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# Offshore exploration and production, policy and the Offshore Petroleum Act: Whither now?

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# **Offshore Exploration and Production, Policy and the Offshore Petroleum Act – Whither Now?**

**Tina Hunter**<sup>1</sup>

## **INTRODUCTION**

This paper is a response to the recent changes to the Offshore Petroleum Law in Australia. It will focus on previous offshore legislation, the current offshore petroleum legislation, and policy changes associated with the new offshore legislation. Specifically, it will consider a brief history of commonwealth offshore petroleum legislation and associated policy, and the *Offshore Petroleum Act 2006* (Cth) itself. Most importantly, it will focus on likely future offshore petroleum policy changes identified by government and industry, and the impact on the upstream petroleum industry. Other possible sources of policy change will be considered, including the impact of Hubbert's 'Peak Oil' theory.

## **AUSTRALIAN POLICY RELATING TO THE UPSTREAM PETROLEUM INDUSTRY**

In 1999 the Commonwealth Government reassessed and reiterated the policy objectives of the petroleum industry, creating a legislative and policy framework in the Australian petroleum industry to:

- Offer high levels of certainty to all stakeholders, especially existing and potential investors;
- Provide a highly competitive operating environment;
- Support the industries' efforts to achieve wealth generation;
- Implement principles of ecologically sustainable development whilst encouraging world best practice in environmental health and safety management; and

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- Allow the industry to respond to international challenges, as well as capitalize on international trade and investment opportunities.<sup>2</sup>

To enable the Australian Government to implement the revised policy objectives, the Australian government outlined and implemented the 1999 *Offshore Petroleum Strategy* which provides:

- A new Offshore Exploration Acreage Release program;
- Improved access to low cost geological and geophysical data for explorers;
- Enhanced regional geophysical program;
- Progressive reform of the regulatory framework for petroleum exploration and development in offshore areas; and
- Support for other policies that enhance Australia's competitiveness in attracting scarce investments through taxation and investment policies.<sup>3</sup>

As a consequence of the new policy framework, the Australian government considers it has the ability to provide investors with the following:

- Extensive opportunities to explore in prospective basins;
- Transparent, predictable and practical petroleum regulatory requirements covering all stages of the operations;
- A program of continuous review and improvement of regulatory requirements to keep them current and appropriate;
- An internationally competitive profit-related tax system which recognises the risks of exploration;
- Access to a large, high-quality database at low cost;
- Government facilitation of investment, including fast-tracking of approvals processes for major projects;

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<sup>2</sup> Department of Industry, Science and Resources, *Australian Offshore Petroleum Strategy: A Strategy to Promote Petroleum Exploration and Development in Australian Offshore Areas* (1999), 1

<sup>3</sup> Department of Industry, Science and Resources, *Australian Offshore Petroleum Strategy: A Strategy to Promote Petroleum Exploration and Development in Australian Offshore Areas* (1999), 2

- Freedom for companies to sell their production everywhere and anywhere in the world at market prices;
- Efficient, ethical and helpful public servants with a strong service-oriented culture and petroleum expertise;
- Welcoming attitude toward foreign investment, with no mandatory local equity requirements;
- Excellent physical infrastructure and sophisticated technical and services support;
- Good record of industrial harmony; and
- Close proximity to growing Asian markets and economies.<sup>4</sup>

## **HISTORY OF THE UPSTREAM REGULATORY REGIME**

### **Early Offshore Petroleum Legislation**

Offshore petroleum regulation commenced in 1967 with the *Petroleum (Submerged Lands) Act 1967* (Cth) (know as *PSLA*). The *PSLA* and associated Acts (since 1980) have provided the legal framework for offshore petroleum exploration, development and production activity in Australian territorial waters.

As consequence of the division of constitutional power between the states and the Commonwealth at Federation, there has been continued conflict between the states and the Commonwealth regarding power to legislate for the regulation of the upstream petroleum industry.

The primary constitutional power that the Commonwealth draws upon to regulate the offshore matters has traditionally been section 51(x) of the Commonwealth Constitution, giving the Commonwealth Parliament power to legislate for ‘fisheries in Australian limits.’<sup>5</sup> The High Court of Australia held in

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<sup>4</sup> Department of Industry, Science and Resources, *Australian Offshore Petroleum Strategy: A Strategy to Promote Petroleum Exploration and Development in Australian Offshore Areas* (1999), 4.

