



2 November 2023

Patrick Hodder  
Committee Secretary  
Senate Finance and Public Administration References Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Via email: [fpa.sen@aph.gov.au](mailto:fpa.sen@aph.gov.au)

Dear Secretary

**Senate Finance and Public Administration References Committee  
Questions on Notice, Consulting services inquiry**

We refer to the following sets of Questions on Notice to PwC Australia (**PwC Australia**):

1. Questions from the public hearing held on Thursday 12 October 2023 by the Senate Finance and Public Administration References Committee (**Committee**) with a due date of 2 November 2023, and
2. Questions on Notice from Senator Barbara Pocock in her role as a member of the Committee on 16 October 2023 and 18 October 2023, with a due date of 6 November 2023 and 8 November respectively.

We provide our response in the pages following.

Please contact me if you would like to discuss our response.

Yours faithfully

Jan McCahey  
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## Written Questions on Notice from the Committee from the public hearing of 12 October 2023 due 2 November 2023

### 1. From Senator Colbeck on reporting requirements (page 14)

*CHAIR: [...] Are there any reporting requirements in PwC Global and in other jurisdictions that you ought to or need to have complied with in respect of the matters you are dealing with here today? Have those reporting requirements been complied with?*

*[...]*

*Ms McCahey: We are monitoring our reporting requirements carefully, Chair. We believe we've reported in accordance with the requirements we have. In Australia, we, of course, report matters through the TPB. We have had a regular dialogue with the TPB over the last several months. We have been in discussions with CA ANZ. We are in discussions with them as a firm. We have reported the TPB matter to the Public Company Accounting Oversight Board. All of the various regulatory reporting requirements that exist we have complied with. There isn't an international tax reporting requirement that I'm aware of. I'm happy to take your question on notice and provide further detail, if that would be helpful.*

PwC Australia has regulatory reporting and disclosure requirements to various regulators in Australia as well as the Public Company Accounting Oversight Board (PCAOB) in the US. We are in a regular dialogue with these regulators in respect of the TPB matter and have reported the TPB matter to them. We are not aware of current unfulfilled obligations for reporting by PwC Australia in other jurisdictions.

### 2. From Senator Colbeck on the Linklaters review (page 16)

*CHAIR: I ask you to take on notice to advise the committee of what actions are being taken in other jurisdictions in relation to this matter. Do you know where those six individuals are?*

PwC Australia does not have any details of where those six individuals are located or have information as to the actions that their member firms have taken. The reason for this is that these findings arose from the PwC International Limited (**PwCIL**) review,\* conducted by Linklaters. PwC Australia was not a party to this review. PwC Australia has sought a copy of the legal advice, however it is PwC Australia's understanding that legal advice received by PwCIL is privileged and confidential and PwCIL does not intend to release that advice. This is consistent with standard practice of privileged advice in Australia and elsewhere.

PwC Australia refers the Committee to the [statement](#) published by PwCIL on 27 September 2023.

\*PwC is the brand under which the individual member firms of PwCIL operate and provide professional services. The PwC network consists of member firms in 151 countries each of which are separate legal entities. The PwC network is not one international partnership and PwC member firms are not otherwise legal partners with each other. PwCIL cannot act as an agent of any member firm, cannot obligate any member firm, and is liable only for its own acts or omissions.

### **3. From Senator O'Neill on client names (page 16)**

*Mr BURROWES: [...] We structured and helped a small number of clients to structure their operations to meet the requirements. The second thing we did wrong—*

*CHAIR: I think 34 is the number that we've been given by the tax office.*

*Mr BURROWES: That's—*

*Ms MCCAHEY: I think there were 34 clients approached by the firm.*

*Mr BURROWES: Approached.*

*Ms MCCAHEY: It turns out, as we've indicated in a response to a question on notice, that the firm ultimately ended up helping eight.*

*Mr BURROWES: Eight.*

*Ms MCCAHEY: Not that is one way or the other.*

*Senator O'NEILL: Maybe you could name them.*

*Mr BURROWES: So—*

*Senator O'NEILL: Can you take that on notice?*

*Ms MCCAHEY: We'll take advice.*

As outlined in PwC Australia's response to Questions on Notice dated 21 July 2023, the ATO noted that 44 international groups restructured their Australian affairs to comply with the MAAL legislation. Of these, PwC Australia provided some level of assistance to eight companies.

