

Overview of Australia's Offshore Petroleum Regime

The Australian Government encourages the ongoing investment in, and development of, Australia's offshore petroleum resources. This document outlines the processes to achieve this and roles and responsibilities of various government organisations.

The Australian Government is responsible for petroleum rights and activities beyond coastal waters (seaward of the first three nautical miles of the territorial sea) to the outer limits of Australia's Exclusive Economic Zone, with titles decisions carried out jointly with the relevant regional state or territory government.

Onshore and in coastal waters (the first three nautical miles from the coastline), the states and the Northern Territory allocate petroleum rights, administer petroleum operations and collect royalties on petroleum produced.

Roles and responsibilities of Government

Australia is a representative democracy where people eligible to vote elect representatives to speak and make decisions on their behalf. Australian citizens vote to elect representatives to each of the three levels of government – federal, state or territory and local.

The Constitution defines the responsibilities of the Australian (federal) Government, including foreign relations, international trade, defence and immigration. Regional governments of states and territories are responsible for issues such as transport infrastructure, health and education and local governments are cover issues like road maintenance and public facilities. All levels of government adhere to the principles of responsible government and Australian law.

Australian governments do not undertake commercial petroleum exploration or development. The governments' roles in relation to the petroleum sector are to:

- establish the macroeconomic environment (broad economic policy)
- provide a regulatory framework for exploration, development, safety, environmental assessment and revenue collection
- reduce commercial risk in petroleum exploration by collecting and disseminating geoscientific information
- investigate ways to remove impediments to industry competitiveness.

Both the Australian government and the state and territory governments have roles in facilitating petroleum exploration and development and the Australian Government holds regular consultations with states and territories to coordinate policy and regulation for the sector.

Under international law, Australia has sovereign rights for exploring and developing mineral and petroleum resources within the Exclusive Economic Zone and the Continental Shelf.

This jurisdiction extends from the territorial sea baseline to the outer edge of the Continental Shelf and accounts for over 14.6 million square kilometres - one of the largest marine jurisdictions in the world. Petroleum exploration and development in the Timor Sea Joint Petroleum Development Area (JPDA) is managed jointly between Australia and Timor-Leste.

Offshore petroleum regulatory framework

The legal framework for offshore petroleum exploration and development activity in Australia is the result of agreement on the division of responsibilities between the Australian Government and the regional state and Northern Territory governments under the [Offshore Constitutional Settlement \(1979\)](#).

Offshore petroleum activities outside designated state and territory coastal waters are governed by the Commonwealth [Offshore Petroleum and Greenhouse Gas Storage Act 2006](#) (OPGGS Act) and associated regulations. The legislation provides for the exploration for and recovery of offshore petroleum resources and sets out a basic framework of rights, entitlements and responsibilities of governments and industry.

The key matters covered in the legislation are:

- issue of invitations to apply for exploration permits
- granting of permits to successful applicants and determination of conditions of the title
- declaring locations where petroleum has been discovered within an exploration permit
- granting of retention leases over discoveries that are not currently commercial but are expected to become commercial within 15 years
- granting of production and pipeline licences
- granting of infrastructure licences for various processing activities
- granting of special prospecting authorities, access authorities and consents for scientific investigations
- renewal of titles
- variations of title conditions, exemption from title commitments, suspension of title commitments and cancellation of titles for non-compliance with the conditions of the title
- approval of applications for the registration of legal transactions, including farm-ins and transfers of titles.

The OPGGS Act is supplemented by a set of regulations, including the:

- [Offshore Petroleum and Greenhouse Gas Storage \(Safety\) Regulations 2009](#)
- [Offshore Petroleum and Greenhouse Gas Storage \(Environment\) Regulations 2009](#)
- [Offshore Petroleum and Greenhouse Gas Storage \(Resource Management and Administration\) Regulations 2011](#).

Regulatory responsibilities

A range of government departments and statutory authorities are involved in administering Australia's offshore petroleum regulatory regime. The relevant departments and authorities and their respective responsibilities are outlined below.

Joint Authority

The Joint Authorities make all major titles decisions under the OPGGS Act, including the release of offshore petroleum exploration areas, the granting of titles, changes to title conditions and decisions about resource management and resource security.