<sup>5</sup> s51(x) of the Commonwealth Constitution.

*Bonsor v La Maccia*<sup>6</sup> that the Commonwealth had no power to legislate with respect to fisheries within three nautical miles of the coast of a state.<sup>7</sup>

Prime Minister Gorton's attempt to assert Commonwealth hegemony over all offshore resources led to his loss of the Prime Ministership in the party room, for his alleged 'sin of centralism'.<sup>8</sup> However, in 1973, under Prime Minister Whitlam, the *Sea and Submerged Lands Act*<sup>9</sup> was passed through the parliament, asserting the Commonwealth's sovereignty and sovereign rights over the Australian territorial sea and continental shelf respectively.<sup>10</sup> The constitutional validity of this legislation was immediately challenged in the High Court of Australia, with the states contending that they held rights in the territorial waters (that is from territorial baseline to three nautical miles, the same as those rights for fishing held in *Bonsor v La Maccia*).

Inconsistencies and friction with State interests occurred after the assent of the *Sea and Submerged Lands Act 1973* (Cth) (SSLA). This Act provided that the sovereign rights of Australia in respect to natural resources on the continental shelf were vested in the Commonwealth. As a consequence of this new commonwealth Act, the States were denied any property rights in the sea, sea bed and subsea terrain of the territorial waters. Essentially their territory ended at the end of the low-water mark.<sup>11</sup>

The decision by the High Court in *NSW v Commonwealth*<sup>12</sup> was an outstanding victory for the Commonwealth – all seven judges held that sovereign rights in relation to the continental shelf outside the territorial waters were vested in the Commonwealth. Furthermore, with the exception of Gibbs and Stephen JJ in dissent, the judges also concurred that the sovereignty in the territorial waters was vested in the commonwealth.

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<sup>6</sup> *Bonsor v La Maccia* (1969) 122 CLR 177.

<sup>7</sup> Ibid.

<sup>8</sup> Pat Brazil, *Offshore Constitutional Settlement 1980: A Case Study in Federalism* (2001) Centre for International and Public Law, Faculty of Law, Australian National University, 1.

<sup>9</sup> *Sea and Submerged Lands Act 1973* (Cth)

<sup>10</sup> Brazil above n 8, 2.

<sup>11</sup> Brazil, *ibid.*

<sup>12</sup> *NSW v Commonwealth (Sea and Submerged Lands Case)* (1975) 8 ALR 1.

This decision had a major impact on the States control of and income from the fledgling offshore Petroleum Industry. The stakes were enormous for both parties, since sovereign rights equalled power, control and sustained income for the victor.

Lengthy and intense negotiations occurred between the States and the Commonwealth, resulting in the *Offshore Constitutional Settlement* in 1979. Whilst there is no single document that reflects this *Offshore Constitutional Settlement*, the terms of the settlement are found in the existing legislation (both federal and state).<sup>13</sup> Essentially, Legislation was enacted at both State and Federal Level, ('mirror legislation'), represented in the corresponding Commonwealth and State *Petroleum (Submerged Lands) Act*<sup>14</sup>

After the *Offshore Constitutional Settlement*, a number of other Commonwealth Acts were enacted to facilitate the agreement:

- *Coastal Waters (State Powers) Act 1980*: allowed the states to make certain laws that would operate offshore in the States' agreed territory; This was enacted following a request from all of the Parliaments of all of the States under s51(xxxviii) of the Constitution of the Commonwealth. It provided that the legislative powers exercisable under the Constitution of each of the states extended to the making of certain laws that would operate offshore.<sup>15</sup>
- *Coastal Waters(Northern Territory Powers) Act 1980*: making similar provisions as the *Coastal waters (State Powers) Act 1980* for the Northern Territory;
- *Coastal Waters (State Title) Act 1980*: vesting in each State certain property rights in the sea bed beneath the coastal waters of the State;

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<sup>13</sup> Brazil above n 8, 2.

