



January 2025 Australia's Productivity Pitch

SUBMISSION TO PRODUCTIVITY COMMISSION

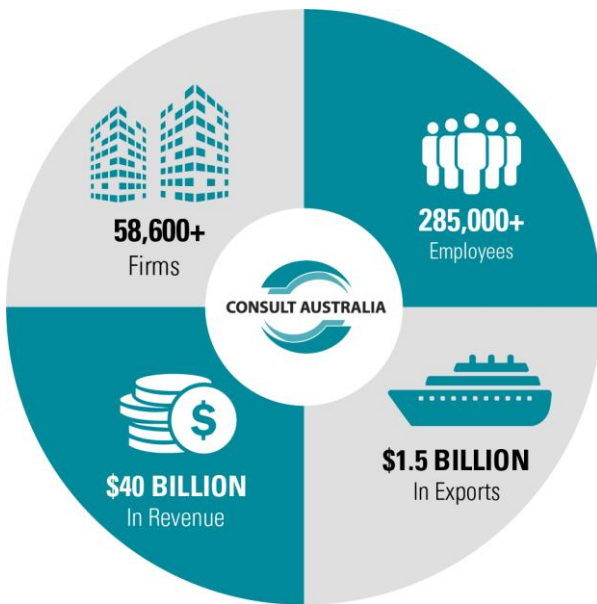
Consult Australia

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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](#).

Consult Australia is pleased to provide a 'Productivity Pitch' to the Australian Productivity Commission on practical ways to make Australia more productive. Of the five topics being explored by the Commission, Consult Australia has submitted on two:

- Creating a dynamic and resilient economy
- Harnessing data and digital technology.

CREATING A DYNAMIC AND RESILIENT ECONOMY

ENABLING PRODUCTIVE BUSINESSES

Consult Australia recommends that undertaking legislative and policy reform can enable a strong ecosystem of productive businesses, ready to take the lead on innovation and collaboration.

Consult Australia maintains its call for reform to address the diminishing health of the broader construction industry and the size, scale, and complexity of the demand in the industry.

Consult Australia recommendations

Our recommendations cover reforms to create a more productive market by removing barriers to participation and addressing regulatory inefficiencies. Combined with reform recommendations to improve procurement practices, these reforms will enable productive businesses.

Market productivity reforms

- Amend the Australian Consumer Law (ACL), to ensure the misleading and deceptive conduct provisions protect consumers and small businesses and cannot be misused otherwise.
- Amend civil liability laws in all jurisdictions except Queensland (which already has the provision), to explicitly prohibit contracting out of proportionate liability for professional services contracts.
- Amend the Automatic Mutual Recognition legislation to remove an unnecessary limitation caused by the 'home state' definition that relies on the a person's principal place of residency or work. This is a significant barrier to occupational mobility and the ability of businesses to have their qualified and registered individuals (including engineers) to move between jurisdictions for projects easily.
- Implement a digital solution to successfully operate the automatic deemed registration regime throughout Australia.
- Amend labour hire laws in Vic, Qld and ACT to remove unnecessary burdens on businesses where labour hire is only incidental to their services.

Procurement productivity reforms

- All procuring agencies to invest more time and resources in the planning and/or pre-design phases to projects, engaging with industry during these phases.
- Limit the practice of fee capping by clients and government agencies which overrides market forces, especially to complex projects.
- All governments to endorse a Model Client Policy to drive improvements in contracting with the private sector. Government projects can be delayed by unnecessary contract negotiations to address clauses that transfer undue risks onto suppliers, in our context consulting businesses, which are outside their management and/or control. Governments with their purchasing power in the market present terms on a take it or leave it basis that do not adequately recognise the roles of the parties nor strike a balance between risk and reward.
- All governments to work to simplify and streamline the approvals process for major projects and avoid duplication in the regulatory process.

- All governments to change the procurement practice of labelling bids as 'non confirming' to allow innovation to be considered.
- All governments to drive innovation by moving away from the 'digital by exception' mindset to clearly specify digital requirements in procurement processes and advance 'digital by default'.

Our proposals draw on thought leadership including our:

- [Uplifting Productivity Report](#)
- [Confidence and Continuity Survey Findings](#)
- [Model Client Policy](#) (originally released in 2018 and re-released in collaboration with the Australian Constructors Association in 2022)

Benefits

Consult Australia's reform proposals remove unnecessary burdens on businesses to increase productivity and promote increased innovation and creativity. Together the proposed reforms would deliver significant productivity benefits, some of which we have costed below.

While we have not costed the recommendation to unifying civil liability laws as per the Queensland legislation, by explicitly prohibiting contracting out of proportionate liability, it is clear that this would provide greater certainty to contracting parties regarding their liability exposure. Importantly, it would also realise the policy intent of the original 2001 civil liability reforms – to bring stability back to the PI market after the collapse of HIH.

Governments can display their commitment to collaborative and fair contracting by endorsing a Model Client Policy and/or being subject to the ACL unfair contract terms protections. These reforms will ensure that the standards governments set for our industry via law and policy are also applied to their own dealings when procuring the services of the private sector.

Amending the Automatic Mutual Recognition legislation could save over \$54m in business costs across engineering businesses

Consult Australia business members with staff who are registered engineers in one jurisdiction (but not their home state because that state had not introduced registration at the time of the engineer's first registration) cannot use the automatic deemed registration provisions because of the limitation of 'home state'. Therefore, these businesses must pay full registration costs for each of these registered engineers to be registered in each new jurisdiction. Across our membership, we anticipate a combined amount of \$54 million in costs to business for registration of engineers already registered in another jurisdiction, if successful implementation of Automatic Mutual Registration legislation was achieved for engineers. We have not explored cost savings for other registered occupations that could also benefit from this change.

