



Department of Mines,
Petroleum and Exploration

Guideline

Applying for consent to undertake Scientific Investigation

*Petroleum, Geothermal Energy and Greenhouse Gas
Storage Act 1967; Petroleum and Greenhouse Gas
Storage (Submerged Lands) Act 1982*

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1. Purpose

The purpose of this document is to guide persons seeking to apply to the Department of Mines, Petroleum and Exploration (the department) for consent to undertake exploration operations in the course of scientific investigation (SI).

2. Regulatory framework

The consent of the Minister for Mines and Petroleum or a delegate (the Minister) to carry on SI can be authorised in accordance with:

- Section 116 of the Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967 (PGE GSA); and
- Section 123 of the Petroleum and Greenhouse Gas Storage (Submerged Lands) Act 1982 (PGGS(SL)A).

Collectively referred to as “the Acts” unless otherwise specified.

The Minister may, on application, consent in writing (an ***instrument of consent***; the SI Consent) to the carrying out by any person of petroleum operations, geothermal exploration operations or greenhouse gas (GHG) operations in the course of SI.

2.1 Considerations and limitations of consent

An instrument of consent authorises a specified operation that would usually require a person to hold a relevant title under the Acts, but the instrument of consent does not confer the rights of a title holder. Applicants and holders of an SI Consent should note:

- The SI Consent does not confer exclusive rights over an area and does not provide the land tenure to undertake the operation(s). The holder of the SI Consent must have lawful access to the land through ownership or agreement(s) prior to undertaking the authorised operation(s).
- Multiple instruments of consent may be issued over the same location, and a consent may subsist with other instruments of consent of the same or different resource type.
- The Acts do not allow for the following:
 - Variations to the specified area of an SI Consent.
 - Variations to the conditions that apply to an SI Consent.
 - Transfer of an SI Consent to another party. Dealings and transfers cannot be registered in relation to an instrument of consent.
 - Renewal or extension of the period for an SI Consent.
 - Surrender, cancellation or revocation of an SI Consent.

- An SI Consent may be granted over any area of land in Western Australia's onshore and State waters; however, an SI Consent cannot span the jurisdiction of both the PEGGSA and the PGGS(SL)A. Separate SI Consent instruments pursuant to the respective Acts would be required to undertake operations that span onshore and State waters.
- Holders of an instrument of consent must comply with Section 117 of the PEGGSA or section 124 of the PGGS(SL)A, which outline general conduct requirements for the holder to undertake authorised operations in a manner that does not interfere with the lawful rights of other users of the land or marine environment to a greater extent than is necessary for the purpose of conducting the authorised operation(s).

3. Authorised operation(s)

An SI Consent may authorise operations including but not limited to:

- Geological or geophysical surveys (e.g. mapping, seismic, aerogravity);
- Stratigraphic drilling (excludes exploration wells);
- Sampling and data collection;
- Injection testing; and
- Pressure monitoring.

Each proposed operational activity for which consent is being sought must be designated a unique name. Specific operations to be authorised will be considered on a case-by-case basis. An SI Consent is not required to undertake desktop studies.

4. Applying for consent

An applicant must secure consent prior to commencing a scientific investigation. Applicants should note the following requirements when applying for an SI Consent and are recommended to identify and consult with all relevant stakeholders, including relevant government agencies, as early as possible in the planning process.

4.1 Application requirements

An application for SI Consent must be made using the approved form. The form can be submitted to the department by email to petroleum.titles@dmpe.wa.gov.au.

There is no application fee to apply for an SI Consent.

4.1.1 Description of operation(s)

The following information on the proposed operation(s) should be provided in the application:

A description of the objectives of the scientific investigation;

- The designated name for each proposed operation;
- The proposed duration and scope of each proposed operation; and
- A written description of the area of land within which the proposed operation(s) will occur.

4.1.2 Statement of technical qualifications

The application should include a statement of the technical qualifications of the applicant, their employees, and the technical advice available to the applicant, relevant to undertaking the proposed operation(s).

