Archived: Wednesday, 14 June 2023 2:44:40 PM
From: s 22
Mail received time: Wed, 21 Sep 2022 10:04:35
Sent: Wed, 21 Sep 2022 10:04:33
To: s 22
Subject: FW: Regulation 11A Meeting Request [SEC=OFFICIAL:Sensitive]
Importance: Normal
Sensitivity: None
Attachments:
Regulatory Strategy (Reg 11A option).pptx

FYI – I have recommended that s 22 agree to meet once a decision is handed down and we have been able to consider the findings. At this stage having a discussion on amendments is premature.

I will let you know if I hear any more.

Cheers,

s 22

A/g General Manager

Oil and Gas Division | Offshore Resources Branch

Ngunnawal Country, 51 Allara St Canberra, GPO Box 2013 Canberra ACT 2601 Australia

Department of Industry, Science and Resources

P s 22 | s 22 | **E** s 22 @industry.gov.au

Pronouns: She/Her

industry.gov.au ABN 74 599 608 295

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From: s 22

Sent: Tuesday, 20 September 2022 2:48 PM
To: s 22
Subject: FW: s 47G Meeting Request [SEC=OFFICIAL:Sensitive]

FYI

OFFICIAL: Sensitive

From: s 22 @santos.com]
Sent: Tuesday, 20 September 2022 12:36 PM
To: s 22 @industry.gov.au>; s 22 @industry.gov.au>; s 22 @industry.gov.au>
Cc: s 22 @santos.com>
Subject: s 47G Meeting Request

Hi all,

It was a pleasure catching up with you last week in our meeting with Secretary Meghan Quinn. s 47G

s 47G

We would love the ability to brief you about s 47G at your earliest convenience. Is there a time that suits in the next week or so?

Cheers s 22

s 22
Santos Limited, 60 Flinders Street, Adelaide SA 5000
s 22 m: +s 22
santos.com

s 22

From: DLO King
Mail received time: Mon, 26 Sep 2022 17:49:44
Sent: Mon, 26 Sep 2022 17:49:43
To: DLO King s 22
Cc: s 22 offshore.policy s 22 Parl Briefs s 22
Subject: RE: Request for brief: Barossa court decision [SEC=OFFICIAL:Sensitive]
Importance: Normal
Sensitivity: None

Hi S22

Thanks for your email.

Confirming due date of 4 October is fine, apologies I forgot about the public holiday (and certainly won't be here myself!).

Happy for the brief to provide an overview and next steps noting more comprehensive advice to be provided when available.

I'll give you a call tomorrow to confirm and answer any additional queries you may have.

s 22

Departmental Liaison Officer

The Hon Madeleine King MP

Minister for Resources

Minister for Northern Australia

P s 22 @industry.gov.au

industry.gov.au ABN 74 599 608 295

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From: s 22
Sent: Monday, 26 September 2022 5:21 PM
To: s 22 ; DLO King

Cc: s 22 ; offshore.policy ; s 22 ; Parl Briefs ; s 22
Subject: Re: Request for brief: Barossa court decision [SEC=OFFICIAL:Sensitive]

Hi s 22

Thanks for your email, we are more than happy to provide a brief on the decision.

s 42

Can you please give me a call to discuss scope? We could look to provide an overview and next steps, with a more comprehensive brief to follow once s 42 .

s 22 are leading on this one. I have cc'd them in.

My number is s 22

Thanks,

s 22

OFFICIAL:Sensitive

From: s 22 @industry.gov.au>
Date: Monday, 26 September 2022 at 5:13:27 pm
To: "DLO King" <DLOKing@industry.gov.au>
Cc: s 22 @industry.gov.au>, "offshore.policy" <offshore.policy@industry.gov.au>, s 22 s 22 @industry.gov.au>, s 22 @industry.gov.au>, "Parl Briefs" <ParlBriefs@industry.gov.au>, s 22 @industry.gov.au>
Subject: RE: Request for brief: Barossa court decision [SEC=OFFICIAL:Sensitive]

Hi s 22

Can I just confirm the due date please? Monday is a public holiday. Will cob 4/10 be ok for the brief to be provided?

