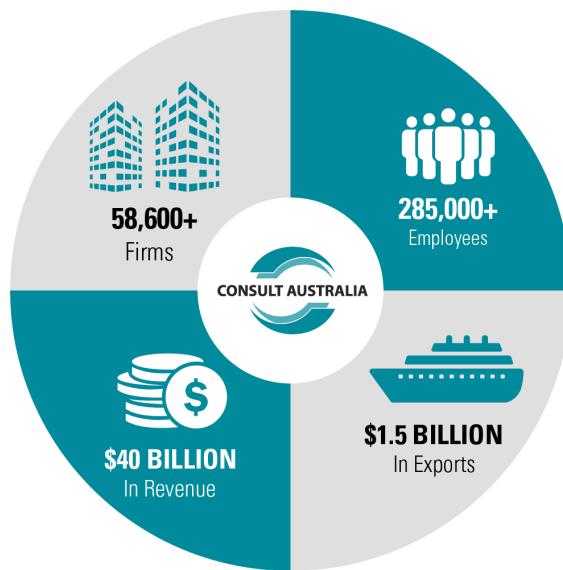




PRE-BUDGET SUBMISSION

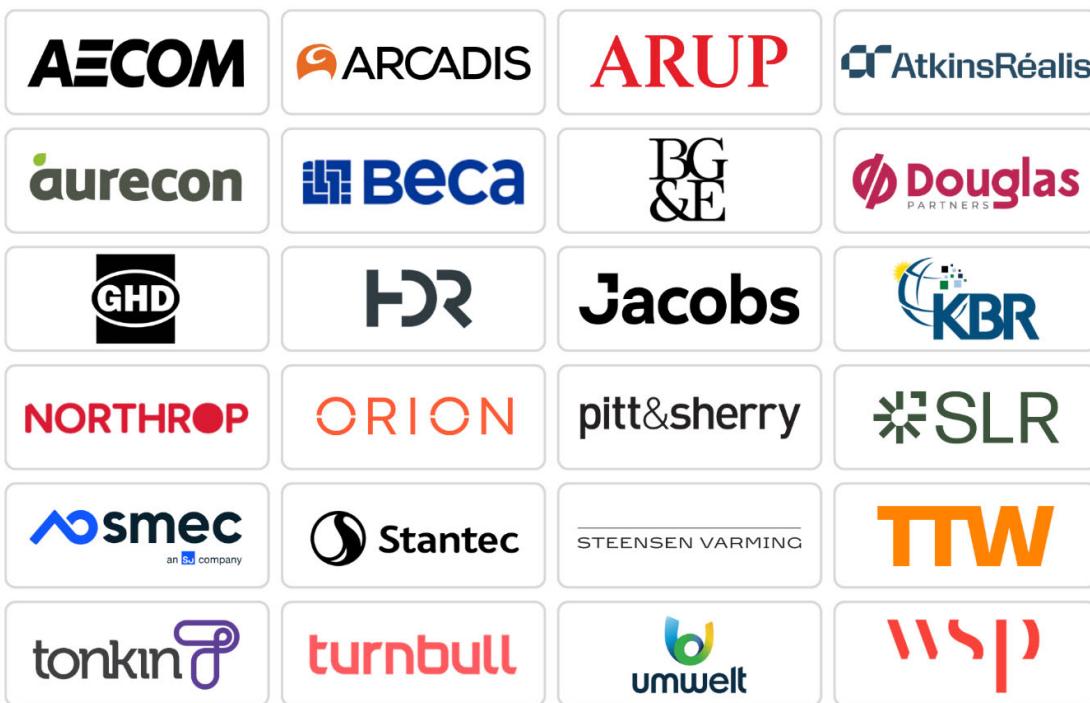
2026-27



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](#).

EXECUTIVE SUMMARY

Consult Australia welcomes the opportunity to contribute to the Commonwealth Treasury's consultation on the 2026-2027 Federal Budget. Our recommendations are smart policy reforms that align with the government's priority for a more productive and more resilient economy.

