



29 February 2016

Division Head  
Corporate and International Tax Division  
Treasury  
[beeps@treasury.gov.au](mailto:beeps@treasury.gov.au)

### **Treasury Consultation Paper: OECD BEPS Transfer Pricing Recommendations**

The Minerals Council of Australia (MCA) appreciates the opportunity to provide comments on Treasury's consultation paper on updating Australia's transfer pricing rules to incorporate new OECD guidance.

The MCA supports Australia remaining in step with international consensus on the base erosion and profit shifting (BEPS) agenda. The MCA is of the view that updates and amendments to the OECD Guidelines should be incorporated once an updated version of the OECD Guidelines is published. This primarily mitigates potential timing differences in adoption between jurisdictions. It also avoids the need for additional legislative action to address any developments that may arise from the time an OECD report is finalised and the time the updated OECD Guidelines are published. In this regard, we note that further work is being conducted by the OECD in relation to a number of the BEPS action items (notwithstanding the publication of 'final' reports).

Subject to the points above, the MCA does not have concerns that there are any significant unintended consequences or issues that could arise from Australia's adoption of the amendments recommended in the BEPS Final Reports if all elements of the updated version of the OECD Guidelines (when published) are incorporated into Australian law. Risks of double taxation arising from a mismatch in timing of the implementation of updated OECD guidance between jurisdictions should be addressed. ATO guidance should include information on how the ATO will work with other jurisdictions to ensure double taxation does not arise from the application of different OECD guidance.

The MCA supports adoption of the updated guidance through legislation rather than regulation. This would provide an additional level of certainty as to Australia's transfer pricing rules and would necessarily include more detailed explanatory materials which accompany legislative changes.

Should you require any further explanation of the issues raised in this letter, please contact me ([James.Sorahan@minerals.org.au](mailto:James.Sorahan@minerals.org.au) or 03 8614 1816).

Yours faithfully

A handwritten signature in blue ink, appearing to read 'James Sorahan', written in a cursive style.

**James Sorahan**

**Director - Taxation**