

Annual Review

2022



Small
Business
Commissioner

smallbusiness.nsw.gov.au

Acknowledgement of Country

The NSW Small Business Commission acknowledges that Aboriginal and Torres Strait Islander peoples are the First Peoples and Traditional Custodians of Australia, and recognises their continued custodianship of Country – land, seas and skies. We acknowledge the diversity of First Nations cultures, histories and peoples, recognise their enduring connection to our State, and we pay our deepest respects to Elders past, present and emerging.

Some of the 18,300 small businesses the Commission assisted in 2022

Cover (clockwise from left): John and Ingrid Padovano, Jonima Flowers, Yanderra; Dean Druce, Corowa Distillery, Corowa; Susan Galvin, Galvin Watch Company, Sydney; Jalal Chami, Pharmacy 4 Less, Parramatta; Susanne Underwood, Underwood Jewellers, Parramatta.

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Minister's Message

The NSW Government is committed to ensuring our State remains a great place for small businesses to start and to grow.

Small businesses comprise 98% of all businesses in NSW. Over the last three years small businesses have faced unprecedented challenges as a result of natural disasters and the COVID pandemic. Small businesses have demonstrated grit and resilience in battling through what has been an extremely challenging time.

At the beginning of the year the NSW Government recognised the serious impact of the Omicron variant on many small businesses still recovering from previous waves of the coronavirus.

We extended a number of COVID-era measures to help small businesses deal with the downturn in trade, particularly extending the COVID leasing regulations, which gave more businesses the opportunity to negotiate rent relief.

We also introduced the Small Business Support Package to provide businesses with up to \$5,000 per week to help them pay wages or offset losses of perishable stock.

Other COVID support programs were also broadened and extended beyond their original closing dates, such as the Small Business Fees and Charges Rebate, which allowed businesses to get up to \$3,000 cash back on government fees, including council rates and road tolls.

Dine and Discover, Active and Creative Kids and several other digital voucher programs have also provided a significant boost for small businesses across the State.

Not only have these payments provided stimulus to the economy but they have helped to boost the digital capability of NSW citizens and small businesses in the process.

Small businesses and the people who run them are the beating heart of many regional communities. Think of what happens when the only post office or grocery store in town has to close. We were glad then to support many of these businesses and in turn help those communities survive.

I would like to congratulate the NSW Small Business Commissioner, who has been unwavering in his representations, advice and support in assisting small business. The input and advice from the Commissioner greatly assisted in designing and implementing a number of vital support programs and initiatives throughout 2022 and helping many small businesses out of some very difficult situations. Importantly, his representations and advice on matters impacting both state and national issues have been highly valued.

In the 2022-23 State Budget the Government provided additional funding to the Commission in recognition of its important role and the ongoing challenges small businesses face.

The Government will continue to work closely with the Commissioner and his team to ensure we deliver an environment that promotes enterprise and supports our more than 840,000 small businesses to grow and prosper.



Victor Dominello
Minister for Customer Service and Digital Government, Minister for Small Business, and Minister for Fair Trading

Small Business at a Glance



There are more than
840,000
small businesses in NSW²



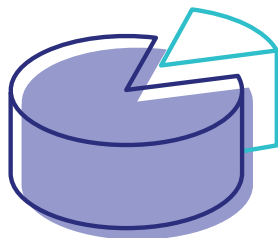
NSW small businesses contribute more than
\$424.9 billion
to annual sales and service income¹



The NSW small business
sector pays more than
\$63.7 billion
in annual wages and salaries
to employees every year¹



1.8 Small businesses
employ about
million people
in the private sector, which is
about 45% of the State's private
sector workforce¹



Small businesses represent about
98%
of all NSW businesses²



35% of small business
operators were born overseas³

1. estimated from ABS, 8155.0, 2020-21 – latest available

2. ABS, 8165.0, June 2022 – latest available

3. ABS, Census 2021, latest available.

Commissioner's Message



Small businesses across NSW had been looking forward to a better year but regrettably 2022 continued to pose serious challenges, including floods, interest rate rises, supply constraints and chronic labour shortages. On the positive side, many of the highly disruptive impacts of COVID-19 eased as small businesses were able to operate with fewer restrictions and consumers ventured out more.

However, many small businesses remained in a weaker position than before the pandemic, with regional businesses in some locations also badly affected by several major flood and weather events which hit the State during the year.

By the end of 2022, more than 80 per cent of businesses in our monthly small business survey were saying that the cost of inputs was a challenge for them and almost as many were worried about the price of gas and electricity.

These factors contributed to weaker small business confidence, which had shown promising signs of recovery in the first quarter.

These conditions drove strong demand for the Commission's support services and we continued to invest in and improve these key services, aided by increased funding from the NSW Government.

In 2022 we cut the cost of our mediation service by almost half to make it even more accessible, increased the number of permanent

mediation staff and established the customer contact centre as a permanent function of the Commission. Demand for our mediation service has remained high, well above pre-pandemic levels. Professional mediation is quickly and efficiently resolving disputes, avoiding costly and lengthy court action and allowing all parties to get back to business as soon as possible.

We also invested additional resources in our advocacy function, which speaks up for small businesses when they encounter red tape, unfair treatment or other barriers to doing business. Key to this is identifying issues early through proactive engagement with small businesses and industry associations.

In 2022, we also launched our new Small Business Momentum Survey and strengthened our data gathering and analysis to capture emerging trends and business concerns.