Provide strategic pipeline certainty



Pipeline certainty leads to confidence by the industry and an ability for businesses to invest in capacity. Strategic pipeline certainty is more than funding; it also requires coordination of project releases. The federal government should:

- continue to support long-term infrastructure planning including through the development of the appropriate evidence base needed to make informed decisions and fully considering options, cost-benefit, community engagement and social outcomes.
- oversee coordination of project releases between jurisdictions, accounting for the impact on the market, including competing projects by other agencies. A steady stream of projects supports long-term market sustainability as opposed to inflationary demand created where multiple uncoordinated competing pipelines are released at one time.
- support state and territory governments to adopt programmatic approaches to mega projects enabling participation by various businesses with varying skills and sizes.

Support a competitive market



It is well understood that the regulatory environment and policy settings of government impacts the market and that better regulation can in fact support a competitive environment. The federal government should:

- fix the misleading or deceptive conduct provisions of the Australian Consumer Law (ACL) to ensure consistency with other ACL provisions by protecting consumers and small business.
- realise, through the Modernising the National Construction Code project, the national leadership, coordination, research and education functions of the Australian Building Codes Board (ABCB).
- invest in procurement capability uplift for both the public and private sector, particularly in managing risk.



Strengthen national coordination

Strengthened national coordination, to remove the fragmentation and duplication between jurisdictions would deliver significant productivity uplift. The federal government should:

- proceed with the plan for a national approach to labour hire laws to remove duplication and unnecessary restrictions on businesses where labour hire is only incidental to their services.
- accelerate the implementation of a national registration scheme for professional engineers.
- review and harmonise fragmented legislation impeding businesses seeking to achieve greater gender equality.
- continue to commit budget to implement and strengthen the National Construction Strategy.
- continue to commit budget to the prioritisation of Infrastructure Net Zero strategies in partnership with industry.



Advance digital by default

To maximise value for money outcomes, realise net zero objectives and increase productivity, good digital practices need to be shared, integrated and coordinated across infrastructure projects. Consult Australia recommends that the federal government support and help coordinate a digital by default approach in infrastructure across Australia.

PROVIDE STRATEGY PIPELINE CERTAINTY

Recommendations:

- The federal government to continue to support long-term infrastructure planning including through the development of the appropriate evidence base needed to make informed decisions and fully considering options, cost-benefit, community engagement and social outcomes.
- The federal government to oversee coordination of project releases between state and territory governments accounting for the impact on the market, including competing projects by other agencies. A steady stream of projects supports long-term market sustainability as opposed to inflationary demand created where multiple uncoordinated competing pipelines are released at one time.
- The federal government to support state and territory governments to adopt programmatic approaches to mega projects enabling participation by various businesses with varying skills and sizes.

Pipeline certainty needs leadership and a strong partnership between the federal government and the states and territories. Consult Australia commends the work the federal government has put into the Infrastructure Investment Program, committing to a 10-year, over \$120 billion infrastructure investment pipeline for a rolling program of sustainable land transport infrastructure projects.

Pipeline investment is an economic lever. If that lever is pulled too tightly, or let loose, it has implications on market capacity to deliver, regional growth, and competition. Similarly, without strategic coordination of jurisdiction pipelines, we have seen historic peaks and troughs in sectors.

Through the numerous 2025 productivity inquiries, it was recognised that Australia has a national workforce and therefore in this context it is important to coordinate nationally. The federal government has the levers to do this national coordination with states and territories, informed by Infrastructure Australia's Market Capacity work and industry data, including [Consult Australia's Market Conditions report](#).

SUPPORT A COMPETITIVE MARKET

Recommendations:

- The federal government should fix the misleading or deceptive conduct provisions of the ACL to ensure consistency with other ACL provisions by protecting consumers and small business.
- The federal government should realise, through the Modernising the National Construction Code project, the national leadership, coordination, research and education functions of the ABCB.
- The federal government should invest in procurement capability uplift for both the public and private sector, particularly in managing risk.

Consult Australia supports the [interim recommendations of the Productivity Commission](#) on creating a more dynamic and resilient economy to:

- set a clear agenda for regulatory reform
- bolster high-level scrutiny of regulations
- enhance regulatory practice to deliver growth, competition and innovation.

In this vein, Consult Australia's recommendations focus on key areas of regulatory reform and capability uplift.

Reforming inconsistent legislation - misleading or deceptive conduct

As per our [June 2025 submission](#) to the Productivity Commission on supporting a dynamic and resilient economy and reiterated in our [September 2025 submission](#), Consult Australia recommends amendments to the ACL to ensure the misleading or deceptive conduct provisions (under section 18) are consistent with other ACL provisions by protecting consumers and small businesses.

