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24 August 2012

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Attention: Chris Lyon

Dear Mr Chris Lyon

Submission: tax treatment of native title benefits

We understand that you are the Contact Officer for the Treasury in relation to the exposure draft legislation and explanatory material on the tax treatment of native title benefits.

We enclose our and Yamatji Malpa Aboriginal Corporation's joint submission on the exposure draft legislation and explanatory material.

We would welcome an opportunity to discuss the contents of our submission with you in due course.

Yours sincerely

Mark Leibler AC
Senior Partner

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Peter Seidel
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YMAC

JOINT SUBMISSION TO TREASURY

EXPOSURE DRAFT LEGISLATION AND EXPLANATORY MATERIAL ON THE TAX TREATMENT OF NATIVE TITLE BENEFITS

PREPARED BY: ARNOLD BLOCH LEIBLER AND YAMATJI MARLPA ABORIGINAL CORPORATION

1 Introduction

1.1 Thank you for the opportunity to comment on the exposure draft legislation (**Draft Legislation**) and explanatory material (**Explanatory Material**) on the tax treatment of native title benefits.

1.2 Arnold Bloch Leibler provides strategic legal and commercial advice nationally to a diverse range of leading Australian corporations, high-net-worth individuals, large family businesses, international corporations, as well as Indigenous groups. The amendments to the tax laws proposed in the Draft Legislation are of significant importance and concern to Arnold Bloch Leibler and it's clients.

1.3 Yamatji Marlpa Aboriginal Corporation (**YMAC**) is a native title representative body with statutory functions under the *Native Title Act 1993* (***Native Title Act***), and whose primary purpose is to represent the traditional owners of the Pilbara, Murchison and Gascoyne regions of Western Australia in various native title matters. YMAC is an important client of Arnold Bloch Leibler. YMAC's representative area covers over 1 million square kilometres, and YMAC has offices in Geraldton, South Hedland, Karratha, Tom Price, and Perth. The amendments to the tax laws proposed in the Draft Legislation are also of significant importance and concern to the traditional owners represented by YMAC.

2 Overview

2.1 The Draft Legislation represents a significant positive step towards achieving the policy intention behind Attorney-General Nicola Roxon's announcement at the National Native Title Conference in Townsville on 6 June 2012 that "*income tax and capital gains tax will not apply to payments from a native title agreement*".

2.2 Despite this significant step, further amendments to the Draft Legislation and Explanatory Material are necessary to fully realise this clear and unambiguous policy intention.

2.3 Our submission focuses on three areas of critical importance:

(a) the definition of 'native title benefit';

(b) the definition of 'Indigenous holding entity'; and

(c) the definition of 'distributing body'.

2.4 Further, we have included an additional submission concerning the introduction of a new deductible gift recipient (**DGR**) category for Indigenous organisations that carry out activities across multiple DGR categories in Division 30.[1]

3 Definition of 'native title benefit'

3.1 Proposed subsection 59-50(5) contains the new definition of 'native title benefit' and incorporates existing terminology from the *Native Title Act*, as follows:

> (5) A ***native title benefit*** is a payment or *non-cash benefit provided:
>
> (a) under an agreement made under:
>
> (i) an Act of the Commonwealth, a State or a Territory; or
>
> (ii) an instrument made under such an Act;
>
> to the extent that the payment or benefit relates to an act affecting native title; or
>
> (b) as compensation determined in accordance with Division 5 of Part 2 of the *Native Title Act 1993*.
>
> In paragraph (a), ***act***, ***affecting*** and ***native title*** have the same meaning in that paragraph as they have in the *Native Title Act 1993*.
>
> Note: Examples of agreements that can be covered by paragraph (a) include:
>
> (a) indigenous land use agreements (within the meaning of the *Native Title Act 1993*); and

[1] Unless expressly stated otherwise, all legislative references are to *the Income Tax Assessment Act 1936* or *Income Tax Assessment Act 1997* as appropriate.

