



GOVERNMENT OF
WESTERN AUSTRALIA

Proposed Stakeholder Engagement and Consultation Guide

Public Consultation Paper

19 December 2019

**Implementation of the Government's
response to the Independent
Scientific Panel Inquiry into Hydraulic
Fracture Stimulation in Western Australia**

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PURPOSE

The purpose of this paper is to seek public comment and feedback on the proposed addition to the [Guideline for the Development of Petroleum and Geothermal Environment Plans in Western Australia](#) (the Guideline) to address stakeholder engagement expectation relating to hydraulic fracturing.

The addition seeks to ensure a registered holder, of a petroleum title within 'an existing petroleum authority area', develops and implements a specific hydraulic fracturing Stakeholder Engagement Strategy to ensure communication and engagement with stakeholders is a priority at the earliest opportunity and throughout every stage of the lifecycle of a petroleum project which is associated with hydraulic fracturing.

The aim of a Stakeholder Engagement Strategy is to ensure that the registered holder not only gains social licence to operate but maintains it over the project lifecycle.

An area of the State is an 'existing petroleum authority area' if:

- there was a petroleum authority (i.e. an exploration permit, drilling reservation, retention lease or production licence) in force in respect of the area on 26 November 2018; and
- in the period since that day there has always been a petroleum authority in force in respect of the area; and
- there is currently a petroleum authority in force in respect of the area.

BACKGROUND

The State Government announced the establishment of the Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia (the Inquiry) in September 2017, and enacted the Petroleum and Geothermal Energy Resources (Hydraulic Fracturing) Regulations 2017 on 9 December 2017 to prohibit hydraulic fracturing in the South West, Peel and Perth Metropolitan regions; and impose a moratorium on hydraulic fracturing for the rest of the State, pending the outcome of the Inquiry.

In September 2018, the Inquiry handed its Report to the Minister for Environment. The Report, containing 91 findings and 44 recommendations, was released publicly in November 2018 via the Inquiry's [website](#).

On 12 July 2019, the State Government released its [Implementation Plan](#), being the Government's response to the Inquiry. Implementation Plan Action 4 responds to the Inquiry's Recommendations 22, 23, 25, 29 and 30.

HOW IS STAKEHOLDER ENGAGEMENT REGULATED

The Petroleum and Geothermal Energy Resources (Environment) Regulations 2012 (the Environment Regulations) require that adequate consultation be undertaken between the operator and relevant authorities, interested persons and organisations. This consultation is detailed in an Environment Plan (EP) which must include a report on all consultations between the operator and relevant stakeholders, and outline ongoing communication protocols to be implemented after approval of the EP. The Department of Mines, Industry Regulation and Safety (DMIRS) assesses the EP to determine, among other things, whether or not the consultation requirements of the Environment Regulations have been adequately addressed.

The Guideline, outlining the Government's expectations, is designed to assist petroleum operators to develop, and obtain approval for, an EP in accordance with the Environment Regulations.

IMPORTANCE OF STAKEHOLDER ENGAGEMENT AND CONSULTATION

Stakeholder interest in resource projects is increasing, particularly in relation to perceived risks to community health and the environmental impacts from hydraulic fracturing in addition to concerns regarding land access and landholder's legal rights. This is creating greater expectations for more transparency and accountability of regulators during approval and compliance processes and a need for more effective stakeholder engagement by the petroleum industry.

The general interest in petroleum projects has increased as stakeholders are uncertain whether a project involves hydraulic fracturing. Government and the petroleum industry have a role in improving community understanding regarding the process of petroleum acreage release and activities that may occur as a result of a title being granted, such as whether hydraulic fracturing will be undertaken. It is therefore essential that stakeholder engagement occurs at the earliest opportunity, and continues throughout the project lifecycle.

Effective stakeholder engagement is the key to ensuring ongoing positive relationships between the Government, petroleum industry and its stakeholders. All stakeholders should be provided with sufficient information to allow them to make an informed assessment of the potential consequences of hydraulic fracturing on their interests or activities. Information should be presented in a format that is readily understandable to the stakeholder being consulted.

When undertaking consultation, stakeholders should be provided with a reasonable timeframe to review, consider, and respond to the information provided.

The period of time provided should be appropriate for the stakeholders being consulted and the amount and complexity of the information.

Consideration should also be given to ensuring that any potential language barriers which may impact on the ability of stakeholders to make an informed assessment of the potential consequences of the activity are addressed. For example, communication with Aboriginal people should be conducted by trusted informants in a language commonly used and understood by the local people. If English is not commonly used, then translators should be available to convey information.