Our members, of all sizes, have noted that the misleading or deceptive conduct provisions are used in claims against them, often by much larger sophisticated businesses that have the benefit of both internal and external legal advice. Consult Australia holds that there is sufficient legal protection both within the contract between the parties and the common law.

In practice these misleading or deceptive conduct claims are rarely heard by the courts. We are of the view that misleading or deceptive conduct claims are being used inappropriately as a tool to pressure our members and other suppliers in the contract chain to settle claims made under the contract. By adding a claim of misleading or deceptive conduct, sophisticated corporate entities are seeking to throw a 'catch all' blanket over their log of claims, in an attempt to overwhelm the other party and make the cost of defending the claim far greater than the value of settlement out of court. This can be an effective strategy because across jurisdictions there is conflicting case law on the question of whether limitation of liability clauses apply to claims made under section 18 of the ACL.

Around 97% of the businesses in the design, advisory and engineering consulting industry are small businesses (of less than 20 people). Therefore, it is vital that these businesses, who rarely have in-house legal, have protection under the ACL. The rest of the ACL focuses on protecting consumers and small businesses, misleading or deceptive conduct provisions however seem to be more open.

Consult Australia proposes that to maintain consistency with other parts of the ACL, section 18 of the ACL be amended to incorporate the definition of consumer and small businesses used in section 23 of the ACL:

- consumer – an individual whose acquisition of the goods, services or interest is wholly or predominantly for personal, domestic or household use or consumption.
- small business – a business that employs fewer than 100 persons or the annual turnover of the business is less than \$10 million. (Note: this definition came into force on 9 November 2023).

Taking this into consideration, we propose this new drafting of section 18 of the ACL:

18 Misleading or deceptive conduct

- (1) A person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive a consumer or a small business.
- (2) A consumer for the purposes of subsection (1) is an individual whose acquisition of the goods, services or interest is wholly or predominantly for personal, domestic, or household use or consumption
- (3) A small business for the purposes of subsection (1) is a business that:
 - (a) has fewer than 100 employees, or
 - (b) has an annual turnover of less than \$10million.
- (4) Nothing in Part 3-1 (which is about unfair practices) limits by implication subsection (1).

Note: For rules relating to representations as to the country of origin of goods, see Part 5-3.

The other option is to amend the ACL to explicitly allow contracting parties to exclude liability and/or set liability limits for misleading and deceptive conduct in business-to-business contracts. However, this approach would not remedy the inconsistency with other parts of the ACL.

Realising the national leadership, coordination, research and education functions of the ABCB

The National Construction Code (NCC) is Australia's primary set of technical design and construction provisions for buildings. To ensure the consistent safety and integrity of buildings across Australia, national implementation of the NCC is vital. National consistency of the implementation of NCC requirements also ensures businesses have certainty to operate effectively across jurisdictions.

The Modernising the National Construction Code project, with buy-in from state and territory Building Ministers, is a unique opportunity for the federal government to fully realise an ABCB that supports a competitive market for all businesses working to the NCC. Key functions we see as both desirable and appropriate for the ABCB include:

- national leadership – the ABCB is best placed to provide national leadership on construction related matters, including the optimal development, introduction and roll-out of updates to the NCC. In providing national leadership, the ABCB should have the expertise and capability in-house to engender confidence of both the industry and governments alike.
- national coordination – the current jurisdiction-based implementation and roll-out of NCC updates causes confusion and fragmentation for the market. There is a need for

more coordination of implementation to ensure consistency of standards across Australia. The ABCB is best placed to do this coordination with states and territories given its leadership (as above) on the NCC.

- research – the development of the NCC should be underpinned by research, including applied research on risks, opportunities, costs and market impacts of any proposed change to the NCC. The ABCB is best placed to conduct this research so that the research can inform not only the development of NCC updates, but also the coordinated timing and implementation of such updates.
- education – much of the industry concern about the impost of NCC implementation and roll-out is borne from a risk-based approach to updates (which could be addressed by the ABCB through leadership, coordination and research) as well as a lack of resources that support industry, particularly small businesses to understand the NCC updates and how to comply with the NCC. Therefore, a key function of the ABCB should be to educate the industry to support a competitive market of businesses. This educational role could include:
 - case studies demonstrating how NCC provisions apply in practice
 - best practice guidelines.