(b) recognition and settlement agreements (within the meaning of the *Traditional Owner Settlement Act 2010* of Victoria).

3.2 We respectfully submit that three changes should be made to proposed subsection 59-50(5),. In summary:

(a) proposed paragraph 59-50(5)(a) should be changed to ensure that it applies to all benefits received pursuant to the relevant agreement, whether or not the payment relates to an act affecting native title;

(b) the word 'agreement' in proposed paragraph 59-50(5)(a) should be replaced by 'agreement, arrangement, or understanding'; and

(c) the reference in proposed subsection 59-50(5) to definitions in the *Native Title Act* should be updated to ensure consistency with that legislation.

Act affecting native title

3.3 Under proposed paragraph 59-50(5)(a) a 'native title benefit' is a payment or non-cash benefit provided under a specified agreement to the extent that the payment or benefit relates to an act that extinguishes native title rights or interests or is otherwise wholly or partly inconsistent with their continued existence, enjoyment or exercise (an '**act affecting native title**').

3.4 Proposed paragraph 59-50(5)(a) requires two things:

(a) there must be a payment made pursuant to a relevant agreement; and

(b) the payment must relate to an act affecting native title.

3.5 It appears that this does not properly reflect the clear and unambiguous intent of the legislature. In Attorney-General Nicola Roxon's Media release, Minister Roxon stated that "*we will clarify that income tax and capital gains tax will not apply to payments from a native title agreement*".[2] The additional requirement for a payment or benefit to

[2] The Honourable Nicola Roxon MP, Attorney-General and Minister for Emergency Management, Media Release, "The Future of Native Title" 6 June 2012.

relate to an act affecting native title is also inconsistent with Example 1.1 of the Explanatory Material that appears to indicate (as is proper in our view) that no further inquiry is needed where a payment or non-cash benefit is made under an Indigenous Land Use Agreement (**ILUA**) or any native title related agreement.

3.6 In any event, the current drafting is inconsistent with general native title practice. In our experience ILUAs and native title related agreements do not always include provisions that the acts covered by them amount to acts affecting native title. Further, an ILUA or a native title related agreement can cover past acts, as well as acts that amount to something less than an act of extinguishment or being wholly or partly inconsistent with the right or interest's continued existence, enjoyment or exercise. For example, an agreement may address issues of access or coexistence – both of which may not be wholly or even partly inconsistent with continued existence, enjoyment or exercise of native title rights or interests. Finally, a requirement that a 'native title benefit' will only be non-assessable non-exempt income to the extent it is an act affecting native title is not necessarily consistent with the application of the 'non-extinguishment principle', as defined in the *Native Title Act*.

3.7 There are extremely strong policy reasons why paragraph 59-50(5)(a) should not be a two-step process.

3.8 A two-step process would mean that subsequent to receiving the benefit, if it is determined by an order of the Federal Court that native title does not exist in respect of an area of relevance to an ILUA or any other native title related agreement (which could be many years after the ILUA is registered or agreement executed), the proposed legislation would not operate, the corollary of which would be that any payment or benefit stated in the ILUA or agreement to relate to an act affecting native title will not actually so relate.

3.9 Native title agreements contain a wide variety of payment and benefit provisions, some of which may be expressly referable to acts affecting native title, whilst many others may be cast in more neutral language. Others still may be less clear on any such nexus. If the test was intended

to be a two-step process then potentially many years after the ILUA is registered or agreement is executed lawyers will be required to forensically examine what, if any, aspects of the agreement in question concern payments relating to an act affecting native title. At best, confusion will abound, and at worst differences of interpretation will emerge, with litigation a likely result.

3.10 If ultimately after litigation has run its course and the entity is deemed through no fault of its own to have received a payment or benefit for an act affecting native title in circumstances where native title is determined by a court not to exist, the entity that derived the payment or non-cash benefit would be ordered to not only pay the significant costs of litigation, it will be required to make a voluntary disclosure and amend its return (if within the time period to amend), with the entity required to pay interest on any unpaid tax relating to the payment or non-cash benefit. To compound the misery, the entity may also be liable for penalties.

