Digital Assets Down Under

Making Australia a Destination Jurisdiction for Digital Asset and Cryptocurrency Projects, Investment, and Skills

SUBMISSION TO SENATE SELECT COMMITTEE ON AUSTRALIA AS A TECHNOLOGY AND FINANCIAL CENTRE

By

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1. Background

1.1 I am an academic, but I used to be a practising lawyer and lobbyist. I was a member of the Business Advisory Group established by then-Prime Minster Gillard to consult on the creation of the *Fair Work Act 2009*. I was subsequently a member of the Committee on Industrial Legislation (COIL) that reviewed the draft text of the *Fair Work Act*. I was appointed independent chair of the Safe Rates Advisory Group whose work became the *Road Safety Remuneration Act 2012*. So, I have some experience in how policy is formed and translates into legislation.

1.2 My formal title now is Entrepreneurial Fellow at the ANU School of Law. I run a research project called Lex Automagica, funded by Ripple's University Blockchain Research Initiative. The research project examines whether blockchains, digital assets, and smart contracts can help scale justice by automating legal relationships. We choose a real-world problem and explore whether the technology can help solve it, usually by producing a white paper and, if possible, working code.

1.3 As part of this research, we have built a number of projects including:

(a) **HotPocket:** a new, more flexible smart contract protocol that transforms any number of Linux machines into mini-blockchains capable of cheaply and speedily running almost any dApp at almost any scale;

(b) **iXRPL:** a proof-of-concept for an "on-chain", GDPR-compliant, Self-KYC solution powered by HotPocket. It tokenises the fact your identity has been verified, turning the verification into a reusable asset. All personal information and documents are securely stored through end-to-end encryption. Users always retain full control over the encryption keys to ensure the security and ownership of their personal documents.

(c) **Digital Cows:** a proof of concept that explores how Australia's well-developed quality control regulations and biosecurity protections for its cattle industry can be leveraged through blockchains and smart

contracts to provide a 24/7/365 digital market for trading interests in cows.

(d) **Evernode:** our vision for a global, permissionless, decentralised network of nodes designed and incentivised to cheaply and speedily run any dApp in any language at any scale coordinated from the XRP Ledger.

1.4 Below are my suggestions on how Australia can become a destination jurisdiction for Digital Asset Projects, based on our experiences in attempting to apply blockchain technology to solve real world legal problems.

2. The General Challenge of Attracting Digital Asset Projects

2.1 In seeking to make Australia a destination jurisdiction for Digital Asset Projects, we must appreciate the regulatory challenges inherent in the way blockchains, digital assets, and smart contracts provide their presumed benefits.

Blockchains (Ideally) Obsolete the Middlemen Our Laws Require

2.2 Blockchains involve multiple machines configured in such a way that they can run the same code and canonical database while being sufficiently immune to a sub-set of machines failing or engaging in malicious activity. They are (potentially) new social scaling institutions. Through a combination of code, key pair encryption, and game theory they minimise the need for trust reliably and cheaply enough for complete strangers to collaborate across time and space without the traditional institutional intermediaries. Thus, we can have money without a central bank, property registries without a registrar, dispute resolution without a court, regulation without a bureaucracy.

2.3 However, our laws generally assume a hub-and-spoke world. Faced with cost of policing its individual citizens, governments regulate and deputise the hubs. Laws tend to assume a "throat to choke", an entity who is, or can, be made responsible for the activities in question by virtue of their role in the transaction or relationship. Very often, this entity must register with relevant authorities or hold necessary licences. Yet, blockchain systems are peer-to-peer. Their benefit arises, if at all, from the degree to which they do what they do without a hub to connect the spokes and without any party who could sensibly apply for or hold licences on behalf of the blockchain.

Blockchains Make Digital Assets (New) Property…

2.4 Digital assets arise almost naturally from blockchains. They are just entries in a database. But the distributed, permissionless nature of these blockchain systems lend sufficient certainty and independence to these data entries for them to be considered money and property. What would otherwise just be data entirely controlled and dependent on the actions of the database owner, becomes verifiable, permanent, alienable, and transferable. On a database anyone can use, everyone can police, and nobody owns, the data becomes property.

…And Speculative Investments…

2.5 Digital assets allow a wide range of rights and things to become tokenised, to be given a digital identity. This means almost any right can turned into a tradeable asset. Inevitably, this leads to speculation, turning what might traditionally have been a commodity market into something that feels like it should be regulated as a security or managed investment.

