



## House of Representatives Standing Committee on Economics

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### Parliamentary inquiry into impediments to business investment

Submission from the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA)

## Introduction and structure of submission

This submission to the House of Representatives Standing Committee on Economics has been prepared by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).

The submission is structured to provide information about the role, history and functions of NOPSEMA to support the subsequent specific response to the **first Term of Reference** for the Inquiry. No other terms of reference are addressed in this submission.

Questions from the Committee regarding this submission should be directed to:

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## Background

1. The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) is the national regulator for health and safety, well integrity and environmental management for offshore petroleum activities in Commonwealth waters and in coastal waters where regulatory powers and functions have been conferred. This conferral of powers for offshore petroleum safety has already occurred in Victorian waters and is under consideration by other jurisdictions in Australia.
2. NOPSEMA was established in 2012 with the support of the Federal, State and Northern Territory governments as an independent statutory authority under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGG Act). The OPGGG Act and associated regulations provided for an objective-based regime that remains the accepted leading practice recommended by a various government reviews and inquires.
3. An integrated, expertise based approach is applied by NOPSEMA to the regulation of health and safety, well integrity and environmental management to ensure the risks to health and safety (including major accident events), well integrity and to the environment are reduced to a level that is as low as reasonably practical and ensure responsible and safe offshore petroleum operations.
4. However, the integrated approach does not extend to policy development or the regulation of economic factors like the issuing of exploration, acreage, petroleum resource management, taxation or royalties as these responsibilities could create a conflict of interest.
5. The establishment of the National Offshore Petroleum Safety Authority (NOPSA) in 2005, and the subsequent addition of well integrity in 2011 and environmental management responsibilities to form NOPSEMA in 2012, recognised the benefits of having a single, independent offshore regulator with a critical mass of expertise that applies a consistent approach to the regulation of all petroleum activities in Commonwealth waters.
6. This rationale for establishing NOPSEMA has become even more imperative as the offshore industry has grown to the point where Australia is about to assume the mantle of global leadership for LNG exports, while continuing to provide an important source of oil and domestic gas from deeper water via increasingly complex facilities.
7. A world scale industry requires an international standard regulator and NOPSEMA has established itself in this light. In addition to international exchange programs and regular international engagement, NOPSEMA has chaired the International Regulators Forum (IRF) and the International Offshore Petroleum Environmental Regulators (IOPER) group. It continues to be elected as one of only four countries on the IRF Management Committee and it is having a demonstrable impact on international standards and practices. Other offshore petroleum regulators in Australia lack the size and jurisdiction of NOPSEMA to apply for membership of these international bodies.
8. NOPSEMA maintains a staff of more than 110, primarily highly trained and qualified technical experts with extensive practical experience in the offshore petroleum industry both in Australia and overseas. This expertise is supplemented with specialist consultants and advisors as necessary.
9. NOPSEMA also maintains a particularly active stakeholder engagement program including interaction with offshore industry operators and contractors, unions, environmental groups, fishing interests, community groups and all levels of government. During 2017, for example, NOPSEMA undertook more than 800 liaison meetings with stakeholders to gather information, provide advice and promote leading safety, well integrity and environmental practice.
10. Governance for NOPSEMA is substantial with measures including those applicable to standard government agencies together with Federal, State and Territorial ministerial oversight, the NOPSEMA Advisory Board, statutory operational reviews, Senate Estimates, and appearances before Parliamentary inquiries for Federal, State and Territory governments. The two most recent NOPSEMA statutory independent reviews were completed in 2015 and found NOPSEMA to be a

robust, rigorous and competent regulator. These reviews were preceded by two triennial operational reviews in 2008 and 2011 on NOPSA's performance, on the effectiveness of the offshore petroleum safety regime. Those reviews also found NOPSA to be a respected and competent offshore petroleum safety regulator. More recently, the 2017 Senate Red Tape Inquiry confirmed that state and Northern Territory conferral of powers to NOPSEMA would achieve red tape, and associated cost, reductions for offshore petroleum projects.

