

Monday 28 November 2016

A Liability Time Bomb for Small Business in NSW

As the global insurance market hardens, systemic issues around risk and liability in New South Wales are unnecessarily placing businesses at risk of collapse and exposing taxpayers to future losses and project delays, according to industry association Consult Australia.

State Manager, Matthew Trigg, says early warnings from the insurance market should be a wakeup call to Government to ensure contracts being signed now are fair and liability is in proportion to responsibility.

“New South Wales currently permits those with greater bargaining power to force disproportionate levels of liability onto others, with small business being the worst affected.”

“The fact a small business can be crippled because another did something wrong is deeply unfair.”

In seeking minor amendments to the NSW Civil Liabilities Act 2002 to better ensure more effective risk management, Consult Australia undertook research that was provided to the NSW Government in May.

“We found that **69% of small firms have or would not proceed with work because they would be forced to accept disproportionate levels of liability**, with some indicating they were forced to accept it on all their government and private sector contracts.”

“Current practices also magnify the complexity and cost of legal proceedings.”

“The current Act is both unfair and untenable especially for small business, but the fix is simple and we have been working with government for some time to get this on the agenda.” says Mr Trigg.

Misunderstanding insurance

These issues magnify those relating to insurance. As the market hardens types of cover can be withdrawn and prices inevitably rise, which puts further pressure on the ability of businesses to survive.

“We are still seeing far too many contracts asking for levels of insurance cover that are completely disproportionate to the costs or risks involved” says Mr Trigg.

“Insurance works on an annual basis, but projects must be covered over their duration and for many years after that, even where the liability is far exceeds their responsibility for any potential loss.”

“This could mean businesses have to provide a decade or more of unfair and highly-expensive insurance coverage where there is no guarantee it is even going to be available and even affordable.”

“Too often we even see contracts even asking for ‘unlimited’ cover, which is not commercially available.”

Exploring the issue

In partnership with PI Pathway Partner, Willis Towers Watson, Consult Australia will be presenting a series of breakfast forums to explore the issues:

- Thursday 30 November | Sydney
- Thursday 8 December | Brisbane

For more information or to register visit www.consultaustralia.com.au

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For further information or to arrange an interview, please contact Matthew Trigg, New South Wales State Manager with Consult Australia on 02 8252 6708 or matthew@consultaaustralia.com.au

About Consult Australia

Consult Australia is the association that represents the business interests of consulting firms that design, engineer, assess and plan our built and natural environments.

We represent an industry comprising some 48,000 firms across Australia, ranging from sole practitioners through to some of Australia's top 500 firms. Collectively, our industry is estimated to employ over 240,000 people, and generate combined revenue exceeding \$40 billion a year.

Consult Australia has undertaken significant work to further the discussion, including on how major works are financed and procured. For more visit www.consultaaustralia.com.au