



**Senate
Environment and Communications Legislation Committee Inquiry
- Great Australian Bight Environment Protection Bill**

Submission from the South Australian Government

January 2017

Introduction

This submission to the Senate Environment and Communications Legislation Committee (the Committee) has been prepared by the Department of State Development for the South Australian Government, in consultation with the Department of Environment, Water and Natural Resources (DEWNR), Primary Industries and Regions SA (PIRSA), the Environment Protection Authority (EPA), and the Department of Planning, Transport and Infrastructure (DPTI). These departments have key roles in oil spill response and planning for State waters, and are identified as 'relevant persons' under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS) and associated regulations. In addition, DSD performs a key role, as part of the Commonwealth-South Australian Offshore Petroleum Joint Authority (Joint Authority), for the permitting of offshore areas adjacent to South Australia.

This submission has been prepared in response to an invitation from the Chair of the Committee, Senator the Hon David Bushby.

The Great Australian Bight (GAB) represents one of the last under-explored Cretaceous basins, where recognised geological exploration targets are similar to those in established oil and gas provinces elsewhere in the world, including the North West Shelf in Western Australia. Strong evidence points to an active petroleum system including natural oil and gas seeps, natural strandings of asphaltite along the State's Southern Ocean facing coastline, and organic-rich source rocks.

This potential for large-scale petroleum accumulation offshore in the South Australian GAB has attracted major oil and gas companies including Statoil, Chevron, Murphy, Santos, and Karoon Gas along with one modest-in-size company, Bight Petroleum. Currently, ten Exploration Permits for Petroleum (EPPs) have been granted in the South Australian portion of the GAB to the aforementioned companies.

Royalties from any potential petroleum sales from Commonwealth waters is paid to the Commonwealth Government. However, significant economic benefits (in the form of multiplier effects, indirect and direct investment) will flow into South Australian if exploration is successful and petroleum resources are developed. It is important that these opportunities are not unnecessarily restricted.

This Bill also has the potential to reduce investment attractiveness of South Australia, and our ability to compete with other investment destinations.

The South Australian Government is confident Australia's existing legislation and environmental management practices are adequate to ensure responsible mining activities in the GAB.

In addition, the South Australian Government is of the view that the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) has the appropriate expertise to provide the necessary strict regulatory oversight and scrutiny required under existing legislation, to ensure no unacceptable risks are posed to the marine environment of the GAB.

Offshore Oil and Gas Exploration in South Australia

The South Australian Government shares the concerns of the community regarding protection of the GAB and adjacent coastal environment, given its endemic marine diversity and its role as a nursery and migration zone for whales and other important marine animals, and for sardine and small pelagic fish breeding. The GAB also supports key industries such as commercial fishing, aquaculture and tourism, which contribute \$108 million to Gross State Product.

The South Australian Government supports an offshore oil and gas industry which is well operated and regulated, with strict oversight and a stringent approvals process which is maintained to leading practice, to ensure no unacceptable risks to the marine and coastal environment of the GAB, or any other part of South Australia's marine and coastal environments.

Petroleum exploration operations in the GAB region have been undertaken without reported or identified environmental harm since the first seismic survey in 1960. A range of major oil and gas companies have investigated the petroleum prospectivity of the GAB over the past 55 years, including, Shell, BP, Getty Oil, BHP, Woodside, Murphy and Santos. Since the first South Australian offshore seismic survey in 1960 there have been almost 140 seismic surveys conducted safely in offshore South Australian waters including the GAB. Each of these seismic surveys were undertaken without environmental incident, including any negative impacts to marine species.