Consult Australia looks forward to contributing to the Modernising the National Construction Code project as it progresses.

Uplifting procurement capability

The Productivity Commission's [interim report](#) on creating a more dynamic and resilient economy included a focus on government communicating risk tolerance and trade-offs to build public servant confidence and to allow it to identify and proactively respond to regulatory issues. Consult Australia support this and recommends that a similar capability focus be brought to procurement.

Procurement is about assessment and allocation of risk. It is often the tool used by government to promote and assess regulatory compliance. However, procurement capability is a long-running challenge across Australia. Government reviews at national and state levels, including Infrastructure Australia's Market Capacity reports highlight recurring issues such as unclear scoping, over-reliance on contract transfer of risk, inconsistent commercial capability within agencies and rising dispute activity. These pressures are compounded by workforce tightness, project complexity, budget constraints and increasing expectations on value for money.

From Consult Australia's engagement with industry and government, similar themes continue to surface. Industry often has limited visibility of the compliance, assurance and audit requirements that shape government procurement decisions. Agencies have noted that consultants and contractors do not always appreciate the internal constraints that impact flexibility, timelines or documentation. At the same time, government teams can lack insight into the commercial imperatives of suppliers, especially the differences in operating models between constructors and consulting businesses. Misunderstandings around insurance coverage remain common, leading to unrealistic contractual requirements or expectations around 'back-to-back' liability that do not align with the realities of insurability. Although the language of risk-sharing is widely used, it is seldom practised in a way that supports predictable or collaborative project delivery.

These gaps in understanding create unnecessary friction, drive up transaction costs, limit innovation and can contribute to cost overruns, delays or disputes. They also inhibit the early engagement that agencies identify as a key lever for better outcomes.

To tackle these system-wide challenges, Consult Australia recommends the federal government invest in capability uplift for both the private and public sectors. There should be an efficient, structured, repeatable and scalable way for government procurement officers and industry project managers to build a common understanding of the constraints, drivers and risk environments on both sides. Such an investment would strengthen capability, improve decision-making and foster more constructive relationships across the infrastructure delivery chain.

STRENGTHEN NATIONAL COORDINATION

Recommendations to strengthen national coordination:

- The federal government, along with states and territories, should proceed with the plan for a national approach to labour hire laws to remove duplication and unnecessary restrictions on businesses where labour hire is only incidental to their services.
- The federal government should accelerate the implementation of a national registration scheme for professional engineers, to deliver over \$54 million in savings for businesses with registered professional engineers that work across state borders.
- The federal government should review and harmonise fragmented legislation impeding businesses seeking to achieve greater gender equality.
- The federal government should continue to commit budget to implement and strengthen the National Construction Strategy.
- The federal Government should continue to commit budget to the prioritisation of Infrastructure Net Zero strategies in partnership with industry.

As a national association, Consult Australia has seen firsthand the productivity drain of the fragmentation and duplication between jurisdictions in a range of areas because of jurisdictional silos. In recent years we have also seen significant progress where various jurisdictions come together to progress issues nationally. Consult Australia recommends that the federal government should continue showing leadership and invest in progressing nationally coordinated schemes – many of which have support from the states and territories.

Labour hire

As per our [June 2025 submission](#) to the Productivity Commission on supporting a dynamic and resilient economy, Consult Australia recommends a national approach to labour hire laws to bring consistency and remove unnecessary burdens on businesses where labour hire is only incidental to their services.

Labour hire laws were introduced to protect vulnerable workers from exploitation, and to promote the integrity of the labour hire industry. There were specific concerns about certain industries including where workers were on visas, and/or lower income earners. There were no concerns about professional design, advisory or engineering specialists who are generally well remunerated and often provided to public sector clients.

Consult Australia members do not provide labour hire service as a core function of their business. However, they are frequently caught by a technical reading of the legislation in Qld, Vic and ACT. The drafting of labour hire laws can capture some workforce arrangements undertaken by a design, advisory, engineering consulting business, requiring the business to have a labour hire licence and complete relevant compliance reporting.

We agree with the original policy intent of the legislation, but not its application beyond industries where workers have been found to be particularly vulnerable. Consult Australia does not believe that labour hire laws ensure workers in our industry have important protections – they already have all relevant protections without the application of the labour hire laws to our member businesses.