…And Money…

2.6 This problem will be exacerbated because, once tokenised and liquefied, everything also becomes money that can be transferred without regulated intermediaries. The pressure to regulate all digital assets as money will be significant, but regulating them like we regulate banks and money services businesses will probably destroy their ability to provide the promised social scaling benefits.

…But Really Useful…

2.7 What makes digital assets seriously useful are smart contracts. These are small software applications that run on blockchains and automate transactions involving digital assets. They make the digital assets programmable, adding a new universe of possible ways in which relationships can be automated or governed by code rather than the discretionary actions of complete strangers.

…And Money, Useful Assets, and Speculative Assets Don't Usually Mix

2.8 So, in the same way light behaves as both a particle and a wave, digital assets are data that behave as money, useful assets, and speculative instruments. This is a problem because money, property, and investment instruments are regulated in different, almost incompatible, ways. (The government has already confronted this problem when it exempted certain money-like digital assets from GST.)

Also, Blockchain Projects Are Incredibly Diverse

2.9 Finally, blockchains and digital assets are not uniform as to design or technology (or desirability). Proof of Work (PoW) systems that rely on miners competing to solve cryptographic puzzles, are different from Proof of Stake (PoS) where validators stake digital assets to improve their chances of mining blocks and winning rewards. And both vary greatly from consensus chains like the XRP Ledger (UNL Consensus) where validators collectively order transactions with peers they choose to trust, often without reward because the tokens tend to be pre-mined and held in a central treasury.

2.10 Then there are digital assets, like BTC, ETH, and XRP, which are native to their chain with no counterparty. Some are non-native assets with no counterparty (like many ERC20 Tokens on the Ethereum blockchain) because they are controlled by a smart contract, and some are counterparty assets that rely on a third party for their value or redemption, like the stablecoin USDT.

2.11 This means there will be a continuum of Digital Asset Projects from those that cannot perform their function and deliver their benefits without being "purely decentralised" to those that involve "decentralisation theatre" and would be better handled and regulated as traditional centralised databases.

So Being a Destination Jurisdiction Is No Easy Thing

2.12 So, for Australia to be a destination jurisdiction for Digital Asset Projects it needs laws tailored to creating a welcoming regulatory climate for the types of blockchain projects it thinks are desirable. This will almost certainly mean adjusting the regulatory posture to welcome purely decentralised projects that have no one who can sensibly apply for licences or registration despite the project involving a digital asset that is simultaneously money, a useful asset, and a speculative investment.

2.13 Care must be taken to design regulation that is both technologically neutral (because the technology is so varied), does not foreclose the most beneficial

projects (because the most beneficial projects will naturally be those that are most difficult to regulate, if at all), and yet keeps bad-actors away (because there are plenty of those, too).

3. Specific Changes

3.1 This section is designed to assist the Committee with a non-exhaustive list of specific examples of the issues faced in making Australia a destination jurisdiction for Digital Asset Projects, given the core problems identified above.

Business Structures

3.2 We still have not solved the problem of what *is* a blockchain, by which I mean the nature of the legal relationship between blockchain participants.

3.3 The problem is that Imposing anything but the bare minimum of legal liabilities on participants in a blockchain reinforces centralisation, corrupting the project and making it impossible or meaningless to function as a blockchain.

3.4 If we want to attract high quality Digital Asset Projects that deliver genuine benefits that only blockchains can provide, we should consider laws that limit or nullify liability for participants along the following lines:

(a) **Coders:** programmers of open-source code should have no liability for the use made of their code because it is open to everyone to check the suitability of the code.

(b) **Miners/Validators:** validators should have no liability to users for running the code that allows them to participate in the blockchain.

(c) **Users:** Users should have no liability to other users or to validators for their use of the blockchain

(d) **Foundations:** not for profit entities that act as custodian or curators of communal "assets" should have no liability to users or miners.

3.5 These kinds of "no liability" rules are consistent with the view of blockchains as being unincorporated joint ventures where every participant is responsible for themselves and themselves only. They should be bestowed on "desirable" projects that are open sourced (the code can be reviewed by anyone) and properly decentralised (anyone can use them and no single entity or group of entities is a single point of failure or otherwise controls the chain).

Digital Assets as Property

3.6 While Australia has no formal case law confirming digital assets are property, It is almost certain that digital assets are sufficiently verifiable, permanent, alienable, and transferable to be considered property, and that is the trend in other common law jurisdictions.