Thanks,

s 22

From: DLO King
Sent: Monday, 26 September 2022 5:05 PM
To: s 22 @industry.gov.au>
Cc: s 22 @industry.gov.au>; s 22 @industry.gov.au>; offshore.policy <offshore.policy@industry.gov.au>; s 22 @industry.gov.au>; s 22 @industry.gov.au>; Parl Briefs <ParlBriefs@industry.gov.au>
Subject: Request for brief: Barossa court decision [SEC=OFFICIAL:Sensitive]
Importance: High

Good afternoon s 22 and team

Grateful if you can please generate a brief on the implications of the Barossa court decision.

In particular, could the brief please cover:

- Legal advice – s 42
- Policy advice – policy advice on what the decision means for the administration of the Environment Regulations, the arrangements under the EPBC Act etc
- Next steps and possible timeframes – this may hinge upon whether Santos appeals the decision?

Noting this issue will evolve, preliminary advice/thinking is welcome.

Due up to the MO by COB 3 October 2022, please.

s 22

Departmental Liaison Officer

The Hon Madeleine King MP

Minister for Resources

Minister for Northern Australia

s 22 @industry.gov.au

industry.gov.au ABN 74 599 608 295

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s 22
From: s 22
Mail received time: Thu, 29 Sep 2022 10:53:52
Sent: Thu, 29 Sep 2022 00:53:38
To:
Cc: s 22
Subject: RE: Ministerial brief on Barossa decision [SEC=OFFICIAL]
Importance: Normal
Sensitivity: None
Attachments:
Ministerial brief - Barossa court case - outcome and next steps - NOPSEMA edits.docx

---

OFFICIAL

Hi s 22

Thanks for the opportunity to review. Please see attached with edits to ensure consistency with what we have provided to AGD. Happy to discuss.

Cheers

s 22

s 22 | Deputy Director, Office of the Chief Executive

NOPSEMA | Australia's offshore energy regulator

National Offshore Petroleum Safety and Environmental Management Authority
T: s 22 | E: s 22 @nopsema.gov.au | W: nopsema.gov.au

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OFFICIAL

From: s 22
Sent: Thursday, 29 September 2022 7:08 AM

To: s 22
Cc: s 22
Subject: RE: Ministerial brief on Barossa decision [SEC=OFFICIAL]
Importance: High

Hi s 22

Thanks again for meeting with us earlier in the week regarding the Barossa court decision.

As discussed, please see attached a Ministerial brief on the decision for your consideration. The brief provides a high level overview of the outcomes of the case and next steps, s 42 .

We would welcome comments regarding any inaccuracies or required clarifications. As noted, given the briefing timeframe set by the MO it would be great if you can provide any comments within a couple of hours (e.g. by about 11:30am Perth time, noting that with the time difference you may not have logged on yet). ☺

Please note that the brief has not yet been reviewed/cleared by s 22

Regards,

s 22

s 22
A/g Manager
Regulatory Reform
Offshore Resources Branch
Oil & Gas Division
Department of Industry, Science and Resources
8/50 Flinders Street, Adelaide SA 5000
GPO Box 2013, Canberra ACT 2601

s 22
industry.gov.au
Internet: http://www.industry.gov.au

ABN 74 599 608 295

From: s 22 @nopsema.gov.au]
Sent: Tuesday, 27 September 2022 2:22 PM
To: s 22 @industry.gov.au>
Cc: s 22 @nopsema.gov.au>; s 22 @nopsema.gov.au>; s 22 @industry.gov.au>; s 22 @industry.gov.au>
Subject: Ministerial brief on Barossa decision

OFFICIAL

HI s 22

Just confirming as discussed that you will provide the brief on the Barossa decision for review and that we will turn it around within two hours.

Cheers

s 22

s 22 | A/Director, Office of the Chief Executive

NOPSEMA | Australia's offshore energy regulator

National Offshore Petroleum Safety and Environmental Management Authority
s 22 @nopsema.gov.au | W: nopsema.gov.au

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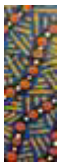

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DEPARTMENT OF INDUSTRY, SCIENCE AND RESOURCES

MS22-001590

To: Minister for Resources (For Information)

FEDERAL COURT DECISION: TIPAKALIPPA V NATIONAL OFFSHORE PETROLEUM SAFETY AND ENVIRONMENTAL MANAGEMENT AUTHORITY (THE BAROSSA CASE)

Recommendation:

1. That you note the outcome of the Federal Court decision in the Barossa case and next steps to be undertaken by the department.

