

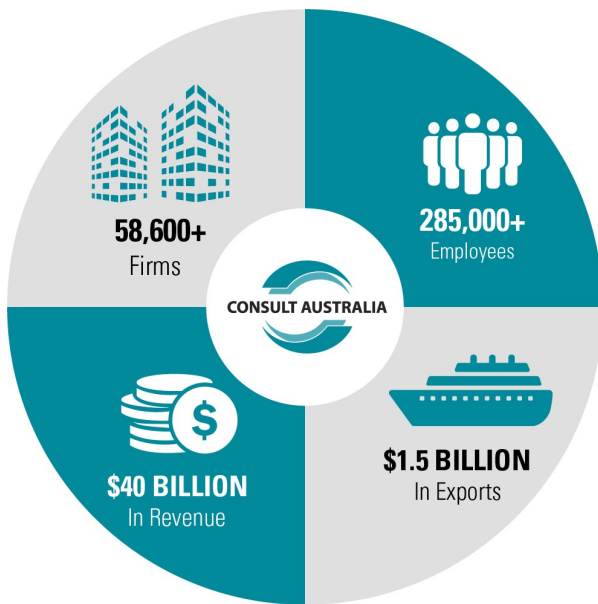


PRE-BUDGET SUBMISSION

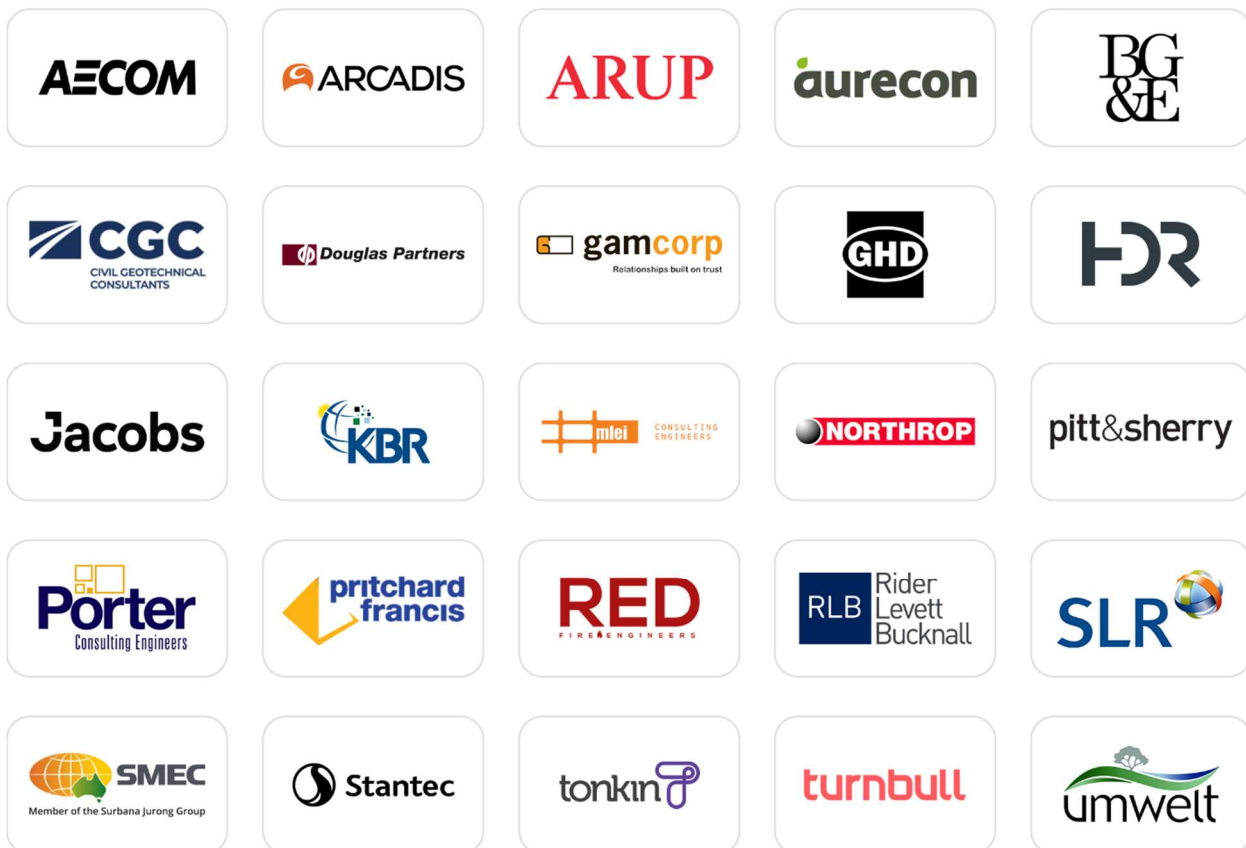
2023 - 24

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 at: <https://www.consultaustralia.com.au/home/about-us/members>

EXECUTIVE SUMMARY

Consult Australia's pre-budget submission for the 2023-2024 Federal Budget focusses on the ways industry and government can collaborate to address the key challenges facing our members and impacting the whole economy, including workforce capacity, fair procurement of services, as well as access to affordable professional indemnity (PI) insurance.