Other organisational changes within the Commission were completed to enhance service delivery and support for small businesses, including

Our focus in 2023



upgrades to our case management and telephony systems.

The Commission was assigned responsibility for NSW Small Business Month and for the first time two Small Business Months were held in the same year, in March and November. That we were able to support well over 1,000 events across the two months to support businesses demonstrates their appetite for collaboration, learning new skills and embracing new ideas.

I continue to be amazed by the entrepreneurship, bravery and leadership of small businesses owners and operators. Through my podcast series, *Talking Business*, it was an honour to share some of their experiences and their valuable lessons and insights for the benefit of current and future small businesses.

It's always important to remind ourselves of just how vital the State's 840,000 small businesses (almost 90,000 more than before the pandemic) are to the NSW economy. Employing 1.8 million people and generating \$425 billion a year in sales and services income, they literally keep the State moving.

Thank you to all the organisations and individuals who helped us support NSW small businesses in 2022.

Chris Lamont
Small Business Commissioner



Strengthening the Commission's engagement and advocacy

The Commission will continue to enhance its engagement with small businesses and the collection and analysis of data to ensure it quickly identifies emerging trends and concerns. This also provides the evidence which allows the Commission to contribute timely and solutions-focused advice to all levels of government.



Review of the Retail Leases Act

The NSW Government has asked the Small Business Commissioner to conduct a review of the Act, which is important legislation for landlords, investors and retail tenants. The review will consider whether the Act continues to meet its policy objectives and whether any amendments should be made to improve certainty and the regulatory environment for retail landlords and tenants.



Resolving more business disputes through mediation

Demand for professional mediation of business disputes is likely to remain elevated as issues arising from the pandemic continue as a source of disputes and businesses and landlords face ongoing challenges amid rising costs and supply issues.

2022 Commission Highlights

18,300

businesses
received direct support



18

public policy
submissions and reviews



80%

of customer calls
answered in 60 seconds



812,500

website page views



667

mediations conducted
and **2375 applications** managed



89

Business insight
initiative consultations
11 small business surveys



659

direct engagement
sessions with
stakeholder groups



10

new guides and
factsheets for business



118

news and help articles



74,000

Small Business
Month attendees



Top industries reached



1. Retail Trade
 2. Construction
 3. Rental, Hiring and Real Estate Services
 4. Professional, Scientific and Technical Services
-

Top reasons for customer calls



1. Retail Leases Act
 2. Commercial Leases (Non-RLA)
 3. General Contract Dispute (Non-Lease)
 4. Bond Scheme
-



“The Australian Cold Chain has endured multiple challenges and disruptions over the past few years. The support provided by the NSW Small Business Commissioner during this time has been crucial in assisting small businesses in our vital industry.”



Marianne Kintzel
Executive Officer, Refrigerated Warehouse & Transport Association of Australia



Small Business Performance and Sentiment

Overview of 2022

The year presented many challenges for small businesses, as reflected in responses to the Commission's Small Business Momentum Surveys.

The Momentum Survey reports on the views and perspectives of small businesses each month, obtaining feedback on their confidence levels, business challenges and their results and expectations for revenue and profitability. These reports are used by governments and other stakeholders to inform policy development and assess current economic conditions.

Business confidence trended down for most of the year. While the direct impacts of COVID-19 eased over 2022, many businesses continued to face significant challenges in the operating environment. These included increasing business costs, extreme weather events, interest rate increases and staff shortages.

Only one in four (23 per cent) businesses indicated in December 2022 that their business was performing better than it did before the COVID-19 pandemic, while only two in five (43 per cent) indicated 2022 was the year their business returned to normal. This suggests many small businesses are continuing to rebuild and navigate the lasting consequences of the pandemic.

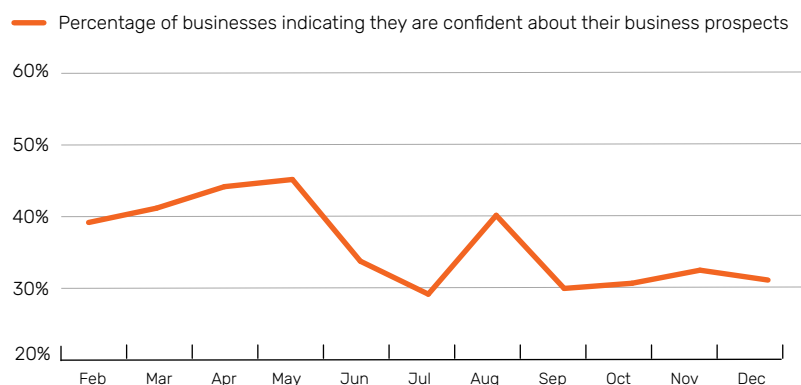
Major floods and weather events also caused havoc for many small businesses and their communities.

Two in five (43 per cent) businesses indicated that they were heavily impacted by natural disasters in 2022, reflecting the ripple effect of floods and storms throughout the economy, including flood-related supply shortages.

Despite these challenges, the State's 840,000 small businesses remain the foundation of our economy with the number of small businesses in NSW growing by more than 40,000 over 2021-22 and their contribution to sales and services income increasing from \$414 billion to \$425 billion (latest 2020-21 data).

Looking forward to 2023, the majority (53 per cent) of small businesses anticipated the year would be a difficult period for their business, while only a minority (5 per cent) anticipated that 2023 would offer a more favourable trading environment.