Noted / Please Discuss

Minister: Date:

Comments:

Clearing Officer: Sent:29/9/2022	s 22	A/g General Manager, Offshore Resources Branch, Oil & Gas Division	s 22
Contact Officer:	s 22	A/g Manager, Regulatory Reform section, Offshore Resources Branch	s 22
For Parliamentary Services' use only. Date Submitted to the Minister's office in PDMS:			29/06/2022

Key Points:

1. The purpose of this brief is to provide you with an overview of the outcome of the Barossa case and next steps proposed by the department.

2. The Barossa gas-condensate field is located 300 kilometres north of Darwin in the Timor Sea. The Barossa project, operated by Santos, is proposed as the source of gas to backfill the Darwin LNG project. s 22

3. On 3 June 2022, s 22 , a Tiwi Islands traditional owner and senior law man of the Munupi clan, lodged an application with the Federal Court for judicial review of the National Offshore Petroleum Safety and Environmental

Management Authority's (NOPSEMA) decision to accept the Barossa Development Drilling and Completion Environment Plan (Barossa Drilling EP).

4. On 21 September 2022, the Federal Court found in favour of s 22 and made an order setting aside NOPSEMA's decision to accept the Barossa Drilling EP effective 6 October 2022.

5. Justice Bromberg stated in his judgement that NOPSEMA was not lawfully satisfied that the Barossa Drilling EP meets the criteria required by the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (Environment Regulations), and in particular the criterion that the Barossa Drilling EP demonstrates that Santos consulted with each person that it was required to consult with. Background to the Barossa case is at Attachment B.

6. Without an accepted environment plan in force, Santos cannot continue to undertake development drilling. To continue drilling, Santos will need to either successfully appeal the decision or have a new environment plan accepted by NOPSEMA.

7. Santos has undertaken to the Court to facilitate the orderly safe shutting down of drilling operations and the removal of the rig by 6 October 2022.

8. On 27 September 2022, Santos filed a notice of appeal and requested that the appeal be expedited. The matter will be listed on 3 October 2022 at 2:15pm WST for argument as to expedition, as well as for case management and to fix a date for the hearing of the appeal.

Next steps

9. s 42

10. Once the legal advice has been considered, the department will work with NOPSEMA to assess the implications of the decision and consider if any potential policy and/or regulatory responses are required.

11. s 42

12. If any policy or regulatory responses are proposed, the department will need to consult the Department of Climate Change, Energy, the Environment and Water.

13. The department will brief you on the outcome of the legal advice and any next steps proposed in consultation with NOPSEMA, including any possible options for amendments if necessary.

Data referenced: NIL

Consultation with the Office of Northern Australia: NIL. The matter is not relevant to ONA.

Other Consultation: Yes: NOPSEMA

Attachments

s 22

B: Background: court case
C: Streamlined offshore environmental approvals

Archived: Wednesday, 14 June 2023 2:45:34 PM
From: s 22
Mail received time: Mon, 3 Oct 2022 16:42:04
Sent: Mon, 3 Oct 2022 16:42:04
To: s 22
Cc: s 22
Subject: RE: Barossa court case - Santos meeting summary [SEC=OFFICIAL:Sensitive]
Importance: Normal
Sensitivity: None

Thanks s 22

From: s 22 industry.gov.au>
Sent: Friday, 30 September 2022 3:18 PM
To: s 22 industry.gov.au>
Cc: s 22 industry.gov.au>; s 22 industry.gov.au>
Subject: Barossa court case - Santos meeting summary [SEC=OFFICIAL:Sensitive]

Good afternoon s 22

s 22 and I met with representatives from Santos yesterday, and s 22 asked that I provide you with an overview of the discussion for your awareness.

The Federal Court ruled on 21 September that NOPSEMA's acceptance of the Barossa drilling Environment Plan (EP) was invalid because the EP did not demonstrate that consultation undertaken by Santos in the preparation of the EP met the requirements of the OPGGS Environment Regulations. Detail is provided in brief MS22-001590.