3.11 Such a result would singularly defeat the very reason why the tax laws are being amended here as a beneficial and positive measure.

3.12 It is obvious to us that the two-step test has no place in these amendments.

3.13 We submit that proposed paragraph 59-50(5)(a) should be changed to ensure that it applies to all benefits received pursuant to the relevant native title related agreement, whether or not the payment relates to an act affecting native title. This will provide clarity and will ensure consistency with the policy intent of the government, and will avoid confusion and ensuring litigation, created by any difference of interpretation. In particular, we suggest that proposed section 59-50(5) be amended as follows:

> (5) A ***native title benefit*** is a payment or *non-cash benefit provided:
>
> (a) under an Indigenous Land Use Agreement (within the meaning of the *Native Title Act 1993*) or an agreement, arrangement, or understanding made under an equivalent law of the Commonwealth, a State, or a Territory relating to Indigenous

persons, or an equivalent common law agreement, arrangement, or understanding; or

(b) as compensation determined in accordance with Division 5 of Part 2 of the *Native Title Act 1993*.

3.14 If, contrary to our submission, Parliament actually intends that proposed paragraph 59-50(a) does require a two-step test, we submit that Example 1.1 in the Explanatory Material should be clarified to make it clear that the payment is an act affecting native title under proposed paragraph 59-50(5)(a) (or alternatively compensation under proposed paragraph 59-50(5)(b)).

Use of the word 'agreement'

3.15 Proposed paragraph 59-50(5)(a) refers to an 'agreement' made under an Act of the Commonwealth, a State, or a Territory (or an instrument under such Act).

3.16 'Agreement' in proposed paragraph 59-50(5)(a) should be replaced by '*agreement, arrangement, or understanding*' to ensure that all statutory and common law native title agreements and arrangements, memoranda of understandings and the like are included, whether or not the agreement is pursuant to Statute and whether or not a particular current or future Commonwealth, State or Territory Act specifically uses the word '*agreement*'.

3.17 In our proposed paragraph 59-50(5)(a) we have incorporated this extended meaning of the word agreement (see paragraph 3.13).

Reference to terms used in the *Native Title Act*

3.18 The following change to proposed subsection 59-50(5) is only relevant if, contrary to our submission, Parliament does not accept the amendments to subsection 59-50(5) outlined above at paragraph 3.13.

3.19 Proposed subsection 59-50(5) contains the following:

> In paragraph (a), ***act***, ***affecting*** and ***native title*** have the same meaning in that paragraph as they have in the *Native Title Act 1993*.

3.20 "*Affecting*" is not defined in the *Native Title Act* and the phrase "*act affecting native title*" is specifically defined. We suggest that that proposed subsection would need to be amended to ensure consistency with the *Native Title Act,* as follows:

> In paragraph (a), ***act***, ***native title*** and ***act affecting native title*** have the same meaning in that paragraph as they have in the *Native Title Act 1993.*

4 Definition of 'Indigenous person'

4.1 'Indigenous person' will be a newly defined term in subsection 128U(1), replacing the previous term 'Aboriginal'. The term 'Indigenous person' will be replicated in subsection 995-5(1). The proposed definition of 'Indigenous person' is as follows:

> ***Indigenous person*** means a person who is:
>
> (a) a member of the Aboriginal race of Australia; or
>
> (b) a descendant of an Indigenous inhabitant of the Torres Strait Islands.

4.2 While the proposed definition of "Indigenous person" is consistent with the equivalent definitions in the *Native Title Act*,[3] proposed paragraph (b) may lead to inequitable outcomes for certain descendants of Torres Strait Islanders.

