



Australian Government
**Department of Industry, Science,
Energy and Resources**

Guideline: Offshore Electricity Infrastructure Licensing Scheme

In relation to the *Offshore Electricity Infrastructure Act 2021*

March 2022

This document has been developed as a general guide only. It is subject to, and does not replace or amend the requirements of, the [Offshore Electricity Infrastructure Act 2021](#) and associated Regulations, which should be read in conjunction with this guideline.

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This document has been prepared by the Australian Government [Department of Industry, Science, Energy and Resources](#). It will be reviewed and updated as required.

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1. Overview

- 1.1 The [Offshore Electricity Infrastructure Act 2021](#) (**the OEI Act**) allow licence holders to undertake offshore infrastructure activities within the Commonwealth offshore area. The Commonwealth offshore area is defined as the waters beyond three nautical miles, to the outer edge of Australia's Exclusive Economic Zone.
- 1.2 The purpose of this guideline is to assist prospective licence holders, and other stakeholders, to understand the requirements, indicative timing and processes for licensing processes under the OEI Act and the [Offshore Electricity Infrastructure Regulations 2022](#) (**the OEI Regulations**).
- 1.3 The OEI Act establishes the Registrar to administer the framework. The Registrar's principal functions will be to administer the licensing scheme, including maintaining a register of licences, managing the licence application process and overseeing licence compliance and administration.
- 1.4 The OEI Act also identifies the National Offshore Petroleum Safety and Environmental Management Authority (**NOPSEMA**) as the Offshore Infrastructure Regulator with responsibility for work health and safety, infrastructure integrity, environmental management, financial security and regulation of day-to-day operations.
- 1.5 Costs associated with the Regulator and Registrar's functions under the framework will be recovered through a combination of fees and levies imposed on regulated entities.

2. Declaration

- 2.1 The Minister will declare areas as suitable for offshore electricity infrastructure activities.
- 2.2 The process for assessing areas to inform the Minister's decision on declaration will be run by the Department of Industry, Science, Energy and Resources (**the Department**). Consideration of areas for declaration will be informed by a public consultation process and need to balance a number of factors including industry interest and readiness, as well suitability of conditions for offshore renewable energy production. The Minister may also consider state government readiness onshore to accept any energy produced, in addition to balancing the needs of other users and environmental values.

3. Invitation to Apply

- 3.1 Once the Minister has declared an area, an invitation to submit a licence application will be issued. Invitations will be published on the Federal Register of Legislation (<https://www.legislation.gov.au/>) and on the Registrar's website.
- 3.2 The invitation to apply may relate to one or more declaration areas.
- 3.3 The invitation to apply may specify conditions that the declaration requires licences granted in the declared area to be subject to and/or limit the type of licences that can be applied for within the declared area.
- 3.4 As the framework is a competitive regime, the invitation to apply may specify other requirements to be addressed by the application including a method and closing date by which applications must be submitted.

4. Licence Applications Submitted to the Registrar

4.1 Submitting a Licence Application

4.1.1 The following licence applications are to be submitted to the Registrar:

Application Type	Overview	Decision-Maker
Grant of Feasibility Licence	A feasibility licence allows the licence holder to undertake scoping activities within the prescribed licence area for a period of up to seven years. Feasibility licence areas cannot overlap and cannot exceed the maximum area specified in the invitation to apply (Chapter 3, Part 1, Division 2 of the OEI Act).	The Minister
Grant of Commercial Licence	Once feasibility work is completed, a feasibility licence holder may apply for the grant of a commercial licence for up to 40 years. There is no guarantee of the grant of a commercial licence to a feasibility licence holder as all legislative and regulatory criteria for grant must be met. A commercial licence authorises the holder to carry out an offshore electricity generation project in the licence area, and to undertake offshore infrastructure activities for the purpose of the project. Commercial licence areas cannot overlap and cannot exceed the area of the feasibility licence (Chapter 3, Part 1, Division 3 of the OEI Act).	The Minister
Grant of Research and Demonstration Licence (R&D Licence)	A R&D Licence allows small-scale projects to undertake research, or to test and demonstrate emerging technologies for up to 10 years. The licence area cannot exceed the declared area. R&D Licence areas can overlap where certain criteria are met. All infrastructure installed under a R&D Licence must be removed by the end of the licence term. There is no ability for a R&D Licence holder to apply for a commercial licence for the R&D project (Chapter 3, Part 1, Division 4 of the OEI Act).	The Minister
Grant of Transmission and Infrastructure Licence (TIL)	A TIL allows the licence holder to construct and operate infrastructure that will store, transmit or convey electricity or a renewable energy product, including within or through a licence area, for the life of the project. The TIL allows electricity generated offshore to connect to onshore grid infrastructure or other end users. Licence areas can overlap but cannot exceed the Commonwealth offshore area (Chapter 3, Part 1, Division 5 of the OEI Act).	The Minister
Extension of a Licence Term	A licence holder may apply for an extension of the licence term where certain criteria are met (sections 37, 47, 56, 65 of the OEI Act).	The Minister
Variation of a Licence	A licence holder may apply for a variation to vary or revoke a licence condition or remove an area where certain criteria are met (sections 38, 48, 57, 66 of the OEI Act).	The Minister
Surrender of a Licence	A licence holder may apply to surrender a licence (section 74 of the OEI Act).	The Minister
Transfer of a Licence	A licence holder may apply for approval to transfer the licence to another eligible person (Chapter 3, Part 2, Division 2 of the OEI Act).	The Minister
Change in Control	A licence holder must apply for approval if there is a change in control of the licence holder (Chapter 3, Part 3 of the OEI Act).	The Registrar

- 4.1.2 Applications must comply with the OEI Act, the regulations and any requirements published in the declaration and invitation to apply, and meet the expectations outlined in this Guideline.
- 4.1.3 Applications must be submitted with a completed approved form for the application, be made in the manner as set out in the approved form and contain or be accompanied by the information required by the approved form. The approved form is on the Registrar's website.
- 4.1.4 Applications are considered on an individual basis and a separate application must be lodged for each licence area and type.
- 4.1.5 The Registrar will not accept or comment on draft applications.
- 4.1.6 Applicants are expected to take into account all relevant matters, such as environmental protection, defence, navigation, competing uses and users of the environment, native title interests, fisheries and access restrictions applying in areas.

