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Attn: [redacted]
National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA)
Level 8, 58 Mounts Bay Road,
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Submitted online: Consultation hub

Dear [redacted]

NOPSEMA REGULATORY POLICY ON SECTION 270 – CONSENT TO SURRENDER TITLE (A800981)

Thank you for the opportunity to provide feedback on the draft 'NOPSEMA regulatory policy on 'Section 270 Consent to surrender title' draft policy.

Woodside is supportive of information from NOPSEMA that communicates the key information and principles that NOPSEMA relies upon when providing advice to the Joint Authority under s270 of the *Offshore Petroleum and Greenhouse Gas Storage Act* 2009 (OPGGS Act).

As a broad comment, while parts of the draft policy are helpful in setting out the backdrop to NOPSEMA's considerations, a significant gap in the policy is that it does not consider commercial certainty and does not provide regulatory confirmation about title relinquishment (or steps towards relinquishment) that can be meaningfully fed into business planning.

The effect of the policy appears to be that there will be an open-ended approach to assessment so that even in circumstances where a titleholder (or an operator) has complied with the very substantial legislative regime throughout the life of an activity and decommissioning, the operator will not be provided with any level of certainty that it can rely on in relation to title relinquishment. This has the potential to significantly increase uncertainty for titleholders and does not appear to have a countervailing advantage to environmental or safety outcomes.

From a broad perspective, the draft policy also appears to be at odds with NOPTA's vision to contribute to national prosperity through administering the development of Australia's offshore oil and gas resources because, instead of providing certainty and clarity upon which business can operate, it introduces uncertainty around title relinquishment.

In terms of specific feedback, please see the notes below.

Section 5 - Considerations for the satisfaction of NOPSEMA

Section 5.2 sets out "Matters NOPSEMA may consider when determining whether it is satisfied for the purposes of section 270". The third paragraph under this heading provides "*NOPSEMA's advice to the JA as to whether it is satisfied the criteria have been met will be*

based upon the information available to NOPSEMA at the time a titleholder makes an application for consent to surrender the title."

Application of this policy has the potential to result in increased uncertainty for titleholders. For context, it is entirely reasonable for a titleholder who has evidence that it has complied with the substantial legislative OPGGS regime to be given certainty of its compliance. The draft policy has the potential to provide an untenable situation in which that titleholder has no certainty, despite complying with regulatory requirements.

For example, the requirement for a titleholder who has previously complied with the relevant regime and has previously received regulatory acceptance over permissioning documents, to submit new or revised permissioning documents, potentially many years after decommissioning activities under previously approved permissioning documents are completed is an unreasonable position. This position provides no regulatory certainty and does not provide a net benefit (i.e. reduce environmental and safety risk). Instead, it suggests an open-ended regulatory approval process that has no end.

To give a practical viewpoint of this: Titleholders are obligated to meet the requirements under the OPGGS Act and to demonstrate, in accordance with the OPGGS legislation that their decommissioning activities and end states are reduced to ALARP and are acceptable. Titleholders are required to undertake significant effort in order to action this during the life of the title, through to decommissioning and therefore a policy which suggests a regulator can, at a later date, re-assess risks undermines previous regulatory processes and acceptances. Instead, it significantly increases uncertainty given there is limited ability for a titleholder to plan for this and there is uncertainty around a requirement or scope of any future end-of-title requirements. This increased uncertainty may result in titleholders being required to carry unnecessary additional restoration liabilities in the event that an additional end-of-title compliance action (in addition to those already completed in the first round of acceptances) is required to be undertaken by NOPSEMA.

Another significant perspective is the requirement to conduct further assessments at the time of title relinquishment in instances where multiple assets (for instance, different operational assets with differing field lifes) are located on one title. Decommissioning of infrastructure on titles with multiple assets with different field lifes will likely occur incrementally, over a long timeframe. This means that there may be a significant delay between a decommissioning activity in relation to one operating asset and ultimate title relinquishment for all assets that operated within the title area. It is unreasonable for titleholders to be required to reassess previously decommissioned assets from one operating asset whose decommissioning has been previously accepted merely because another asset is still operating in other parts of the title. Whilst partial title relinquishment may be an option in some circumstances, it introduces additional administrative burden and is not necessarily feasible or practicable in all cases.

