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Re: Tax Deductible Gift Recipient Reform Opportunities | Discussion Paper

The Lizard Island Reef Research Foundation (Foundation) expresses its thanks for the opportunity to respond to the consultation questions in the 15 June 2017 *'Tax Gift Recipient Reform Opportunities: Discussion Paper'*.

Background

Our Foundation was established as an independent not-for-profit trust entity in 1978 to conduct and fund scientific research on the Great Barrier Reef. Most of our research is conducted at the Australian Museum's Lizard Island Research Station. We also help fund the scientific research facilities at the Station. The Australian Museum Trust (an entity established by an Act of the NSW Parliament) appoints two Trustees to our board. Our research is overseen by a Science Committee comprised mainly of senior Australian Museum scientists. Our Trust Deed provides that if ever our Foundation is wound up, our funds will be transferred to the Australian Museum Trust for purposes similar to our own.

We are registered as a DGR under Item 1 of the table in section 30-15 of the Income Tax Assessment Act as an "approved research institute". Our Foundation does not specifically have one of the charitable purposes required to come within the definition of "Charity" in the Charities Act 2013 (Cth), although on a wide interpretation it could be argued to be "advancing the natural environment". However, for reasons of good governance and transparency to our donors, we *are* registered with the ACNC and we *do* submit Annual Information Statements to the ACNC.

The Australian Museum's Lizard Island Research Station would not exist without the science that is conducted there with our support, and which we have provided since 1978. We would lose the ability to sustain that scientific research if we were to lose our DGR Item 1 status.

We strongly support the objective of ensuring good governance in DGR entities. We also strongly support the objective of minimising the compliance burden imposed by any additional regulatory requirements and oversight.

LIZARD ISLAND REEF RESEARCH FOUNDATION

Supporting Science on Australia's Great Barrier Reef

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ABN 51 856 560 421 Donations of \$2 or more to the Foundation are tax deductible in Australia

Our response to the 13 consultation questions is as follows:

1. Requirement to be a registered charity in order to be eligible for DGR status.

If it were clearly and unambiguously possible for our Foundation to be a “registered charity”, we would have no objection to this proposed requirement.

However, as noted above, under current law our purpose as an approved research institute is possibly NOT covered by the existing definition of “Charity” within the ACNC legislation. It would be entirely unacceptable if this proposal resulted in our losing DGR endorsement because we do not have one of the “charitable purposes” listed in the Charities Act.

In every-day language and in the ordinary dictionary sense of the word, “charity” implies help for the poor and those in need. The definition of “charitable purpose” already goes beyond this ordinary sense by including items that are not necessarily confined to the poor and needy. We request that any new law expands the current definition to include scientific research which advances understanding and conservation of Australia’s Great Barrier Reef and its countless species of life.

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

Yes – please see our response to question 1.

3. Are there particular privacy concerns associated with this proposal?

Our Foundation does not have any particular privacy concerns in this context.

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

Our Foundation is entirely devoted to scientific research and does not engage in or fund advocacy. In principle we would consider a requirement for DGRs to provide information about their advocacy to be reasonable from the perspective of transparency, provided it does not impose a disproportionate compliance burden.

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

Yes

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

In the Annual Information Statement.

7. Proposal to transfer the administration of the four DGR Registers to the ATO.

We have no objection to this proposal, so long as the function of the ATO in this context is purely administrative and not directed to the maximisation of Federal tax revenue. It should not be the function of the ATO to set the policy framework for granting DGR status.

8. Proposal to remove the public fund requirements for charities and allow organisations to be endorsed in multiple DGR categories?

We are unable to respond to this question because we do not know the details of this proposal. They are not set out in the 15 June Discussion Paper. The public is invited to contribute to our own Foundation's fund, and does in fact contribute.

9. Proposed formal rolling review program and requirement for DGRs to make annual certifications.

Our Foundation supports rolling reviews by the ACNC and/or ATO to ensure that each DGR organisation is still eligible for DGR status and to provide confidence to donors, provided such reviews are undertaken in a way that minimises the compliance burden on DGR organisations. We also support the proposal for DGRs to certify they meet the DGR eligibility requirements as part of their Annual Information Statements.

10. Who should be reviewed in the first instance?

We have no view on this question.

11. Proposed general sunset rule of five years for specifically listed DGRs.

We understand this proposal refers to DGRs that are listed by name in the tax law, and not to entities that have DGR status by virtue of having been endorsed as such by the ATO. Our Foundation is in the latter category. We have no view as to what may or not be appropriate for the specifically listed DGRs.

12. Proposal that environmental organisations commit no less than 25% of their annual expenditure from their public fund to environmental remediation.

If our Foundation's DGR status were dependent on it having the "charitable purpose" of "advancing the natural environment" and was therefore deemed to be an "environmental organisation", it would result in us having 25% less to spend on our important scientific research each year. Such a requirement would be inconsistent with our trust purposes. Because the Great Barrier Reef is so vast, any 25% contribution from our annual expenditure would have little remedial effect. It would serve no useful policy objective to divert such funds from our research.

13. 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?

Legal entities which have DGR status are already subject to all relevant laws and sanctions, as are their directors and trustees. The additional requirement of compliance with ACNC governance standards and supervision provides further assurance of compliance with legal requirements. There is no need for anything more.

Please contact us if you require any further information.

Yours faithfully



Charlie Shuetrim AM (Trustee)