

Inquiry into Energy Planning and Regulation in Australia

Submission from the **National Offshore Petroleum Safety and Environmental Management Authority** (NOPSEMA) to the Select Committee on the Energy Planning and Regulation in Australia



Introduction

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) provides this submission to the Select Committee on Energy Planning and Regulation in Australia (the Committee) for consideration in the context of the Committee's inquiry into the energy planning and regulation in Australia.

Scope of this submission

This submission addresses the inquiry's term of reference (h) by informing the Committee of NOPSEMA's role and functions under *the Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act), including its role and functions as the Offshore Infrastructure Regulator (OIR) under the *Offshore Electricity Infrastructure Act 2021* (OEI Act).

This submission does not directly address or provide opinions on terms of reference (a), (b), (c), (d), (e), (f) and (g) as these are matters sit outside the legislated role and functions of NOPSEMA and the OIR. Policy responsibility for the OPGGS Act framework rests with the Commonwealth Department of Industry, Science and Resources (DISR) and policy responsibility for the OEI Act framework rests with the Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW).



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Role and functions of NOPSEMA

1. NOPSEMA was established as an independent statutory authority under the OPGGS Act with the support of the federal, state and Northern Territory governments.
2. NOPSEMA's purpose is "a protected offshore workforce and environment through regulatory oversight of Australia's offshore energy industries, as well as through engaging, advising, and educating the regulated community" as detailed in the [2024-25 Portfolio Budget Statements](#).
3. NOPSEMA achieves its purpose through promoting and enforcing the effective management of risks to the workforce, the environment, and the structural integrity of facilities, wells and well related equipment through the regulation of offshore petroleum and greenhouse gas storage activities.
4. NOPSEMA decisions are made exclusively on the technical and scientific merits of risk management plans and are independent of economic, commercial and political factors.
5. NOPSEMA's jurisdiction includes all offshore areas in Commonwealth waters, which comprise those areas beyond the first three nautical miles (3NM) from the territorial sea baseline to the boundary of Australia's exclusive economic zone (200NM).
6. NOPSEMA also regulates all offshore areas in coastal waters where a state or territory has conferred regulatory powers and functions. In 2013, Victoria conferred its functions for the regulation of OHS and structural integrity on NOPSEMA. In coastal waters (<3NM) where powers to regulate are not conferred, regulatory responsibilities remain with the relevant state or territory.
7. As the independent regulator of the offshore petroleum and greenhouse gas storage industry, NOPSEMA is not involved in Government policy decisions pertaining to whether fossil fuels should be exploited, the selection or release of offshore areas for petroleum and greenhouse gas storage exploration and development or in the granting of titles.
8. NOPSEMA's legislated functions are detailed in s.646 of the OPGGS Act and are summarised as follows:
 - To promote the occupational health and safety (OHS) of persons engaged in offshore petroleum and greenhouse gas storage operations.
 - To develop and implement effective monitoring and enforcement strategies to secure compliance by persons with their obligations under the OPGGS Act and regulations, a structural integrity law and environmental management law.
 - To investigate accidents, occurrences and circumstances that affect, or have the potential to affect, OHS and involve, or may involve, deficiencies in structural integrity or deficiencies in environmental management.
 - To report on investigations, as appropriate, to the responsible Commonwealth Minister, and to State and Northern Territory petroleum ministers.
 - To advise persons, either on its own initiative or on request, on matters relating to occupational health and safety, structural integrity, and environmental management.
 - To make reports, including recommendations, to the responsible Commonwealth Minister, and to State and Northern Territory petroleum ministers on issues relating to occupational health and safety, structural integrity, and environmental management.



- To provide information, assessments, analysis, reports, advice, and recommendations when requested by the responsible Commonwealth Minister in relation to the Minister performing functions or exercising powers in relation to offshore greenhouse gas storage operations.
 - To cooperate with the Titles Administrator in relation to the administration and enforcement of the OPGGS Act and regulations and with other Commonwealth, State and Northern Territory agencies and authorities with functions relating to regulated operations.
9. To fulfil its legislated functions NOPSEMA undertakes assessment, inspection, investigation, enforcement, promotion and advisory activities.
10. While NOPSEMA's legislated functions are free of any undue influence – including political, economic and special interest – it is subject to substantial governance measures and a regime of scrutiny and independent review. This includes federal, state and Northern Territory petroleum ministerial oversight, the NOPSEMA Advisory Board, five-yearly independent statutory operational reviews, appearances at Senate estimates, and appearances before Parliamentary inquires.
11. The most recent independent statutory operational review of NOPSEMA was completed in 2020 and found NOPSEMA to be "appropriately focused in bringing about improvement in OHS, well integrity and environmental management across the offshore oil and gas industry." The preceding review, completed in 2015, also found NOPSEMA to be "demonstrating the characteristics of an effective regulator".