Changes to procurement practices could reduce the costs of projects and delays, and improve the quality of projects between 5-7%.

In 2015 Consult Australia commissioned Deloitte Access Economics to quantify the economic impacts of poor procurement practices, as it relates to professional services employed for public sector built environment projects. The report concluded that better procurement could reduce the costs of projects by 5.4%, reduce delays to projects by 7% and improve the quality of projects by 7%.¹ This is a very conservative quantification, noting that these figures are from 2015, pre the heightened levels of pipeline demand and capacity constraints now evident in the market.

¹ Deloitte Access Economics and Consult Australia, Economic benefits of better procurement practices (2015).

Amending the labour hire laws in Qld, Vic and ACT could save over \$200,000 per business

Consult Australia members who currently need to report under labour hire laws advise that a saving of over \$200,000 per business could be realised if unnecessary regulatory burdens of labour hire laws were removed from these businesses where labour hire is not the core service of the business. Consulting businesses were not part of the policy problem sought to be addressed by the legislation, but are caught up in the Queensland, Victorian and ACT schemes because of the legislative drafting.

HARNESSING DATA AND DIGITAL TECHNOLOGY

ENABLING DIGITAL BY DEFAULT

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.

Consult Australia held more than 100 engagements on the Green Paper with over 50 organisations, including government agencies and businesses, representing 17,000 digital and delivery professionals. This consultation process revealed the 'perils' of a federated approach to digital by default delivery in projects. The conversations shaped the five Enabling Digital by Default recommendations harnessing best practices to create an enabling environment that catalyses change.

Consult Australia recommendations

Build a Digital by Default Community of Practice

Establish a nationally endorsed Digital by Default Community of Practice supported by governments, industry and academia to address the challenges of digital transformation.

By leveraging the expertise and commitment of diverse stakeholders, we can drive the necessary standards and innovations to build momentum and achieve digital by default and do so consistently across jurisdictions.

Endorsement, resourcing, coordination and progress reporting could be facilitated through National Cabinet and the Infrastructure and Transport Ministers Meetings (ITMM).

Invest in the business case for digital technology

Prioritise and invest in the development of business cases that clearly articulate the long-term value and benefits of a digital by default approach.

Effectively communicating these benefits to decision-makers will encourage investment and support the transition to a digitally integrated infrastructure sector.

Harmonise standards and guidance for data and information management

Develop and harmonise technical standards and guidance for data and information management across all jurisdictions and all stages of the asset lifecycle. This should involve a collaborative effort between federal and state governments, industry, and academia that supports data security requirements.

Establishing unified standards will ensure consistency, improve interoperability, and streamline efforts across sectors.

Embed requirements through procurement with an outcome-led approach

Embed 'digital by default' requirements through greater consideration of Collaborative Contract Models that align the interests of all stakeholders and provide flexibility to accommodate digital requirements.

This should include harmonised: requirements for data ownership, storage, and handover to mitigate risks and ensure smooth transitions between project phases across the project life-cycle.

Build capability and skills

Training programs for both public and private sector stakeholders are required to enhance their understanding of digital technologies and their potential benefits. This includes upskilling staff and integrating digital literacy into professional development programs.

Support programs are anticipated to ease higher costs of tendering, training and capital investments. This could include grants, subsidies, or partnerships that reduce financial barriers and build capability.

Benefits

Australian governments have committed \$647 billion for major public infrastructure over the next five years. Yet, construction productivity lags other sectors, costing an estimated \$62 billion annually. Australia ranks 16th globally in digital readiness, according to the IMD World Competitiveness Centre.

Billions of dollars of infrastructure projects around Australia are still being delivered with paper plans, wet signatures and PDFs. The industry needs to change. The consequences of being slow off the digital mark include decades of sluggish productivity and lost data insights that could inform better decisions and build better infrastructure.

Consult Australia's green paper noted that "pockets" of world-leading digital practice remain siloed, and innovative ideas are not replicated across projects or states.

The roadmap for digital transformation presented in Consult Australia's Enabling Digital by default: A White Paper aims to address industry fragmentation, innovation inertia and sluggish productivity.

Businesses in the infrastructure sector are waiting for governments to set standards for digital working. Governments are waiting for market forces to determine the pathway forward. We need everyone to come together, and this can be achieved through Consult Australia's recommendations.

Our recommendations build on the 2021 Australian Infrastructure Plan, which recommended a "digital by default" approach to infrastructure planning, delivery and operations. Government, as regulators, owners, funders and benefactors of public infrastructure, can play a lead role in the transition away from 'digital by exception' towards 'digital by default'.

The Australian Government maintains a commitment to a \$120 billion 10-year rolling infrastructure pipeline. It makes sense to invest just a fraction of this in each jurisdiction to enable digital by default. Building a community of practice provides a platform for digital champions to share information and best practice and harmonise standards. Australia will not benefit from eight different standards for digital in infrastructure – that would be a repeat of the rail gauge problem that plagued the nation for 150 years.

Digital by default can help us boost productivity, accelerate innovation and catalyse a range of co-benefits like net zero emissions reduction. Most of all, harnessing digital technology will help us build a better future for people.

Connect with us



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Thanks to our Industry Champions

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



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COLLABORATIVE LEADERSHIP COMMITTED TO THE SUCCESS OF OUR INDUSTRY