



Discussion Paper: Defining Aboriginal and Torres Strait Islander-owned Businesses

Australia

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DEFINING AN INDIGENOUS BUSINESS

INTRODUCTION

The issues involved in defining and measuring Indigenous economic development are diverse. As a starting point, the Australian Bureau of Statistics (ABS) will focus on defining a measure of small-to-medium, privately-owned, Aboriginal and Torres Strait Islander-owned businesses to underpin efforts to measure economic development more broadly. This discussion paper puts forward a proposed definition of such a business.

This discussion paper is designed to be a basis for further stakeholder consultation. It should therefore be considered as the beginning of a conversation rather than the conclusion. The definition has been developed based on stakeholder consultations over the past few years. A background to the development of this definition can be found in Appendix 1.

In this paper the terms 'Aboriginal and Torres Strait Islander' and 'Indigenous' are used synonymously for the sake of clarity and ease of reading. The word 'Indigenous' has been used in the draft definition for this reason also.

PROPOSED DEFINITION

Based on the stakeholder consultations, the ABS has developed a definition of an Indigenous business for further consideration. The definition aims to:

- align with the ABS definition of a business, and
- reflect stakeholder views on the importance of Aboriginal and Torres Strait Islander ownership and control.

The definition assumes and accepts Indigenous self-identification for both individuals and businesses.

Definition

"An Indigenous business is a legal entity that is majority owned by Indigenous persons and is engaging in productive activity and/or other forms of economic activity in the market sector. Such entities accumulate assets on their own account and/or hold assets on behalf of others, and may incur liabilities. Included are economic entities (such as incorporated businesses) where majority ownership of the entity may be shared between Indigenous directors, partners and/or shareholders. Excluded are the economic activities of Indigenous persons (except where individuals engage in productive activity either as sole traders or as a majority owner in another type of legal entity), and entities mainly engaged in hobby activities."

COMPONENTS OF THE DEFINITION

This section describes key components of the definition, and the implications in terms of inclusions and exclusions. Key components discussed are:

- alignment with the ABS definition of business
- majority ownership
- incorporated businesses
- businesses owned and controlled by Indigenous persons and operated by non-Indigenous persons
- large businesses and those that are publicly-owned.

Alignment with the ABS definition of business

Conceptually, the definition of an Indigenous business has been designed to align to the ABS definition of a business. The ABS definition of a business is:

"A business is a legal entity engaging in productive activity and/or other forms of economic activity in the market sector. Such entities accumulate assets on their own account and/or hold assets on behalf of others, and may incur liabilities. Excluded are the economic activities of individuals (except where individuals engage in productive activity either as sole traders or in partnership) and entities mainly engaged in hobby activities."

By aligning with the ABS definition of a business, the set of Aboriginal and Torres Strait Islander-owned businesses will:

- be a subset of Australia's approximately 2 million small to medium businesses on the Australian Business Register
- exclude most community organisations on the basis that they are not for profit and are not therefore engaged in productive activities
- exclude individuals who are not sole-traders because they are not registered as businesses and are therefore not legal entities.

Majority ownership

Stakeholder consultation to this point has emphasised that the definition should reflect both Aboriginal and Torres Strait Islander ownership and control. Furthermore, the consultation has established quite definitely that a level of Aboriginal and Torres Strait Islander ownership that is less than 50 per cent is not considered to be sufficient in defining an Indigenous business.

To reflect this feedback, the definition uses majority ownership to link the concept of "ownership" with the concept of "control". The key assumption is that if more than 50% of a business is owned by Indigenous persons, then that business will be regarded as controlled by Indigenous persons and therefore as an Indigenous business.

Consequently, the definition excludes businesses where:

- ownership is split exactly 50 per cent between Aboriginal and Torres Strait Islander and non-Indigenous persons - this can occur for example, in cases where a husband and wife team set up a business and only one of the parties identifies as an Indigenous person
- there is a significant Indigenous minority ownership in a business.

It is proposed to exclude these specific entities from the definition, primarily because it is difficult to ascertain whether "control" of the business rests with an Indigenous person(s).

Incorporated businesses

The reference to incorporated businesses has been included in an attempt to remove any ambiguity associated with the concept of majority ownership and what this might mean in relation to incorporated entities. Incorporated entities, including small-to-medium enterprises, can be owned and controlled by one or more managing directors, partners and/or shareholders.

The definition's specific reference to the incorporated business sector simply aims to highlight that ownership can often be shared between these stakeholders and that such arrangements may be considered in the course of determining whether a business is Indigenous or not.

Businesses owned and controlled by Indigenous persons and operated by non-Indigenous persons

The definition allows for the inclusion of businesses which are operated by non-Indigenous persons, but where majority Indigenous ownership and control exists. For example, the operators of an Indigenous business may decide to purchase a smaller competitor. However, the day-to-day operations of the business may continue to be operated by existing (e.g. non-Indigenous) staff.

