AMPLA EMPOWERING ENERGY & RESOURCES LAWYERS

3 June 2021

Mr Kevin Lewis
ASX Limited

By email: kevin.lewis@asx.com.au

Dear Mr Lewis

Proposed changes to oil and gas reporting requirements

AMPLA is the peak body representing energy and resources lawyers in Australia, with over 1000 members drawn from private practice, in house, government and academia.

AMPLA generally supports the proposed amendments to Chapter 5 of the ASX Listing Rules proposed in the consultation paper. In principle, since the SPE-PRMS was amended in 2018, there is logic in updating the ASX Listing Rules to generally conform to the amended standards, despite that no evidence has been presented that reporting by ASX listed entities in accordance with the 2007 version of SPE-PRMS has been in any sense defective or deficient.

That said, there are several areas where the proposed amendments go further than is required to update Chapter 5. There are also several areas where transition to the new reporting regime could cause practical difficulties for ASX listed entities. We consider each in turn.

1 Proposed changes go further than SPE-PRMS

Rule	AMPLA Comment
5.25.2	The proposed amendment to this rule mandates sub-classification of reserves and contingent resources but SPE-PRMS (2.1.3.5) does not make such classification mandatory. **The proposed amendment should be changed so that such classification remains optional.**
5.25.5	The proposed amendment may be read as requiring all reserves estimates to be reduced by statutory State-based royalties. However, section 3.3.1.2 of SPE-PRMS acknowledges that royalties may be regarded as production taxes and reserves can be reported without reduction by the royalty. **The proposed amendment should be changed so that reduction by cash royalties that are in the nature of production taxes should be optional.**
5.28.3	The proposed amendment will prohibit disclosure of a mean estimate of prospective resources. The consultation paper recognises that this goes beyond SPE-PRMS but the paper does not explain any basis for the prohibition. We understand that a number of ASX listed entities have strong objections to this change. **The proposed amendment should be abandoned.**
5.28.6	The proposed rule would prohibit the making of any financial forecast derived from prospective resources. The consultation paper states that it is potentially misleading to ascribe value to prospective resources. However, the market ascribes value to prospective resources and analysts may ascribe value to prospective resources. We understand that, should the rule be adopted, ASX would object to a value being ascribed

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	to prospective resources in an independent expert's report in a merger and acquisition context. In our submission, an absolute prohibition on any financial forecast derived from prospective resources would be an unwarranted overreach. Any ASX listed entity is subject to regulatory oversight and it should be assumed that any financial forecast, if made, will be based on reasonable grounds and otherwise comply with ASIC Regulatory Guide 170. The ASX Listing Rules should not be drafted on an entirely prophylactic basis, and should not assume that all issuers will ignore their legal obligations. A financial forecast that is properly prepared, and based on reasonable grounds with all material assumptions stated will not be *ipso facto* misleading. Quite the contrary**. The proposed rule should be abandoned.**[1]
5.33.3	This change mandates disclosure of the chance of development associated with contingent resources. SPE-PRMS does not mandate such disclosure. Section 2.1.3.1 makes it clear that reporting a more detailed resources classification system by reference to the chance or probability of commercial development is optional. The mandating of chance of development disclosure may also encourage misleading assessment by investors simply multiplying the chance by the contingent resource amount resulting in a meaningless number. **The proposed amendment should be abandoned.**

2 Proposed changes may create practical problems

Rule	AMPLA Comment
5.31.6	The proposed amendment to this rule reflects the changes to commerciality in section 2.1.2 of SPE-PRMS. In the chapeau of rule 5.31.6 reference is made to "a brief statement regarding" the specified matters. Concerns have been expressed about the level of detail that may be expected. For example, disclosure of the existence and terms of contracts to justify commerciality would be problematic. **ASX should provide guidance to confirm that detailed information is not required. Also, the last bullet should be redrafted to include the word "resolving" to better align with section 2.1.2 of SPE-PRMS.**
5..39.4	The proposed amendment requires the statement of a time frame for development where reserves have remained undeveloped for 5 years after initial reporting. It is not obvious that an ASX listed entity will, in those circumstances, be able to state a reliable time frame, although we note that a reasonable time frame is an element of commerciality under section 2.1.2.1 of SPE-PRMS. However, there is a significant difference between (1) an entity having evidence satisfactory for internal purposes in relation to a time frame for development and (2) being forced to make a public statement to ASX that could be understood as some form of binding commitment to proceed to develop within that time frame come what may. **The proposed amendment should be abandoned.**

We would be happy to discuss any of our comments.

If you would like to discuss our comments please contact [John Keeves on 0419 039 019].

Yours faithfully

Gordon Bunyan
Executive Director

[1] In principle, we also have a concern with proposed new rule 5.27.5 because it goes beyond SPE-PRMS, but from a practical perspective, we agree that ASX listed entities should not make (nor need to make) financial forecasts based on uneconomic prospective resources.

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