Consultants design the future. With every design, advisory and engineering service provided by our membership, there is a positive impact on job growth, community connectivity and economic productivity. But without reform and behavioural change, productivity will continue to lag and the ability to innovate will remain challenged.

Our recommendations align with the government's priority for a stronger, more resilient economy.



Thinking smarter about skills

Thinking more broadly about the skills challenge to enable a thriving workforce equipped to deliver the current and future pipeline of projects.



Digital by default

Realising the productivity benefits of investing in digital consistently at all stages and on all projects.



De-risking for delivery

Taking actions to reduce the level of disputation and bring some balance back to the professional indemnity insurance market.



Model client

Adopting behaviours to address the unnecessarily complex and lengthy procurement procedures and undesirable contracting behaviours which hinder productivity and Australia's economic growth.

THINKING SMARTER ABOUT SKILLS

As highlighted in our 2022 [Thinking Smarter About Skills](#) report, our industry has been suffering from skills shortages which have been prevalent since before the global pandemic and have only intensified as a result. While skills shortages are impacting all sectors that our members operate in, they are exacerbated by the record high investment in infrastructure. Many private sector projects in mining, building and construction are also in need of people. To tackle this capacity issue, we need to think more broadly, not just about education and skilled migration but also better use of the people we have.

In terms of education and skilled migration, Consult Australia was pleased to see the federal government's quick move to hold and implement outcomes from the Jobs and Skills Summit. The Australian Chamber of Commerce and Industry's recently published report on [Overcoming Australia's Labour and Skills Shortages](#) discusses the need for a better system for pre-apprenticeship to allow easier access to apprenticeships and a national industry apprenticeship advisory board to provide all governments with much needed advice on how to provide the best pathways into their occupations.

Regulatory barriers are the key issue faced by members moving skilled talent to different projects to address capacity constraints. A key example is the separate government engineering registration schemes around the country that hinder rather than support occupational mobility. In 2021, data collected by Consult Australia noted that successful implementation of the Automatic Mutual Recognition legislation throughout Australia enabling true automatic deemed registration for engineers would secure savings of over \$54 million in costs to business for registration of engineers already registered in another jurisdiction. Unfortunately, that opportunity was not realised – and with more jurisdictions rolling out engineering registration scheme, costs are increasing and it is now time to fix the legislation to secure occupational mobility. Another key element to retaining quality people is ensuring their psychological safety, especially when working on projects with other entities.

Further ways the federal government can provide support and investment

Education

✓ Working to a collaborative and cohesive education strategy

We need a collaborative and cohesive education strategy with industry, educators, and government working in partnership. Consult Australia endorses the recommendations proposed by the Group of 8 including a new model for funding engineering education, national priority places for engineering and a national industry, university, and government engineering council that identifies immediate and strategic needs.

✓ Creating stepping-stones to STEM qualifications and practical experience

Consult Australia sees benefits in the investment of short programs to support not only school leavers but also applicants who need to upskill in technical areas. There is a real opportunity to incorporate industry practical experience.

An exemplar model championed by Consult Australia and its members is the [NSW government's infrastructure traineeship program](#) which provides pathways for young people (Year 12 school leavers) to develop their professional skills and qualifications on rotation between consultant businesses, government and construction businesses.

Skilled migration

✓ Creating a migration system that is accessible and easy to navigate

A streamlined migration program would include:

- increasing the age threshold for applicants and lowering the salary threshold for visa types
- reducing red tape by removing labour market testing requirements
- removing the need to pay the Skilling Australia Fund levy twice for the same applicant or a subsequent visa
- providing permanent pathways for employer sponsored visas.

Utilising existing talent

✓ Amend the Automatic Mutual Recognition legislation to deliver occupational mobility

We need to amend the 'home state' definition to ensure true occupational mobility as well as implement a digital solution to successfully ensure that consumers, the regulators and practitioners can all access registration information throughout Australia, particularly for engineering practitioners. Our solutions are presented in our [February 2021 submission](#).