<sup>14</sup> *Petroleum (Submerged Lands) Act 1982 (Qld)*; *Petroleum (Submerged Lands) Act 1982 (Vic)*; *Petroleum (Submerged Lands) Act 1982 (NSW)*; *Petroleum (Submerged Lands) Act 1982 (WA)*; *Petroleum (Submerged Lands) Act 1982 (SA)*; *Petroleum (Submerged Lands) Act 1982 (NT)*; *Petroleum (Submerged Lands) Act 1982 (Tas)*

<sup>15</sup> *Offshore Petroleum Act (2006) (Cth)*, s4.

- *Coastal Waters (Northern Territory Title) Act 1980*: making similar provisions to the *Coastal Waters (State Title) Act 1980* for the Northern Territory:
- *Offshore Minerals Act 1984*: makes provision, based on the *Offshore Constitutional Settlement* for the licencing regime that applies to the exploration for, and recovery of, minerals (other than petroleum) in offshore areas.<sup>16</sup>

As a consequence of the complex constitutional issues surrounding offshore petroleum regulation, and the myriad of legislation that accompanies it, there are four offshore jurisdictions for the purpose of petroleum exploration and production. This range of maritime zones was primarily established under the *Seas and Submerged Lands Act*, and is succinctly defined by the Department of Industry,<sup>17</sup> and section 4 of the *OPA*, which will be used here to define these zones.

Section 4 of the *OPA* defines the offshore territories as agreed to by the states and Commonwealth in the *Offshore Constitutional Agreement*, which remain in force today:

- a. Commonwealth offshore petroleum legislation is limited to the area outside the coastal waters of the States and the Northern Territory;<sup>18</sup> and
- b. For this purpose, the outer limits of the State and Northern Territory coastal waters should start 3nm from the baseline of the territorial sea;<sup>19</sup> and
- c. The States and the Northern Territory should share, in the manner provided by the *OPA*, in the administration of the Commonwealth offshore petroleum legislation;<sup>20</sup> and

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<sup>16</sup> *Offshore Petroleum Act 2006* (Cth), s4.

<sup>17</sup> *Australia's Offshore Jurisdiction: Explanation of Terminology in Relation to Petroleum Exploration and Development* (2006)  
<<http://www.industry.gov.au/content/itrinternet/cmscontent.cfm?objectID=DFF8F23A-F386-4DA6-2C66BFEFCE01BBC>> at 12 April 2006.

<sup>18</sup> *Offshore Petroleum Act 2006* (Cth), s4(2)a

<sup>19</sup> *Offshore Petroleum Act 2006* (Cth), s4(2)b

- d. State and Northern Territory offshore petroleum legislation should apply to State and Northern Territory coastal waters;<sup>21</sup> and
- e. The Commonwealth, States and the Northern Territory should try to maintain, as far as practicable, common principles, rules and practices in regulating and controlling the exploration for, & exploitation of offshore petroleum beyond the baseline of Australia's territorial seas.<sup>22</sup>

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These territorial zones are noted in section 4 of the *OPA*, and reproduced in map form below in figure 1:



**Figure 1: Use of Maps for Australian Offshore Territorial Zones (*Offshore Petroleum Act 2006 (Cth)*, s4)**

<sup>20</sup> *Offshore Petroleum Act 2006 (Cth)*, s4(2)c

<sup>21</sup> *Offshore Petroleum Act 2006 (Cth)*, s4(2)d

<sup>22</sup> *Offshore Petroleum Act 2006 (Cth)*, s4(2)e.

<sup>23</sup> *Offshore Petroleum Act 2006 (Cth)*, s4

There are exceptions to this ownership of offshore natural resources:

- Australia's 'overlapping jurisdiction' with Indonesia, Papua New Guinea, and East Timor;
- Australia entered into a treaty in 2003 with Timor-Leste to establish the *Joint Petroleum Development Area* in the Timor Sea, under article 83(3) of UNCLOS.<sup>24</sup> This treaty enables the exploration, development and production of oil, with a sharing of the income from these enterprises;
- Australia and Papua New Guinea delimited the territorial sea limit in Torres Strait, and is known as the *Australian Fisheries Jurisdiction*.<sup>25</sup>

## **THE OFFSHORE PETROLEUM ACT 2006 (OPA)**

This Act results from an industry-wide request for rewrite of *PSLA*:

- There had been over 80 major amendments to the *PSLA* Act since 1967;
- Through age and many amendments, the *PSLA* had become unwieldy and complex.