LIFECYCLE OF HYDRAULIC FRACTURING PROJECTS

Hydraulic fracturing projects, like all petroleum resource projects, follow a lifecycle of accessing acreage, undertaking exploration, developing production infrastructure, recovering petroleum/petroleum production, and decommissioning, rehabilitation and closure. There are many points in the lifecycle where stakeholder engagement is critical to the timely progression of the project. However, communication and engagement with stakeholders, including affected communities should be a priority at the earliest opportunity and throughout every stage of an unconventional oil and gas project lifecycle associated with hydraulic fracture stimulation.

Access to acreage

In order to explore for a petroleum resource, a company must apply for, and be granted, a petroleum exploration title over the relevant area of land, generally through a competitive bidding acreage release process. Although most onshore petroleum exploration is carried out as an outcome of the acreage release process, in some circumstances access can be achieved by way of an interim Special Prospecting Authority with an Acreage Option (SPA/AO). Under a SPA/AO, once the proposed preliminary six month exploration period is complete, a registered holder may apply for the grant of a subsequent petroleum exploration title covering a proportion of the former SPA/AO.

The State Government's decision to indefinitely extend the moratorium means that hydraulic fracturing cannot be undertaken under a new petroleum exploration title granted by way of either any future acreage release process or an existing or future SPA/AO. Furthermore, any subsequent petroleum title deriving from either of these processes will be prohibited from utilising hydraulic fracturing for exploration or production.

The continuation of the moratorium has been given effect by way of amendments to the Petroleum and Geothermal Energy Resources (Hydraulic Fracturing) Regulations 2017 (HF Regulations). These amendments took effect in September 2019. The amendments established:

- continuing ban areas where hydraulic fracturing cannot be undertaken; and

- outside those areas, the lifting of the moratorium in 'existing petroleum authority areas'.

An area of the State is an 'existing petroleum authority area' if:

- there was a petroleum authority (i.e. an exploration permit, drilling reservation, retention lease or production licence) in force in respect of the area on 26 November 2018; and
- in the period since that day there has always been a petroleum authority in force in respect of the area; and
- there is currently a petroleum authority in force in respect of the area

Exploration

Registered holders of an exploration permit that was in force as at 26 November 2018 can implement an approved work program, underpinned by an exploration rationale, which involves use of hydraulic fracturing. A registered holder should engage with stakeholders as soon as reasonably practical after identifying that hydraulic fracturing is required during the exploration work program.

An exploration rationale and work program is designed to increase the level of knowledge of a petroleum system, with activities building upon each other to delineate potential locations for petroleum wells. Exploration activities include surveying operations such as geophysical (e.g. seismic) and geochemical surveys, the drilling of stratigraphic wells, and ultimately the drilling of exploration wells and potentially the use of hydraulic fracturing.

While a range of operations can be undertaken for the purpose of exploring for petroleum, and consultation with stakeholders should encompass all these operations, specific hydraulic fracturing consultation should commence prior to planning the location of petroleum wells, and associated infrastructure such as access roads, where the registered holder intends to utilise hydraulic fracturing.

Appraisal (proof of concept)

During the exploration phase, a resource may be identified and further appraisal work may be undertaken to confirm the extent, resources and likely production rate of a field. This information can then be used to determine the size of the oil or gas field and potential development concepts including the design of any required hydraulic fracturing program.

Appraisal phase work may include further drilling of petroleum wells and the use of hydraulic fracturing. Registered holders of exploration permits or retention leases that were in force as at 26 November 2018 retain the right, subject to any further required approvals and consents, to use hydraulic fracturing.

If potentially recoverable quantities of petroleum are discovered, the registered holder may apply for a Declaration of Location. If the discovery is not currently deemed commercially viable, the registered holder may apply for a retention lease to undertake further work to address barriers to commerciality. If the discovery is currently commercially viable, the registered holder may apply for a production licence.

While a range of operations can be undertaken during the appraisal phase and consultation with stakeholders should encompass all operations, specific consultation of proposed hydraulic fracturing activities should commence prior to planning the location of petroleum wells, and associated infrastructure such as access roads, where the registered holder intends to utilise hydraulic fracturing.

Production

If a registered holder identifies a petroleum resource during exploration and/or appraisal, a Declaration of Location will occur and is the first step in transitioning to the production phase. The size of the Location will dictate the size of the primary and secondary production licences which can be applied for. If it is then determined that the petroleum resource is commercially viable, the registered holder may apply for a production licence.

