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Submission to Discussion Paper on Tax-Deductible Gift Recipient Reform Opportunities

We appreciate the opportunity to comment on the discussion paper Tax-Deductible Gift Recipient Reform Opportunities.

The Invasive Species Council Inc. was formed in 2002, is a not-for-profit organisation and has deductible gift recipient (DGR) status.

We consider that our work makes a vital contribution towards protecting Australia's environment and advancing the public interest.

Following are responses to each of the discussion questions, starting with a detailed response to question 12.

Requirement to work on environmental remediation

We wish to provide a detailed response to consultation question 12:

Stakeholders' views are sought on requiring environmental organisations to commit no less than 25 per cent of their annual expenditure from their public fund to environmental remediation, and whether a higher limit, such as 50 per cent, should be considered? In particular, what are the potential benefits and the potential regulatory burden? How could the proposal be implemented to minimise the regulatory burden?

The Invasive Species Council strongly opposes any requirement for DGR registered groups to undertake expenditure on environmental remediation.

Environmental remediation is just a one type of the activity that provides tangible environmental benefit. It is unclear why this particular environmental activity should be given a greater emphasis than any other.

The environmental sector is highly diverse. Some groups cover a broad range of activities while others specialise in their interest area. The full spectrum of environmental activities conducted by non-profit organisations collectively plays a critical role in improving the environment and should be equally supported.

To require every environmental organisation to include rehabilitation in their operations would be extremely inefficient, illogical and disruptive.

An organisation may operate in an area where no rehabilitation is possible. Donors may not wish to fund rehabilitation works. The organisation's staff or volunteers may not have the skills or interest in conducting environmental rehabilitation. Undertaking environmental remediation would be contrary to our organisation's objects (Purposes listed in **Appendix 1**).

It is unclear why environmental rehabilitation would be favoured ahead of activities that preserve undisturbed natural areas such as the protection and management of existing habitat or education aimed at encouraging private land conservation. Activities that seek to avert future environmental problems should be even more highly regarded such as eradication of small populations of newly established invasive species like red fire ants, good quarantine systems and preventative surveillance and contingency planning.

Our organisation's activities include awareness raising and advocacy. Presenting information about best-practice biosecurity and invasive species policy to the general public, the media, government and politicians significantly assists in protecting the natural environment. Invasive species are recognised as one of the top three threats to the environment, being the main threat to declining Australian mammals and frogs and possibly its plants. This issue is poorly recognised and we are one of the few organisations advancing this issue at the national level.

The value of our recent advocacy that aimed at securing adequate public funding to eradicate red fire ants was positively recognised by many state and national ministers. This work was recognised in July 2017 with all state, territory and federal government committing \$411million over ten years.

- Deputy Prime Minister Barnaby Joyce said "I appreciate the contribution of the Invasive Species Council to this important work [the development of the invasive ants biosecurity plan]." (Feb 2017)

- Queensland Minister for Environment and Heritage Protection Steven Miles said, “I would like to thank you and the Invasive Species Council for the continued advocacy for fire ant eradication.” (Mar 2017).
- Chief of Staff to Queensland Minister for Agriculture and Regional Development Bill Byrne thanked us for “the work you have done to raise public awareness of the threat that fire ants pose to Australia and your support for the proposed national eradication program.” (Feb 2017)
- NSW Minister for Health Brad Hazzard said, “I acknowledge the work that the Invasive Species Council undertakes to keep Australia safe from invasive species.” (Feb 2017)
- NT Minister for Primary Industries and Resources Ken Vowles said “Thank you for the work done by the Invasive Species Council to increase awareness of Red Imported Fire Ants and the program to date.” (Feb 2017)

DGR status is extremely important for our organisation. Many donors donate because their donations are tax-deductible. This is evidenced by the fact that each year more than 95% of our donations are received in June.

A significant proportion of our income is from grants and donations from charitable trusts and foundations. All of these trusts specifically require a recipient to be DGR registered. Closing off this source of funding would impact at least half and at time more than two-thirds of our income.

In December 2016, we received a grant from the Ian Potter Foundation for \$275,000 over three years to undertake a three-year project to conduct a risks and pathways prioritisation project. The qualify for this grant we were required to have DGR status. The project advances feral government goals to identify national biosecurity risks and pathways and is being carried out in conjunction with the Department of Agriculture and Water Resources.

In summary, creating a requirement to allocate a large proportion of Invasive Species Council expenditure to environmental remediation would have an extremely detrimental impact on our work and is likely to make tax-deductible donations and grants unavailable to us. Our activity would therefore shrink to a small proportion of what it is now. It is unlikely that any other organisation would undertake this important work.

Comments on other discussion questions

Question 1: What are stakeholders' views on a requirement for a DGR (other than government entity DGR) to be a registered charity in order for it to be eligible for DGR status. What issues could arise?