The *OPA* is a rewritten and renamed version of the *PSLA*. It has '*conspicuous changes in structure and style of the legislation, but implements only a modest number of minor policy changes*'.<sup>26</sup> The purpose of the *OPA* is to provide a more user friendly enactment of the *PSLA* that will reduce compliance costs for the upstream energy industry and the governments that administer it. Indeed, Industry has played a large role in the rewriting of the *OPA*, largely to reduce compliance costs and to increase understanding within the industry.<sup>27</sup>

The result is a clear, simplified, easy to use tome of legislation, complete with over 250 pages relating to offshore safety and NOPSA. The new legislation

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<sup>24</sup> Petroleum and Marine Division, Geoscience Australia, *Australia's Maritime Boundaries* (2001), 5

<sup>25</sup> Petroleum and Marine Division, Geoscience Australia, *ibid*.

<sup>26</sup> Australian Parliament House, *Explanatory Memorandum, Offshore Petroleum Bill*, 2005.

<sup>27</sup> APPEA,

provides for ‘orderly exploration and development of petroleum resources, and sets out a basic framework of rights, entitlements and responsibilities of government and industry.’<sup>28</sup> The clarity of this act is enhanced by the simplified outline provided at the beginning of each section, as noted in Figure 2 below.

## Part 2.2 Exploration permits

### Division 1 General provisions

#### 76 Simplified outline

The following is a simplified outline of this Part

- \* It is an offence to explore for petroleum in an offshore area except:
  - (a) under an exploration permit; or
  - (b) as otherwise authorised or required by or under this Act.
- \* This Part provides for the grant of exploration permits over blocks in an offshore area.
- \* An exploration permit authorises the permittee to explore for petroleum in the permit area.
- \* There are 3 types of exploration permits:
  - (a) an exploration permit granted on the basis of rank purpose bidding (a rank-bid exploration permit);
  - (b) an exploration permit granted on the basis of cash bidding (a cash-bid exploration permit);
  - (c) an exploration permit granted over a surrendered block or certain other blocks (a special exploration permit).
- \* If a petroleum pool is identified in an exploration permit area, the Designated Authority may determine the status of the blocks to which the petroleum pool extends.

**Figure 2: Simplified outline at beginning of section (*Offshore Petroleum Act 2006* (Cth), s76)**

### Commencement of the Act

The *OPA* has already been signed off by the Governor General, and assented to on 29 March 2006. However, the vast majority of the legislation will only come into effect when proclaimed. Proclamation will occur when and as each

<sup>28</sup> Parliament of Australia, *Offshore Petroleum Bill 2005* (2005).

of the states and the Northern Territory make the necessary changes to their *PSLA* Legislation to bring it in line with the new *OPA*. These 'Mirror Legislation' provisions are the result of the *Offshore Constitutional Settlement*).

## **MINOR POLICY CHANGES RELATED TO *OPA* 2006**

A number of minor policy changes were made in the rewriting of the *OPA*. The important changes include:

- *S7 Definition of Offshore Areas*: this is primarily directed towards the outer limits of the Continental shelf;
- *S7(4) clarification over area Australia does not exercise sovereign rights*;
- *S138 conditions imposed by a Joint authority in granting a production licence*: makes current government practice a legislative certainty now;
  - Specifies certain conditions for granting licence where previously was defined as '*subject to conditions such as [it] thinks fit and are specified in the licence*';
- *s326 Safety in Offshore petroleum, especially with regard to vessel impact*);
  - Lessee and owner now liable for civil and criminal prosecution;
  - Previously lessee could avoid prosecution;
  - Now: actual owner of the vessel will not be liable for safety zone offences if the person operating the vessel has 'whole control and possession of the vessel';
- *S329 Graduated scale of safety zone offences, including strict liability (no fault)*;
- *Part 4 of Schedule 3: Wider search and seizure powers where there are reasonable grounds to suspect that things that are evidence of an offence are present on relevant premises*;
- *Special Circumstances versus sufficient grounds*: whether a permit should or should not be renewed, but sometimes may provide for exceptions in

special circumstances (has now been re-written to provide for ‘sufficient grounds’). This appears 4 times in new *OPA*: ss233(5), 259(2), 273(2), and 284(2). At present, it is difficult to estimate the potential effect of this amendment upon a rewrite of the *OPA*.

