Feedback on the Draft Australian Government Guidance for Removal of Oil and Gas Property and Sea Dumping of Infrastructure in Commonwealth Waters

Australian Energy Producers | 2 August 2024

Australian Energy Producers welcome the opportunity to provide feedback on the *Australian Government guidance for removal of oil and gas property and sea dumping of infrastructure in Commonwealth waters* (the Draft Guidance).

Australian Energy Producers and its members recognise decommissioning is an important obligation of titleholders to ensure long-term protection of the environment and the safety of other marine users. We also recognise the importance of carrying out decommissioning in the most capital efficient and safe manner.

The Draft Guidance provides a high-level description of the current Australian legislative and regulatory regime with reference to the:

- *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act)
- *Environment Protection Act 1981* (Sea Dumping Act)
- *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)

Australian Energy Producers welcomes the Australian Government's efforts to establish guidance to assist industry in complying with regulatory obligations. The industry continuously monitors global best practice to assist it in planning and implementing decommissioning activities in a safe and environmentally responsible manner.

To provide for more effective and helpful guidance, Australian Energy Producers recommends that Government consider a best practice approach to decommissioning and property removal that considers each decommissioning scope of work on a case by case basis, based on clear scientific principles and the best available science.

The Draft Guidance states that "The Australian Government expects to see a commitment towards full removal of all property, equipment and infrastructure as a base case." Any reference to full removal of property should always be caveated to provide flexibility for in situ cases to reflect such provisions in the OPGGSA.

The United Kingdom's Department of Business, Energy & Industrial Strategy "Guidance Notes – Decommissioning of Offshore Oil and Gas Installations and Pipelines"[1] (the UK Guidance) provide detailed and holistic guidance for industry on offshore decommissioning. The UK Guidance provides a detailed synopsis and application of relevant UK legislation and international agreements with clear and detailed instruction on application and expected decommissioning of key offshore items.

In summary Australian Energy Producers recommends:

[1] UK Decommissioning of Offshore Oil and Gas Installations and Pipelines document

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- **The Draft Guidance be updated to enhance structure and clarity, similar to that provided within the UK Decommissioning of Offshore Oil and Gas Installations and Pipelines guidance.**
- **Cost to be a consideration in a comparative assessment process for selection of property to be removed vs decommissioned in situ.**
- **Requirement for the desired environmental outcome to be achieved in the lowest-cost, most capital-efficient way in order to minimise the effective Petroleum Resource Rent Tax (PRRT) cost to taxpayers.**
- **Consideration of repurposing offshore infrastructure for uses such as carbon capture and storage, offshore renewable energy and artificial reefs where this is safe and environmentally responsible.**
- **Consideration of leaving offshore infrastructure in situ where it is demonstrated to be safe and environmentally acceptable in terms of impact mitigation and management.**
- **Avoidance of the interchangeable use of key terms including ALARP, equal or better outcomes and environmentally acceptable.**
- **The adoption of minimum water depths as a factor for leave in situ.**

Contents

Removing Property and Infrastructure

Australian Energy Producers note that the principal legislative instruments governing the removal of offshore property and infrastructure include the OPGGS, Sea Dumping and EPBC Acts, which are administered by NOPSEMA (OPGGS and EPBC Acts) and DCCEEW (Sea Dumping Act).

Offshore Petroleum and Greenhouse Storage Act 2006

Section 572

As noted in the Draft Guidance, Section 572 of the OPGGSA is the principal legislative instrument for the maintenance and removal of property offshore. The NOPSEMA Section 572 Maintenance and Removal of Property policy document (Section 572 Policy) [2] provides for the making of arrangements other than full removal of property at decommissioning via a permissioning document. Australian Energy Producers considers that the Draft Guidance ignores this aspect of Section 572. There are a range of issues not considered in this regard, including:

- Potential for beneficial reuse of equipment.
- Potential for improved safety and environmental outcomes in certain circumstances by leaving equipment in situ.

[2] NOPSEMA Section 572 Maintenance and Removal of Property policy document

Although the Offshore Project Proposal (OPP) and Environment Plan (EP) framework addresses many of the considerations related to asset stewardship for the purposes of environmental management, there are other considerations to note. For example, the objects of the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 include to ensure operations are carried out in a manner consistent with ecological sustainability, that impacts are As Low As Reasonably Practical (ALARP) and that environmental risks are acceptable. The objects of the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011 focus on the principles of 'good oilfield practice' and operations that are compatible with the 'long term recovery of petroleum.'

Environment Protection (Sea Dumping) Act 1981

Australian Energy Producers notes differing and competing standards administered by DCCEEW under the Sea Dumping Act and NOPSEMA under the OPGGSA. The principal issue is the conflict and interchangeability in the Draft Guidance between terms including "ALARP", equal or better outcomes and "environmentally acceptable".

