



July 2024

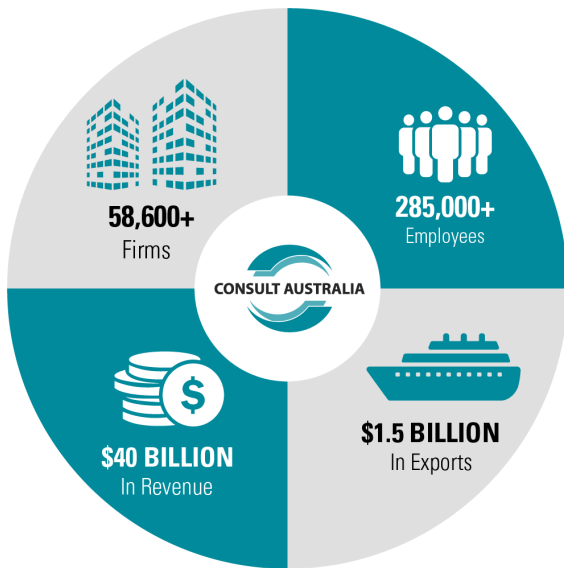
Principles for Partnership

SUBMISSION TO THE CONSTRUCTION LEADERSHIP
GROUP CHAIRED BY INFRASTRUCTURE NSW

Consult Australia

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About us

Consult Australia is the industry association representing consulting businesses in design, advisory and engineering, an industry comprised of over 58,600 businesses across Australia. This includes some of Australia's top 500 companies and many small businesses (97%). Our members provide solutions for individual consumers through to major companies in the private sector and across all tiers of government. Our industry directly employs over 285,000 people in architectural, engineering and technical services and many more in advisory and business support. It is also a job creator for the Australian economy, the services we provide unlock many more jobs across the construction industry and the broader community.

Our members include:



A full membership list is available on our [website](#).

Our recommendations

Consult Australia appreciates the consultation undertaken by the NSW government on the Principles for Partnership, including roundtables with industry associations, roundtable of consultant businesses as well as being receptive to written submissions such as this.

It is understood that the Principles for Partnership are an evolution from the *NSW Government Action Plan: A Ten Point Commitment to the Construction Sector* published in 2018. This evolution is welcomed by Consult Australia and its members. However, as with the original 10 Point Commitment, the Principles need to better reflect the value and involvement of the design, advisory and engineering consulting sector of the broader construction industry. Below we set out some of the ways this can be achieved.

Consult Australia is fully supportive of the overarching goal of the principles, namely to clarify the government priorities for industry and to strengthen collaboration between government and industry to deliver high-quality infrastructure for the people of NSW. Our commitment to collaboration with the NSW government, especially on infrastructure is demonstrated through our:

- recent event with CEO Tom Gellibrand, CEO of Infrastructure NSW
- regular forums with Transport for NSW
- involvement on collaborative working groups with the Australian Constructors Association with Transport for NSW
- regular meetings with Treasury
- working with NSW government agencies for our Future Leader Program including Transport for NSW in 2023 and Schools Infrastructure in 2020.

The principles, commitments and ask of industry

Consult Australia agrees with the five principles:

1. Boosting productivity
2. Enhancing worker safety & wellbeing and industry culture & diversity
3. Improving financial sustainability
4. Decarbonising to meet Net Zero targets
5. Building up domestic manufacturing capability.

The government has made clear that the principles include important social policy objectives that can be achieved via the infrastructure pipeline. It is also encouraging that the government is transparent on its commitment under each Principle so that it can be held to action.

Consult Australia supports the inclusion of 'asks of industry' to bring to life that collaborative approach, however in some respects the 'asks' are overly simplified and there will not be traction until we change systemic practices and behaviours.

The distinction between consultants and constructors

Throughout the Principles for Partnership, we suggest that the distinction between consultants and constructors be more obvious. One of the disappointments of the 10 Point Commitment, from the consulting sector perspective, was the lack of acknowledgement or involvement of the consulting sector.

For example, the discussion of standard forms of contract in the Principles for Partnership is limited to GC21. Consideration must also be had to the contractual and risk settings for professional services. Consult Australia has been working closely with Transport for NSW on

Project Streamline and associated contracts along with NSW Treasury. There is an opportunity for the NSW government to explore NEC, noting some prominent projects in NSW have utilised NEC.

Often productivity is focussed on the construction side only. However, productivity is also relevant to service delivery. Further, an uplift of productivity on the government side is also an uplift for industry. Think of the many weeks or months spent on contractual negotiations that could be alleviated by a comprehensive review of standard contracts in collaboration with industry associations.

The tension between innovative proposals and 'usual practice'

Innovation is a key aspect under the productivity principle, and rightly so. Innovation has the best chance if discussed earlier on in the process. Talking innovation at or after tendering is too late. Innovation needs to be a core element in business cases and industry briefings. At the roundtables, our members stressed that the ability to accept changes (aka innovation) on the client side was a key concern.

The 'ask' of industry to '*Submit innovative proposals where you see an opportunity to do things more efficiently that meet government objectives*' is a good idea but will need significant work from government to ensure it can and will happen. For example, innovative solutions in proposals are not actively encouraged by government behaviour and settings. There is a real and reasonable concern by industry that too much 'deviation' in a proposal increases the likelihood that the proposal/tender will be labelled as a 'non-compliant bid'.

Key barriers we see from government procurement right now that should be remedied include:

- At early industry engagement stages, there is little encouragement by government of innovative solutions by industry.
- A conservative view by government of technologies and innovative products, even where the technology or product has been widely used in other countries.
- The increasing weighting of price in tender assessments.
- No section of the tender proposal documents to expressly identify the innovations presented.
- A lack of understanding by procurement and assessment teams of innovative solutions.
- A culture of 'take it or leave it' by procurement teams towards bidders.
- Little regard to the value of consultant designers as a trusted advisor.