## **LIKELY FUTURE OFFSHORE PETROLEUM POLICY CHANGES**

*‘the fact that the rewriting process of the PSLA has been an editorially-focussed exercise rather than a policy-focused one has meant that a number of other policy issues have been reserved for later consideration and possibly the subject of an amendment Bill at a future date’.*<sup>29</sup>

By its own admission, the Australian Governments sees the *OPA* as a work in progress. The editorial focus of the *OPA* has been necessary and welcomed by industry and government alike, however the need for further policy review indicates that there will be further amendments to the Act

Sources of future policy changes to the Act are varied, and include

1. The Howard Government, Energy Election Policy Paper;<sup>30</sup>
2. Australian Government’s 2004 ‘Energy White Paper’;<sup>31</sup>
3. Australian House of Representatives report on impediments to investing in Australia’s petroleum;<sup>32</sup>
4. Department of Industry, Tourism & Resources Strategic Plan, 2006-09,<sup>33</sup> and
5. International Energy Agency’s energy policy of member countries.<sup>34</sup>

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<sup>29</sup> Parliament of Australia, *Bill Digest No. 27 2005-6: Offshore Petroleum Bill 2005* (2005).

<sup>30</sup> The Howard Government, (2001) *Election 2001: Backing Australia’s Resources and Energy*.

<sup>31</sup> Australian Government, *Securing Australia’s Energy Future* (2003).

<sup>32</sup> House of Representatives Standing Committee, *Exploring: Australia’s Future - Impediments to increasing investment in minerals and petroleum exploration in Australia* (2003).

<sup>33</sup> Department of Industry, Tourism and Resources, *Strategic Plan 2006-09* (2006).

<sup>34</sup> International Energy Agency, *IEA policy of Member Countries – Australia* (2002).

## **1. The Howard Government's Energy Election Policy Paper**

In the 2001 re-election, the Howard government made a number of promises in the energy and resources sector.

In particular they committed to a review, simplification and rewrite of the *PSLA*.<sup>35</sup> This has been completed with the assent of the *OPA*, although, as noted above, some ongoing policy review is still to be completed.

The Howard Government also pledged to continue to support the work of AGSO (Australia Geoscience) in the provision of pre-competitive exploration data for the resources industry.<sup>36</sup> To date, this work continues to be supported, and there is a legislative requirement to provide all data as part of exploration lease.

Finally, the Government committed itself to a review of petroleum fiscal policy to implement the objectives of the offshore petroleum policy.<sup>37</sup> To date, this review is still occurring.

## **2. Energy White Paper**

The Australian government continues to be keen to attract investment in the efficient discovery and development of our energy resources for all Australians.<sup>38</sup> The 'White Paper' noted that Australia is under explored, particularly for petroleum in frontier offshore areas. As such, its aim is to encourage an increase in the level of private exploration in the Australian offshore petroleum industry, particularly frontier areas.<sup>39</sup> To assist this, the government has implemented policies to attract investment, establish an efficient energy tax base, and ensure Australia uses its energy resources wisely.<sup>40</sup>

## **3. Exploring: Australia's Future**

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<sup>35</sup> The Howard Government, above n 30, 12.

<sup>36</sup> The Howard Government, *ibid*, 10.

<sup>37</sup> The Howard Government, *ibid*, 13.

<sup>38</sup> Australian Government, above n 31, 2.

<sup>39</sup> Australian Government, *ibid* 45.

<sup>40</sup> Australian Government, *ibid*, 2.

This 2003 report looked at the impediments to investment in the petroleum resources sector. The report made a number of recommendations,<sup>41</sup> including

- Review of petroleum resources rent tax;
- Review of administration of retention leases;
- Review of feasibility of ‘liquids identification’ bounty scheme for junior exploration companies (encourage to explore margins of on-shore production basins for small accumulations of petroleum liquids);
- Accelerate accumulation of precompetitive geoscience data acquisition; and
- Collection and accumulation of ground and surface data, including airborne gravity gradiometry survey of the Australian landmass, and truthing drilling programs.<sup>42</sup>