There is a Joint Authority for each offshore area, comprising the responsible Commonwealth Minister for resources and the relevant state or territory Minister. The Joint Authority for the Eastern Greater Sunrise offshore area, the offshore area of each external territory i.e. the Territory of Ashmore and Cartier Islands and for the Tasmanian offshore area is the responsible Commonwealth Minister only.

The Joint Authorities may delegate any or all of their functions and powers to officials in the respective Commonwealth and state/Northern Territory departments with responsibility for resources and energy.

National Offshore Petroleum Titles Administrator

The National Offshore Petroleum Titles Administrator (NOPTA) is responsible for the administration of offshore petroleum titles on behalf of the Joint Authorities. NOPTA is the point of contact for all offshore petroleum and greenhouse gas matters in Commonwealth waters.

NOPTA's key functions include:

- providing information, assessments, analysis, reports and advice to the Joint Authorities
- managing the collection, administration and release of data
- approval and registration of transfers and dealings
- maintaining a publicly available register of offshore petroleum and greenhouse gas storage titles - neats.nopta.gov.au.

For more information about the role of NOPTA please visit nopta.gov.au.

National Offshore Petroleum Safety and Environmental Management Authority

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), is the Australian Government's independent regulator of occupational health and safety, structural integrity and environmental management for all petroleum activities in Commonwealth waters and state and Territory waters where regulatory powers and functions are conferred.

As an independent expert regulator, NOPSEMA is separate from policy agencies and activities that promote the development of Australia's offshore petroleum industry. NOPSEMA assesses and accepts, where appropriate, permissioning documentation for petroleum activities. NOPSEMA is accountable to the responsible Commonwealth Minister and the Australian Parliament.

For more information about the role of NOPSEMA please visit nopsema.gov.au.

The Offshore Petroleum Exploration Acreage Release

Petroleum titles are awarded on a successive basis beginning with a petroleum exploration permit, awarded from the Australian Government's annual Offshore Petroleum Exploration Acreage Release. The annual acreage release is a key part of the Australian Government's strategy to promote safe and sustainable petroleum exploration in Australia's offshore waters. It provides explorers with new opportunities to invest and enables industry to undertake longer term planning to support the ongoing investment in, and development of, Australia's offshore petroleum exploration industry.

The acreage release also ensures access to comprehensive pre-competitive geological and geophysical datasets and ensures the provision of quality information on third party issues that may impact on successful applicants. The main steps in the acreage release cycle are:

- Nominations invited – in April/May, the Australian Government invites nominations for areas for inclusion in the next acreage release. The nomination process ensures areas that are of interest to commercial parties are considered.
- Short-listing – based on the nominated areas, the Australian Government shortlists the nominated areas. Factors considered in the shortlisting process include:

- Interests of other users of the marine environment such as fishing, maritime, tourism and Native Title.
 - Previous interest and exploration undertaken in the nominated area.
 - Australian marine parks.
 - Relevant international maritime boundaries.
 - Whether there is new data, a new geoscientific story or market development, such as domestic demand changes or an opportunity for early commercialisation of finds that might generate the interest of potential bidders.
 - Ongoing pre-competitive studies by Geoscience Australia – it is government practice to allow pre-competitive geoscientific data collection programs to conclude prior to the release of acreage.
 - Any matters deemed relevant by Commonwealth, state or territory governments.
- The Australian Government undertakes consultation on the shortlisted areas. This is undertaken in two phases:
 - Phase 1 – a consultation process with agencies in Commonwealth and state/territory jurisdictions with direct responsibility for managing the marine environment. Comments received from state/Northern Territory agencies may also be made available to potential explorers through the ‘Special Notices’. This helps to shape the proposed areas and balance the competing interests at a government level.
 - Phase 2 – the proposed areas, including maps, are made available for public comment on the department’s consultation hub and through the December/January edition of the Australian Petroleum News. The proposed areas are subject to change until officially announced.
 - Following consultation, the relevant Joint Authority determines the ‘final’ areas to be released.
 - The final areas are announced by the responsible Commonwealth Minister. This announcement generally coincides with the Australian Petroleum Production and Exploration Association Conference, usually held in April/May each year.
 - Industry is formally invited to place bids on the release area via a notification in the [Australian Government Gazette](#). Bidding occurs over two rounds, usually closing six and 12 months after the release.