Relevant here too is the definition of value for money, tendering multiple times and the need to consider a programmatic approach.

Digital by default

One of the 'asks' of industry under the productivity principle is to '*Adopt a digital by default way of working for major infrastructure projects*' which raises the question – whose system, yours, mine or someone else's? As pointed out in our [Digital by Default Green Paper](#) there is much fragmentation across Australia. The digital by default essentials set out in that paper, and relevant to realising this for the Principles for Partnership include:

- A common national approach to information frameworks and requirements applied across infrastructure assets
- Projects and programs recognising information as an asset that informs effective insights-driven action and investment throughout the project lifecycle
- All major contributors to infrastructure delivery have clear digital transformation strategies

- All infrastructure projects and programs to identify minimum critical data sets for design, construct and operate phases (and for carbon emissions tracking of infrastructure projects and adopt digital twins)
- Programs adopting development and procurement approaches that enable innovative infrastructure solutions and collaborative delivery models.

As discussed in roundtables, the use of AI will need a mature view on data availability, storage and governance.

Industry culture is everyone's job

Consult Australia members focus on gender disparity in the consulting sector by committing to our [Champions of Change](#) initiative. In the [2023 report](#), the Consult Australia Champions for Change Group achieved 34.8% women's representation (overall employees). All organisations in the Consult Australia Group have systems in place to address bias and ensure equality in recruitment and promotional processes – which is up from 88.9% in 2022. Similarly, 100% of the group have Board or Executive leadership teams that have regular reporting on sexual harassment (both cultural indicators and incidents) in regular reporting cycles, up from 88.9% in 2022.

While the Champions initiative is deliberately focussed on gender diversity, members have seen wider positive impacts on cultural behaviour beyond gender. Promoting diversity and inclusion commitments is important to address the conscious and unconscious bias that may be attributing to employment trends. The Champions initiatives as well as WGEA accreditation could be set as a minimum bar.

We note that the focus of the NSW government is to ensure that key recommendations from the Construction Industry Culture Taskforce are embedded into 'business as usual', which Consult Australia supports. We would also appreciate consideration of how any of the CICT recommendations could also appropriately apply to the consultant teams on projects.

Consult Australia supports the calls from the Australian Construction Association (ACA) for use of 360 degree health checks. It is great when individual businesses have good workplace culture but on projects where there are team members from government and different businesses, the 360 degree approach would be better than relying on individual businesses or government clients to take action. Given the psychological safety risks, together industry and government need to continue to lift the bar on expectations of behaviours and consequences.

Model Client

Consult Australia is pleased to see that Model Client has been picked up by the NSW government in the Principles for Partnership. But as a reminder, Model Client behaviours, as presented in the Partnership for Change [Model Client](#) paper with the ACA, goes broader.

A Model Client:

1. understands the commercial risks, market conditions and different roles of the industry suppliers, using that knowledge to balance the risk exposure of all parties (for example, minimises the use of security deposits for contractors and sets reasonable insurance limits and limits of liability for consultants)
2. undertakes appropriate risk identification, assessment, mitigation, and management including by understanding the particular project risks
3. has clear, consistent and transparent tender processes, evaluation criteria and provides quality documentation including well-structured and accurate briefs, providing reasonable review and response times (the key benefit flowing from this is reduced cost of bidding)
4. always considers business and industry sustainability, by avoiding unnecessary pressure on parties. For example:

- a. setting fair and reasonable assessment of stipe-ends to account for costs to consultants and contractors
 - b. always settling invoices on time and ensuring that contract negotiations are fair; not a 'take it or leave it' approach
 - c. provides fair assessments and timely payments for work undertaken particularly in relation to additional works and claims.
5. avoids use of non-standard or heavily amended contracts and prioritises collaborative contracting including appropriate liability frameworks, maintaining proportionate liability, balanced rights/obligations, and placing risks with the party best able to manage them
 6. avoids the practice of multiple rounds of best and final offers
 7. fosters a collaborative culture. This includes, through early engagement, supporting and driving innovation and maintaining open and constructive communication between all parties
 8. plans and prioritises projects and avoids making assumptions about industry capacity. This includes having a genuine commitment to improved culture, mental health, and diversity, and observing industry closure times (for example Christmas tender blackout periods).

Low bids and financial sustainability

At the consultant roundtable issues raised here included:

- the costs on tendering
- the need to consider a programmatic approach
- a way to reduce the need to provide reams of qualifying material repeatedly for the same client for every bid
- leveraging framework agreements
- visibility of pipeline.

The problem of low bidding and the race to the bottom is not good for the industry. Therefore, Consult Australia supports exploring the suggestion by ACA of other jurisdictions that have 'unusually low bid provisions'. For example, where a bidder has a bid significantly lower than all other bidders they are asked to justify the bid. The inability to justify the low cost can impact ability to bid again.

It is vital that we consider what a sustainable sector looks like and how we can collectively enable that.

Net Zero

Consult Australia, as part of the [NetZero Infrastructure](#) alliance looks forward to assisting the NSW government in the decarbonisation priority. There is a need to:

- upskill the whole industry
- consider the whole life cycle of the asset
- make data on sustainable outcomes widely available
- get the supply chain involved early on
- having a carbon measurement tool means putting it into practice.

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Thanks to our Industry Champions

For their outstanding leadership and engagement on behalf of the industry.



AECOM

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COLLABORATIVE LEADERSHIP COMMITTED TO THE SUCCESS OF OUR INDUSTRY