



Government of Western Australia  
Department of Mines and Petroleum

# Petroleum Division

## ADMINISTRATION OF PETROLEUM TITLES WESTERN AUSTRALIA



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## ADMINISTRATION OF PETROLEUM TITLES – WESTERN AUSTRALIA

### 1. INTRODUCTION

This report outlines the legislative provisions relating to petroleum exploration and development in Western Australia and the relevant administrative processes involved.

#### 1.1 Background

Management of petroleum exploration and development in Western Australia is primarily the responsibility of Minister for Mines and Petroleum through the Department of Mines and Petroleum (DMP).

Ownership of petroleum in Western Australia is vested in the Crown (*Petroleum and Geothermal Energy Resources Act 1967* s9 and s10). However, discovery and development is carried out by the private sector. A system of allocating the rights of access to these resources is in place, which both assists the explorers/developers and provides long-term benefits to the community. The title system provides the framework for this allocation. The title issued defines the rights and the obligations of the government and the explorer/developer and provides the security of access to resources essential for the large capital investments required for exploration/development to occur. The rules for access to land and security of tenure are embodied in the State's onshore petroleum legislation, *Petroleum and Geothermal Energy Resources Act 1967* and offshore petroleum legislation, *Petroleum (Submerged Lands) Act 1982*.

#### 1.2 The Nature of Petroleum Titles

Most petroleum production comes from a relatively small offshore area of the State, however, there are vast areas, particularly onshore, which remain virtually unexplored.

At this early stage of the State's petroleum development the industry relies upon large tracts of land in which to explore. Although the mode of exploration is transient and relatively non-intrusive it is nevertheless expensive and the widest possible access is essential to increase the chances of discovery.

The development of any discovery is made through petroleum production licences averaging approximately 320km<sup>2</sup>, but which usually only require a few hectares of the surface of the land for production facilities.

Vacant petroleum exploration areas are allocated initially by publicly advertising areas, in terms of a number of blocks (each 5 minutes of latitude by 5 minutes of longitude), as being available for application for the grant of Petroleum Exploration Permits under the competitive bidding system. Grant of such permits is made on merit, consideration being given to the extent and appropriateness of the work proposals, together with the applicant's technical and financial ability, and past performance.

In all cases, the holders of petroleum exploration and development titles are required to meet work commitments and comply with the conditions of approval to retain the rights to explore and develop.

The holder of a petroleum exploration title has a statutory right to the grant of a petroleum production licence for a commercial accumulation or a petroleum retention lease if the discovery is not presently commercially viable but likely to become so in 15 years.

Titles issued for the actual extraction of petroleum are much smaller in area than exploration titles and are issued subject to appropriate conditions relative to safety, resource management, protection of the environment, etc.

An applicant for a Petroleum Production Licence is required to submit a Field Development Plan outlining the nature of the proposed development, the method of operation and production, and its environmental impact.

Further approvals must be obtained before any production can commence.

#### 1.3 Land Tenure Considerations

The conditions upon which petroleum exploration may occur vary depending upon the nature of land tenure.

Petroleum exploration and development titles may be granted over Crown land, pastoral land, reserved land, private land (s15) and over native title land where the provisions of the *Commonwealth Native Title Act 1993* (NTA) have been satisfied. Entry into reserved land requires the written consent of the Minister for Mines and Petroleum who must first confer with the Minister responsible for the reserve land. Similarly, entry into private land for exploration and production can only be undertaken once compensation (if any) has been agreed to with the landowner. If compensation cannot be agreed, either party may refer the matter to the Local Court.

Legislative provisions and administrative procedures have been developed for access requirements to Aboriginal reserve land. An entry permit must first be obtained under the *State Aboriginal Affairs Planning Authority Act (1972)* from the Minister for Aboriginal Affairs.

Places of cultural and spiritual importance are protected under the *Aboriginal Heritage Act 1972* (WA).

## 2. ADMINISTRATION OF PETROLEUM TITLES

The role of administration of the State's petroleum exploration and development is undertaken by the Department of Mines and Petroleum under delegation from the Minister of Mines and Petroleum. In fulfilling its responsibilities, DMP:

- Administers competitive acreage releases based upon work program bidding.
- Assesses the appropriateness of exploration, development, and production methods in onshore areas and offshore marine and terrestrial environments.
- Regulates and oversees oil and gas activities of title holders to ensure that they are conducted safely and in an acceptable environmental manner.
- Ensures that administrative processes and title holders respect the legitimate rights of landowners and other land users.

