

**Disclaimer:**

**I have worked in three different jurisdictions in Australia and this experience has led to the views that I have formed with respect to the Australian regulatory system and therefore the comments below are my own personal views.**

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**Comments on Productivity Commission Report\***

**General Comments:**

- A) This draft only focused on upstream petroleum regulations and did not review the impact of PSLA 1967 or OPA 2006 on the regulatory regime. OPA requires major revision to streamline some of the difficulties in the current regulatory system.

For instance, Retention Lease provisions need a major overhaul to address current problems. More than 80 TCF of the Offshore Australian gas resources are being held under RL and some of the Retention Leases have been in place more than 30 years.

Also the clauses on unitisation is very ambiguous and leads to regulatory confusion and in addition there are no provisions for unit development of various pools that need to be developed as one petroleum development project. Therefore I believe that the Productivity Commission must not limit their review to regulations and it must spell out current inefficiencies in OPA 2006 as well to assess the impact of the current regulatory framework.

- B) It is not clear that the Productivity Commission (PC) scope of review is only limited to offshore regulations or is extended to State regulations as well. If the PC is considering the extended scope, this will be a huge undertaking and could become an open ended process. If such regulatory body is in charge of both offshore and onshore petroleum related regulations this will diminish the State powers to a great extent and I believe that would not be acceptable to most jurisdictions. Therefore I disagree with this approach if there are such intentions and this is the final objective...
- C) The PC is considering options for a national regulatory authority along the line of NOPSA to manage all regulatory approvals for the upstream petroleum industry as a means of addressing issues of regulatory duplication and inconsistencies. I am of the view that it would be premature and too early to consider the NOPSA as a successful model without proper benchmarking and comparing its performance to pre NOPSA safety regime.

Additionally, my impression of the Australian petroleum industry is that many operators are not satisfied with the NOPSA model which comes at a compliance cost of more than three times as much as pre NOPSA model. Also I was told that the NOPSA's internal and external surveys confirm industry's views in this respect. Therefore I encourage the PC to review the surveys on the NOPSA performance and discuss that matter with the petroleum industry before recommending the creation of another national regulatory body similar to the NOPSA.

- D) Current Objective Based Regulations are relatively new. In 1992, when the Australian Upstream Petroleum Sub-committee agreed to replace prescriptive offshore regulations with objective based regulations it was decided to take a piece meal approach and produced 11 different regulations to replace one prescriptive regulations.
- E) Objective Based (OB) regulations have been introduced in the areas of safety (1996) and environment (1999), Pipeline Regulations (2001), Diving Safety Regulations (2002), Data Management Regulations (2004) and Well Operations Management Regulations (2005).
- F) As seen, using this approach increased the number of regulations 11 folds. In addition when such regulations were mirrored by states it has created a huge duplication which has been very significant with respect to some regulations such as pipeline management plans.

To address this issue, DRET has undertaken consolidation exercise to reduce such regulations and most State Governments have been a strong advocate of consolidation. At this stage the impact of the OB regulations on regulatory burden would not be fully known until the consolidated regulations come into effect and are bench marked.

I believe that any further reforms at this stage will create further unnecessary complications and will lead to the Government and petroleum industry confusion. Therefore I propose that consolidated regulations come into effect and are implemented first and then review its impact on the regulatory regime before any other reforms are carried out.

**Specific Comments:**

- Compliance Costs Page 21 – There is a discussion about the disadvantages of prescriptive regulations which is irrelevant and not applicable as most of the Australian offshore regulations are OB and there is only one remaining one (Resource Management Regulations (RMR)). But it is expected that the emerging RMR to be another OB regulation when it is finalised.
- Page 25- A National Regulator- There is this discussion about the possible advantages of the one stop shop to simplify applications and expedite and enforce decisions. It is interesting that States/NT used to have this one stop shop approach five years ago before the inception

of the NOPA. However since all State Governments, the CW, APPEA and petroleum industry in general and even unions agreed that a national safety approach is preferred to one stop shop, they endorsed the creation of the NOPSA and the Safety aspects of the Offshore petroleum regulations were delegated to the NOPSA since 2005.

## **Resource Management and Productivity Commission Report**

Australia's sovereign rights over offshore petroleum resources mean that they are an asset of the whole community. Today, governments play a 'stewardship' role in optimising the net economic benefit of those resources by managing the discovery and extraction of offshore petroleum.

Community returns on petroleum development projects are provided for by a Petroleum Resource Rent Tax (PRRT) or, where applicable, by excise and royalty arrangements. Petroleum is a non-renewable resource and consideration should be given to intergenerational equity in order to recover petroleum resources efficiently and effectively.

Specifically, in current climate of high oil price security of supply is a key issue for current and future Australian generations. Therefore every possible effort must be made by regulatory compliance agencies to maximise the ultimate resource recovery and to ensure that good oil field practice is in place.

The Governments have a responsibility to ensure sound resource management. The prevalent petroleum industry view is that in the absence of convincing evidence of the need for government intervention in resource management, companies should be allowed to maximise the returns from their petroleum operations.

There are occasions where the interests of operators may diverge from those of regulators, for example, an excessive rate of production that could reduce the ultimate recovery; uncertainties in reservoir characteristics; using lower-cost production schemes that may reduce ultimate recovery substantially; and premature decommissioning. Therefore it is in the public interest to optimise both the long and short-term benefit to the Australian community.

Government's role in regulation is to ensure that these objectives are met or exceeded during the life cycle of each project. Therefore, there is a need for effective regulation that provides the required degree of assurance to all stakeholders in the achievement of these objectives. The concept of 'good oilfield practice' balances the competing objectives of maximising both net present value (NPV) and ultimate recovery.

Good oilfield practice is defined within section 5 of the P(SL)A 1967 as "all those things that are generally accepted as good and safe in the carrying on of exploration for petroleum or in the operations for the recovery of petroleum"<sup>1</sup>.

Unfortunately, the current regulatory system for resource management is inconsistent and relies on some discrete clauses in OPA, a few remaining clauses of the Schedule of Specific Requirements and non-mandatory guidelines. This approach is disjointed and confusing. In 1999 a joint working group (WG) from the CW and States and NT were established to prepare the Resource Management Regulations (RMR).

The RMR and associated guidelines are designed to apply a lifecycle approach to petroleum resource developments and to bring all related regulatory requirements for resource management under one umbrella. The WG finalised their draft of RMR and submitted it to DRET in June 2007. Unfortunately for various reasons especially for the sake of DRET's consolidation practice it has not been put into effect as yet.

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