There has been a great deal of recent commentary around the introduction of a trailing liability regime in Australia. That regime is, amongst other things, designed to manage the risks associated with infrastructure in the time between decommissioning and title relinquishment. Therefore, the requirement to demonstrate decommissioning to ALARP at both the time of decommissioning and again at the time of title relinquishment will increase cost and uncertainty to the titleholder without a counterbalancing benefit to the environment or safety.

Woodside recommends the wording in the draft policy is updated to remove the requirement for titleholders to reassess changes in risk at the time of title relinquishment where decommissioned processes have previously been completed and outcomes have previously been accepted by the relevant regulator.

Section 7 - Plugged or closed off all wells

Section 7 of the draft policy provides that *"If standards/guidelines have been superseded prior to consent to surrender of title, then an assessment against the changes to the latest editions of the standard or guidelines has to be conducted to demonstrate that risks remain ALARP."*

This position is also untenable as it makes it impossible for an operator to appropriately and carefully plan or make appropriate decisions in relation to wells, as standards / guidelines could change in the future. It must be the case that once permissioning documents have been accepted by the regulator, a titleholder should not be required to undertake further future ALARP or acceptability assessments based on an undefined future standard or guideline that is not yet in existence.

To illustrate the potential implications, the case of wells that have been plugged and abandoned in advance of title relinquishment can be considered. By expecting titleholders to undertake ALARP and acceptability assessments in addition to those already conducted and accepted by the Regulator at the time of abandonment, means that it is not possible to properly or reasonably manage assets or select suitable outcomes. The requirement to conduct additional ALARP or acceptability assessments at title relinquishment, after relevant processes for abandonment of a well have been selected, completed and accepted under a regulatory regime, introduces unacceptable and unreasonable, unquantifiable ongoing costs and management actions for infrastructure which already has been deemed to not present any potential impact or risk.

As previously discussed, the introduction of the trailing liability regime addresses the risks associated with infrastructure in the time between decommissioning and title relinquishment. Furthermore, the intent to retroactively apply new standards/guidelines to previously accepted decommissioned outcomes may incentivise titleholders to delay decommissioning activity to as close to title relinquishment as possible. This is contrary to our understanding of the current intent of (and NOPSEMA's preference for) proactive decommissioning.

Section 8 - Natural Resources

Section 8 of the draft policy includes a definition of "conservation and protection" which seems to indicate an ongoing activity (i.e. keeping and preventing).

However, the proposed definition is not consistent with the wording of s270(3)(e) of the OPGGS Act which states "has provided", indicating a point in time.

Further, there are concerns around the inclusion of "safe and sound" to define the meaning of "conservation and protection". A fundamental concern is that the concept of "safe and sound" does not align with international standards and does not provide sufficient clarity around the concept given its application to defining a level of impact.

Section 9 - Damage to the Seabed or Subsoil

Section 9.1 outlines considerations NOPSEMA will have to determine whether a titleholder has "*made good any damage to the seabed and subsoil in the surrender area*". In reference to a clear seabed, the draft policy refers to "*any waste or property that may have been intentionally or unintentionally placed onto the seabed*".

The reference to "waste" is not useful. The regulatory regime gives visibility to the kinds of materials that may be introduced in the course of an activity. In light of the transparency and visibly of all products and materials brought into the title area for activities, the concept that all waste should be removed is not reasonable or practicable. Further, removal of all waste may not be ALARP where it has no impact on diversity or conservation, such as stabilisation materials (i.e. rock) or bentonite. It may be worth reconsidering whether "hazardous waste" is what is being considered in this section.

Section 10 - Decommissioning Expectations

Section 10.3 outlines NOPSEMA's monitoring and survey expectations and includes the term "*in perpetuity*". This is a term that is not included in the OPGGS legislation and which is not possible to ensure or to adequately plan for. It may be that a consideration should be that risks associated with property that are not removed are ALARP and acceptable.

The policy includes a concept around comparison as against baseline data. The policy does not acknowledge that it may not be appropriate or reasonable to compare final impacts and risks against baseline data. For example, in some instances, there may be insufficient data to conduct an appropriate comparison for some titles. In other instances, permissioning documents may have already accepted that materials will be brought into the title area and will likely remain.

Further, there is a concern around an expectation that the surrender area is to be returned to pre-development state and for there to be a requirement to monitor until this state has been reached.

As an example, the safety and environmental risks for the removal of stabilisation materials (i.e. rock) may outweigh the benefits associated with returning the surrender area to pre-development state.

Should you wish to discuss the matters presented in this letter, please contact [redacted]

Yours sincerely

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