



Department of Mines,
Petroleum and Exploration

Response to submissions

Guide note on the management of subsisting petroleum and geothermal titles

August 2025

Introduction

The “*Guide note on the management of subsisting petroleum and geothermal titles*” was prepared in recognition of the need to clarify how the Department of Mines, Petroleum and Exploration (DMPE) will assess and progress applications for titles that subsist.

The purpose of the guide note is to outline to stakeholders how DMPE intends to manage applications that will create subsisting titles, as well as any post-grant approvals and activities made pursuant to the *Petroleum and Geothermal Energy Resources Act 1967* (PGERA).

The *Petroleum Legislation Amendment Act 2024* once implemented, will create a new set of title types for the purpose of greenhouse gas (GHG) storage. These titles will be able to subsist with petroleum and geothermal energy titles. A further public consultation on the guide note will be released, incorporating the considerations for GHG titles.

Consultation

The “*Guide note on the management of subsisting petroleum and geothermal titles*” was made available for public consultation from 10 July 2023 to 8 September 2023.

DMPE identified a range of stakeholders and invited them to apply to make submissions on the consultation.

At the closure of the consultation process on 8 September 2023, DMPE received eight submissions relating to the management of subsisting titles.

The stakeholders and the submissions themselves remain confidential, however, the comments received have been summarised, grouped by key themes and responded to accordingly.

There were ten key themes arising out of the submissions received.

Summary of key themes

1. Legislative and policy frameworks
2. Section 69A consultation process
3. Secondary approvals
4. Asset transfer/Integrated developments
5. Assessment considerations
6. Decommissioning and rehabilitation
7. Managing subsisting operations
8. Title conditions and endorsements
9. Land access
10. Renewal of title

Annexure A			
Item	Guide Reference	Summarised Submission Comment	DMPE Response
Key Theme 1: Legislative and policy frameworks			
1.	1.1	Recommendation that DMPE considers the enforceability of the guide note, utilising directions under section 95 of the PGERA, making regulations under section 153(1)(a) and 153(1)(b).	<p>The comment is noted, and further consideration will be given, however, imposing new regulations is beyond the scope of the guide note.</p> <p>The purpose of the document is to guide and outline the assessment framework.</p>
2.	2 3.2.3	<p><u>Definition of geothermal energy</u></p> <p>The definition of geothermal energy in the PGERA is inadequate. It is important to distinguish between the rocks (and contained and associated fluids) and the energy that they contain.</p> <p>Recommendation that geothermal resources are evaluated and classified per United Nations Framework Classification (UNFC) - standards to define geothermal energy as a "resource". Required since any heat below the surface is currently captured but is not necessarily commercially viable.</p>	<p>The comments and concerns are noted, however, changes to the legislative framework are beyond the scope of the guide note. Clarifying changes would need to be pursued separately through a change to the Act.</p> <p>UNFC classifications may be considered in future revisions of the guide note.</p>
3.	2.2 2.5	<p><u>Inadvertent extraction of geothermal energy without a title</u></p> <p>Geothermal energy cannot be extracted unless in accordance with a geothermal energy title, however, any fluid or gas extracted will contain thermal energy that results from natural geologic processes. This could lead to inadvertent breaches of the Act. Suggestion that sufficient detail be required in the Guide Note and the existing Discovery Policy be updated to clarify what constitutes a discovery.</p>	<p>The comment is noted. Incidental recovery of geothermal energy during operations conducted for the primary purpose of petroleum recovery are excluded because they are small scale and not considered to have a commercial purpose.</p> <p>Imposing new regulations is beyond the scope of the guide note, however further consideration will be given in future revisions of the RMA regulations.</p>
4.	2.2	<p><u>Penalties for recovery without title</u></p> <p>Do the penalties include recovery of a sample (for example, downhole petroleum or water sample) to surface via a wireline formation testing and sampling tool?</p>	<p>The comment is noted. Incidental recovery of geothermal energy during operations conducted for the primary purpose of petroleum recovery are excluded because they are small scale and not considered to have a commercial purpose.</p> <p>Imposing new regulations is beyond the scope of the guide note, however further consideration will be given in future revisions of the RMA regulations.</p>

5.	2.3	<p><u>Differentiating between similar operations</u></p> <p>Request for clarity on how DMPE will differentiate between operations that are similar between petroleum and geothermal - for instance ensuring that the geothermal well is not used to explore for petroleum prospectivity.</p>	<p>All operations post-grant are subject to further approvals and can only be related to the authorised title type. In accordance with section 44(1b) of the Act, titleholders are required to declare a discovery of petroleum/geothermal energy resource if the discovery is outside their title resource type.</p> <p>The guide note paragraph 2.5 will be amended for clarification.</p>
6.	2.5	<p><u>Definition of a “discovery”</u></p> <p>The definition of “discovery” of geothermal energy resources should be clarified. Geothermal energy discovery will differ from petroleum discovery given petroleum occupies discrete volumes, whereas thermal energy is everywhere.</p> <p>Suggestion: geothermal energy should be linked to a commercial rate of heat production. The United Nations Framework Classification for Resources (UNFC) Geothermal Specifications specifies that a geothermal energy resource can only be considered ‘known’ if one or more wells or thermal springs have established, through testing, sampling, or logging, the existence of a significant quantity of recoverable thermal energy.</p> <p>For a discovery to be declared, DMPE must be satisfied that the resource pool extends to the blocks included in a location.</p> <p>However, given the prevalence of heat energy and the broad definition, a declaration could potentially be used to claim and hold ground without progressing development.</p>	<p>The comments are noted; however they are beyond the scope of the guide note.</p> <p>Further technical guidance shall be contemplated in defining the discovery of a geothermal energy resource.</p> <p>A declared discovery has a time limit within which the titleholder may apply for a production licence or a retention lease over the known resource, congruent with their resource title type.</p>
7.	2.6 4.5.1	<p><u>Disclosure to subsisting titleholder</u></p> <p>Discovery of hydrocarbons or geothermal resources should be disclosed to subsisting titleholders by DMPE upon discovery.</p> <p>There’s no provision for consultation between the titleholders when a significant event is identified, no requirement to share data between the titleholders.</p>	<p>This is not provided for under the current legislative framework and legislative change is beyond the scope of this guide.</p> <p>Titleholders are encouraged to share information on significant events where relevant.</p>

