Offshore Petroleum Environment Regulation

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Presentation to WAFIC Sector Bodies Meeting
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• NOPSEMA environmental management function
• Jurisdiction and responsibilities
• Environment plan process overview
  – EPBC ‘Streamlining’
• Consultation requirements
• Consultation challenges and opportunities
• NOPSEMA environmental management function established 1 January 2012
• Key recommendations from Montara Commission of Inquiry
• Australian Government response to establish single national regulator
• Objectives-based regime – flexibility and continuous improvement
Note: State and Northern Territory coastal waters conform more or less to the Australian continent and associated islands. Commonwealth waters extend seaward from the edge of the three nautical mile limit of designated coastal waters, to the outer extent of the Australian Exclusive Economic Zone at 200 nautical miles.
Jurisdiction

1. OPGGS Act

PETROLEUM ACTS
2. WA - Petroleum Submerged Lands Act 1982
3. WA - Petroleum & Geothermal Energy Resources Act 1967
4. WA - Petroleum Act 1936

Commonwealth Offshore Area
Coastal Waters
Internal Waters

* Note: State Waters = Internal Waters + Coastal Waters

3 Nm Limit of State Coastal Waters
Baseline

DIAN
OCEAN

Onslow, Damper, Barrow Island

APPLIES EXCEPT WHERE TITLES DERIVE FROM SURVIVING COMMONWEALTH PERMITS.
WHERE APPLIES
Independent statutory authority
Regulatory functions

Monitor and Enforce
Investigate
Compliance

Promote
Advise
Improvement

Co-operate
Report
Governance

Governance
Promote
Advise
Improvement
Compliance
Monitor and Enforce
• OPGGS Act and Environment Regulations

• Objectives of Environment Regulations
  – Principles of ESD
  – Impacts and risks are ALARP and to an acceptable level

• Amendments to Regulations 28 February 2014

• EPBC Streamlining

• Other Act amendments to strengthen environmental compliance/enforcement
Environmental approval process

**Development Projects**
- Consultation process and early regulatory acceptability decision – development projects must use this route

- **Proposed Development (Offshore Project)**
  - Titleholder must use OPP process

- **Offshore Project Proposal (OPP) Process**
  - Prepare Offshore Project Proposals
    - Demonstrate acceptable level
    - Foreshadow component activity EPs
  - Public Consultation
  - Submit Proposal and Consult Report to NOPSEMA
    - Demonstrate & address submissions
  - Regulatory Decision
    - Acceptable
    - Not acceptable

- **EP Process** (for component activities of the Offshore Project)

**All Activities**
- For all activities (EP process with consultation) – majority of activities not currently subject to EPBC Act approval expected to use this route

- **Proposed Activity**

- **EP Process**
  - Targeted Stakeholder Consultation
    - Relevant Persons identified by titleholder (supported by guideline)
  - Environment Plan
    - Demonstrate acceptable level
    - Demonstrate ALARP
    - Demonstrate consultation
  - Submission and Assessment
  - Public notification on Regulators Website
  - Regulatory Decision
    - Accept
    - Refuse to accept
  - Revision of EP can be triggered by new information e.g. from public
• Challenge titleholders to demonstrate all impacts & risks are managed to acceptable and ALARP levels.
• Substantial internal expertise
• Seek external advice where necessary
• Request for further information and/or provide opportunity to modify and re-submit
Risk management process (AS/NZS ISO 31000)

- Establish the context
- Risk identification
- Risk analysis
- Risk evaluation
- Risk treatment

EMS model (AS/NZS ISO 14001)

- Continuous Improvement
  - Management Review
  - Checking
  - Implementation and Operation
  - Planning
  - Environmental Policy
Consultation requirements for environment plans

• Onus on risk creator to bear burden of proof and seek out views of affected parties
• Consultation required to be undertaken by titleholder during EP preparation and ongoing
• An EP must demonstrate that the titleholder
  – Has carried out the consultation required by Division 2.2A;
  – the measures (if any) that the titleholder has adopted, or proposes to adopt, because of the consultations are appropriate.
Pre-submission consultation

• Regulations require titleholders to:
  – consult with all ‘relevant persons’
  – provide sufficient information to relevant persons
  – provide relevant persons with reasonable time period
  – Report on consultations in EP

• Previous consultation prior to commencement of NOPSEMA and prior to Streamlining
Ongoing consultation

• Titleholders must:
  – Describe the EMS to maintain impacts/risks to ALARP and acceptable.
  – Provide for appropriate ongoing consultation as part of Implementation Strategy
  – Revise and resubmit the EP to NOPSEMA if new information results in a new or significantly increased impact or risk
• NOPSEMA has published an Information Paper to assist titleholders and stakeholders in the consultation process

• NOPSEMA’s promotion activities aim to provide advice on good practice approaches to consultation
Consultation challenges

• Challenges
  – Significant increase in consultation by petroleum titleholders since NOPSEMA commencement
  – Regulations require consultation to be specifically relevant to individual activities, therefore strategic consultation needs to be carefully demonstrated in EP.
  – NOPSEMA does not have a role to intervene between conflicting parties. NOPSEMA must impartially assess a plan to the requirements of the Regulations.
  – Stakeholder expectations of no risk / no impact rather than ALARP and acceptable levels of risk/impact.
Opportunities to improve consultation

• Opportunities to reduce burden on relevant persons:
  – Individual titleholders to be strategic, forward planning
  – Titleholders in same region to coordinate where reasonable and practicable
  – Stakeholders document consultation policy

• NOPSEMA focused on providing advice to petroleum industry and stakeholders to support effective consultation.
Any Questions?
- NOPSEMA
- Streamlining
- Consultation
- Other