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## **KPMG response: Defining an Australian Business for Commonwealth Procurement**

As a leading professional services firm, KPMG Australia (KPMG) is committed to meeting the requirements of all our stakeholders – not only the organisations we audit and advise, but also employees, governments, regulators and the wider community. We welcome the opportunity to respond to the Department of Finance’s consultation on Defining an Australian Business for Commonwealth Procurement.

### ***About KPMG Australia***

KPMG Australia is an Australian partnership and a member firm of the KPMG global organisation of independent member firms affiliated with KPMG International Limited (KPMG International).

KPMG Australia makes a strong economic contribution, employing close to 10,000 people and partners across Australia. This year, for the first time, we received limited independent assurance for total taxes paid by the Australian firm and its partners. The effective tax rate paid by the firms’ Australian partners is also disclosed on an annual basis<sup>1</sup>.

We provide services to clients across many diverse sectors including financial services, energy and natural resources, consumer and retail, technology, industrial markets, infrastructure, healthcare, as well as Government. We also draw on our global network to support our clients by bringing international insights, experience and expertise to our

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<sup>1</sup> [Our Impact Plan 2024: Databook](#)



work. We believe that our multidisciplinary model is the best way to serve our clients, our people and society.

### ***Response to consultation***

KPMG supports the development of a definition of Australian Business for use within the context of Commonwealth Procurement, and largely supports the proposed considerations outlined in the consultation paper. Importantly, policymakers will need to carefully consider any impact on our international procurement obligations so as not to discriminate due to size, degree of foreign affiliation or ownership, location, or the origin of their goods and services. The Australian Public Services and the broader community benefits from access to worldclass goods and services from leading international suppliers.

At a minimum, KPMG believes that the definition of an Australian business should be one that is incorporated or formed in Australia, operates within the country, and has majority Australian ownership. Australian ownership could be assessed based on the nationality or residency of beneficial owners or ASX listing. This definition would ensure that profits and growth opportunities benefit Australian stakeholders and communities. We note that to date, the definitions have been legal entity focus rather than looking at the activities of the economic group of which the entity is a part. Where this definition is preferred, its application to partnerships will need to be considered given partners will be considered beneficial owners.

Where other business-related definitions are preferred, we note the following feedback:

#### **Clarity on definition of operations:**

The term "operations" requires further clarification. Specifically, it would be beneficial to define what threshold of operations in Australia is sufficient to qualify as an Australian business. Clear guidelines would help businesses understand their eligibility. For example, where a business-related definition is used that considers the extent of operations in Australia (especially where other definitions are not satisfied), state payroll data could be used to account for significant numbers of employees based in Australia (i.e. over 1000).

#### **Principal place of business:**

For businesses with operations in multiple locations, we recommend that only the principal place of business should be considered. This approach would simplify the assessment process and ensure that businesses with significant operations in Australia are not unfairly excluded.

#### **GST registration as a criterion:**

Small businesses earning less than \$75,000 annually are not required to register for GST. Therefore, using GST registration as a criterion may need to account for small businesses.

#### **Nationality of owners/shareholders:**



Further clarity is needed on how the nationality of owners/shareholders will be assessed, particularly for partnerships. We believe that Australian residency status should be prioritised over nationality.

**Related businesses and parent companies:**

An Australian business may have a parent company offshore but still generate the majority of its profits onshore. The definition may need to account for these scenarios to ensure that businesses are not unnecessarily excluded.

**Australian Company Numbers and Australian Business Numbers:**

We note that subsidiaries of foreign or multinational companies can apply for an Australian Company Number (ACN), Australian Business Number (ABN) and a Tax File Number (TFN), and foreign companies can apply for ABNs and TFNs, and therefore this should not be a standalone criterion for defining an Australian business.

**Percentage of ownership/shareholding:**

We recommend aligning the percentage of ownership/shareholding criteria with other beneficial ownership tests, such as the Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) framework. The beneficial ownership test could be set at a 50 percent threshold and complement the establishment of a beneficial ownership register, as previously announced by the Government<sup>2</sup>. Additionally, ownership in partnerships should be considered, as they are not structured as companies.

KPMG appreciates the opportunity to provide feedback on this important consultation paper. Should you wish to discuss the contents of this response further, please do not hesitate to contact us.

Yours sincerely,

KPMG Australia

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<sup>2</sup> [Beneficial ownership register - consultation | Treasury Ministers](#)