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**Guidance statement for oil and
gas industry consultation with
the Department of Fisheries**



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Department of **Fisheries**

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1.0 Introduction

In recent years there has been an increase in oil and gas development in Western Australia. Activities such as seismic surveys, drilling, exploration, geotechnical surveys, construction and installation of sub-sea infrastructure are part of ongoing industry requirements.

These activities have the potential to affect commercially and recreationally important fish species, their prey and habitats, and the business activities of commercial fishers. In line with our legislated responsibilities, the Western Australian Department of Fisheries (Department) is committed to ensuring that where possible, any such activity causes minimal disturbance to fish and fish habitats.

1.1 Purpose

This guidance statement is written for oil and gas proponents planning to undertake any activities in State or Commonwealth waters off the coast of Western Australia that have the potential to impact upon fish or fish habitats. It describes the processes that should be followed and the information that needs to be supplied to the Department to ensure appropriate and timely consultation is carried out.

Oil and gas proponents are expected to read this document before requesting advice from the Department. It should be read in conjunction with other Departmental guidance statements for specific activities (e.g. *Guidance statement on undertaking seismic surveys in Western Australian waters*).

2.0 Department of Fisheries role in State & Commonwealth waters

The Department currently manages fish and fish habitats in State waters (generally to 3 nautical miles) under the provisions of the *Fish Resources Management Act 1994* (FRMA) and the *Pearling Act 1990*. Under the FRMA, the definition of ‘fish’ includes all aquatic organisms, excluding marine mammals, birds, amphibians and reptiles, and pearl oysters of the species *Pinctada maxima* (which are covered under the *Pearling Act*).

Under the Offshore Constitutional Settlement (OCS) Agreement between the Department and the Commonwealth Government, the Department is also responsible for managing commercial fisheries in Commonwealth waters out to 200 nautical miles from the Western Australian coast, with the exception (generally) of:

1. the northern prawn fishery, tuna and tuna-like fish, and deepwater trawling in waters more than 200 metres deep (outside the 200-metre isobath), which is controlled by the Commonwealth; and
2. shark fishing east of Koolan Island, and demersal longline and demersal gill-netting south of 35 degrees south, which is jointly managed by the State and the Commonwealth under State law.

3.0 Policy context

This guidance statement sits within the Department's Aquatic Biodiversity Policy framework. Broadly, the biodiversity policy aims to maintain and/or enhance the resilience of aquatic ecosystems within the context of fisheries management by:

- Minimising habitat loss and degradation as a result of fishing and other activities.
- Preventing the incursion of aquatic pests.
- Ensuring the sustainable use of aquatic resources.
- Considering external factors including social, economic and governance arrangements.
- Promoting a 'whole of government' approach to the management of aquatic resources.
- Encouraging community stewardship and appreciation of fish and their habitats.

4.0 Consultation in State waters

The Department of Mines and Petroleum (DMP) is the State's lead agency for resource exploration and developing extractive industries. It has prime responsibility for regulating these industries and ensuring that environmental, safety and health standards are consistent with relevant State legislation, regulations and policies.

Under the relevant State environment legislation (*Petroleum and Geothermal Energy Resources (Environment) Regulations 2012*; *Petroleum (Submerged Lands) (Environment) Regulations 2012*; and *Petroleum Pipelines (Environment) Regulations 2012*) operators (proponents) must submit an environment plan to DMP for assessment and acceptance prior to undertaking any petroleum-related activities within Western Australia. As part of their environment plan submission, operators must report on all consultations between the operator and relevant authorities and other relevant interested persons and organisations in the course of developing the environment plan.

The Department considers that it is a 'relevant authority' where a petroleum activity may potentially affect commercially and recreationally important fish species, their prey and habitats, and the business activities of the fishers who harvest these resources in State waters. The Department should therefore be consulted by proponents during the development phase of their environment plan and oil spill contingency plan.

For further information please contact the Petroleum Environment Branch at DMP on petroleum.environment@dmp.wa.gov.au

5.0 Consultation in Commonwealth waters

The *Offshore Petroleum and Greenhouse Gas Storage Act (OPGGSA) 2006* provides the regulatory framework administered by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA). NOPSEMA regulates the occupational health and safety, well integrity and environmental management of offshore petroleum operations in Commonwealth waters, and in coastal waters where functions have been conferred by the States and the Northern Territory. For further information on NOPSEMA, visit www.nopsema.gov.au/

Supporting the OPGGSA, the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (Environment Regulations) provide the framework for environmental management and regulation of offshore petroleum activities in relevant areas. Under this framework, operators (proponents) must submit environment plans to NOPSEMA for assessment and acceptance prior to undertaking any petroleum-related activities in Commonwealth waters or designated coastal waters.

