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Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

SUBMITTED ONLINE:

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/OPandTLAB

8 November 2021

RE: Offshore Petroleum (Laminaria and Corallina Decommissioning Cost Recovery Levy) Bill 2021 and Treasury Laws Amendment (Laminaria and Corallina Decommissioning Cost Recovery Levy)

To whom it may concern,

Thank you for the opportunity to provide comment on the Offshore Petroleum (Laminaria and Corallina Decommissioning Cost Recovery Levy) Bill 2021 and Treasury Laws Amendment (Laminaria and Corallina Decommissioning Cost Recovery Levy).

The Australasian Centre for Corporate Responsibility (ACCR) is a registered charity with the Australian Charities and Not-for-profits Commission (ACNC). ACCR invests in and engages with Australian listed companies in regard to their performance on various issues, including climate and the environment. ACCR also works closely with institutional investors and has direct visibility of their current and emerging priorities.

One of ACCR's key organisational objectives is to examine the impact of investment processes and corporate activity on ecosystems, as well as in the provision of justice. Corporate activity which damages the environment, or which may undermine worker or community health or well-being, is of concern to ACCR. We also have a long-standing engagement and focus on Woodside Petroleum and other ASX-listed oil and gas companies with emerging decommissioning liabilities. The establishment of this Bill and associated levy is an excellent opportunity to set a strong standard for future decommissioning activities in Australia, and to ensure best practices are enforced to create jobs and ensure excellent safety and environmental outcomes. To this end, ACCR is broadly supportive of the proposed legislation, although we believe it could be strengthened further.

Decommissioning: A growing challenge

Although Australian decommissioning activities are in their infancy, they represent a growing challenge for Australia. A liability assessment conducted by NERA's Centre of Decommissioning Australia (CODA) estimated that Australia is facing a decommissioning liability of USD\$40.5 billion over the next 50 years.¹ These liabilities are frontloaded, with 27% of activity taking place before 2025, 51% occurring by 2030, and 74% occurring before 2040.² 48% of all liabilities are attributable to the North Carnarvon Basin, and 25% are attributable to Gippsland.³

ACCR agrees with the rationale that “the risks and liabilities of petroleum activities [should] remain the responsibility of those who have derived the greatest financial benefits from the project.”⁴ After years of profitable operation, it is unacceptable for a company like Woodside to absolve itself of its decommissioning responsibility through divestment – particularly for an asset it has operated for over 16 years, and in a scenario where any industry costs could be borne by taxpayers. All owners and operators who have benefited from petroleum extraction should be liable for decommissioning.

ACCR anticipates that going forward, the Government will take a larger role in regulating and legislating for the responsible decommissioning of Australian offshore oil and gas assets for the betterment of jobs, safety, and the environment.

Definitional uncertainty

ACCR notes that the Offshore Petroleum (Laminaria and Corallina Decommissioning Cost Recovery Levy) Bill 2021 defines decommissioning as being 'all activities associated with or connected to the decommissioning of the Northern Endeavour, including... c) removal or any other treatment of subsea infrastructure from the Laminaria and Corallina oil fields' (Section 6).

Our concern is that the phrase 'or any other treatment' moderates previous definitions of decommissioning, which refer to the removal of all property from a given title area. This phrasing did not appear in the Bill's exposure draft (September 2021). Section 572 of the Offshore Petroleum and Greenhouse Gas Storage (OPGGS) Act 2006 refers to the 'maintenance and removal of property' (s.572) and stipulates that titleholders 'must remove from the title area all structures that are, and all equipment and other property that is, neither used nor to be used in connection with the operations' (s.572, 3). NOPSEMA's maintenance and removal of property regulatory policy (November 2020) also refers clearly to the 'maintenance and removal of property'. ACCR is concerned that this alternate phrasing implies that the full removal of subsea infrastructure may not occur.

Furthermore, there is a gap in the government's 'enhanced' decommissioning framework that allows companies to apply for 'deviation from removal requirements' if they can demonstrate 'equal or better environmental outcomes'. What constitutes 'equal or better environmental outcomes' is not defined, and it is also not clear whether this would apply to the Northern Endeavour. Oil and gas companies are highly motivated to minimise their rehabilitation costs and the industry has often advocated for “rigs to reefs”.⁵ ACCR notes there is a lack of independent and peer-reviewed research into the environmental benefits of leaving oil and gas structures in Australian waters. Current concerns include physical

¹ Centre of Decommissioning Australia, 'A Baseline Assessment of Australia's Offshore Oil and Gas Decommissioning Liability,' 10 March 2021, *National Energy Resources Australia*, p. 6, [link](#)

² *Ibid*, p. 5.

