20 October 2026

Ms Natasha Platts
A/g Assistant Secretary
Construction Policy and Reform Branch
Department of Employment and Workplace Relations
50 Marcus Clarke Street
Canberra ACT 2601

via email: WR.Building@dewr.gov.au

Dear Ms Platts,

Draft Joint Construction Industry Charter

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to make a submission to the Department of Employment and Workplace Relations consultation on the draft Joint Construction Industry Charter (the Charter).

The ASBFEO supports workplaces that are safe, respectful and free from bullying, harassment and discrimination. We support initiatives that improve psychosocial safety, encourage fair and good-faith conduct, strengthen dispute resolution mechanisms, support investment in skills and capability, promote innovation, and contribute to sustainable and productive businesses.

However, supporting these outcomes does not necessarily mean that a broad industry charter is an effective mechanism for achieving them.

The draft Charter seeks to improve safety, culture, productivity and sustainability in the construction sector by establishing an industry benchmark for behaviours, culture and performance and to influence decision-making at organisational, project and site levels. Shaping leadership practices, workplace conduct, procurement decisions and dispute resolution processes across the sector is a positive but ambitious undertaking in an industry that is highly fragmented and dominated by small businesses, subcontractors and sole traders.

Understanding the constraints of small construction businesses

The construction sector has one of the highest concentrations of small businesses in Australia, with 98.5% of businesses employing fewer than 20 people.[1] Construction also has one of the highest concentrations of sole traders, with 12% of all sole traders working in the sector (as of 2021-22).[2]

With the vast majority of construction sector businesses being small, and having limited administrative capacity, a compliance framework that assumes a high degree of organisational maturity, formal management structures or specialist compliance capability will be difficult to implement in practice.

Small construction businesses, which include residential builders, electricians, plumbers, civil contractors, earthmoving operators, engineers, architects and other specialist subcontractors, differ significantly in size, capability, business structure and operational complexity. However, a

[1] Committee for Economic Development of Australia (CEDA), *Size matters: Why construction productivity is so weak*, CEDA, 2025.
[2] Australian Small Business and Family Enterprise Ombudsman (ASBFEO), *Sole Traders: The unsung hero of Australia's economy*, ASBFEO, Australian Government, 2026.

common characteristic is that small construction businesses tend to have few administrative resources, in contrast to larger organisations who have dedicated human resources, governance, legal and compliance functions that can embed organisational values, policies and cultural initiatives.

This means that small construction businesses who are committed to meeting their legal obligations and providing a safe workplace, can find it challenging to put in place the appropriate policies, processes and systems where these require substantial compliance obligations. Compliance that requires formal governance structures, behavioural frameworks and cultural programs is often beyond the administrative capabilities of small businesses, reflecting their practical capacity constraints rather than a lack of commitment to safety, integrity or good conduct.

For many small construction businesses, the priority is managing project delivery, cash flow, workforce availability and business continuity in a challenging commercial environment.

Draft Construction Industry Charter

The ASBFEO is concerned that the draft Charter appears to be designed with larger organisations in mind and may not adequately reflect the operating realities of small construction businesses. Many of the proposed behaviours and commitments resemble organisational codes of conduct that are more readily implemented in businesses with established management structures and dedicated compliance capability. It is unclear how many of these expectations would operate in practice for a small subcontractor employing only a handful of workers or is a non-employing business.

The consultation paper also does not clearly identify the circumstances in which the Charter is expected to apply. Greater clarity is needed regarding whether it is intended primarily for major government-funded construction projects, large commercial developments, or whether it is expected to apply more broadly across residential construction, maintenance work and subcontracting arrangements.

Although the Charter is proposed as a voluntary initiative, the ASBFEO is concerned that over time it could become an informal requirement or benchmark for government procurement, or a precondition for participation in major projects as a tier 2 or tier 3 subcontractor. We have heard from small businesses already experiencing cascading compliance requirements through supply chains, where a large organisation seeks information, assurance and documentation from their suppliers to support their own reporting and due diligence obligations. If this occurs, the Charter risks creating additional compliance expectations for small businesses that lack the resources to develop extensive policies, reporting frameworks or supporting documentation.

Implementation

If the Charter is to be introduced, the ASBFEO considers that responsibility for modelling and demonstrating the Charter's behavioural goals should primarily rest with governments, and larger organisations that possess the resources, market influence and organisational capability to drive cultural change across the sector.

Where improvements in safety, workplace culture and conduct are sought, larger organisations are best placed to support subcontractors and smaller businesses by delivering education and training through project onboarding processes. Onboarding processes should provide clear information regarding safety standards, available support services, dispute resolution pathways and expectations for workplace conduct.

The ASBFEO considers that meaningful improvements in safety, workplace culture and business sustainability are more likely to be achieved through practical guidance, education and training, fair commercial practices and project-level leadership by governments and large organisations. These approaches are likely to be more effective than an industry charter that assumes the governance structures, management systems and compliance capabilities typically found in larger organisations.

Given the prevalence of small businesses in the construction sector, their operating realities should be reflected in the Charter's design, implementation and review. To ensure a small business perspective is injected into the development processes so the Charter can be practical, proportionate and accessible to small construction businesses, the ASBFEO encourages the National Construction Industry Forum to extend an invitation to the federal Minister for Small Business.

If you require any further information, please do not hesitate to contact the ASBFEO Advocacy team via email at advocacy@asbfeo.gov.au.

Yours sincerely



Lynda McAlary-Smith

Australian Small Business and Family Enterprise Ombudsman