



Government of **Western Australia**
Department of **Mines and Petroleum**

Transparency in Petroleum, Greenhouse Gas and Geothermal Regulatory Decision Making

21 October 2015

Version 1.1

Author/Custodianship

Owner:	Executive Director – Petroleum Division
Author:	Manager Compliance – Petroleum Division

Distribution list

When this document is updated, the following people must receive a copy of the updated version:

Name	Position/title

Document version history

Version	Date	Amendment
1.0	05/11/2014	Initial Draft
1.1	19/10/2015	Legislation changes.

Review and approval

Name	Role	Date
Mark Gabrielson	General Manager, Strategic Business Development – Petroleum Division	7 November 2014
Mark Gabrielson	General Manager, Strategic Business Development – Petroleum Division	21 October 2015

Contents

1. Introduction	3
2. The role of Petroleum Division.....	4
3. Commonwealth Joint Authority (JA) Role	5
4. Guiding principle for transparency.....	5
5. Transparency in decision making.....	5
6. Criteria for transparency actions	6
7. Specific transparency actions	8
Guidelines, standards and process information	9
Reports by title holders	9
Enforcement.....	9
General correspondence	10
Documents already held by the Department.....	10

1. Introduction

The Department of Mines and Petroleum (DMP) is the state's lead agency for mining, petroleum and geothermal projects in Western Australia, and is responsible for the regulation of the resources sector.

A key regulatory function of the Department is to ensure that impacts associated with resource projects are minimised and petroleum industry practices meet the expectations of the State Government and the community.

DMP's Petroleum Division regulates petroleum and geothermal activities in Western Australia (WA) including title management, exploration, production operations and decommissioning onshore and in State waters.

The WA Minister for Mines and Petroleum is the State member of the Joint Authority (JA) for petroleum activities in Commonwealth waters adjacent to WA under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*. The Petroleum Division, as the Minister's delegate, provides State opinions to the Commonwealth's National Offshore Petroleum Titles Administrator (NOPTA) and Department of Industry in Canberra.

This document highlights how Petroleum Division will continuously improve transparency arrangements for petroleum and geothermal regulatory functions under the *Petroleum and Geothermal Energy Resources Act 1967*, *Offshore Petroleum, Greenhouse Gas Storage Act 2006*, *Petroleum Pipelines Act 1969* and *Petroleum (Submerged Lands) Act 1982* and *Barrow Island Act 2003*.

Both DMP and industry are providing greater transparency for matters relating to title approvals and operational activities in response to changing government policies, legislation and community expectations. As the lead regulator for the petroleum and geothermal industries, Petroleum Division continues to streamline its processes and procedures to deliver consistent, reliable and timely regulatory decisions.

DMP has improved its transparency through approvals reforms, which include introduction of regulations and initiatives such as online lodgement, approvals tracking and performance reporting. These reforms have improved performance for both industry and government. DMP is continuing to review interagency and Commonwealth protocols and agreements to ensure efficient, effective and consistent decision making.

Petroleum Division continually reviews its work practices and procedures to ensure consistency in its processes and decision making, and appropriately reflect legislative and business requirements.

Additionally, the Division's Petroleum and Geothermal Register (PGR) has been enhanced in preparation for the introduction of the *Petroleum and Geothermal Energy Resources (Resource Management and Administration) Regulations 2014*. This will ensure that internal users consistently assess, approve and monitor all phases of well activities.