This is an instance of national regulatory failure, and negatively impacts businesses, particularly those working across jurisdictions. Over 90% of Consult Australia members (including sole traders and small businesses with only one office location) provide services in more than one jurisdiction.

A national scheme would better serve businesses where there is a single set of regulatory obligations applying across Australia. Workplace Relations Ministers have endorsed a national scheme, agreed to publish and senior officials were tasked with developing a strategy for consultation with business, industry, unions and other stakeholders. However, the national scheme has not yet been released.

To be clear, Consult Australia would advocate that the national scheme should only cover the industries needing regulatory intervention, not all businesses that might have arrangements that technically meet the definition of labour hire. Consult Australia recommends the federal Government drive forward the national scheme as agreed to clarify regulatory objectives and facilitate consistency in application.

National engineering registration

Consult Australia welcomes the [announcement](#) that Treasurers across Australia have agreed to occupational licensing reforms prioritising engineering occupations. It is vital that these reforms are progressed as the current regime imposes unnecessary barriers on the operation of businesses of all sizes. Registration is a priority for our member businesses as it is now required in many Australian jurisdictions for professional engineers to practice.

The current scheme, of state/territory-based registration does not work despite amendments to the *Mutual Recognition Act 1992* (Cth) in 2022 that facilitated automatic deemed registration. The automatic deemed registration scheme was intended to reduce costs and avoid the often lengthy and administratively burdensome full registration process in the second jurisdiction. Unfortunately, true occupational mobility has not been realised because the legislation (as drafted by the Commonwealth for implementation by states and territories) has a significant barrier in the definition of 'home State'.

Consult Australia has provided lengthy commentary on the issue as well solutions (including drafting proposals) regarding the 'home State' definition, including in [our June 2025 submission](#) to the Productivity Commission on occupational licensing and National Competition Policy Analysis. However, a single national registration scheme has always been at the heart of our advocacy and will bring significant benefits to engineering businesses across Australia.

An example of the issue:

Sarah is a professional engineer at a consultancy business based in SA and works on class 2 building projects for NSW so holds a registration in NSW. The business is starting to provide services to Vic and wants Sarah to work on Vic projects (still from the SA office)*.

Sarah cannot seek automatic deemed registration to deliver her professional engineering services to Vic, because her first registration is for NSW, which is not her 'home State'.

Further, if the SA government chooses to introduce professional engineering registration, Sarah will not be able to utilise automatic deemed registration to get registered in SA, even if she holds registration in both NSW and Vic – because neither is her 'home State'.

**Note: The Vic professional engineering registration scheme requires registration if you work in Vic or for Vic (therefore covering professional engineers based in other jurisdictions). This does not impact the 'home State' definition in the Mutual Recognition Act 1992 (Cth). Vic is just being clear about when it expects a professional engineer to be registered in Vic. This is a separate question from a person's 'home State' for automatic deemed registration.*

Consult Australia welcomes the opportunity to support the Treasurers in delivering this significant reform, with national coordination from the federal government.

Achieving gender equality

Consult Australia is a leading advocate for gender equality. Since 2012, Consult Australia members have tackled gender disparity in the consulting sector by committing to the [Champions of Change](#) initiative since 2012. While this initiative is deliberately focused on gender diversity, members have seen wider positive impacts on cultural behaviour beyond gender. Our latest results are available in the 2025 [Impact Report](#), see pages 50 to 55 for the Consult Australia Group.

Over time the legal obligations advancing gender equality have increased for businesses, with current legislation including:

- *Fair Work Act 2009* (Cth) and other Commonwealth workplace relations legislation
- *Gender Equality Act 2020* (Vic)
- *Charter of Human rights and Responsibilities Act 2006* (Vic)
- the *Sex Discrimination Act 1984* (Cth) and state/territory anti-discrimination and equal opportunity
- *Workplace Gender Equality Act 2012* (Cth)
- enterprise agreements, workplace determinations and modern awards.

Businesses are now investing significant time and resources to meet duplicative and different regulatory requirements. In addition, through tenders for government work, businesses are also required to demonstrate how they are working towards gender equality.

It is recommended that there is a review of gender equality regulation to ascertain the cumulative effect, and to seek to harmonise requirements, where possible.