Beyond the State's coastal waters, the Commonwealth offshore area is administered by the National Offshore Titles Administrator (NOPTA). Key petroleum title decisions continue to be made by the Joint Authority consisting of the responsible Western Australian State Minister and the responsible Commonwealth Minister under the *Commonwealth's Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Western Australian owned oil and gas lands extend from the South Australian and Northern Territory borders across the mainland and coastal waters to offshore islands.

Petroleum titles are granted subject to conditions, which require separate submissions for each phase of exploration activity so that the requirements of other land owners and users who may be affected can be addressed. For example, a survey affecting an Aboriginal reserve would require consultation with the Aboriginal Affairs Planning Authority, which in turn would consult with the communities so affected.

Unlike mineral titles, the government from time to time invites interested parties to bid for petroleum exploration acreage. It is a competitive bidding process (although not all areas attract multiple bids), and the applicant who proposes the most comprehensive work program, meets the criteria for assessment and is both financially and technically able, is awarded a title.

## 3. LEGISLATION

Petroleum exploration and development in Western Australia is regulated and administered under the *Petroleum and Geothermal Energy Resources Act 1967* (generally for onshore areas including islands) and the *Petroleum (Submerged Lands) Act 1982* (for offshore areas to a limit of three nautical miles seaward of the baseline).

All of these Acts share a common mining code and Western Australia is the only State to have the common mining code (developed for the offshore regions) extended to its onshore areas.

Onshore pipelines are accommodated under the *Petroleum Pipelines Act 1969*.

## 4. PETROLEUM TITLES

The Petroleum titles can be divided into exploration and development categories with development title evolving from the exploration titles. Petroleum Exploration Permits are awarded by way of a competitive bid system. Applicants propose a program of exploration work for an area and, if that applicant is successful (on the basis of the work proposed and the ability to undertake the work), a permit is awarded which converts that offer of work into a firm commitment.

Once a discovery of petroleum is made the permit holder has the right to convert that discovery to a production title (e.g. s53 *Petroleum and Geothermal Energy Resources Act 1967* (PGERA67)) or, if that discovery is presently not commercially viable, it may be retained as a Petroleum Retention Lease (e.g. s48(B) PGERA67).

Onshore petroleum titles and geothermal titles may subsist in respect of same blocks (s69A PGERA67). An endorsement on all petroleum and geothermal titles requires applicants to enter into consultative discussions with the existing title holder(s) to ensure a constructive working relationship. Applicants will receive notification prior to the grant of any overlapping title.

The various titles are as follows:

### *Petroleum and Geothermal Energy Resources Act 1967*

**Petroleum Exploration Permit** – authorises the holder to explore for petroleum and to carry out such operations and execute such works as are necessary (s38). Provided the conditions of the permit are fulfilled, the permittee has the right to renew the permit on a reduced area basis (subject to s41 and s42A) (generally a 50% relinquishment).

By conditions to the permit, the permittee is obliged to fulfil the promised work program in a timely manner (s43(2)) and in accordance with good oil field practice and securing the health and safety of workers (s91).

**Petroleum Drilling Reservation** – is granted for the purpose of drilling for petroleum and to carry out such operations and execute such works as are necessary for that purpose (s43D). The title term is granted for a period deemed appropriate to complete the proposed drilling program, and any other operational activities, not exceeding 3 years (s43E).

The holder of a petroleum drilling reservation may apply under the provisions of s43F for a one-off extension of the term to accommodate further drilling and, as with permits, is obliged to drill the commitment well(s) in accordance with good oil field practice.

**Petroleum Retention Lease** – is a holding title although it authorises the holder to continue to explore for petroleum and to carry on such operations and execute such works as are necessary for that purpose (s48C).

Petroleum Retention Leases are granted over the blocks comprising a discovery (S48A), which is currently not commercially viable. Depending on circumstances, further exploration work may be undertaken. However, the lessee is obliged to undertake re-evaluation studies on the commercial viability of the discovery as required from time to time by the Minister (ss48H(3)).

**Petroleum Production Licence** – authorises the holder to recover petroleum from the licence area, explore for petroleum, and to carry on such operations as are necessary for that purpose (s62).