4.2 Timing of Application Submission

4.2.1 The following timeframes are recommended for application submissions:

Application	Timeframe
Grant of Feasibility Licence	During the period specified in the invitation to apply.
Grant of Commercial Licence	Before the end day of the feasibility licence.
Grant of R&D Licence	During the period specified in the invitation to apply.
Grant of TIL	At any time.
Extension of Licence	For a commercial licence, 5 years before the end day of the licence; for all other licences, before the end day of the licence.
Variation of Licence	At any time during the licence term; before condition falls due.
Surrender of Licence	Before, on or after the end day of the licence.
Transfer of Licence	At least 12 weeks before the transfer.
Change in Control of Licence	At least 12 weeks before the change in control.

4.3 Application Content

Eligible Person

4.3.1 A person must be an eligible person in order to apply for a licence. An “eligible person” is defined in section 8 of the OEI Act to mean:

- (a) A body corporate that has a registered office (within the meaning of the Corporations Act) in Australia; or
- (b) A body corporate established for a public purpose by or under a law of the Commonwealth or a State or Territory.

4.3.2 A licence application should provide evidence that the applicant is an eligible person.

4.3.3 A licence holder must remain an eligible person while the licence is in force. A licence that is not held by an eligible person may be cancelled under section 73 of the OEI Act.

4.3.4 Under the OEI framework, there is only one holder of a licence (no joint venture licence holders).

Description of the Project

4.3.5 A licence application must describe the proposed offshore infrastructure project for the licence. Applications should include comprehensive details of:

- (a) The type of offshore electricity infrastructure project proposed.
- (b) The total electricity generation and/or transmission capacity in MW or GW; any estimated fluctuations in generation (high-mid-low) and the basis for these estimates (e.g. recorded wind speeds in the location, seasonal variations).
- (c) The estimated infrastructure to be installed offshore (e.g. number of turbines, all interconnectors, all substations) and methods of installation.
- (d) The estimated grid connection infrastructure, whether existing or to be constructed.
- (e) Estimated life span of the project and project scheduling.
- (f) Estimated costs of construction, installation and operation.
- (g) Details of any proximity agreements in place with other users of the environment.

Licence Area

4.3.6 A licence area must not exceed the maximum licence area specified in regulations, the declaration and/or the invitation to apply (if applicable).

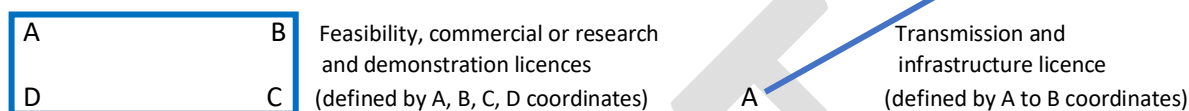
4.3.7 A licence application must detail the proposed licence area, including:

- (a) Coordinates of the proposed licence area in longitude and latitude, demonstrating that the licence area is continuous.

For a feasibility licence, commercial licence or research and demonstration licence, the licence area must comprise **one defined area** (by coordinates).

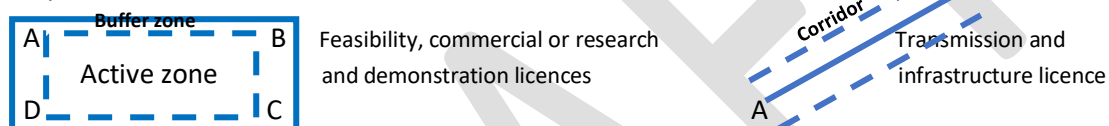
For a transmission and infrastructure licence, the licence area must comprise **one defined area** from a start point to an end point (by coordinates).

Example:



- (b) The total square kilometre size or kilometre length of the proposed licence area, with clear distinction between the active project area and any buffers.

Example:



4.3.8 A licence application must include a detailed map showing the proposed licence area and be accompanied by shape files in ESRI format of the proposed licence area.

Special Note: Feasibility Licences, Commercial Licences and Transmission and Infrastructure Licences

For a feasibility licence or a commercial licence, the licence area must not include any part of the licence area of any other feasibility licence or commercial licence. The buffer zone should ensure that any infrastructure is located **at least 2.5 km** from the edge of the licence area.

For a transmission and infrastructure licence, any easement or “corridor” should not exceed a **maximum of 250 m** on either side of the cable or infrastructure.

Merit Criteria

4.3.9 A licence application should provide detailed information to demonstrate that the merit criteria for the licence can be met:

- (a) The eligible person is likely to have, or be able to arrange to have, the technical and financial capability to carry out the proposed commercial offshore infrastructure project for the licence; and
- (b) The proposed commercial offshore infrastructure project is likely to be viable; and
- (c) The eligible person is suitable to hold the licence; and
- (d) Any criteria prescribed by the licensing scheme are satisfied.

- 4.3.10 In relation to **technical capability**, the applicant should provide details of:
- (a) The technical advice that is or will be available to the applicant by way of employees, consultants or other providers with supporting evidence (such as contracts, guarantees or evidence of current contract negotiations) to demonstrate engagement of the consultant or provider. This includes any technical advice or support provided by a parent company.
 - (b) Descriptions of experience of the applicant in prior and current offshore electricity projects stating type, location, size and status.
- 4.3.11 In relation to **financial capability**, the applicant should provide details to demonstrate that it is likely to have, or be able to arrange to have, the financial capability to carry out the proposed commercial offshore infrastructure project for the licence, including the likelihood of it being able to finance the project on an ongoing basis. Evidence of financial capability or resources may include provision of documentation that is confidential in nature.
- 4.3.12 In relation to **project viability**, the applicant should provide details of:
- (a) The commercial assumptions and cost estimates on which the proposed project is based, including \$/MW installed and MW/km².
 - (b) The estimated commercial return to the project developer.
 - (c) Route-to-market arrangements for supply or distribution of the project's generated or transmitted electricity to onshore, including any agreements or contracts with upstream and/or downstream participants, grid capacity assumptions and grid connection infrastructure requirements, where relevant.

Special Note: Commercial Licences and Transmission and Infrastructure Licences

Commercial licence applications and transmission and infrastructure licence applications should address any onshore infrastructure requirements including any infrastructure required to connect to the grid (whether existing or to be constructed) as well as any offtake agreements for the supply for electricity onshore.

Transmission and infrastructure licence applications should also address any agreements for the supply of offshore electricity into the cable and for the supply/offtake of electricity onshore.

See also **State/Territory and Energy Regulator Requirements** below.

- 4.3.13 In relation to **suitable to hold the licence**, the applicant should provide details of:
- (a) Past performance in offshore electricity infrastructure projects in Australia.
 - (b) Past performance in offshore electricity infrastructure projects overseas.
 - (c) Corporate governance structure.
- 4.3.14 Past performance refers to compliance matters over the past five years in similar operating environments. Past performance may also refer to any health, safety and/or environmental incidents within Australia or internationally. Applicants should provide details of any legal or regulatory actions taken against it or other project-involved parties in the last five years.
- 4.3.15 Corporate governance structure refers to the structure and oversight framework, and may take into account how the applicant has been established including transparency, chain of command and governance responsibilities including identifying if a recognised corporate governance code is observed and the level of implementation.
- 4.3.16 For a commercial licence application only, in relation to **substantially similar** the applicant should clearly outline the similarities and differences between the feasibility licence project and the commercial licence project, and provide reasoning and explanation for any differences to support an assessment under section 42 of the OEI Act of whether the project is substantially similar.