#### **4. IEA policy of Member Countries - Australia**

This report by the International Energy Agency, a peak international energy body, assessed the Australian energy sector in general. Regarding the Australian offshore petroleum industry, the policy report recommended that Australia continue to implement measures under the *1999 Offshore Petroleum Strategy* especially those relating to pre-competitive surveys and data, and information dissemination.<sup>43</sup> It also recommended in parallel that Australia continue to review and adapt the upstream petroleum regime, especially fiscal regime and licencing process, with view to maintaining international competitiveness of the Australian oil industry and to attract new investment.<sup>44</sup>

This focus on fiscal and licencing regimes does appear to remain a priority for the Australian government, with changes to the fiscal regime occurring in the

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<sup>41</sup> House of Representatives Standing Committee, *Exploring: Australia’s Future - Impediments to increasing investment in minerals and petroleum exploration in Australia* (2003), xvi.

<sup>42</sup> House of Representatives Standing Committee, *Exploring: Australia’s Future - Impediments to increasing investment in minerals and petroleum exploration in Australia* (2003), xvi.

<sup>43</sup> International Energy Agency, *IEA policy of Member Countries – Australia* (2002), 95.

<sup>44</sup> International Energy Agency, *ibid*, 95.

2004-5 budget in relation to Petroleum Resource Rent Tax. This Tax was been raised from 100% to 150%.<sup>45</sup>

## **5. Department of Industry, Tourism & Resources Strategic Plan, 2006-09**

This report in part addresses the current and likely issues within the energy sector. It identifies a need to secure energy resources, and in particular notes that to enhance the resources sector there is a need to:

- Work towards increasing the sector's international competitiveness,
- Expand the resources base, and
- Improving the regulatory regime.<sup>46</sup>

### **IMPACT ON THE AUSTRALIAN PETROLEUM LEGISLATION ON INDUSTRY**

Upon analysis of the above sources of policy change related to offshore petroleum, there is a number of recurring policy themes. It is likely that there will be a continued review and adaptation of upstream processes. In particular, it is likely that the fiscal regime and the licencing process will remain a focus of regulatory bodies. This is likely to provide greater security to industry, create greater understanding of the regulatory process, and encourage investment in the petroleum sector.

To also assist in the investment in the petroleum exploration sector, there is a policy focus on improving the availability of pre-competitive data for petroleum exploration, particularly in frontier areas. The implementation and expansion of pre-competitive surveys and data programs are likely to generate a platform for investment, both international and domestic, particularly in conjunction with a review of exploration licencing processes that is also likely.

It is interesting to note that the Department of Industry, Tourism and Resources intends to rely on industry to play a part in the implementation of

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<sup>45</sup> Department of Industry, Tourism and Resources, *Media Release- Offshore Petroleum Exploration Incentive* (2004)  
<<http://minister.industry.gov.au/index.cfm?event=object.showContent&objectID=850FEA11-4CA4-4C0A-B041D09E1784015C>> at 20 July 2006.

<sup>46</sup> Department of Industry, Tourism and Resources, *Strategic Plan 2006-09* (2006), 7.

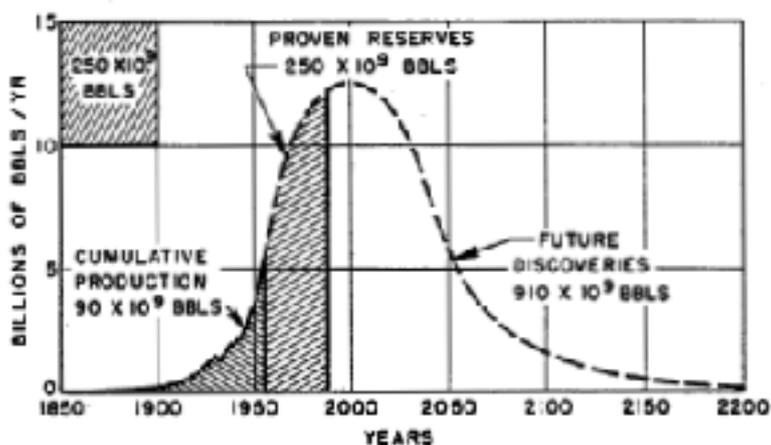
each of these strategies. The department notes that the implementation of the strategies will be 'driven by industry in cooperation with relevant government agencies'.<sup>47</sup>

## THE FUTURE OF POLICY AND PETROLEUM

### Peak Oil Theory and Policy Change

In 1957, geologist M King Hubbert proposed a mathematical modelling concept that has become known as 'Peak Oil theory'.<sup>48</sup> This theory proposes that global oil production will reach a peak in production, possibly within the next decade.<sup>49</sup>

According to Hubbert's theory, once peak in production has occurred, as fields mature, the production of world's energy sources will be slower. Consequently, there will be an impact on crude oil and natural gas prices.



