Offshore
Infrastructure
Regulator

Offshore renewables and interactions with fisheries



The Offshore Infrastructure Regulator has responsibility for overseeing work health and safety, infrastructure integrity and environmental management for offshore infrastructure activities in the Commonwealth offshore area.

The Offshore Electricity Infrastructure Framework

The Offshore Electricity Infrastructure Act 2021 (OEI Act) framework provides a licensing scheme to enable the construction, installation, commissioning, operation, maintenance and decommissioning of offshore renewable energy and offshore electricity transmission infrastructure in the Commonwealth offshore area.

The OEI Act framework applies from three nautical miles (3NM) from the coastline out to the boundary of Australia's exclusive economic zone. State/Territory governments remain responsible for licensing and regulating projects and associated infrastructure in their coastal waters (<3NM).

Interactions with fisheries

The OEI Act framework operates under the principle of shared use of the offshore marine environment, recognising all users and seeking to balance competing interests.

OEI Act licence holders are required to work with existing marine users to provide for safe waterways and continued access to areas where possible during construction, operation, maintenance and decommissioning phases of a project.

Offshore renewable energy projects such as wind farms are increasingly being designed to allow for co-use, particularly for recreational and passive fishing.

There are also situations where the introduction of offshore renewables has led to changes in fishing areas and activities.

OEI Act licence holders should be cognisant of fishing operators that may hold existing licences and permits in an area and who may be impacted during the lifecycle of an offshore renewables project.

Effective engagement between OEI Act licence holders and fisheries stakeholders is important to understand the interactions between the sectors and to identify, avoid and mitigate any impacts such as temporary or long-term displacement of fisheries.

As part of developing an offshore renewables project, fisheries stakeholders have several opportunities to provide input on planning and design and contribute to the development of mitigation and monitoring measures to avoid and minimise potential impacts.

Area identification declaration and licensing

Area identification and declaration are the first steps to determine locations that may be considered for future offshore renewables projects. This process is led by the Department of Climate Change, Energy, the Environment and Water (DCCEEW) and involves preliminary consultation with Commonwealth and State government fisheries agencies. Information obtained from these agencies assists with area refinement.

Areas proposed for future licensing under the OEI Act are subject to a statutory consultation period of at least 60 days. The public are invited to submit comments and provide feedback to DCCEEW on existing uses and interests in, and near, the area under consideration. After considering all feedback received, the Minister for Energy will make a decision on the final declared area.

Proponents wanting to develop an offshore renewables or electricity transmission project in the Commonwealth offshore area will need to apply to the Offshore Infrastructure Registrar for an OEI Act licence.

OEI Act licences provide rights to undertake offshore infrastructure activities in a specified area and are granted by the Minister for Energy.

Requirements to consider and mitigate potential impacts

Any offshore renewables project that is likely to have a significant impact on a nationally protected matter must undergo an environmental assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The EPBC Act requires proponents to undertake public consultation, with separate requirements to those in the OEI Act and Offshore Electricity Infrastructure Regulations 2022 (OEI Regulations).

Through the EPBC Act process, projects must demonstrate how they will ensure impacts to protected matters will not be unacceptable. Information relevant to these proposals, including potential impacts on fishing, will be published on the National Environmental Protection Agency's website for public comment.

OEI Act licence holders must include relevant EPBC Act obligations including any conditions of approval in their OEI management plan. The Offshore Infrastructure Regulator (OIR) will consider how licence holders have addressed their obligations against the requirements of the OEI Regulations.

Management plans

Before offshore activities involving the construction, installation, operation, maintenance and decommissioning of infrastructure can proceed, an OEI Act licence holder will need to have a management plan approved by the OIR.

In preparation of a management plan, the OEI Regulations require licence holders to identify and consult with commercial and recreational fishers operating in or near a licence area and who may be impacted by proposed offshore activities.

Management plans contain details about the operational aspects of a project including outcomes of consultation with other marine users and plans for ongoing engagement with stakeholders throughout the life of the project.