8.	3.1 3.1.2 3.2.2	<u>Other title types</u> Reference is only made to exploration permits but the Guide Note should contemplate development titles as well (production licences and retention leases). A drilling reservation may also be granted from an SPA.	The comment is noted; clarifying amendments will be incorporated in guide note paragraphs 3.1.2. and new section 3.1.3. Additionally, subsisting title consultations will be required for Access Authorities as well.
9.	3.1.1	<u>Disclosure prior to acreage release</u> Prior to the release of acreage, DMPE should disclose details of any blocks that would be considered to have discoveries and what impact that may have on the applicants. Recommendation that subsisting title holders are consulted before the release of acreage and DMPE disclose the extent to which feedback through this consultation will be weighted.	The suggestion is beyond the scope of the guide note. Current acreage release processes are not anticipated to change at this stage.
10.	3.1.2	<u>Special prospecting authorities (SPA)</u> The titleholder of an SPA should be able to withdraw their application for the SPA if the acreage option is not offered at the time of SPA grant. If the acreage option is offered at the time the SPA is granted, it should not be able to be withdrawn.	The suggested change is beyond the scope of the guide note. A granted application (a title) cannot be withdrawn, but the titleholder can apply for the title to be surrendered. The acreage option is at the Minister's discretion, and even if authorised the legislation does not compel the Minister to exercise the acreage option in order to grant an exploration permit if applied for.
	3.2.3	<u>Subsisting assessment principles</u> Will section 91B conditions used to enforce priority of existing recovery operations and declared locations over exploration operations, leads and prospects? Will this be a consideration for areas to exclude from an acreage release? What happens when there are two equally prospective subsisting titles? Recommendation that preference be given to the resource of greater commerciality or significance to the State.	DMPE will make assessments on a case-by-case basis within the legislative framework, guided by the subsisting assessment principles. Section 91B conditions will be used to minimise potential interference on a granted title or renewal of a title, and the principles will also guide these decisions.

11.	3.2.4	<u>Assessing impacts</u> Suggestion to re-order sections 3.2.4 to first invite existing title holders to identify concerns on the potential impact of a subsisting title, provide input, then subsequently review information regarding the mitigation or management of impacts.	Section 3.2.4. should not be read as a sequential process that DMPE will follow in assessing impacts, but rather a list of undertakings by DMPE. The suggested sequence is not prohibited by the proposed wording of the guide note.
12.	3.2.4	<u>Definition of acceptable impact</u> Quantitative guidance should be provided to provide a framework of what DMPE considers to be "acceptable impact".	The suggestion is beyond the scope of the guide note. Assessments will be undertaken by DMPE on a case-by-case basis, but further consideration will be given to developing separate technical guidance.
13.	General	<u>Regulation Amendments</u> Will any amendments to the regulations apply on a "go forward" basis or will they apply retrospectively?	The guide note does not amend the regulations and no changes to the regulations are proposed at this stage.
14.	General	<u>Priority for existing titleholder</u> The Guide Note would be improved with establishment of the prioritisation of the existing titleholder	This suggestion is contrary to the provisions in the Act. However, section 91B conditions shall be applied where appropriate when granting new/ renewed titles in order to minimise the impact on existing operations.
15.	General	<u>Priority for petroleum titles</u> Geothermal titles are unable to coexist with petroleum titles in a specific area, so geothermal activities should only commence once a petroleum field is depleted. Discovery of a petroleum resource should pause geothermal activities and allow sole occupancy for the petroleum titleholder.	This suggestion is contrary to the provisions in the Act. However, section 91B conditions shall be applied where appropriate when granting new/ renewed titles in order to minimise the impact on existing operations.
16.	General	Joint development plan should be required.	This is not provided for under the current legislative framework and legislative change is beyond the scope of this guide.
17.	General	<u>Sole occupancy</u> Any proposed development activity should have an exclusion zone forming a sole occupancy area. In the event of any activity, the original and first title holder should take precedence over the subsequently granted title.	Section 91B conditions shall be applied as appropriate to prohibit access to areas that DMPE deems appropriate to minimise potential impacts. The implications of assigning priority may go against the intention of the suggestion. Per section 5 of the Act, the grant of a renewal is deemed to be the grant of a new title, so the first granted title will switch following every renewal. The same applies to development titles derived from a permit (production licence, retention lease) being new grants, thus would lose priority.

18.	General	<p><u>Protection of existing rights</u></p> <p>The guide does not go far enough to provide certainty that existing rights will be protected, especially where there is known and recoverable resources. A clear policy statement is needed with regard to this, and priority given to developments that have the greatest significance to the State's energy security (petroleum).</p>	The legislative framework allows two titles to coexist and while it does not provide for priority, DMPE shall consider the subsisting assessment principles when granting titles, determining the appropriate conditions to impose on the titles, and in approving operations post-grant.
19.	General	<p><u>Arbitration of disputes</u></p> <p>A mechanism should be established for the State to arbitrate conflicting developments, competing proposals determine priority and settle dispute/compensation for any impacts to operations.</p>	<p>The comment is noted; however the suggestion is beyond the scope of the guide note.</p> <p>Legislative change would be required to create a framework for the State to arbitrate disputes.</p>
20	General	<p><u>Agreements between titleholders</u></p> <p>DMPE should be a party on any agreements between subsisting title holders to ensure negotiations are kept to the scope of the Act and not about commercial interests.</p>	<p>The comment is noted; however the suggestion is beyond the scope of the guide note and is not provided for by the legislative framework.</p> <p>DMPE will not be a party to agreements between subsisting titleholders.</p>
21.	General	<p><u>Conduct of assessments</u></p> <p>DMPE must conduct the assessments and be the liaison between parties and make recommendations on new title applications that have overlapping interests.</p>	<p>This is the purpose of the guide note.</p> <p>DMPE will conduct assessments based on the information provided by applicants/title holders and make recommendations where titles have overlapping interests.</p>

