

25th February 2023

Director
Crypto Policy Unit
Financial Systems Division
The Treasury
Langton Crescent
Parkes ACT 2600

Dear Sir

Re: Token mapping consultation paper

I refer to the above consultation paper and your request for feedback and comments, and have set out below responses to the questions posed.

Q1: What do you think the role of government should be in the regulation of the crypto ecosystem?

A1: In considering the regulation of the 'crypto ecosystem' it would be useful to apply a layered approach as follows:

- Protocol (base) layer
- Applications (layer 2)

In this case an analogy that can be drawn with the simple mail transfer protocol (SMTP).

Upon inception SMTP was not subject to any regulation, and the open nature of the 'protocol layer' triggered an explosion of innovation in terms of electronic communications (peer-2-peer and broadcast) at the application layer (Hotmail, Outlook, Thunderbird, etc).

It was only when misuse arose (in the form of spam messaging) that a regulatory response was required (although these regulations have largely been overtaken by further innovation at this second level).

Attempting to over-regulate the crypto ecosystem at the base layer would stifle innovation at a very early stage of its evolution.

An example of such over-regulation is the recent legislation which clarified the taxation treatment of digital currencies:

[Treasury Laws Amendment \(Measures for Consultation\) Bill 2022](#)

Treating Bitcoin as a commodity in this fashion (ie at the base layer) has effectively curtailed any innovation that might have otherwise occurred in relation to its potential function as a medium of exchange, to the short term detriment of Australian consumers.

It also runs the risk of encouraging 'regulatory arbitrage', as other jurisdictions pursue more targeted models.

Examples of these overseas models include:

- The recent partnership between CoinCorner and the UAE Government, which has the stated goal of accelerating and expanding the use of Bitcoin (and the layer 2 Lightning network) for both personal and business customers¹
- The various de minimus legislative proposals in the US, which would see Bitcoin transactions below a certain threshold excluded from treatment as a taxable event²

While not ultimately preventing its adoption as a store of value, the result of Australia's current more generic regulatory approach will be to limit our participation in the innovation (and investment) that is taking place in the Lightning network around the world.

1 <https://www.nasdaq.com/articles/royal-family-of-dubai-company-seed-group-partners-with-coincorner-to-facilitate-bitcoin>

2 <https://www.congress.gov/bill/117th-congress/senate-bill/4356/text>