As part of an environment plan submission, the Environment Regulations require that operators must demonstrate that they have consulted with ‘relevant persons’. Operators are also required to assess the merits of any objection or claim about the activities made by ‘relevant persons’, and include copies of full text responses in the environment plans.

The Department considers itself to be a ‘relevant person’ in circumstances where petroleum activity may potentially affect commercially and recreationally important fish species, their prey and habitats, and the business activities of the fishers who harvest these resources in Commonwealth waters. The Department should therefore be consulted by operators during the development phase of an environment plan and oil spill contingency plan.

6.0 Information required for consultation

As specified in the Environment Regulations 11A (2):

‘For the purpose of the consultation, the operator must give each relevant person sufficient information to allow the relevant person to make an informed assessment of the possible consequences of the activity on the functions, interests or activities of the relevant person’.

The Department considers the information listed below as a minimum requirement to meet this condition, but reserves the right to request further information as appropriate:

- Proponent details – contact name, company details, postal address, contact number(s) and email address.
- Permit zones in which the activity is being undertaken.
- Type of activity being undertaken.
- Specific start and finish dates of the activity.
- A map outlining permit zones, the total operational area and boundary coordinates (latitude and longitude; GDA 94 or WGS84) for the activity.
- Any additional information (e.g. project summaries) on the proposed activity necessary to allow for an informed assessment.

6.1 Detailed information about fisheries

The Department recommends that proponents review and utilise published information on commercial and recreational fishing, sustainability and the environment, report series and corporate publications, available on the Department’s website www.fish.wa.gov.au/About-Us/Publications/Pages/default.aspx

The Department also annually publishes status reports of the fisheries and aquatic resources of Western Australia www.fish.wa.gov.au/About-Us/Publications/Pages/State-of-the-Fisheries-report.aspx

6.2 Consultation period

As specified in the Environment Regulations 11A (3), the operator must allow a relevant person a reasonable period for consultation. The Department considers a reasonable period for a standard activity (e.g. seismic survey, drilling, exploration etc.) to be no less than 20 working days. For larger and more complex activities, the reasonable period for consultation may be extended. If this presents a problem, please contact the Department during the development of your plans to discuss timing of advice.

6.3 Advice from the Department

After receiving the information (refer to section 6.0), the Department will mail written advice to proponents outlining potential impacts to fisheries, fish and fish habitat based on available information.

Proponents must acknowledge receipt of this letter and clearly describe strategies they will use to mitigate or minimise these impacts in the final environment plan or oil spill contingency plan.

6.4 Key contacts

Advice from the Department on any proposed activity will also strongly recommend that proponents consult with the peak industry bodies in Western Australia for the commercial and recreational fishing sectors:

Recfishwest

T: (+61) 08 9246 3366

F: (+61) 08 9246 5955

W: www.recfishwest.org.au

Western Australian Fishing Industry Council Inc (WAFIC)

T: (+61) 08 9432 7777

F: (+61) 08 9432 7700

W: www.wafic.org.au

6.5 Public register

Contact details for individually licensed commercial fishing operators can be obtained through the Department's public licence register. This will enable proponents to consult directly with potentially affected operators and discuss the proposed activity and potential mitigation strategies to reduce the impact.

An 'application for a copy of an entry in, or extract from the register' found at www.fish.wa.gov.au/Documents/commercial_fishing/r-1_application.pdf must be completed and posted with the required fee to:

Department of Fisheries

Locked Bag 39

Cloisters Square WA 6850

Australia

For further enquiries please contact the Department's Licensing Section on:

T: 61 (08) 9482 7348 or 61 (08) 9482 7248 (8.30 am – 4.30 pm week days)

Note: Recreational fishing licences and pearling licences do not appear on the public register.

7.0 Department contacts

All enquiries or consultation requests regarding oil and gas activities should be directed through the Department of Fisheries Head Office in Perth. The Aquatic Environment Branch – Biodiversity Section is responsible for providing environmental advice on all oil and gas activities.

Department of Fisheries

Head Office

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