As a Declaration of Location is required to transition to a production licence, a registered holder will know whether hydraulic fracturing is required for petroleum production. It is therefore expected that prior to making an application for a production licence the registered holder has engaged with all relevant stakeholders to consult on all aspects of their proposed development concept.

Once granted, a production licence provides a registered holder with the right, subject to relevant approvals and consents, to undertake the recovery of petroleum. Registered holders of production licences that were in force as at 26 November 2018 retain the right, subject to any further required approvals and consents, to use hydraulic fracturing. This can include the construction of more permanent production infrastructure, petroleum production wells and associated access tracks, and infield flowlines.

It should be noted that the use of hydraulic fracturing for production purposes will require specific consent to be given by private landowners and Traditional Owners. Evidence that consent has been given will be required prior to any Government approvals for production well activities.

It is expected that exploration activities will also continue within the area of the production licence.

Decommissioning, rehabilitation and closure

Decommissioning and rehabilitation requirements and expectations should be addressed during initial discussions with impacted stakeholders.

Planning for closure should commence as early as the exploration or appraisal phase, with post activity land use identified and agreed upon through consultation with impacted stakeholders before seeking project approval.

Further ongoing engagement should occur as the project progresses and during decommissioning and rehabilitation as required.

It is a requirement of the *Petroleum and Geothermal Energy Resources Act 1967* (PGERA) that a registered holder must, amongst other things, satisfy the Minister for Mines and Petroleum that it has:

- removed or caused to be removed all property brought into the area;
- plugged or closed-off all wells drilled in the area; and
- made good any damage to the Earth's crust in that area.

Under the PGERA, the Minister has the powers to prevent a registered holder from surrendering the title until decommissioning and rehabilitation requirements have been met to a standard acceptable for closure. The Minister may also direct a former registered holder to address decommissioning and rehabilitation requirements.

GOVERNMENT'S ROLE IN HYDRAULIC FRACTURING STAKEHOLDER ENGAGEMENT AND CONSULTATION

The State Government recognises that effective and ongoing stakeholder engagement enables better-planned and more informed policies, projects and services, including a greater understanding and management of issues and potential risks.

In the course of undertaking its regulatory role the State Government will engage with stakeholders in relation, but not limited to the following:

- Hydraulic fracturing regulatory requirements.
- Assessing the registered holders compliance with regard to hydraulic fracturing regulatory requirements.
- Identifying matters for consideration, such as prohibited and environmentally sensitive areas.
- Identifying and communicating to registered holders potential constraints on future exploration and production activities.
- Informing the community by:
 - » Providing timely and factual information about the petroleum industry in Western Australia;
 - » Explaining technical information regarding hydraulic fracturing and associated risks; and
 - » Ensuring stakeholders understand the regulatory framework and the regulator's role.
- Discussing and consulting with registered holders regarding decommissioning, rehabilitation and closure requirements.
- Providing opportunities for comment on projects referred to the Environmental Protection Authority (EPA) for assessment.

To ensure stakeholder engagement and consultation is undertaken in a transparent manner, the State Government has committed to allowing easy access to data, documents and other information relating to administration and regulation in the Western Australian petroleum industry unless there are specific legislative and other legal provisions to restrict access to the information.

Stakeholders have access to the following:

- The [Petroleum and Geothermal Register \(PGR\)](#) – online access to information relating to petroleum and geothermal titles.
- The [Environmental Assessment and Regulatory System \(EARS\)](#) – online access to proposals being assessed by the Department of Mines, Industry Regulation and Safety.
- [Tengraph](#) – online spatial enquiry and mapping system displaying the position of Western Australia’s mining and petroleum titles in relation to other land information.
- [The Petroleum and Geothermal Information Management System \(WAPIMS\)](#) – online Petroleum exploration database containing non-confidential data on wells, geophysical survey titles and other related exploration and production data.
- [Environmental Impact Assessment](#) – online portal for accessing information relating to assessments undertaken by the EPA.
- Chemicals Register – online register of chemicals assessed for use in hydraulic fracturing in Western Australia (being developed as per Implementation Action 9).

PROPOSED ADDITION TO THE GUIDELINE FOR THE DEVELOPMENT OF PETROLEUM AND GEOTHERMAL ENVIRONMENT PLANS IN WESTERN AUSTRALIA

The Government intends to insert the following section into the [Guideline](#):

3.9.8 Engagement and consultation relating to hydraulic fracturing

This section of the Guideline applies to registered holders of a petroleum title within ‘an existing petroleum authority area’. An area of the State is an ‘existing petroleum authority area’ if:

- there was a petroleum authority (i.e. an exploration permit, drilling reservation, retention lease or production licence) in force in respect of the area on 26 November 2018; and
- in the period since that day there has always been a petroleum authority in force in respect of the area; and
- there is currently a petroleum authority in force in respect of the area.