As a registered tax agent under the Code of Professional Conduct (as set out in section 30-10 of the *Tax Agent Services Act 2009 (Cth)*), PwC Australia is prohibited from providing additional information with respect to clients and their affairs.

### **4. From Senator Colbeck on the Linklaters review (page 17)**

*CHAIR: [...] I would like to know on notice the jurisdictions in relation to action being taken by PwC or through PwC International, which is, as I would understand the process, around the issues raised. You've said that six people should have asked questions. This goes back to your global code of conduct and what you expect your people to do. What information can you provide to us about what is occurring in what jurisdictions in relation to how this matter has been handled? Take that on notice.*

*Mr BURROWES: I will take that on notice and seek advice, of course.*

Please refer to our answer to Question 2.

**5. From Senator Pocock on partner financial penalties (page 18)**

*Senator POCOCK: Mr Burrowes, could you provide on notice anonymised information about their financial penalty that [partners named by Senator Pocock] have suffered? That will be of interest.*

*Mr BURROWES: I can. I can't give you the exact number, but it is in the hundreds of thousands.*

*Senator POCOCK: On notice, please.*

*Mr BURROWES: On notice, of course.*

For the group of individuals mentioned by Senator Pocock, at the Public Hearing on 12 October 2023, total financial penalties imposed were \$880,333.<sup>1</sup>

**6. From Senator Pocock on partner departures (page 21)**

*Senator POCOCK: [...] How many partners are facing implications and consequences arising from the rule of three?*

*Ms WALSH: Firstly, I would say that there actually isn't a rule of three as such. It is a restraint related to group departures. They relate to specific restraints which would be normal in many employment arrangements but particularly so in our partnership arrangement. So I think that is clear. I would need to take on notice, Senator—*

*Senator POCOCK: Would you take on notice how many partners have requested to leave [rather than join Scyne Advisory]? How many have faced a consequence financially in making that request? What level of penalty have they faced?*

*Ms WALSH: We can take that on notice.*

*Mr BURROWES: We can take that on notice.*

All partners who were identified as having to move to Scyne Advisory attended briefing sessions in July 2023 which outlined the terms for retirement both if they joined Scyne Advisory and terms should they decide not to take up the offer with Scyne Advisory, in which case they would need to either voluntarily retire or be retired on notice under the Partnership Agreement.

There are currently six partners who have decided to voluntarily retire from PwC Australia and not join Scyne Advisory. There are also 17 partners (as at the date of this submission) who have decided not to join Scyne Advisory and they will be required to retire from PwC Australia. Each of these partners are subject to the normal restrictions of PwC Australia's Partnership Agreement and conditions that were explained to them prior to them making the decision to not join Scyne Advisory.

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<sup>1</sup> Note: Senator Pocock named Sue Horlin and Clara Cutajar in a list of leaders still with the firm. For clarification, they were not in relevant leadership positions at the time of the TPB matter - accordingly, they did not receive any financial penalty.



**7. From Senator Pocock on confidentiality breaches (page 22)**

*Senator POCOCK: [...] Can you please detail, on notice if necessary because our time is short, each of these breaches, who committed them, when and what exactly occurred? Did you make money out of them as an entity? What consequences have been imposed on those who perpetrated? Finally, are any of those involved still with PwC Australia or PwC Global?*

*Mr BURROWES: I will comment quickly in the interests of time. All three partners mentioned here are former partners. They've all left.*

*Senator O'NEILL: Is that the get-out-of-jail-free card, Mr Burrowes?*

*Mr BURROWES: They've left.*

*Senator O'NEILL: If they—*

*CHAIR: Senator O'Neill, I will come to you in a second.*

*Senator O'NEILL: Sorry. It's frustration.*

*CHAIR: We are finishing at quarter past. We're all cranky.*

*Mr BURROWES: There are three specifics. The breaches were to ask other partners what they thought about certain documents. They were not client focused breaches. They were internal breaches to individuals who didn't have confidentiality agreements, where the partner is saying, 'I've got to comment on this proposed legislation. What do you think about it?' That was in the broad. I will take it on notice and we'll respond fully to your questions.*

PwC Australia has summarised the details of confidentiality breaches in its Statement of Facts.

