

2 September 2022

Mr Marty Robinson
First Assistant Secretary
Corporate and International Tax Division
The Treasury
Parliament House
PARKES ACT 2600

Dear Mr Robinson,

RE: Multinational tax integrity and enhanced tax transparency

The Australian Petroleum Production & Exploration Association (APPEA) is the peak national body representing companies actively engaging in oil and gas exploration and production in Australia. Over the past decade, APPEA's members have invested more than \$350 billion in developing projects, supported 160,000 jobs throughout the industry's value chain, and have made payments in excess of \$60 billion to state and federal governments through taxation and royalties.

APPEA welcomes the opportunity to respond to the August 2022 Consultation Paper titled *Government election commitments: Multinational tax integrity and enhanced tax transparency* (the Consultation Paper). Given the numerous principles and questions raised throughout the Consultation Paper and the wide-ranging impacts any legislative formulation would have on the business community, we support the government's commitment to further consult on exposure draft legislation prior to introduction into Parliament.

APPEA has had the opportunity to review the submission by the Corporate Tax Association (CTA) dated 1 September 2022. We support and endorse the commentary in the submission and the responses to the questions contained in the Consultation paper. In addition to supporting and endorsing the CTA submission, we also make the following observations:

- The Consultation Paper seems to raise policy and administrative matters that were not outlined in the government's pre-election tax policy announcement. One such example is where the Consultation Paper contemplates winding back the ability of taxpayers to use the arm's length debt test (ALDT) when:
 - the announcement clearly articulated that the government would maintain the ALDT.
 - the ALDT aims to allow debt deductions for commercially justifiable levels of debt. It is, therefore, the central test and is a vital option that should remain.

- The Consultation Paper does not address the ability for carrying forward interest deductions when they exceed 30 per cent of EBITA. For large-scale capital-intensive projects the early stages of a project are unlikely to see a revenue stream until such time the project is completed and operational. Limiting debt deductions with out a carry forward allowance will render many of these projects uneconomic. This includes large-scale upgrades to the energy transmission network and building more supply into the energy network through renewables, putting at risk Australia's commitment to a lower emissions future.
- The Consultation Paper raises concerns with the proposal that requires listed entities to disclose to the share market where they self-identify as high risk as measured against key Australian Taxation Office (ATO) Practical Compliance Guidelines (PCG). We observe that PCGs are purposely designed to articulate the ATO's view on certain areas of risk and how they will allocate compliance resources to a particular situation rather than on correct legal principles. In our view, it is inappropriate to use them as a benchmark for disclosure of tax risk to the share market.
- Most multinational resources companies produce voluntary tax transparency reports, have their data published annually by the ATO, comply with the Global Reporting Initiative (as discussed in the Consultation Paper), participate in the Extractive Industries Transparency Initiative and report in accordance with European Union Accounting Directives in relation to project-based taxation. It is important that if Australia is to introduce enhanced reporting, that the information is of use to stakeholders and that the cost of compliance does not outweigh the benefits.
- The Board of Taxation has undertaken a review of Australia's Voluntary Tax Transparency Code (VTTC). The report was never released by the previous government. Given that the Board of Tax have played an instrumental role in the development and design of the VTTC and has undertaken a post implementation review, they are the ideal body to undertake a process to develop enhanced tax transparency measures which are fit for purpose.

If you require further information or would like to discuss the comments above, please do not hesitate to contact me on 0403 152 157, or at sstaples@appea.com.au.

Yours sincerely



Simon Staples
Director – Policy & Capital Markets