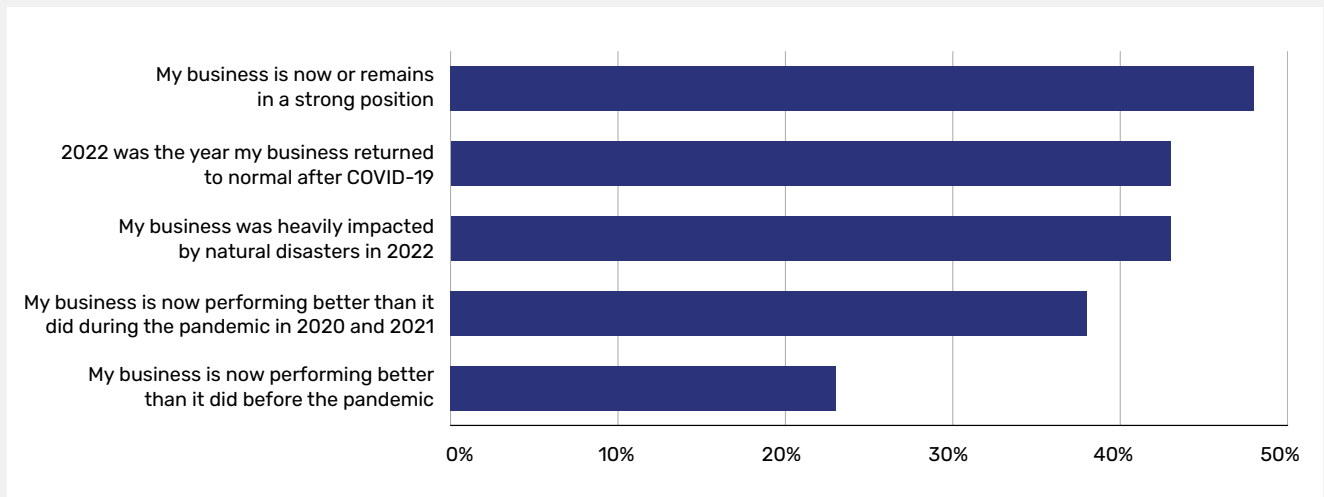
Business confidence



Source: Small Business Momentum Survey December 2022

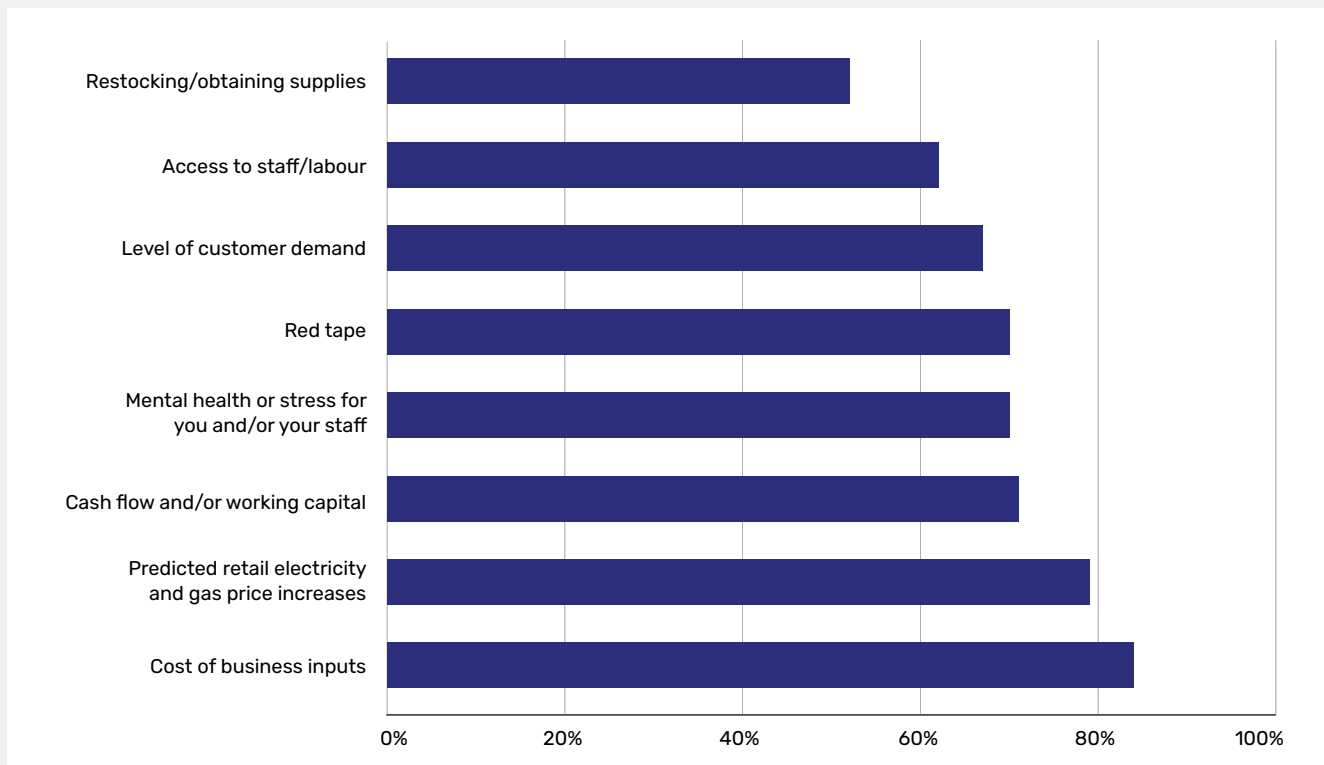
Looking back at 2022

Which of the following are true or mostly true for your business?