4.1.3 Mapping and spatial data

The following mapping/spatial data should be provided with the application:

- A map of appropriate and legible scale showing the proposed area of operations and any underlying tenure.
- Digital spatial data in ESRI Shapefile or equivalent GIS format in GDA2020 coordinate reference system, representing:
 - The area of operation(s);
 - Specified locations of the proposed activities to be undertaken; and
 - The location of any proposed clearing and/or ground disturbance within the operational area.
- Buffers of appropriate size should be included in the spatial data. For instance:
 - a minimum buffer of 300 metres applies to well locations; and
 - a minimum buffer of 50 metres applies to flight lines.

4.2 Timeframes

The Acts do not establish statutory timeframes for the consideration of an application for an SI Consent. However, it is recommended that the application be submitted at least three months prior to the commencement of the planned operation(s) to allow sufficient time for the assessment and approval of the application.

5. Process

5.1 Assessment of applications

In accordance with the application requirements listed under 4.1, the department will review the following when assess an application for an SI Consent:

- Whether the applicant has provided sufficient and accurate information to describe the scope of the proposed operation(s).
- Whether the applicant has provided sufficient information to articulate and justify the scientific value and/or necessity of the proposed operation(s).
- Whether the applicant is able to undertake the proposed operation(s) within the rights afforded by an SI Consent.

5.1.1 Applications may be placed on hold

During the assessment process, an application will be placed on hold for the following reasons:

- The applicant needs to provide further information; or
- Further information from a third party or other government agency is required to progress the application.

The assessment shall resume when the information required to progress the assessment is provided. The department may consider lapsing an application should additional information not be provided, or the applicant fails to communicate for a reasonable period. A lapsed application will not be reopened; however, a further application may be lodged.

5.1.2 Native Title considerations

An application for SI Consent may be subject to compliance with the requirements of the *Native Title Act 1993* (Cth) (NTA), depending on the nature of the proposed operation(s).

Before the Minister issues consent, if required, the department will arrange for the application to be notified in accordance with the requirements of section 29 of the NTA.

The Minister will not grant SI Consent until the notification period has passed and any subsequent NTA requirements have been finalised.

6. Determination of application

6.1 Grant of instrument of consent

If the Minister approves the application for SI Consent the holder will be provided with an instrument evidencing the approval.

6.1.1 Conditions

SI Consent may be made subject to any conditions specified in the instrument.

For instance, a condition will likely be imposed requiring the SI Consent holder to openly publish the details and results of the operation(s) completed as part of the SI.

7. Secondary approvals

After an SI Consent is granted, the holder should consider the secondary approvals that will need to be applied for to be able to undertake the authorised operation(s).

8. Data management, reporting and compliance

The SI Consent holder has certain obligations, such as maintaining records and submitting data and reports to the department, as is required of holders of titles.

The holder of an SI Consent must comply with the record keeping and data management requirements of:

- Sections 115 and 116A of the PGEGGSA;
- Sections 122 and 123A of the PGGS(SL)A; and
- The respective submission requirements of the Petroleum, Geothermal Energy and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2015 and Petroleum and Greenhouse Gas Storage (Submerged Lands) (Resource Management and Administration) Regulations 2015 (collectively the “RMA Regulations”).

Part 8 of the RMA Regulations outline the requirements for data management.

Specifically:

- Divisions 2 and 3 establish requirements for record keeping and retaining samples related to petroleum, geothermal or GHG exploration operations carried out under the authority of an instrument.
- Subdivision 1 of Division 4 relates to reports and data for well activities, including items requiring submission relate to daily well activities, final well activity reports and data, and well completion reports and data.
- Subdivisions 2 and 2A of Division 4 set out the reporting and data submission requirements for surveys and other reports. Items requiring submission include, but are not limited to, weekly reports and data relating to acquisition, processing and interpretation activities.
- Subdivision 4 of Division 4 relates to the requirement to give drill core (conventional and sidewall), drill cuttings and other samples to the Minister.

Penalties apply for non-compliance and are managed in accordance with the Acts and Regulations.

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