

2015 NOPSEMA REVIEW

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STAKEHOLDER SUBMISSION

Please provide submissions for the following questions to: spencer.stubbins@noeticgroup.com by the **30 April 2015**. Submissions received after this date may not be considered for inclusion in the final review and report.

Organisations that provide a submission will be listed as participating stakeholders in the review. Please keep the submission responses as concise as possible; you may seek to limit your responses to 250 words.

Confidentiality

Do you consent to having this response published on the Department of Industry and Science's website? (Is this submission confidential?)	Please mark your response here with an X
Yes, I consent to having my response published	X
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Organisation name: *Australian Council of Trade Unions (ACTU)*

Submission Questions

1. From your perspective, describe the effectiveness of NOPSEMA to improve industry performance?
You may consider:
 - + the occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations
 - + the structural integrity of facilities, wells and well-related equipment
 - + offshore petroleum environmental management including the effectiveness of the integration of environmental management into NOPSEMA functions since 1 January 2012
 - + offshore greenhouse gas storage environmental management

Response:

1. The offshore petroleum industry needs to have confidence in the regulatory

regime in which it operates. NOPSEMA has a role in promoting and clarifying with industry its understanding of its obligations under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act) and associated regulations. The Ministerial Statement of Expectation states that NOPSEMA should “act in accordance with regulatory best practice”. In our view, this means a regulator that is transparent and consultative in its actions, that is proactive in oversight, monitoring and investigation activities, and that does not hesitate to use enforcement and prosecution as a deterrent where breaches of the law occur.

2. Unfortunately, in our experience, it is clear that NOPSEMA has failed to adopt regulatory best practice, and is failing to achieve even basic standards of effectiveness as an industry regulator for the occupational health and safety (OHS) standards of offshore oil and gas workers.
3. From the perspective of the ACTU and its affiliates, NOPSEMA is relatively ineffective in improving industry performance. NOPSEMA has demonstrated a reluctance to fully utilise its statutory powers and to adopt enforceable minimum standards. The ACTU and its affiliates are concerned that the organisational directive provided in the Ministerial Statement of Expectation to reduce ‘regulation’ and ‘minimise compliance costs’ comes at a cost of proper oversight and monitoring on businesses, to the detriment of workplace safety.
4. There is a lack of full transparency in reporting on safety performance and on its own regulatory activities. It has been difficult to rigorously assess NOPSEMA’s effectiveness, in part because of the limited information available in the public domain. NOPSEMA’s annual reports and other publicly available documents do not provide sufficient information about its investigations and other activities, and the outcomes of those activities, including how duty holders have been held accountable for safety breaches. This, in itself, is an indicator that the regulator is not carrying out its functions in a transparent manner, and it makes it difficult to fairly judge the regulatory effectiveness of the organisation. Compare this to the monitoring and reports produced by Safe Work Australia, which are much more comprehensive. Safe Work Australia produces the Comparative Performance Monitoring Report, and while other regulators, including Seacare, contribute to this document, NOPSEMA does not. This makes it difficult to compare NOPSEMA’s regulatory performance against other regulators.
5. Another concern is the apparent absence of NOPSEMA from participation in a

range of Australian activities, institutions and forums involving all other Australian OHS regulators. This has meant that NOPSEMA has not adopted best practice where, for example, the model Work Health and Safety Act requires the regulator to:

- (i) foster a cooperative, consultative relationship between duty holders and the persons to whom they owe duties and their representatives; and
- (ii) promote and support education and training.

6. NOPSEMA fails to use the full suite of the regulatory tools at its disposal, and in particular the prosecution rate is too low given the severity of some of the safety breaches brought to its attention. NOPSEMA should consider utilising a wider range of regulatory tools, such as Improvement Notices, official warnings, enforceable undertakings, random audits, and educational campaigns, and should not hesitate to impose fines where necessary to change business behaviours. Legal proceedings are an important mechanism for behavioural change and NOPSEMA shouldn't hesitate to use this as a strategic enforcement tool.
7. NOPSEMA should become better at publicising its enforcement activities through the effective use of the media. This can act as an important deterrent for other companies doing the wrong thing.
8. At present, NOPSEMA relies too heavily on its administration of safety cases to the detriment of other, more effective, regulatory tools and enforcement mechanisms. NOPSEMA has a hands-off approach to regulation and relies too much on the safety case and not enough on more direct oversight and monitoring. The safety case should be regularly policed instead of relying on self-regulation. There should be more active investigations into complaints and breaches in addition to routine facilities inspections.
9. NOPSEMA has only partially embraced the Australian OHS regulatory regime (namely, the Safe Work Australia national standards and the objects of the National OHS Strategy 2002-2012), and in particular has been slow to respond to ensuring offshore oil and gas workers experience the same minimum regulatory standards applying under all other jurisdictions and to most of the Australian workforce. NOPSEMA lags behind other regulators.
10. SWA has in place many codes of practice and regulations for adoption by the