Top concerns for small business

Percentage of businesses experiencing these challenges



Source: Small Business Momentum Survey December 2022

Small Business Advocacy

Overview of 2022

The Commission advocates for small businesses with the aim of ensuring their concerns are heard and their needs met. This includes assisting government agencies to develop policy and regulatory initiatives that are sympathetic to small businesses and engaging with industry stakeholders to identify emerging challenges.

In 2022 the Commission conducted detailed assessments of a variety of matters affecting small businesses including access to insurance and regulatory and operational challenges experienced by small businesses operating in the early childhood education and care sector. By engaging directly with businesses the Commission was able to understand their key challenges and provide advice and recommendations to make it easier for them to do business.

With floods and extreme weather hitting NSW in 2022, the Commission's advocacy team contributed small business perspectives to the State Government's disaster response mechanisms, advocated for targeted support and helped individual small businesses to navigate government support programs.

The Commission also worked with businesses and their industry representatives in the waste and recycling, wine and agritourism sectors on making representations to government about a range of red tape and other regulatory issues.

Other important activities for the Commission included a lead role in developing a new NSW Small Business Strategy, designed to guide the development of effective small business policy. Current growth projections indicate that by 2030 there will be one million small businesses operating in NSW. The Commission proposed a variety of practical measures to reduce red tape, increase opportunity and provide targeted assistance. The Commission also worked with NSW Treasury on a review of the Government's Faster Payments Terms Policy. Through this policy the Government has reduced payment times to small business and improved their cashflow, a major concern for many small businesses.

The Commission made 18 public policy submissions and responses in 2022. It regularly contributes these small business perspectives through the submissions process for various government inquiries and discussion papers so that new policy and regulatory proposals can be designed with small business needs in mind. Our submissions and reports to various government inquiries are written with small business needs in mind and aimed at bringing about positive change. By taking an evidence-based approach, the Commission is able to contribute data and insights to support policymakers as they consider how to achieve public policy objectives that improve the operating and regulatory environment for small business.





In early 2022 we sought the support of the NSW Small Business Commissioner to help us convince the NSW Government to review a decision that would have had a very detrimental impact on small businesses in our industry. Through working with the Commissioner we secured a positive outcome for small businesses in an industry that is of vital importance to the NSW economy. We very much appreciate the assistance of the Commissioner and we look forward to ongoing collaboration.

**Tony Houry, Executive Director -
Waste Contractors & Recyclers Association of NSW**

Advocacy in Action

Increase in waste fines and levies shelved

A proposal by the NSW Environment Protection Authority to introduce new Recovered Fines and Soils Orders and Exemptions would have presented significant challenges for smaller operators in the skip bin, waste management, recycling and building sectors. Stakeholders were very concerned about the impact these changes would have. The Commission engaged with industry, the EPA and the NSW Government and the proposal was subsequently withdrawn.

Boost to agritourism

New planning rules designed to make it easier for farmers to set up agritourism businesses came into effect on 1 December 2022.

The changes were the culmination of development work and consultation by the Commission, primary producers, stakeholder groups and government through the Agritourism Pilot Program, which established the proof of concept. This provided the foundation for the subsequent reforms which were developed and implemented by the NSW Department of Planning and Environment.

John and Ingrid Padovano of Jonima Flowers, participants in the Agritourism Pilot Program



The changes to planning rules include:

- Simplifying planning terms to make it easier for farmers to know how they can use their land for new income streams.
- New planning pathways to allow activities to be either fast-tracked for approval or exempted from approval requirements.
- Landowners will be able to rebuild farm buildings destroyed by natural disasters without planning approval.

Agritourism is a growing sector for both the Australian and NSW economies and is expected to be worth \$18.6 billion nationally by 2030. Agritourism opportunities can include farm stays, cafes, cellar doors, retreats, roadside stalls, fruit picking or small wedding venues.




Helping a small business deal with a big supplier

When our business was faced with industry changes that would hamper our ability to support our network of over 6,000 small local businesses, the NSW Small Business Commission was there to advocate for us to eftpos Australia. Their input and support was important in helping us receive at least another 12-months to comply with these changes. Without this extension our business would have struggled to survive.

Ashley Watt, Founder & Director, Why Leave Town





10,000 free COVID tests for Parramatta businesses

The Commissioner helped facilitate the donation of 10,000 COVID rapid antigen tests to the small businesses of Parramatta, including restaurants, hospitality venues and local charities. These free tests were available over the busy Christmas trading period, providing supply certainty and a welcome saving for businesses and their staff.

The kits were donated by global medical supply company 2San and distributed by Parramatta City Council.

Kangaroo Valley grant

Kangaroo Valley small businesses were severely impacted by prolonged road closures caused by flooding in February and March but were unable to apply for a flood support grant as the grant was limited to businesses that suffered direct damage.

The NSW Small Business Commission was a strong advocate for dedicated support for these businesses given their unique circumstances.

Following the Commission's efforts, the NSW Government announced the Kangaroo Valley Road Closure Small Business Support Grant, which offered up to \$10,000 to small businesses and not-for-profits.



Kangaroo Valley was severely impacted by flood-related road closures in March but businesses were not eligible for flood grants assistance. We are grateful for the Commission's assistance in getting these special circumstances recognised, which led to a grant being made available."