Bids are assessed by NOPTA using [published criteria](#) and the Joint Authority awards an exploration permit to the bidder who proposes an exploration strategy and work program that will significantly advance the assessment and understanding of the petroleum potential of the area and has satisfactory record of past performance.

Industry is advised to consider the [2018 acreage release area notices](#) before placing a bid.

Offshore petroleum titles

Offshore petroleum titles are awarded on a successive basis, beginning with an exploration permit. If a discovery is made during the exploration phase and a location is declared, the titleholder may apply for a production licence if the discovery is commercial, or a retention lease if the discovery is not commercial but is expected to become commercial within 15 years. From a retention lease the titleholder progresses to a production licence once the discovery becomes commercial. The chart below outlines the basic offshore title system.

There are six types of petroleum titles that may be granted depending on the activity to be undertaken:

- **Work bid exploration permit** – a six year title that may be renewed for two periods of five years and provides rights to apply for further approvals to undertake exploratory activities such as seismic surveys and drilling within the permit area in accordance with an approved work program.
- **Cash bid exploration permit** – a six year title that, if specified, may be renewed for one period of five years and provides rights to apply for further approvals to undertake exploration activities such as seismic surveys and drilling within the permit area.

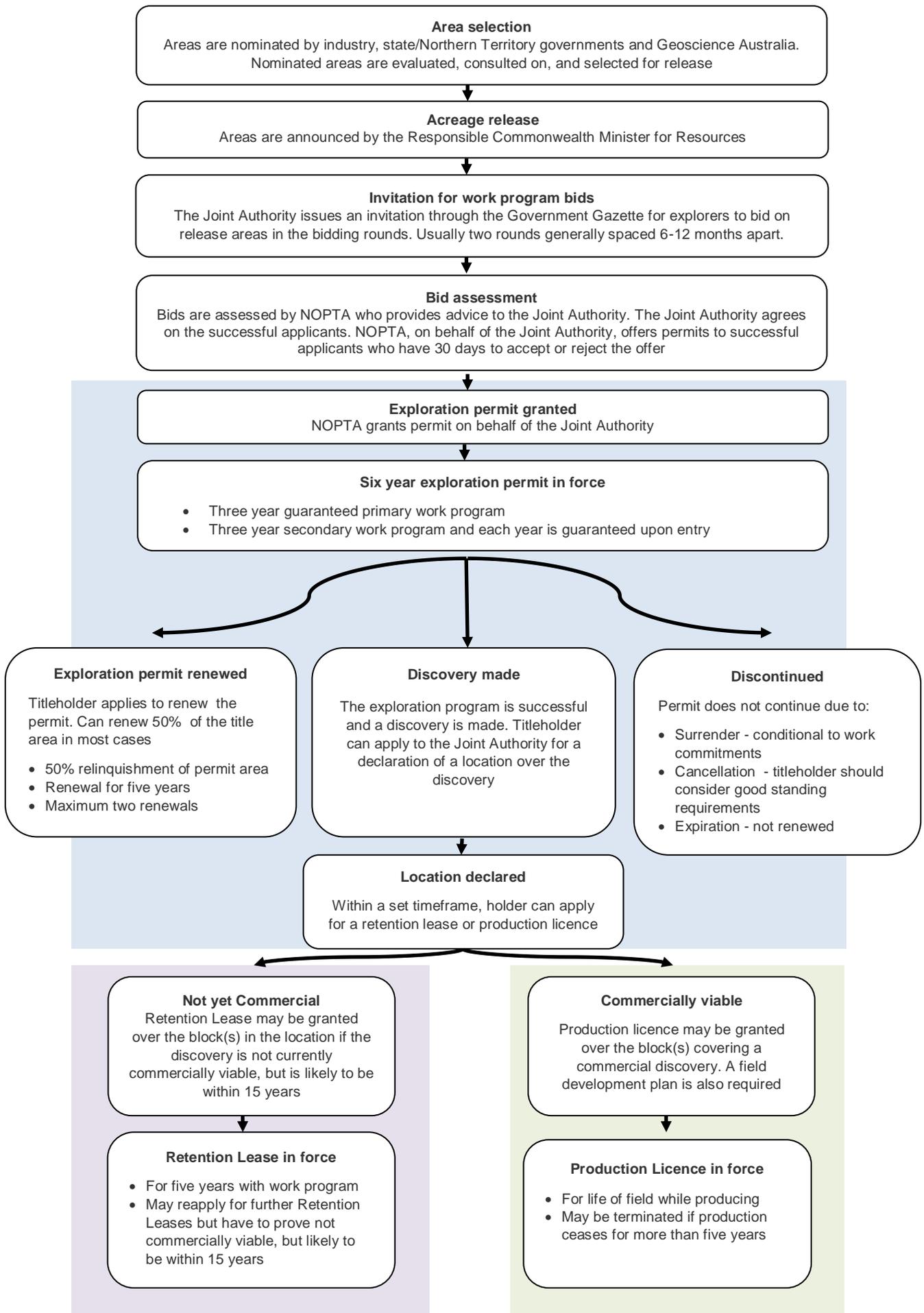
- **Retention lease** – a five year title that may be renewed and is granted to the holder of an exploration permit or a production licence where a discovery has been made that is not currently commercially viable, but is likely to be within 15 years.
- **Production licence** – a life-of-field title that is granted to the holder of an exploration permit or a retention lease for the recovery of petroleum following a commercial discovery.
- **Infrastructure licence** – an indefinite term licence granted to enable the construction of offshore facilities for the storage and conversion of petroleum. This can include the conversion of gas to liquefied natural gas (LNG) or methanol, or to operate a floating LNG facility or an offshore production facility that is located outside of the production licence area or held under a different ownership structure.
- **Pipeline licence** – an indefinite term licence granted for the construction and operation of an export pipeline to transport petroleum to shore or to other facilities.