Production Licences are granted over the blocks comprising a commercial discovery and usually emanate from a Petroleum Exploration Permit, Petroleum Drilling Reservation, or Petroleum Retention Lease (s50 and s50A). The Petroleum Production Licence is subject to the conditions imposed on the grant of title (s66). The licensee can be directed to maintain, increase or reduce the rate of recovery (s68).

**Petroleum Special Prospecting Authorities** – allow limited prospecting for petroleum but do not authorise the drilling of a well (s105). Petroleum Special Prospecting Authorities are granted subject to conditions, which control the extent of work (ss105(4)) and are for a maximum of six months (ss105(6)).

**Petroleum Access Authorities** – allows a petroleum permittee, holder of a petroleum drilling reservation, petroleum lessee, petroleum licensee or holder of a petroleum special prospecting authority to conduct exploration activities outside their area(s). A Petroleum Access Authorities may be granted for the purpose of drilling deviated wells (s106) except in conjunction with a Petroleum Special Prospecting Authorities. A Petroleum Access Authority is controlled by conditions (ss106(5)) and is limited in time to the operation necessitating the access (ss106(7)).

All titles are issued with an endorsement, which outlines the necessity to observe the requirements of other land holders and users and of the *Aboriginal Heritage Act 1972*.

### ***Petroleum Pipelines Act 1969***

**Petroleum Pipeline Licence** – authorises the holder to construct and operate pipelines for the conveyance of petroleum (s6). Pipelines are defined as including storage tanks and ancillary works (s4). Petroleum Pipeline Licences are subject to conditions (s12), one of which requires the acquisition or easements over the land necessary for the pipeline (ss12(3)). The Minister has power to resume land for the purpose of the pipeline (s19).

### ***Petroleum (Submerged Lands) Act 1982***

Titles under the *Petroleum (Submerged Lands) Act 1982* (PSLA82) are similar to the PGERA67 except that there is no provision for Drilling Reservations. The PSLA82 also provides for pipelines licences, which authorise the holder to construct and operate a pipeline (Division 4).

The PSLA82 provides for the grant of infrastructure licences for an indefinite period which enables additional processing of petroleum beyond that involved in the initial production process (Division 4A).

The terms of the various petroleum titles are summarised in Appendix 1.

## **5. APPLICATION AND GRANT PROCESSES**

### **5.1 *Petroleum and Geothermal Energy Resources Act 1967***

#### **– Petroleum Exploration Permits and Petroleum Drilling Reservations**

Petroleum Exploration Permits are granted by the Minister following a competitive bid system and clearance through the *Native Title Act 1993* (NTA) future act process. Notice is published in the Government Gazette inviting applications for either specified areas or vacant areas within the State (s30).

Applicants pledge a program of work and the grant is made (or not) on the efficacy of that work program. Consideration is also given to the applicant's technical and financial ability (s31) and past performance.

Once a suitable applicant is identified the necessary NTA notifications are made pursuant to the future act provisions of that Act. Applicants are encouraged to commence negotiations with the Native Title parties involved in a good faith

manner and as early as possible. DMP is a party to such negotiations under the terms of NTA and while it is also required to negotiate in good faith, in essence, its role is that of a coordinator.

For more information on the NTA future act process, consult the National Native Title Tribunal web site [www.nntt.gov.au](http://www.nntt.gov.au)

## – Petroleum Production Licences and Petroleum Retention Leases

Petroleum Production Licences and Petroleum Retention Leases are granted over the blocks containing discoveries within Petroleum Exploration Permits and Petroleum Drilling Reservations to the holder of those titles as a matter of right upon application but subject to conditions (s54 and s48B respectively). Petroleum Retention Leases are granted in circumstances where the discovery is not presently commercially viable but is likely to be within 15 years.

Petroleum Production Licences and Petroleum Retention Leases are also subject to the future act provisions of the NTA.

## – Petroleum Special Prospecting Authorities

Petroleum Special Prospecting Authorities (SPA) may be granted for exploration work (other than drilling a well) preliminary to an applicant making a bid for a permit or drilling reservation. These authorities are limited in time (maximum 6 months) to a specific exploration activity (e.g. a seismic survey) and cannot be renewed or dealt with, i.e., cannot be transferred or encumbered. More than one authority can be granted over the same area (s105).