Natalie Harker, Kangaroo Valley Chamber of Tourism & Commerce

Advancing Change

Reducing complexity for small businesses in childcare

The Commission published a report examining the experiences of small business operators in the childcare sector, which called for renewed efforts to assess the way rules and regulations governing the sector negatively impact small business.

The report focused on issues that could make the regulatory system less complex, as well as improve the affordability and availability of early childhood education and care in NSW. According to the Australian Department of Education, NSW has some of the highest early childhood education (ECE) costs in Australia.

The report made a range of recommendations to improve outcomes for NSW operators.

Improving access to insurance

This report examined the availability of insurance for small businesses and considered ways the NSW Government could help mitigate some of the challenges.

The report confirmed the views of small business that insurance is increasingly unaffordable or unavailable, leading to significant underinsurance in sectors where it is most needed. A quarter of small businesses reported difficulty accessing appropriate insurance.

The report also highlighted direct actions the government could take to alleviate the problems, such as reducing insurance levies for small business and easing requirements for insurance during government tender processes.

Reducing the impact of construction on small businesses

The NSW Government's investment of more than \$112 billion in the State's infrastructure pipeline, \$77 billion of it set aside for transport projects, will undoubtedly strengthen the NSW economy, boost productivity and support current and future generations.

However, the Commission believes much more needs to be done to minimise the disruption to small business and communities from major construction projects, which can last many years.

The experience of some businesses around major works has included deafening noise for months or

even years, dust blowing through their store each day, constant road closures, boarded-up windows and no parking. Disruption of this type can sink even the most successful business.

Our consultation with impacted small businesses strongly suggests that efforts so far to manage and mitigate this type of disruption have been inadequate.

There is an urgent need to adopt small business impact statements for all major public and private infrastructure projects. In addition, meaningful engagement, not a tick-a-box approach, should be focussed on minimising disruption before a sod is turned. Minimising the impact on small business from these projects starts at the beginning of the project planning phase.

The Commissioner will continue to advocate to the NSW Government for stronger action in this area.



Policy submissions

Highlights

Submission to the Federal Treasury – Modernising Registry Fees consultation

The Commissioner welcomed the announcement in the 2022-23 Federal Budget in May that ASIC company registration late fees and some search fees would be scrapped or lowered.

In a submission to the Federal Treasury’s Modernising Registry Fees consultation in January 2022, the Commissioner called for registry fees to be lowered and search fees abolished altogether to reduce the burden on small businesses.

Submission to the Parliamentary Joint Committee on Corporations and Financial Services - Australia’s corporate insolvency laws

The Commissioner recommended special provisions be introduced for small business to help them better understand the insolvency process and have greater confidence in it.

He said businesses found the laws difficult to understand and were wary of the insolvency process, with the result that some small businesses failed to act early and engage professional advice prior to their situation worsening.

Feedback to Federal Treasury

Consultation Regulation Impact Statement

Submission to DPE

A new approach to rezoning in NSW

Submission to City of Parramatta

Late Night Trading Development Control Plan

Submission to ASBFEO

Small Business Natural Disaster Preparedness and Resilience

Submission to OLG

Councillor Conduct Accountability Review

Submission to NSW Cross-Border Commissioner

Border closures during the COVID-19 pandemic

Submission to Investment NSW

Securing future innovation and global competitiveness in NSW

Submission to ACCC

Regional mobile infrastructure inquiry 2022-23

Submission to Independent Pricing and Regulatory Tribunal

Competitive Neutrality in NSW Issues Paper

Submission to SIRA

Home building compensation reform 15 Aug 2022

Submission to Early Childhood Education Directorate

Childcare and Economic Opportunity Fund

Submission to Early Childhood Education Directorate

Universal pre-kindergarten year

Submission to NSW Environment Protection Authority

Driving NSW’s Circular Economy

Submission to Liquor and Gaming NSW

Exploring liquor licensing reform options

Read these submissions at

www.smallbusiness.nsw.gov.au/what-we-do/advocacy/submissions-government-reviews

Retail Leases Act Review

In November 2022 the Commissioner was asked by the NSW Government to conduct a formal review of the *Retail Leases Act 2014*.

The Act is critically important legislation for landlords and retail tenants. It aims to optimise the relationship between lessees and lessors, help the parties manage risks and reduce the number and severity of disputes. It seeks to ensure both lessors and lessees are clear about their rights and obligations before entering a retail lease.

The review will consider whether the Act continues to meet its policy objectives and whether any amendments should be made to improve certainty and the regulatory environment for retail landlords and tenants.

The review will consider:

- All aspects of the current Act (Parts 1-11 and Schedules 1-3).
- Whether original policy objectives remain appropriate.
- Potential opportunities to improve outcomes (including through amendments to the Act).
- Interaction of the Act with other related or overlapping legislation.

Reducing red tape, improving certainty and reducing administrative costs are primary objectives of the review.

Retail tenants, landlords and industry stakeholders were invited to have their say on the effectiveness of the Act during a public consultation process in November and December 2022 by completing an online survey or making a written submission.

The review is expected to be completed in 2023.





What does the Retail Leases Act do?

The Act provides a regulatory framework for lessees and lessors of a retail lease to optimise the leasing relationship and balance risks.