Registered holders who are permitted to undertake hydraulic fracturing and intend to utilise hydraulic fracturing in their exploration and/or development program should implement a Stakeholder Engagement Strategy and ensure the strategy is updated regularly. Engagement and consultation on hydraulic fracturing should be a priority at the earliest opportunity and throughout every stage of the lifecycle of a petroleum project associated with hydraulic fracturing.

The Stakeholder Engagement Strategy should employ a risk-based approach to assist in identifying what issues will need to be addressed, as well as the style and frequency of engagement with stakeholders to ensure that the registered holder not only gains social licence to operate but maintains it over the project lifecycle. Social licence to operate refers to the ongoing acceptance of a development, project or action, by local community members and other stakeholders.

A Stakeholder Engagement Strategy should:

- Establish principles for effective communication with stakeholders.
- Identify all stakeholders relevant to the hydraulic fracturing activity, taking into consideration the activity type, location, potential impacts and risks (planned activities and potential unplanned events) and community interests or concerns or Government approval requirements.
- Map relevant stakeholders and identify potential matters for consideration during the planning and execution of exploration and recovery activities where hydraulic fracturing is to be used.
- Identify internal accountability for stakeholder engagement, including a dedicated stakeholder engagement coordinator.
- Outline when and how often stakeholders would be consulted on proposed activities where hydraulic fracturing is to be used.
- Establish parameters (timeframes and protocols) for receiving feedback.
- Detail the level of engagement necessary for consultation, guided by the level of the impact of the proposed exploration activity and the need to demonstrate how potential risks and impacts to stakeholders can be reduced to as low as reasonably practicable.
- Identify how stakeholder issues will be recorded, responded to and documented for the information of regulators and other stakeholders e.g. a stakeholder consultation register.
- Consider the level of engagement required to inform the community about hydraulic fracturing.

- Determine how often the strategy will be reviewed, and identify triggers which may also require amendment of the strategy.
- Be transparent, by sharing available information with stakeholders.

While stakeholder engagement should encompass all proposed petroleum activities, specific hydraulic fracturing consultation should commence as soon as a registered holder makes the decision to utilise hydraulic fracturing as part of its intended exploration rationale and, where possible, prior to planning the location of any petroleum wells, and associated infrastructure such as access roads.

When undertaking consultation, stakeholders should be provided with a reasonable timeframe to review, consider, and respond to the information provided. The period of time provided should be appropriate for the stakeholders being consulted and the amount and complexity of the information.

The registered holder should address any potential language barriers which may impact on the ability of stakeholders to make an informed assessment of the potential consequences of the activity. For example, communication with Aboriginal people should be conducted by trusted informants in a language commonly used and understood by the local people. If English is not commonly used, then translators should be available to convey information.

All stakeholders should be provided with sufficient information to allow them to make an informed assessment of the potential consequences of hydraulic fracturing on their interests or activities. Information should be presented in a format that is readily understandable to the stakeholder being consulted.

A registered holder intending to use hydraulic fracturing should ensure that all relevant information about proposed activities is provided to stakeholders. The below list of discussion topics is intended as a guide and individual stakeholders may have other specific requirements:

- Contact details (name, telephone number and email address) for the person responsible for coordinating stakeholder engagement and consultation on behalf of the registered holder.

- The process of hydraulic fracturing, including planned activities.
- The chemicals required to be used and their potential impacts.
- The timing and duration of proposed hydraulic fracturing activities.
- Any potential impacts and risks such as:
 - » the size, shape, location and timing of disturbance activities at direct onsite locations (e.g. the location of access roads and well pads, and number and spacing of wells);
 - » in relation to the production phase development, the size and location of any disturbance footprint of linked ancillary production facilities;
 - » what, if any, impacts there may be on local community infrastructure;
 - » what, if any, impacts there would be on road networks, such as the number and timing of truck movements relating to hydraulic fracturing, as well as any potential degradation of road surfaces as a result of the increased traffic; and
 - » what, if any, impacts on natural, social or cultural environmental values.
- The source, if local, of materials such as sand and water required for hydraulic fracturing.
- Plans for decommissioning, rehabilitation and closure.
- Any specific access arrangements or consent requirements (for hydraulic fracturing for production purposes) for accessing land.
- Any potential associated business/commercial opportunities for the local community.
- Requirements for any specific Aboriginal Heritage Management Plans.
- Requirements for any specific inductions (Cultural Orientation/Awareness or land holder specific).