relevant regulators. We note that NOPSEMA has fewer regulations and codes of practice in place compared to other regulators, despite the high risks associated with working offshore being greater than for many on shore sites. Offshore workers face the 'standard hazards' such as manual handling as well as the 'high risks' of being on a vessel or rig and the risk of catastrophic failures. .

11. NOPSEMA's effectiveness as a health and safety regulator is hampered by the split between its jurisdiction and that of the Australian Maritime Safety Authority (AMSA). To address this, the Government must give one regulator (either AMSA or NOPSEMA) the entirety of end-to-end coverage of all facilities (fixed and floating) engaged in the offshore petroleum industry in a manner which adopts all of the Maritime Conventions and the detailed Marine Orders that AMSA has developed. NOPSEMA should also consider dual ticketing existing AMSA inspectors or surveyors (with suitable expertise) as NOPSEMA inspectors, along with the wholesale adoption by regulation under the OPGGSA of those Maritime Conventions and Marine Orders and NA-derived Regulations that were relevant to operations in the offshore petroleum.
12. As a priority, minimum standards and model WHS regulations must be extended throughout the offshore oil and gas industry via regulation, where those standards are applicable in industry generally, or in the offshore oil and gas industry internationally.

2. From your perspective describe the NOPSEMA governance arrangements (pursuant to the Public Governance Performance and Accountability Act 2013):

- + promotes compliance with the law
- + works cooperatively to ensure that relevant parties are informed of regulatory activities
- + pursues a consistent national approach to regulation
- + ensures that duty holders identify and take action to deal with serious risks
- + holds accountable duty-holders who breach their requirements
- + allocates its resources properly in accordance with its priorities
- + cooperates with stakeholders about relevant information
- + has a streamlined and timely approval process

Response:

13. Australian WHS laws are based on the principles of tripartitism, and the objects of various WHS Acts refer to the role of employers and unions in improving health and safety performance.
14. Tripartitism is also recognised by the United Nations International Labor Organisation through Occupational Safety and Health Convention, 1981 No.155 (ILO C155), to which Australia is a signatory.
15. ILO C155 provides at Article 4 that: *'Each Member shall . . . in consultation with the most representative organisations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.'*
16. NOPSEMA has never effectively engaged with the offshore unions, and it is the view of unions and the workforce that NOPSEMA is too closely aligned to the OHS agenda of employers. NOPSEMA's funding model is such that the levies used to fund its operations are contributed directly by the resource owners who effectively are responsible for sustaining NOPSEMA. Consequently, there remains a risk that NOPSEMA is subject to a degree of industry capture. This is where the regulator identifies with those being regulated, rather than prioritising its regulatory duties and exercising those duties with a strong degree of independence. The ACTU accepts that the regulator must consult and work with those it regulates. Consultation and even collaboration on certain activities and projects do not necessarily constitute regulatory capture – those activities can occur free of regulatory capture where the regulator is, and is perceived to be, robustly independent.
17. This is borne out in the governance arrangements of NOPSEMA. It should be noted that of the seven members of the Board, almost all have been industry Executives and the union movement has been denied an opportunity to nominate a representative. Independence is listed as one of the key values of NOPSEMA in its Annual Report, yet NOPSEMA's close links with industry raise concerns about potential or perceived conflicts of interest; it cannot be said to be a truly independent regulator.
18. The NOPSEMA Board is tripartite in name only. A tripartite agreement on workforce safety should include *'consultation with the most representative organisations of employers and workers, formulate, implement and periodically review and coherent national policy on occupational safety, occupational health*

and the working environment', to ensure Australia's compliance with its international obligations under ILO C155 and to ensure consistency with the Governments continued acceptance of the Robens Model as the basis for WHS legislation.