Before the lease

- Specifies what the lessor must disclose to the lessee
- Requires the lessee to confirm and acknowledge the disclosures
- Specifies processes for calculating market rent
- Requires leases over three years to be registered
- Requires cash bonds to be lodged with the Retail Bond Scheme

During the lease

- Restriction on lessors recovering certain costs and limits on the recovery of certain outgoings
- Some restrictions on rent adjustments
- Processes for managing disturbances from the lease, such as relocation, demolition, alterations/refurbishment and damage to the premises
- Transparency for certain types of information and confidentiality requirements for turnover data
- Provides a procedure for assignment of lease

If disputes arise

- Mediation function to resolve disputes

At the end of the lease

- Helps the parties to negotiate renewal or extension of the lease
- Timeframes for the return of bank guarantees at the end of the lease

Mediation and Retail Leases

Overview of 2022

The demand for mediation of lease and other business disputes remained strong in 2022, with an average of more than 45 applications for mediation each week.

The number of applications for mediation actually eclipsed the previous year, when thousands of small businesses sought the Commission's help to understand how the COVID leasing regulations enabled them to negotiate rent relief with their landlord. The number of disputes that proceeded to formal mediation was also similar to the previous year.

The high demand for alternative dispute resolution reflected the continued challenging business environment for many small businesses. While the economic and business impacts of the COVID-19 pandemic eased, many businesses were still dealing with legacy issues, including rent in arrears. Economic developments, such as rising inflation and interest rates, also put added pressure on both tenants and landlords.

Most disputes the Commission dealt with related to a retail or commercial lease, however, the proportion of mediation applications relating to non-lease matters, such as other types of contract disputes rose from 20% to 38% in 2022.

In recognition of the continued high demand for mediation the NSW Government provided the Commission with additional funding in the 2022-23 State Budget.

The additional funding assisted the Commissioner's decision in August to slash the price of mediation by almost half to make mediation more accessible to small business.

The Commission also released a new guide to how mediation can help resolve business disputes and avoid the time and expense of going to a court or tribunal.

The guide, *Resolving Business Disputes: A Guide to Mediation* explains the mediation process, including how to prepare for a mediation, and assists business owners and operators in understanding whether mediation is the right course of action for their dispute and why it is often the best option. The guide is also useful for lawyers and real estate agents who may need to provide informal advice on resolving disputes.

The guide answers common questions about mediation and business disputes and provides case studies of successful mediations.

The Commission also published a significant update to its *Retail Tenancy Guide*, an essential reference for both tenants and landlords at all stages of a retail lease, from signing a new lease to lease expiry. The guide is designed to help both lessors and lessees successfully negotiate a retail lease and manage issues that may arise during the term of the lease. Topics covered include lease costs, transferring a lease, rent reviews and dispute resolution.



"I sell software through a major online sales platform. The platform blocked my account after I took my bank's advice and blocked a transaction on my credit card that I did not recognise. This posed a major threat to my business. With the Commission acting as mediator between me and the platform I was able to sort out the issue and my account was unblocked."

Lachlan Barratt, Barratt Audio

KEY MEDIATIONS STATISTICS 2022

2,375

mediation applications managed (2021: 2,331)



667

formal mediation sessions held (2021: 690)



38%

of applications were for a non-lease related dispute (2021: 20%)



Greater certainty for gyms and small bars

The Commission led work that developed a new regulation under the *Retail Leases Act* to clarify the status of small bars and fitness centres.

The intention of the regulation was to clarify that these businesses are covered by the Act regardless of whether they are located in shopping centres, retail strips or stand-alone premises, and therefore have the same rights and responsibilities of other businesses listed in Schedule 1 of the Act.

The regulation covers gymnasiums and fitness centres, including yoga, barre, pilates and dance studios, as well as small bars with a maximum patron capacity of 120.

The Commission conducted a public consultation process on the proposed regulation in November 2022 and the regulation came into effect on 1 January 2023.



There are many small businesses in the exercise, physical activity and fitness sector in NSW that will benefit from the equitable outcomes created by the new regulation."

Barrie Elvish, CEO, AUSActive

Resolving Business Disputes: A guide to mediation



NSW Small Business Commissioner

smallbusiness.nsw.gov.au



Common questions



How much does mediation cost?

It costs nothing for you to apply for mediation with the NSW Small Business Commission, and there are no costs for speaking to our office. If a mediator is appointed and a date agreed, each party will be asked to pay a share of the cost. Current costs are available online at www.smallbusiness.nsw.gov.au.



Do I need a lawyer?

Although lawyers are not required in the mediation process, their support can be helpful. Obtaining legal advice is often recommended. You will know in advance whether the other party is represented by a lawyer.



Who can appoint a mediator?

The Registrar of Retail Tenancy Disputes (acting within the NSW Small Business Commission) is the only person in NSW who can appoint a mediator for a retail tenancy matter. For other types of disputes, the parties can agree to use our mediators or seek out private mediators. If a dispute has already gone to court, the judge may appoint a mediator.



Can I use an interpreter?

As a NSW Government service, the NSW Small Business Commission will provide qualified interpreters at no cost. Parties can also engage their own support teams.



Will the mediator make me give up my rights, or cut my claim in half?

No. If a settlement is possible in your dispute, the mediator will help you find it as quickly as possible. If no agreement can be reached, you will also know this at an early stage, and can pursue your rights in full as normal.

It's not too late to mediate!

A mediator can help even during a court proceeding.

In certain types of disputes, you must be able to show that you have tried to resolve your dispute by mediation before a court or tribunal will hear your case. Mediation is required under NSW law before a court will consider a case that involves retail leases. For example, many commercial contracts also contain dispute resolution clauses requiring the parties to use mediation if a dispute arises.

Any party at any stage can contact the NSW Small Business Commission and its Mediation Services team about what to expect of the mediation process.

