

# Summary of consultation feedback

## Review of small businesses experiences with regulatory policy-making processes



Small Business Commissioner

### Feedback from stakeholders

#### Small businesses highlight regulatory challenges in NSW

Small business stakeholders provided feedback on the regulatory environment in NSW, including their experiences engaging with government. Consultation discussions, facilitated by the Commission as part of this review, together with written submissions and survey feedback and have shed light on the impact of regulatory burdens and regulatory compliance issues affecting small enterprises across the state.

#### Regulatory burden:

Stakeholders highlighted several areas where regulatory changes have imposed significant financial and operational burdens. For example, stakeholders reported significant changes in environmental requirements, introduced without industry consultation, leaving small businesses scrambling to comply under the threat of substantial financial penalties.

#### Cumulative burden:

The cumulative impact of ongoing compliance requirements was a recurring theme. Requirements under Biofuels Legislation, for example, places obligations on small businesses to stock and report biofuel levels, despite a planned repeal of the regulation in 2027. This has led to ongoing administrative burdens for over 420 small businesses, predominantly in regional areas. Similarly, constant changes to the Home Building Compensation Fund (HBCF) rules have created a landscape of uncertainty and financial strain for small businesses within the housing industry.

#### Red tape:

An example provided of poor regulatory impact assessment for the National Construction Code 2022, resulted in compliance costs far exceeding initial estimates. While stakeholders were told to expect an additional \$5,000 per home, actual costs have ranged from \$15,000 to \$40,000 per build, placing an undue financial strain on small construction firms.

#### Small business impact assessments:

The review feedback indicates improvements could be made when considering small business impacts in policy development. Multiple stakeholders emphasised the need for mandated small business impact statements to ensure the unique challenges and needs of small businesses are factored into regulatory decisions.

Others advocated for a dedicated gatekeeper role to oversee and ensure thorough impact assessments and hold agencies accountable for considering small business perspectives. This recommendation aligns with feedback from other stakeholders who stressed the importance of a structured and transparent consultation process, with clear communication on how feedback is utilised.

### Opportunities for improvement

#### One in ten



businesses have participated in a NSW Government public consultation relating to a new policy or regulatory proposal.

#### 51 per cent



of businesses disagreed with the statement, 'my feedback was reflected in the final design of a policy or regulation'.

#### 45 per cent



of businesses disagreed with the statement, 'impacts on my small business were properly assessed'.

#### 60 per cent



of businesses disagreed with the statement, 'regulation is designed around the needs of my business'.

#### 50 per cent



of businesses disagreed with the statement, 'I am confident the benefits of regulation outweigh costs'.

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Small  
Business  
Commissioner

### Feedback to improve regulatory impact assessments

Stakeholders made several recommendations to improve the effectiveness of RIAs:

- 1. Mandate small business impact statements:**
  - Incorporate specific small business impact statements in the RIA process to ensure that the unique challenges and needs of small businesses are thoroughly considered. Include a requirement to assess the cumulative impacts and the compliance burden.
- 2. Improve cost estimation methods:**
  - Develop more accurate and comprehensive methods for estimating compliance costs, including administrative and operational expenses.
- 3. Enhance stakeholder engagement:**
  - Increase the involvement of small businesses in the RIA process through more inclusive and genuine consultations.
  - Ensure that small business feedback is actively considered and integrated into the final assessments.
- 4. Use up-to-date and comprehensive data:**
  - Base RIAs on the latest and most complete data available and conduct longitudinal studies to track the long-term impacts of regulations on small businesses.
- 5. Conduct regular post-implementation reviews:**
  - Implement mandatory post-implementation reviews to assess the actual impacts of regulations and make timely adjustments as necessary.
- 6. Simplify and increase transparency:**
  - Simplify the RIA process and make methodologies and findings more transparent to stakeholders, ensuring that small businesses understand how assessments are conducted and how their input is utilised.

“My overall impression of consultation is that often a preferred option has been identified and the consultation is about testing it rather than looking for what we think or need. I cannot recall a ‘solve a problem’ based consultation”.

### Feedback to improve consultation processes

The feedback from small businesses identified opportunities to improve consultation processes. Many businesses feel their input is not genuinely considered, with consultations often perceived as “tick the box” exercises. Stakeholders shared experiences of providing feedback that seemingly falls on “deaf ears,” with government agencies presenting formulated policies rather than seeking collaborative problem-solving. This sentiment was echoed by another small business representative who noted a post-COVID decline in effective government engagement and proactive communication.

Another industry association pointed out that while they have regular meetings with government agencies, the outcomes often do not reflect their feedback. Feedback also noted instances where submissions are requested with unreasonably short deadlines, leaving little room for meaningful engagement. This approach results in decisions being made without adequately considering the practical implications for small businesses.

#### Recommendations for improvements to consultation processes:

- 1. Ensure authentic and effective consultations:** Engage stakeholders early in the problem-identification stage and provide sufficient time for feedback. Implement a structured follow-up process to discuss how feedback was considered and to provide clarity on final decisions.
- 2. Implement a dedicated gatekeeper role:** Introduce a role to oversee impact assessments and consultations, ensuring they are thorough and genuinely consider small business input. Develop standardised procedures and guidelines to ensure consistency across different agencies and conduct regular audits to ensure compliance and identify areas for improvement.
- 3. Smaller, interest-specific focused consultation groups:** Conduct smaller, interest-specific consultation groups to allow for more focused discussions and better consideration of diverse perspectives. Use skilled facilitators to manage discussions, ensuring all voices are heard.
- 4. Improve communication:** Enhance communication with stakeholders by providing clear, timely, and accessible information about consultations, policy changes, and decisions.
- 5. Regular multi-channel engagement:** Create regular engagement channels, such as industry forums and working groups, to maintain ongoing dialogue with small businesses.
- 6. Feedback summaries:** Publish summaries of feedback received and explain how it was considered in the decision-making process, increasing transparency and accountability.
- 7. Consider timing and resource constraints:** Schedule consultations at times that do not conflict with peak business periods and provide sufficient lead time for businesses to participate effectively.