Offshore Alliance Submission:

NOPSEMA Maintenance and removal of property policy

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National Offshore Petroleum Safety and Environmental Management Authority

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Introduction

This submission has been prepared by the Offshore Alliance, which includes the Australian Workers Union and the Maritime Union of Australia (which is a Division of the Construction, Forestry, Maritime, Mining and Energy Union).

The Offshore Alliance jointly organises workers across the Australian offshore oil and gas industry, and represents the interests of approximately 20,000 people working across all aspects of the offshore oil and gas industry.

Requirement to remove property

The Offshore Alliance welcomes the statements from both the former Minister of Resources and NOPSEMA in 2019 on the need to increase the robustness of processes ensuring proper decommissioning of offshore oil and gas industry facilities. More and more facilities are reaching the end of their operating life, and the current low oil and gas price is likely to incentivise mothballing of fields, major operators divesting fields and equipment to smaller operators, and increased the reluctance to make the appropriate expenditure on decommissioning.

The current issues with the Northern Endeavour FPSO[1] are only the tip of the iceberg, with Wood Mackenzie projecting that 65 offshore platforms and seven floating facilities will cease production by 2026, and that the number of facilities needing decommissioning will increase each year and continue beyond 2050.[2]

The cornerstone of current legislation[3] is that all equipment and property must be removed. The aim of the new NOPSEMA policy must be to strengthen and facilitate the current legislation, and not to undermine it. This is good policy, in terms of supporting jobs in the offshore industry, and in reducing the impact of the industry. We note that Sinopec fully complied with this requirement for the Puffin oil development in 2015.

We offer below our suggestions on how the policy can best support current legislation.

'Alternative arrangements' to removal of equipment

The Offshore Petroleum Decommissioning Guideline (2018 version) provides that 'options other than complete removal may be considered'. However, 'the titleholder must demonstrate that the alternative decommissioning approach delivers equal or better environmental, safety and well integrity outcomes compared to complete removal.'[4] It should be noted that legislation requires removal, and the provision for alternative arrangements to removal appear to have been added on by regulation.

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[1] Peter Milne, Failed oiler Northern Endeavour owes $165M, 8 May 2020.
[2] Wood Mackenzie, Australia Oil and Gas Industry Outlook Report, 9 March 2020.p.14
[3] *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, s.572.
[4] Department of Industry, Science, Energy and Resources, Offshore Decommissioning Guideline, January 2018, p.4.

NOPSEMA's proposed policy section 3.3 provides for such 'alternative arrangements.' These arrangements have so far only been granted twice by NOPSEMA, and both times to Woodside: in order to leave the Argus-2 wellhead in the Browse Basin in 2017, and to leave four wellheads in the Carnarvon Basin in 2018.

We note that Woodside is currently seeking permission to use these arrangements to leave in place a 23km pipeline, a parallel 23km umbilical, and two 8m high wellheads at Echo Yodel off the coast of Dampier, containing hundreds of tonnes of plastics and potentially other chemicals, liquids and metals.[5] Granting permission for these materials to remain in place would make a mockery of current legislation.

In this context, it is critical to define what constitutes acceptable alternative arrangements.

Section 3.3 of the proposed policy says an alternative to removal can be considered when 'the proposed alternative is expected to have equal or better environmental outcomes when compared to the removal of property'. We suggest that this section retain the reference to safety and well integrity contained in the Offshore Petroleum Decommissioning Guideline quoted above.

The section should also contain a much more explicit description of what is meant by 'environmental outcome'. This should not rely on simple short term assessments of the number of fish in an area. It should include the impact on the full lifecycle over multiple generations of all affected organisms and the associated ecosystem. For example, plastics are expected to have an impact on organisms' reproduction, which may not be apparent immediately but could have a significant long-term impact. It must also consider that ocean ecosystems are already under significant stress as the average temperature of oceans is steadily increasing, which is already having a severe impact on coral and associated organisms.[6]

The burden of proof must be on companies to prove that their proposals to leave equipment in place are safe, and not for the regulator to prove that company proposals will have a negative impact.

An independent program of basic science on the impacts of relevant plastics in Australian marine ecosystems must also be properly funded.

Triggers for cessation of production and removal

There currently appears to be no clear trigger requiring operators to file plans for 'cessation of production' or to ensure that plans for removal are filed and actioned in a timely fashion. The Echo Yodel pipelines and equipment have been dormant since 2012, with no plan yet in place for removal. Similarly, the Woolybutt oil field off Onslow ceased production in 2012,

[5] Peter Milne, Woodside abandons abandonment for Echo Yodel, 18 June 2020.
[6] Damien Carrington, Ocean temperatures hit record high as rate of heating accelerates, 14 January 2020.

with the plan for final stage of decommissioning accepted in July 2019, and to be completed in 2024.[7]

The new policy must ensure clear triggers and penalties are in place to ensure plans to cease production and remove equipment are in place and executed in a timely fashion.

We suggest that plans must be in place for removal of equipment within 6 months of equipment being commissioned. If the facility is upgraded, then the removal plan must be updated within 6 months, and all plans must be publicly available.

A clear timeline for executing the plan for removal should be put in place within 6 months of production ceasing from a facility.

Chain of responsibility for removal

The case of the Northern Endeavour FPSO clearly highlights a breakdown in ensuring a corporation with the capacity to undertake decommissioning is responsible for a facility at all times. The FPSO was sold by Woodside to a smaller company, which later went bankrupt, and is now the responsibility of the Australian government.

Worryingly, a Wood MacKenzie report commissioned by APPEA appears to advocate for a government support for operators in their 'asset divestment and decommissioning liabilities' including facilitating 'late-life M&A transactions' and tax measures 'which could be particularly useful for Majors that are looking to divest and currently own large proportion of mature fields'.[8]

It is essential that a mechanism be found to ensure that oil and gas corporations are not able to evade their decommissioning responsibilities by selling titles or facilities. For example, the new buyer must put up a full bond to cover the cost of decommissioning. Alternately, the responsibility must go back to the original developer if the buyer is not capable of executing the decommissioning plan. Provisions must be in place to ensure that parent companies cannot separate themselves from the responsibilities of their subsidiaries.

If a company is evading their responsibilities for removal in one field, they should not be able to carry on with getting their usual approvals for other fields.

Need for review

NOPSEMA and the Department must regularly review these regulations to see what impact they are having and what decisions are being made.

[7] Peter Milne, Australia's oil and gas industry will create a $76B clean-up bill, 14 May 2020.
[8] Wood Mackenzie, Australia Oil and Gas Industry Outlook Report, 9 March 2020, p.20.

Consistency of policy and legislation

We suggest that the diagram offered in Attachment 1 of the policy does not appear to match the text of the policy or legislation.

The initial orange box on maintaining property in good condition should include the plan for removal.

The next blue box contains text saying ‘Is the plan to remove equipment and property when no longer in use (as per section 572)?’. We suggest this question is not in line with the requirements of the OPGGS Act, which require removal unless an alternate plan is approved. The way the sentence is written makes it sound like ‘the plan’ is the plan of the company, not an approved plan.

The way in which the question ‘Is an alternative able to be justified?’ also makes this sound like it is a decision of the company, not of the regulator.