The mediator will help identify all relevant issues and options, and seek to find areas of agreement between the parties. If a settlement is reached, the details will usually be recorded in writing and signed jointly before the mediation session ends. When you have reached a

satisfactory conclusion the parties should enter into a binding written arrangement, such as a deed. (For more information, see page 19 of this guide.)

Mediation can also occur when commercial litigation is already underway, such as in contract matters. Here, the judge, magistrate or tribunal member typically orders a pause in proceedings so everyone can try to sort out their differences in private. If an agreement is reached, the parties can request it be recorded and made enforceable as part of the court's orders.

Finally, mediation can even occur after a court has made its decision. Although less common, this happens when there are still outstanding points of contention. A mediator can help sort out these issues, allowing both parties to move forward.

Small Business Month

Overview of 2022

The Commission delivers NSW Small Business Month each year to both celebrate and boost the State's more than 840,000 small businesses.

The month-long program features events across the cities, towns and regions that help small business owners and operators strengthen and grow their businesses.

The Commission collaborates with hundreds of organisations to host events, including major corporations, industry associations, governments and not-for-profit organisations. The NSW Government also provides funding each year to subsidise event costs in a competitive grants process.

Small Business Month is typically held once, towards the end of the year, but in 2022 there were two Small Business Months (March and November) to account for the postponement of the event in 2021 and in recognition of the additional support small businesses needed in the wake of the COVID-19 pandemic and the NSW floods.

The next Small Business Month will be held in October 2023.

SMALL BUSINESS MONTH 2023

1-31 October

Subscribe to the newsletter
for the latest updates at

smallbusinessmonth.nsw.gov.au

SMALL BUSINESS MONTH 2022 – SNAPSHOT



Small
Business
Commissioner



2 Small Business Months held in 2022 – March and November



1,355 events delivered and **\$1.35** million in event grants approved



358 organisations were successful in applying for grants



74,000 people registered to attend activities



92% of attendees were satisfied or very satisfied with their Small Business Month experience



403 Collaboration Partners signed up to deliver activities and promote the program

Some of the events in 2022



Trade and Construction Breakfast

Eurobodalla Shire Council ran three trade and construction breakfasts throughout March. The first breakfast was held in Bateman's Bay with 68 attendees, the second in Moruya with 92 attendees and the third in Narooma with 43 attendees. Tradespeople could drop in, grab something to eat and network with each other, the local council and SafeWork NSW. These events provided an informal opportunity to chat about local issues and opportunities in the industry.



Outdoor Industry Masterclass

Outdoors NSW & ACT held a two-day intensive masterclass for businesses in the outdoor industry in Ulladulla. The workshops covered mental health, indigenous interpretation, relevant research for the industry, SafeWork compliance and included plenty of networking opportunities. Over 50 people attended these sessions.



The Power of Building Community

Moree Chamber of Commerce held an evening panel session focused on the power of building community. Each panelist talked about how they built strong networks in their business and professional lives, the benefits gained from these networks and overcoming the challenges to building effective support systems. Over 60 people attended this event and were able to ask questions and network after the panel session.



MTC Australia Breakfast

Training and employment services provider MTC Australia hosted this breakfast in Marrickville, Sydney, where small businesses could register for a business health check, discover how wage subsidies could support workforce growth and network with other local businesses.

Engagement

Customer Experience Team

The volume of calls and online enquiries to the Commission's customer experience team remained high in 2022, the team managing 18,300 enquiries, mostly from small businesses but also industry stakeholder groups, landlords and local councils.

Retail lease issues remained the most common issue dealt with by the team. The lapsing of the COVID-19 leasing regulations and the Commercial Landlord Hardship Fund kept calls from both small business tenants and landlords elevated, as these groups sought information and guidance on their rights and obligations. Common questions included whether rent could still be negotiated, when deferred repayments needed to commence and when rent increases could occur.

Like the trend seen in mediation services, there was an increase in non-lease issues, such as rights and responsibilities relating to the repair and maintenance of premises and business-to-business disputes, such as unpaid invoices

The team developed new content for the Commission's website by identifying issues of common concern to small businesses and updating frequently accessed pages with new information. In 2022, this included content on dispute resolution, consumer



CUSTOMER SUPPORT

2022

18,300

businesses received direct support

80%

of customer calls answered in 60 seconds

Average customer satisfaction score:

4.7 out of **5**

protection, support for flood-affected businesses, fire safety, strata laws and information for sub-contractors in building disputes.

The Commission used additional funding from the NSW government to add new permanent roles to the team, strengthening customer support.



“I needed to resolve some issues with my landlord over my lease. I got great advice from your customer service representative and was able to resolve the issue quickly. Her assistance was extremely helpful and greatly appreciated. She was supportive and professional from the get-go. It was a great process.”

Sandro, Sydney gym owner



“We may be just a little cog in the wheel of the economy, but it’s nice to know the Commission is there to listen to us and take our feedback to people who can help.”

Vivian Samaha, Bridal Silver Service



Selling to Government workshops

The Commission, in partnership with TAFE NSW, conducted free online and in-person workshops in 2022 for small businesses wanting to learn how to tender for NSW Government work.

These workshops complemented the online course developed in 2021. The *Selling to the NSW Government* program includes the online course through TAFE, a written guide and factsheet. The resources help small businesses qualify as government suppliers and compete successfully for government contracts. They are also useful for businesses wanting to improve their tendering skills in local council and private sector contracts.