- 4.3.17 In relation to **the national interest**, the applicant should provide details of:
- (a) Impact and contribution of the proposed project to the economy and the community, for example, benefits to the broader economy, job creation, regional development, electricity grid supply, emissions reduction and/or international relations.
 - (b) National security considerations, if any.
 - (c) Co-existence with other uses or users of the marine environment (e.g. Defence) and any mitigation measures that are proposed to mitigate such conflicts e.g. proximity agreements.

4.4 State/Territory and Energy Regulator Requirements

- 4.4.1 There may be additional state/territory requirements for licensing of infrastructure in coastal waters, connection to onshore transmission/distribution infrastructure and participation in electricity markets. Applicants are encouraged to undertake early engagement with relevant state/territory regulators and energy market participants.

Special Note: Feasibility Licences and Commercial Licences

For a feasibility licence application, applicants should include evidence of a **Connection Enquiry** having been made with energy regulators, where relevant.

For a commercial licence application, applicants should include evidence of a **Connection Application** having been made, and either a **Connection Agreement** having been reached, or substantial progress having been made toward reaching a Connection Agreement, with energy regulators, where relevant.

4.5 Receipt and Screening of Licence Application by the Registrar

- 4.5.1 Upon receipt of a licence application, the Registrar will screen the application to check that it meets the application submission requirements in the OEI Act and regulations.
- 4.5.2 For an application to be considered validly made, the Registrar requires:
- (a) The application is accompanied by any legislatively prescribed documents/information and submitted within any prescribed timeframes; and
 - (b) The application meets any requirements in the declaration and invitation to apply; and
 - (c) A correctly executed approved application form is lodged; and
 - (d) The application fee is paid.
- 4.5.3 Once an application is confirmed as meeting the application submission requirements, the Registrar will issue the applicant with a notice of receipt and an application reference number. This will specify the date that the application is taken to have been validly submitted.
- 4.5.4 The Registrar will forward a copy of the validly submitted application to the Minister.
- 4.5.5 If the application does not meet the application submission requirements, the Registrar will inform the applicant by written notice and explain why the application does not meet the requirements. The applicant will be provided **one opportunity to re-submit** the application within the time period stated in the written notice.
- 4.5.6 If the application is not re-submitted within the period specified or the re-submitted application does not meet the application submission requirements, the Registrar will notify the applicant by written notice that the Minister is not required to consider the application and will refund the application fee. In this circumstance, no further assessment of the application will occur.

4.6 Assessment of Licence Application

4.6.1 Applications are assessed by the Registrar and advice is provided to the Minister for decision.

Eligible Person

4.6.2 A person must be an eligible person (section 8 of the OEI Act) in order to apply for a licence.

4.6.3 The Registrar will assess if the applicant is an eligible person and provide advice to the Minister.

Special Note: Commercial Licences

For a commercial licence, the eligible person must hold a feasibility licence and have an approved management plan in order to apply for the commercial licence. There is no guarantee that a commercial licence will be granted to a feasibility licence holder.

Licence Area

4.6.4 The licence area must:

- (a) Be continuous.
- (b) For a feasibility licence or commercial licence, not include any part of the licence area of any other feasibility licence or commercial licence.
- (c) For a feasibility licence, not exceed the maximum area stated in the invitation to apply.
- (d) Be entirely within the Commonwealth offshore area at the time the licence is granted.
- (e) Except for transmission and infrastructure licences, be part of a declared area under a current declaration at the time the licence is granted.

4.6.5 The Registrar will assess whether the licence area meets the legislative criteria and any criteria prescribed in the licensing scheme, and provide advice to the Minister.

Substantially Similar Project

4.6.6 For a commercial licence to be granted, the project must be “**substantially similar**” to the offshore infrastructure project proposed under the feasibility licence (section 42 of the OEI Act). Where it is different, the applicant must explicitly detail the extent and rationale for the proposed changes.

4.6.7 The Registrar will assess whether the project to be carried out under the commercial licence is substantially similar, and provide advice to the Minister.

Merit Criteria

4.6.8 For a licence to be granted to an eligible person, the Minister must be satisfied that the licence application meets merit criteria relating to the capabilities and suitability of the eligible person, the viability of the project to be carried out under the licence and other matters prescribed by the licensing scheme.

For the purposes of the merit criteria:

Likely to have, or be able to arrange to have means there is evidence that the criterion has been met or a substantial likelihood that the criterion can be met.

4.6.9 Licence holders are expected to commence activities within a reasonable time.

4.6.10 The Registrar will assess whether the merit criteria have been met for the licence, and provide advice to the Minister.

4.6.11 The assessment of an application against the merit criteria will reflect the complexity of the project for which a licence is being sought. It may include point-in-time assessments as well as ongoing compliance assessments.

Technical and Financial Capability

- 4.6.12 The Minister must be satisfied that the applicant has the technical and financial capability to carry out the offshore infrastructure project proposed for the licence.
- 4.6.13 For the purposes of satisfying the Minister that an eligible person is likely to have, or be able to arrange to have, the technical and financial capability to carry out the proposed offshore infrastructure project under a licence, the assessment may consider one or more of the following:
- (a) The technical advice that is or will be available to the person;
 - (b) The person's ability to carry out the operations and works that will be authorised by the licence;
 - (c) The person's ability to discharge the obligations in relation to the licence that will be imposed by the Act, the regulations or any other instrument made under the Act;
 - (d) Any other matters the Minister considers relevant.
- 4.6.14 Where an applicant is reliant on another entity to provide technical or financial resources, the assessment that is applied to the applicant will also be applied to that entity. Evidence that the advice or funds are or will be made available to the applicant should be provided.

Project Viability

- 4.6.15 The Minister must be satisfied that the offshore infrastructure project proposed for the licence is likely to be viable.
- 4.6.16 For the purposes of satisfying the Minister that the proposed offshore infrastructure project is likely to be viable, the assessment may consider one or more of the following:
- (a) The complexity of the project.
 - (b) The route-to-market for the project, including arrangements for supply or distribution of the project's generated or transmitted electricity. This may include any agreements or contracts with upstream and/or downstream participants, grid capacity assumptions, and/or grid connection infrastructure.
 - (c) The estimated commercial return to the licence holder.
 - (d) Any other matters the Minister considers relevant.

