Supplementary submission addressing term of reference (b)

b. Measures to prevent conflicts of interest, breach of contract or any other unethical behaviour by consultants.

Few measures currently exist to prevent conflicts of interest and unethical behaviour by consulting firms. We provide another example, a well-documented episode that gives insight into how the 'Big Con' works.

In this example, KPMG provided consulting services to the NSW Government, which enabled it to manipulate asset valuations so that a new entity, the Transport Asset Holding Entity (TAHE), would not be required to comply with specific accounting standards. On the advice of KPMG, the NSW Government established TAHE as a statutory state-owned corporation (SOC). The NSW Auditor-General's report on government agencies' use of consultants revealed that KPMG was paid around $72 million between 2017 and 2022 and received over $30 million for establishing the NSW TAHE.[11] This was just part of a significant expenditure on consultants by the previous NSW Government, with more than $1 billion spent on consultants in five years; the world's four biggest firms – KPMG, Ernst & Young, PwC and Deloitte – were the beneficiaries of the lion's share of spending, accounting for 27% of the State's consultancy spend since 2017.

Guthrie and Sardesai's (forthcoming) research identifies a significant KPMG conflict of interest in the case of TAHE and a cover-up over accountability to Parliament. The KPMG case has many elements of the 'Big Con.' It highlights unethical behaviour, as revealed by the *Australian Financial Review*'s analysis of evidence and documents associated with parliamentary committees, the NSW Auditor-General and internal KPMG documents,[12] including failure to prevent information leaking between Treasury and TAHE, and accusations of bullying and attempts to discredit a Transport Secretary and former KPMG partner,[13] who advised that it was neither safe nor financially viable for TAHE to proceed.

To prevent these conflicts of interest and provide oversight, we recommend that the Australian National Audit Office (ANAO), which has a long history of overseeing public accountability, play a more significant role. Previous governments severely reduced the ANAO's performance auditing capacity. We argue that savings by limiting the use of consultants should be invested in providing $25 million yearly to the ANAO for more performance audits, therefore building capacity in the ANAO. As part of its role, the ANAO could be tasked with auditing compliance for procurement requirements. Audits at the state level have found inconsistencies in the ways that consulting services are procured. There is a need for additional tools, automated processes and other internal controls to improve compliance and collect sufficient data, which should be published.[14]

[1] https://www.abc.net.au/news/2023

[2] https://www.audit.nsw.gov.au/our-work/reports/nsw-government-agencies-use-of- consultants#:~:text=Next-,Executive%20summary,government

[3] NSW Report No. 13 - Public Accountability Committee - Transport Asset Holding Entity.

[4] Burton, T. (2021), 'Ex-KPMG partner "bullied, humiliated"', https://www.afr.com/politics/ex-kpmg-boss- bullied-humiliated-20211108-p596yx.

[5] NSW procurement