

REVIEW OF PETROLEUM LICENCING REGULATIONS TERMS OF REFERENCE

1. Context

Australia's ability to attract the large-scale investment required to support petroleum projects has been underpinned by sound development and production regimes.

The security and reliability of future gas supply in eastern Australia has been affected by factors including:

- Significant demand from the three Gladstone LNG projects, which has diverted gas from the domestic market.
- Downturns in the commercial operating environment, for example low oil prices which reduced the incentive of some producers to explore for and develop new gas resources.

Accelerated commercialisation of gas resources is needed alongside an effective export control to ensure security of gas supply to domestic consumers at affordable prices, particularly large industrial gas users. Concerns have been raised about the application of the retention lease provisions, which some large domestic gas users have argued can provide companies with a potential mechanism to schedule production for future export at the expense of domestic users - a practice commonly referred to as warehousing. It is also common practice for gas producers to invest progressively in exploration, with its high cost and failure risk, to discover and develop a forward portfolio of gas reserves, which can be brought to market via established gas processing facilities or can factor it into the cost of new or upgraded gas facilities. Global petroleum prices also influence the timing for investment in exploration and commercial development of gas fields.

Petroleum licencing regulations are supported by a framework which allows discovered resources to be retained for a period of time by titleholders while commercial and technical matters are resolved. Petroleum 'retention'¹ leases operating onshore are implemented under state and territory frameworks. An exploration lease title holder can apply for a retention lease if petroleum has been found but the resource requires further evaluation to determine potential production and market opportunities. This process, when operating effectively, balances commercial needs with the timely development of resources.

Offshore petroleum exploration and development in Commonwealth Waters is regulated by the Australian Government under a title system. Petroleum activities can only occur if

¹ While referred to as 'retention lease' for the purposes of this document, in state and territory regimes they are referred to by different titles.

a company holds a valid title, which in itself provides holders with an exclusive right to apply for further approvals to conduct safe petroleum operations in the area. The most common title is a petroleum exploration permit, which allows a titleholder to explore for oil and gas. If an oil and gas resource is found, the petroleum exploration permit holder may apply for a petroleum retention lease or a petroleum production licence.

Retention lease applications, delivery of attached conditions, and renewals incur significant costs for industry and government.

In situations where a reserve is not being developed in a timely fashion, one possible solution is a ‘use it or lose it policy’. A use it or lose it policy requires title holders to commit to developing the jurisdiction’s resources or risk losing their retention lease. If a serious commitment cannot be demonstrated at application, transfer, upon renewal or during the term of a retention lease, companies may face refusal or cancellation of their titles.

2. Objectives

The four priority areas of the COAG Energy Council’s gas reform program are gas supply, market operation, gas transportation and market transparency. The COAG Energy Council is committed to the implementation of this reform package to drive the achievement of its Australian Gas Market Vision for a liquid wholesale gas market where an efficient reference price provides signals for investment and new gas supply. This review is intended to help identify and address barriers to increasing gas supply, consistent with the following objectives:

- understand and compare existing retention lease policies/frameworks for onshore and offshore resource developments
- identify opportunities to strengthen regulatory frameworks
- consider whether a nationally consistent stricter ‘use it or lose it’, other contestability test(s) or other mechanisms are required to help address barriers to the commercial development of gas fields
- identify opportunities to accelerate exploration and gas resources development.

3. Scope

This review will examine the management and effectiveness of policies in relation to undeveloped gas titles retained by companies in the following phases.

- Phase 1: Conducting a stocktake of titles by:
 - Identifying and examining all retention leases in State, Territory and Commonwealth jurisdictions
 - Identifying those titles that have been renewed on multiple occasions and identify the reasons for renewal
 - Identifying the gas resource potential within retention leases (e.g. field size, gas resources, project staging).
- Phase 2: Examining the policy settings which underpin retention lease regimes. In particular this will be done by identifying:
 - The criteria for granting and renewing retention leases

- The commercial drivers and other relevant issues that influence company decisions to seek retention leases
 - The mechanisms available to governments to critically examine commerciality of the proposed development pathway for the resource
 - The mechanisms available to government to bring forward the commercial development of a resource.
- Phase 3: Data gathered during Phase 1 and 2 analysed and an initial assessment undertaken to determine potential range of reform options to be considered in Phase 4. Consultation on the views of industry and other stakeholders could then take place via a public submission process.
 - Phase 4: Consider reform options including whether a nationally consistent stricter ‘use it or lose it’, other contestability test(s) or other mechanisms is required to help address the barriers to the commercial development of gas fields.

4. Deliverables

The Upstream Petroleum Resources (UPR) Working Group will deliver a report providing a stocktake of existing titles, a summary and comparison of existing policy settings, and potential reform options to the COAG Energy Council in mid-2018.

5. Project Management

The Review will be conducted by UPR officials and supported by the UPR Working Group Secretariat. Representatives from industry and other various Commonwealth or jurisdictional bodies/agencies may be invited to assist or inform the Review. A dedicated page on the Energy Council’s website will be established and updated regularly to provide information about the status of the review.