Suitable to Hold the Licence

- 4.6.17 The Minister must be satisfied that the applicant is suitable to hold the licence for the purposes of the OEI Act.
- 4.6.18 For the purposes of satisfying the Minister that the applicant is suitable to hold the licence, the assessment may consider one or more of the following:
- (a) The person's past performance in offshore electricity infrastructure projects in Australia and/or internationally.
 - (b) The person's corporate governance structure.
 - (c) Any other matters the Minister considers relevant.

- 4.6.19 Past performance of the applicant, parent company where applicable and its directors may be considered during the assessment and decision-making process.
- (a) Past performance refers to compliance matters over the past five years in similar operating environments within Australia or internationally. Applicants should provide details of any legal or regulatory actions taken against it or other project-involved parties in the last five years.
 - (b) An applicant may choose to detail mitigation in relation to these matters within their application. The Registrar or the Minister may request additional information where needed to assist and inform the assessment and/or decision-making processes.
 - (c) The Minister may choose to not offer a licence to an applicant if the applicant's past performance indicates a history of non-compliance with relevant legislation.
 - (d) The Minister may also consider past performance when considering the merits of two or more competing licence applications for wholly or partly the same licence area.
- 4.6.20 Corporate governance structure refers to the structure and oversight of the applicant and may take into account how the applicant has been established including transparency, chain of command and governance responsibilities.

National Interest

- 4.6.21 The Minister must be satisfied that the offshore infrastructure project for the proposed licence is in the national interest.
- 4.6.22 For the purposes of satisfying the Minister that the proposed offshore infrastructure project is in the national interest, the assessment may consider one or more of the following:
- (a) Impact and contribution of the proposed project to the economy and the community, for example, benefits to the broader economy, job creation, regional development, electricity grid supply, emissions reduction and/or international relations.
 - (b) National security.
 - (c) The complexity of the project.
 - (d) Conflicts that may arise with other uses or users of the licence area and any measures that are proposed to mitigate such conflicts.
 - (e) Any other matters the Minister considers relevant.

4.7 Request for Further Information (RFI) from the Registrar

- 4.7.1 For the purposes of advising the Minister in relation to an application, the Registrar may request additional information or clarify any aspect of the application through a request for further information (RFI). The RFI will be made in writing and specify the information that needs to be provided by the applicant and the manner and timeframe for submission of the RFI response.
- 4.7.2 If further information is requested and not submitted within the specified timeframe, the Minister may, by written notice given to the applicant, refuse to consider or take any further action in relation to the application.

4.8 Decision-Making

- 4.8.1 When sufficient information has been provided by the applicant, the Registrar will prepare advice for the Minister and recommend whether a licence should be granted to the applicant. The advice may recommend conditions to be placed on the licence and reasons for the conditions (see **Conditions on a Licence** below).
- 4.8.2 In considering an application for a licence, the Minister must have regard to any information, assessment, analysis, report, advice or recommendation in relation to the application given to the Minister by the Registrar.

- 4.8.3 The Minister will make a decision and advise the Registrar of the decision. The decision may be an intended decision or a final decision.

Special Note: Commercial Licences

When considering whether to grant a commercial licence to the applicant, the Minister may, by written notice, require the applicant to conduct specified kinds of consultation in relation to the application, prepare a revised management plan for the commercial licence and apply to the Regulator for approval of the revised management plan, or do anything else in relation to the application that the Minister thinks fit (section 43 of the OEI Act). The Minister may cease considering whether to grant the commercial licence until the requirement is complied with.

4.9 Overlap of Application Areas

Feasibility Licence

- 4.9.1 If two or more applications for a feasibility licence overlap in whole or in part, and the Minister considers the applications to be of equal merit, the Registrar may, in writing on behalf of the Minister, notify each applicant of the overlap and invite the applicants to revise their applications by the date specified in the notice to remove the overlap. An applicant who revises its application in response to the invitation is not required to pay an additional fee for resubmission of the application.
- 4.9.2 If the application areas still overlap in whole or in part, the Minister may invite financial offers in relation to the applications (refer **Offer to Grant a Licence** section).

Research & Demonstration Licence and Transmission & Infrastructure Licence¹

- 4.9.3 If two or more applications for a licence overlap in whole or in part, the Registrar may, in writing on behalf of the Minister, notify each applicant of the overlap and invite the applicants to revise their applications by the date specified in the notice to remove the overlap. An applicant who revises its application in response to the invitation is not required to pay an additional fee for resubmission of the application.
- 4.9.4 If the application areas still overlap in whole or in part, the Minister may offer to grant a licence over a different licence area to that specified in the application.
- 4.9.5 If an application for a research and demonstration licence covers an area that is covered by an existing licence, the Registrar may invite the holder of the existing licence to make a submission in relation to the grant of the licence.

4.10 Conditions on a Licence

- 4.10.1 Licence holders must comply with the conditions of the licence including:
- (a) Any conditions on the licence as stated in the OEI Act including:
 - i. To pay an amount of offshore electricity infrastructure levy.
 - ii. To comply with any conditions on the declared area that apply to the licence area.
 - iii. To comply with any conditions prescribed by the licensing scheme.
 - iv. That the licence holder, or any other person carrying out activities on behalf of the licence holder, complies with the management plan for the licence.
 - v. To comply with any conditions imposed on the licence in the notice of grant.
 - (b) Any reporting requirements in the OEI Regulations.

¹ Referenced as 'licence' in clause 4.61 – 4.63, does not include Feasibility or Commercial Licences.

4.10.2 The following standard conditions may be placed on the grant of a licence:

- (a) Compliance with the provisions of the OEI Act, regulations and any other instrument made under the OEI Act.
- (b) Compliance with the type of commercial offshore infrastructure project proposed in the licence application.

Example: A condition may be placed on the grant of a feasibility licence requiring the licence holder to assess the feasibility of a 1 GW fixed offshore wind farm project in the licence area. This will enable the Registrar to monitor compliance with the merit criteria; monitor the requirement for the licence holder to commence activities under the licence within a reasonable time; assess the ability of a future transferee to undertake the obligations of the licence; and assess a future commercial licence application to determine whether the proposed offshore infrastructure project is substantially similar. If a licence holder wishes to change the type of commercial offshore infrastructure project in the licence area, a variation of the licence conditions may be required.

- (c) Reporting requirements.

Example: A condition may be placed on the grant of a research and demonstration licence requiring the licence holder to report on results/progress in relation to the research being undertaken and/or the technology, system or process being used in the licence area.

4.10.3 Failure to comply with a condition of the licence is a ground for cancellation of the licence under section 73 of the OEI Act.

