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Offshore Environment
Department of Industry, Innovation and Science
GPO Box 2013
Canberra ACT 2601

Online submission

Dear Offshore Environment Division,

Improving Consultation and Transparency of Offshore Oil and Gas – Draft Regulations

EDOs of Australia (**EDOA**) is a network of community legal centres across Australia specialising in public interest environmental law. We appreciate the opportunity to provide comment on the consultation and transparency provisions for offshore petroleum activities under the proposed *Offshore Petroleum and Greenhouse Gas Storage (Environment) Amendment (Consultation and Transparency) Regulations 2018 (draft Regulation)*.

EDOA welcomes the draft Regulation and strongly supports the proposal to improve consultation and transparency during the assessment of offshore petroleum activities consistent with recommendations previously made by EDOA. We provide the following recommendations to strengthen the draft Regulation.

This submission provides brief feedback on:

- Sensitive information
- Publication of an Environment Plan
- Public comment period
- Levies, and
- Transitional provisions

Sensitive Information

EDOA recognises the need to protect individual's personal information, and in addition to being withheld under section 11A and 11B(2), personal information provided during any public consultation should be protected. It should be clarified whether 11B(2) covers personal information provided during the public consultation phase.

However, in our view, the additional components of the proposed definition of sensitive information are too broad. The draft Regulation defines sensitive information as:

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(a) *personal information (within the meaning of the Privacy Act 1988)...*

(b) *information that:*

(i) *was given by a relevant person in consultation under regulation 11A in the course of preparing the plan or by a person in comments described in subregulation 11B(2) in connection with the plan; and*

(ii) ***was indicated by the giver as information that the giver thought it was inappropriate to publish.*** (emphasis added)

A simple statement that information is inappropriate to publish should not be sufficient. Rather, the definition of sensitive information should be strictly limited, for example by reflecting that information which may be protected under the *Freedom of Information Act 1982*.

Publication of an Environment Plan

EDOA does not support the use of the term “as soon as practicable” in the draft Regulation, subregulation 11(3) for determining when an accepted environment plan must be made publicly available. We understand at the Adelaide workshop it was indicated that this term effectively meant immediately, unless there was some kind of practical issue, i.e. a technological error beyond the regulator’s control. However for clarity, as a minimum this should be changed to “as soon as practicable and no later than 5 days”.

Public Comment Period

The proposed public comment period of 30 days is an improvement on current requirements, but as previously submitted there may be complex projects where longer consultation periods are necessary and discretion to allow extra time should be exercised. We also support fulsome consultation on modifications to proposals.

Given the limited period of time proposed for public consultation, we strongly encourage Offshore Environment to implement a notification system whereby community members can register to receive alerts when an environmental plan is made available for consultation.

We support the proposed requirement for the Regulator to be required to consider the comments (if any) received during the public consultation. However we are concerned about the overly restrictive exclusion of public comments made outside the designated comment period (draft Regulation 11B(6)(b)). We recommend removing this subregulation.

Levies

We note the proposal to maintain the practice of only imposing a levy on the initial submission of the environment plan, i.e. should the environment plan not be suitable for publication, subsequent submissions for review will not trigger an additional levy. In our view, this arrangement risks creating a significant burden on the Regulator, who is required to undertake a completeness check of an environment plan within 5 working days, with no limitation on the number of times an environment plan can be resubmitted. The Regulator should seek to incentivise the production of high quality environment plans by charging an additional levy each time a revision is required.

Transitional Provisions

Transitional provisions should include a requirement to publish environment plans in force prior to the commencement of the amendments and environment plans that have been submitted to the Regulator for assessment prior to the commencement of the amendments, where the titleholder has not been given notice of a decision by the Regulator. These plans should be published within 30 days of the commencement of any final Regulation.

If you require additional information, please contact on ph: 02 9262 6989 or [rachel.walmsley\[at\]edonsw.org.au](mailto:rachel.walmsley[at]edonsw.org.au).

Yours sincerely,
EDOs of Australia

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