In such cases, both the controlling business and its new acquisition will be regarded as two separate Indigenous businesses, despite Indigenous persons playing a non-active role in the day-to-day operations of the new acquisition. In essence, the acquired business is still considered to be under Indigenous ownership and control, and therefore should be regarded as an Indigenous business.

Conversely, the emphasis on ownership and control excludes businesses owned and controlled by non-Indigenous persons whose employment base is mostly Indigenous. Under the definition, a business' workforce could be comprised entirely of Aboriginal and Torres Strait Islander people but, if ownership and control rests with a non-Indigenous person, then that business would not be considered an Indigenous business.

Large businesses and those that are publicly-owned

As businesses get larger and their ownership structures become more complex, assessing ownership and control becomes increasingly difficult. For example, trying to evaluate whether a wholly-owned subsidiary of a publicly-listed company with majority Indigenous management is an Indigenous business is an onerous task. Concentrating on small-to-medium privately-owned businesses allows us to more easily assess ownership and control.

The ABS measures small to medium-sized businesses by headcount employment base with current breakdowns for small businesses being 0–19 employees, medium-sized businesses being 20–199 employees and large businesses being comprised of 200 or more employees.

ALTERNATIVE DEFINITIONS

As discussed above, stakeholder discussions to this point have highlighted the preference for ownership and control as the basis for the definition. However, there are other concepts that could underpin a definition. These are described below. Definitions used by other organisations can be found in Appendix 2.

1. Industry-based
 - Defined as those that operate in certain industries identified as Indigenous industries (such as Indigenous art or bush foods).
2. Employee-based
 - Defined as those that employ a majority of Indigenous employees, regardless of ownership.
3. Geographically-based
 - Defined as those that operate in certain geographical areas considered to be Indigenous, such as Aboriginal and Torres Strait Islander communities.
4. Products-based
 - Defined as those that produce products that are considered to be Indigenous products (such as Indigenous art or bush foods).

ALTERNATIVE DEFINITIONS *continued*

5. Funding-source-based
 - Defined as those that are receiving funding, subsidies or aid from government agencies designed specifically to assist Indigenous businesses.
6. Benefits-Indigenous-communities-based
 - Defined as those, either for profit or not-for profit, that mainly service an Indigenous client group (such as a community health centre or land management programme).

MOVING FROM DEFINITION TO DATA COLLECTION

Acceptance and support of concepts and definitions are a pre-requisite for developing viable methods for data collection. Understanding the underlying user need for data is also critical.

Following the acceptance of a theoretical definition, the ABS will begin to explore ways of implementing the definition in terms of measuring the numbers and characteristics of Indigenous businesses. This may involve developing new surveys or interrogating existing data sources.

CONSULTATION PROCESS

This discussion paper provides a definition as a basis for collecting statistics on the number and characteristics of Aboriginal and Torres Strait Islander-owned businesses in Australia. Interested parties are invited to comment on all aspects of the draft definition, including, but not limited to the:

- inclusions and exclusions arising from the definition
- proposal to use self-identification
- focus on small-to-medium businesses.

Furthermore, looking forward to data collection, we're seeking feedback on the underlying data needs in relation to Aboriginal and Torres Strait Islander owned businesses. Examples include: number of businesses; income; turnover; expenditure; number of employees; business start-ups and failures; industry; location; institutional sector; type of legal organisation.

Feedback on this paper will be welcome until 3 January 2010. Please mail submissions to:

National Centre for Aboriginal and Torres Strait Islander Statistics

Australian Bureau of Statistics

GPO Box 3796

Darwin NT 0801

or email

NCATSIS_WDB@abs.gov.au

Workshop

Following the release of this discussion paper, the ABS plans to hold a workshop with interested parties in Canberra to discuss the draft definition. This workshop will be held in early 2011. If you're interested in the workshop, please contact freecall: 1800 633 216.

APPENDIX 1 BACKGROUND ON DEVELOPMENT OF DEFINITION

BACKGROUND

In 2003 the *COAG Ministerial Council on Aboriginal and Torres Strait Islander Affairs* defined Indigenous economic development as 'a process of enhancing opportunities for Indigenous people to increase their wealth and well-being, and the delivery of better economic outcomes for Indigenous people over the long term'. The main goals in this process are increasing overall levels of Indigenous employment and Indigenous participation in business.

In March 2003 the *Northern Territory Government* facilitated an *Indigenous Economic Development Forum* in Alice Springs to explore ways of getting more Indigenous persons in the NT, particularly those living in remote communities, into mainstream employment and business activity.

Following a second NT *Indigenous Economic Development Forum*, key Commonwealth and NT Government agencies formed the steering committee for *Measuring Indigenous Economic Development (MIED)* in the NT with the aim of improving measurement of Indigenous economic development and activity.

In 2008, a draft Information Plan for measuring economic activity in the NT was released to the *MIED Steering Committee*. The Information Development Plan paper *Measuring Indigenous Economic Development in the Northern Territory* presents the findings from the MIED NT project, including a proposed set of indicators to measure economic activity and development.