3.7 However, while they are clearly personal property, digital assets are neither choses in action (a claim you assert) nor choses in possession (something you possess). They are some new hybrid class of property. Further, it is not clear how all the different legal and equitable rules (such as restitution, or joint assets transferred on death) might apply to this new form of property.

3.8 As a destination jurisdiction for Digital Asset Projects, Australia should confirm the nature and character of digital assets as property.

Taxation – Make Tax Exempt NFPs More Certain

3.9 Our tax laws unavoidably complicate the establishment of Digital Asset Projects compared to competing jurisdictions like Singapore that have favourable income tax laws and do not have CGT or GST.

3.10 Any digital asset project will inevitably have significant tax issues to solve about how staked and pre-mined assets should be treated from a tax perspective when created and distributed. One particular example is the impossibility of a miner giving a complying Tax Invoice in return for fees paid to include a transaction in one of the miner's blocks.

3.11 Australia does have one area of comparative advantage in respect of tax: tax exempt not-for-profits (NFPs). Most Digital Asset Projects involve an NFP foundation at the heart of the ecosystem. This entity is responsible for promoting and curating the community assets. In some cases, it might also act as the treasury. This is a wholly appropriate function for an NFP.

3.12 In Australia, an NFP is tax exempt if it is established for the principal purpose of the development of Australia's information technology resources. At first glance, this would appear to include undertaking the functions of a foundation of blockchain ecosystem.

3.13 If Australia could make it easy and certain to establish a tax exempt NFP for a blockchain ecosystem this would greatly improve Australia's attractiveness as a destination jurisdiction for Digital Asset Projects and remove many tax problems. Australia's low-hanging fruit is to remove three uncertainties regarding the NFP status of such an entity:

(a) It should clarify, potentially simply through an ATO ruling, that an NFP established to promote or curate a blockchain is "developing Australia's information technology resources".

(b) It should clarify that a blockchain NFP can distribute digital assets in accordance with the blockchain's code without breaking the rule that NFPs cannot distribute surplus assets to members.

(c) It should clarify the extent to which a blockchain NFP of a fully functional blockchain can curate its ecosystem and perform a treasury function without being considered a promoter for the purposes of Australia's managed investment laws.

Data Liability Laws

3.14 Australia has some of the least forgiving data hosting liability laws. Whereas other jurisdictions have significant immunities for people who provide hosting infrastructure, Australia makes hosting infrastructure providers fully liable for the content and applications on their infrastructure. This impacts Digital Asset Projects involving smart contracts because the nodes host data and programs over which they have no control. Australia cannot expect to be a destination for Digital Asset Projects with such unforgiving laws in place for people running nodes on smart contract empowered blockchains.

Privacy

3.15 Blockchain systems face problems complying with privacy laws. Blockchains work because everyone runs the same compatible code and uses the same canonical database. Otherwise, your node will not be in sync and won't be

usefully a part of any chain. The public nature of purely decentralised blockchains means users implicitly agree to have a range of private information made public. Transaction details are all public and can often be readily matched, over time, to pseudonymous accounts.

3.16 This leads to two main problems:

(a) Node operators should be appropriately protected against privacy laws so they can run nodes without needing a user's express consent.

(b) Users should be allowed to obscure their identity on public blockchains by using things like mixers without being in breach of money transmission laws.

DAOs, LAOs, and CCCs

3.17 The decentralised nature of blockchains mean new forms of governance and community participation are required. These nascent governance structures have taken many forms including:

(a) **DAOs (Decentralised Autonomous Organisations)**: what amount to common law partnerships, syndicates or unincorporated associations whose activities and investment decisions are co-ordinated by code or smart contracts.

(b) **LAOs (Legal Autonomous Organisations):** traditional legal entities whose internal management is coordinated through code or smart contracts.

(c) **CCCs (Code Coordinated Communities)**: a catch-all term for coordination via code that includes situations where the parameters of the blockchain protocol itself can be altered by agreement between its users.

3.18 One way Australia can be more attractive to Digital Asset Projects is to better accommodate CCCs in a variety of acceptable forms. Australia has a wide range of corporate forms available, including private companies, public companies, companies limited by guarantee, incorporated partnerships, and both for profit and not for profit co-operatives. But in each of these cases, relatively minor technicalities prevent any CCC from being formalised as an existing type of legal entity in Australia. For example:

(a) **Company Membership:** to be a member of a company I must provide my name and address and be entered in the register of members. This is not possible for a blockchain project where membership of the chain is through pseudonymous addresses.