✓ Striving for a mentally healthy industry by providing psychological safety on government projects

An adversarial and toxic culture, contributing to a lack of psychological safety on projects combined with significant pipeline demands and unreasonable client timetabling/tender requests all take a toll on the mental health and wellbeing of people. Both the design and construction sides of the industry are reporting increasing loss of lives which they link to these psychological stressors. The federal government can help industry strive for a mentally healthy industry through the continued work of the National Mental Health Commission and related initiatives, but also as an investor in infrastructure projects and as a conduit bringing all the state and territory governments along on the same journey.

Cost considerations

The government will need to invest as well as secure commitment from national cabinet to fully realise these proposals. Long term investment in education, migration and the National Mental Health Commission is needed to ensure sufficient funding is allocated to support our industry's talent pipeline.

By tackling these issues, the government can ensure we have the right people in place to deliver the current pipeline of projects and that the industry is healthy and productive. Simply put, without our people we cannot achieve.

DIGITAL BY DEFAULT

Consult Australia advocates for digital by default to facilitate the planning and post-delivery of infrastructure projects, create a smarter pipeline of projects, and strengthen the ability to go slow to go fast. Embracing digital by default will ensure job growth, global leadership, increased productivity, proper risk management, and solutions to improve accessibility and innovation. This requires the Commonwealth Government to drive innovation by committing to and pushing for digital investment at all stages and on all projects. There are numerous ways in which digital by default can be delivered, from data sharing during projects, digital project controls, using digital tools to manage project risks and delivering building information modelling (BIM) and/or digital twins of assets. By going digital by default businesses (especially small businesses) will see the cost of digital tools as an investment rather than burden and will deliver better outcomes.

We support the release of the Productivity Commission's interim reports. The [5-year Productivity Inquiry: Innovation for the 98%](#) report highlights that for a large group of Australian businesses, management practices, uptake of technology and productivity are below their best practice peers. While the [5-year Productivity Inquiry: Australia's data and digital dividend](#) report states that digital activities represent 6% of Australia's total value added, with about 40% of businesses in construction and customer services using cloud technology. This report further explores how digital technology and data can be used to improve Australia's overall productivity.

We understand the Australian Constructors Association has designed the Future Australian Infrastructure Rating (FAIR) in response to the construction industry's workforce shortage and is urging the federal government to use the rating system for big construction projects to boost productivity. This is an initiative similar to building ratings tools (e.g. NABERS, NatHERS and Green Star) and could see industry reforms implemented consistently across all jurisdictions to measure outcomes such as improved productivity, building sovereign capability, skills development, digital innovation and transformation, improved health and wellbeing, increased women and indigenous participation, net zero emission and reduced disputes. We note that this could be achieved by utilising existing frameworks (for example, the [Infrastructure Sustainability Council's](#) scheme) and processes where these exist.

Further ways the federal government can provide support and investment

- ✓ [Mandating BIM for government projects to improve industry productivity](#)

Small business needs this commitment so that technology is an investment rather than just a cost. This includes aligning standards and disciplines and maturing government's understanding of BIM. Very few jurisdictions take this approach, see Consult Australia's [Uplifting Productivity](#) report for examples where digital solutions were successfully used in projects.
- ✓ [Implementation of digital asset policy and digital design model as a reliance document by all governments](#)

To counter contractual issues such as disputes over ownership of intellectual property, data ownership and security, licensing, and integrity, better policy development and coordination across Australia is needed. This would enable consistent information management practices and uplift adoption within projects. Our recent submission to Office of Projects Victoria on [Construction Contracts – New Legal Provisions for Digital Assets](#) discusses solutions to provide a more collaborative environment.

In addition, through our membership of the Australian Chamber of Commerce and Industry we highlight their complementary recommendations, which also reflect our members' priorities and support a better regulatory environment to facilitate the benefits of digitalisation across the economy, including proposals to:

- ✓ invest in digital technology by retaining the 20% tax deduction bonus for small businesses to improve their digital capability for at least the next 3 years
- ✓ invest in digital technology by extending the 20% tax deduction to training to enable businesses to upskill their workforce in information technology and digitisation
- ✓ invest in research and development by supporting and broadening the patent box to all industry sectors and assist businesses to commercialise R&D and innovation in Australia through low-interest loans and other financial assistance
- ✓ invest in energy by providing greater incentives for investment in R&D and innovation in developing technologies as well as working with state and territory governments to streamline energy policy.

Cost considerations – digital by default

The government will need to invest at the federal level as well as secure commitment from national cabinet to fully realise this proposal.

Digital investment benefits are plentiful as many government agencies have already demonstrated through improved productivity. We encourage the Commonwealth Government to continue championing digital investment in productivity solutions, such as the Business Research and Innovative Initiative which recently provided funding of \$6.5 million to small and medium businesses to solve government challenges using innovative approaches and technologies to support automatic deemed registration.

