

**Economics Legislation Committee**  
ANSWERS TO QUESTIONS ON NOTICE  
Industry Portfolio  
Additional Budget Estimates Hearing 2013-14  
27 February 2013

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**AGENCY/DEPARTMENT:** NOPSEMA

**TOPIC:** Environmental Plans

**REFERENCE:** Written Question – Senator Penny Wright

**QUESTION No.:** AI-96

1. Please advise how the transitional arrangements between the former NOPSEMA Environment Regulations and the current NOPSEMA Environment Regulations will operate.
  - a. Please also explain this, with particular reference to cases where a proposal might be caught between the old and new regulations.
  - b. There is a seismic survey proposal in the offshore region west of Kangaroo Island which was deemed a Controlled Action (twice) by the Minister for Environment. This proposal was in its final phase of consultation under the EPBC approvals process late last year.

In late December it was announced on the NOSPEMA website that the Environmental Plan (EP) for the same proposal had been accepted for assessment.

The proponent (Bight Petroleum Pty. Ltd.) has now withdrawn their EPBC referral entirely, before the Minister had made his final decision.

The seismic survey proposal has been deemed a Controlled Action, has received considerable and sustained public interest, has not received approval under the EPBC system, and is now under review by NOPSEMA.

Is the existing Environmental Plan submitted by Bight Petroleum late last year currently under assessment under the old regulations?
2. Is it material to NOPSEMA's decision that this proposal has not received its final EPBC approval – but that it was deemed a Controlled Action?
3. Given that the intent of the new regulations is to mirror and reflect the EPBC requirements, but the proponents have withdrawn their EPBC Referral, is it possible that this proposal will be given approval under the old regulations?
4. Please advise whether NOPSEMA will direct the proponent to resubmit their EP for consideration under the new regulations.
5. What are the relevant transitional arrangements for Environmental Plans that are assessed by NOPSEMA under the old regulations, but do not have EPBC approval?

## ANSWER

- 1a. Environment Plans (EP) that were accepted by NOPSEMA prior to 28 February 2014 remain in force (regulation 43). An EP submission made prior to 28 February and where assessment was not completed by that date will continue to be assessed in accordance with the regulations under which the EP was submitted (regulation 44). An EP submission made on or after 28 February 2014 must be prepared, and will be assessed, in accordance with the amended regulations (regulation 9).
- 1b. Bight Petroleum submitted an EP for assessment under the regulations prior to 28 February which was subsequently withdrawn by Bight Petroleum on 21 March 2014 and is no longer being assessed by NOPSEMA. In addition, Bight Petroleum have submitted a new EP for assessment in accordance with the amended regulations.
2. No - the outcome of an EPBC referral is not a relevant criterion for the assessment of an EP.
3. Had the Bight Petroleum EP submission not been withdrawn it would have continued to be assessed under the pre-28 February regulations. It is worth noting that any EP accepted under the pre-28 February regulations will not be covered by the Minister for the Environment's class of action approval for offshore petroleum activities
4. See response to question 1b above.
5. Environment Plans that have been accepted by NOPSEMA prior to 28 February 2014 remain in force (regulation 43). For a petroleum activity covered by an Environment Plan accepted under the pre-28 February regulations, the person undertaking the activity is responsible for compliance with the requirements of the EPBC Act.