11. Outcomes of other reviews relevant to NOPSEMA and conducted by the Australian National Audit Office, the Productivity Commission and other authorities have also confirmed that NOPSEMA not only administers a sound framework for the regulation of the offshore petroleum industry but is also a cost effective and technically competent regulator.

**ToR 1: The interaction between regulatory frameworks across all levels of Government and how the cumulative regulatory burden can be reduced to support greater business investment.**

## Streamlining of functions in Commonwealth waters

12. The formation of NOPSEMA standardised the approach taken to the regulation of environmental management and well integrity of the offshore petroleum industry in Commonwealth waters, reducing the potential for inconsistency and resulting regulatory burden. Previously, these functions were regulated in Commonwealth waters by the states and Northern Territory.
13. In 2014 NOPSEMA also received endorsement for its environmental management authorisation process under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act). This endorsement provides that petroleum activities in Commonwealth waters with potential impacts on matters of national environmental significance are assessed through NOPSEMA and do not require separate referral to the Federal Department of the Environment and Energy (DEE).
  - Since the endorsed arrangements came into effect NOPSEMA has accepted 216 environment plans for offshore activities, many of which would otherwise have required consideration for referral and duplicative assessment under the EPBC Act.
  - Government has estimated that the streamlined arrangement has reduced costs to industry in the order of \$120 million a year.
14. The streamlined arrangement not only reduces cost and burden at the approvals stage but also throughout the life of projects through reductions in overlapping compliance monitoring and reporting burden.
15. Since 2015 NOPSEMA has been actively working with other agencies to explore further opportunities to reduce regulatory overlap in approvals requirements in Commonwealth waters.<sup>1</sup> NOPSEMA has also identified potential further scope for reducing regulatory burden through streamlining in areas such as sea dumping, offshore renewables and offshore minerals, with discussions underway with the relevant government agencies.
16. However, different arrangements continue to apply in state and Northern Territory waters which typically comprise the first 3 nautical miles from shore (Commonwealth waters extend from the 3 nautical mile limit of state or Northern Territory waters to 200 nautical miles offshore).

<sup>1</sup> Examples include: working with the Department of Agriculture and Water Resources on biosecurity compliance monitoring and the development of national standards; and working with the DEE on reducing overlap in permissions required for decommissioning infrastructure.

17. The state and territory governments do not apply consistent offshore regulatory regimes. Nor have they secured endorsement for their regulatory approvals processes in their waters. As a result, matters of national environmental significance still have to be referred to the DEE for assessment – in addition to state and territory government assessment processes.

## Conferral to NOPSEMA

18. While NOPSEMA is now the sole regulator for offshore petroleum activities in Commonwealth waters, NOPSEMA continues to receive feedback from offshore oil and gas companies that inconsistencies in requirements, and resultant burden, still exists for those projects that cross from the Commonwealth jurisdiction into state or Northern Territory waters.
19. For example, an offshore petroleum project with wells in both state and Commonwealth waters, connected by a pipeline to an onshore processing facility will often involve four environmental regulators for the offshore component of the project, such as the:
- State Department of Mines or Primary Industries
  - State Environmental Protection Authority
  - Commonwealth Department of Environment and Energy
  - NOPSEMA.
20. Each of the regulatory processes administered by these agencies is mandated through separate pieces of legislation with subordinate regulations and requirements for submission of documents.
21. While processes and requirements between regulators will vary, each is essentially looking to achieve the same outcome – appropriate management of impacts and risks.
22. Under a conferred arrangement, NOPSEMA could be the sole regulator for the offshore component of the project.
23. Numerous inquiries and reports have recommended streamlining of regulation and conferral of powers to NOPSEMA as an effective approach to streamlining regulation.
24. In 2017, NOPSEMA gave testimony at the Perth hearings of the Senate Red Tape Inquiry into the effect of Red Tape on Environmental Assessment and Approvals. One of the key items of discussion at the hearing was opportunities for streamlining through conferral. The committee has released an interim report on the effect of red tape on environmental approvals which contained the following key findings relevant to NOPSEMA:
- “The committee accepts that state/territory governments could achieve red tape reductions for offshore petroleum projects with a conferral of power on NOPSEMA. In this regard, the committee notes that NOPSEMA would effectively become an agent of the state/territory, subject to the usual rules of agency.*
- The committee also notes that the Council of Australian Governments (COAG) has previously agreed to examine the benefits of consolidating regulatory functions, including through the amalgamation of regulators. However, since 2014 the COAG Energy Council does not appear to have given much attention to environmental regulation of offshore petroleum projects”.*
25. NOPSEMA sees further opportunities to reduce red tape for the sector through the conferral of powers for regulation in coastal waters from the states and Northern Territory to NOPSEMA. Under this arrangement NOPSEMA could perform functions under state and Northern Territory laws and report to state and Northern Territory Ministers.
26. Conferral of powers for the regulation of oil and gas activities in the coastal waters of the state and the Northern Territory offers a significant opportunity to further reduce regulatory burden.

