

Subordinate Legislation Act 1994

NOTICE OF DECISION

Petroleum Regulations 2021

I, Jaala Pulford, Minister responsible for administering the **Petroleum Act 1998** (the Act), give notice under section 12 of the **Subordinate Legislation Act 1994** (SLA) that further to public consultation on a Regulatory Impact Statement (RIS), I have decided to recommend the making of the **Petroleum Regulations 2021** (proposed Regulations) to replace the **Petroleum Interim Regulations 2021** (the current regulations), which expire on 23 November 2021.

The RIS and exposure draft of the proposed Regulations were open to public consultation from 6 August 2021 to 3 September 2021, and 202 submissions were received, of which 170 were a campaign email. After consideration of these submissions in accordance with section 11 of the SLA, the consultation draft of the proposed Regulations will remain generally in the same form except for some minor and technical amendments, including in relation to consultation requirements under the operation plan, specific requirements under the environment management plan, and notification and reporting requirements. These amendments are generally to clarify requirements and improve the operation of the regulations.

In summary, the response to submissions is as follows:

1. Community and Traditional owner engagement requirements – some submissions sought greater prescription while others sought less prescription. The Act and the proposed Regulations provide a robust and strengthened framework for ensuring the interests of the community are properly considered while allowing flexibility for individual circumstances. Minor amendments have been made to the proposed Regulations to clarify the scope of consultation requirements under the operation plan and remove duplication.
2. Risks, benefits and impact assessments – the nature of proposed requirements for assessment of environmental, social and economic factors at the authority grant stage are considered suitable in the context of the legislative framework. Requirements are drafted broadly to not limit the economic, social and environmental risks, benefits and impacts that can be considered.
3. Gas supply and energy transition issues – some submissions queried gas development more broadly. The Government committed to a restart of the conventional gas industry from 1 July 2021 and this policy position is outside the scope of the proposed Regulations.
4. Climate change and greenhouse gas emissions – some submissions sought specific consideration of climate change in applications for authorities and decision making. The proposed Regulations provide for the management of hydrocarbon emissions from petroleum operations in accordance with the operation plan; a definition has been added to clarify that “hydrocarbon emissions” means “leaks, venting and flaring”.

5. Landowner and land access requirements – some submissions queried why landowners are not specifically referred to in the proposed Regulations. Owners and occupiers of land fall within the scope of the broader terms used under the Act and proposed Regulations, including “relevant persons and organisations”, and have additional consent and notification requirements. The proposed Regulations have been amended to include additional notification to Owners and occupiers of land in relation to specified activities, including well tests.
6. Public access to and transparency of information – certain submissions requested greater transparency of information provided to Government by authority holders. This is generally a matter for the Act, which sets out requirements and restrictions on the release of information, including new provisions that require publication of retention lease and production licence applications, and notices that must be published during preparation of an operation plan.
7. Environment management issues – submissions made varied comments on the level of prescription about the environment management plan requirements. The proposed Regulations are considered appropriate for managing and mitigating the environmental risks and impacts of operations as far as reasonably practicable, with minor technical amendments to clarify the scope of groundwater monitoring requirements.
8. Oversight of operations and decision making - submissions queried the appropriateness of decision-making powers and the ‘as far as reasonably practicable’ risk management principle. The scope of the Minister’s decision-making powers in relation to granting authorities and approving operations are set out principally under the Act and therefore outside the scope of the proposed Regulations.
9. ‘Suitably qualified or experienced persons’ requirements – submissions queried that these requirements were either onerous or should go further. The proposed Regulations are considered appropriate for ensuring a minimum level of experience and qualification for certain critical aspects of operations. Some minor amendments have been included to clarify the timing for submission of details about the relevant persons.
10. Rehabilitation and post-closure management concerns – some submissions suggested that rehabilitation bond provisions should be strengthened and that post closure monitoring requirements should be applied. Overall, the proposed Regulations strengthen the information that must be provided by an authority holder about its planned rehabilitation activities and any rehabilitation that has been undertaken.

A detailed statement of reasons will be published on the Engage Victoria website.

Dated: 1 November 2021



Hon Jaala Pulford MP

Minister for Resources