As noted in the Statement of Facts, in providing that information, PwC Australia was mindful of the ongoing inquiries being conducted by authorities which PwC Australia is cooperating with. In deference to those inquiries, PwC Australia de-identified certain personnel and provided the information in relation to the additional confidentiality breaches in summary form. However, all details have been provided to the relevant authorities who have requested them.

To confirm, Partners A, B and C (as they are referred to in the Statement of Facts) are all former partners of PwC Australia and the breaches of confidentiality were internal to PwC Australia only.



**8. From Senator O'Neill on legal reports (page 23)**

*Senator O'NEILL: Have you read those reports?*

*Mr BURROWES: There are no reports.*

*Senator O'NEILL: What are there, then?*

*Mr BURROWES: We had an investigation conducted by them. We received legal advice from them. I don't know where this issue of there being reports has come from. It has not come from us. There are no reports. As in all of these matters, we investigated it with the assistance of both those—*

*Senator O'NEILL: Can you put on notice the detail of that, because there seems to be a great deal of misinformation? I know the Tax Practitioners Board talked about receiving the first tranche, which they had to request by order. They are expecting a second tranche; that is what I understand. Did that come from PwC Australia or did it come from PwC Global? You can take that on notice. I'm mindful of time.*

*Mr BURROWES: I can.*

PwC Australia undertook an investigation into the handling of confidential Treasury information and related failures in professional, ethical or leadership responsibilities. The investigation was undertaken with the assistance of external counsel. Legal advice PwC Australia has received from its external counsel as part of the investigation is privileged and confidential and PwC Australia does not intend to release that advice. This is consistent with standard practice in Australia and elsewhere.

PwC Australia has provided, and is continuing to provide, information and documents to the Tax Practitioners Board, including in response to notices issued by the Tax Practitioners Board under section 60-100 of the *Tax Agent Services Act 2009* (Cth).

**9. From Senator O'Neill on Project Kookaburra (page 24)**

*Senator O'NEILL: To be clear, in 2017, Mr Sayers took to PwC Global a proposal to carve off the audit part of the business from all the other parts? Ms McCahey, you are disagreeing. Please clarify.*

*Ms MCCAHEY: I wasn't close and would need to come back on notice on this. I didn't understand it related to audit versus the rest of the firm. I thought it was consulting to be set aside rather than consulting plus our tax and legal businesses and so forth. That is my recollection. As I said before, I wasn't close to the detail or here. Certainly that is something we could come back on on notice.*

From time to time organisations consider their strategic direction - this is not unusual. Leading up to 2019, PwC Australia considered the commercial opportunities around the possible sale of its consulting business, before deciding in early 2019 to take no action on this front. Regardless of a possible sale, PwC Australia would have remained a multi-disciplinary firm under all scenarios considered at the time. PwC Australia strongly



believes that the multidisciplinary model is the structure that allows us to deliver for our clients, our people and wider stakeholders in Australia.

**10. From Senator O'Neill on Project Kookaburra (page 24)**

*Senator O'NEILL: Was the federal government, as a client of PwC at the time, aware of the proposed separation of the consulting services section?*

*Mr BURROWES: I can't answer that. I don't know.*

*Senator O'NEILL: Ms McCahey?*

*Ms MCCAHEY: I don't know either.*

*Senator O'NEILL: Can you take that on notice?*

*Ms MCCAHEY: We can do that.*

No. This was an option that was only being explored internally by PwC Australia.