Key Theme 2: Section 69A consultation process

1.	3.2.2	<p><u>Review and appeal of identified impacts and mitigation</u></p> <p>Existing titleholders should have an opportunity to review and appeal the applicant's identification of potential impacts and plans to mitigate those impacts.</p>	<p>Assessment of potential impact will be undertaken by DMPE.</p> <p>Particulars of the proposed grant will be disclosed through the s69A consultation, however, there is limited scope through the legislation to add further consultation steps and provide further information to titleholders.</p> <p>Parties are encouraged to engage and share information relating to potential impacts.</p>
2.	3.2.4	<p><u>Targeting same formations</u></p> <p>Petroleum and Geothermal activities should not take place in the same formation unless agreed to by all subsisting titleholders.</p>	<p>The legislation does not prohibit activities in relation to the same formations. DMPE will make assessments of potential impacts and use 91B conditions to minimise potential impacts on subsisting/co-existing operations.</p>
3.	3.3.1	<p><u>Consultation period</u></p> <p>The Guide Note should define maximum time periods and not open-ended periods for each step of the application and grant process for fairness and to avoid impacts on financial investment timelines.</p> <p>Suggested change from "a minimum of month" to "one month".</p> <p>Figure 1 should include indicative timeframes.</p>	<p>The period of "at least one month" for submissions is legislated, it cannot be less than that, but it can be more. There is no legislated period for the submissions to be assessed and then for the grant/refusal process to be finalised.</p> <p>All applications are subject to a performance KPI (120 business days for exploration permits, not including periods on hold); however, where circumstances require further assessment and advice (technical/legal) this may lead to longer assessment timeframes.</p>
4.	3.3.1	<p><u>Earlier notification to existing titleholders</u></p> <p>The guide note can be significantly improved with earlier notification and engagement with existing title holders.</p>	<p>DMPE will initiate notifications to existing title holders when it is clear that a title is able to proceed to grant. However, it is open to and recommended by DMPE that applicants engage early with existing title holders prior to this occurring.</p>
5.	3.3.1	<p><u>Notification to all joint venture parties</u></p> <p>Many petroleum titles are held by multiple title holders. Suggestion that the notification should be issued to all registered parties of the underlying title and not just the nominated registered holder in the case of a conflict of interest. All applicants should advise DMPE of any actual/perceived conflicts of interest between the applicant title holders and any subsisting titles holders.</p>	<p>Section 127A of the PGERA provides that service of a document on the nominated registered holder is deemed to have been served to all registered holders.</p> <p>It is the responsibility of the nominated registered holder, agreed to by all parties per subsection 127A(1), to share any relevant information with Joint Venture partners. The notification of conflicts of interest is not a part of the application process under the Act.</p>

6.	3.3.1	<p><u>Insufficient information provided to subsisting titleholder</u></p> <p>Based on the recent s69A consultations in the Perth basin, further information would need to be provided to subsisting title holders to make an informed assessment and submission to DMPE.</p> <p>Underlying titles holders should be provided, in addition to the proposed draft title instrument, all information considered by DMPE in assessing the application, in particular the impact assessment.</p>	<p>DMPE will continue to provide information within the framework of the legislation, being details of the proposed title instrument, with commercially sensitive information removed.</p> <p>Per s69A of the PGERA, the Minister is required to serve on the underlying holder, the particulars of the proposed grant. DMPE' position is that the draft title instrument is sufficient to meet this requirement.</p> <p>Providing additional information may breach privacy/confidentiality/disclosure provisions of the Act and associated Regulations. Applicants and titleholders parties are welcome to and encouraged to share/request information from each other regarding proposed operations.</p>
7.	3.3.1 3.2.4	<p><u>Further consultation</u></p> <p>Existing titleholders should be provided an opportunity to raise concerns with the applicant and for the applicant to address those concerns, prior to DMPE notifying the underlying titleholder of the recommended outcome.</p> <p>Existing titleholders should always be consulted on the potential impact to their operations, considering the impact to their rights.</p>	<p>This adds additional consultation steps not provided for by the legislative framework. The Act gives no preferential rights between subsisting titleholders once both are granted and DMPE encourages applicants and titleholders to engage and discuss potential impacts prior to an application being submitted.</p> <p>In determining an application DMPE will consider whether it is necessary to impose conditions to minimise potential impacts to respective operations.</p>

Key Theme 3: Secondary approvals

1.	3.4	<p><u>Consideration of secondary approvals in grant decision</u></p> <p>Secondary approvals (Well Management Plan, Field Management Plan, Geothermal Energy Recovery Development Plan) should not be considered at the time of initial grant of an exploration title.</p>	<p>Secondary approvals are not contemplated in the title grant/refuse decision. For instance, the assessment of an initial grant of a permit is confined to the provisions of section 31 of the PGERA and the same applies to title types that derive from permits.</p>
2.	4.1.1	<p><u>Administrative burden for post-grant management of titles</u></p> <p>The consideration of potential impacts for all operations could potentially be very onerous to all parties involved, increasing the administrative (and bureaucratic) burden for both industry and government.</p>	<p>Assessments will be additional to existing post-grant approval assessments. DMPE will endeavour to reduce administrative burden, within the legislative framework, where possible.</p>
3.	4.1.1 4.1.3	<p><u>Suggested amendments to 4.1.</u></p> <p>The general considerations listed are insufficient as they do not clearly require the applicant to demonstrate compliance that sufficient notification, consultation and conflict impact assessment has been undertaken.</p> <p>Suggested amendment:</p> <p>"Post grant, each operation will be considered on a case-by-case basis and the further approvals required to undertake the works or activities under the granted title will require the demonstration of appropriate notification, consultation and conflict impact assessment associated with any subsisting title holder and their associated current and future operations. These will take into account potential impacts to subsisting operations will be taken into account before approvals are issued."</p>	<p>The requirements will be assessed for each operation. DMPE will request further information from the applicant as appropriate in assessing whether a secondary approval will be granted.</p>
4.	4.5.2	<p><u>Conditions imposed on Well Management Plans (WMP)</u></p> <p>Imposing conditions on a WMP in accordance with regulation 13(8) - will this be in consultation with or to the satisfaction of other title holders?</p>	<p>Consultations regarding conditions imposed on a WMP are not provided for in the legislative framework. If deemed appropriate, DMPE may choose to seek further information from the titleholder or the applicant.</p>