To date a total of 24 wells have been drilled in offshore South Australian waters, and of those 13 exploration wells have been drilled without incident in the GAB between 1972 and 2003. The last well drilled was Woodside's Gnarlyknots 1A in 2003, which was safely drilled to a total depth of 4,736 metres. More recently, four seismic surveys have been undertaken in the GAB without environmental incidents or identified harm. The first in 2011-2012 by BP was Australia's largest proprietary offshore 3D seismic survey undertaken, with an acquisition of approximately 13,000 km² of 3D seismic data. The second and third undertaken by TGS on behalf of Chevron in 2014-15 resulted in the collection of 8,917km² and 13,137km² of seismic data. The fourth was completed by PGS in April 2015 with 8,867km² of seismic data collected, again without environmental incident. A further 3D seismic survey is currently being discussed for possible recording in the GAB region during the 2017-2018 period.

The proposed exploration activities by titleholders such as Chevron and Murphy/Santos are the same type of activities which have previously occurred within the South Australian portion of the GAB, all of which have had no identified or reported environmental harm. In addition, future proposals of petroleum activity in the GAB will include improved safety processes, environmental management and technology introduced through leading practice legislation administered by NOPSEMA.

Offshore Petroleum Regulatory Regime

Petroleum operations which occur more than three nautical miles offshore from the South Australian coast are classified as occurring within Commonwealth waters, and thereby administered under Commonwealth legislation under the OPGGS Act.

This legislation is administered by three Australian Government entities, The National Petroleum Titles Administrator (NOPTA), NOPSEMA and the Department of Industry, Innovation and Science (DIIS), together with the State and Northern Territory Governments through the Joint Authorities.

DIIS is responsible for policy direction and the selection of prospective offshore areas, in collaboration with Geoscience Australia, and for representing the Commonwealth Minister as one part of the respective Joint Authorities.

NOPTA manages the day to day administration of offshore petroleum and greenhouse gas titles in Commonwealth waters. In addition, it provides advice to the Joint Authority on areas such as recommendations for award of titles and changes to work programs.

NOPSEMA is an independent statutory authority responsible for the regulation of health and safety, well integrity and environmental management for offshore oil and gas operations in Commonwealth waters including the GAB.

NOPSEMA was established on 1 January 2012, following recommendations from the Final Government Response to the Report of the Montara Commission of Inquiry (2011) and the Productivity Commission Report (2009). The creation of NOPSEMA as an independent authority for assessment and approval of offshore petroleum activities resulted from a series of independent reviews, consultation processes and Government and Ministerial approvals. The responsibility to regulate offshore environmental management practices had previously rested with the State and Territory Designated Authorities.

On 21 August 2009, the failure of well integrity barriers at the Montara H1 well (owned by the company PTTEP) in the Timor Sea resulted in an uncontrolled discharge of oil and gas into the marine environment lasting 74 days. In 2010, the Commission of Inquiry into the 2009 Montara oil spill incident strongly recommended that a single, independent regulatory body be responsible for safety, well integrity, and environmental management.

NOPSEMA was therefore established to supersede the National Offshore Petroleum Safety Authority (NOPSA) and reflect the added responsibility of regulating offshore environmental management. In addition, appropriate changes were implemented to regulatory frameworks under the OPGGS Act and associated regulations relating to well completion and control.

The amalgamation of safety, well management regulation, integrity and environmental management responsibilities into a single regulator has standardised Australia's offshore petroleum regulation, to ensure leading practice and reduced regulatory burden on industry, without reducing the robust effectiveness of the regulations and regulator. Furthermore, a key to ensuring effective regulation is having appropriately qualified and experienced regulators who can competently and independently oversee industry activities, taking national and international lessons learnt into account, to provide community confidence and assurance in the industry's performance. The central role of NOPSEMA is exactly that, as a result of its extensive technical

expertise in offshore geophysical and geological surveys, drilling and production operations from both engineering and environmental perspectives.

NOPSEMA's regulation of the offshore oil and gas is subject to a range of governance controls, including Parliamentary oversight, Ministerial policy direction and independent statutory review.

NOPSEMA represents a 'one-stop-shop' for Commonwealth offshore petroleum activities which enables the delivery of faster approvals processes and removes unnecessary regulatory process duplication, whilst still maintaining stringent integrity and environment and safety standards through objective-based legislation.

