

Submission
No 23

INQUIRY INTO NSW GOVERNMENT'S USE AND MANAGEMENT OF CONSULTING SERVICES

Organisation: Consult Australia

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Driving business success for consulting firms in the built and natural environment

2 August 2023

Parliament of New South Wales
Legislative Council
Public Accountability and Works Committee
By email to: PAWC@parliament.nsw.gov.au

Dear Committee,

Inquiry into NSW Government's use and management of consulting services

Thank you for the opportunity to provide a submission to the Public Accountability and Works Committee's inquiry into the NSW Government's use and management of consulting services.

About us

Consult Australia, now for over 70 years, is the only industry association dedicated to the success of consulting businesses in engineering, design and advisory.

[Our members](#), ranging from Australia's most innovative small and medium-sized firms to global corporations, deliver the solutions to the nation's most complex challenges helping shape, create and sustain our built and natural environment.

Our vision is for a thriving, competitive consulting industry that supports a prosperous economy and better outcomes for our members' clients including for governments and the communities they serve.

Our Code of Ethics

Consult Australia's members commit to upholding standards underpinned by the principles outlined in the [Consult Australia Code of Ethics](#) including through:

- Collaboration – sharing ideas, skills, experience and building relationships to achieve shared goals
- Fairness – treating everyone with respect, consistency and acting equitably
- Integrity – acting honestly, authentically and being accountable.

Our industry

Our industry includes close to 60,000 businesses employing over 285,000 people providing technical services including through over 300 occupations across engineering, architecture, design, quantity surveying, community engagement, environmental services and sustainability, project management, strategy, planning, urban design, and landscape architecture. These technical engineering, design and advisory services, required to support government infrastructure priorities, should be understood as distinct from 'Big 4' management and broader consultancy and advisory services often referred to more generically under the label of 'consulting'.

Our members' services are critical to the conception, planning, delivery and operation of both public and private sector infrastructure and construction nation-wide. They are a critical component of Australia's advanced services sector and knowledge economy generating over \$1.1 Billion in exports, with Australia seen as a global leader for the delivery of these services internationally.

Supporting the delivery of infrastructure and services

The often highly technical services our members provide across the infrastructure asset lifecycle are a critical part of the supply chain required for the delivery of the government's infrastructure priorities. Engaged at the earliest stages of problem identification, options analysis, planning and business case development, through design, construction, asset handover, management, then into maintenance, demolition or refurbishment, the technical services engaged through our members are critical to informing decisions helping ensure that the outcomes and value for money sought from these infrastructure investments are delivered.

Even before our founding in 1953 as the Association of Consulting Engineers Australia, Consult Australia's members have worked collaboratively across government. This longstanding collaboration with government recognises the critical and well-established role of our industry to support infrastructure design, planning and delivery.

Consult Australia's work across government helps ensure that the procurement of our members' services supports the outcomes sought alongside delivering long-term sustainability for the industry noting the unique risks inherent in the provision of these services.

Procurement, risk & model client

With a view to achieving these objectives, Consult Australia has long-advocated that government conducts itself as a 'model client' for the procurement of these services, complementing governments' long-standing obligation to act as a 'model litigant'.

Being a 'model client' means working collaboratively with industry on projects, and achieving mutually beneficial outcomes. It formalises governments' intent to do things better by putting clear obligations in place and supporting the capacity and future development of the public service. Practically, this step will make government a more attractive client for industry to work with, will be a positive force on business confidence, and in turn will attract greater numbers and better quality tenders for work.

Disputes typically arise because of issues arising through contracting, procurement, risk management, cultural and behavioural factors. Consult Australia believes that the adoption of a Model Client Policy would result in significant benefits for governments in their role both as client, and in setting the standard of behaviour for the rest of industry to follow. For more information see [Consult Australia's Model Client Policy](#).

Relative to many of the other services procured by government the technical nature of the engineering and design services provided by our members are distinct due to the nature of the services provided and the unique characteristics of the supply chain in which these services are delivered. Infrastructure, building and construction projects necessarily involve multiple parties in their delivery. The risks created through increasingly complex projects and delivery models must be carefully managed to ensure the sustainability of the markets both for construction and the enabling professional services.

Providing certainty to support value for money

Alongside the critical role of procurement, the visibility, transparency and certainty of the infrastructure pipeline remains critical to support business confidence and investment in the skills and capability required for long-term delivery and cost-effective outcomes for government. Government expenditure on the services provided by our members reflects government investment in their infrastructure priorities and pipelines across sectors.

Increasing uncertainty surrounding infrastructure commitments, government reviews and lack of clarity on project scope undermine the ability for industry to invest in the skills governments require for ongoing delivery and value for money outcomes. Coordination across governments is critical in this context. The services provided by our members are delivered nationally and project decisions across states impact the availability of skills and services within jurisdictions.

Managing inflationary pressures and insurance

For our members, increasing costs in the delivery of their services reflect those well documented [capacity and skills constraints](#) resulting in increasing salaries and wages, but also significant increases in the cost of Professional Indemnity (PI) insurance. Increasing pressure on the availability and cost of PI insurance reflects how our members services are procured and the effective management of risk through that procurement. The cost of PI insurance is now one of the top business expenses for consulting businesses, often second only to salaries and wages. In recent years our members have reported increases in PI insurance above 100%. Enduring misunderstanding in policy and procurement about the unique nature of our members' services, their position within the supply chain and insurance markets continues to create risks for government and industry alike. Consult Australia's [significant concerns regarding the insurability of the industry with the prospective expansion of requirements under the NSW Design and Building Practitioners Act](#) a case in point.

The risks captured through the PI insurance market for our members' services reflects the unique nature of these services and must be carefully managed to ensure markets remain insurable. These risks also point to the nature of these services as they are different to other professional services – a fact clearly established more broadly through Australian Consumer Law.

All these considerations underpin Consult Australia's ongoing work across government supporting model client behaviours, fair risk allocation and better procurement. For more information see [Consult Australia's report: Uplifting Productivity: Delivering economic growth through best practice procurement.](#)

I look forward to your consideration of these issues as you progress your Inquiry. Consult Australia would be pleased to expand further on any of these points above as that would assist.

Yours sincerely,

Jonathan Cartledge

Chief Executive Officer