(b) **Company Boards:** companies require a minimum number of Directors. Directors acquire personal liability for things like insolvent trading and WH&S laws. Unless you can have director-less (shareholder controlled) corporations, it is not feasible for DAO to set up as a company in Australia.

(c) **Secretaries**: Australian law does permit a Secretary who is does not have to be a member of the Board, but Secretaries are officers of the company with all the fiduciary duties of a Director, in contrast to those jurisdictions that permit a registering Agent with limited liabilities.

(d) **Co-ops**: Co-operatives are a potentially useful business form for CCCs, but they suffer from the same registration requirements as companies with

the added problem that the "democratic principle" of "one member one vote" cannot be readily achieved where people participate anonymously via blockchain accounts or through governance tokens that entitle larger holders to greater say.

(e) **Partnerships**: it is possible to have a partnership that avoids the need to register its members, but partnerships are unsuitable because they are limited to 20 members, introduce joint and several liability, unlimited personal liability and fiduciary obligations, and attract the managed investment scheme provisions of *The Corporations Act 2001*.

(f) **Trusts:** trusts are also a way to avoid the registration hurdles of corporate structures but the trustee will almost always want to be a corporate entity to limit liability (re-enlivening all the registration problems), whilst also exposing the trustee to all the fiduciary obligations and manage investment scheme laws.

3.19 One potential solution to the problem to allow DAOs to incorporate. Wyoming, for example, has enacted laws to give DAOs legal personality. However, this assumes a form of registration (albeit one that involves no board of directors and simple registering Agent.)

3.20 I think a better approach is to clarify circumstances in which a CCC or blockchain community are unincorporated joint venturers. This model is similar to a partnership but involves no pooling of assets, sharing or profit, or joint and several liability. Instead, participants share outputs, not profit, retain ownership of the assets they contribute to the venture, and solely liable for their own conduct, and have no ability to bind other participants.

Securities and Investment Laws

3.21 Australia has robust and reasonably certain securities and fundraising laws. Contrast this to the United States which has been unable to determine whether digital assets are investment contracts. However, Digital Asset Projects now rely on significant fundraising to happen. The business model almost always involves appreciation in the value of the digital assets themselves.

3.22 Given that digital assets inevitably become a form of speculative investment, Australia should clarify the circumstances under which projects become managed investment schemes and, if they are a managed investment scheme, a viable way for the scheme to become compliant without destroying the project's decentralised nature.

3.23 At present, it is almost impossible for most blockchain projects to register as a compliant managed investment scheme because the regulatory and licensing requirements assume an independent trustee and independent manager both of whom hold necessary licences for the type of asset they manage.

3.24 To be a destination jurisdiction for Digital Asset Projects, Australia should adopt securities laws and regulations that make it as easy as possible for blockchain projects that are managed investments to access a tailored form of registration and regulation for such projects. These new laws would need to accept that under certain circumstances decentralised, open-source blockchains and smart contracts are capable of providing many of the consumer protections that are otherwise provided by licensed intermediaries.

Everything is Money

3.25 To support digital assets you must accept that everything will become money. When everything is tokenised then liquefied (with liquid trading pools) it becomes money-like in the sense of being a means of storing, transferring, and measuring value. Money transmission and banking laws will need to be reviewed to ensure they do not unnecessarily or inadvertently hamper Digital Asset Projects.

Digital Asset Negotiability

3.26 One of the problems with digital assets being both money and useful assets is the problem of negotiability.

3.27 Money is generally treated as owned by the bearer without that person having to establish valid chain of title. By contrast, you cannot obtain good title to assets without purchasing them from the legal owner. As digital assets are both money and useful assets, Australian law should clarify that they are negotiable, like money. This approach has been adopted in Wyoming.

Digital Asset Custody

3.28 Wyoming has further clarified that financial institutions that act as custodians of digital assets do so under a bailment arrangement rather than a creditor/debtor arrangement. This approach prevents custodians from re-hypothecating digital assets and otherwise inappropriately adding leverage and risk to digital asset markets.

Facilitating Government Participation in Private Chains

3.29 In our iXRPL project it became apparent that in a blockchain system, instead of financial institutions keeping personal data on customers for when regulators demanded it, the regulators could have direct access to the data via the blockchain.

3.30 However, this would mean programming a specific role for regulators to give them preferential access to data hidden from other users. This is doable in a decentralised system if the regulators published public keys (to which they held the private keys) to which users could vote to assign regulatory privileges.

3.31 So, to make Australia a destination jurisdiction for Digital Asset Projects, the government should consider how it could allow private projects to give special roles to regulators to assist those projects to better achieve desirable outcomes. These initiatives could be things like publishing standard public keys for regulatory agencies, or other streamlined processes for projects to interface with regulators.