The OPGGS Act is an objective-based legislation, based on the principle that legislation sets the broad safety and environment goals to be obtained but the onus is on the proponent to develop the most appropriate methods of achieving those goals. This type of regime places the onus on the proponent to demonstrate to NOPSEMA that the risks and objectives are satisfactorily being reduced to As Low As Reasonably Practicable (ALARP) and to acceptable levels. This process represents leading practice for goal-seeking (objective-based) efficiency and effectiveness for regulating offshore upstream petroleum operations.

As evidence of the Commonwealth Environment Minister's confidence in the efficacy and robustness of NOPSEMA's approvals process and regulatory capabilities, in February 2014 the Minister for the Environment endorsed NOPSEMA's environmental authorisation process (the program) under Part 10, section 146 - the strategic assessment provisions of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). In accordance with the endorsed program, separate referral, assessment and approval of petroleum activities in Commonwealth waters under the EPBC Act is no longer necessary.

The EPBC Act provides for the proclamation and management of Commonwealth reserves including Commonwealth marine reserves (marine parks, marine reserves and nature reserves). Commonwealth marine reserves include a range of different management zones within which different types of activities are, or are not, permitted, including mining. This framework is built upon multiple land use principles and ensures that the environment of all areas are stringently assessed to determine the appropriate access, or not, of different types of users including mining. Access is only granted to particular areas if it is deemed that the activity will have acceptable minimal impact on the surrounding environment. In the GAB Commonwealth Marine Reserve, mining is allowable both in the multiple use and special purpose zones of the reserve but not allowed in the Marine National Park Zone. In addition, the EPBC Act requires that all Commonwealth reserves must be managed in accordance with the Australian IUCN reserve management principles, which include minimum impact and ecologically sustainable development, as prescribed for each IUCN category by the EPBC Regulations 2000.

Impacts on matters protected under Part 3 of the EPBC Act will be assessed by NOPSEMA under their approvals process. Environment Plan and Oil Pollution Emergency Plan submissions must consider Matters of National Environmental Significance and the relevant values and sensitivities of matters protected as well as all other values and sensitivities that exist in the environment. Specific EPBC Act matters protected relevant to the program include listed threatened species and

ecological communities, listed migratory species and the environment in a Commonwealth marine area.

It is the view of the South Australian Government that robust environmental safeguards currently exist under the OPGGS Act and the EPBC Act for marine parks and other environments to ensure assessment and regulation of mining activities occurs to protect the environment, conservation and biodiversity values in the GAB.

Investment

This Bill has the potential to reduce the global investment attractiveness of Australia and indeed South Australia. If the Bill is enacted, it introduces risk for major offshore petroleum investments. There is a risk that the perception of risk and being closed for business will extend into onshore Australia and South Australia in particular. The Fraser Institute and other international rating agencies have consistently ranked Australia highly as an investment destination. The rankings are based on the mining industries' opinions of elements such as certainty, timeliness and efficiencies in individual State and Commonwealth assessment, approval and compliance processes. It is important Australia and South Australia maintain its investment attractiveness to ensure we continue to compete with other global investment destinations.

As previously stated, royalties from any potential petroleum developments in Commonwealth waters are paid to the Commonwealth Government. However, there are potential economic opportunities for South Australia in the form of multiplier effects, and indirect and direct investment as a result of petroleum activities in the GAB. These economic opportunities may be minor in the exploration stage, but have the potential to increase when petroleum resources are developed to production. It is important that these potential opportunities, regardless of the relative magnitude, are not unduly restricted.

South Australian Government's Role in Offshore Oil and Gas

The South Australian Government performs a key role through the Joint Authority which is responsible for licensing in Commonwealth waters offshore of South Australia. The Joint Authority makes the major decisions under the OPGGS Act regarding granting and cancelling petroleum titles, imposition of title conditions, and core decisions about resource management and resource security.

