



Submission to:

**Inquiry into the Offshore Electricity Infrastructure (Regulatory Levies) Bill 2021 and Offshore Electricity Infrastructure Bill 2021 by the Senate Environment and Communications Legislation Committee**

Submission from:

**National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA)**

Contact Officer:

**Nicola Brischetto, Assistant Director  
Communications and External Affairs**

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## Introduction

As Australia's offshore energy regulator, the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) currently has regulatory responsibility for health and safety, infrastructure integrity and environmental management for offshore petroleum and greenhouse gas storage activities in Commonwealth waters and in coastal waters where regulatory powers and functions have been conferred.

### NOPSEMA's role in offshore energy regulation

NOPSEMA was initially formed as the National Offshore Petroleum Safety Authority (NOPSA) in response to a review into the adequacy of offshore safety regulation in Australia in 2005.

Following the Montara blowout in 2009, a review recommended the existing framework be revised to establish single independent regulatory body to oversee safety, well integrity, and environmental management for offshore petroleum and greenhouse gas storage activities. This resulted in NOPSA becoming NOPSEMA in 2012.

Since NOPSEMA's establishment the performance of the offshore industry has improved, with no fatalities<sup>1</sup> or major environmental incidents since 2012. NOPSEMA has fostered, and continues to grow, a mature risk management culture within industry. Industry performance under the regime administered by NOPSEMA is on par with that of other leading international jurisdictions and compares favourably to industries such as onshore mining, agriculture, and maritime. Multiple independent inquiries have found NOPSEMA to be a highly competent and effective regulator.<sup>2</sup>

Some of the world's most advanced and largest subsea and offshore facilities are regulated by NOPSEMA, including the Wheatstone, Prelude, Ichthys, Gorgon and Jansz-lo offshore projects. These facilities are technically complex and present significant hazards and risks that require application of specialist offshore knowledge and expertise from both industry and the Regulator to operate safely and responsibly.

In recognition of its expertise government has engaged NOPSEMA to provide advice on an expanding range of environmental issues, and approvals such as sea dumping and marine spatial planning. The Government's enhanced framework for decommissioning will also see NOPSEMA assume an expanded remit in regulating financial assurance for offshore oil and gas projects to ensure operators can adequately meet the costs of decommissioning.

The addition of regulating offshore electricity infrastructure to NOPSEMA's existing regulatory functions represents a natural progression for the Authority that will ensure the sector operates safely and responsibly.

### NOPSEMA's role in development of the Offshore Electricity Infrastructure framework

Early in the policy development process for the *Offshore Electricity Infrastructure Bill 2021* and *Offshore Electricity Infrastructure (Regulatory Levies) Bill 2021* (collectively the OEI framework), Government recognised that successful development of the framework would require specialist operational and regulatory advice in relation to offshore infrastructure activities.

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<sup>1</sup> Fatality of two offshore workers on the Stena Clyde mobile offshore drilling unit in the Bass Strait on 27 August 2012. This case was prosecuted in September 2015; the Magistrates' Court of Victoria imposed a criminal penalty of \$330,000 on Stena Drilling (Australia).

<sup>2</sup> Independent reviews include the 2015 Operational Review of NOPSEMA, the Independent audit of NOPSEMA's consideration of exploration in the Great Australian Bight conducted by Chief Scientist Alan Finkel AO in 2019 and the Review of the circumstances that led to the administration of the Northern Oil and Gas Australia (NOGA) group of companies conducted by Steve Walker in 2020.



NOPSEMA was identified at this early stage as being the most knowledgeable and technically competent established regulatory body in the Australian jurisdiction to provide this advice. NOPSEMA has since played a central role in supporting the Department of Industry, Science, Energy and Resources in the policy and legislative development process.

Leveraging NOPSEMA's existing connections with the international regulatory community through bodies such as the International Regulators Forum, the International Offshore Petroleum Environmental Regulators group and the Global Offshore Wind Regulators Forum has allowed for international best practice approaches to the regulation of large-scale offshore infrastructure activities to be drawn on in development of the OEI framework.

Having made a significant contribution to the development of OEI framework, NOPSEMA is confident that it represents a leading practice approach to regulation of the sector and provides a strong foundation to allow the establishment of an offshore electricity industry in a safe and environmentally responsible manner.

## NOPSEMA's role under the Offshore Electricity Infrastructure Bill

The *Offshore Electricity Infrastructure Bill 2021*, establishes the role and functions of the Offshore Infrastructure Regulator (**the Regulator**) and extends NOPSEMA's existing remit to regulation of activities that may be carried out under the framework.