Santos is very concerned about the outcome of the case and has filed an appeal, s 47G

s 47G

In their view, the offshore legislation is onerous and uncertain.

s 47G

DISR advised that we are still considering the judgement, and recognise that the requirement to consult all relevant persons can be challenging – but that industry needs to demonstrate clearly that they are doing robust consultation, particularly with First Nations people, especially those in remote areas and/or those who are digitally unconnected. s 22 suggested that Santos reach out to indigenous groups to ask what they would see as reasonable consultation.

s 47G

We advised that we will consider whether the 'relevant persons' definition could be clarified – either by minor regulatory amendment or policy guidance – and invited Santos to provide suggestions on how this could be done.

s 42 and we will provide further update in due course.

Please call s 22 or myself anytime if you have questions.

Kind regards
s 22

s 22 (she/her)
Manager
Environment, Safety and Security | Offshore Resources Branch
Department of Industry, Science and Resources
Whadjuk Country, 44 St George's Terrace, Perth WA
P s 22 | M s 22 | E s 22 @industry.gov.au

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s 22
From: s 22
Mail received time: Wed, 12 Oct 2022 17:53:52
Sent: Wed, 12 Oct 2022 06:53:35
To: s 22
Cc: s 22
Subject: RE: Advice on implications of the Tipakalippa decision [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
Importance: Normal
Sensitivity: None
Attachments:
File note - Key Messages - Tipakalippa decision.docx

OFFICIAL

Hi s 22

As discussed yesterday, please see attached the key messages document NOPSEMA's operational area is referencing (and handing out) when meeting with dutyholders regarding the Tipakalippa decision.

We are working on the other items which we will get to you as soon as we can.

Regards,

s 22

s | Senior Legal Adviser

Legal and Risk

National Offshore Petroleum Safety and Environmental Management Authority
T: s 22 @nopsema.gov.au | W: nopsema.gov.au

OFFICIAL

From: s 22 @industry.gov.au>
Sent: Friday, 7 October 2022 7:30 AM
To: s 22 @nopsema.gov.au>
Cc: s 22 @nopsema.gov.au>; s 22 @nopsema.gov.au>; s 22 @nopsema.gov.au>; s 22 @industry.gov.au>; s 22 @nopsema.gov.au>; s 22 @industry.gov.au>
Subject: RE: Advice on implications of the Tipakalippa decision [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

Hi s 22

More than happy to arrange a chat to discuss.

s 22 – can you please set some time up in our diaries?

Thanks,

s 22

OFFICIAL: Sensitive
Legal privilege

From: s 22 @nopsema.gov.au]
Sent: Thursday, 6 October 2022 5:38 PM
To: s 22 @industry.gov.au>
Cc: s 22 @nopsema.gov.au>; s 22 @nopsema.gov.au>; s 22 @nopsema.gov.au>; s 22 @industry.gov.au>; s 22 @nopsema.gov.au>
Subject: Advice on implications of the Tipakalippa decision

OFFICIAL: Sensitive
Legal Privilege

Hi s 22

s 42

However, attached is the report we provided to OLSC following the judgement handed down on 21 September 2022 which is quite detailed and may be of assistance, and we're happy to also provide an overview of how NOPSEMA is managing the implications of the decision if that would be useful?

Please let me know if we can be of more assistance and if it would be possible to have a chat on Monday.

Regards,

s 22 | A/General Counsel, Director Legal & Risk
Legal & Risk

National Offshore Petroleum Safety and Environmental Management Authority
s 22 @nopsema.gov.au | W: nopsema.gov.au

From: s 22
Mail received time: Wed, 16 Nov 2022 11:48:06
Sent: Wed, 16 Nov 2022 00:47:50
To s 22
Cc
Subject: FW: VID555/2022 15/11/2022 Kenny J;Mortimer J;Lee J [SEC=OFFICIAL] [AGSDMS-DMS.FID4738149]
Importance: Normal
Sensitivity: None
Attachments: s 22
Archived: Wednesday, 14 June 2023 2:45:53 PM

OFFICIAL: Sensitive
Legal Privilege

Hi s 22

We're on day 2 of the 2-day Santo Barossa Federal Court appeal - attached is the transcript from day 1 for your reference.

Just noting that Justice Lee made a comment yesterday regarding amendments to the regulations at 5 on page 78.

We'll organise a de-brief for you next week.

Regards

s 22

s 22 General Counsel / Director Legal & Risk National Offshore Petroleum Safety and Environmental Management Authority
s 22 @nopsema.gov.au | W: nopsema.gov.au To assure the protection of lives and the environment offshore.
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s 22

s 22

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