Titles are awarded over areas comprising one or more graticular blocks of five minute longitude and five minute latitude. A part block may exist where a block is bisected by a maritime boundary. In such cases, the blocks are generally referenced as 'part blocks' on a title instrument, but they are still treated for all purposes as 'blocks' within an offshore area.

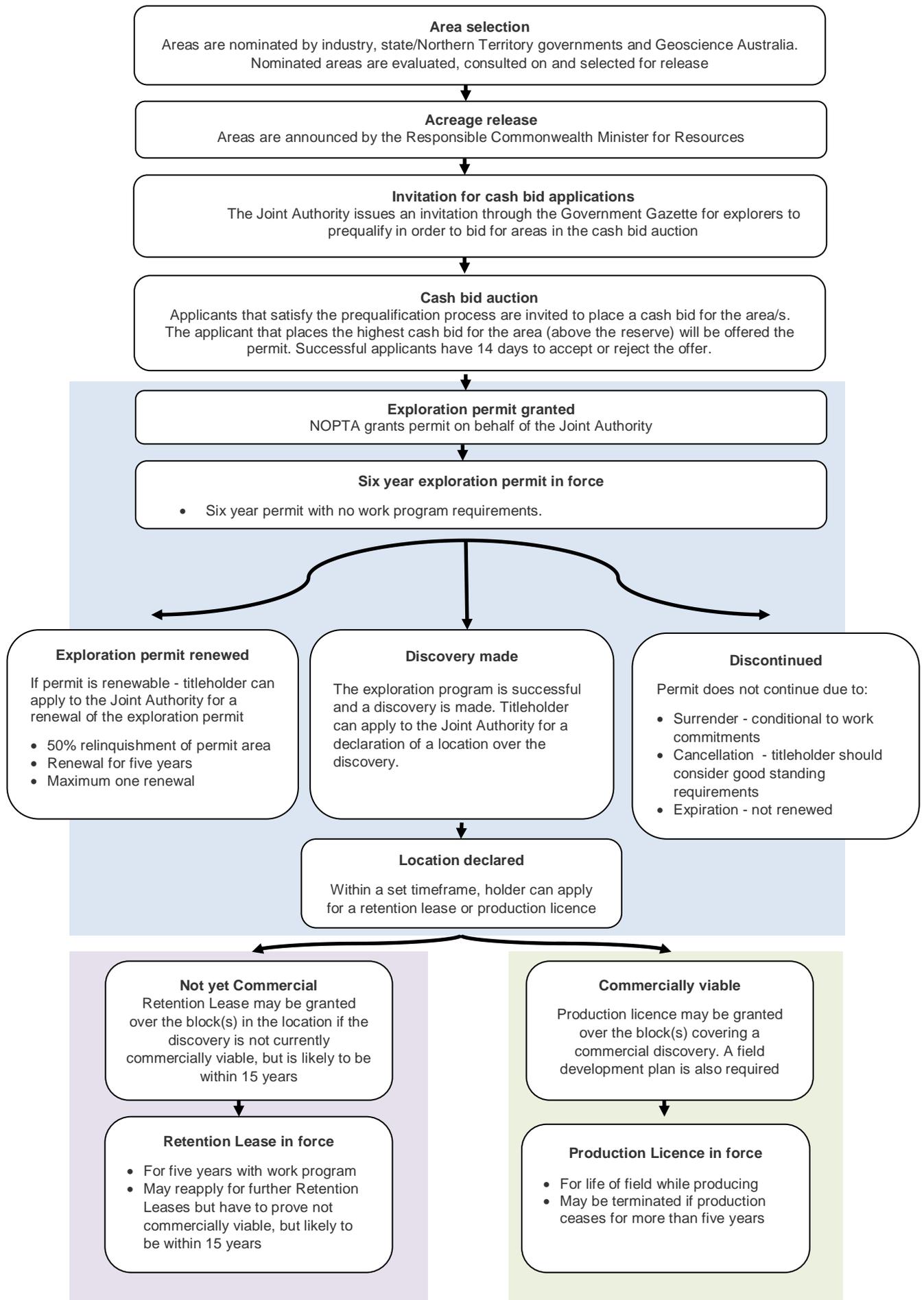
In areas not covered by existing titles, companies may apply to NOPTA for a Special Prospecting Authority (SPA) to undertake seismic or other geophysical or geochemical survey work (but not to drill a well) in a particular area for a period of up to 180 days. A SPA does not provide any rights in relation to the award of a future exploration permit.