27. A key advantage of conferral would be a reduction in differences and inconsistencies between jurisdictions that have been highlighted by industry as increasing cost and burden for them.
28. Under a conferred arrangement, further streamlining between state, territory and Commonwealth laws could occur, similar to the arrangement in Commonwealth waters, to create a single regulator. This would further reduce the requirement for duplicative approvals processes and reduce unnecessary costs to Governments and industry associated with preparation and assessment of multiple documents for a single project.
29. The graduated conferral of powers on NOPSEMA has proven to be successful as evidenced by the continuing improvement in industry performance and findings established by independent reviews and inquiries. The critical mass of NOPSEMA expertise and capacity to regulate complex and large numbers of facilities cannot, for practical and resource reasons, be paralleled by other state and territory regulators.
30. Reducing inconsistencies between jurisdictions has also been highlighted by industry as reducing cost and burden for them. Cross jurisdictional projects are particularly affected by this unnecessary burden in meeting the requirements of different regulators and potentially conflicting requirements for different aspects of the same offshore petroleum activity.
31. Among the benefits of moving to a single national framework for the regulation of the offshore oil and gas sector via conferral are:
  - a consistent objective-based regulatory framework leading to improved occupational health and safety, integrity and environmental outcomes
  - reduced duplication and regulatory burden on industry by reducing the volume of required permissioning documents
  - increased clarity, certainty and consistency in decision-making processes for industry
  - assurance to the community regarding consistent regulatory outcomes for offshore petroleum activities regardless of their location
  - increased benefits for the Australian economy by increasing petroleum industry competitiveness and encouraging future investment
  - reduction in unnecessary costs to Governments and industry associated with preparation and assessment of multiple documents for a single project
  - expanded access to world leading practices and a critical mass of regulatory experts.
32. In addition, there are direct benefits for the states and the Northern Territory of conferring regulatory functions on NOPSEMA in designated coastal waters, including:
  - reduced economic burden on states and Northern Territory governments, who no longer require resources to assess, enforce and monitor compliance of safety cases, well operations management plans and environment plans
  - reduced reputational, economic and other risks in the event of another significant petroleum related incident such as the Montara incident
  - states and Northern Territory governments continue to have full control over the location of exploration and development activities, and collect associated royalties, without carrying the burden of regulatory compliance and enforcement.

**There are no further matters or Terms of Reference addressed in this submission.**



## Attachment A: Regulatory Jurisdiction

NOPSEMA regulates all offshore areas in Commonwealth waters, which comprise those areas beyond the first three nautical miles of the territorial sea. This includes the Ashmore and Cartier offshore territories and offshore areas adjacent to all states and the Northern Territory.

NOPSEMA also regulates all offshore areas in coastal waters where a state or territory has conferred regulatory powers and functions. In jurisdictions where powers to regulate are not conferred, regulatory responsibilities remain with the relevant state or territory.

In 2013, Victoria conferred its functions for the regulation of health and safety and structural integrity on NOPSEMA.



## Attachment B: Offshore petroleum approval and regulatory process

### The offshore petroleum approval and regulatory process

The infographic below provides a broad overview of the approval and regulatory process for all offshore petroleum activities in Commonwealth waters. For more information, visit [nopsema.gov.au](http://nopsema.gov.au).

Legend

- NOPSEMA's remit
- Outside of NOPSEMA's remit

