

Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Industry, Innovation and Science Portfolio
2016-17 Supplementary Budget Estimates
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DEPARTMENT: DEPARTMENT OF INDUSTRY, INNOVATION AND SCIENCE

TOPIC: Criteria for Retention Leases

REFERENCE: Question on Notice (Hansard, 20 October 2016, page 136)

QUESTION No.: SI-43

Senator XENOPHON: Sure. Just so I can wrap this up, because I think there may be some other issues I can put on notice in respect to this, my questions go to whether the criteria for retention leases—as to whether they are retained or not; no pun intended—are robust. When were they last reviewed? Are they somewhat outdated? Do you consider any varying other proposals for the use of a particular resource?

Senator Canavan: I believe there has been a review of the offshore petroleum regime over the last year or so. I am also aware and can inform you that there will be some updates to the guidelines about retention leases. If it has not already gone public it will very shortly. My understanding is that there have not been major amendments to the guidelines, but they are informed by some of these discussions. Mr Wilson, are there any other details of that process you would like to share?

Mr B Wilson: We are currently finalising the final report on the resource management framework review, which looks at the offshore regime. It does consider the retention lease framework. Our view is that it is robust and credible. It does deliver an incentive to invest, which is critically important, and rewards titleholders for investments. It does provide opportunities for third parties to, at the point of a retention lease, renew or provide submissions on alternative development concepts.

Senator XENOPHON: On notice, because I am just rushing through this, can you give details of how robust the review process was? Did it call for public submissions? Were various stakeholders, including competing stakeholders, given an opportunity to make a submission in respect of the process?

Mr B Wilson: Yes. I think there was a two-month—it might have been a three-month—public submission process where we invited comments. We got very few comments. We can answer this on notice, but I cannot remember any comments off the top of my head that said the retention lease framework was out of date, except perhaps for the domestic gas alliance, who did not put in a submission but who subsequently, in a consultation we had privately, indicated they did not support the retention lease framework or any potential changes to it.

ANSWER

1) When were they (retention leases) last reviewed?

Retention leases were most recently reviewed as part of the Department Industry, Innovation and Science's (DIIS) Offshore Petroleum Resources Management Review which is progressing to finalisation. Further detail on the review, including with regard to retention leases is provided below. This work does not represent fundamental change on retention leases, rather an opportunity for continuous improvement on aspects such as enhancing transparency.

DIIS also recently updated the 'Offshore Petroleum Guideline for grant and administration of a Retention Lease'. This was part of a routine process underway to update guidelines related to

offshore petroleum activities. The updated guideline does not represent any fundamental change on retention leases but rather ensures the document remains aligned with existing policy, regulation and processes related to retention leases including on commerciality.

2) Are they (retention leases) somewhat outdated?

Retention leases remain an integral component of the offshore petroleum legislative and regulatory framework which aims to ensure the development of petroleum occurs where and when it is commercially viable to do so.

Under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the Act), the Joint Authority may grant an offshore petroleum retention lease if the recovery of petroleum from the licence area is not yet commercially viable but is likely to become viable within 15 years. The Act provides a number of mechanisms for the Joint Authority to ensure the timely development of resources.

In addition to its abilities to grant, renew or cancel retention leases, the Joint Authority may formally request a lessee to undertake a re-evaluation of commercial viability of petroleum development in the lease area at any point during the retention lease term. The Joint Authority may revoke a retention lease if, after a mid-term commerciality review, the petroleum is deemed commercially viable.

Other provisions within the regime (e.g. competitive work program bidding, mandatory submission of Annual Title Assessment Reports etc.) promote the earliest possible commercialisation of resources across the petroleum life cycle.

The department continues to work with the National Offshore Petroleum Titles Administrator (NOPTA) and the jurisdictions to exercise a high degree of scrutiny in the assessment of retention lease applications and the imposition of work program conditions aimed at removing barriers to commercialisation.

3) Do you consider any other proposals for the use of a particular resource?

Applicants for retention leases are required to consider all reasonable development concepts. Section 3.6 of the updated retention lease guideline states ‘an applicant’s assessment of commerciality must adequately consider all reasonable development concepts including domestic gas, liquefied natural gas and gas to liquids, as appropriate, and not just a preferred development option’.¹ These concepts are considered by NOPTA and the Joint Authority in retention lease assessment and decision processes.

The guideline also outlines the opportunity for third parties to make submissions relating to the commercialisation of petroleum resources which are or may be the subject of a retention lease application or renewal. NOPTA and the Joint Authority will consider such submissions where appropriate through the lease application or renewal assessment process, or as part of a review of commerciality, and may take submissions into account at any time over the life of a title.

4) Can you give details of how robust the review process was? Did it call for public submissions? Were various stakeholders, including competing stakeholders, given an opportunity to make a submission in respect of the process?

The Offshore Petroleum Resource Management Review process welcomed broad stakeholder engagement. This included through its Interim Report, which was released for public submissions from November 2015 to February 2016 with extensions for submissions granted into March 2016.

¹ <http://www.nopta.gov.au/legislation/guidelines.html>

In accordance with the Interim Report's instructions, all submissions not marked confidential are published on the department's website – see <http://www.industry.gov.au/resource/UpstreamPetroleum/Pages/Offshore-Petroleum-Resources-Management-Review.aspx>. Specifically, submissions came from the Australian Petroleum Production Exploration Association, British Petroleum Developments Australia, the University of Western Australia's Centre for Mining Energy and Natural Resources Law, Chevron Australia, DomGas Alliance, the Northern Territory Department of Mines and Energy, and the Western Australian Department of Mines and Petroleum.

In relation to retention leases, the Review's Interim Report proposed the Australian Government work with industry and other stakeholders to build a transparent decision-making framework and develop criteria for the Joint Authorities to issue and renew retention leases for a minimum of three years to a maximum of 15 years, with the current five-year term to remain as a default position.

Various submissions to the Interim Report commented on this proposal. Submissions from offshore petroleum industry companies were generally supportive of the longer timeframe outlined in the proposal, with many expressing concerns around the potential shorter term. There was some opposition to the proposed longer timeframes, in particular from the DomGas Alliance, which suggested the maximum five-year retention lease period be maintained. A number of submissions, in particular from governments, recommended very clear guidance and criteria be established if this proposal was implemented.

Following more extensive consultation with the broad range of stakeholders in mid-2016, the general consensus was that the existing retention lease criteria and overarching framework should be retained as they remain effective in promoting timely development. The review's final report, which will detail these recommendations, is expected to be released in 2017.