



Declaration of experience and disclosures

All information should be read in conjunction with the [Offshore Petroleum and Greenhouse Gas Storage Act 2006](#) (the OPGGS Act), associated regulations, relevant guidelines and policies (available on [NOPTA's website](#)).

The purpose of this document is to provide an overview of the information required to support the Entry Stage Assessment of the applicant or other person (as relevant) and change of circumstances declarations under section 695YC. Further details can be found in part 4 and 5 of the [Guideline: Applicant Suitability](#).

Please note: this document is intended as a guide only and should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases.

Overview

In determining whether an applicant or other person (as relevant) is suitable, the decision-maker will consider a range of factors including (but not limited to): financial resources, technical experience and advice available, history of compliance, corporate governance arrangements and any previous liquidation or bankruptcy events. The decision-maker has the discretion to request additional information where needed to assist and inform its consideration of an application.

The matters specified in Part 6.12 of the OPGGS Act go to whether the applicant or titleholder is suitable to carry out offshore petroleum or greenhouse gas (GHG) storage operations.

Matters to which a decision-maker must have regard

The OPGGS Act states the decision-maker must consider the matters in section 695YB for the grant of certain titles (namely initial grants of petroleum exploration permits and greenhouse gas assessment permits, infrastructure licences, pipeline licences),¹ transfer of titles (section 478 and 529), and approval of a change of company control of a registered titleholder (section 566D).

Applicants or other persons (as relevant) are required to provide disclosures relating to past conduct relevant to the applicant or other person (as relevant).

'Other persons' may be transferees (where the title is being transferred – see sections 478 and 529) or entities who will begin to control the registered holder's petroleum or GHG storage operations (where there is a change in company control – see section 566D).

Declarations

A declaration is used to provide information against the provisions on s695YB and other relevant matters, for the decision maker to use in their assessment.

When is a Declaration made?

Declarations will be required if the applicant or other person (as relevant) has not previously made a declaration. If a previous Declaration has been made, and a change of circumstances has not occurred, the previous declaration can be referenced.

If a change of circumstances form has been submitted (see '[Change of Circumstances](#)' below), this form may be referenced in the application.

Who makes a Declaration?

The persons who will be subject to an experience and disclosure assessment will include:

- the person who proposes to begin controlling a registered holder of a title;
- the applicant in relation to the grant, of certain titles;
- the transferee; and
- if the applicant is a body corporate, the officer or officers of the applicant (within the meaning of the *Corporations Act 2001*).²

A Declaration will be needed from each of the relevant parties, for example, the applicants, which would include each company who is a Joint Venture partner and the officers of each company.

Where the party is not the applicant (for example relating to a change in company control) a declaration may be sought from other parties.

The Declaration form:

- for a natural person, including an officer of a body corporate (not a body corporate) is a **Form 8**;
- for a body corporate is a **Form 9**.

¹ See sections 105, 111, 116, 117, 179, 180, 199, 221, 222, 298, 305, 306.

² See section 9.



Experience

The decision-maker must consider:

- where the applicant or other person (as relevant) is an individual, the applicant's or other person's (as relevant) experience (whether offshore or onshore, or in Australia or another country); and
- where the applicant or other person (as relevant) is a body corporate, the experience (whether offshore or onshore or in Australia or another country) of the officers of that body corporate,
in:
 - petroleum exploration or recovery;
 - the injection or storage of greenhouse gas substances;

to ensure the applicant or other person (as relevant) has the appropriate experience to carry out offshore petroleum or GHG operations. As part of the Declaration the applicant or other person (as relevant) should include statements around their experience (for individuals, and officers of body corporates).

Other relevant considerations

The decision-maker may also take into account any other relevant matters, for example corporate governance and the body corporates' project management experience to carry out offshore petroleum or GHG operations.

For a body corporate, the Declaration should include details of its project management experience to carry out offshore petroleum or GHG operations and corporate governance arrangements. Refer to Part 4 of the [Guideline: Applicant suitability](#) for further guidance on these criteria and [Form 9](#).

Making a false Declaration

As noted above, applicants or other persons (as relevant) will be required to sign a Declaration to the effect that the information provided in the application, including experience and disclosures, are accurate.

A person who makes a false statement to a Commonwealth entity may also be guilty of one or more offences under Chapter 7 of the *Criminal Code Act 1995*.

Request for further information

If sufficient information is not provided through the Declaration process, NOPTA or the relevant decision-maker (through NOPTA) may request further information from the applicants.

Change of circumstance

Section 695YC of the OPGGS Act requires that NOPTA and the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) are notified of events (changes of circumstance).

Who is required to provide a notification?

A change of circumstance notification is required by:

(a) An applicant for the grant, renewal or approval of a transfer of any of the following titles (each of which is a relevant title):

- (i) a petroleum exploration permit;
- (ii) a petroleum retention lease;
- (iii) a petroleum production licence;
- (iv) an infrastructure licence;
- (v) a pipeline licence;
- (vi) a greenhouse gas assessment permit;
- (vii) a greenhouse gas holding lease;
- (viii) a greenhouse gas injection licence; or

(b) a registered holder of a relevant title;

(c) if the person referred to in paragraph (a) or (b) is a body corporate—a person who is an officer (within the meaning of the *Corporations Act 2001*) of the body corporate (section 695YC(1)).

Giving the notification - Declaration – Approved Form

NOPTA and NOPSEMA must be made aware of any change of circumstance in line with section 695YC of the OPGGS Act as soon as practicable after the event occurs, including where an application is still under consideration.

The Approved Form is a [Form 10](#).

Compliance and Enforcement

It is the applicant or registered titleholder's responsibility to inform NOPTA and NOPSEMA of a change of circumstances under section 695YC of the OPGGS Act.

Failure to inform NOPTA and NOPSEMA of a change of circumstance is subject to a civil penalty (section 695YC(4) of the OPGGS Act). It is also a ground for cancellation under section 274 of the OPGGS Act.

The Joint Authority or responsible Commonwealth Minister may be notified of the change of circumstances, and any associated disclosures, or lack thereof, particularly if the change may affect the person's suitability.



Privacy and confidentiality

Any information submitted to NOPTA as part of the application process is documentary information under Part 7.3. This Part does not override the requirements of the *Privacy Act 1988*, as stated at section 719 of the OPGGS Act.

Where information falls under Part 6.11 of the OPGGS Act, offshore information, any personal information must be de-identified prior to release (section 695Y).

NOPTA may make information provided by the applicant available to the responsible Commonwealth Minister, the Secretary, NOPSEMA, and/or members of the Joint Authority or Cross-boundary Joint Authority for the exercise of their powers and functions under the OPGGS Act or the administration of the OPGGS Act.

Questions

If you have any questions about this factsheet, please contact NOPTA via titles@nopta.gov.au.

Version history

Version	Date	Comment
1.0	February 2022	Creation of factsheet. Factsheet comes into effect on 2 March 2022.