Oracles: A New Profession?

3.32 Blockchains cannot "talk" to the outside world. Generally, they rely upon trusted oracles – people or machines – to inform them of the "true" state of the outside world.

3.33 In our Digital Cows project, we ultimately decided to build the system around Stock and Station Agents. These are trusted licensed professionals with fiduciary obligations and regulated in each state. They are therefore useful as trusted oracles to ensure, for example, that the cattle actually exist, are actually sold and the sale proceeds actually remitted to owners/investors.

3.34 As a destination jurisdiction for Digital Asset Projects, Australia should consider

the creation and regulation of a specific new profession of 'blockchain oracle'. Such a profession would provide a fungible pool of people with the knowledge and experience (and fiduciary duties and insurance) to be trusted providers of off chain data to private blockchain projects.

Voting Rights, Airdrops, & Rewards

3.35 It is increasingly common for digital assets to come attached with additional rights and privileges. These could be voting rights (rights to have some kind of say in the way the blockchain project functions) airdrops (further digital assets dropped into a wallet for no consideration because of your ownership of other digital assets) and rewards (further digital assets earned by 'staking' existing assets).

3.36 Complications arise when people hold their digital assets through an intermediary such as a digital asset exchange or some other custodian, like a lending platform. From the point of view of the chain, the exchange or custodian owns the assets and is therefore entitled to the voting rights, airdrops, and rewards. This can lead to exchanges and custodians inappropriately claiming rewards or excising control over projects, without any protection for the legal owners of the assets.

3.37 To be a digital asset destination, Australia should consider laws to standardise the rights and obligations as between exchanges/custodians and users. These rights should include limits on whether and how exchanges can exercise voting rights attaching to digital assets their customers own, and obligations on exchanges to "pass through" to users the benefits of any airdrops or staking rewards.

Personal Property Security

3.38 The *Personal Property Securities Act 2009* provides a mechanism for registered holders of a personal property security to assert a priority interest over that personal property.

3.39 It is not yet clear how this law applies to digital assets, including what category (if any) of personal property digital assets fall under. This should be clarified because digital assets are increasingly being accepted as collateral for loans and being lent out. To protect themselves, user need to know with ease and certainty how to register a personal property security over such assets.

Private Key Secrecy & Custody

3.40 Blockchain systems rely on key pair cryptography. A consequence of this technology is the digital assets are inextricably linked with the key pair. Whoever controls the private keys controls the asset. If the private keys are lost or destroyed the asset is destroyed.

3.41 Despite their importance, the status of private keys is exceptionally unclear. Australia should consider laws to clarify the nature of private keys attaching to digital assets including:

(a) Ensuring users are legally entitled to refuse to disclose their private keys, as Wyoming has done.

(b) Confirming when disposal of private keys constitute disposal of the assets.

(c) Distinguishing between different types of multi-sig arrangements and

confirming when such arrangements lead to joint ownership of the underlying asset.

Interoperability

3.42 One of the challenges for blockchain systems is interoperability. Unless blockchains can "talk" to each other, their value becomes siloed. The same dynamic that allows you reliably to send emails to other people regardless of whether they use Outlook or GMail needs to underpin blockchain ecosystems. This is often called the Internet of Value, the idea that value can move as easy as information.

3.43 The problem is digital assets are money-like. So money transmission laws tend to apply to any interoperability solution. It can be onerous or impossible in the case of decentralised systems to obtain the necessary licences or to engage in the required KYC processes. Imagine how dysfunctional the internet would be if every provider of a router had to "know" each end user and the operator of every router of a data packet.

3.44 For Australia to be a destination jurisdiction for Digital Asset Projects it should enact exemptions that treat interoperability solutions like Interledger Protocol like routers. Otherwise, every router has to obtain a money transmitter's licence, which could be prohibitive.

Private Stablecoins

3.45 One things we discovered with our Digital Cows project was the usefulness, indeed necessity, of a private stablecoin for the solution to function.

3.46 A stablecoin is a digital asset pegged 1:1 to a fiat currency, in this case the Australian dollar. There are many forms of stablecoin but the two dominant ones are:

(a) **Asset Backed:** The digital asset is simply a digital IOU for assets that is backed 1:1 by money held on deposit in a bank or suitably secure and liquid assets like government bonds;

(b) **Over-Collateralised:** in the same way you take out a loan equal to 80% of the value of your home, the digital asset is an IOU representing a percentage of the market value of other digital assets locked in a smart contract or digital vault.

