

# Discussion paper released for offshore clean energy projects

07 February 2020

5 min. read

[offshore](#) / [clean energy](#) / [proposed framework](#) / [discussion paper](#)

## Key issues

- The Australian Government has released a discussion paper outlining a proposed regulatory framework to facilitate the assessment and operation of offshore clean energy projects in Commonwealth waters.
- It has proposed that the National Offshore Petroleum Safety and Environmental Management Authority (**NOPSEMA**) regulate the safety, environment and structural integrity of the offshore clean energy industry.
- The framework proposes to regulate commercial and non-commercial offshore clean energy projects through the exploration, construction, operation and decommissioning phases.
- The framework does not consider a model for the collaboration between the developer, the Commonwealth and the relevant State, particularly in respect to the transmission of electricity from Commonwealth waters to State coastal waters.
- The environmental impacts of offshore clean energy projects are still being investigated; however their environmental impacts will be regulated in accordance with the *Environmental Protection Biodiversity Conservation Act 1999* (**EPBC Act**).

On 3 January 2020, the Australian Government released the “Offshore clean energy infrastructure regulatory framework” discussion paper and a regulatory process map for comment (**proposed framework**). The proposed framework will be risk based and designed to regulate clean energy projects through exploration, construction, operation and decommissioning phases.

The proposed framework was developed following Australia’s first proposed major offshore wind farm, Star of the South, which proposes to construct 250 wind turbines estimated to power 1.2 million homes in Victoria. In March 2019, the Australian Government granted the Star of the South an exclusive exploration licence to investigate wind, seabed and environmental conditions. The decision, of approval or not, of the construction of the windfarm will be made at a later stage.

Interest in wind and other clean energy projects is expected to grow; the proposed framework recognises the evolving nature of the offshore clean energy industry and attempts to regulate these new and emerging technologies.

## Proposed framework

The aim of the proposed framework is to:

- be technology neutral, allowing for commercial, research and demonstration projects;
- be regulated based on risk;
- promote coexistence with other marine users;
- promote competition;
- ensure all environmental risks are appropriately assessed and managed; and
- ensure the protection of the offshore workforce.

The Australian Government has proposed that given its experience in regulating the offshore petroleum industry, NOPSEMA regulate the safety, environment and structural integrity of the offshore clean energy industry.

The first step in the process of developing offshore clean energy projects is the Commonwealth Minister consulting with Commonwealth and State government agencies on matters of defence, environmental impacts, existing and planned industries and, with known users of a potential area on their competing interests. After consideration of the results of the consultation process the Minister may declare an area as suitable for offshore clean energy projects and at his discretion, may seek expressions of interest for commercial and non-commercial offshore activities in the declared area.

Successful applicants will be awarded an exclusive five-year feasibility licence over a specified area, which will allow the applicant to assess the safety, environmental risks and impacts and any competing interests of other users. During this period the applicant will also be required to complete exploration activities, finalise project design and undertake detailed consultation with stakeholders, including regulators.

If the Minister is satisfied that all conditions and requirements under the feasibility licence have been met, the applicant can apply for a commercial licence, which gives the applicant an exclusive right over a specified area to develop a commercial offshore energy project for an initial term of up to 30 years and a right to renew the commercial licence indefinitely (for up to 30 years at a time). This is designed to provide incentive for committing to conditions of the commercial licence and committing to development by way of long-term investment security.

The proposed framework also proposes a ten-year, non-exclusive, non-commercial licence, which will provide a lower-cost pathway to support pre-commercial seismic exploration or innovative demonstration projects. There is no scope for an extension on a non-commercial licence and it does not lead to a commercial licence.

## **Relevant policy and regulatory considerations**

The intention for development of commercial offshore clean energy projects is to provide electricity to the relevant State, which requires collaboration between the developer, the Commonwealth and the relevant State. This collaboration is particularly necessary for the transmission of electricity from the offshore clean energy project in Commonwealth waters to the State's coastal waters. At this stage of the proposed framework, there is no suggestion of how these parties will collaborate.

While offshore clean energy projects are intended to be cleaner, the full extent of the environmental impacts of offshore clean energy projects are still being investigated. Some likely impacts include local impacts on ecological values, disturbance to marine animal breeding grounds and habitats through physical destruction and noise pollution and in the case of windfarms, increased mortality rates in migratory birds.

Under the proposed framework it is intended that the developer investigate the environmental impacts and risks during the feasibility study phase. As the offshore clean energy projects are to occur in Commonwealth waters, which are areas of environmental significance under the EPBC Act, they will be subject to environmental impact assessments, approvals processes and regulation under the EPBC Act. As interest and research develops in the new offshore clean energy industry, environmental impact knowledge will also increase, improving environmental regulation and mitigation.

## **Conclusion**

The proposed framework is open for comment until 28 February 2020. We look forward to the outcome and development of the proposed framework and will keep you updated on its progress.

07 February 2020

[offshore](#) / [clean energy](#) / [proposed framework](#) / [discussion paper](#)

[Previous article](#) [Next article](#)