Streamlining of functions in Commonwealth waters

12. On 28 February 2014, the Federal Minister for the Environment endorsed NOPSEMA's environmental management authorisation assessment process as a Program (the Program) that meets the requirements of Part 10 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and approved a class of actions which, if undertaken in accordance with the Program, do not require separate referral, assessment and approval under the EPBC Act.
13. Petroleum and greenhouse gas storage activities conducted in Commonwealth waters in accordance with the Program are considered "approved classes of action" except for those that:
- have, will have or are likely to have a significant impact on the environment on Commonwealth land
 - are taken in any area of the sea or seabed that is declared to be part of the Great Barrier Reef Marine Park under the *Great Barrier Reef Marine Park Act 1975*
 - have, will have or are likely to have a significant impact on the world heritage values of the Great Barrier Reef World Heritage property or on the national heritage values of the Great Barrier Reef National Heritage place
 - are taken in the Antarctic
 - are injection and / or storage of greenhouse gas.
14. The Program provides for NOPSEMA to assess and make approval decisions for new offshore petroleum development projects and shorter-term activities.
15. New petroleum development projects are assessed under the offshore project proposal process in the Offshore Petroleum and Greenhouse Gas (Environment) Regulations 2023 which delivers outcomes similar to the environmental impact statement assessment process under the EPBC Act.

16. The Program streamlines environmental approvals for offshore petroleum and greenhouse gas storage activities in Commonwealth waters and as a result has significantly reduced unnecessary red tape and burden, and the associated costs, from the overlapping regulatory frameworks.
17. Since 2015, NOPSEMA has been working with other relevant government agencies to explore further opportunities to reduce regulatory overlap. NOPSEMA has identified potential further opportunities through the conferral of powers for regulation in coastal waters from the states and Northern Territory on NOPSEMA and streamlining in areas such as sea dumping and offshore renewables.

Role and functions of the OIR

18. On 2 June 2022, the OEI Act came into effect granting the regulatory remit of the Offshore Infrastructure Regulator to NOPSEMA.
19. The OIR's purpose is to ensure "a protected offshore workforce and environment through regulatory oversight of Australia's offshore energy industries, as well as through engaging, advising, and educating the regulated community" as detailed in the [2024-25 Portfolio Budget Statements](#).
20. The OIR achieves its purpose by promoting and enforcing the effective management of risks to the workforce, the environment, and the integrity of infrastructure through regulation of the Australian offshore renewable energy and electricity transmission infrastructure industries.
21. The OIR's legislated functions are detailed in s.177 of the OEI Act and are summarised as follows:
 - To promote the WHS of persons engaged in offshore infrastructure activities.
 - To develop and implement effective monitoring and enforcement strategies to secure compliance by persons with their obligations under the OEI Act, the applied work health and safety provisions or a licence or in relation to matters related to WHS, environmental management, or the infrastructure integrity of offshore renewable energy infrastructure and offshore electricity transmission infrastructure.
 - To investigate and, as appropriate, report to the responsible Commonwealth Minister, any accidents, occurrences and circumstances that affect, or have the potential to affect, the WHS of persons; or involve, or may involve, deficiencies in environmental management in connection with offshore infrastructure activities; or involve, or may involve, deficiencies in the integrity of offshore renewable energy or offshore electricity transmission infrastructure.
 - To advise persons on matters relating to WHS, environmental protection and infrastructure integrity in connection with offshore infrastructure activities.
 - To make reports, including recommendations, to the Minister for Climate Change and Energy on issues relating to WHS, environmental protection and infrastructure integrity in connection with offshore infrastructure activities.
 - To provide information, assessments, analysis, reports, advice and recommendations to to the responsible Commonwealth Minister in relation to the administration and functioning of this Act and the applied WHS provisions.
 - To cooperate with the Offshore Infrastructure Registrar in matters relating to the administration and enforcement of the OEI Act and the applied WHS provisions.



22. The OIR's regulates all offshore areas in Commonwealth waters, which comprise those areas beyond the first three nautical miles from the first three nautical miles (3NM) from the territorial sea baseline to the boundary of Australia's exclusive economic zone (200NM). In coastal waters (<3NM), regulatory responsibilities remain with the relevant state or territory.
23. It should be noted that at the time of this submission no offshore infrastructure activities are being regulated by the OIR under the OEI Act.

OEI Act framework

24. Primary environmental approval for offshore renewable energy projects must first be obtained under the EPBC Act where an action, such as the development of an offshore wind project, will have, or is likely to have a significant impact on the matters of national environmental significance protected under Part 3 of the EPBC Act.
25. Given the nature and scale of offshore wind developments, it highly likely that all commercial scale offshore wind projects will require formal assessment and approval under the EPBC Act ahead of the seeking the required approvals under the OEI Act.
26. Before offshore activities involving the construction, installation, operation, maintenance and decommissioning of infrastructure can proceed, a licence holder must have a management plan formally assessed and approved by the OIR.
27. Matters that a management plan must address are set out in s.115 of the OEI Act, however, at the time of preparing this submission, detailed regulations regarding management plans remain under development by DCCEEW.

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