

Resource Exploration Inquiry
Productivity Commission
GPO Box 1428
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Submission to the Productivity Commission

On: Non-financial barriers to mineral and energy resource exploration in Australia

The Productivity Commission has been asked to examine the non-financial barriers to mineral and energy resource exploration in Australia. The inquiry will examine the exploration approval systems and processes within and across jurisdictions to assess their effectiveness and efficiency, and examine the costs associated with the regulation of exploration activities.

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) is the regulator for offshore petroleum operations including activities relating to exploration for petroleum. NOPSEMA's functions are specified in the *Offshore Petroleum and Greenhouse Gas Act (OPGGSA) 2006*. These are primarily related to the regulation of Safety, Well Integrity and Environmental Management. As described in the Commission's issues document, the awarding of permits, licences and titles are made by the Joint Authority and the National Offshore Petroleum Titles Administrator (NOPTA).

This submission is aimed at assisting the Commission understand the regulatory requirements that NOPSEMA administers relating to exploration for petroleum in the offshore areas. The submission alerts the Commission to certain areas of duplication that the Commission may choose to examine in the conduct of its review.

NOPSEMA's functions that relate to a person's entry into the regime are generally those that are described as "work approval processes for specific activities" as indicated in Figure 6 of the Commission's issues paper. Specifically NOPSEMA receives submissions for persons as follows:

Functions Aspects	Environmental management	Safety	Wells Operations
Dutyholder	Operator of petroleum activities	Operator of facility	Titleholder
Submission document for approval	Environment Plan (including OSCP ¹)	Safety Case	Well Operations Management Plan

¹ Oil Spill Contingency Plan

State and NT conferrals for Offshore Regulatory Functions.

NOPSEMA has assessed Safety Cases for offshore facilities since 2005. During 2011 and 2012 the OPGGSA was amended to require NOPSEMA to assess submissions for Well Operations Management Plans and Environmental Plans within Commonwealth Waters respectively (previously these were assessed by the States and the NT).

The OPGGSA has provided (since 2005) for each State and the NT to confer OHS regulatory functions on NOPSEMA in their coastal waters (generally 3 nautical miles from the shore). While most states and the NT initially did confer the function, only Victoria has maintained its OHS conferral and has also since 1.1.2013 conferred well operations. All other States and the NT have either removed their OHS conferrals (WA) or have let them lapse. No State has conferred the regulation of environmental management and only Victoria has conferred well operations. It is likely that persons who are seeking approval for projects that cross jurisdictions must, in most States and NT, seek approvals from 2 regulators for possibly similar activities.

Overlapping Environmental Approvals in the Offshore Area

In the case of the regulation of environmental management in the Offshore Area there is significant overlap between the regulation under the OPGGS Environment Regulations 2009 and the *Environment Protection and Biodiversity Conservation Act (EPBC Act) 1999*.

It is NOPSEMA's view that duplication of assessment effort under the two pieces of legislation imposes an unnecessary regulatory burden on the Commonwealth and industry and does not afford any additional environmental protection. This has been recognised by a number of stakeholders.

Options for streamlining of assessment and approvals processes are available under the provisions of the EPBC Act. Two mechanisms in the EPBC Act would best achieve streamlining, although both may require regulatory amendments under the OPGGSA to satisfy the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC). These include:

1. granting an exemption for classes of actions under section 84 from assessment under Part 8 of the EPBC Act; or
2. granting a section 33 authorisation process, thereby authorising NOPSEMA to administer the EPBC Act on its behalf (accreditation).

Ongoing dialogue continues with SEWPaC to pursue streamlining opportunities.

Yours sincerely

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