Queensland Law Society

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Office of the President

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Our ref: [HF:C&C/B&F]

Dr James Popple
Chief Executive Officer
Law Council of Australia
Level 1, MODE3
24 Lonsdale Street,
Braddon ACT 2612

By email: [redacted]

Dear Dr Popple,

Inquiry on reducing barriers to business dynamism

The Queensland Law Society (**the Society**) welcomes the opportunity to contribute to the Inquiry on reducing barriers to business dynamism.

This submission has been prepared with input from the QLS Competition and Consumer Law Committee and Banking and Financial Services Law Committee.

The Society has confined its comments to matters relevant to the expertise of its members, including regulatory complexity, insolvency frameworks, access to capital, consumer protections and the practical impacts on small businesses including legal practices.

As the peak body for Queensland practitioners, the Society is well placed to comment on these issues both through the experiences of members who advise businesses and through legal practices themselves, the majority of which operate as small and micro businesses here in Queensland.

More broadly, reforms directed at increasing business dynamism should recognise the interconnected nature of small business activity, personal and household financial wellbeing and regulatory environments. Many small business owners rely on personal assets, including family homes to secure business lending and provide personal guarantee. Impacts leading to financial distress can affect the business and individual.

As a result, we highlight the importance of protecting and supporting individuals in personal and financial hardship, and early intervention in cases of financial distress.

The Society considers that reducing unnecessary barriers to business dynamism should not come at the expense of important consumer protections, or confidence in Australia's legal and financial systems.

1. Regulatory and administrative burdens

QLS recognises that regulatory complexity, duplication and fragmentation can create significant costs for businesses seeing to establish, operate and expand.

The differences between Commonwealth, State and Territory frameworks can result in unnecessary administrative burdens and inconsistent compliance requirements. These costs are disproportionately experienced by small and medium sized businesses that may lack the resource and administrative capacity as larger organisations.

Opportunities to simplify and streamline processes should be explored where appropriate. Consistency across jurisdictions can reduce compliance costs, improve certainty and allow businesses to focus resources on productive growth.

However, as stated above, efforts to reduce regulatory burden should not come at the expense of important consumer protections.

2. Access to capital and financial resilience

Frameworks that treat consumers and small businesses as entirely separate categories may not adequately reflect the realties faced by many small business owners.

Our members have reported that many small business operators rely on personal assets, including family homes, to secure business lending. Personal guarantees are also commonly used to support business borrowing. As a result, the distinction between personal and business financial circumstances is often less clear than existing frameworks may assume. This overlap can become particularly significant during periods of financial hardship.

The Society considers that efforts to improve access to capital should be accompanied by appropriate safeguards that support responsible lending practices and reduce the risk of financial vulnerability during economic downturns.

3. Access to capital and consumer protections

Access to finance is critical to business establishment and growth. However, efforts to improve access to capital should not come at the expense of important consumer protections.

Committee members report that many small business owners rely on personal assets, including the family home, to secure business lending. In practice, there is often significant overlap between personal and business financial situations.

Where personal guarantees are secured against family homes, it can significantly influence decision-making during periods of financial distress.

Existing regulatory frameworks generally distinguish between consumers and businesses. However, that distinction may not adequately reflect the reality faced by many small business operators, particularly where personal assets and guarantees are used to support business borrowing.

The Society considers that reforms designed to improve access to finance should maintain appropriate safeguards and recognise the intersection between business and person financial circumstances. Effectively, when accessing banking and financial services, small businesses need as much protection as consumers.

4. Personal and corporate insolvency frameworks

The separation between corporate insolvency (under the *Corporations Act*) and personal insolvency (under the *Bankruptcy Act*) can create real complexity for small business operators, who are often dealing with both systems at the same time. This can increase costs, slow things down, and make it harder to resolve financial distress efficiently. Better alignment or coordination between the frameworks could help streamline processes and improve outcomes.

At the same time, while reducing the cost and time involved in business exits is important, any reforms need to be approached with care. Faster or simplified processes should not come at the expense of fair treatment, proper process, or protections. Getting this balance right is critical to maintaining confidence in the system.

Small businesses and their owners, not only access the corporate and personal insolvency systems as debtors but also as creditors.

5. Data accessibility and early intervention

The committee considers that financial distress within the small business sector is often identified too late.

Information about a business's financial position is frequently dispersed across multiple parties such as lenders who have visibility of loan performance, and banks who have access to cash flow. However, a complete picture of a business's financial position can be more difficult to ascertain.

The lack of visibility can delay intervention and reduce opportunities for successful restructuring. The Society considers that there may be an opportunity to explore mechanisms that support early identification of financial distress and earlier engagement while ensuring that privacy and confidentiality protections are maintained.

6. Impacts on law firms

The legal profession provides a practical example of how regulatory and operational burdens can affect business dynamism.

Legal practices are subject to a range of regulatory obligations that serve important public interest objectives, including maintaining professional standards, protecting consumers and supporting confidence in the administration of justice. These include trust account compliance, professional indemnity insurance, continuing professional development requirements, regulatory reporting and practice management obligations.

The anti-money laundering and counter-terrorism financing (AML/CTF) regime has been implemented as of 1 July 2026. While the Society supports measures to strengthen Australia's AML/CTF framework and combat financial crime, the reforms introduce significant compliance obligations for many law firms. There is no carve out for small businesses and AML/CTF applies to designated services irrespective of their size.

For many small and micro practices, these obligations will require significant investment and compliance obligations. These additional regulatory costs should be taken into consideration when considering barriers to business dynamism.

While these requirements are important, compliance can be resource heavy for smaller firms. The increasing importance of cyber security, digital systems and technology investment has also added to operational pressures.

These challenges may affect the ability of legal practices to establish or expand their businesses, and this is particularly relevant in regional and rural communities where access to legal services is an ongoing challenge. This is not only a matter of business dynamism but access to justice.

Closing remarks

Overall, the Society supports measures that reduce unnecessary barriers to business activity while maintaining confidence in Australia's legal and financial institutions.

Consideration should be given to reducing regulatory complexity and recognise the importance of protecting individuals in personal and financial hardship, and early intervention in cases of financial distress.

The experience of Queensland law firms also demonstrates the impact of increasing regulatory obligations on small and micro businesses. Future reforms should seek to minimise unnecessary compliance costs while maintaining consumer protections, professional standards and public confidence that underpins Australia's legal and financial systems.

We would be pleased to continue to engage with the Law Council to address any further consultation on this Inquiry.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [redacted]

Yours faithfully

[redacted]

Peter Jolly
President