



Australian Government

**Department of Industry, Science,
Energy and Resources**

Submission to the Senate Economics Legislation Committee

Inquiry into the Offshore Petroleum (Laminaria and Corallina
Decommissioning Cost Recovery Levy) Bill 2021 [Provisions], and
Treasury Laws Amendment (Laminaria and Corallina
Decommissioning Cost Recovery Levy) Bill 2021 [Provisions]

8 November 2021

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Background

On 7 February 2020, Timor Sea Oil and Gas Pty Ltd, Northern Oil and Gas Australia Pty Ltd and TOGA Services Pty Ltd, collectively referred to as the NOGA group of companies, was placed into liquidation. NOGA relinquished ownership of the Northern Endeavour Floating Production, Storage and Offtake (FPSO) facility and associated infrastructure, and exploration titles to the Laminaria and Corallina oilfields. In the absence of a commercial or industry-led solution, the Government acted quickly to ensure the facility was not abandoned. Although the Commonwealth took possession of the facility and arranged for the ongoing operation and maintenance of the facility in February 2020, it does not hold legal ownership of the facility.

The Northern Endeavour Taskforce was established within the Department of Industry, Science, Energy and Resources (the department) in March 2020 to manage the operation and maintenance of the facility and to investigate a range of options for the facility and fields. Industry expertise was engaged to help inform these options.

After considering the long term handling options the Government announced in December 2020 that the Northern Endeavour facility would be decommissioned and associated oil fields would be remediated as it was the most cost-effective way to remove potential risks and to ensure protection of the environment. This work is likely to occur over 3 phases and take several years. The department, through the Northern Endeavour Taskforce, is implementing the first phase to decommission and disconnect the facility.

The department is taking all necessary actions to ensure the safety and security of the Northern Endeavour FPSO, its crew and the environment.

Extraordinary circumstances led to the Government stepping in on this occasion. As part of the 2021-22 Budget, the Government made clear that the full costs associated with decommissioning in the Laminaria-Corallina oilfields would be recovered through a temporary levy on offshore petroleum production. The levy will ensure taxpayers are not left to pay these costs, sharing the burden equitably among industry based on their production.

Development of the levy

Design

While the department is administering the Northern Endeavour Decommissioning Project, the Treasury has responsibility for the development of taxation policy, including the Laminaria-Corallina Decommissioning Cost Recovery Levy.

The initial design of the levy, as announced in the 2021-22 Budget, was formulated by the Treasury, in consultation with the department. The department understands the Treasury also consulted the Australian Taxation Office (ATO) on the design, noting the ATO will ultimately hold responsibility for administering the levy.

As part of its 2021-22 Budget announcement, the Government also undertook to consult with industry over details relating to the levy's administration.

Consultation

The department facilitated an initial round of public consultations to inform the Treasury's preparation of this legislation. The aim of this consultation was to streamline administration of the levy, so that it would not cause undue regulatory burden.

The department's stakeholder consultation included:

- the development and distribution of a discussion paper ([Appendix A](#));
 - This paper was provided to the Australian Petroleum Production and Exploration Association (APPEA) for distribution to its members on 4 June 2021.
 - The paper was also released online via the Department's website on 24 June 2021.
 - Minister Pitt also wrote to stakeholders at this time to highlight the process.
- coordination of meetings between the department, Treasury, APPEA and its member companies on 23 June and 13 July 2021; and
- ad hoc consultation with non-APPEA member companies resulting from the discussion paper, responses to Minister Pitt's letter, or outreach to the department's public facing email.

Following these initial consultations, the Treasury released an Exposure Draft of the legislation publically on 16 September 2021 and sought feedback from stakeholders by 23 September 2021.

Themes raised in the department's consultations are included under 'Key Features'. All feedback received during consultations coordinated by the department was provided to the Treasury for consideration in the drafting of legislation for the levy.

Key Features

In addition to facilitating consultation, the department also assisted the Treasury in formulating components of the proposed legislation. The department provided the Treasury with advice on:

- how the legislation would meet the needs of the Northern Endeavour Decommissioning Project;
- technical and project related definitions;
- the role described for the Minister for Resources; and
- matters raised by industry consultations.

The Northern Endeavour Decommissioning Project

The department is administering the Northern Endeavour Decommissioning Project and has commenced a procurement process, consistent with the Commonwealth Procurement Rules, for a decommissioning service provider to decommission and disconnect the facility. To preserve the integrity of the procurement process, the proposed legislation does not specify a total amount to be collected, and provides for a flexible end-date. This will best promote healthy competition between tender offerings submitted for consideration.

The proposed legislation also provides flexibility for the Resources Minister to adjust-down the rate of collection and bring forward the end-date. In this way, levy collection can be adjusted to align with project expenditure, and can be terminated on completion of the project once all costs are recovered. This time flexibility will support the department in undertaking this large and unprecedented project, without over-collecting monies from industry.

Technical and project related definitions

The Government's stated position is to ensure that taxpayers do not pay for these decommissioning works. This includes tax deductibility considerations for the purposes of corporate income tax or other regimes.

The department advised the Treasury on technical and project related definitions. We consider that the definitions included in the proposed draft legislation are appropriate and meet the Government's stated intent – such as for 'decommissioning activities' and 'net costs', and the technical definition of the Laminaria-Corallina fields.