The OIR will only approve a management plan once satisfied the requirements of the OEI Regulations have been met.

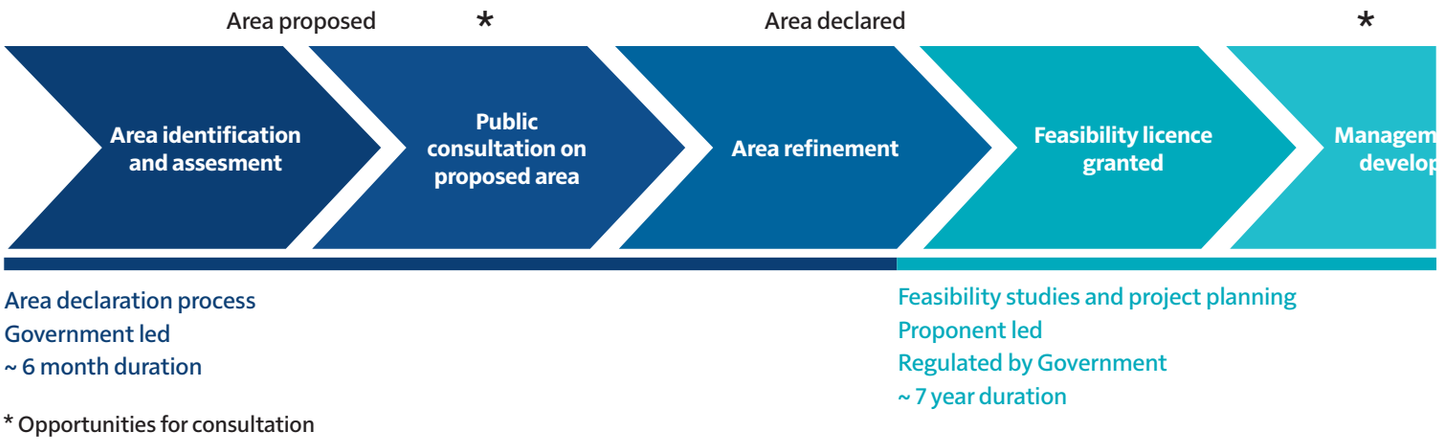
Once the management plan has been approved, the OIR will conduct inspections to verify whether the licence holder is complying with the approved management plan.

Revisions of management plans are required every five years or where there is a change (or proposed change) of circumstances or operations.

Advice for recreational fishers

Recreational fishing is recognised as an important cultural and social activity. Recreational fishing groups are encouraged to share their expertise and knowledge of the marine operating environment through transparent engagement to achieve long-term coexistence.

Indicative timeframe for an offshore renewable energy development



Area declaration process
Government led
~ 6 month duration

Feasibility studies and project planning
Proponent led
Regulated by Government
~ 7 year duration

* Opportunities for consultation

Advice for commercial fishers

Commercial fishers, through peak bodies and representative organisations, are encouraged to publish their expectations for genuine, transparent, effective and meaningful consultation. This will enable licence holders to tailor the timing and their approach to engagement accordingly.

In undertaking offshore infrastructure activities, OEI Act licence holders must not interfere with fishing, navigation, oil and gas, native title rights and interests and other activities permitted under law greater than is necessary to exercise their rights.

