



July 2024

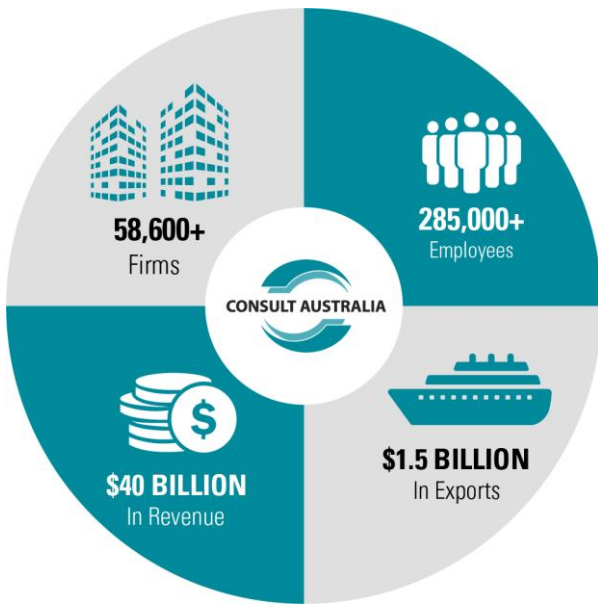
**Review of small business experiences
with regulatory policy making**

NSW Small Business Commissioner

Consult Australia

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About us

Consult Australia is the industry association representing businesses in design, advisory and engineering consultancy, 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 small business members include:



Consult Australia's members are listed in full [here](#).

Executive Summary

Consult Australia welcomes the opportunity to contribute to the NSW Small Business Commissioner's review of small business experiences with regulatory policy making. We agree that fair and effective regulation is important to small businesses. Failure to listen to the concerns of small business and understand how small business operates leads to overly burdensome and complex regulation.

Consult Australia prides itself on being solutions-focussed. Therefore, when we are involved in providing information to government on barriers to potential and existing regulation, we also propose solutions.

The main issue for small businesses and the industry associations representing them is time. For businesses, every billable hour spent considering regulatory proposals, contributing to industry forums and talking to their industry association is income foregone. Therefore, the government needs to make engagement both easy and valuable for small businesses and their associations.

In this submission we propose a raft of opportunities to improve small businesses experiences with regulation and the regulatory policy makers creating the regulation.



Regulatory impact analysis

- Add more rigor to the regulatory impact assessment, including mandating application of the Better Regulation principles.
- Increase training of policy officers and advisors within government on the Guide to Better Regulation.
- Include an explicit requirement to consider small business impacts, market conditions and competition impacts when developing regulatory policy.
- With all new proposed regulation, produce a short 2-page flyer setting out the core issues for consideration.
- Survey small business and industry associations on whether the proposed regulation meets the Better Regulation principles.
- Mandate reviews of regulations one year after implementation, against the Better Regulation principles, including industry consultation and survey.



Industry involvement

- Shift culture within government to embrace co-design, where testing ideas with industry associations earlier is encouraged.
- Ensure any industry roundtable and working group has a clear focus and is lead by a senior leader within the public service.
- Ensure any industry roundtable and working group includes representatives from all industry associations that represent impacted businesses.
- Communicate outcomes of roundtables and working groups as well as how industry comments will inform policy development.
- Be clear on the role and authority of any external presenters at roundtables and working groups.
- Ensure that all roundtables and working groups provide time for industry to comment and ask questions.

Proposed opportunities



Regulatory impact analysis

Opportunities:

- Add more rigor to the regulatory impact assessment, including mandating application of the Better Regulation principles.
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- Include an explicit requirement to consider small business impacts, market conditions and competition impacts when developing regulatory policy.
- With all new proposed regulation, produce a short 2-page flyer setting out the core issues for consideration.
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The NSW government's Better Regulation principles provide a framework to assist regulatory policy makers ensure new regulation is well designed and supported by clear and compelling evidence from a variety of sources, particularly sources outside government. Unfortunately, in practice the principles are not leading to the best regulatory policy, especially when it comes to small business impacts.