The program launched in October 2021 with dedicated funding from the NSW Government.

In early 2023 the Commission will launch the *Winning Business* online course, which focuses on training small businesses how to bid for and win contracts in the private sector.





SELLING TO THE NSW GOVERNMENT - KEY STATISTICS*

1,789 registrations
for the online course



97% said they would
recommend the course



1,499 downloads
of the Selling to the NSW Government guide



14 workshops



*Since October 2021



"I am a new business owner and know that obtaining a government contract secures a good income for business development. Without this course I would have had no idea how to go about applying for work."

Nathan Wroe

Media campaigns

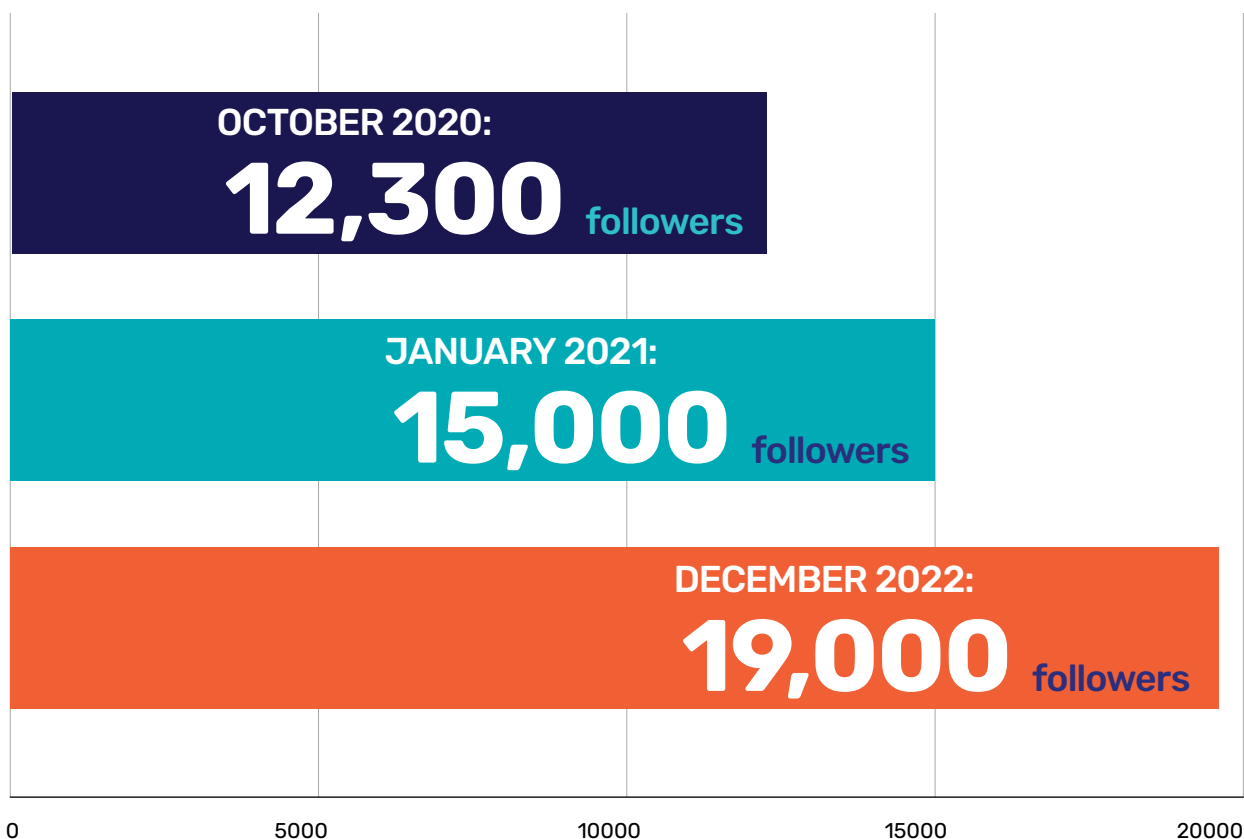
The Commission uses social media to provide important information to small businesses, including the support available to them from governments and industry organisations. Social media campaigns have been highly effective in reaching out to remote and regional businesses, young entrepreneurs and the culturally and linguistically diverse small business community.



Most viewed pages on smallbusiness.nsw.gov.au in 2022

1. Commercial leases and COVID-19 FAQs	6. Retail Leases: Disclosure statements
2. Getting approval for a home business	7. COVID-19 grants and support for small business
3. Apply for a director ID	8. National code of conduct for commercial tenancies
4. COVID-19 information for small business owners	9. Selling to the NSW Government
5. Retail Leases: What are outgoings?	10. Retail Leases: Security Bonds

Social media follower growth



Guides from the NSW Small Business Commissioner

Resolving Business Disputes: A guide to mediation



 Small Business Commissioner
smallbusiness.nsw.gov.au


NSW Retail Tenancy Guide 2022




 Small Business Commissioner
smallbusiness.nsw.gov.au

Selling to the NSW Government – A Guide for Small Business

January 2023



 Small Business Commissioner

GET READY
For business

Get back to business

A guide to recovering from disaster



 Small Business Commissioner

Insurance claims for small business



This quick guide to making an insurance claim will help you through the claims process so you can get your claim paid quickly and smoothly after a disaster or disruption.

 Small Business Commissioner

GET READY
For business

Prepare for the unexpected

Build a Business Continuity Plan



Business name:
Name:
Date:

 Small Business Commissioner





Small Business Commissioner

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