2. The role of Petroleum Division

Petroleum Division's responsibilities under State legislation are to:

- regulate to ensure the responsible exploration, development and production of the State's petroleum and geothermal energy resources;
- administer and control petroleum and geothermal energy exploration and production in accordance with the relevant Acts including the regulations, schedules and directions relating to those Acts;
- administer and negotiate future act, *Native Title Act 1993* (Commonwealth), requirements for petroleum and geothermal energy title applications under State and Commonwealth legislation;
- engage with the petroleum and geothermal energy industries to resolve issues relating to timelines of Aboriginal cultural heritage surveys and reserved lands activities associated with exploration and production operations;
- make available areas for exploration and make recommendations on the grant, renewal or cancellation of titles;
- evaluate all technical matters relating to drilling, formation evaluation, resource management and production in accordance with industry best practice;
- advise on exploration evaluation and assess all permit and work applications for suitability and compliance;
- record and register all documents dealing with permits, titles, applications and general procedural matters;
- maintain title registers including spatial data;
- establish if other land tenures and interests may be impacted by petroleum or geothermal activities;
- audit and inspect operations for well integrity and resource management regulation compliance; and

- support the WA Minister for Mines and Petroleum who is the Western Australian member of the Joint Authority (JA) for decisions in Commonwealth areas adjacent to Western Australia.

3. Commonwealth Joint Authority (JA) Role

The State Minister for Mines and Petroleum is the WA member for the Joint Authority (JA). The Executive Director, Petroleum Division, as the Minister's delegate for petroleum activities in Commonwealth waters adjacent to WA under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, provides advice to the Commonwealth National Offshore Petroleum Titles Administrator (NOPTA) and Department of Industry in Canberra on activities. As the WA delegate, the Executive Director, Petroleum Division:

- receives information and advice from NOPTA;
- provides fully informed advice on Commonwealth title approvals to the State Minister;
- ensures that the State Minister is kept informed on matters relating to Commonwealth offshore activities; and
- ensures that Commonwealth offshore activities do not adversely impact on activities in State areas.

4. Guiding principle for transparency

DMP will pursue the level of transparency that cost-effectively achieves the objectives of improving the:

- quality of decision making; and
- capacity for individuals or organisations to be informed about applications and decisions of interest.

The transparency practices to be adopted for each specific decision and their individual circumstances will be based upon the criteria described in this document.

5. Transparency in decision making

Petroleum Division has implemented various actions to improve the transparency of regulatory decisions for the:

- release of acreage;

- approval of title or operational activities; and
- approval of Field Management Plans.

Information on the Division's processes and procedures is publicly available online through the:

- DMP website – Petroleum and Geothermal Services web pages; and
- Petroleum and Geothermal Register (PGR).

The Division assesses each activity and determines appropriate options based on the following criteria.

6. Criteria for transparency actions

In determining which transparency actions to adopt for each decision-making process, Petroleum Division and DMP consider the broad criteria outlined below:

1. Environmental and community significance

Petroleum Division makes numerous regulatory decisions on a daily basis that relate to petroleum and geothermal legislation. Most of these decisions do not have a significant impact on the environment or community however some activities do raise community concerns. In these circumstances Petroleum Division and DMP endeavour to allay any fears by providing widespread engagement and consultation directly with stakeholders and communities.

DMP will prioritise transparency around decisions with the potential for significant environmental or social impact.

2. Improving decision quality

Petroleum Division strives to improve the quality of regulatory decisions.

Increased transparency is unlikely to improve the quality of administrative decisions. However, in more complex matters, increased transparency may result in a more comprehensive statement on the material considered in reaching the decision.

The nature and extent of information made publicly available will depend upon individual circumstances. Transparency will be prioritised where there is potential to improve regulatory decisions.

3. Public interest

Petroleum Division has a role to inform and improve the level of understanding of the oil and gas industry in the wider community.

A level of public interest may not relate specifically to particular risks, but may reflect areas of decision making that attract strong, divergent community opinion.

Where there is public interest in an area or project relating to petroleum, greenhouse gas or geothermal approvals, DMP will consider steps to inform the public of its decisions.

4. Potential for wider benefits

Some decisions have the potential to deliver benefits beyond the parties directly affected by the decision.

As an example, a decision to reject an application (and reasons for the decision), would inform other applicants of circumstances that will cause an application to be rejected. Other examples include action taken to cancel a permit due to unfulfilled work commitment obligations.

Where there is a clear benefit that may be achieved through greater awareness, the Division will prefer to disclose these decisions.

