

Regulation of Unconventional Gas Projects



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What is the EDO?



“Green Legal Aid”

- Legal advice, assistance & some court representation
- Legal education – talks, fact sheets
- Law & policy reform activities



Ownership of Petroleum Resources in SA

Owned by the State of SA

Resource companies are granted the right to extract & in exchange pay royalties to the State



Petroleum and Geothermal Energy Act 2000

Objectives include

- Protect the public's interest in the sustainability of natural, social & economic environments from risks inherent in petroleum & geothermal operations
- Sustain effective consultation processes with people affected by regulated activities, & the public in general



Petroleum and Geothermal Energy Act 2000

Definition of environment includes

- Land, air, water
- Organisms & ecosystems including native vegetation & fauna
- Buildings, structures & cultural artefacts
- Productive capacity or potential
- Human health & wellbeing
- Amenity value of area



Petroleum and Geothermal Energy Act 2000

3 stage decision making process

Licensing

Environmental Assessment

Activity Notification & Approval



Stage 1- Licensing

- A licence gives proponent exclusive right to undertake regulated activities within a licensed area
- Regulated activities – eg exploration, production
- Considerations – financial capacity, capacity to safely conduct operations, work plan
- Grants subject to (if applicable)
 - Indigenous land use agreements
 - Environment Minister's approval generally if activities proposed on a reserve



Stage 2- Environmental Assessment

- **Environmental Impact Report**
 - Should identify potential risks relating to the activity & propose risk mitigation strategies
- **Statement of Environmental Objectives**
 - objectives to be achieved to address the identified risks
 - criteria to be used to assess achievement of the objectives.
- **Potential risks** – include
 - impacts on aquifers & groundwater such as contamination
 - health risks such as exposure to pollutants
- Licensees may consult stakeholders in the development of SEOs & EIRs but are not required to



Stage 2- Environmental Assessment

- Next step - assessment to determine the level of environmental impact of a proposed activity
 - What are the potential impacts?
 - What is the likelihood that they will occur?
 - How effectively can they be avoided or reduced?

→ low, medium or high level of environmental impact



Stage 2- Environmental Assessment

Low level of environmental impact

- Consultation with EPA, DEWNR, SafeWork SA & maybe DPTI
- No public consultation

Medium level of environmental impact

- Consultation with above agencies
- Public consultation for at least 30 business days
 - Details on DMITRE website
 - Public notification through newspaper ad, some direct notification of landowners



Stage 2- Environmental Assessment

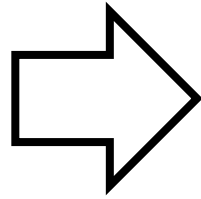
High level of environmental impact

- Environmental Impact Assessment:
 - environmental impact statement (EIS),
 - public environment report (PER)
- Consultation with agencies & the public for at least 30 business days.
- Where activity in a reserve Environment Minister must approve.
 - If Environment Minister doesn't approve – to Parliament to be resolved.



Stage 3- Notification and Application for Approval

Once EIR & SEO in place



Licensee lodges activity approval application with an activity notification.

Activity Notification which includes an environmental assessment of the activity against the Statement of Environmental objectives

Surveillance - licensees can be classified as carrying out activities requiring high or low level surveillance



Stage 3- Notification and Application for Approval

Usually licensees look to sign land access agreements with landowners.

Landowner includes:

- landowners,
- lease or license holders,
- responsible manager of land,
- person in exclusive possession,
- native titleholder and other prescribed persons.



Stage 3 – Notification and Application for Approval

First step – Notice of Entry

Notice must

- Be given at least 21 days before entry
- State full name and address of the owner/occupier
- State name of the person working in the license holder company who the owner/occupier can speak to about the notice
- Provide a reasonable description of the activity & identify the place
- State that the owner/occupier can object to the entry within 14 days of receiving notice



Stage 3 – Notification and Application for Approval

- Provide relevant information on anticipated events & the management of their consequences to minimise risks to an acceptable level
- Provide reasonable information on the rights of land owners to claim compensation, on the types of compensation & also state that this compensation is not related with the value of the land including costs
- State that reasonable costs incurred in negotiating is claimable in Court
- State that a dispute in relation to access or compensation may be resolved in Court



Stage 3 – Notification and Application for Approval

Landowner's rights on receiving a Notice of Entry

- Can object by giving notice to the licensee within 14 days of receiving the notice of entry.
- In this case the licensee must notify the Minister & no activity can occur until the dispute is resolved.

Parties might;

- engage a mediator
- ask the Minister to mediate
- have the matter resolved in the Warden's Court.



Compensation and Appeals

Compensation

- Landowners entitled to appropriate compensation from licensees for any losses, deprivation or reasonable costs sustained during both the process of negotiating land access & for the full period of land access (right up to decommissioning)

Appeals

- only licensees have the ability to challenge decisions



Compliance and Enforcement

Step 1 - Preventative Measures

- Annual Compliance Report
- Regular meetings with licensees to discuss their activities & compliance
- Ongoing monitoring & surveillance through both field & desktop studies
- Require risk assessments and fitness-for-purpose assessments every 5 years
- Licensee annual reports



Compliance and Enforcement

Step 2- Persuasive Measures

- Show cause letter
- Notice of non-compliance

Step 3 - Compulsive Measures

- Activity direction or prohibition



Compliance and Enforcement

Step 4 - Punitive Measures

- Licence cancellation
- Security forfeiture
- Prosecution or administrative penalty
- Revert licence to high surveillance operator

Public has no enforcement rights