4.10.4 Licence holders carrying out activities in the Commonwealth offshore area must not interfere with navigation, the exercise of native title rights and interests (within the meaning of the *Native Title Act 1993*), fishing, conservation of the resources of the sea or the seabed or any other activities being lawfully carried on by another person, to a greater extent than is necessary for the reasonable exercise of the rights and performance of the duties of the licence holder (section 77 of the OEI Act).

4.11 Offer to Grant a Licence

4.11.1 If the Minister decides to grant a licence to an applicant, a written offer to grant will be given to the applicant. This may be given to the applicant by the Registrar on behalf of the Minister.

4.11.2 The written offer will specify the licence area, state the day that the licence would come into force if the offer is accepted, state the end day of the licence, specify the conditions that would apply to the licence and state the manner and time period in which the offer may be accepted.

4.11.3 If the offer is not accepted within the time period specified in the notice, the applicant's application for the licence will lapse.

4.11.4 If the offer is accepted by the applicant in the manner and within the time period specified in the offer, the licence will be granted to the applicant. The notice of grant of the licence may be given to the applicant by the Registrar on behalf of the Minister.

Special Note: Feasibility Licences – Financial Offers

If two or more feasibility licence applications are received for wholly or partly the same area, the Registrar will assess each application against the assessment criteria. If two or more applications are assessed as being of equal merit, and following an invitation to revise the application area the overlap still remains, the Registrar may recommend that the Minister invites each applicant to submit a financial offer in relation to their application. If the Minister so decides, an invitation to make a financial offer will be given to each applicant. The invitation to make a financial offer may be given to the applicant by the Registrar on behalf of the Minister.

The invitation to make a financial offer will specify how the financial offer is to be made and the timeframe for making the financial offer, and require the applicant to substantiate its ability to pay the amount offered. The invitation may include other requirements.

The financial offer should reflect the relative value of the proposed project to the applicant. The highest financial offer may provide the highest merit for this particular criteria, and is designed to differentiate between competing project applications where they are equal in all other merits.

Once the financial offers are received, the Registrar will provide them to the Minister for decision. The Minister will take the offers into account in deciding the applications. In this circumstance, a feasibility licence will only be granted if the amount of the financial offer is paid to the Commonwealth by the timeframe stated in the offer to grant the licence.

If an applicant receives an offer for the grant of a feasibility licence and declines the offer, the Minister may make an offer to the second ranked applicant, where applicable.

4.12 Grant of Licence

4.12.1 The grant instrument will specify the start date and end date of the licence.

4.12.2 The licence comes into force on the date on which is granted, or a later date as specified in the notice of grant (refer sections 33, 42, 52 and 61 of the OEI Act).

4.12.3 A record of the notice of grant must be entered in the Register of Licences.

End Day of a Licence

4.12.4 The end day of a licence will be stated in the notice of grant and may be extended (refer to the **Extension of Licence Term** section).

4.12.5 The end day of a licence is calculated from the date of grant of the licence and includes all calendar days.

4.12.6 A licence must be either surrendered under section 74 of the OEI Act or cancelled under section 73 of the OEI Act to cease to be in force.

4.13 Refusal of Licence Application

4.13.1 The grounds the Minister may take into account for refusing to grant a licence, include, but are not limited to, circumstances where:

- (a) The application does not meet the legislation or the regulations.
- (b) The application does not meet the application requirements.
- (c) The Minister is not satisfied the proposed licence meets the merit criteria, including:
 - i. The Minister is not satisfied that the applicant has, or is likely to have, the technical capability to carry out the offshore infrastructure project for the licence.
 - ii. The Minister is not satisfied that the applicant has, or is likely to have, the financial capability to carry out the offshore infrastructure project for the licence.

- iii. The Minister is not satisfied that the applicant is suitable to hold the licence.
 - iv. The Minister is not satisfied that the project for the licence is likely to be viable.
 - v. The Minister is not satisfied that the project is in the national interest.
- (d) The Minister has refused to consider the application on the grounds that the applicant has:
- i. Failed to re-submit an application within the period specified in a notice to re-submit.
 - ii. Failed to provide additional information within the period specified in a RFI.
 - iii. Failed to comply with a notice given under section 43 of the OEI Act.

4.13.2 Information on procedural fairness and review of decisions is at section 4.106 – 4.109 below.

4.14 Extension of a Licence Term

- 4.14.1 A licence holder may apply under the licensing scheme to extend the term of the licence beyond its end day or the Minister may extend the end day of a licence on the Minister's own initiative. More than one extension may be granted in respect of a particular licence.
- 4.14.2 An application to extend the licence term by the licence holder must be made in the approved manner and form and be accompanied by the information required by the approved form and evidence of payment of the relevant fee.
- 4.14.3 The following should be considered:
- (a) Feasibility licence: An extension must not result in the end day of a feasibility licence being later than the day after the end of 7 years after the extension is made. An extension must not apply to any part of a licence area that is not a declared area at the time the extension is granted (section 37 of the OEI Act).
 - (b) Commercial licence: An application for an extension of the end day of a commercial licence **must be made at least 5 years** before the end day of the licence. An extension must not result in the end day of a commercial licence being later than the day after the end of 40 years after the extension is made. An extension must not apply to any part of a licence area that is not a declared area at the time the extension is granted (section 47 of the OEI Act).
 - (c) Research and demonstration licence: An extension must not result in the end day of a research and demonstration licence being later than the day after the end of 10 years after the extension is made. An extension must not apply to any part of a licence area that is not a declared area at the time the extension is granted (section 56 of the OEI Act).
 - (d) Transmission and infrastructure licence: The end day of a transmission and infrastructure licence may be extended as the Minister so decides. An extension of the end day of a transmission and infrastructure licence applies only to the licence area that is within the Commonwealth offshore area the time the extension is granted.
- 4.14.4 If the Minister extends the end day of a licence, the licence holder will be given written notice of the extension. The notice may be given to the licence holder by the Registrar on behalf of the Minister.
- 4.14.5 An extension of the end day may be in respect of the whole licence area or part of the licence area provided the part is continuous.
- 4.14.6 An extension of the end day does not affect the date for payment of annual levies and does not change the reporting date for annual licence reports.