Existing titleholders who wish to undertake petroleum exploration activities (other than drilling a well) in areas close to their existing title may apply to NOPTA for an Access Authority. An Access Authority provides access to a vacant area or an area covered by an existing title to enable the area to be fully explored. An Access Authority will remain in force for the period specified in the authority, unless surrendered or cancelled, and does not provide any rights in relation to the award of a future exploration permit.

Offshore petroleum title flow chart - work program



Offshore petroleum title flow chart - cash bid



Approval to undertake exploration activities

Offshore petroleum exploration permits do not authorise petroleum exploration activities. Rather, an exploration permit grants the titleholder the right to apply for permission to undertake exploration activities, in the permit area, that are judged by regulators to comply with the law.

Australia's offshore petroleum legislation provides that all duty holders must carry out operations in accordance with good oil field practice, including carrying out operations in a manner that is safe and prevents the escape of petroleum into the environment. In order to retain a title, the provisions of the legislation and regulations must be adhered to, any applicable conditions of work must be met, and the annual titles administration levy paid.

Australia's objective-based offshore petroleum regulatory regime places the onus on the duty holder to demonstrate that exploration for, and extraction of, petroleum resources is undertaken in a safe and environmentally responsible manner.

All petroleum activities require the relevant risk management plans (permissioning documents) to be accepted by NOPSEMA before an activity can commence i.e. a safety case, environment plan, and/or well operations management plan. The OPGGS Act and associated regulations outline the content requirements and acceptance criteria for these permissioning documents.

Companies undertaking petroleum exploration activities are required to notify the relevant Commonwealth/state/territory government department or organisation prior to the commencement of a seismic survey and/or drilling of an offshore well.

Where appropriate, conditions may be included in an exploration permit title. Failure to comply with conditions of an exploration permit title may result in commencement of permit cancellation proceedings.

Occupational health and safety requirements

Occupational health and safety in the Australian offshore petroleum industry is regulated under an objective-based regime underpinned by the OPGGS Act and the [Offshore Petroleum and Greenhouse Gas Storage \(Safety\) Regulations 2009](#).

The objective-based regime is founded on the principle that the legislation sets the broad safety goals to be attained. The operator of the facility develops the most appropriate methods of achieving those goals for their facility; with the ongoing management of safety being the responsibility of the operator, not the regulator. The role of the regulator is to assess whether the operator's proposed measures are appropriate and to monitor and enforce compliance with duties of care.

Current practice in offshore safety regulation involves the operator of an offshore facility preparing a safety case to manage occupational health and safety at a facility. The safety case describes the facility, identifies hazards and risks, risk controls and describes the safety management system in place to ensure that controls are effectively and consistently applied to maintain health and safety.

