

OPERATING PROTOCOLS FOR OFFSHORE PETROLEUM JOINT AUTHORITIES AND SUPPORTING INSTITUTIONS

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Date	Version	Purpose
December 2011	1	To establish protocols for the operation of the JA with the commencement of NOPTA
September 2014	2	Update to improve clarity and timeframes.
February 2015	3	Final comments on draft invited from jurisdictions, NOPTA and NOPSEMA.
April 2015	4	To seek endorsement by UPR members.
May 2015	5	UPR endorsed subject to final changes by NOPTA incorporated.
June 2015	6	Agreed by UPR for commencement in July 2015.

Purpose

The purpose of this protocol is to provide a high level framework and clarify the roles and functions of the Joint Authority, the National Offshore Petroleum Titles Administrator (NOPTA), the National Offshore Petroleum Safety and Environment Management Authority (NOPSEMA) and other stakeholders. This protocol will provide guidance on how these bodies will interact to facilitate legally valid and technically justifiable Joint Authority decisions.

General

The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act) provides the legal framework for the exploration and recovery of petroleum and for injection and storage of the greenhouse gas substances in offshore areas. It establishes: the Offshore Petroleum Joint Authorities (the Joint Authorities) for each offshore area; NOPTA; and NOPSEMA. This protocol addresses the following matters:

- Function, roles and powers of Joint Authorities, and the supporting roles of NOPTA and NOPSEMA
- Decision making arrangements
- Communication and stakeholder management.

1. Functions of the Joint Authorities and Supporting Institutions

Joint Authorities

Part 1.3 of the OPGGS Act establishes the Joint Authority for each offshore area. The Joint Authorities are responsible for key petroleum title decisions in Commonwealth waters.

The Joint Authority for the offshore area off each State (except Tasmania) and the Northern Territory is constituted by the responsible Commonwealth Minister and the relevant State or Northern Territory Minister. The Joint Authority for the Eastern Greater Sunrise offshore area, the offshore area of each external territory (e.g. the Territory of Ashmore and Cartier Islands), and for the Tasmanian offshore area, is the responsible Commonwealth Minister only.

Key functions and powers of Joint Authorities include:

- release of offshore petroleum exploration areas
- decisions relating to bids for these areas
- grant/refusal of offshore petroleum titles
- variation of title conditions

- suspension and extension to title terms
- surrender and cancellation of titles
- resource management (Declaration of Location, Rates of Recovery, Field Development Plans, initial and variations).

Delegations

Under section 66 of the OPGGS Act, a Joint Authority may delegate any or all of their functions and powers to appropriate Commonwealth and State/Territory officials within their respective Departments.

As with the Joint Authority, NOPTA will provide advice to the delegates in relation to the performance of the functions, or the exercise of the powers, delegated by the Joint Authority.

Delegations are subject to the following conditions:

- Ministers have the opportunity to issue media statements when important decisions are made, such as the award of offshore petroleum titles
- any contentious or strategic issues be referred to Ministers (such as decisions that deviate from approved policy or well established precedents, or where there is a difference of opinion between Commonwealth and state/NT officials) departments are to report regularly to their respective Minister on decisions envisaged in a coming period and also report back on delegated decisions taken during the previous period, and undertake to provide timely advice on issues arising from delegated decisions that might affect Ministerial accountability.

NOPTA

Part 6.10 of the OPGGS Act establishes a Titles Administrator/NOPTA. NOPTA's functions and powers include supporting the Joint Authorities, keeping the titles register and managing the receipt and management of confidential data from the offshore petroleum industry.

Section 695B of the OPGGS Act sets out the functions of NOPTA in relation to the Joint Authority which are to provide information, assessments, analysis, reports, advice and recommendations to the responsible Commonwealth Minister and State in relation to the performance of the functions, or the exercise of the powers, of a Joint Authority.

NOPTA is the technical advisor to both the Commonwealth and State/Territory Ministers and their respective delegates. The OPGGS Act does not intend that the Joint Authority duplicate the technical advisory functions of NOPTA. The Joint Authority is not compelled to accept NOPTA's advice.

NOPTA provides advice to the Joint Authorities and their delegates, consistent with its statutory obligations. NOPTA is also responsible for the receipt and management of confidential data from the offshore petroleum industry. In addition, NOPTA also advises the Joint Authority in relation to resource management issues and monitors titleholders' compliance with regulatory obligations.

NOPTA must make a written record of Joint Authority decisions and maintain a Register of Titles.

NOPTA is expected to develop a collaborative working relationship with each of the Joint Authority delegates and their respective Departments.

NOPSEMA

NOPSEMA is established under Part 6.9 of the OPGGS Act. It is responsible for the regulation of occupational health and safety (OHS), structural integrity, and environmental management in connection with offshore petroleum activities in Commonwealth waters, and in coastal waters where powers have been conferred by the relevant State or the Northern Territory.

NOPSEMA is also responsible for monitoring compliance with the provisions of the OPGGS Act generally (such as the various requirements imposed in respect of petroleum operations, including in relation to work practices).

Where the Joint Authority requires information relating to a titleholders' compliance with NOPSEMA-administered regulations, NOPTA will consult with NOPSEMA on the Joint Authority's behalf. This could relate to matters including:

- renewal of titles
- pipelines
- proposed surrender of titles (satisfaction of the requirements of paragraphs 270(3)(c) to (f) of the OPGGS Act.