4.3 We can easily forsee several examples where a descendant of Torres Strait Islanders may not fall within a literal reading of the proposed definition due to the requirement of having to be a descendant of an 'inhabitant'. For example:

(a) if all the members of a family have left the Torres Strait Islands the family members would not be descendants of an inhabitant;

(b) the oldest living person in each family would not be a descendant of an inhabitant; and

[3] See definitions of 'Torres Straits Islander' and 'Aboriginal People' in section 253 of the *Native Title Act*.

(c) if parents leave the Torres Strait Islands, but the children remain, the children would not be descendants of an inhabitant.

4.4 We submit that proposed paragraph (b) be amended to eliminate the possibility of inequitable (and obviously unintended) outcomes as a result of that paragraph being given a literal interpretation. In particular, we submit that proposed paragraph (b) be amended to state "*a descendant of an Indigenous inhabitant (past or present) of the Torres Strait Islands",* to make it clear that a Torres Strait Islander includes all lineal descendants of Indigenous inhabitants of the Torres Strait Islands.

5 Definition of 'Indigenous holding entity'

5.1 The definition of 'Indigenous holding entity' in proposed subsection 59-50(6) provides:

> (6) An ***Indigenous*** holding ***entity*** means:
> (a) a *distributing body; or
> (b) a trust, if the beneficiaries of the trust can only be:
> (i) *Indigenous persons; or
> (ii) distributing bodies; or
> (iii) Indigenous persons and distributing bodies.

5.2 We submit the use of the words 'can only be' in the proposed subsection 59-50(6) results in overly rigid criteria for a trust to be an 'Indigenous holding entity'. For example, the following would seemingly not fall within the definition:

(a) a trust with a charitable unincorporated association or trust as a beneficiary; or

(b) a trust that has only Indigenous persons and/or 'distributing bodies', but the trust deed includes a general power to appoint additional beneficiaries.

5.3 Arnold Bloch Leibler and YMAC are aware of Indigenous entities that have entered into ILUAs and native title common law agreements where some of the benefits under that agreement are paid to a trust, where the beneficiaries of the trust include a charitable trust (with a purpose to benefit an Indigenous community). The trust that entered into the

agreement would not be an 'Indigenous holding entity' under the proposed definition. We reasonably assume this potentially egregious outcome is again unintended, and as such the draft should be amended.

5.4 Further, the definition would result in an immediate compliance burden on all trusts that seek to afford themselves of the tax exemption in proposed section 59-50. That is, all trusts would need to review, and possibly amend, the terms of their trust deeds to ensure all beneficiaries are of the required type and there is not a general power to appoint additional beneficiaries. To the extent that an existing trust did not meet the criteria in proposed subsection 59-60(6) then the trust deed would need to be amended (if possible) or a new arrangement entered into. Difficult issues may arise under ILUAs and other arrangements if a new entity is required.

5.5 We submit that the proposed subsection 59-60(6) be amended to reduce the compliance burden and correspond more fully with the policy intent of 'native title benefits' being non-assessable non-exempt when provided to an 'Indigenous holding entity' or, an Indigenous person (or applied for their benefit).

5.6 The definition of 'Indigenous holding entity' in proposed subsection 59-50(6) should provide as follows:

> (6) An ***Indigenous*** holding ***entity*** means:
>
> (a) a *distributing body; or
>
> (b) a trust, if the beneficiaries of the trust are:
>
> (i) *Indigenous persons; or
>
> (ii) distributing bodies; or
>
> (iii) Indigenous persons and distributing bodies; or
>
> (iv) any other body that is empowered or required to pay moneys received by the body to Indigenous persons or to apply such moneys for the benefit of Indigenous persons, either directly or indirectly.

6 Definition of 'distributing body'

6.1 The existing definition of 'distributing body' in section 128U reads as follows:

distributing body means:

(a) an Aboriginal Land Council established by or under the *Aboriginal Land Rights (Northern Territory) Act 1976*;

(b) a corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*; or

(d) any other incorporated body that:

(i) is established by or under provisions of a law of the Commonwealth or of a State or Territory that relate to Aboriginals; and

(ii) is empowered or required (whether under that law or otherwise) to pay moneys received by the body to Aboriginals or to apply such moneys for the benefit of Aboriginals, either directly or indirectly.