The Joint Authority consists of the responsible Commonwealth Minister (the Minister of Resources, Energy and Northern Australia), and the relevant South Australian State Minister (the Minister for Mineral Resources and Energy).

Offshore 'acreage' in Commonwealth waters are released annually for competitive work program bidding or cash-bidding.

In recognition of the multi-use nature of the marine environment, once acreage areas have been short-listed, DIIS undertakes targeted consultation with Commonwealth, State and Northern Territory agencies responsible for managing the marine environment and representative industry groups whose members have access rights such as fishing licenses. This includes consultation

with the Joint Authority and relevant South Australian Government agencies. The outcomes of the targeted consultation may also lead to the inclusion of specific conditions if a title is awarded in that area and/or the reshaping or removal of an area of balance competing interests.

This targeted consultation process is essential to assess factors such as maritime boundaries, proximity to sensitive marine zones, environmental, fisheries and aquaculture impacts, defence and communication requirements, maritime safety and native title interests.

Following a comprehensive assessment of all acreage release bid(s) by NOPTA, advice is provided to the respective Joint Authority. The Joint Authority considers the advice provided and any other factors deemed relevant, to determine the most deserving bidder to whom to offer the grant to an exploration title. The OPGGS Act provides that the Joint Authority may grant an exploration title subject to any conditions it considers appropriate. This could include conditions which relate to environmental protection or safety.

It is important to note that the award of an offshore petroleum title does not permit associated oil and gas activity to be undertaken. Rather, the title grants the titleholder the right to apply to NOPSEMA for further approval to undertake exploration activities including seismic surveys and exploration drilling.

Oil Spill Response and Planning

In addition to the South Australian Government's role as part of the Joint Authority, the South Australian Government regulates multiple industries which will potentially facilitate Commonwealth offshore exploration including, but not limited to, onshore petroleum operations, port related activities, marine parks and wildlife, storage of and transport of chemicals and wastes, and oil pollution emergency planning and response. The titleholder has an obligation to ensure its oil pollution emergency planning and offshore oil spill response arrangements are in place.

Further to this, DPTI within the South Australian Government is the control agency under the Emergency Management Arrangements, responsible for State offshore oil spill response and oil pollution emergency planning, should an oil spill originate in Commonwealth waters and cross into State coastal waters (within 3 nautical miles of coastlines).

Should a response be required, DPTI is joined in its response efforts by other relevant South Australian Government agencies supported by Commonwealth agencies (Australian Maritime Safety Authority (AMSA) and others) and the titleholder and industry resources (Australian Marine Oil Spill Centre (AMOSOC) and others).

This is outlined in the South Australian Marine Spill Contingency Action Plan (SAMSCAP) which is utilised for ship wreckages, maritime and other spills, as well as oil and gas activities. SAMSCAP sets out the State arrangements for preparing for, responding to and recovering potential spills of oil or noxious and hazardous substances into coastal waters (within three nautical miles of coastlines) and onto beaches and foreshores, and is reviewed by the South Australian Government every 12 months.

Should exploration or production commence, other South Australian agencies will have a role in the regulation of onshore facilities, shipping, and transport of waste and supplies to and from the drilling rig. While the South Australian Government does not regulate offshore oil and gas activities in the GAB, it does play an important role onshore and in coastal waters with regards to regulation and facilitation.

Conclusion

In summary, the South Australian Government shares community concerns regarding the protection of the GAB and adjacent coastal environment. It is the South Australian Government's view that robust environmental safeguards currently exist under the OPGGS Act and the EPBC Act to ensure assessment and regulation of mining activities occurs to protect the environment, conservation and biodiversity values in the GAB. The South Australian Government has confidence in the expertise and objective-based focus of NOPSEMA in regulating the offshore exploration industry, and believes NOPSEMA is the appropriate body to do so. It is important Australia and South Australia maintain its investment attractiveness to ensure we continue to compete with other global investment destinations.