

Direction – section 574

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Direction number: 741

Direction

To: Timor Sea Oil & Gas Australia Pty Ltd ACN 111 708 868

Issue of Direction/s - Section 574 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth)*

Attached is a written notice of direction/s made under s 574 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth)*.

Please provide written acknowledgement of receipt of this direction. Please also note that pursuant to s 575 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth)*, you are required to either:

- Give a copy of this notice of direction to any person to whom this direction applies under s 574(3)(a); or
- display the notice at a prominent position at a place in the offshore area frequented by that other person.

A person commits an offence if:

- (a) the person is subject to a direction under s 574; and
- (b) the person engages in conduct; and
- (c) the person's conduct breaches the direction.¹

Please provide this office with documented evidence of your compliance with the notice of direction/s.

If you have any questions relating to the content of the instrument, please contact Kerry Gordon on 08 6188 8731.

Yours sincerely

Signed:



Rodney Gunn

A/Head of Division, Safety & Integrity

Dated: 26 April 2019

NOTES: (Please see explanatory statement)

¹ Section 576 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth)*

Direction number NOPSEMA ID 741

I, Rodney Gunn of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), make this instrument under section 574 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) as a delegate of the CEO of NOPSEMA, pursuant to an instrument of delegation dated 20 August 2018.



Rodney Gunn

A/Head of Division, Safety & Integrity
National Offshore Petroleum Safety and Environmental Management Authority

Dated: 26 April 2019

DIRECTION

1. Commencement

This direction takes effect on the date of signature.

2. Application

This direction applies to Timor Sea Oil & Gas Australia Pty Ltd ACN 111 708 868 the registered holder of AC/L5.

AND

3. Extended Application

Pursuant to subsection 574(3)(a) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, this instrument also applies to a specified class of persons, being:

- i) employees or agents of, or persons acting on behalf of, the registered holder;
- ii) persons performing work or services, whether directly or indirectly, for the registered holder.

4. Direction

- (1) The titleholder is given the directions contained in Schedule 1.
- (2) Each direction in Schedule 1 is a separate direction.

Schedule 1 – Directions**Direction 1**

The titleholder (Timor Sea Oil & Gas Australia Pty Ltd ACN 111 708 868) must demonstrate to NOPSEMA's reasonable satisfaction that all times whilst the Northern Endeavour - NOGA facility is being used or is prepared for use for the recovery, processing, storage or offloading of petroleum within Commonwealth waters it ensures that the services of the current registered operator with the capacity and capability to discharge the obligations in the *Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009* are retained until such time as a subsequent registered operator has a safety case accepted by NOPSEMA.

Direction 2

The titleholder must take all reasonably practicable steps to ensure the ongoing retention of services identified in Direction 1.

Direction 3

Within 24 hours of becoming aware of any event which could lead to the termination of such services identified in Direction 1, the titleholder is to provide NOPSEMA with notice in writing.

Explanatory Statement

Direction number: 741

Background

Between 20 February 2019 and 4 April 2019 NOPSEMA inspectors undertook various inspections and inquiries at the premises of Timor Sea Oil & Gas Australia Pty Ltd ACN 111 708 868 (the titleholder) and current registered operator of the Northern Endeavour –NOGA facility (the operator). During those inspections, NOPSEMA inspectors obtained information regarding the contractual relationship between the titleholder and the operator which indicated that the operator may not remain as the registered operator during ongoing production works, or at least until another registered operator has an accepted safety case and is able to take over control of the facility.

Notification of a direction that has an extended application

Pursuant to section 575:

(1) If a direction under section 574 applies to:

- (a) a registered holder; and
- (b) a person referred to in paragraph 574(3)(a);

the registered holder must cause a copy of the notice by which the direction was given to be:

- (c) given to that other person; or
- (d) displayed at a prominent position at a place in the offshore area frequented by that other person.

Legislation

Part 6.9 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) (the Act) provides that NOPSEMA has functions in relation to the occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations; the structural integrity of facilities, wells and well-related equipment; and environmental management.

Under subsection 574(2) of the Act, NOPSEMA may issue a direction about any matter in relation to which regulations may be made.

Section 666(2) of the Act gives the CEO of NOPSEMA the power to issue a direction under section 574 of the Act. The power may be delegated by the CEO under section 675 of the Act.

Under sub section 576(1) of the Act, if a person is subject to a direction under section 574 and the person engages in conduct that breaches that direction, the person commits an offence:

- **Fault-based offence** – 5 years imprisonment or 2,000 penalty units, or both (10,000 penalty units for a body corporate).
- **Strict liability offence** – 100 penalty units (500 penalty units for a body corporate).
- **Civil penalty provision** – 525 penalty units (2,625 penalty units for a body corporate).
- **Continuing offences** – a person who commits a fault-based or strict liability offence commits a separate offence in respect for each day during which the offence continues. The maximum penalty for each day that the offence continues is 10% of the maximum penalty that can be imposed in respect to that offence.
- **Continuing contraventions of civil penalty provisions** – a person who contravenes the civil penalty provision commits a separate contravention in respect for each day during which the contravention continues. The maximum civil penalty for each day that the contravention continues is 10% of the maximum civil penalty that can be imposed in respect to that contravention.

Note: the value of one penalty unit is \$210 pursuant to section 4AA(1) of the *Crimes Act 1914* (current as of 6 September 2017).