6.2 The Draft Legislation does not change this definition, except to the extent that the references to "Aboriginal" are replaced with "Indigenous person".

6.3 We submit that the existing definition in section 128U is too narrow in scope in that it prevents incorporated bodies, formed for the purpose of benefitting Indigenous persons, from being 'distributing bodies' where the body was formed, for example, under the *Corporations Act* 2001 for the benefit of Indigenous persons, rather than under a law that relates specifically to Indigenous persons.

6.4 Many of the Indigenous organisations that we deal with include companies limited by guarantee where the 'not for profit' purpose or the object of the company is to benefit Indigenous persons. As it stands, under the current drafting of section 128U, 'native title benefits' received by a company limited by guarantee under the *Corporations Act* 2001 with a purpose of benefiting Indigenous persons would not qualify for the tax exemption under proposed section 59-50. This is an anomalous outcome.

6.5 Further, many Indigenous organisations that both Arnold Bloch Leibler and YMAC work with do not necessarily want to be incorporated under laws that specifically relate to Indigenous persons. To suggest that organisations that are empowered to benefit Indigenous persons must only be established under laws that specifically relate to Indigenous person risks being perceived as archaic, paternalistic, and discriminatory.

6.6 We submit that paragraph (d) of the existing definition of '*distributing body*' be amended as follows:

> (d) any other incorporated body that:
>
> (i) is established for the benefit of Indigenous persons;
>
> (ii) by or under provisions of a law of the Commonwealth or of a State or Territory; and
>
> (iii) is empowered or required (whether under that law or otherwise) to pay moneys received by the body to Indigenous person or to apply such moneys for the benefit of Indigenous person, either directly or indirectly.

6.7 Our suggested wording would allow for incorporated bodies with a purpose of benefiting Indigenous persons to be eligible for the tax exemption when the body receives a 'native title benefit'. We submit that this change is consistent with the policy intent that 'native title benefits' not be subject to tax when received by an Indigenous person, an incorporated body, or trust that applies the benefits for the purpose of benefiting Indigenous persons. It is not important that the law of the Commonwealth or of a State or Territory relate to Indigenous persons; however, it is important that the entity apply monies (or non-cash amounts) received for the benefit of Indigenous persons. The drafting suggested at paragraph 6.6 adequately addresses that issue.

7 A new class of deductible gift recipient

7.1 Arnold Bloch Leibler and YMAC are aware of many Indigenous community based organisations that are keen to pursue alternative sources of funding, in addition to and beyond funding derived from Government sources. These organisations are determined to move beyond Government and welfare dependency to achieve economic independence and to grow their native title based activities, including through empowering philanthropic partnerships. To enable these organisations to obtain and enjoy available tax concessions and to attract donations from the private and philanthropic sectors so that they may achieve those aims, many are seeking to be endorsed as DGRs.

7.2 Many of the Indigenous organisations Arnold Bloch Leibler and YMAC provide advice to regarding DGR endorsement are native title related

coordinating bodies that assist on a not-for-profit basis to empower Indigenous communities "on the ground", to leverage off hard won 'native title benefits', for communal good. Many of these organisations aim to build the capacity or stimulate the economic activity of other organisations and to create conditions for future economic success through, for example, the improvement of education outcomes. These organisations provide assistance in various forms ranging from general business guidance to information sharing about "caring for country", generally arising in the context of native title determinations having been granted in favour of the community concerned.