5.	4.5.3	<p><u>Field Management Plan (FMP) of existing titleholder</u></p> <p>Request for clarity on whether an existing petroleum title holder would be required to submit a revised FMP for approval considering the new geothermal activities.</p>	<p>New geothermal activities do not automatically require revision of an existing FMP.</p> <p>DMPE note that consideration of the existing FMP would have been undertaken during approval of the new geothermal activity. The Minister may request a revision of an FMP under regulation 54, as has been identified in guideline (see 4.5.3).</p>
6.	4.5.3	<p><u>Field Management Plans not required for geothermal titleholders</u></p> <p>FMPs are an additional burden for petroleum title holders that is not required for a geothermal title holder seeking a geothermal energy recovery development plan (GERDP).</p>	<p>The requirements for all titleholders are aligned with the current legislative requirements.</p>
7.	4.5.3 4.5.4	<p><u>Demonstration that activities will not interfere</u></p> <p>The additional requirement for applicants to demonstrate activities will not interfere with a discovered geothermal energy resource, will require the petroleum titleholder to understanding the existing or future geothermal energy project. There will be an unreasonable burden in preparing the FMP.</p>	<p>The comment is noted; DMPE has updated clause 4.5.3 to clarify that only existing operations should be considered at the time application for approval of an FMP.</p>
8.	4.5.3 4.5.4	<p><u>Incongruent requirements and provisions regarding interference and protection of resources</u></p> <p>Regulations 44(1)(c) and 44(2) provide for DMPE to request information be provided to support that activities will not interfere with discovered geothermal energy resources. There are no equivalent provisions for holders of a GERDP. Will DMPE utilise powers under section 62A(2) to direct a geothermal licensee to vary the GERDP?</p> <p>Regulation 45(5) provides for conditions to be applied to an FMP to protect geothermal energy resources.</p> <p>Regulation 51(2) - an application for revision to an FMP may require evidence to support that activities will not interfere with discovered geothermal energy resources.</p> <p>Regulation 51(5) - the Minister may apply conditions to a revision of an FMP to protect geothermal energy resources.</p>	<p>DMPE will act in accordance with the current legislative requirements.</p> <p>The powers under section 62A(2) of the Act relate to the recovery of geothermal energy under the title and would not be utilised for the purpose suggested.</p>

9.	4.5.3	<p><u>Powers to vary a GERDP</u></p> <p>Regulation 54 - the Minister may request a revision to the FMP, to amongst other reasons, protect nearby geothermal energy resources.</p> <p>Why does the guide note not include a similar reference to the powers under section 62B to request variation to the GERDP? Though noted that it is only for the purpose of more effective recovery of geothermal energy.</p> <p>GERDPs - the requirements of the legislation and application of those provisions as outlined in this Guide Note in respect of FMPs imposes far greater obligation for the petroleum licensee to protect geothermal resources than required of the geothermal licensee to protect petroleum resources.</p>	<p>The comment is noted: reference to section 62B of the Act will be included in the guide note.</p> <p>The guide note is aligned with the legislative framework and legislative changes are not anticipated in relation to subsisting titles at this stage.</p>
10.	4.5.4	<p><u>Activities not subject to a Geothermal Energy Recovery Development Plan</u></p> <p>Suggestion that the list of information the DMPE could request in relation to a GERDP should also apply to geothermal activities which are not subject to a GERDP but have the same potential to interfere with petroleum operations.</p>	<p>The comment is noted. DMPE performs assessment of all approved activities and may request further information on applications for geothermal activities when appropriate and must be within the scope of the regulations.</p>
11.	4.5.4	<p><u>Further information required for a GERDP</u></p> <p>Further suggestion for the following to be included in the list:</p> <ul style="list-style-type: none"> (a) Dynamic modelling of pressure and temperature changes in a reservoir due to water injection by geothermal projects. (b) Geomechanical modelling of fault seals/integrity when injecting water near producing fields or exploration prospects. (c) Aquifer and injectivity modelling. 	<p>The list is not intended to be exhaustive. DMPE technical assessment teams will make assessments on a case-by-case basis regarding what additional information may need to be provided in support of a GERDP.</p> <p>Changes to the legislative framework are outside of the scope of the guide note but may be considered in future amendments.</p>

12.	4.5.4	<u>Enforcement of provision of information</u> How will DMPE enforce the provision of this information?	<p>The comment is noted: reference to section 62B of the Act will be included in the guide note.</p> <p>The guide note is aligned with the legislative framework and legislative changes are not anticipated in relation to subsisting titles at this stage.</p>
13.	4.6	<u>Integrated environment plans (EP)</u> <p>Guide doesn't provide guidance for co-existing environment plans. Consideration should be given to the extent an existing EP can be used for both titleholders, given potential for common elements: environmental surveys, soil sampling, heritage surveys, land access agreements, stakeholder engagement.</p> <p>When an existing EP is in place for one title type, the aspects in common with the proposed new title could be considered satisfied and the differences addressed in a bridging document. Suggestion that this would reduce the administrative burden and time for an EP to be approved.</p>	<p>The legislative framework does not provide for joint operations, and this extends to Environment Plans.</p> <p>The suggestion is not in line with the current legislative framework and could increase the potential administrative burden on DMPE where the titleholders are not the same. There may also be disputes/disagreements between titleholders, different review periods for EPs vs bridging EPs, transfers of titleholders on/off titles, any other events requiring the approval of a new/revised EP.</p>

Key Theme 4: Asset transfer/Integrated developments

1.	4.5.2	<u>Transfer of infrastructure</u> <p>The proposed guide does not consider repurposing depleted or late life oil and gas fields for either integrated oil/gas and geothermal development or for the transfer of infrastructure and wells between title types.</p> <p>Potentially, end of life petroleum wells could be converted to geothermal operations without having to re-drill a well and minimising further impact to the environment.</p> <p>This could be useful for title types expected in the near future (GHG storage, hydrogen, helium) and could result in substantial savings to the capital cost of developing potential geothermal resources and enable economic viability.</p>	<p>Transfer of infrastructure/wells is not permitted under the current legislative framework.</p> <p>This would require legislative change, which is beyond the scope of the guide note.</p>
----	-------	---	--