19. We note that the NOPSEMA Board should function as envisaged in the legislation and that this function should be clarified in writing by the Australian Government Minister and reinforced by the Department to the Board and NOPSEMA CEO. We consider that any lack of clarity in the OPGGS Act with regard to the role of the NOPSEMA Board should be resolved and that a budget be made available by NOPSEMA to support research related to the Board's advisory role and the holding of four to six meetings annually.
20. We note that other regulators have signed up to the Safe Work Australia 'National Compliance and Enforcement Policy', which contains provisions for a range of functions that a regulator should fulfil, including a stipulation that regulators should share information with each other and foster consultative relationships with stakeholders. NOPSEMA has failed to sign up to this Policy, and it is unclear what, if any, relationship it has with other Australian OHS regulators. NOPSEMA should actively foster strong relationships with these other bodies so that they can share advice and best practice with each other.
21. While NOPSEMA may commit itself to a threshold position of being independent, objective and transparent in dealing with industry to promote and secure compliance, it is the view of the ACTU that this cannot occur without the input of workers and their representatives. It is recognised and accepted by most governments in Australia that promoting and securing compliance with the WHS regime is enhanced when workers and their representatives are involved.
22. NOPSEMA has demonstrated reticence in working with and being seen to be working with trade unions and workforce representatives, Health and Safety Representatives (HSR) and safety committees. There is a lack of consultation with unions and the broader public on NOPSEMA's activities; this makes it impossible for NOPSEMA to act as a truly effective regulator. There is no mention of unions and the importance of consulting with unions anywhere in either the Ministerial Statement of Expectation or any of NOPSEMA's Annual Reports. Unions have valuable industry knowledge of health and safety matters and on-the-ground conditions in the industry, and would be happy to share information

with the regulator, but are frustrated by the complete lack of consultation which is hampering NOPSEMA's effectiveness as an organisation.

23. NOPSEMA has no direct or effective facility to bring together HSRs in consultation with the regulator or with each other. Given the often insecure nature of the workforce, many HSRs may be reluctant to call attention to themselves being seen to approach the NOPSEMA inspector directly, for fear of losing their jobs. Therefore, it would be best if NOPSEMA, as a matter of course during its routine investigations, brought together HSRs and employees in a group setting to discuss health and safety matters. This discussion should be kept on a confidential basis. Inspectors should also provide a copy of their report to the HSR, so that workers are made aware of any regulatory outcomes and how their safety concerns have been addressed.
24. NOPSEMA should also keep a register of HSRs on each facility, which would contain information about their election date, training received, and historical background about complaints raised and received on that facility. NOPSEMA inspectors should proactively engage those HSRs throughout the year, including through training and other initiatives, as discussed in more detail in the key recommendations at the end of this submission.

3. From your perspective describe the NOPSEMA capacity to respond to changes in industry; emerging issues and new technology such as seismic, deepwater drilling and (floating liquefied natural gas) FLNG. You may consider whether NOPSEMA is:
- + responsive to introduction of new technology that has potential to impact on your organisation and/or members
 - + adequately staffed and resourced for new technology in development

Response:

25. For hundreds of years, Australia workers have demonstrated a capacity to adapt to accommodate new technologies in their working lives. Unfortunately, however, NOPSEMA appears to be in catch-up mode regarding the impact of new technologies and work systems, meaning it is not in the best possible position to respond to the potential health and safety issues inherent in these emerging technologies.
26. The formula utilised by employers to address safety issues in technology developments or safety in design should be no different in offshore petroleum to any other high risk industry in the nation.

27. Consultation with workers and unions is essential to ensure that safety issues that result from technology developments and design matters are identified and mitigated.
28. In relation to staffing and resourcing, we know that the staff employed by NOPSEMA are dedicated, hard-working and committed to improving health and safety outcomes for workers in the industry. We need, however, to be confident that inspectors we are dealing with are sufficiently experienced to deal with issues in a highly specialised high risk work environment.
29. In particular, all inspectors should either have a background in industry, and be able to demonstrate their understanding of new and emerging technologies and systems, and/or should receive additional specialised technical training where necessary to ensure that their technical knowledge is up to date.
30. The ACTU submits that NOPSEMA should develop a publicly available register of the number of inspectors employed, the location the inspector is employed and the relevant skills or experience of inspectors. The identity of inspectors does not need to be revealed on the register. This register should be published in the NOPSEMA Annual Report and on its website where it should be updated each quarter.

4. Describe NOPSEMA's interactions with your organisation to improve regulatory outcomes. You may consider:

- + if it is clear what NOPSEMA desired regulatory outcomes are
- + if communication with NOPSEMA is adequate for your role/concerns

Response:

31. Consultation and interaction between all stakeholders is recognised as one of the critical themes arising from the Offshore Petroleum Safety Regulatory Inquiry. However, NOPSEMA's consultative processes with the labour force and with trade unions representing the labour force remain inadequate, despite the 2011 NOPSEMA Operational Review and the former government's response specifically identifying this matter as one requiring a high degree of attention. Meaningful interaction between NOPSEMA and the union movement has been prevented by the current Australian government.