³ *Ibid*, p. 6.

⁴ Department of Industry, Science, Energy and Resources, 'Enhancing Australia's decommissioning framework for offshore oil and gas activities,' Consultation Paper, December 2020, p.6, [link](#)

⁵ See Exmouth Integrated Artificial Reef, 'The King Reef', a joint project between the National Energy Resources Australia (NERA) and BHP, Subcon, Curtin University and RecFishwest. The artificial reef was made using six steel structures from BHP's Griffin offshore facility which ceased gas production in 2009. Despite this, BHP 'did not plug Griffin's wells to make them permanently safe until 2017' (see [link](#)) and deployed its artificial reef in 2018 (see [link](#)).

damage to existing benthic habitats (should the asset be moved and dropped from its original location⁶), undesired impacts on marine food chains, the facilitation of the spread of invasive species and the release of contaminants as rigs corrode.⁷

ACCR also suggests that the Bill's definition of 'decommissioning' could be expanded further to include the recycling of facility components, particularly steel, which complements low carbon steel production.⁸ This would help to maximise jobs and economic benefits of this project, as well as for future decommissioning works in Australia.

Reporting, transparency and regulation

ACCR is highly concerned that the Bill does not nominate a regulator to ensure proper oversight for safety and environmental issues arising during decommissioning work. ACCR would also like to see further clarity on the legislation governing the remediation works, as we note that the Northern Endeavour facility is 'no longer being regulated under the OPGGS Act framework.'⁹

To help educate all stakeholders (e.g. industry, investors, analysts, industry, workers, communities) on the realities of offshore decommissioning in Australia, ACCR requests that publicly available annual reporting from the Commissioner of Taxation detail the financials of the levy, including the amount collected from each leviabale entity for that year. Furthermore, ACCR believes these stakeholders would benefit from a quarterly report on the decommissioning work, which details costs, the progress of works and any safety or environmental issues. This would ensure further transparency and improve understanding of these activities.

Concluding statements

As the global energy transition proceeds, projects to decommission oil and gas installations will multiply, and their timelines will move forward. Regulators must ensure that workers and communities which currently rely on this declining oil and gas industry are offered opportunities to contribute to and benefit from the safest and best-planned decommissioning processes that are possible. Adverse impacts of accelerated decommissioning on workers, communities and the environment can be mitigated through regulatory actions, making the energy transition as just as possible.

We are very happy to clarify any of our comments in this submission and trust that the Senate Standing Committees on Economics will consider all risks we have identified when considering the advancement of this legislation.

Sincerely,

Harriet Kater
Climate Lead - Australia
Australasian Centre for Corporate Responsibility

Email: [REDACTED]

⁶ In July 2021, Woodside Petroleum had proposed to sink a disused oil rig mooring in waters near the World Heritage Listed Ningaloo Reef, despite being investigated by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) for failing to comply with its original decommissioning plan in a timely and proper manner, and thus allowing the asset to degrade so much that the company could not safely dispose of it on land. This proposal has now been withdrawn. See: Slezak, M, 'Woodside's plans to convert old offshore oil facility into artificial reef could set precedent for industry, 23 July 2021, *ABC*, [link](#); and Aguis M, 'Ningaloo safe from Woodside rig dumping,' 8 Oct 2021, *Australian Conservation Foundation*, [link](#).

⁷ Jagerroos S, Krause PR (2016) Rigs-To-Reef; Impact or Enhancement on Marine Biodiversity. *J Ecosys Ecograph* 6:187. doi:10.4172/2157-7625.1000187

⁸ Leiliang Zheng, "Decarbonizing Steel: Technologies and Costs", *BloombergNEF*, 25 Aug 2021, via Bloomberg Finance L.P

⁹ See General Direction no# 722 issued on 27 Sept 2019, which states that "due to Timor Sea Oil & Gas Australia Pty Ltd going in to liquidation, ... the Northern Endeavour facility [is] no longer being regulated under the OPGGS framework.' [link](#).