2.	4.5.2	<p><u>Title holder holds both petroleum and geothermal energy title over an area</u></p> <p>Recommendation that the Guide Note elaborate on a situation where a company holds both the petroleum and geothermal titles over an area and wishes to drill a single well to test multiple targets.</p> <p>In this situation, can an operator apply for equivalent approvals under both titles to allow for a single well to target both resources? Can a well be transferred from one title to another (including related approvals - Well Management Plans, Environment Plans)?</p>	<p>The current legislative framework prohibits integrated petroleum and geothermal energy activities.</p> <p>Wells cannot target multiple resource types and related approvals cannot be transferred from one resource title type to another resource title type.</p>
3.	4.5.2	<p><u>Operations should not be integrated</u></p> <p>Petroleum operators should not be allowed to use petroleum wells for geothermal exploration, it should be via a transfer of the asset/liability to a geothermal title holder.</p>	<p>Integrated operations or the transfer of assets/liabilities from one title type to another is not permitted under the current legislative framework.</p> <p>This would require legislative change, which is beyond the scope of this guide note.</p>
4.	4.5.2	<p><u>Potential for Integrated operations</u></p> <p>Could a single well could be used to assess petroleum and geothermal from a single bore and allow for parties to collaborate on part or all of drilling the well?</p>	<p>Integrated operations are not permitted under the current legislative framework.</p> <p>This would require legislative change, which is beyond the scope of this guide note.</p>
5.	General	<p><u>Integrated projects, use of waste heat</u></p> <p>Oil and gas processing generates substantial amount of waste heat which could be used for geothermal energy generation. It is not clear from the proposed guide whether petroleum and geothermal operations can co-exist where they are integrated.</p>	<p>Integrated projects are not permitted under the current legislative framework.</p> <p>This would require legislative change, which is beyond the scope of the guide note.</p>
6.	General	<p><u>Sole Occupancy</u></p> <p>The Guide Note could be significantly improved with establishment of sole occupancy and joint development plans.</p>	<p>Joint operations are not permitted under the current legislative framework. Exclusive occupancy goes against the principles of the Act, however, DMPE will consider imposing section 91B conditions in order to minimise the potential impact on subsisting operations.</p>

Key Theme 5: Assessment considerations

1.	3.2	<p><u>Higher risk potential impacts</u></p> <p>It should be mandatory to conduct a thorough technical assessment of the potential to interfere with petroleum exploration and production operations. Where the proposed geothermal project is in the same reservoir or close proximity to a producing petroleum field a higher level of assessment is required.</p>	<p>The comment is noted. Section 91B of the Act may be applied to exclude access on a case-by-case basis. DMPE has updated the guide note to clarify a three-step approach to managing potential interference (see 4.1.4).</p>
2.	3.2.2	<p><u>Other title types</u></p> <p>Noted that applications for development titles not contemplated, but also evoke the provisions of 69A.</p>	<p>The comment is noted: a clarifying amendment will be made to the guide note.</p>
3.	3.2.2	<p><u>Impact on competitive assessments</u></p> <p>Request that DMPE clarify whether the inclusion/exclusion of this information will not be a factor in determining competitive bids - particularly when the underlying holder is not inclined to share information.</p>	<p>The comment is noted: competitive bids will continue to be assessed in accordance with the Act and the Criteria of Assessment.</p> <p>Clarifying amendments will be included in the guide note.</p>
4.	3.2.2	<p><u>Request for clarification of existing operations and interference</u></p> <p>Request for clarification as to what constitutes “existing operations” and “subsisting titles and rights”.</p> <p>The onus of establishing non-interference should rest with the applicant not the incumbent titleholder.</p>	<p>Existing operations refers to the known operations of the underlying title holder. This section refers to the known operations of the title that subsists with the application and the title rights are defined at various points within the Act.</p> <p>The applicant is recommended to demonstrate, based on the information that is known to them, that their operations will not impact on other operations.</p>
5.	3.2.2	<p><u>Future title rights</u></p> <p>Does DMPE intend to protect the rights of future but related titles?</p>	<p>Protection of future rights is not contemplated by the legislation nor within the scope of this guide note.</p> <p>If the holder of an exploration title progresses to an application for a development/recovery title, then further assessments of potential impacts will be undertaken regarding those applications.</p>

6.	3.2.2	<u>Applicant unable to fully consider potential impacts</u> Concern that applicants would not possess sufficient information about the subsisting titleholder's existing operations and therefore potential impacts will be underestimated.	The comment is noted. This will change to a recommendation in the guide note. Applicants will not be required to do this, but it is recommended that applicants address potential impacts of their proposed operations, using the information known to them.
7.	3.2.2 3.2.4	<u>Identification and assessment of impacts</u> Applicants should be required to identify any potential impacts and adequately demonstrate how these are to be mitigated or managed. Assessments of impact would require the level of information detailed in the FMP or GERDP which would not necessarily be available to the applicant.	This suggestion is consistent with the intention of the draft guide note. It is not a legislated requirement, so while DMPE recommend that potential impacts be identified, it is acknowledged that applicants may not have access to all relevant information. DMPE may ask for additional information to assess potential impacts.
8.	3.2.2	<u>Clarification of interference</u> Recommendation to reconsider the reference to "without interference" which would be difficult as a threshold if information is not shared. Noting that s117 refers to interference to not be to a "greater extent than necessary".	The comment is noted and clarifying amendments have been made, in line with the meaning intended in section 117 of the Act.
9.	3.2.2	<u>Work program variation</u> Request for clarification in relation to the circumstances or factors that would prompt a variation to the work program for alternative work.	A work-program cannot be changed while it is an application, but changes can be made as a post-grant approval. The framework for this is detailed separately in other published DMPE guidelines.
10.	3.2.2	<u>Alternative work programs</u> Will an approval to an alternative work program require additional work commitments on top of exploration work proposed in an application?	Applications to vary work programs can only be lodged post-grant. The nature of the changes will depend on the circumstances/details of the situation and assessment of the application.
11.	3.2.3	<u>Exclusive rights to areas of sole occupancy</u> Areas of sole occupancy (exclusion zones) should be identified by the existing title holder who should have right of way for access.	Once granted, neither titleholder takes priority. However, DMPE will undertake an assessment and may apply a section 91B condition to prohibit access to designated areas to minimise impacts on existing operations if appropriate.