4.15 Variation of a Licence

- 4.15.1 A licence holder may apply to vary a licence or the Minister may vary a licence on the Minister's own initiative.
- 4.15.2 A variation application must be made in the approved manner and form and be accompanied by the information required by the approved form and evidence of payment of the application fee.
- 4.15.3 The licence may be varied to:
- (a) Impose a condition on the licence; or
 - (b) Vary or revoke a condition on the licence; or
 - (c) Remove one or more areas from the licence area if:
 - i. The licence holder has not carried out any offshore infrastructure activities in the area; and
 - ii. The Minister is satisfied that the licence holder does not intend to carry out any offshore infrastructure activities in the area under the licence; and
 - iii. (Excluding transmission and infrastructure licences), the removal does not result in the remaining licence area being non-continuous.
- 4.15.4 Where a variation is made on the Minister's own initiative, it may be done where the Minister:
- (a) At the same time, extends the end day of a licence as a result of an application by the licence holder ("*variation + extension*"); or
 - (b) At the same time, decides to transfer the licence ("*variation + transfer*"); or
 - (c) At the same time, makes another variation as a result of an application by the licence holder ("*variation*"); or
 - (d) The Minister becomes aware that there has been a change in control of the licence holder and the variation is made by the Minister in connection with an approval of that change in control by the Registrar ("*variation + change in control*").
- 4.15.5 If the Minister varies a licence, the licence holder will be given written notice of the variation. The notice may be given to the licence holder by the Registrar on behalf of the Minister.
- 4.15.6 A variation of a licence does not affect the date for payment of annual levies and does not change the reporting date for annual licence reports.

4.16 Surrender of a Licence

- 4.16.1 A licence holder may apply at any time for consent to surrender the licence under section 74 of the OEI Act. A licence continues in force until it is surrendered or cancelled.
- 4.16.2 A licence holder is required to decommission all infrastructure in the licence area before applying to surrender the licence.
- 4.16.3 A consent to surrender application must be made in the approved manner and form and be accompanied by the information required by the approved form and evidence of payment of the relevant fee. The information required will include the surrender area and the reasons for the surrender as well as other requirements (section 74 of the OEI Act).
- 4.16.4 The application will be assessed by the Registrar and advice will be provided to the Minister for decision. If the Minister gives consent to the surrender, the licence holder may, by written notice provided to the Registrar, surrender the licence in respect of the surrender area.
- 4.16.5 A surrender takes effect on the day a notice of surrender is published on the Federal Register of Legislation. A copy of the notice of surrender will be placed on the Register of Licences.
- (a) If the surrender relates to the whole of the licence area, the licence ceases to be in force on the date of publication of the notice of surrender.

- (b) If the surrender relates to part of the licence area, that part ceases to be part of the licence area on the date of publication of the notice of surrender.
- 4.16.6 If the licence holder has submitted a consent to surrender application before the end of the levy year, and the licence is wholly or partly surrendered after entering the next levy year, the licence holder may be eligible for a refund.
- (a) If the whole licence area is surrendered, the entire amount of the new levy amount will be refunded.
 - (b) If part of the licence area is surrendered, a pro rata refund will be made, if applicable.
 - (c) It is the Registrar's policy to process refunds after the surrender has been published in the Federal Register of Legislation.
 - (d) In other instances when a licence is surrendered within a levy year and no additional levy has been imposed, the licence holder is not eligible for a refund.
- 4.16.7 Surrender applicants may choose to submit the final licence report in support of the surrender application. If the final licence report is not submitted with the surrender application, the final licence report is still required to be given to the Registrar within 30 days after the end of the licence term and must relate to the activities of the licence holder during the period that begins on the most recent anniversary date of the licence and ends at the end of the licence term.

4.17 Cancellation of a Licence

- 4.17.1 Licence holders are expected to ensure all obligations under the OEI Act, the OEI Levies Act, the associated regulations, any directions and all licence conditions are met at all times.
- 4.17.2 A licence may be cancelled under section 73 of the OEI Act if any of the grounds for cancellation arise. These include:
- (a) The licence holder fails to comply with a condition of the licence.
 - (b) The licence holder has contravened a provision of the OEI Act or the applied WHS provisions.
 - (c) The licence does not meet the merit criteria.
 - (d) The licence holder has failed to commence activities under the licence within a reasonable time.
 - (e) The licence holder is not an eligible person.
 - (f) A person has contravened the change in control provisions in relation to the licence.
- 4.17.3 For the purposes of the cancellation provisions, a "reasonable time" will be assessed on a case-by-case basis and may consider the size and scale of the project.
- 4.17.4 The Registrar will undertake ongoing compliance activities to monitor a licence holder's compliance with the licence obligations. In particular, licence holders should be aware of the importance of maintaining compliance with the merit criteria and the eligible person criteria while the licence is in force.
- 4.17.5 If a ground for cancellation arises, the Registrar will advise the Minister of the circumstances. Before the Minister decides to cancel a licence, the licence holder will be given a written notice of intention to cancel the licence. The notice may be given to the licence holder by the Registrar on behalf of the Minister.
- 4.17.6 The notice of intention to cancel will set out the ground/s for cancelling the licence, invite the licence holder to make a written submission about the proposed decision to cancel and specify a manner and timeframe for making the submission. Licence holders will be given at least 30 days to make the written submission. The Minister may give a copy of the notice to such other persons (if any) as the Minister thinks fit.

- 4.17.7 In deciding whether to cancel a licence, the Minister must take into account:
- (a) Any submissions made by the licence holder or persons who have been given a copy of the notice of intention to cancel.
 - (b) Any action taken by the licence holder to address the circumstances that give rise to the ground/s for cancelling the licence, or prevent the recurrence of similar circumstances.
- 4.17.8 The licence holder will be notified in writing if the Minister decides to cancel the licence.
- 4.17.9 A cancellation takes effect on the day a notice of cancellation is published on the Federal Register of Legislation. A copy of the notice of cancellation will be placed on the Register of Licences. The licence ceases to be in force from the date of the notice of cancellation.

4.18 Procedural Fairness

- 4.18.1 Regulation [insert number when finalised] of the OEI Regulations provides that procedural fairness may apply to certain applications where a decision-maker proposes to make a decision to refuse an application:
- (a) A decision by the Minister not to offer to grant a licence (other than a feasibility licence); or
 - (b) A decision by the Minister not to extend the end day of a licence; or
 - (c) A decision by the Minister not to vary a licence; or
 - (d) A decision by the Minister not to transfer a licence; or
 - (e) A decision by the Minister not to consent to the surrender of a licence; or
 - (f) A decision by the Registrar not to approve a change in control of a licence holder.
- 4.18.2 The decision-maker will give the applicant written notice of the proposed decision. The written notice will set out the decision-maker's reasons for the proposed decision, and invite the applicant to make a written submission about the proposed decision in a specified manner and timeframe. Any submission must be given to the Registrar and must be taken into account by the decision-maker in deciding whether to make the proposed decision.
- 4.18.3 If the decision-maker decides to refuse the application, the decision-maker will give the applicant written notice of the decision and reasons for the decision. If the decision-maker is the Minister, the notice may be given to the applicant by the Registrar on behalf of the Minister.

