From offshore installations to artificial reefs

Legal frameworks for de-commissioning in Australia

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Overview

- The Challenge
- Legal Context
- International legal obligations
- Comparative de-commissioning regulations
- Australia legal framework
- Key issues
The Challenge

• Globally
  – First offshore installations built in 1920s
  – Early de-commissioning 1970s
  – 1000s of installations 20+ years old

• In Australia
  – Construction of infrastructure in 1960s
  – Facing decommissioning in the next decade

• Options
  – Engineering allows for in situ and complete removal
  – Marine science demonstrates creation of artificial reefs
  – Legal frameworks in Australia favour removal
Legal Context

- International Law
  - Law of the Sea
  - Oceans governance
- National legal frameworks
  - EEZ
- State law and policy
  - Inshore waters
  - Coastal infrastructure

International Legal Obligations

- Geneva Convention (1958)
  - Requires removal
- UNCLOS (1982)
  - Requires removal with regard to accepted international standards
- IMO standards (1989)
  - Permit partial removal for deep water structures and for waivers for ‘new use’
- London (Dumping) Convention (1972)
  - Regulates dumping of waste and ‘storage’ on the seabed
  - Protocol (1996) permits disposal if authorised by state
National De-commissioning rules

• UK and EU
  – OSPAR Convention prohibits dumping but provides derogation rule; and artificial reefs only with new materials

• US
  – Gulf of Mexico states including Louisiana and Texas have facilitated conversion of rigs to reefs
  – *California Assembly Bill 2503* (2010)
Australian current structure

3 jurisdictions (or 4)
Australian Legal Framework

• Federal and State Jurisdictions in Australia
• Complexity of legislation
  – is the Commonwealth Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGSA)
  – Environmental Protection and Biodiversity Conservation Act 1999 (EPBC)
  – Environment Protection (Sea Dumping) Act 1981 (SDA)
  – Onshore legislation
• Multiple regulators
  – National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA)
  – National Offshore Petroleum Titles Administrator (NOPTA)
De-commissioning framework

- Commonwealth Waters
  - Federal DoE still administers permits under Environment Protection (Sea Dumping) Act 1981
  - OPGGSA s572(3) requires titleholders to remove from the title all structures, equipment and property used in connection with operations
  - Decommissioning activities must be conducted under an accepted Environment Plan (Environment Regs r6) or safety case
  - Surrender of a title will require the consent of the Joint Authority (OPGGSA s 270) which will require compliance with s572 (unless there are “sufficient grounds”)
Discussion Points

• Need for scientific studies on decommissioning in situ in West Australian waters – engineering and marine sciences

• How does scientific evidence feed into policy and regulation?

• Public perception and the social licence to decommission

• Fiscal treatment and liability issues of in situ decommissioning