projects the subcontractor must be bound to commitments made by the main contractor under the Rules.**

### **Awarding the Contract Rules 28-36**

This section covers awarding the contract and managing the contract. There is a new requirement to publish a cancellation notice if a procurement that has been advertised on GETS is cancelled. There are new requirements to have a contract management system to ensure the agency has key information on its contracts. There is also a requirement to have a contract management plan although the details of that plan are not prescribed. A well-managed contract will mitigate the risk of value loss at delivery. Contract management should be ongoing throughout the life of the contract to achieve the best public value outcomes.

5. Do the new requirements in this section support agencies to have good contract management in place?

No comment

### **Part three - Procurement system requirements Rules 37-47**

Part three outlines the responsibilities that agencies have to ensure the procurement system operates effectively and efficiently. Reporting obligations and collaborative contracts will help with system performance monitoring.

6. What are your views on this section. Is there anything else that should be considered in this section?

Managing Risk appropriately needs to be clearly defined as a mandatory Rule

Missing from the actual Rules, and only listed in the Procurement Charter is the issue of Managing Contract Risk.

**5. MANAGE RISK APPROPRIATELY.**

*Responsibility for managing risks should be with the party – either the agency or the supplier – that is best placed to manage the risk. Agencies and suppliers should work together on risk mitigation strategies.*

Considering the considerable dialogue between the construction sector and Treasury, MBIE and other government agencies in the last 5 years with respect to who carries the risk, the Rules must specifically address this issue.

We recommend that

**Managing Risk appropriately is elevated to a RULE stating that:**

**Responsibility for managing risks must be with the party – either the agency or the supplier – that is best placed to manage the risk.**

Post contract delivery evaluation

Missing from the Rules is any requirement for Agencies to evaluate and report post contract delivery. This is essential to ascertain whether the Agency and its contractor delivered what was required (as per Rules) on time, in full and to specification.

How else do we learn and improve if we fail to evaluate.

We recommend that

**Agencies must, upon completion of the contract, complete and publish post project evaluation.**

## Part four - General information

Language is critical and as pointed out in the response to Qu2 above the draft 5th edition fails to define must and should.

We recommend that

**1. Draft Rules be amended to include the definitions of must and should as in previous versions of the Rules. i.e.**

*The Rules are mandatory for the agencies listed (in Part 4)\_*

*For these agencies, where the Rules use the term **must**, the Rule is compulsory and non-compliance is a breach of the Rules.*

*Where the Rules use the term **should**, this indicates good practice.*

7. Do you find the information in this section clear and easy to understand? Are there other topics on which some general information would be helpful?

No comment

### Format and layout

The proposed 5th edition of the Rules has been streamlined and simplified to try to create a better user experience and make it easier to follow and apply the Rules.

8. Tell us what you think about the new format?

No comment

## General feedback

9. Do you have any overall thoughts about the proposed Rules 5th Edition? If you have comments on specific aspects of the proposed Rules, including the Context section at the start, not already covered, provide these here.

No interest in who is submitting and no apparent mechanism to acknowledge receipt of submission.

We find it unusual, to say the least that MBIE seeks input on the Draft 5th Edition rules, but you don't seek any information as to who the submitters are.

There is no obvious confirmation of receipt as you don't even ask for email address.

The Beehive media release re draft Rules of Procurement (5th edition) is misleading and technically incorrect.

refer <https://www.beehive.govt.nz/release/going-growth-new-procurement-rules#:~:text=‘The%20new%20rule%20will%20apply,have%20the%20capability%20to%20deliver.>

The media release states

*"The Government is proposing changes to procurement rules to make it easier for New Zealand businesses to win government contracts that are collectively worth more than \$50 billion a year, Economic Growth Minister Nicola Willis says.*

*‘‘The changes include introducing a new economic benefit test and scrapping 24 rules that put unnecessary obstacles in the path of Kiwi businesses.’’*

Ironically, the changes as they stand- Rule 8 "*require that suppliers demonstrate..... how they will demonstrate economic benefits to New Zealand*" create more work for suppliers with no certainty that Agencies will award work to New Zealand businesses. Refer our comments under Question 3, with respect to Rule 8.