The recent introduction of a separate and parallel offshore approvals process for offshore decommissioning under the Sea Dumping Act has resulted in a parallel approvals process with significant overlap with OPGGSA approval processes. These concerns centre on the nature of the approvals which are parallel to those required under the OPGGSA and are therefore duplicative in nature. Further, as no clear guidance is provided for the compliance to the sea dumping or abandonment of manmade structures, Australian Energy Producer members have noted instances of "scope creep" of administration of the Sea Dumping Act into areas presently administered by NOPSEMA.

Considerations for Property and Infrastructure Proposed to be Left in the Sea

In addition to environmental, safety, technical and social factors for consideration for decommissioning, Australian Energy Producers recommends that economic factors as a consideration should be more clearly defined. Specifically, consideration of the total cost of the decommissioning activity, including any provisions for ongoing management and monitoring, and both capital and operational expenditure. Including the consideration of the total cost relative to safety and environmental benefits achieved and whether lower cost methods are available to deliver the same or greater safety and environmental benefits.

Regarding the location(s) of the property/infrastructure and proposed area where property/infrastructure will be left in the sea, these locations must be considered in relation to any environmental values or sensitivities. Australian Energy Producers considers that the water depth where the infrastructure resides should be a significant factor for consideration. Industry suggests for wellheads the following criteria:

- <600m water depth – assess on a case-by-case basis
- >600m water depth – leave in situ

Consultation

Australian Energy Producers notes the Government is considering reforms to the consultation requirements under the OPGGSA environment regulations. Any changes to consultation requirements under the OPGGSA environment regulations or subsequent changes to consultation under new national environmental laws and national standards will need to be reflected in future revisions of the Draft Guidance.

Categories of Property and Infrastructure

Category 1: Property and Infrastructure that Cannot be Left in Place

With regard to items that cannot be left in place and in compliance with International Maritime Organization (IMO) guidelines,[3] Australian Energy Producers recommends the Draft Guidance include:

> *"…where entire removal is not technically feasible or would involve extreme cost, or an unacceptable risk to personnel or the marine environment, the coastal State may determine that it need not be entirely removed."*

Specifically, the Draft Guidance should enable some operational flexibility in certain circumstances. This is consistent with IMO guidelines.

Regarding 'Rationale for why the property and infrastructure cannot be left in the sea - Floating Infrastructure (Production Storage Offloading Units and Mooring Structures)', the Draft Guidance says "Refer to "IMO Resolution A.672 (16)" (Guideline 2.1.1).[4] This IMO guideline states:

> *2.1 The decision to allow an offshore installation, structure, or parts thereof, to remain on the sea-bed should be based, in particular, on a case-by-case evaluation, by the coastal State with jurisdiction over the installation or structure, of the following matters:*
>
> *.1 any potential effect on the safety of surface or subsurface navigation, or of other uses of the sea;*
>
> *.2 the rate of deterioration of the material and its present and possible future effect on the marine environment;*
>
> *.3 the potential effect on the marine environment, including living resources;*
>
> *.4 the risk that the material will shift from its position at some future time;*
>
> *.5 the costs, technical feasibility, and risks of injury to personnel associated with removal of the installation or structure; and*
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> *.6 the determination of a new use or other reasonable justification for allowing the installation or structure or parts thereof to remain on the sea-bed.*

The Draft Guidance also refers to IMO Resolution A.672 (16) Standard 3.9[5] which states:

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[3] IMO Resolution A.672(16) 3.5

[4] ibid

[5] Ibid

> *"Prior to giving consent to the partial removal of any installation or structure, the coastal State should satisfy itself that any remaining materials will remain on location on the seabed and not move under the influence of waves, tides, currents, storms, or other foreseeable natural causes so as to cause a hazard to navigation."*

Australian Energy Producers considers that, if this is the case, then most 'secured' infrastructure, including wellheads and subsea trees, steel pile jackets, steel pipeline (including concrete weight coating and external (plastic) insulation), shore-crossing buried pipeline, HDD, buried flexible flowlines, buried or piggybacked EH umbilicals, buried electrical power cables, concrete mattresses, grout bags, mooring anchors, concrete/steel gravity platform structures, would automatically meet the criteria of remaining on location on the seabed. The IMO standard does not appear to support the position taken in the Draft Guidance relating to the rationale for full removal of these items.