SPAs which involve ground disturbing work (including seismic surveys) other than low impact activities are subject to the future act provisions of the NTA. SPA's may, on application, be granted with an acreage option (ss105(1a)). Such an option provides the holder the exclusive right to apply for a petroleum exploration permit or petroleum drilling reservation over a reduced area to be determined by the Minister. That request is limited in time to 6 months following the expiry of the SPA.

## – Petroleum Access Authorities

Petroleum Access Authorities (AA) may be granted to holders of Petroleum Exploration Permits, Petroleum Drilling Reservations, Petroleum Retention Leases, Petroleum Production Licences and Petroleum Special Prospecting Authorities when limited access into adjacent areas is required. Petroleum Access Authorities can also accommodate wellheads from directional drilling into another area. Petroleum Access Authorities are capable of being transferred and otherwise dealt with (s106).

An AA which involves ground-disturbing work is subject to the future act provisions of the NTA.

## 5.2 *Petroleum (Submerged Lands) Act 1982*

Grant processes under the *Petroleum (Submerged Lands) Act 1982* (PSLA82) are similar to the PGERA67 (common mining code) except that there is no provision for Petroleum Drilling Reservations or Acreage Options associated with Petroleum Special Prospecting Authorities. The PSLA82 also provides for submerged lands pipeline licences and Infrastructure Licenses. Onshore petroleum pipeline licences are accommodated under the *Petroleum Pipelines Act 1969* (see below).

Submerged lands areas do not attract the future act provisions of the NTA and accordingly the grant of submerged lands titles avoid the right to negotiate process, unless some part of its area is land above the low water, e.g. islands.

## 6. PETROLEUM OPERATIONS

### 6.1 Permits, Licences and Leases

Operations under petroleum permits, licences and leases usually consist of geophysical surveys (seismic, gravity, geochemical), and the drilling of wells. All petroleum titles are subject to conditions, which require the title holder to obtain Departmental approval before commencing any field operations. At the time an application for a particular operation (e.g. seismic surveys) is made, a detailed examination of the area which is the subject of the operation is undertaken. Any referrals to other parties, which are likely to have an interest in the land, are made at this time either directly by the titleholder or by the DMP. Conditions protecting other interests are likely to be applied at that time.

### 6.2 Exploration

Petroleum exploration operations, particularly for onshore areas, are relatively non-intrusive. In fact, field operations only occupy a small percentage of the six year permit term, with most of that time being occupied by office studies, computer modelling and laboratory studies. A seismic survey of some 50 km would possibly take two to three weeks, and the drilling of a well up to four weeks.

## 6.3 Production

Licence operations relate to the installation of production equipment and the recovery of petroleum. Separate approval is also required to install plant and equipment and to commence recovery operations.

The production facility in an oil field would consist of pumps, flow lines and perhaps storage tanks. In all, that facility would only occupy a few hectares of a typical 320km<sup>2</sup> production licence.

## 6.4 Infrastructure

Infrastructure Licences are available under the PSLA82. The holder of a production licence over a petroleum resource is not given exclusivity to apply for an Infrastructure Licence. A processing facility requiring an Infrastructure Licence for the handling and/or processing of petroleum may receive petroleum from a variety of sources.

An Infrastructure Licence may be granted in a vacant area or in an area held under another Petroleum Title. Its area is defined as a place and does not involve the block system of granting titles. The grant of an Infrastructure Licence is at the discretion of the government and all relevant circumstances will be considered.

## 7. **PETROLEUM PIPELINES ACT 1969**

The *Petroleum Pipelines Act 1969* (PPA69) provides for the administration of petroleum pipelines over onshore areas.

A petroleum pipeline is defined as one which conveys naturally occurring hydrocarbons (s4) and is generally in respect to high pressure pipelines lines.

Field gathering lines are not usually licensed but are part of the Petroleum Production Licence facilities. Pipelines owned by public authorities are not subject to the PPA69 (s4).

Petroleum Pipelines can encounter all types of land tenure and access to these lands is accommodated by way of easements registered under the appropriate legislation e.g. Transfer of Land Act for freehold title, the Land Administration Act for Crown land (including pastoral leases), and reserved land. Public Authorities also have the right to grant easements and any land may be resumed under the Public Works Act for the purpose of the pipeline (s16-s20).

The application for a pipeline licence is advertised in the Government Gazette and also in a daily newspaper circulating generally in the State. Such notices provide a map showing the route of a pipeline which can be examined at a nominated place and time (ss8(4)).