Response

Supported for organisations similar to the Invasive Species Council. Registration as a charity administered by the ACNC is a positive step. We regard the ACNC as a good regulator, advancing the interests of not-for-profits and charities, building public confidence in the integrity of the sector and seeking to minimise unnecessary regulation or 'red tape'.

Question 2: Are there likely to be DGRs (other than government entity DGRs) that could not meet this requirement and, if so, why?

Response

We do not feel qualified to answer.

Question 3: Are there particular privacy concerns associated with this proposal for private ancillary funds and DGRs more broadly?

Response

We are happy with the level of public disclosure of ACNC reporting.

Question 4: Should the ACNC require additional information from all charities about their advocacy activities?

Response

We feel that this proposal would add an unnecessary and time-consuming regulatory burden. We already receive information from the ACNC about the importance of adhering to our charitable purpose and how to conduct advocacy within these limitations. For example, prior to the last federal election, the ACNC reminded us of our obligations with practical examples.

Given that our advocacy activities are largely conducted very publicly, this level of transparency makes it easy for third parties to lodge a complaint if they consider there is a problem.

Question 5: Is the Annual Information Statement the appropriate vehicle for collecting this information?

Response

We do not support the provision of this information. If the information was collected, it would be most efficient to include this as part of the ACNC annual information statement.

Question 6: What is the best way to collect the information without imposing significant additional reporting burden?

Response

An alternative proposal would be for our board directors to confirm in the annual accounts that the activities of the organisation were conducted in accordance with its objects.

Question 7: What are stakeholders' views on the proposal to transfer the administration of the four DGR Registers to the ATO? Are there any specific issues that need consideration?

Response

There is a need to speed up the DGR registration process which takes between one and two years. We would be concerned that the ATO may not have the expertise to understand environmental perspectives when considering proposed purposes and activities of an applicant.

Question 8: What are stakeholders' views on the proposal to remove the public fund requirements for charities and allow organisations to be endorsed in multiple DGR categories? Are regulatory compliance savings likely to arise for charities who are also DGRs?

Response

We would strongly support this proposal.

We believe the creation of the public fund management committee creates additional work with little obvious benefit. Our board members are also members of the public fund management committee, meaning that we need to hold two meetings each time we hold a board meeting in order for the public fund management committee to authorise the transfer of donated funds to the general account.

Having a separate public fund and associated bank account creates additional time consuming accounting and banking. Banking is one of the most time-consuming administrative activities, so simplifying arrangements would reduce red tape and save time.

Question 9: What are stakeholders' views on the introduction of a formal rolling review program and the proposals to require DGRs to make annual certifications? Are there other approaches that could be considered?

Response

We would be wary of any proposal that creates additional reporting.

Question 10: What are stakeholders' views on who should be reviewed in the first instance? What should be considered when determining this?

Response

We have no view. We are happy to be occasionally audited for compliance.

Question 11: What are stakeholders' views on the idea of having a general sunset rule of five years for specifically listed DGRs? What about existing listings, should they be reviewed at least once every five years to ensure they continue to meet the 'exceptional circumstances' policy requirement for listing?

Response

We have no view.

Question 13: Stakeholders' views are sought on the need for sanctions. Would the proposal to require DGRs to be ACNC registered charities and therefore subject to ACNC's governance standards and supervision ensure that environmental DGRs are operating lawfully?

Response

We have a high degree of confidence in ACNC compliance activities and would prefer compliance to be conducted by the ACNC instead of an organisation that does not understand the not-for-profit and charitable sector

I am happy to provide additional information.

Yours sincerely



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Appendix 1 – Objects of the Invasive Species Council Inc.

3. Statement of purposes

The purposes of the Association are to:

- (a) increase government, industry and public awareness of the threat of invasive species to biodiversity;
- (b) encourage government, industry and the public to improve the control and eradication of established invasive species and to prevent the establishment of new invasive species;
- (c) concentrate its work and activities particularly on preventing the further spread of invasive species rather than control measures for established invasive species in regions where it is not practicable to eradicate entrenched invasive species populations;
- (d) restrict its work and activities to invasive species which are, or may become, environmental pests (including invasive species which are also agricultural pests or that pose other threats to economic and social well being);
- (e) to establish and maintain a Public Fund to be called the Invasive Species Council Fund for the specific purpose of supporting the environmental objects/purposes of the Invasive Species Council Inc. The Fund is established to receive all gifts of money or property for this purpose and any money received because of such gifts must be credited to its bank account. The Fund must not receive any other money or property into its account and it must comply with subdivision 30-E of the Income Tax Assessment Act 1997; and
- (f) do any other things that are incidental or conducive to the attainment of these purposes.

(extract from the Constitution of the Invasive Species Council Inc)