Similarly, the IMO 'Revised Specific Guidance for Assessment of Platforms or Other Man-made Structures at Sea – Guideline 3.8.5.1'[6] gives the following limited guidance:

> *Potential impact on other users and society, such as: effects upon other legitimate uses of the sea; including fisheries, shipping/navigation, indigenous rights/claims, potential for future development safety of surface or subsurface navigation.*

With regards to flexible flowlines, umbilicals, and ancillary items: (IMO Resolution A.672(16) – Guidelines 2.1.2[7]) considers the rate of deterioration of the material and its present and possible future effect on the marine environment; IMO Resolution A.672(16) – Standard 3.1 and 3.2[8] where:

> *Members are in general agreeance that flexible flowlines (unless "designed buried") and EH umbilicals should be removed (unless designed buried or "piggybacked").*

Flexible flowlines, umbilicals and ancillary items should not be automatically required to be removed, but should be considered on a case-by-case basis (inclusive of any "piggyback" lines and umbilicals that cannot easily be separated) for in-situ decommissioning. In particular:

- *Items which are adequately buried and trenched, and which are not subject to development of spans and are expected to remain so. A 'permanent burial' depth based on a study of sediment movement I that region, trenching without burial will require more detailed information on backfill, and fishing activity.*
- *Items which were not buried or trenched at installation, but which are expected to self-bury over a sufficient length within a reasonable time and remain so buried.*
- *Items where burial or trenching of the exposed sections is undertaken to a sufficient depth and it is expected to be permanent.*
- *Items where exceptional and unforeseen circumstances due to structural damage or deterioration or other cause means they cannot be recovered safely and efficiently.*[9]

Further clarification is needed on items that have; "anything containing or releasing unacceptable concentrations of contaminants and materials to the environment", where the criteria of acceptability

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[6] Revised Specific Guidance for Assessment of Platforms or Other Man-made Structures at Sea
[7] IMO Resolution A.672(16)
[8] IMO Resolution A.672(16)
[9] ibid

should be defined and science based. There are existing and developing technologies for pipeline and container cleaning that include sacrificial corrosion, followed by pipeline inspection gauge scraping ("pigging") can potentially materially reduce mercury contamination.

The Draft Guidance reference to the London Protocol Annex 2[10] – Paragraphs 7 & 8; do not exist; in reference to contamination mobility, London Protocol RSG – Guideline 6.14 provides that:

> *When considering the exposure to hazardous substances the factors that may determine mobility should be taken into account (for points 6.14.4, 6.14.6, and 6.14.7 – at water depths >300m, and for fixed structures, these criteria are minimal to non-existent).*

Regarding steel pile jackets, there are some limitations to partial removal options due to potential (tributyltin) TBT coating/paint challenges. Australian Energy Producers members note differences in NOPSEMA and DCCEEW requirements on steel pile jackets removal where NOPSEMA require operators to cut below the seabed to avoid trawling risk, but DCCEEW are concerned about dredging and will require a sea dumping permit if operators request this outcome.

In other jurisdictions, such as the UK, lower sections of the steel pile jackets, which are complex and costly to remove due to containing piles and grout, can be considered for decommissioning in situ and in the Gulf of Mexico it is a common practice to leave the jacket base in place for reef colonisation. Further, jackets that have been in place for several decades provide opportunities for marine ecosystems to be established which otherwise wouldn't exist.

Category 2: Property and Infrastructure that May be Permitted to be left in the Sea Subject to Regulatory Assessment

Pipelines

The Draft Guidance states, "*All subsea pipelines including associated facilities and structures within the pipeline licence area and on the seabed are to be removed…A pipeline…may be a candidate for in-situ decommissioning and abandonment*". Australian Energy Producers suggests a consistent approach would be helpful to guide decisions to leave buried pipelines in-situ where the potential for reuse of the pipeline in connection with further hydrocarbon developments should be considered before decommissioning (together with other existing projects such as hydrocarbon storage and carbon capture and storage). If reuse is considered viable and suitable, sufficient maintenance of the pipeline would be detailed and that existing pipeline licences remain in force where the operator/registered holder remains responsible for monitoring and maintaining the pipeline's integrity for possible future reuse (e.g., carbon capture utilisation and storage).

Chains, mooring cables and wires and other subsea infrastructure

Including chains, mooring cables, wires, well heads (Christmas trees), pig launchers, manifolds and similar structures. If these items are below trawling depth, leave in-situ should be standard, where an unobstructed water column of at least 55 metres exists above the remains of any partially removed installation to ensure safety of navigation[11].

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[10] London Protocol Annex 2 – Paragraphs 7 & 8

[11] IMO Resolution A.672(16) 3.6

Structures containing plastic, for example reinforced concrete

Australian Energy Producers is concerned that the Australian Government is very unlikely to approve leaving any plastics in place in almost all circumstances. The Australian Government's current position provides that any decision to leave plastics in place will be considered at the Minister's discretion and may, in part, consider the feasibility of removing the plastics.

Australian Energy Producers considers decisions regarding full removal of plastics or otherwise must be science and evidence based.

Steel pile jacket components

Greater clarity is required in the draft guidance with regards to the removal, leave in place, or relocation in offshore areas of steel pile jackets and steel pile jacket components. Certainty on limits to navigation hazards and the consideration of established marine ecosystems and habitats is required. This is a good example where the guidance is very subjective and does not help Industry with clarity on whether a jacket base can be decommissioned in place or not.