

EXECUTIVE COUNCIL

CONFIDENTIAL

Title: The Offshore Minerals Ordinance 1994: Environmental Impact Assessments.

Paper No: 11/11

Date: 27 January 2011

Report of: Director of Mineral Resources

1. Purpose

- 1.1 To seek approval in principle to proceed with amendments to the environmental sections of the Offshore Minerals Ordinance (1994).

2. Recommendation

- 2.1 Honourable Members are advised to recommend that amendments to the environmental clauses in the Offshore Minerals Ordinance (1994) as outlined in 4.6 are included in the legislative drafting schedule for 2011.

3. Summary of Financial Implications

- 3.1 None

4. Background

- 4.1 The Offshore Minerals Ordinance 1994 contains provisions that set out the terms for the requirement for Environmental Impact Assessments (EIA) and Statements (EIS) to be undertaken by oil companies when applying to drill wells in their licensed blocks. The provisions, relating to environmental matters, have not been revised since their introduction in 1994 which was prior to the first offshore exploration drilling programme and it has been recognised for some time that there is a need for a revision in order for the legislation to reflect industry best practice. Companies have adhered to best practice in both drilling programmes by submitting voluntary EIS's prior to applying to drill wells.
- 4.2 Sections 64 (2) and (3) state that:

(2) The Governor may, if he considers that the environment might be substantially affected were he to grant an application, cause an environmental impact assessment to be prepared and submitted to him by such person or persons as the Governor directs and in relation to the likely adverse and beneficial effects upon the environment if the application were to be granted, and Schedule 4 shall have effect as to the matters to be dealt with by an environmental impact assessment.

(3) In the circumstances in which the Governor, may under subsection (2) himself commission an environmental impact assessment, the Governor may additionally or instead by notice in writing served upon the applicant require the applicant to submit to the Governor an environmental impact statement.

- 4.3 Sections 65(1)-(4), 66(1)-(3) and 67(1)-(3) set out how EIS's are to be published, the length of time to be made available for public comment and the right of reply by industry to any comments received.
- 4.4 Schedule 4 (Section 64(6)) of the Ordinance specifies the information required to be included in an EIS.
- 4.5 The Mineral Resources Committee has discussed the need for amendments to the Ordinance on two occasions, as well as the need for the introduction of codes of practice related to environmental matters, in order to formalise best industry practice in the Falkland Islands. Industry, the Environmental Planning Department, the Fisheries Department and Falklands Conservation have been consulted over suggested changes to Regulations and codes of practice and their comments have been considered by the Committee. Only matters related to EIA's and EISs require legislative amendments and the Committee recommend that these amendments are included in the legislative drafting requirements for 2011. Committee members also concluded that changes to environmental codes of practice and environmental guidelines to industry could be discussed with stakeholders through an Offshore Environmental Hydrocarbons Forum to be established shortly.
- 4.6 The Mineral Resources Committee recommend that amendments are drafted to the Offshore Minerals Ordinance (1994) to ensure that:
- i. EIA's and EISs are mandatory when oil companies seek approval to drill exploration, appraisal and production wells and conduct Drill Stem Tests offshore;
 - ii. An EIA and EIS may be required for other offshore activities such as 3D seismic surveys if they are to occur in an area sensitive to cetaceans and other protected species;
 - iii. The Governor in Executive Council has powers to exempt a project from any of the Regulations in respect of environmental statements, public

consultation, consultation on additional information requested etc. For example if it is considered that the environment is unlikely to be substantially affected by the activity in question or if the activity is going to occur in an area already covered by a recent EIA concerning the same or similar activity.

iv. Applicants be required to organise a public consultation process in respect of EISs; and

v. Details as to contents of EIS's as set out in Schedule 4 Section 64(6) of the Ordinance are updated.

5. Financial Implications

5.1 None

6. Legal Implications

6.1 In anticipation of the recommendation being approved, the matter has been included as a priority for the year in the legislative drafting priorities paper which is to be considered at this meeting. Detailed drafting instructions are required from the Mineral Resources Department to progress the drafting in due course.

7. Human Resources Implications

7.1 None