7.3 These organisations are almost invariably corporations limited by guarantee at the Commonwealth level and Incorporated Associations at the State and Territory level, not companies limited by shares. The organisations have a philanthropic base; they are established on a "not-for-profit" basis, with no money being distributed to members. Generally, each has a provision in its constitution to the effect that, in the event the organisation is wound up, money will be distributed to like organisations or to similar charities. These organisations are often recognised as charitable institutions by the Australian Taxation Office and qualify for endorsement as tax concession charities.

Difficulty Obtaining DGR status

7.4 Many of the Indigenous organisations of this not-for-profit kind that Arnold Bloch Leibler works with in particular have experienced significant difficulties obtaining DGR status.

7.5 The primary difficulty faced by many Indigenous organisations is the stringent manner in which the *Income Tax Assessment Act 1997* requires organisations seeking DGR endorsement to primarily fit within the scope of one, and only one, of the prescribed DGR categories. On many occasions, these organisations fit into more than one DGR category and they are, therefore, prevented from successfully pursuing an application for DGR in any one category. This is despite the objectives of the organisations often falling within the scope of multiple categories including, for example, organisations on the Register of

Cultural Organisations, organisations on the Register of Environmental Organisations, and Harm Prevention Charities.

7.6 In our view, the difficulty of not fitting within the scope of only one DGR category is particularly pronounced in the case of Indigenous organisations. For many Indigenous communities, there is an inextricable link between the environment and culture. Together, those two concepts represent and embody fundamental values of Indigenous peoples. The connection of Indigenous peoples with their lands and waters means that Indigenous cultures are fundamentally focussed on relationships with, and respect for, lands and waters. Because of this equally shared link, it is artificial to require an Indigenous organisation to focus on cultural purposes to the exclusion of those which are environmental. The result under current legislation is, inevitably, that these organisations with a holistic focus can neither secure entry on the Register of Cultural Organisations nor on the Register of Environmental Organisations.

7.7 The inextricable link between environment and culture, in the context of favourable native title outcomes for the community concerned, for many Indigenous organisations ought to be recognised and actively supported by Government through DGR endorsement. That dual focus leads to a strong emphasis on protecting the environment and building capacity through sustainable practices and promotion of a level of custodianship over threatened native title lands and waters. The public interest in and prominence of such issues today strongly suggests that Government should increase the practical support it offers to organisations focussed on both environmental and cultural protection. A DGR category catering for such Indigenous organisations would achieve that.

7.8 Further, it is important that the process by which endorsement is sought is straightforward to ensure that the limited resources of such organisations are not unnecessarily wasted. Currently, seeking DGR endorsement for Indigenous organisations, many of which are small, resource stretched entities, can be a time consuming, confusing and costly process. For example, Indigenous organisations can currently obtain DGR endorsement in the following ways:

(a) Establishing a complex trust structure in which a separate not-for-profit entity is established for each discrete DGR category. We consider this option is unsatisfactory because such a complex structure can consume much valuable time and money.

(b) Alternatively, an Indigenous organisation can be endorsed as a PBI provided it can demonstrate that its principal characteristics are directed at the relief of poverty, sickness, suffering, distress, misfortune, disability or helplessness. In our view, as a PBI is predominately focused on the provision of welfare, it is an antiquated and limited DGR category, especially for those Indigenous organisations which are focussed on the self-empowerment, self-improvement and development of Indigenous communities, leveraging off native title related gains.

7.9 We also note that a further difficulty often faced by Indigenous organisations seeking to obtain DGR endorsement is that the ATO will refuse DGR status to Indigenous organizations on the basis that there exists a similar organization with a similar purpose. Given the extent of the disadvantage that Indigenous Australians continue to suffer, refusal of endorsement should not, as a matter of policy, be made.

7.10 To alleviate the problems referred to above, we consider that the Government ought to establish a new DGR category which caters specifically for Indigenous organisations.

Proposal for new DGR category: Indigenous Development Organisations

7.11 Together with a number of our clients, we have developed a proposal that would involve creating a new DGR category under the *Income Tax Assessment Act 1997* to cater for Indigenous Development Organisations (**IDOs**). The proposal aims to foster private sector involvement in Indigenous economic and community development and would, clearly, deliver the practical outcomes for Indigenous Australians to which the Government has committed.