The role described for the Minister for Resources

The department understands the ATO is permitted to share levy related data with the Resources Minister and department for the purposes of administering powers under the proposed legislation.

The department considers that the proposed legislation provides a suitable mechanism to adjust the levy collection and end-date to appropriately match project spending and prevent over-collection.

Matters raised in industry consultations

During the consultations facilitated by the department, industry raised a number of different considerations regarding the levy. The department understands that APPEA made a public submission to the Treasury in response to the exposure draft, which further outlines the views of its members.

Stakeholders shared feedback on the *administrative design* of the levy, including:

- where production should be measured for calculation of the levy (i.e. wellhead or point-of-sale);
- the implications of different measurement points would have on measurement uncertainty or margin of error;
- the various units of volume or energy in which production is measured and sold (i.e. no standard formula for 'barrel of oil equivalent' (BOE) terms).

Industry did not reach a consensus view on these issues, or which options would be best overall, with different positions favouring different operations.

Stakeholders also raised *policy objections* to key features of the levy, including:

- the inequity of holding companies liable where those companies have derived no financial benefit from this project;
- the impact of the levy on future industry investment decisions for Australia's offshore sector;
- the non-deductible nature of the levy for other tax purposes (e.g. company tax) and the impact of this on a levy paying entity;
- the inability to access any Petroleum Resource Rent Tax (PRRT) credits that former titleholders paid in relation to the project; and
- the open-ended nature of the levy, both in timeframe and the total amount to be collected, noting this amount cannot be disclosed due to the Department's active procurement processes.

This feedback was at odds with the Government's stated policy intent. And, in relation to the last point, as mentioned earlier in this submission the department considers this necessary to achieve the best outcomes from its procurement process.

Conclusion

The decommissioning of the Northern Endeavour facility and remediation of the Laminaria-Corallina fields is one of the first major decommissioning projects in Australian waters.

The department considers that the proposed legislation will:

- achieve the Government's policy intent to decommission the Laminaria-Corallina fields and associated infrastructure at no cost to the taxpayer;
- operate with minimum administrative burden on industry;
- align with the Commonwealth's procurement framework; and
- minimise the risk of over-collecting from industry.

Over the next 30 years, there will be an increase in the number of oil and gas projects that will have exhausted their reserves and require decommissioning. In anticipation of this increase in decommissioning activities, on 24 August 2021 the Parliament passed legislation giving effect to an enhanced offshore oil and

gas decommissioning framework. The enhanced framework will ensure the future risks and liabilities of petroleum activities remain the responsibility of the oil and gas industry.



Australian Government
Department of Industry, Science,
Energy and Resources

LAMINARIA-CORALLINA OILFIELDS DECOMMISSIONING LEVY

Discussion Paper

Introduction

The Government has committed to introduce a temporary levy on offshore petroleum production to recoup the Commonwealth's costs associated with the decommissioning and remediation of the Laminaria-Corallina oil fields and associated infrastructure.

This paper contains more detail on the operation of the levy to provide certainty for entities that may be liable, ahead of the release of draft legislation to give effect to the measure.

Interested stakeholders will have an opportunity to provide feedback on the levy design in targeted consultations, to be facilitated by the Department of Industry, Science, Energy and Resources, commencing in June 2021. The Department is particularly interested in the interaction between the design of the levy and industry's existing data and operational processes.

You can contact the Department at offshorelevy@industry.gov.au.

Levy design parameters

The Department is seeking your consideration of these parameters in view of the discussion questions outlined below.

When will the levy commence?

- The levy will commence on 1 July 2021.

What is the levy rate?

- The levy will apply at a rate of \$0.48 per barrel of oil equivalent (BoE) produced, as measured at the well-head.

Who will have to pay the levy?

- All entities with an ownership interest in a petroleum production licence issued under the Offshore Petroleum and Greenhouse Gas Storage Act 2006 will be liable for the levy.
- The levy will apply at the title holder (entity) level, with all members of a joint venture (JV) individually liable in proportion to their interest.
- The JV lead will be responsible for providing sufficient information to its partners to enable each entity to calculate its respective liability.
- Where an entity is entitled to petroleum produced from more than one project, the entity will make one levy payment to cover all of its interests for the year.

What is the timing for payment of levy liabilities?

- The levy will be paid on an annual basis, in arrears.
- The first payments, for the 2021-22 financial year, will be payable in the first half of 2022-23.

What information will be required to support levy payments?

- For each title area, evidence of annual gross physical production of petroleum at the well-head on a BoE basis.
- Information about the value of production will not be required.

How will the levy interact with Australia's existing tax settings?

- The levy will not be deductible for any other form of Commonwealth taxation, including Company Tax, Petroleum Resource Rent Tax (PRRT), the North West Shelf royalty or crude oil excise.

When will the levy terminate?

- The legislation will be drafted in such a way to end once the costs incurred by the Commonwealth of decommissioning the Laminaria-Corallina oil fields and associated infrastructure have been recovered.

Who is administering the levy?

- The levy will be administered by the Australia Taxation Office.

Questions for discussion

1. What would you like us to take into account in designing the levy using a rate per barrel of oil equivalent?
2. Taking into account your existing data and operational processes, what design elements can we incorporate into the levy to assist with calculating the barrel of oil equivalent at the well-head?