12.	3.2.3	<p><u>Imposing section 91B conditions</u></p> <p>Request for clarification on whether excluded areas under 91B will cover entire blocks under which there is a declared location or buffer zone around existing infrastructure.</p> <p>Above-surface activities (seismic and airborne surveys) should not be restricted in any way. Concerns that a petroleum survey could be denied in proximity to a geothermal well, where there is no impact.</p>	<p>Section 91B conditions may be applied to exclude access on a case-by-case basis, but they will generally not be applied to exclude access to entire blocks. Surveys will also be assessed on a case-by-case basis.</p>
13.	3.2.4	<p><u>Onus on geothermal title applicant to negate impacts</u></p> <p>The section does not guarantee that there will be no impact on the existing petroleum title. The onus on assessing impact should be on the geothermal title holder to demonstrate there is no impact (using interference testing, seismic mapping, pressure monitoring etc) to demonstrate that their proposed activity will not have an impact on the existing operations. Higher thresholds should be in place where the existing holder has a discovery or has applied for a production licence.</p>	<p>This comment neglects the reverse scenario where a petroleum operator will then have to demonstrate no impact on the geothermal operations.</p> <p>Once granted, there is no preferential/priority for the underlying holder.</p> <p>DMPE will make an assessment on a case-by-case basis and may apply section 91B conditions as appropriate to minimise potential impacts.</p>
14.	3.2.4	<p><u>Onus on geothermal title applicant to negate impacts</u></p> <p>The section does not guarantee that there will be no impact on the existing petroleum title. The onus on assessing impact should be on the geothermal title holder to demonstrate there is no impact (using interference testing, seismic mapping, pressure monitoring etc) to demonstrate that their proposed activity will not have an impact on the existing operations. Higher thresholds should be in place where the existing holder has a discovery or has applied for a production licence.</p>	<p>While collaboration/consultation between industry parties is not required and DMPE cannot compel parties to share information, parties are encouraged to collaborate and share information when subsisting title operations are being contemplated.</p>
15.	3.2.4	<p><u>Assessment if potential impacts</u></p> <p>Assessment of potential impacts will need to be completed before acreage is released. How will DMPE assess the impacts?</p>	<p>Acreage release is not the only pathway to a subsisting title (Special Prospecting Authority or development phase titles).</p> <p>DMPE will undertake to make assessments of impacts and use powers to request further information from applicants/title holder as needed, including when contemplating which areas to release under an Acreage Release.</p>

16.	3.2.4	<p><u>Specific amendments to 3.2.4.</u></p> <p><i>"the outcomes of any consultation undertaken with existing title holders and whether there is an intent or commitment to enter into a Joint Development Plan; and</i></p> <p><i>whether the applicant intends to explore in the same geologic intervals as any declared locations, petroleum pools or geothermal energy resources within subsisting titles or another title. The applicant must seek endorsement from the existing, adjacent or potentially impacted title holder prior to commencing activities, including areas of sole occupancy."</i></p>	<p>The suggestion to require various endorsements is not supported by the legislative framework and would be difficult to administer; in particular with the inclusion of adjacent or "potentially impacted title holder".</p> <p>The concept of "sole occupancy" goes against the intention of section 69A of the Act. DMPE may impose a section 91B condition where appropriate to prohibit access to specific sites. Parties are encouraged to collaborate and share information, but DMPE cannot compel this.</p>
17.	3.2.4	<p><u>Consultation with underlying titleholder</u></p> <p>How can consultation be enforced?</p>	<p>Consultation cannot be enforced. However, per the guide note if consultation has occurred, DMPE may choose to request the outcomes of the consultation as part of the assessment process.</p>
18.	3.2.4	<p><u>Specific amendments to 3.2.4</u></p> <p><i>"DMPE may also must seek information from existing petroleum or geothermal title holders on what they consider to be the potential impact on their operations, including areas of sole occupancy, and how best these might be mitigated or managed."</i></p>	<p>The comment is noted; however the suggestion is not supported by the legislative framework.</p> <p>DMPE will make assessments on a case-by-case basis and may seek information from the existing titleholder if deemed appropriate to do so.</p>
19.	3.2.4	<p><u>Disadvantage for new applicants</u></p> <p>Utilising the application work programs to demonstrate the avoidance of competing resources will require new applicants to expend much more work where the title should exist to prove up the specific resource. This approach will effectively prove up the existing resource indirectly.</p> <p>Should DMPE not complete this assessment as an independent party?</p>	<p>Yes, this section sets out how DMPE will approach and assess the potential impact of subsisting title operations.</p>

Key Theme 6: Decommissioning and rehabilitation

1.	4.1.2	<p><u>Financial assurance</u></p> <p>Suggestion that a clause for handover of decommissioning and rehabilitation liability be subject to approval by DMPE with sufficient bond of financial capacity.</p>	<p>The comment is noted; however this is outside the scope of the guide note. Legislative change is required to implement this, and it is being pursued separate to this work on subsisting titles.</p>
----	-------	---	---

Key Theme 7: Managing subsisting operations

1.	2.6	<p><u>Disclosures of discovery</u></p> <p>Will DMPE disclose a discovery on an opposite title type? Will DMPE require a title holder to nominate a location under section 46?</p>	<p>Titleholders are required to notify a discovery in accordance with the Act, but a location can only be declared which matches the resource type for the title.</p>
2.	4.1.3	<p><u>Monitoring interference</u></p> <p>What is DMPE' process for monitoring and determining interference is being managed effectively in accordance with the measures proposed in the application?</p>	<p>In line with existing processes, DMPE will monitor compliance with title conditions and where appropriate utilise powers to compel information and inspect operations.</p>
3.	4.1.3	<p><u>Co-operation between titleholders</u></p> <p>Cooperation between title holders shouldn't be a post-grant consideration. Applicants should notify the other title holder prior to an application being lodged.</p>	<p>Applicants are welcome to approach the underlying title holder to discuss exploration and development plans. Titleholders should bear in mind that a prospective application does not guarantee the lodgement of an application, and an application lodged does not guarantee the grant of a title, however, in all cases DMPE recommends early engagement between parties.</p>
4.	4.1.3	<p><u>Expectation for title holders to cooperate</u></p> <p>How will DMPE enforce cooperation between titleholders? Will the FMPs and GERDPs be bridged between operators? Will DMPE be the arbiter for any disputes?</p>	<p>The comment is noted, and a clarifying change has been made to specify that this is an encouragement for titleholders to work together.</p> <p>The Act does not provide for integrated operations, including for FMPs and GERDPs. DMPE does not have a role in arbitration of disputes between parties, but the Act provides penalties for breaches of conditions and for impacts to others title rights.</p>