In addition, the applicant must notify each council and municipality affected by the proposed pipeline (ss8(3)(a)) and notify each owner and occupier of any land over which the pipeline is to be constructed (ss8(3)(b)). A definition of 'owner' appears in section 4 and virtually relates to freehold land. Access provisions are included in the legislation so as access to the pipeline by third parties is available (s21).

Pipelines are generally buried and are visually unobtrusive. The area required for a pipeline varies but usually it is a narrow corridor of about 50 metres. Licences are subject to stringent public safety and environmental conditions.

The Pipeline Licence is a licence to construct and operate and is issued on the condition that construction cannot be commenced until the necessary land tenure has been obtained. In this regard, it is not the licence which involves the NTA. It is the acquisition of land to which the NTA may apply which invokes that Act.

## PETROLEUM TITLES – APPENDIX 1

### SUMMARY OF PETROLEUM TITLES

TITLE	TERM	AREA	RIGHTS	OBLIGATIONS	CONDITIONS
Petroleum Exploration Permit	6 year initial term; 5 year renewal terms  (Maximum of 2 renewals on a reduced area basis).	400 blocks maximum.	To explore for petroleum.  To convert any discovery made to a production title or retention lease (if presently uneconomic).	To fulfill the work commitment on which the grant of title was made and in the time frame prescribed.  To conduct operations in accordance with good oil field practice.  To provide a safe working environment for employees.  To pay an annual fee.  To submit data and annual title reports.	Work commitments.  Field operations, installation of equipment not to be undertaken without approval of Minister.  No recovery of petroleum unless by way of production test approved by the Minister.  Payment of royalty on petroleum recovered.  Environmental protection.  Compliance with enabling Act, regulations and directions.
Petroleum Drilling Reservation <i>(Petroleum and Geothermal Energy Resources Act 1967 only)</i>	1 to 3 years (an extension period not exceeding 12 months may apply).	Corresponds to potential size of prospect (usually 3 to 4 blocks).	As for Petroleum Exploration Permits.	As for Petroleum Exploration Permits.	As for Petroleum Exploration Permits.
Petroleum Retention Lease	5 year term; right of renewal for subsequent 5 year periods.	Corresponds to size of discovery (usually 3 to 4 blocks).	To explore for petroleum to convert to a production title once commercial viability confirmed.	As for Petroleum Exploration Permits.	As for Petroleum Exploration Permits.
Petroleum Production Licence	Indefinite term (conditional)  First renewal of existing 21 year licenses are granted for a further 21 years. Second renewals are granted for an indefinite term.	Corresponds to size of discovery (usually 3 to 4 blocks).	To recover petroleum.	To recover petroleum in accordance with directions of Minister.  To conduct operations in accordance with good oil field practice.  To provide a safe working environment for employees.  To pay an annual fee.  To submit data, production reports and annual title reports.	Pay royalty at prescribed rate.  Field operations, installation of equipment not to be undertaken without approval of Minister.  Environmental protection.  Compliance with enabling Act, regulations and directions.



TITLE	TERM	AREA	RIGHTS	OBLIGATIONS	CONDITIONS
<p>Infrastructure Licence</p> <p><i>(Petroleum (Submerged Lands) Act 1982 only)</i></p>	Indefinite term (conditional)	Area necessary to accommodate infrastructure	To construct and operate infrastructure facilities in the infrastructure area	<p>To operate the facility in accordance with the requirements of the PSLA82, regulations, directions and conditions of Licence.</p> <p>*To conduct operations in accordance with good oil field practice.</p> <p>*To provide a safe working environment for employees.</p> <p>*To pay an annual fee.</p> <p>Petroleum Pipeline Licence</p>	As for Production Licence other than pay royalty.
Petroleum Pipeline Licence	Indefinite term (conditional)	Area necessary to accommodate pipeline and associated facilities e.g. pumping stations, storage tanks.	To construct and operate a pipeline for the purpose of conveying naturally occurring hydrocarbons.	<p>To construct and operate pipeline in accordance with the requirements of the Act, regulations, directions and conditions of licence.</p> <p>To act as common carrier should Minister so determine.</p> <p><b>And other obligations indicated by * above</b></p>	<p>To construct and operate in accordance with licence specifications.</p> <p>Environmental protection.</p> <p>Compliance with enabling Act, regulations and directions.</p>