4.19 Review of Decisions

- 4.19.1 A decision by the Minister under sections 42, 52 and 61 of the OEI Act may be subject to an application for review made to the Administrative Appeals Tribunal (section 297 refers).

5. The Register of Licences

- 5.1 The Registrar is responsible for keeping the Register of Offshore Infrastructure Licences (**the Register**). The Register is available for public inspection on the internet.
- 5.2 The Registrar must enter a record in the Register for each licence granted under the OEI Act which includes details for the licence as set out in section 163 of the OEI Act. This includes:
 - (a) The licence holder's name and ACN or ARBN within the meaning of the Corporations Act.
 - (b) The type of licence and details of the licence area (including a map).
 - (c) The date of grant of the licence and the date the licence comes into force.
 - (d) The end day of the licence.
 - (e) The conditions that apply to the licence.
 - (f) Any other matters that the Registrar thinks appropriate or as prescribed by the regulations.
- 5.3 The Registrar must include a record of the following events in the record for a licence:
 - (a) A variation of a licence or the extension of the end day of a licence.
 - (b) The transfer of a licence.
 - (c) A requirement for an applicant for a commercial licence to consult or undertake other activities under section 43 of the OEI Act.
 - (d) A change in the name of the licence holder.
 - (e) An approval of a change in control of a licence holder.
 - (f) The licence reaches its end day.
 - (g) The licence is surrendered in whole or in part.
 - (h) The licence is cancelled.
- 5.4 A record for a licence will remain on the Register even if the licence has been surrendered or cancelled or has otherwise ceased.
- 5.5 The Register, or a certified extract or copy, is to be received in all courts and proceedings as *prima facie* evidence of all matters required or authorised by the OEI Act to be entered in the Register.
- 5.6 The Registrar may alter the Register for the purposes of correcting a clerical error or an obvious defect in the Register.

6. Notification Requirements

- 6.1 A licence holder is required to provide the Registrar with up-to-date, accurate contact information for notification purposes.
- 6.2 If a change in contact details occurs, a licence holder must give the Registrar written notice, via the approved form, of the change **before the end of 30 days** after the change occurs. This includes a change in any of the following:
 - (a) The licence holder's name or ACN/ARBN within the meaning of the Corporations Act;
 - (b) The address of the registered office of the licence holder within the meaning of the Corporations Act;
 - (c) The licence holder's telephone number or email address.
- 6.3 Failure to meet the notification requirements of section 168 of the OEI Act is an offence of strict liability and the person is liable to a civil penalty.

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7. Ongoing Compliance Obligations

- 7.1 Licence holders are expected to ensure all obligations under the OEI Act, the *Offshore Electricity Infrastructure (Regulatory Levies) Act 2021*, associated regulations, any directions and all licence conditions are met at all times.
- 7.2 The Registrar and Regulator will undertake ongoing compliance activities to monitor a licence holder's compliance with the licence obligations.
- 7.3 For the Registrar this may be done through reviews of annual reports, requests for information, monitoring of licence holder activities and/or communications with the licence holder.

Licence Conditions

- 7.4 A licence may be cancelled if any of the grounds for cancellation arise. These include a failure to comply with a condition of the licence.

Eligible Person

- 7.5 A licence may be cancelled if any of the grounds for cancellation arise. These include if the licence holder is not an eligible person at any time while the licence is in force.
- 7.6 It is the responsibility of the licence holder to notify the Registrar if there are changes in circumstances that relate to the licence holder being an eligible person.

Merit Criteria

- 7.7 A licence may be cancelled if any of the grounds for cancellation arise. These include if the licence does not meet the merit criteria at any time while the licence is in force.
- 7.8 It is the responsibility of the licence holder to inform the Registrar in writing if there are changes in circumstances that relate to the ongoing ability of the licence holder to meet the merit criteria.

Annual Reporting

- 7.9 A written annual licence report must be submitted for each licence **30 days** after the anniversary date of the licence. The anniversary date for a licence is the date on which the licence was originally granted.
- 7.10 An annual licence report must cover the activities of the licence holder during the **12-month period** immediately before the anniversary. A final report is also required (refer **Surrender** above).
- 7.11 An annual licence report is to be submitted electronically to offshoreelectricity@nopta.gov.au.
- 7.12 An annual licence report must contain the information required by the OEI Regulations. A licence holder may include other information that it considers relevant.
- 7.13 An annual report may be made publicly available by the Registrar.
- 7.14 In certain circumstances, an extension may be given. An extension request may be submitted to offshoreelectricity@nopta.gov.au prior to the due date.

8. Transfer of Licence Applications

- 8.1 An application for a transfer of a licence must be submitted to the Registrar using the approved form on the Registrar's website. The application may be submitted by either the transferor (the licence holder) or the transferee but may only be made with the agreement of both parties.
- 8.2 Upon receipt of a transfer application, the Registrar will screen the application to check that it meets the application submission requirements. For an application to be considered validly made, the Registrar requires:
- (a) The application to be accompanied by any legislatively prescribed documents/information and submitted within any prescribed timeframes; and
 - (b) A correctly executed approved application form to be lodged; and
 - (c) The application fee to be paid.
- 8.3 Once an application is confirmed as meeting the application submission requirements, the Registrar will issue the applicant with a notice of receipt and an application reference number. This will specify the date that the application is taken to have been validly made.
- 8.4 The Minister is the decision-maker on transfer of licence applications under the OEI Act. In relation to an application, the Minister may decide to transfer a licence or refuse to transfer a licence under section 70 of the OEI Act.
- (a) The Registrar will assess the application and make a recommendation to the Minister. The assessment will consider the criteria in section 70 of the OEI Act:
 - i. The Minister is satisfied that the licence would meet the merit criteria if it were held by the transferee; and
 - ii. The Minister is satisfied that the transferee will be able to comply with sections 117 and 118 (financial security), subject to section 72, in relation to the licence; and
 - iii. Any other requirements prescribed by the licensing scheme are satisfied.
 - (b) The Minister will make a decision to transfer the licence or refuse to transfer the licence. Written notice of the decision will be given to the transferor and the transferee. The written notice may be given to the transferor and the transferee by the Registrar on behalf of the Minister.
- 8.5 In making the decision the Minister may consult with the Registrar, Regulator or any other person.
- 8.6 The transfer of a licence takes effect on the date specified in the written notice. A copy of the notice of transfer will be placed on the Register of Licences.
- 8.7 Licence holders are reminded of the notification requirements in section 168 of the OEI Act.
- 8.8 The transfer of a licence does not affect the end day of the licence and does not affect any conditions that apply to the licence (section 71 of the OEI Act).