5.	4.2.2	<p><u>Access authority to be required within title area</u></p> <p>Access authority processes should be implemented within the title so that the title holders may coordinate activities and minimise impacts.</p>	<p>The comment is noted but there is no legislative basis for this suggestion. In DMPE' view, this approach would add considerable administrative approval times to all activities over title areas with subsisting rights.</p> <p>Titleholders are encouraged to engage and coordinate activities which may impact operations within the shared title area. DMPE will consider potential impacts in approval of activities within the title area.</p>
6.	4.4.2	<p><u>Extending rights to future related titles</u></p> <p>When considering potential impacts to existing operations, this should be extended to the rights attached to the existing titles and future related titles commitments within subsisting titles should be prioritised (rehabilitation, seismic acquisition, drilling commitments).</p>	<p>Once granted, neither title has priority. At time of grant, consideration will be given to minimising potential impact to the existing operations.</p> <p>DMPE recommends that titles holders communicate with each other with regard to potential future impacts.</p>
7.	4.5.1	<p><u>Definition of a significant event</u></p> <p>Definition of significant event is potentially ambiguous and subjective. More examples should be given as to what a "new or increased risk" entails.</p> <p>Suggested additional significant event - where hydrocarbon shows are indicated during the drilling of a geothermal well.</p>	<p>The Act already requires hydrocarbon shows to be reported to DMPE under a geothermal operation and vice versa.</p> <p>The framework listed in 4.5.1 reflects the Act and applies to all titleholders, not just where they subsist. As such this is better addressed in other published guidance material.</p> <p>The <i>Petroleum Legislation Amendment Act 2024</i> will introduce "serious situations" that are reportable, or which are an offence.</p>
8.	4.5.1	<p><u>Reporting significant events</u></p> <p>Requirement to report significant events within <i>and outside</i> the title area. A petroleum company may not have the relevant data and expertise to evaluate the impact of an event on a geothermal project unless sharing of data is mandated.</p>	<p>The comment is noted; however this is outside the scope of the guide note. Legislative change would be required.</p>

9.	4.5.1.2	<p><u>Enforcement of obligations across title types</u></p> <p>How will DMPE enforce on obligation only relevant to the licence holder, on the holder of another type of title?</p> <p>Is it the intention for a petroleum production licensee to notify the Minister of a significant event impacting long term recovery of geothermal energy?</p> <p>If applied in the exploration phase any assessment of 'increased risk' is problematic as there is generally a lower level of data available.</p>	<p>The comment is noted and clarifying amendments have been made to the guide note.</p> <p>DMPE can only enforce in line with the legislative framework.</p> <p>Titleholders are encouraged to report any significant events, if they are outside of the legislative requirements.</p>
10.	4.5.1	<p><u>Confidentiality of information</u></p> <p>It isn't clear how information can remain confidential whilst also ensuring appropriate impact consultation assessment.</p>	<p>This section addresses the reporting of significant events, not the assessment of impacts of a new approval.</p> <p>DMPE is bound by privacy and confidentiality of information provided under the Act and Regulations, but applicants/titleholders are able to share information with each other as they deem appropriate.</p>
11.	4.5.2	<p><u>Compensation</u></p> <p>Recommendation that there be a guarantee for compensation for the existing title holder if there is an impact.</p>	<p>The comment is noted; however the suggestion is beyond the scope of the guide note and current provisions of the legislation.</p> <p>There are limited compensation provisions within the Act, but there may be legal mechanisms for compensation outside of the Act.</p>
12.	4.5.2	<p><u>Assessing impacts for a WMP</u></p> <p>In assessing a WMP, will DMPE consult with a company engaged in existing recovery operations or declared locations?</p> <p>What about where the parties are targeting the same reservoir?</p> <p>Who is the arbiter of any disputes over perceived impacts and how will real impacts be settled?</p> <p>Without clear guidance from DMPE, it will be up to the proponents to negotiate a comprehensive indemnity agreement which may not be practical or achievable.</p>	<p>DMPE encourages subsisting title holders to share the appropriate information to reduce the risk of resource conflict, however, if appropriate, DMPE may request information from both parties in relation to assessing a WMP.</p> <p>DMPE does not have a role as arbiter of disputes or as party to any agreements negotiated between titleholders.</p>

13.	4.6.1	<p><u>Environment Plan (EP) approvals</u></p> <p>There will be a cumulative environmental impact for overlapping titles. How will this be addressed through the Environment Plan approval process?</p>	<p>In principle overlapping titles will have cumulative impacts, however DMPE has no ability to regulate cumulative impacts and there is no regulatory requirement to describe cumulative impacts in an EP.</p> <p>Each petroleum and/or geothermal activity will be assessed individually and on its merits. There are provisions under the Environmental Protection Act to deal with cumulative environmental impacts of development proposals, potentially including petroleum and geothermal activities.</p> <p>However, an EP is required to include a comprehensive description of the environment, including any socioeconomic interactions.</p> <p>All environmental risks and potential environmental impacts of an activity must be considered including potential interactions with subsisting activities.</p>
14.	General	<p><u>Disproportionate impact on petroleum operations</u></p> <p>Geothermal operations have a disproportionate potential to impact petroleum operations if targeting the same reservoir area for development (pressure loss, temperature change, water ingress, fault breach). The reverse is not true.</p>	<p>DMPE will consider potential impacts to existing operations in assessments of whether or not they will be approved.</p>
15.	General	<p><u>Dispute resolution</u></p> <p>Which body will adjudicate in any disputes between subsisting titleholders?</p> <p>The Guide note would be significantly improved with a review, appeal and dispute resolution process.</p>	<p>This suggestion is beyond the scope of the guide note and not provided for in the legislative framework. Any normal judicial mediation or court procedures would apply in settling disputes.</p>
16.	General	<p><u>Continual impact assessment for secondary permittee</u></p> <p>There should be a process for the newly granted title holder to communicate and assess potential impacts on the existing title holders activities and operations, instilling a continual impact assessment process throughout the life of the "secondary" permit.</p>	<p>Once granted, neither title holder has priority. DMPE recommends that titleholders communicate openly and share information with each other with regards to potential impacts. DMPE does not have powers to enforce cooperation.</p> <p>It should also be noted that once the initial holder goes through a renewal, they would then become the secondary titleholder.</p>