With significant reporting already underway, it is vital that businesses can leverage existing reporting to meet government requirements. Consult Australia recommends that the federal government take a national coordination role on achieving gender equality by:

- maintaining clarity of the requirements relevant to the private sector under the *Workplace Gender Equality Act 2012* (Cth) and those relevant to the public sector (for example under the *Gender Equality Act 2020* (Vic)).
- make clear in procurement policies for Commonwealth funded projects that any gender equality measurements on private sector businesses leverages the businesses obligations under the *Workplace Gender Equality Act 2012* (Cth) (not obligations in legislation that applies to the public sector).
- where state/territories seek to introduce gender equality acts, that they are encouraged to introduce legislation that mirrors the *Gender Equality Act 2020* (Vic) and have it only apply to public sector, as the private sector is already covered by the *Workplace Gender Equality Act 2012* (Cth).

There is also an opportunity to leverage digital to streamline reporting for businesses on gender equality, as noted in [our September 2025 submission](#) to the Productivity Commission's Interim Report into Harnessing Data and Digital Technology.

National Construction Strategy

Consult Australia supports the National Construction Strategy aim to improve productivity across the sector. The implementation will initially focus on transport infrastructure via the Infrastructure and Transport Senior Officials' Committee (ITSOC) with strong partnerships with industry. Even at the earliest stages, we can see the commitment and coordination across jurisdictions.

Consult Australia looks forward to being involved in all four critical areas of the strategy:

- **Procurement** – harmonising procurement practices to improve productivity and deliver better value outcomes.
- **Workforce** – identifying new skills to increase productivity and strategies to attract and retain the future workforce.
- **Data** – determining the data needed to measure productivity improvements, and developing methods for its collection, anonymisation and sharing.
- **Innovation and Modern Methods of Construction** – identifying current best practices, exploring ways to increase their adoption, and addressing barriers to innovations and MMC.

So long as government and industry remain committed to the strategy, there will be significant benefits for all.

Infrastructure Net Zero

The [Infrastructure Net Zero initiative](#), auspiced within the Australian Sustainable Built Environment Council brings together industry and government to accelerate the decarbonisation of Australia's infrastructure through collective action so that it meets or exceeds our national targets of 43% by 2030 and Net Zero by 2050. Consult Australia is proudly a founding member of the initiative.

Infrastructure Net Zero initiative has demonstrated how a collaborative approach across jurisdictions and with industry is essential if we are to meet our ambitions for net zero. As Infrastructure Net Zero moves from defining the challenge, to understanding the opportunity the focus now on building skills and capability to deliver is critical.

Consult Australia supports continued investment in the coordination provided through the Infrastructure Net Zero initiative including through the continued active participation of the Australian Government.

ADVANCE DIGITAL BY DEFAULT

Recommendations

- The federal government to support and help coordinate a digital by default approach in infrastructure across Australia.

Consult Australia's [Enabling Digital by Default](#) paper presents a practical, industry-informed roadmap to seamlessly integrate digital practices across the built environment sector consistently across Australia. To ensure the roadmap was industry-informed and tested with government stakeholders, Consult Australia initially produced its 2023 [Digital by Default Green Paper](#), exploring how to boost productivity and maximise infrastructure investment outcomes.

In 2025, Consult Australia was pleased to further progress the digital by default campaign, including working with Infrastructure NSW towards its launch of the [NSW Infrastructure Digitalisation and Data Policy](#). Consult Australia has also encouraged cross-jurisdictional learnings and briefings to encourage a coordinated approach to digital by default.

The Productivity Commission's Interim Report on into Harnessing Data and Digital Technology suggested four reform areas and in [our September 2025 submission](#), Consult Australia suggested further opportunities to harness data and digital technology for productivity:

- Realising data and digital productivity — There are substantial opportunities for effective use of AI in our member businesses. AI may have a significant role in realising productivity gains, however there are a multitude of risks, potential harms and operational issues that will need to be navigated. We feel there an overemphasis on AI, when there is more to digital by default. We advocate for coordinated leadership to realise data and digital productivity.
- Digitalisation opportunities — We support increased digital reporting, without mandating. We encourage further industry engagement on opportunities for digital innovation, new and emerging technologies to improve Australian project outcomes for government, industry and communities.

CONTACT

We would welcome any opportunity to further discuss the issues raised in this submission.



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THANKS TO OUR INDUSTRY CHAMPIONS

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



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