

Managing gender-restricted information

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1. Purpose

This policy outlines the principles that govern NOPSEMA's management of gender restricted information that is culturally sensitive and is received directly from third parties that may be relevant to NOPSEMA's decision making under the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (the Environment Regulations).

2. Scope

This policy applies to all gender-restricted information received directly by NOPSEMA that may be relevant to NOPSEMA's assessment of environment plans and offshore project proposals (submissions) under the Environment Regulations.

Gender-restricted information is defined as:

information regarding law, ceremony, spirituality, or ritual given by a person of one gender that by reason of traditional laws and customs prevents women or men from disclosing the information in the presence of persons of the opposite gender.¹

3. Background

Under the Environment Regulations, a proponent's submission to NOPSEMA must include a comprehensive description of the environment where their project or activities are proposed to occur, including the values and sensitivities of the environment's cultural features.

Where a submission includes cultural heritage values in the description of the cultural features of the environment, NOPSEMA recognises the information may have been obtained directly from the custodians of the information. In some cases, this may take the form of gender-restricted information; otherwise known as *men's business* or *women's business* in accordance with traditional beliefs and practices. This information, and other culturally sensitive or restricted information, may need to be communicated, recorded, stored, and shared in a certain way.

Under the Environment Regulations, proponents must include the information required to be assessed by NOPSEMA in their submission. Gender-restricted information or other culturally sensitive or restricted information, should be provided to the proponent directly to ensure their submission to NOPSEMA includes all relevant values and sensitivities of the environment's cultural features, an evaluation of potential

¹ see State of WA v Ben Ward & Ors

impacts to those values and sensitivities, and appropriate management strategies to reduce potential impacts to an acceptable level.

NOPSEMA acknowledges that, in limited circumstances where ordinary regulatory processes cannot be used, it may receive gender-restricted or other culturally sensitive or restricted information directly from the custodians of that information. In these cases, NOPSEMA will receive the information and consult with the custodians of the information on how to appropriately manage the information in a culturally sensitive way; how it can be received, recorded, stored, and shared.

NOPSEMA recognises the decisions made under the Environment Regulations may be subject to judicial review under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act). The principles of good administrative decision-making therefore apply. This includes taking into account relevant considerations and affording procedural fairness to those potentially adversely affected by a decision.

4. Policy principles

The following principles apply in instances where gender-restricted and other culturally sensitive or restricted information is provided directly to NOPSEMA to support decision-making:

1. NOPSEMA recognises First Nations peoples have knowledge that is relevant to understanding the values and sensitivities of the cultural features of the environment and the potential impacts on those values and sensitivities from projects and activities regulated under the Environment Regulations.
2. NOPSEMA acknowledges information about the cultural heritage values of the environment is owned by the First Nations peoples who have a connection to that environment, including the land and sea, and have the authority to hold and share that information.
3. NOPSEMA will endeavour to provide opportunities for information to be provided in a culturally sensitive way where that information is sensitive or restricted, required to be provided orally or on Country, or through alternative channels.
4. NOPSEMA will consult with the custodians of information on how records of that information will be received, stored, shared, and used in a culturally sensitive way.
5. NOPSEMA will endeavour to ensure its personnel, including the delegate(s) and assessors who receive or require access to gender-restricted information, identify as that specific gender.
6. Where NOPSEMA personnel require access to gender-restricted information and do not identify as that specific gender, NOPSEMA will consult with the custodians of the information before providing access to those personnel.
7. Where NOPSEMA is required by court order or other legal process to manage information in a way that is not consistent with the principles above, NOPSEMA will comply with its legal obligations and inform the custodians of the information.
8. Where information is provided to NOPSEMA that may be relevant to NOPSEMA's decision making, the information must be made available to the proponent in accordance with the principles of procedural fairness. Where that is not possible, NOPSEMA will consult with the custodians of the information and the proponent to determine a suitable way for the information to be provided.