DE-RISKING FOR DELIVERY AND MODEL CLIENT

The current crisis in the professional indemnity insurance market felt by Consult Australia members is driven by unnecessary disputation in market. Contracts are being drafted in ways that pass risk unfairly down the supply chain, often to the party less able to manage the risk. We see this play out in professional services contracts which contain clauses that are not suited for professional services.

Our members continue to report that the availability and affordability of PI insurance continues to be a key challenge, with 79% of member businesses reporting in our recent [Industry Health Check](#) and increase in PI insurance premiums over the last 12 months. According to the [AON professional indemnity insurance market insights for quarter two of 2022](#), 'insurers are generally seeking a minimum 30% rate increase across their construction portfolio.' Accessibility is being negatively impacted by insurers exiting the market, and specific attention to 'loss mitigation' including coverage concerns where 'novated contracts, project delays, cost over-runs, and cross liability cover' arise.

Consult Australia's solutions include the elimination of unnecessary and unfair contract terms as well as advocating for law reform as detailed below. Many of our solutions are recommended in [Infrastructure Australia's 2021 Plan](#).

Further ways the federal government can provide support and investment

- ✓ [Apply unfair contract term protections of the ACL to all government contracts](#)

We support the extension of the unfair contract term protections to capture more small businesses but also encourage extending the operation of the protections to apply when businesses contract with government as a client. It is also recommended that a searchable and public register of unfair contract terms is established to inform and empower small businesses – industry involvement will be necessary in the determination of the clauses.
- ✓ [Limit misleading or deceptive conduct provisions to protect consumers and small businesses](#)

The ACL's misleading or deceptive conduct provisions are being misused by sophisticated businesses in business-to-business situations to avoid contractually agreed liability caps and to strong-arm consultants into settling claims. Consult Australia wants to ensure that misleading or deceptive conduct claims are preserved to protect consumers and small businesses as opposed to being used in contractual situations where sufficient legal protection is provided under the contract or common law.
- ✓ [Guarantee proportionate liability in professional services contracts](#)

The original policy intent of proportionate liability in civil liability reforms of 2001 – to bring stability back to the professional indemnity insurance market – is being undermined by government clients contracting out of proportionate liability in professional services contracts. Consult Australia seeks an amendment to civil liability laws in all jurisdictions except Queensland to explicitly prohibit contracting out of proportionate liability in professional services contracts. We need to push for national consistency requiring commitment from each state and territory governments to manage contract risk exposure.
- ✓ [Continuing funding for the Commonwealth's Centre of Procurement Excellence](#)

We need to drive procurement reform across Australia, it is essential given major factors including the size and scale of infrastructure and the diminishing health of the industry.
- ✓ [Adopt and champion Model Client behaviours](#)

Adopting and championing [Model Client behaviours](#) will result in greater productivity and reduced costs for governments. Being a model client will achieve mutually beneficial outcomes for all parties. The Productivity Commission's interim report on [Innovation for 98%](#)

discusses 'collaborative construction procurement models, such as the Level Crossing Removal project, and how they have wider potential in driving better quality and productivity outcomes in public infrastructure (Australian Constructors Association, sub. 73, p. 8; Infrastructure Australia 2022).'

Cost considerations

The Commonwealth Government will need to invest at the federal level as well as secure commitment from national cabinet to fully realise this proposal. Investing here will have a significant positive impact on business in Australia and the economy. This investment will improve business viability and market relationships, unlock productivity, and reduce disputation. This will see the return of stability in the professional indemnity insurance market.

The full cost-benefits of this proposal are unknown, but we know from a 2015 Consult Australia commissioned Deloitte Access Economics report that improvements in sub-optimal procurement practices could have significant cost impacts. The findings showed that with improvements in briefs, delivery models and contracts, the costs of projects could be reduced by 5.4%, the delays to projects by 7%, and improve the quality of projects by 7%.

In the same year we published [Better Buying, Better Outcomes](#) setting out a series of findings and recommendations arising from the work undertaken by Deloitte Access Economics. These recommendations aimed to improve procurement and thus unlock greater productivity not only during the project and but also over the asset's lifecycle.

Reform recommendations made by Consult Australia and other organisations, including in reports prior to and post 2015, have all converged on the same themes. There is an urgent need to create a more collaborative procurement and contracting framework, with balanced commercial structures, that will improve the culture across the industry, which will result in greater productivity.

NEXT STEPS

We would welcome the opportunity to further discuss the issues raised in this submission. To do so, please contact:

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