**11. From Senator O'Neill on PCAOB reporting (page 25)**

*Senator O'NEILL: So the untimely reporting is because of a failure of leadership of Mr Seymour or Mr Sayers, the entire board or the governance structures? To what do you attribute the untimely action?*

*[...]*

*Ms MCCAHEY: I want to be very clear and very transparent. I will take your question on notice and answer it fully. The specificity around what triggers a reporting to the PCAOB and what doesn't is a matter that we always need to take legal advice on. Let me come back and answer the question you have in very specific terms.*

The need to file Form 3 reports to the PCAOB relating to the TPB matter was identified by PwC Australia as it undertook a self-assessment of its processes in respect to Form 3 reporting in 2023. In June 2023, PwC Australia informed the PCAOB of the matter and is currently engaged in discussions with the PCAOB in relation to its failure to file the relevant Form 3 reports in respect of this matter within the timeframes required. Given the ongoing consideration of this issue by the PCAOB, it is not appropriate to provide any further detail regarding this issue at this time.

PwC Australia has reassessed its Form 3 processes and monitoring activities, and is in the process of undertaking appropriate remedial actions to allow for a more coordinated and robust approach to sharing information regarding potentially reportable matters across the firm's functional areas. PwC Australia's enhanced process and controls should enable enhanced flow of relevant information and timely assessments of Form 3 reporting requirements.



**Written Questions on Notice from Senator Barbara Pocock received on 16 October 2023 due 6 November 2023**

- 1. *In Mr Burrowes' response to questioning regarding PwC partner Mr Gregg he said that he couldn't answer because the matter was before the Court. Given that the Supreme Court proceedings have concluded and there is no record of any other legal proceedings on foot, was that a truthful statement? If so, please provide the details of those legal proceedings.***
- 2. *What is Mr Burrowes' response to the question as to whether he had cause to read the press statements issued by his predecessor Ms Stubbins falsely accusing [Mr Gregg] of involvement in the tax scandal and also make enquiries as to how they came to be drafted?***
- 3. *PwC must be aware that many media outlets which reported on PwC's public statement of 29 May 2023 (titled "Open letter from PwC Australia acting chief executive Kristin Stubbins" (Open Letter)) understood the Open Letter to suggest that the nine PwC partners, which included Mr Gregg, had been directed to go on leave, effective immediately, because they were involved or suspected by PwC of having been involved in the tax scandal. Does PwC accept that Mr Gregg was not involved or suspected by PwC of having been involved in the tax scandal? If so, why has PwC not corrected the record in relation to the Open Letter and apologised to Mr Gregg?***
- 4. *PwC must be aware that many media outlets which reported on PwC's public statement of 3 July 2023 (titled "PwC Australia exits eight partners for professional or governance breaches" (3 July Statement) understood the 3 July statement to suggest that the eight PwC partners, including Mr Gregg, had 'exited' or were 'in the process of being removed from the partnership' because they had been found by PwC to have been involved in the tax scandal. Given that: A) that Mr Gregg has not 'exited' and there is no process in place to remove him from the partnership (and the process in place at the time of the 3 July Statement has been found by the Supreme Court to have been invalid); and B) he has not been found by PwC to have been involved in the tax scandal, why has PwC not corrected the record in relation to the 3 July Statement and apologised to Mr Gregg?***
- 5. *Mr Gregg has been irreparably damaged as a result of PwC publicly naming him in association with the tax scandal. Identify the person/s who made the decision to publish the Open Letter and 3 July Statement?***
- 6. *Please provide details of any requests of PwC by Mr Gregg that he not be publicly associated with the tax scandal.***





These questions relate to a matter between PwC Australia and Mr Gregg which is ongoing. Further, the Microsoft Word document containing these Questions on Notice, identified that the document's author is Ms Rebekah Giles, Mr Gregg's legal representative, and not Senator Pocock. As Senator Pocock indicated at the hearing of 12 October, Mr Gregg *"intends to commence proceedings against you in coming days for many millions as a result of the damage inflicted by public statements from PwC, including damage relating to serious mental harm."* Given the threat of legal action by Mr Gregg, and noting that the questions appear to have been drafted by his legal representative, PwC Australia considers it inappropriate to answer these questions.