The safety case is submitted to NOPSEMA for assessment. Operations **must not** be carried out at a facility without an accepted safety case in force. Once a safety case has been accepted by NOPSEMA, it forms the 'rules' the operator must comply with in the operation of that facility. NOPSEMA undertakes a comprehensive inspection and compliance monitoring program to ensure that the requirements of the OPGGS Act, the safety regulations and the operator's commitments under the safety case are being complied with.

For further information on offshore safety matters please visit nopsema.gov.au

Register of Critical Infrastructure Assets

To manage the complex and evolving national security risks of sabotage, espionage and coercion posed by foreign involvement in Australia's critical infrastructure, the Australian Government has passed the [Security of Critical Infrastructure Act 2018](#). This legislation contains a range of powers, functions and obligations that apply in relation to critical infrastructure assets in the electricity, gas, water and ports sectors. A critical gas asset is a processing and storage facility, and a distribution and transmission asset which is critical for ensuring the security and availability of gas to the domestic markets and/or those that meet Australia's export demands.

Organisations responsible for owning and operating a critical gas asset are required to register ownership and operational information on a Register of Critical Infrastructure Assets. More detailed information from owners and operators of critical assets may be obtained by the Department of Home Affairs in certain circumstances. In addition, an owner or operator may be directed by the Minister for Home Affairs to do, or not do, a specified thing to mitigate against a national security risk where all other mechanisms to mitigate the risk have been exhausted.

For further information regarding the Act and its obligations for owners and operators, please refer to the [Critical infrastructure resilience](#) section of the Department of Home Affairs' website.

Phone: +61 2 6141 3338

Email: enquiries@cicentre.gov.au

Environment protection requirements

Australian Government legislation relevant to environmental management of offshore petroleum exploration and development activities includes the:

- [Offshore Petroleum and Greenhouse Gas Storage \(Environment\) Regulations 2009](#)
- [Environment Protection and Biodiversity Conservation Act 1999](#) (EPBC Act)
- [Environment Protection \(Sea Dumping\) Act 1981](#)
- [Protection of the Sea \(Prevention of Pollution from Ships\) Act 1983](#)
- [Historic Shipwrecks Act 1976](#)

Under the OPGGS environment regulations, titleholders must have an environment plan accepted by NOPSEMA prior to commencing a petroleum activity. The plan must evaluate all environmental impacts and risks for the activity, and demonstrate that those impacts and risks will be of an acceptable level and reduced to as low as reasonably practicable. This includes explicitly addressing impacts and risks to matters protected under part 3 of the EPBC Act. The environment plan must contain an oil pollution emergency plan, and provide for monitoring of the environmental impacts associated with oil pollution. In addition, titleholders must have adequate financial assurance to meet any costs of response and remediation in the event of a major environmental incident.

Titleholders seeking to undertake petroleum activities in Commonwealth waters must ensure that the activities are undertaken in accordance with the environmental management processes under the OPGGS environment regulations and relevant requirements under an environmental authorisations program for offshore petroleum activities, in line with the [Streamlining Offshore Petroleum Environmental Approvals Program Report](#).

Petroleum and greenhouse gas activities undertaken in accordance with the endorsed Program do not require individual assessment under the EPBC Act. Petroleum and greenhouse gas activities may require additional assessment and decisions under the EPBC Act if they:

- Have, will have or are likely to have a significant impact on the environment on Commonwealth land.
- Are taken in any area of sea or seabed that is declared to be a part of the Great Barrier Reef Marine Park under the [Great Barrier Reef Marine Park Act 1975](#).
- Have, will have or are likely to have a significant impact on the world heritage values of the Great Barrier Reef World Heritage property or on the national heritage values of the Great Barrier Reef National Heritage place.
- Are taken in the Antarctic.
- Are injection and/or storage of greenhouse gas.

For further information on environment related titleholder obligations please see the [EPBC Act](#) or visit the [Offshore Petroleum Environment](#) page on the Department of Industry, Innovation and Science website.

Other users of the marine environment

[Section 280](#) of the OPGGS Act requires that all offshore petroleum operations must be carried out in a manner that does not unduly interfere with other marine users' rights and interests. There is also a need to comply with the requirements and standards set by Australian law.