5. Cost of a transparency measure

New transparency measures may result in direct and indirect costs to the Department and industry. DMP will not adopt new measures if they do not provide an improved cost or other benefit.

Information regarding applications for petroleum and geothermal activities is available online through the Approvals Tracking section of the Petroleum and Geothermal Register (PGR).

6. Existing transparency arrangements

Petroleum Division carefully considers existing arrangements and avoids duplication of functions and existing systems. This is particularly the case where activities require approvals under legislation administered by other agencies (for example, the Department of Parks and Wildlife [DPaW]).

7. Commercial and/or confidentiality issues

DMP will not disclose any information that is commercially sensitive or confidential and will ensure that information is released in accordance with statutory obligations. Title holders and operators within the petroleum and geothermal industries often provide information to DMP that is commercially sensitive.

The Division is acutely aware of the potential for information received to be confidential or commercially sensitive. This includes information that may not immediately appear to be commercially sensitive.

Ways to address the aspects of commercial and/or confidential information can be considered through measures including:

- separate provision of confidential and commercially sensitive information in submissions from other information (e.g. disturbance areas for exploration are reported but not the detail of exploration activities);
- delaying the release of information, and/or notification of decisions, for a period of time so that there is a reduced likelihood of the information remaining commercially sensitive after this period. Some information will no longer be relevant after a period of time; and
- ensuring that companies only provide information that is required for DMP to administer its statutory obligations.

8. Statutory obligations

Legislation administered by Petroleum Division establishes statutory obligations and limitations on the release of some types of information.

Where existing legislation is inconsistent with the objectives of transparency, DMP will recommend to government that legislative changes be considered. DMP is subject to the provisions of the Western Australian *Freedom of Information Act 1992*.

9. Prejudicial material

There are circumstances where material received or issued by DMP will be sensitive and if made publicly available, could undermine the integrity of the regulatory process. An example of this is when an application or documents are part of ongoing investigations.

Public availability of information should not undermine the integrity of administration or enforcement of legislation.

7. Specific transparency actions

Petroleum Division continually reviews its regulatory functions and introduces appropriate transparency measures. Proposed changes to transparency practices relating to State onshore and offshore regulation include consultation with the resources sector and other relevant stakeholders. This ensures that proposed actions will effectively deliver desired outcomes.

Guidelines, standards and process information

The publication of material that details petroleum and geothermal standards and decision-making processes is available through:

- DMP quarterly reports on the web;
- Annual Report;
- community consultation;
- FAQ's and information sheets;
- ongoing review of legislation;
- online approvals tracking in the Petroleum and Geothermal Register (PGR);
- expanding PGR to make more information available to the public;
- online publication of responses to the Regulation of Shale, Coal Seam and Tight Gas Activities in Western Australia Report by Tina Hunter; and
- building a regulatory framework for the emerging shale and tight gas industry.

Reports by title holders

Operators and title holders are required to provide reports such as annual performance and monitoring reports. DMP is progressing towards making publicly available reports that are required by DMP as a result of statutory obligations or authorisation.

The processes, timing and nature of reports released by DMP will be determined through consultation with industry and subject to legislative requirements.

Annual reports from title holders, published by DMP, will not include commercially sensitive or confidential material.

Companies are also required to submit cores, cuttings and sidewall core material obtained during drilling as part of the legislative requirements for petroleum and geothermal exploration. These samples become available to the public after periods specified under Part IVA of the *Petroleum and Geothermal Energy Resources Act 1967* and Part IVA of the *Petroleum (Submerged Lands) Act 1982*.

Enforcement

One of the principles within the DMP Enforcement and Prosecutions Policy is that an enforcement action will act as a general deterrent to the regulated community. As a result, DMP prefers for a specific enforcement action to be made public. Initially, DMP will report enforcement actions that involve prosecution or the imposition of fines.

General correspondence

General correspondence between DMP and industry operators is not publicly available.

Documents already held by the Department

Where DMP intends to implement changes to transparency arrangements, changes will only apply after consultation with industry and stakeholders.