



OUT18/16356

Matthew Sedgwick
Consumer and Corporations Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600
Sent via email: Regmod@treasury.gov.au

Dear Mr Sedgwick,

Re: Modernising Business Registers and Director Identification Numbers legislation

The Office of the NSW Small Business Commissioner (OSBC) would like to thank the Treasury for the opportunity to comment on the Modernising Business Registers and Director Identification Numbers legislation.

The OSBC is focused on supporting and improving the operating environment for small businesses throughout NSW. The OSBC advocates on behalf of small businesses, provides mediation and dispute resolution services, speaks up for small business in government, and makes it easier to do business through policy harmonisation and reform.

The OSBC continues to strongly support the streamlining of business registration services. The proposed *Commonwealth Registers Act 2018* will make it easier for small businesses to engage with multiple agencies across all levels government through the creation of a single business register, decreasing duplication and improving efficiency.

Furthermore, the amalgamation of the Australian Business Register (ABR) and Australian Securities and Investments Commission (ASIC) registers provides an opportunity to assess what information is collected from businesses and how it can enable government to provide more effective support and services while reducing any administrative or regulatory burden on businesses.

The OSBC submits that the register should collect information on the size of businesses and categorise these, resulting in the creation of a “small business identifier” (or SBI). In Australia, two key definitions are commonly applied when determining what constitutes a small business, the Australia Tax Office (ATO) definition relating to annual turnover of less than \$10 million and the Australian Bureau of Statistics (ABS) definition of less than 20 full time equivalent employees. With the ATO as the proposed Registrar, annual turnover could easily be

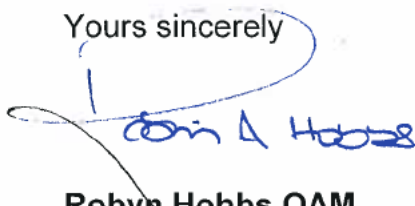
corroborated, and information about employee numbers could be collected at the point of registration and be supplemented by other ATO information such as PAYG Withholding Statements to provide richer small business information. As stated in our 2017 submission to the Modernising Business Registers discussion paper, the OSBC would also like to ensure this data can be made available to agencies to ensure better tailoring of policies and services to small business.

The new register should also require businesses to advise their principal place of business, that is, the address of the physical location their business operates out of, in addition to their postal address. This data is currently collected in the ASIC registration process¹, and the OSBC supports this information being included in the new register. The OSBC would like to emphasise the importance of this information in order to accurately identify where all the physical business premises are within each state. For many small businesses, the principle place of business may be their home address. Having access to this information is necessary in case of an emergency, where it could be utilised to identify businesses during an emergency response to ensure they receive the appropriate assistance and are subsequently supported throughout the recovery period.

The OSBC also supports the introduction of the Director Identification Number (DIN) as a means to combat illegal phoenix activity. When companies enter into illegal phoenixing it is the subcontractors and small businesses that usually suffer as they are typically unsecured creditors in the instance of an insolvency. The OSBC is experienced in the construction sector and has had numerous subcontractors make contact alleging instances of illegal phoenixing taking place on construction projects. The OSBC believes that the introduction of DIN is a key step in deterring and penalising phoenix behaviour.

To discuss this submission, please contact Kiara Drinan, Advisor, Advocacy and Strategic Projects, on [REDACTED] or [REDACTED]

Yours sincerely



Robyn Hobbs OAM
NSW Small Business Commissioner
29 October 2018

¹ Corporations Act 2001 (Cth) s117(j)