



# Environmental Defenders Office

9 June 2020

National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA)  
GPO Box 2568  
PERTH WA 6001  
Email: [environment@nopsema.gov.au](mailto:environment@nopsema.gov.au)

By online submission

Dear NOPSEMA,

## **Section 572 Maintenance and removal of property**

Thank you for the opportunity to comment on the draft *Section 572 Maintenance and removal of property* policy (**draft policy**). Environmental Defenders Office has made a number of submissions to NOPSEMA as part of their process of clarifying and operationalising regulatory requirements. Previous EDO submissions relating to NOPSEMA responsibilities are available at: <https://www.edo.org.au/publication/submissions-involving-nopsema/>.

EDO supports the focus in the draft policy of removal of property at the end of use being the primary objective, and supports a requirement for programme management to be developed with this goal in mind. Within that context we make the following brief comments on the draft policy.

### **Equal or better environmental outcomes**

The policy notes (p 4) that if a titleholder does not wish to remove equipment at the end of use, the titleholder will be required to conduct:

*“A full assessment of the environmental impacts and risks of removal or any proposed alternatives to full removal and a demonstration that proposed alternatives will result in equal or better environmental outcomes when compared to removal and will result in environmental impacts and risks that are acceptable and ALARP.”*

If alternative arrangements are to be permitted, the alternatives should only be permitted if they will result in a **better** environmental outcome than complete decommissioning and removal would.

There must also be clear guidance on the level of ongoing environmental impact from the remaining infrastructure that will be considered acceptable. As we have noted in previous submissions, in the absence of clear guidance on what constitutes unacceptable impacts from

offshore petroleum activities, the focus on decision making around “reasonable measures” and “as low as reasonably practicable” cannot be said to be objective-based regulation.

The draft policy identifies that titleholders will be required to outline the monitoring and management requirements for infrastructure that is to be left in-situ. However, the duration of this monitoring programme remains unclear. If infrastructure, including plugged and abandoned wells, is to be left in-situ in perpetuity the obligation for ongoing monitoring and maintenance should remain with the titleholder in perpetuity. Tax payers should not bear the financial risk of responding to any future environmental harm arising from abandoned infrastructure.

### **Neither used nor to be used**

The stated purpose of the policy includes facilitating the process by which the titleholder is required “to remove property when it is neither used nor to be used in connection with operations authorised by the title”. This language means the timeframe in which the property can be required to be removed remains unclear. We note and support NOPSEMA’s view that cessation of production is a new stage of operations and previously installed infrastructure must be provided for in an accepted EP before the commencement of the new stage. However, we recommend that further clarity is provided around this issue.

Again as we have noted previously, fixed deadlines for decommissioning and rehabilitation will avoid the situation, currently seen in the terrestrial environment, where mine sites regularly enter ‘care and maintenance’ rather than closure, thus deferring or avoiding their rehabilitation obligations. There is significant merit in adapting a variation of the United States of America (USA) Government approach which requires licensees to remove platforms and plug and abandon wells within one year after the licence ends,<sup>1</sup> or if relevant infrastructure has not been used for at least five years.<sup>2</sup> In Australia, this approach should be expanded to include specific timeframes for the full suite environmental remediation activities and make good requirements.

If you require additional information, please contact the author on ph: 02 9262 6989 or [megan.kessler\[at\]edo.org.au](mailto:megan.kessler[at]edo.org.au).

Yours sincerely,

**Environmental Defenders Office**



**Rachel Walmsley**

Director of Policy & Law Reform

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<sup>1</sup> 30 CFR § 250.1710; 30 CFR § 250.1725

<sup>2</sup> <https://www.bsee.gov/sites/bsee.gov/files/notices-to-lessees-ntl/notices-to-lessees/10-g05.pdf>