All titleholders must have due regard for matters such as:

- environment and heritage protection
- Native Title rights and interests
- resource management
- navigation and maritime safety
- fishing activities
- defence activities and submarine telecommunication cables
- all other users of the marine environment including other petroleum and mineral explorers and developers.

As well as general advice on the requirements that apply to all release areas, the annual acreage release information package contains [general and special notices](#) that outline matters and requirements relevant to undertaking petroleum exploration activities in specific areas. Explorers should consider the relevant notices to individual areas released for bidding when applying for an exploration permit, and throughout the life of the permit. This information may be supplemented from time-to-time through alerts in the [Australian Petroleum News](#) publication.

Successful applicants are responsible for incorporating these notices into their work program timeframe, and for consulting with the relevant bodies as part of preparing their Environment Plan prior to undertaking exploration activities (see section below on Consultation).

Consultation

Before acreage release

Recognising the multi-use nature of the marine environment, the Department of Industry, Innovation and Science consults with Commonwealth, state and territory agencies with direct responsibilities for managing the marine environment in preparation for the annual acreage release.

In order to be informed of the nature of activities occurring, or likely to occur in the proposed area, the department seeks information on the implications of release for those agencies. Consultation includes consideration of factors such as maritime boundaries, environmental and fisheries impacts, defence and communications requirements, maritime safety and native title interests.

Information is collated in the [special notices](#) and issued as part of the acreage release package. Information collected may also lead to the inclusion of specific title conditions and/or re-shaping or removal of areas to balance competing interests and/or to avoid unduly protracted, risky or inefficient exploration activity in future.

It should be noted the release of an area does not necessarily mean the area will result in an exploration title. If a title is awarded it may be several years before any on-water exploration activities occur. As such, at the point of acreage release, details of the nature, timing and location of future exploration activities are not known. Therefore, the offshore petroleum regime requires consultation with relevant persons throughout the planning and implementation stages of a petroleum activity.

Public consultation on the proposed areas

The department publishes a notification of the proposed areas for the subsequent year's acreage release through the December edition of the [Australian Petroleum News](#). In addition to this, the department uses its consultation hub to invite comments on the proposed areas. This process aims to increase community awareness of the acreage release process and of the proposed release areas. It also enables persons with a specific interest in an area to provide information that may be of use to potential explorers when applying for the release area or when undertaking exploration activities.

Consultation in the environment plan process

It is an explicit regulatory requirement for titleholders to carry out appropriate consultation with relevant persons before submitting an environment plan for assessment to NOPSEMA.

Titleholders have a responsibility to ensure that relevant persons are identified and provided with sufficient information about the proposed activity. Relevant persons must be given adequate opportunity to evaluate the proposed activity and to convey to the titleholder how it may impact on their functions, interests or activities. The titleholder must then assess and appropriately address any objections and claims raised by relevant persons.

Details of the consultation must be documented in the environment plan submitted to NOPSEMA. This should include copies of written correspondence with relevant persons and the titleholder's assessment of the merits of any objections or claims made by the relevant person.

The environment plan should also describe arrangements for ongoing consultation with relevant persons throughout the life of a petroleum activity. Where ongoing consultation identifies new or increased environmental impacts or risks, the titleholder is required to submit a revised environment plan to NOPSEMA outlining how these impacts and risks will be managed.

For more information about consultation practices see the consultation requirements under the OPGGS Environment Regulations 2009 information paper (IP1411) at nopsema.gov.au.

Further information

Additional information is contained in the:

- [OPGGS Act](#), as amended from time to time, the associated Explanatory Memoranda and Second Reading Speeches
- [Offshore Petroleum and Greenhouse Gas Storage \(Safety\) Regulations 2009](#)
- [Offshore Petroleum and Greenhouse Gas Storage \(Environment\) Regulations 2009](#)
- [Offshore Petroleum and Greenhouse Gas Storage \(Resource Management and Administration\) Regulations 2011](#). Includes requirements relating to well operations, field development plans and data management.
- [Administrative guidelines](#) issued to assist with the administration of the legislation.

For more information on the offshore petroleum legislation, regulation and guidelines see industry.gov.au. For more information on safety, well integrity and environmental management matters see nopsema.gov.au

Industry may also subscribe to receive regular updates on regulatory developments, and general information on the regulation of the Australian petroleum industry through the [Australian Petroleum News](#). To subscribe please register by following this [link](#) or email petroleum.exploration@industry.gov.au.