Consult Australia proposes that more rigor could be applied to regulatory impact analysis by NSW government. For example, at the Federal government level the Office of Impact Analysis provides a transparent review process which brings oversight from outside the agency proposing the regulation and brings a level of consistency across the whole of government. Consult Australia would support a similar oversight approach in NSW. Complementing this would be increased training of policy officer and advisors withing government of the Guide to Better Regulation and impact analysis.

The inclusion of industry perspectives, an understanding of market conditions and a consideration of competition impacts is essential to inform the design of policy options as well as understanding the impacts of new regulatory proposals. However, these can sometimes be overlooked especially when there is no embedded culture of considering these during the policy design stage. Therefore, we propose that an explicit requirement is included to ensure this happens.

Small business members of Consult Australia have told us that time is the main issue when it comes to considering regulatory policy making (see quote below). Our members also note significant productivity drains when dealing with NSW Government (both as a client and as regulators). Therefore, we suggest that with all new proposed regulations, the NSW government should produce a short 2-page flyer setting out the core issues for consideration. This could be produced in conjunction with the Small Business Commissioner who understands the demands that

small businesses are under. This flyer would allow small businesses to quickly understand the new proposal and decide whether to spend more time with their industry association influencing government.

'In a company of 10, every billable hour spent on reviewing proposals, giving feedback, roundtables etc is significant. Given this is also usually at director level, it is taking the most profitable staff away from billable work. Larger companies with a much bigger staff base are hence able to dedicate significantly more absolute hours with an almost imperceptible impact on billable income. Smaller businesses are hence constantly weighing up the need to influence regulation with the need to bill hours, and hence we cannot always be as loudly heard.'

Quote from a Consult Australia small business member operating in NSW

One option to improve the analysis against the Better Regulation principles is to survey small businesses and industry associations to test whether the proposed regulation meets the principles. This would garner more information for the government to consider and balance in its analysis.

Impact analysis on proposed regulatory policy is obviously not an exact science. Certain assumptions are made by government and industry alike. It is not until the regulatory policy is implemented do the real-world impacts materialise. This is why Consult Australia recommends that there should be mandatory reviews of new regulation one year after implementation to assess the real regulatory impact. This must include consultation with small businesses and industry associations. This analysis should reapply the Better Regulation principles to identify any potential changes (including streamlining regulations) to minimise unnecessary impacts.



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Consult Australia advocates strongly for government entities to develop regulation and regulatory policy that is co-designed with industry. Effective consultation needs to be truly collaborative with demonstrated mutual respect.

In some parts of NSW government that collaborative culture exists, for example Consult Australia experiences positive interactions with NSW Treasury and Transport for NSW on policy initiatives and reform ideas. Unfortunately, that same culture does not permeate all areas of NSW government, despite co-design being one of the most effective ways to ensure new regulatory policy will deliver for the community, the government and industry.

Consult Australia has seen a range of concerning practices in NSW where consultation and therefore results that were less than ideal. Many Consult Australia small business members have felt disillusioned with the way in which industry involvement is done by NSW government, even where industry roundtables and working groups are established.

'It is disappointing when we spend valuable time attending roundtables etc that appear to mostly be PR exercises for government to 'justify' their position rather than actively listen.'

Quote from a Consult Australia small business member operating in NSW

Synthesising member experiences, Consult Australia therefore makes the above recommendations regarding industry involvement in roundtables and working groups.

Contact

We would welcome any opportunity to further discuss the issues raised and solutions proposed in this paper.

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Thanks to our Industry Champions

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



The graphic features a central circular logo with 'INDUSTRY' at the top, 'CONSULT AUSTRALIA' in the middle, and 'CHAMPION' at the bottom. Below this, a rounded rectangular frame contains the logos of six industry partners: AECOM, aurecon, smec (an S&P company), Jacobs, GHD, and Stantec. At the bottom of the frame, the text reads 'COLLABORATIVE LEADERSHIP COMMITTED TO THE SUCCESS OF OUR INDUSTRY'.