9. Change in Control Applications

- 9.1 A person who begins to control, or ceases to control, a licence holder may commit an offence or contravene a civil penalty provision if the change in control has not been approved by the Registrar.
- 9.2 These provisions enable the Registrar to oversee transactions proposing to effect a change in control of a licence holder, in order to ensure that the licence holder's ability to comply with its obligations under the OEI Act will not be adversely impacted.
- 9.3 Licence holders are encouraged to engage with the Registrar well before a change in control transaction is anticipated but once sufficient information about the transaction can be shared so as to ensure the engagement is effective.
- 9.4 An application should address any change in control transactions that are anticipated to occur within nine (9) months from the anticipated date of approval. Nine months represents a reasonable cut-off point for the approval to be of effect to ensure that information provided with the application for approval of the change in control remains current, while providing the parties to the transaction flexibility in obtaining any other regulatory approvals. Transactions outside of this timeframe will require a separate application.
- 9.5 Licence holders should note that approval of a management plan by the Regulator that outlines a future change in control **does not imply** that the future change in control application will be approved by the Registrar.
- 9.6 An application for approval of a change in control is to be submitted to the Registrar using the approved form on the Registrar's website. The application may be submitted by a person who proposes to begin to control a licence holder or by a person who proposes to cease to control a licence holder.
- 9.7 Upon receipt of a change in control application, the Registrar will screen the application to check that it meets the application submission requirements. For an application to be considered validly made, the Registrar requires:
 - (a) The application to be accompanied by any legislatively prescribed documents/information and submitted within any prescribed timeframes; and
 - (b) A correctly executed approved application form to be lodged; and
 - (c) The application fee to be paid.
- 9.8 Once an application is confirmed as meeting the application submission requirements, the Registrar will issue the applicant with a notice of receipt and an application reference number. This will specify the date that the application is taken to have been validly made.
- 9.9 The Registrar is the decision-maker on change in control applications under the OEI Act. The Registrar can either approve or refuse to approve a change in control application.
- 9.10 The Registrar may obtain information, documents or evidence in relation to a change in control of a licence holder, or a possible change in control, in certain circumstances.
- 9.11 The Registrar may consult with the Regulator or the Minister before deciding whether to approve or refuse to approve a change in control application.

- 9.12 In deciding whether to approve or refuse to approve the change in control application, the Registrar must have regard to whether the licence would, if the change in control occurred, meet the merit criteria.
- (a) The Registrar must also have regard to any matters prescribed by the licensing scheme.
 - (b) The Registrar may have regard to any matters raised in any consultations with the Regulator or the Minister, any matters prescribed by the licensing scheme and any other matters the Registrar considers relevant.
- 9.13 If the Registrar decides to approve the change in control application, the Registrar must give the applicant written notice of the approval and, if applicable, return the original instrument to the applicant.

The approval will be given for the approval period as set out in section 85 of the OEI Act, which starts on the day the notice of approval is given and ends at the earliest of the following:

- i. Immediately after the change in control takes effect;
 - ii. If the approval is revoked, when written notice of revocation is given;
 - iii. Nine (9) months after the date the notice of approval is given.
- 9.14 The person must notify the Registrar once the change in control takes effect. This notice must be in writing and provided as soon as practicable but **no later than 10 days** after the end of the approval period.
- 9.15 The change in control will be entered in the Register in the record for the licence, including the date of the change in control application, the date of the decision and the date the change in control takes effect.
- 9.16 A person contravenes section 95 of the OEI Act if the change in control takes effect after the approval period for the change in control. Contravention of this section is a ground for cancellation of the licence.
- (a) A person is liable to a civil penalty if the person contravenes subsection 95(1) of the OEI Act unless the Registrar is satisfied that the person did not know, and could not reasonably be expected to have known, that the person has begun to control, or ceased to control, the licence holder.
- 9.17 If the Registrar decided to refuse the change in control application, the Registrar must give the applicant written notice of the refusal.

Meaning of Change in Control

- 9.18 As set out in section 84 of the OEI Act, a person *controls* a licence holder if the person (whether alone or together with one or more persons the person acts jointly with):
- (a) Holds the power to exercise, or control the exercise of, 20% or more of the voting rights in the licence holder; or
 - (b) Holds, or holds an interest in, 20% or more of the issued securities in the licence holder.
- 9.19 A person *acts jointly with* another person if the person acts or is accustomed to acting in agreement with, or in accordance with the wishes of, the other person (section 84 of the OEI Act).
- 9.20 As set out in section 84 of the OEI Act, there is a *change in control* of a licence holder if:
- (a) One or more persons (an original controller) control the licence holder at a particular time; and
 - (b) Either (i) one or more other persons begin to control the licence holder (whether alone or together with one or more other persons the person acts jointly with) after that time; or (ii) an original controller (whether alone or together with one or more other persons the person acts jointly with) ceases to control the licence holder after that time.

9.21 The percentage for change in control applications may be altered through amendment to the OEI regulations.

Change in Circumstances During Assessment or Approval Period

9.22 If an application is made for approval of a change in control, and there is a change in circumstances of the person either before the Registrar makes a decision on the application or during the approval period for the change in control, the person must notify the Registrar in writing as soon as practicable after the change in circumstances occurs.

9.23 A *change in circumstances* includes any change in relation to the person that materially affects any of the matters the Registrar must consider under subsection 87(4) of the OEI Act, including whether the licence would, if the change in control occurred, meet the merit criteria.

(a) The Registrar may have regard to any matters raised in any consultations with the Regulator or the Minister, any matters prescribed by the licensing scheme and any other matters the Registrar considers relevant.

9.24 Contravention of section 91 of the OEI Act is a ground for cancellation of a licence and the person is liable to a civil penalty.

Revocation of Approval by the Registrar

9.25 The Registrar may, by written notice, revoke an approval of a change in control of a licence holder in the approval period for the change in control if:

(a) There is a change in the circumstances of a person who is approved to begin to control the licence holder; or cease to control the licence holder; and

(b) The Registrar considers it appropriate to revoke the approval.

Failure to Seek Approval of Change in Control

9.26 If a change in control takes effect after the approval period for the change in control has ended or if the Registrar has not approved the change in control, a person should notify the Registrar of the change in control within 30 days of the change taking effect

9.27 Contravention of subsection 96(1) of the OEI Act is a ground for cancellation of the licence.

9.28 A person is liable to a civil penalty if the person contravenes subsection 96(1) of the OEI Act unless the Registrar is satisfied that the person did not know, and could not reasonably be expected to have known, that the person has begun to control, or ceased to control, the licence holder.