The decision to extend the functions of NOPSEMA leverages the Authority's existing expertise and experience in the regulation of large scale, technically complex offshore energy infrastructure activities. This is consistent with the approach adopted in leading international jurisdictions where analogous regulators have had their functions extended to the emerging offshore electricity sector.

As the regulatory authority for energy, NOPSEMA is well placed to maintain regulatory oversight of the offshore electricity sector as it understands the risks inherent in regulating large-scale infrastructure activities in Australia's unique offshore environment.

NOPSEMA has 16 years of experience (both as NOPSA and NOPSEMA) regulating in the offshore environment. This includes oversight of the entire lifecycle of large-scale offshore infrastructure facilities, from the exploration and development phases through to production and finally decommissioning.

In recognition of the expertise held within NOPSEMA, the Authority is already providing specialist technical advice to the Department of Agriculture, Water and the Environment under contract to support the assessment of Australia's first major offshore wind project under the *Environment Protection and Biodiversity Conservation Act 1999*.

With a well-trained and highly skilled workforce that is experienced in evaluating and managing risk to personnel and the environment offshore, NOPSEMA can successfully transition existing staff into a specialised branch of the organisation focused on offshore electricity infrastructure. The Regulator may also seek to acquire additional technical experts and specialists as required.

NOPSEMA understands the value of engagement with other users of the marine environment through meaningful consultation and negotiated outcomes. As the current regulator of the offshore energy sector, NOPSEMA understands the complex needs of key stakeholders, and has built extensive networks with important groups, including the fishing industry, environmental non-governmental organisations and other government entities that can be extended to consideration of matters relevant to the offshore electricity sector.

## Workplace health and safety

As the current regulatory Authority for safety within the offshore sector, NOPSEMA has strong operational knowledge of the offshore environment and associated health and safety requirements and can ensure the offshore electricity sector establishes and maintains the high standards.

NOPSEMA understands the importance of consultation with workers and workforce representation on safety matters as critical components for assuring the safe and responsible deployment of offshore technologies. NOPSEMA can leverage existing relationships with relevant union bodies and experience supporting HSRs onto the developing offshore electricity industry and create partnerships with new groups as required.

## Certainty and financial security

The *Offshore Electricity Infrastructure Bill 2021* provides for regulatory and investment certainty including security of tenure and protections for offshore infrastructure.

Financial security is required to guarantee appropriate decommissioning of assets, consistent with international practice in leading jurisdictions. The security amounts required and the timing of securities will vary and will be commensurate to the project/activity.

The core elements of the enhanced *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act) decommissioning framework have been carried over to the *Offshore Electricity Infrastructure Bill 2021* including trailing liability provisions, increased oversight of changes in company control and enhanced focus on early decommissioning planning.

Under the Government's other proposed policy changes NOPSEMA will likely assume the management of financial assurance for the offshore oil and gas sector with a broadened scope and will acquire a specialised workforce to manage financial assurance and securities for both the offshore oil and gas and offshore electricity sectors.

Early and proactive planning for decommissioning of installed infrastructure forms part of both the reformed OPGGS Act regime and the OEI framework.

## Cost recovery

The cost recovery mechanisms established under the OEI framework will ensure that the Regulator is able to establish and maintain subject matter expertise and experience to effectively regulate the sector. Leveraging of NOPSEMA's existing structures, processes and expertise will allow for regulation of the sector to be delivered at significantly reduced cost to that associated with establishment of a stand-alone regulatory agency.

As a fully cost recovered agency, NOPSEMA currently relies on levies and fees from the petroleum and greenhouse gas storage industries to deliver its regulatory functions. Once appropriated funding for establishment and implementation of the functions of the Regulator has been exhausted, continued delivery of regulatory functions will be dependent on a consistent revenue stream through cost recovery from the offshore electricity sector.

Establishment of stand-alone cost recovery mechanisms under the framework will ensure that cross subsidisation of regulatory functions is avoided and provide for transparency and accountability.



## Conclusion

NOPSEMA fully supports the passage of the *Offshore Electricity Infrastructure Bill 2021* and the *Offshore Electricity Infrastructure (Regulatory Levies) Bill 2021*. The Authority is confident that we possess the knowledge and expertise to successfully incorporate the additional functions proposed under the framework into our existing regulatory remit. The introduction of these Bills by the Government is an important step toward the future and will provide the foundation for establishment of a safe and environmentally responsible offshore electricity sector in Australia.