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**Written Questions on Notice from Senator Barbara Pocock received on 18 October 2023 due 8 November 2023**

- 1. *It's been reported in the Australian Financial Review that ATO second commissioner Jeremy Hirschhorn attended a 2-day global tax conference in Paris in November 2019 at the expense of PwC. In relation to this trip:***
- a. What is the total amount PwC spent on Mr Hirschhorn's participation in this event?***
  - b. What was Mr Hirschhorn's itinerary?***
  - c. Who attended the conference from PwC Australia?***
  - d. Who invited Mr Hirschhorn to attend the conference?***
  - e. Who arranged Mr Hirschhorn's travel and accommodation?***
  - f. Did Mr Hirschhorn participate in any private dinners or meetings during this entire trip?***
  - g. If so, who attended these private dinners or meetings and when and where were they held?***

- a. PwC Australia spent approximately \$12,000 AUD on Mr Hirschhorn's business class flights, three nights of accommodation and ground transfers. Mr Hirschhorn was not paid to be a speaker at the PwC Global Tax Symposium.
- b. Mr Hirschhorn's itinerary consisted of:
  - 12- 13 November: Flights from Sydney to Paris
  - 14 November: PwC Global Tax Symposium. Mr Hirschhorn presented a session and participated in a break-out question and answer session
  - 15 November: PwC Global Tax Symposium and conference dinner
  - 15-16 November: Return flights from Paris to Sydney
- c. Six PwC Australia partners attended the conference. PwC Australia does not intend to disclose their personal information.
- d. PwC Australia's then Financial Advisory Leader, Mr Tom Seymour, invited Mr Hirschhorn.
- e. PwC Australia arranged Mr Hirschhorn's travel and accommodation, in consultation with Mr Hirschhorn's team.
- f. Mr Hirschhorn's attendance at private dinners or meetings during the trip is a matter for him.
- g. Attendees at any private dinners or meetings is a matter for Mr Hirschhorn.

**2. *On what terms did Luke Sayers leave PwC?***

Mr Sayers retired from the partnership after serving the maximum term of eight years as PwC Australia's CEO.



**3. *Why was Luke Sayers not given access to the PwC retirement scheme?***

Mr Sayers is not currently eligible for the PwC Australia retirement scheme as he has not reached the age of eligibility.

- 4. *Please provide a copy of the full report and any evidence or analysis underpinning the conclusions that resulted from the review by Linklaters into the leaking of confidential tax information.***
- 5. *Please provide all PwC correspondence which relates to the findings in the Linklaters review.***
- 6. *Which confidential Treasury, Board of Taxation and ATO documents were shared with Linklaters and/or PwC international for the review?***

Please refer to our answer to Question 2 of PwC Australia's response to Questions on Notice due on 2 November 2023, which is on Page 2.

**7. *Which PwC Australia personnel were involved in the sharing of confidential material?***

PwC Australia has provided information about the various confidentiality breaches by PwC Australia personnel in its Statement of Facts.

PwC Australia is mindful of the ongoing inquiries being conducted by authorities which PwC Australia is cooperating with. In deference to these, PwC Australia will not provide further details than what is contained in our Statement of Facts.

**8. *Which PwC International personnel were involved in commissioning, reviewing and/or assisting the Linklaters review, and/or receiving the report from the Linklaters review?***

Please refer to our answer to Question 2 of PwC Australia's response to Questions on Notice due on 2 November 2023, which is on Page 2.

**9. *Provide the full report, including the findings of the Allens Review.***

**10. *Provide the full report, including the findings of the King Wood Mallesons review.***

As outlined in our answer to Question 8 of PwC Australia's response to Questions on Notice due on 2 November 2023, which is on Page 6, Allens and King & Wood Mallesons have not provided PwC Australia with reports. The law firms have provided legal advice to PwC Australia to assist it with the investigations it undertook. Legal advice that PwC Australia



received is privileged and confidential and PwC Australia does not intend to release that advice. This is consistent with standard practice in Australia and elsewhere.