Advice for OEI Act licence holders

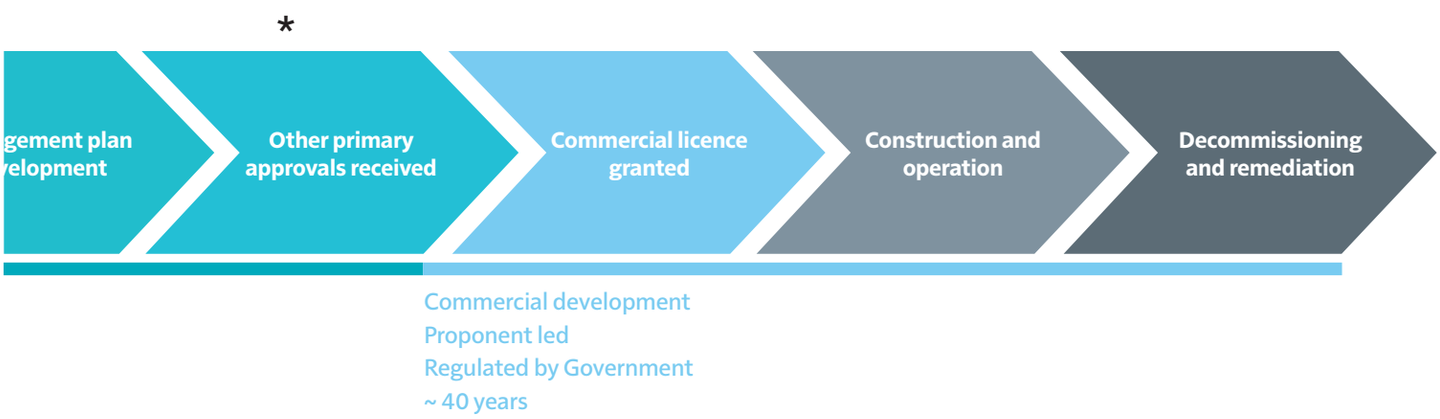
Licence holders should carefully consider their approach to engagement with fisheries and should consider any published expectations of fisheries peak bodies and representative organisations.

Licence holders should recognise the potential for consultation burden and fatigue that may result from direct engagement by multiple licence holders and look for opportunities to streamline and coordinate engagement where possible.

Safety and protection zones and existing rights

The OEI Act framework provides for safety and protection zones to be established in and around offshore renewables projects.

Restrictions may be placed around specific infrastructure to manage the safety of workers and other marine users and to protect infrastructure from damage.



OEI Act licence holders are expected to communicate and discuss plans for proposed safety or protection zones with existing marine users and relevant government agencies, including the Australian Maritime Safety Authority and relevant fisheries management authorities. This consultation must occur prior to submitting a safety or protection zone application to the OIR.

Appropriate justification for the size and shape of a proposed safety or protection zone will need to be provided to the OIR, and licence holders are encouraged to minimise the size of the zone to the extent practicable.

The exact details and duration of safety and protection zones will be determined on a project-by-project basis by the OIR.

Collaboration, cooperation and engagement

Collaboration and cooperation across sectors on issues of common interest will be key to the long-term success and sustainability of offshore industries in Australia.

There is an opportunity for the offshore renewables and fishing sectors to collaborate on developing guiding principles for best-practice consultation, co-existence frameworks, fisheries management, mitigation and arbitration strategies, as well as identifying opportunities for research and biodiversity enhancement through regional forums and working groups.



Fishers may be affected at different stages of a project (e.g. feasibility, planning and design, construction, operations and decommissioning) and may be affected by different types of activities (e.g. marine surveys, vessel transits, vessel anchoring areas).

Licence holders are encouraged to take time to understand fishing industries operating in and near their projects.

In making design decisions, licence holders should consider factors including but not limited to fisheries access, nature inclusive design, search and rescue and risks to the safety of workers and fishing vessel operators.

Information and knowledge exchange through direct engagement across sectors will be key to enabling offshore renewables projects to proceed while minimising conflicts.

Unavoidable impacts should be managed equitably and respectfully, supporting trust and long-term coexistence.

Lessons learned overseas can help inform best-practice approaches in the Australian context.



More information

- Area identification and declaration processes for offshore renewables visit: dcceew.gov.au
- Licensing offshore renewable energy projects visit: offshoreregistrar.gov.au
- Regulating offshore renewable energy projects visit: oir.gov.au
- Environmental approvals under the EPBC Act visit: nationalepa.gov.au

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