3.47 The benefit of a stablecoin is that it is a way of transferring money independent of traditional payment rails. This will almost always be necessary for any digital asset project. In our Digital Cows project we needed a way for the chain to know that users actually had money to buy digital cows, actually paid for the digital cows, and that the proceeds of the real world sales of the cows were remitted to the owners of the cows. It is not possible for any "open banking" solution to make this function through a series of APIs. Every bank or every user would have to agree but there would be nobody to sign the API licence agreements.

3.48 Instead we needed to assume a stablecoin existed. This would be a digital asset minted by a bank or group of banks that represented money on deposit with the bank and redeemable on demand. Technically, such a coin seemed feasible and compliant with Australia's money transmitter laws since we would essentially be proposing a closed system coin that would not be tradeable outside the Digital Cows platform.

3.49 However, there is no guarantee we would be able to find a bank willing and able to bank the project. One challenge for digital assets is how they interface with the traditional banking system who is both a necessary service provider to Digital Asset Projects and a potential competitor. As a "minimum success criteria" Australia should ensure that banks cannot refuse banking services to Digital Asset Projects.

3.50 To be a destination jurisdiction for Digital Asset Projects Australia should review its banking and money transmission laws to provide a certain and cost effective way for projects to create stablecoins for their platforms. This would be in lieu of Australia adopting some form of government backed Central Bank Digital Currency ("CBDC").

Competition Law

3.51 Blockchains permit new and potentially potent forms of collaboration between complete strangers… and competitors. With its highly concentrated industries many blockchain projects in Australia, such as supply chain initiatives, will inevitably involve a reasonably small number of otherwise competing economic actors. Such conduct runs the risk of being anti-competitive or cartel behaviour under the Competition and Consumer Act.

3.52 In its quest to be a destination of choice for Digital Asset Projects, Australia should review its competition and consumer laws to determine whether and what conditions blockchain projects should be exempted from usual competition laws.

3.53 Such an analysis could involve considerations like whether public, permissionless solutions that anyone can use or access should be treated differently to private, permissioned chains from which entities can be excluded.

Consumer Law

3.54 Australian consumer laws should clarify whether and to what extent members of a blockchain ecosystem might be liable to each other. There are many situations where consumers and small businesses might rely upon coders or miners/validators to perform services or provide goods. It is not immediately clear how those laws apply to open source public blockchains. In general, it would be preferable for the open source, decentralised nature of a blockchain to be its own form of consumer protection without requiring additional things like statutory guarantees.

4. Model Jurisdiction

4.1 The Committee has indicated it *"is particularly interested in the approaches taken by policymakers in Canada, Singapore, the United Kingdom and the European Union."*

Be Crypto Cowboys

4.2 In fact, the most comprehensive policy settings are being developed in Wyoming. Wyoming has deliberately and systematically set out to be a destination jurisdiction for digital assets. It laws have included:

(a) Specific forms of financial institutions for digital assets.

(b) Confirmation that financial custodians hold digital assets under bailment.

(c) Confirming the right to keep your secret keys secret.

(d) Legal personality for DAOs and limited liability for members.

4.3 When in doubt, the Committee should first look at what the "Crypto Cowboys" have done.

Singapore: Hard to Beat

4.4 Singapore is Australia's main competitor for Digital Asset Projects – the commercialisation of all of our research projects has necessarily involved consideration of Singapore as the destination jurisdiction. However, the main reason for Singapore's attractiveness is the simplicity of its tax settings which Australia cannot realistically emulate or adopt.

4.5 The simple truth is that setting up a blockchain project in Australia involves a series of complicated legal issues the answer to which is either:

(a) Here is an advice costing $20k which confirms the law is uncertain; or

(b) Set up in Singapore.

Tax Exempt NFPS Are Our Competitive Advantage

4.6 The one area where we outcompete Singapore is in relation to the capacity for a tax exempt not-for-profit to act as the custodian of the community assets of a blockchain project.

4.7 Since most "best practice" projects involve a well-established and well-funded Foundation at the heart of the ecosystem, confirming the ability for not-for-profit companies limited by guarantee to be tax exempt while acting custodian of a blockchain ecosystem would offer be the biggest "bang-for-buck" and "low-hanging fruit" adjustment I could recommend.

5. Next Steps

5.1 Thank you for the opportunity to contribute to the public debate.

5.2 I'd welcome the opportunity to further address the Committee in due course.

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