Further, PwC Australia is mindful of the ongoing inquiries being conducted by authorities which PwC Australia is cooperating with. In deference to these, PwC Australia will not provide further details than what is contained in our Statement of Facts.

- 11. *Provide agenda items and minutes of the PwC board meetings from October 2022 through to June 2023***
- 12. *Please explain when the PwC board was alerted to the tax leaks scandal and what information was shared with the board.***

As outlined in our Statement of Facts, on 3 September 2019, PwC Australia's Governance Board received an update on a meeting between Mr Sayers and Mr Hirschhorn. The records of the Governance Board indicate that the first substantive update in relation to the TPB investigation was provided to the Risk Committee of the Governance Board in May 2022, and that the first substantive update to the full Governance Board was in September 2022. As noted in our response to Questions on Notice from Senator Pocock of 21 July 2023, in order to avoid prejudicing the ongoing AFP investigation (including any individuals that may be the subject of the investigation), PwC is unable to provide board agenda items and minutes to the Committee.

- 13. *Please explain the terms of Neil Fuller's separation from PwC***
- 14. *Was Neil Fuller allowed to retire from PwC in connection to the tax leaks scandal?***

PwC Australia does not propose to comment on this matter given that it is currently before the courts.

- 15. *Why did PwC remove Peter Konidaris?***
- 16. *Was PwC alerted to any further breaches of confidentiality by Peter Konidaris?***

Please refer to our statement published on 3 July 2023, available [here](#).

PwC Australia is mindful of the ongoing inquiries being conducted by authorities which PwC Australia is cooperating with. In deference to these, PwC Australia will not provide further details than what is contained in our Statement of Facts.



17. *How much in total did PwC spend on the Switkowski review?*
18. *How much in total did PwC spend on the Linklaters review?*
19. *How much in total did PwC spend on the King Wood Mallesons review?*
20. *How much in total did PwC spend on the Allens review?*

Engagement fees are commercially sensitive and PwC Australia does not intend to disclose these arrangements.

21. *On 17 October 2023, the Australian Financial Review reported an-ex big four accounting firm partner is alleged to have promoted a tax exploitation scheme. Was this partner at PwC? If so:*
  - a. *Provide their name, position, team.*
  - b. *Are they continuing to receive financial benefits from PwC, including, but not limited to, retirement payments?*
  - c. *Why did the partner retire?*
  - d. *Was the partner forced to retire?*
  - e. *Did the partner sign an NDA on retirement?*
  - f. *Were any other PwC personnel involved in the tax exploitation scheme, and if so, who?*
  - g. *Did PwC investigate any other partners or staff in relation to this matter? If so, who?*
  - h. *Did PwC sanction any other partners or staff in relation to this matter? If so, who?*
  - i. *Did PwC report this matter to any regulators, government agencies or professional bodies? If so, which ones and when?*
  - j. *Has PwC reviewed the matter internally or externally? If so, please provide the review and all documents relating to the review.*
  - k. *When was PwC leadership first made aware of the issue? Who was made aware?*
  - l. *Provide a copy of all correspondence and documents, including, but not limited to, emails, text/WhatsApp messages, letters, photos, relating to the tax exploitation scheme.*
  - m. *Provide a timeline of the matter, including but not limited to, the actions of the ex-partner, when PwC was made aware of the matter, all communication PwC had in relation to the matter internally and with government agencies and regulators.*
  - n. *Name the 7 clients the scheme was marketed to.*
  - o. *What fees did PwC obtain from marketing the scheme?*
  - p. *The Financial Review reported the partner ran the scheme "by a number of partners who advised it was a common arrangement." Name these partners.*
  - q. *The Financial Review reported WhatsApp messages between the ex-partner*



***and another individual. Name the other individual, including their position and team.***

We can confirm that the person is not a PwC Australia partner.