Following this report, subsequent investigations were conducted on implementing the working definition of an Indigenous business. These investigations found that the definition could not be operationalised.

In May 2009, the ABS conducted a workshop at the *Yulkuum-Jerrang: 2nd Indigenous Economic Development Conference* in Melbourne. The workshop presented various options for defining an Indigenous business and sought stakeholder comment.

Stakeholders acknowledged that there were potentially a number of ways for the Indigenous business sector to be defined. However, they strongly supported the proposal that Indigenous ownership and control should be the main basis for determining if an economic entity is Indigenous or not. Specifically, feedback indicated that Indigenous control, rather than just ownership, was a strong driver for defining whether an economic entity is Indigenous.

During the conference it was indicated that the ABS had an important role in attempting to bridge the existing information gap to enable policy-makers, researchers and other decision-makers to understand the size and composition of Indigenous economic activity.

Such comments have been echoed in a 2008 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs report entitled *Open for Business* <<http://www.aph.gov.au/house/committee/atsia/indigenouenterprises/report/front.pdf>>.

Recommendation 1, which relates to Indigenous business strengths and competitive advantage, states that:

"The Committee recommends that the Australian Government conduct a biennial national review of Indigenous businesses in Australia, collating data on industry sector, business size and structure, location and economic contribution."

BACKGROUND *continued*

It also states:

"The Committee recommends that the Australian Government recognise the vital contribution of Indigenous business development to the economic and social sustainability of Indigenous communities and, accordingly, develop the methodology to adequately value this economic and social contribution when assessing the investment returns for providing assistance to Indigenous businesses."

The *Open for Business* report outlined the issues with Indigenous-owned businesses in relation to formation and sustainable growth. It drew on the important social, cultural and economic characteristics relating to Indigenous-owned businesses including reciprocal family obligations, isolation, discrimination, poverty and networks. Accounting for these issues requires the ability to define and to monitor the growth of Indigenous business.

On 24 May 2010, the Australian Government released its draft *Indigenous Economic Development Strategy* <<http://resources.fahcsia.gov.au/IEDS/>> for consultation. The draft strategy outlines a framework for Indigenous economic development. It focuses on five key areas for improving the prosperity of Indigenous Australians: education and building individual capacity; creating sustainable job opportunities; supporting business and enterprise development; financial security and independence; and strengthening the foundations to provide an environment that supports Indigenous economic development.

While this framework is concerned with the broad issue of Indigenous economic development, rather than Indigenous businesses specifically, it does have a focus on encouraging improved access to capital for Indigenous businesses, encouraging private-sector engagement and partnership with Indigenous businesses and increasing the use of Indigenous businesses through Government procurement.

These priorities align quite strongly with the *Department of Education, Employment and Workplace Relations*'s revised *Indigenous Opportunities Policy* <<http://www.deewr.gov.au/Indigenous/Employment/Pages/IndigOpportunitiesPolicy>> as designed to encourage the preference of Indigenous suppliers in Federal Government procurement.

These priorities all require better sources of information about Indigenous businesses.

APPENDIX 2 OTHER DEFINITIONS OF INDIGENOUS BUSINESS

DEFINITIONS

1. Australian Indigenous Minority Supplier Council (AIMSC)

The *Australian Indigenous Minority Supplier Council (AIMSC)* is a not-for-profit company that aims to facilitate the integration of Indigenous businesses into the supply chain of private sector corporations and government agencies. It defines an Indigenous business as:

- at least 51 per cent owned by Indigenous Australians
- the Principal Executive Officer is Indigenous, and
- the majority of directors are Indigenous and the key company decisions are made by Indigenous Australians.

Refer to their website at <http://www.aimsc.org.au>

2. Indigenous Business Australia (IBA)

Indigenous Business Australia (IBA) offers financial assistance to help Aboriginal and Torres Strait Islander peoples to acquire, establish and develop commercially-viable businesses. Individuals may be eligible for IBA assistance if:

- they are over 18 years of age
- at least one applicant is of Aboriginal and/or Torres Strait Islander descent
- at least 50 per cent of the ownership of the business is held by a person(s) of Aboriginal and/or Torres Strait Islander descent
- they do not have the capacity to meet a business consultant's costs from their own financial resources.

Refer to their website at <http://www.iba.gov.au>

3. Office of the Register of Indigenous Corporations (ORIC)

The *Office of the Register of Indigenous Corporations (ORIC)* administers the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act)*. Aboriginal and Torres Strait Islander organisations can apply to be registered with ORIC under the Act. For corporations to register under the Act they must have a minimum percentage of Aboriginal and Torres Strait Islander members:

- corporations with 5 or more members – at least 51% of their members must be Aboriginal and Torres Strait Islander people
- corporations with 2 to 4 members – all but one of their members must be Aboriginal and Torres Strait Islander people
- corporations with 1 member – that member must be an Aboriginal and Torres Strait Islander person.

Refer to their website at <http://www.oric.gov.au>

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