NOPSEMA must also advise NOPTA if it identifies an issue which may be grounds for cancellation of a title under section 277A of the OPGGS Act.

Commonwealth, State and NT Departments

The Joint Authority, including delegates and their Departments, will be given full access to supporting documentation held by NOPTA relevant to its advice subject to the provisions in the OPGGS Act relating to information as it is received by NOPTA.

Commonwealth and State/NT Joint Authority delegates and their Departments will be responsible for providing any relevant policy or local advice to their respective members comprising the Joint Authority.

2. Joint Authorities Decision Making Arrangements

A valid decision by the Joint Authority is constituted by either two Ministers or two delegates (i.e. not a Minister and a delegate), unless it relates to a Joint Authority which consists of only the responsible Commonwealth Minister.

Timing

The Joint Authorities, and their delegates, will seek to make decisions on a consensus basis and within a reasonable timeframe. Similarly, NOPTA will process applications in a timely manner and seek to provide its advice to the Joint Authority expeditiously.

The following table outlines indicative timeframes for NOPTA's provision of advice to inform decisions by the Joint Authority:

Type	Indicative, maximum time frame for processing by NOPTA after all relevant material has been submitted by the applicant
Exploration Permits	8 weeks
Variation to existing Exploration Permits conditions	4 weeks
Extension/Suspension of Exploration Permit conditions	4 weeks
Renewal of Exploration Permits	6 weeks
Declaration of Location/ Variation of Location	5 weeks
New Retention Lease	10 weeks
Renewal of Retention Lease	10 weeks
Variation of Retention Lease	10 weeks
Production Licence	10 weeks
Renewal of Production Licence	10 weeks
Pipeline Licence	10 weeks
Infrastructure Licence	10 weeks
Field Development Plan	10 weeks
Rate of Recovery	5 weeks
Equipment and Procedures	5 weeks
Surrender of title	10 weeks

NOPTA may also provide advice to the Joint Authority outside of an application process, for example where there are compliance issues which may trigger cancellation.

The Joint Authority delegates will be provided a reasonable opportunity to review the NOPTA's advice and will advise NOPTA where additional time is required to reach a decision.

The Joint Authority delegates will use best endeavours to finalise consideration of NOPTA's advice within 10 business days or 15 business days for more complex matters or where the Joint Authority delegates seek further advice or clarification from NOPTA.

NOPTA will submit its technical assessment reports to the Joint Authority, or its delegates, through the relevant Commonwealth and State/NT Departments. Where the Joint Authority comprises only the responsible Commonwealth Minister, NOPTA will submit its report to the Joint Authority or its delegate via the Commonwealth Department. The Commonwealth Minister or delegate will then provide the written decision to NOPTA for purposes of communicating to the relevant party.

Delegates may advise their Ministers on whether the advice is comprehensive and reasonable, insert local policy concerns and support or oppose recommendations.

Clarification and further information

The Joint Authority is not compelled to accept NOPTA's advice or recommendations and may seek additional information and/or clarification from or through NOPTA where necessary.

In situations where NOPTA's advice requires clarification, less formal communication between NOPTA and both Joint Authority delegates/Departments (e.g. email or phone call) will suffice, supported by their collaborative relationship.

In relation to complex matters, NOPTA may arrange a discussion (in person or tele/video conference) with both Joint Authority delegates. Such meetings may be arranged on an as-needs basis and at the request of NOPTA or either delegate of the Joint Authority.

If Joint Authority delegates, despite the above engagement process, still have outstanding concerns about the adequacy of NOPTA's advice, those concerns should be raised with the Titles Administrator in the first instance. If concerns remain, Joint Authority delegates may approach the Resources Head of Division within the Department of Industry and Science.

Communication of decision

The delegate for the State/NT member of the Joint Authority will provide their written decision to the delegate of the Commonwealth member of the Joint Authority (with a copy to NOPTA) prior to the Commonwealth delegate providing a written decision to the State/NT member (with a copy to NOPTA).

NOPTA will advise applicants or titleholders of Joint Authority decisions and keep written records of all Joint Authority decisions. The National Electronic Approval Tracking System will be the primary public platform for communicating decisions. An example of decision making process is at Attachment A.

3. Communication and Stakeholder Management

Section 58 of the OPGGS Act provides that a Joint Authority may conduct its business either at meetings of the Joint Authority or by written or other communication between the members of the Joint Authority.

In preparing reports to the Joint Authorities about applications relating to petroleum titles, NOPTA may consult with relevant stakeholders who may include petroleum companies, Commonwealth/State/NT government agencies, other users of offshore areas, environmental groups, etc. Consultation may be undertaken jointly with State/NT Departments.

NOPTA will also continue to maintain information sharing arrangements with all Joint Authority delegates (including those who opted out of the Joint Authority arrangements) to ensure that the relevant State or NT is kept fully advised of developments in that Commonwealth offshore adjacent area.

The information sharing arrangements with the NT Department will also ensure that the NT is advised of developments in the offshore area of the External Territory of Ashmore and Cartier Islands. The offshore petroleum developments are considered to include granting of new offshore petroleum titles, including titles granted by NOPTA.

4. Financial Management

Each jurisdiction is to meet its own expenses in support of its member of the Joint Authority and does not form part of the cost recovery arrangements in place for NOPTA.

NOPTA's operating costs, including the provision of advice to the Joint Authority, are recovered from industry through cost recovery arrangements.

ATTACHMENT A

Offshore Petroleum Decision Making Process - Surrender of a title