7.12 We propose that an IDO would be entered on a Register of IDOs following approval by the Minister for Indigenous Affairs and the Treasurer. Once on the Register, IDOs will be regulated by a similar

process to that of Cultural Organisations and Environmental Organisations.

7.13 Our proposal is that IDO would be defined as follows:

A non-profit organisation whose dominant purpose is:

a) building Indigenous community leadership and capacity and the capacities of constituent communities;

b) protecting and enhancing native title, environment and culture of discrete Indigenous communities in discrete areas, through environmentally, culturally and economically sustainable development activities;

c) building and developing conservation and cultural economies on behalf of discrete communities in discrete areas and/or on behalf of various communities and areas at regional levels;

d) enabling more efficient native title, environmental and cultural protection and enhancement at local levels by acting as a peak body at regional levels on behalf of various local communities;

e) maintaining physical, cultural and mental health and well being of discrete communities in discrete areas and/or through by acting as a peak body at regional levels on behalf of various local communities;

f) acting as a native title culturally, environmentally and economically sustainable peak development body on behalf of discrete communities in discrete areas, through native title culturally, environmentally and economically sustainable negotiations with third parties and/or collaborations with government and the private sector;

g) acting as a cross cultural body on behalf of discrete communities in discrete areas and/or at more regional levels on behalf of various local communities;

h) raising the scholastic achievements of Indigenous students in remote and rural locations, through "whole of community" educational approaches that are culturally sensitive;

i) any several of the purposes listed in a) to i) inclusive.

7.14 The IDO Register would apply only to organisations with such dominant purposes. The Register would also be designed to accommodate organisations that may well have dominant purposes that overlap with other DGR Registers, including for example the Register of Cultural Organisations and the Register of Environmental Organisations.

7.15 In our view, the creation of such a Register of Indigenous Development Organisations would have the following clear advantages for Indigenous non-profit organisations:

(a) it would allow each of these organisations to test their eligibility against one set of criteria only, which would be evaluated and determined by the Minister for Indigenous Affairs and the Treasurer;

(b) the criteria would be able to better reflect the types of activities undertaken by many Indigenous non-profit organisations that are working to improve outcomes for Indigenous people, leveraging off native title gains;

(c) it would avoid Indigenous organisations having to find ways to fit their activities into the more narrowly defined current DGR categories; and

(d) it would help to build the economic independence of Indigenous organisations and people.

7.16 Based on our experience, this approach would be clearer for applicants to follow and would provide greater guidance about the types of organisations that might fit within the guidelines.

Conclusion

7.17 In our view, the proposal outlined above will greatly assist IDOs who are currently unlikely to qualify under any existing register or because the existing categories do not reflect the vision of the organisations concerned to obtain DGR endorsement.

7.18 The creation of a DGR register for IDOs would greatly enhance the ability of such organisations to pursue alternative sources of funding, to complement Government assistance, to establish economic independence and to expand their activities. DGR status is a precondition to these organisations achieving sustained development and wealth creation.

7.19 This proposal is consistent with the Government's commitment to enabling Indigenous people and their native title communities to build

their own capacity, to achieve their own economic independence and to improve life chances for the majority of Indigenous people.

7.20 Following the apology in 2008 to the Stolen Generations, the Government made a pledge to lead Australia in efforts to close the life expectancy gap between Indigenous and non-Indigenous Australians. Government rightfully acknowledges that pledge includes a commitment by the Government to engage with the private sector and with community organizations to end the disadvantages suffered by Indigenous Australians. We firmly believe that the creation of an "Indigenous Development Organizations" DGR category would demonstrate the Government's commitment to building sustainable, long term empowering relationships between Indigenous and non-Indigenous Australians, to assist to achieve true reconciliation in Australia.

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