17.	General	<p><u>Various technical arguments against the concept of subsisting titles</u></p> <ol style="list-style-type: none"> 1) Pressure changes in an existing field (pressure depletion around production wells; pressure elevation around injection wells) 2) Smearing of the Oil Leg 3) subsurface uncertainty 4) Simultaneous operations 5) Minimum Geothermal Monitoring Activities recommended 	<p>The comment is noted: DMPE must be mindful not to create an overly complex regime for geothermal title holders or inadvertently make them subservient to petroleum title holders.</p> <p>DMPE will consider these potential impacts in accordance with the guide note.</p>
18.	General	<p><u>Further legislative and policy changes</u></p> <p>There are significant resource recovery implications to a petroleum development from interference by a geothermal exploration activity.</p> <p>Recommendation for a clear policy framework and/or comprehensive legislative regime is required to manage competing and potentially conflicting activities authorised under petroleum and geothermal titles.</p>	<p>Legislative changes are required to implement the suggested changes to the current framework.</p> <p>This guide note is intended to be reviewed and developed over time. Consideration will be given to expanding it and/or developing a formal policy statement in the future.</p>

Key Theme 8: Title conditions and endorsements

1.	3.4.1	<p><u>Conditions to enter joint agreements</u></p> <p>The proposal to impose 91B conditions for the applicant to demonstrate that an agreement has been entered into with the other title holder leaves access open ended which could have an impact on work program fulfilment.</p>	<p>Section 91B conditions can only be used to prohibit entry into specified areas. Section 91B cannot be used to enforce agreements between titleholders.</p>
2.	3.4.1	<p><u>Imposition of conditions for sole occupancy</u></p> <p>Should include sole occupancy areas or future amendment to newly identified sole occupancy areas.</p>	<p>Section 91B conditions may be imposed to restrict potential impacts and prohibit access to certain lands (such as A-class reserves).</p> <p>Conditions are reviewed at renewal and the Act also provides for changes to conditions within the title period.</p> <p>DMPE shall assess whether to impose section 91B conditions on a case-by-case basis.</p>
3.	3.4.1	<p><u>Section 91B conditions to also extend to subsurface</u></p> <p>Request that guide note also specifically address reservoirs and structures. The subsurface is critical in subsisting titles.</p>	<p>The comment is noted; Section 91B of the Act prohibits entry onto land only. Subsurface considerations and access would be considered on award of title and during approval of activities on a case-by-case basis.</p>
4.	3.4.1	<p><u>Specific amendment to section 3.4.1. suggested</u></p> <p><i>"mitigate or manage potential impacts, including through the agreement of Joint Development Plans with existing title holders"</i></p>	<p>It is beyond the scope of DMPE' powers to impose conditions regarding joint development plans or joint ventures. It is up to the parties to develop and negotiate the terms of any agreements.</p>
5.	3.4.1	<p><u>Conditions to mitigate or manage potential impacts</u></p> <p>This would require the existing title holders to disclose existing areas to be exempt.</p>	<p>DMPE will make an assessment of which conditions should be applied to mitigate or manage potential impacts.</p>
6.	3.4.1	<p><u>Compensation for damage</u></p> <p>What about compensation should their damage to an existing resource that impacts recovery? Will this be managed under section 117 of the Act (noting that damage could also be a breach of title conditions). Has consideration been given to amending the Act to include legal pathways to seek compensation (like those provided for private land under section 17).</p>	<p>This suggestion is not currently provided for in the current legislative framework but there may be alternative pathways for compensation.</p> <p>Legislative changes are beyond the scope of this guide note.</p>

Key Theme 9: Land access

1.	4.2.1	<p><u>Competing interests</u></p> <p>How are competing interests managed? For instance if both companies want to prepare a well pad on the same piece of land. Does this create a bidding war situation for land access with the same landowner.</p>	<p>DMPE recommends titleholders communicate with each other.</p> <p>Notification or approval requirements beyond the scope of section 15A of the Act (such as access to reserves) or other approved petroleum/geothermal activities will not be monitored by DMPE.</p>
2.	4.2.2	<p><u>Accessing land within subsisting title area</u></p> <p>Request for clarification on notification requirements between subsisting tenure holders when accessing land within their title area.</p>	<p>DMPE recommends titleholders communicate with each other.</p> <p>Notification or approval requirements beyond the scope of section 15A of the Act (i.e. access to reserves) or other approved petroleum/geothermal activities will not be monitored by DMPE.</p>
3.	4.2.3	<p><u>Changes to conditions</u></p> <p>How will title holders be able to demonstrate that an agreement has been entered into, sufficient to change a 91B condition. Will this be by way of statutory declaration? Will this be required to be registered as a dealing on the affected titles?</p>	<p>The Minister may consider requests to amend conditions, based on the particulars presented.</p> <p>It is not anticipated that this will result in a registered dealing against the title.</p>

Key Theme 10: Renewal of title

1.	4.4.1	<p><u>Effect of "priority" for renewal or development</u></p> <p>Is a renewing party effectively 'second in time' and thus the onus shifts to the renewing party to demonstrate that impacts are minimised? Similarly, when a production licence is applied for. This imposes a disadvantage on the renewing party/party applying for a production licence.</p> <p>There is particular concern where the titles existed prior to this policy and therefore at the time of application, did not require evidence of managing activities without impacting the other party.</p>	<p>The Act specifies that a renewal is deemed the grant of a new title. Thus, section 69A processes apply when considering the grant of a renewal over a subsisting title, and also extends to further titles applied for (retention leases, production licences.)</p> <p>This guide note is not a formal policy. While it may not have existed at the time of application, the underlying legislative framework was in place.</p> <p>The provisions of section 69A have not been enlivened previously because there have not been any subsisting titles.</p> <p>The guide note is intended to clarify the intended approach that DMPE will take in assessing applications and determining the more complex issues.</p>
----	-------	---	---

Government of Western Australia

**Department of Mines,
Petroleum and Exploration**

8.30am – 4.30pm

Mineral House, 100 Plain Street
East Perth, Western Australia 6004
Tel: +61 8 9222 3333
Fax: +61 8 9222 3862

Online

Website: www.dmpe.wa.gov.au
Email: petroleum.titles@dmpe.wa.gov.au

Mailing address

Locked Bag 100
East Perth WA 6892

This publication is available on
request in other formats.
National Relay Service: 13 36 77
Translating and Interpreting Service (TIS) 13 14 50