<sup>47</sup> Department of Industry, Tourism and Resources, *Minerals Exploration Action Agenda Fact Sheet* (2006), <http://www.industry.gov.au/content/itrinternet/cmscontent.cfm?objectid=F5148B5E-65BF-4956-B830911EDF6B797B&searchID=154086> at 22 July 2006.

<sup>48</sup> M King Hubbert, *Nuclear Energy and the Fossil Fuels* (1956).

<sup>49</sup> Hubbert, *ibid*, 22

**Figure 3: Ultimate world crude-oil production based upon initial reserves of 1250 billion barrels. (Hubbert, *Nuclear Energy and the Fossil Fuels*, 22)**

The concept of Peak Oil Theory has the potential to have a major impact on Australia's oil and gas exploration, development and production policies. Australia, by its own and international admission, has many unexplored oil and gas regions, particularly offshore. This is reflected in the annual Offshore acreage releases, which has included a high percentage of 'frontier' regions, particularly in the last few years.<sup>50</sup>

If the Australian Government chooses to, 'peak oil theory', and associated policies relating to frontier region exploration and production, could alter our exploration policy, and have significant impact on exploration fiscal regimes.

In particular, this may assist greatly in attracting exploration investment to Australian fields. This will impact on licencing and fiscal regimes.

### **Global Energy Gluttony**

We are undeniably in an era of global energy gluttony. The two greatest populations on earth, India and china, have entered an era of unparalleled energy consumption in association with rising commercial and economic development. Australia, as a major energy source, is poised to take full advantage of this need for sources of energy, with almost limitless reserves of coal, as well as gas (LNG and natural), oil, hydropower, and uranium.

The diversity of Australia's energy resources is matched only by Russia. However, the advantage for Australia is that we are geographically well placed to take advantages of these Asian markets, with our oil and gas markets within easy access to Asian energy gluttons.

### **Australia as an Energy Superpower**

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<sup>50</sup> Department of Industry, Tourism and Resources, *An overview or Investors: Release of Offshore Petroleum Exploration Areas Australia 2006* (2006),

Recently, John Howard announced his new vision for Australia to be an energy superpower,<sup>51</sup> since we have vast reserves of Petroleum, Gas, coal, and uranium, as well as ample generating capacities for wind and solar power.

Howard's vision of a energy superpower seeks to place Australia strategically within the world's highest energy consumer markets (India and China). This vision could have a profound impact on Australia's oil policy:

*'I noted earlier [today] the Governments commitment to oil exploration, and we continue to examine what further can be done, knowing that offshore frontier exploration is a high cost, high risk undertaking'.<sup>52</sup>*

This impact is likely to be concentrated on the fiscal and licencing regimes, although it may also influence government policy related to pre-competitive data and the role of geoscience technology and policy in the future.

## **CONCLUSION**

Government Offshore Petroleum exploration and development policy is becoming increasingly commercialised in focus. This is reflected in the minor policy changes in the new *OPA*, and the acknowledgement that other policy changes are likely. In addition, other policy changes are likely in response to Government election policies and promises, the 'Energy white Paper', 'Peak Oil theory', and the Howard Governments drive for Australia to become a energy superpower

Together these have future ramifications for the Australian offshore petroleum industry. The primary impact will be in areas of exploration licencing, the fiscal regime and availability and content of pre-competitive data. It will be industry that will need to both respond to and drive these changes in order to remain competitive within the Australian offshore petroleum exploration and production industry.

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<sup>51</sup> John Howard, *Australia's National Challenges: Energy and Water*. Speech Given at the *Centre for Economic Development of Australia*, 17 July 2006 (2006).

<sup>52</sup> John Howard, *ibid*, 2