32. When surveyed, union members working on offshore facilities have expressed disappointment with NOPSEMA's lack of interaction with them, and have raised the following points:

- When union members raise safety issues with NOPSEMA during platform inspections, NOPSEMA has failed to act
- The lead times to address safety issues are too long, and issues that are raised are often not addressed for several years, leading to an exacerbation of the problem
- NOPSEMA has never demonstrated much interest in staffing or workforce matters, except for safety case reviews on minimum manning

33. NOPSEMA is responsible for promoting and developing, in consultation with its stakeholders, guidance notes for clarity, and the CEO is responsible for improving the interaction between the Authority and its stakeholders. NOPSEMA has commenced work to address these issues through, amongst other activities, the Safety Case Guidance Note project. NOPSEMA should develop these guidelines in consultation with stakeholders, including unions, to provide clarity and consistency to the process which ultimately will result in better safety outcomes.

34. In our view, there should be regular and meaningful dialogue between unions and the regulator at all levels, including regular meetings with the CEO and Board. Requests by the ACTU to meet with the Chairperson and other members of the Board have all been refused to date.

35. Unions would be happy to work with NOPSEMA to support its regulatory activities, but the regulator must demonstrate it wishes to work with unions in good faith on these matters, and must follow up diligently when unions raise concerns about particular employers or industry trends that may pose a health or safety risk.

KEY ACTU RECOMMENDATIONS

1. Given the inadequacy of the legislation, the Government and or Parliament should urgently conduct a review. In particular, unless there is a good reason to the contrary, the government should align the *Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009* with Part 9.3 of the *Work Health and Safety Regulations 2011*.
2. NOPSEMA should establish a regular schedule of consultation with unions, including the appointment of at least one worker representation to the NOPSEMA Board, and further consultations on a regular basis with all unions.
3. Only approve a safety case where the safety case gives Health and safety Representatives the ability to initiate a review of the safety case, and as a matter of course, provide HSRs with an electronic copy of the safety case as well as a copy of all investigation reports that are conducted at their facility.
4. Schedule group consultations with HSRs and employees as a matter of course during routine inspections, to identify and pick up on safety issues that may otherwise not be apparent solely by talking to the manager.
5. Keep detailed records of the number of inspections, the outcome of those inspections, and any enforcement activity, and publish these statistics on a regular basis, either as part of the SWA Comparative Monitoring Report or in a detailed outline in the Annual Report.
6. Pursue an active litigation and enforcement policy, and use a greater range of regulatory tools such as Enforceable Undertakings and Provisional Improvement Notices. Make sure that facilities are audited at least twice a year, and consider doing joint compliance and enforcement activities with unions, such as jointly run inspections and industry educational campaigns.
7. NOPSEMA should fund dedicated HSR Support Officers who are semi-autonomous within the agency to ensure that HSR can be provided with timely advice on their powers, the obligations of their employer to their role, training opportunities and so on.
8. Training courses for HSRs should be accredited by NOPSEMA after a tripartite panel of key stakeholders including unions, has assessed the merits of proposed training packages and providers consistent with the current approach to approving training under Comcare.

9. NOPSEMA should maintain a publicly available up-to-date register of all inspectors and the training they have received.
10. NOPSEMA should also maintain a separate register with information about the HSRs on each facility, and should use this register to proactively make contact with HSRs during inspections and throughout the year.
11. NOPSEMA should initiate systems to ensure that the workers in the industry have the necessary skills to ensure high levels of OHS performance.
12. NOPSEMA should initiate a program that recognises the contribution to WHS made by HSRs, including an award for 'HSR Of The Year'. The basis for awarding this recognition should be consistent with the HSR Award presented by Comcare.
13. NOPSEMA should organise an annual HSR Forum with input from a committee comprising representatives of employers and unions.
14. Amend the Offshore Petroleum and Greenhouse Gas Storage Act 2006 to ensure that Health and Safety Representatives can:
 - Be assisted by any person at any time;
 - Appeal any decision of a regulator or court regarding any health and safety, compensation or rehabilitation matter;
 - Have a term of office no longer than three years and are able to be re-elected;
 - Be automatically appointed to the WHS Committee;
 - Initiate monitoring and reviews of OHS at the place of work;
 - Exercise their rights and powers across multiple employers, employment relationships and work groups (to take into account the nature of work arrangements e.g. subcontracting, multiple employer sites);
 - Be given a copy of all inspections reports conducted at their facility;
 - Have electronic access to the safety case;
 - Have access to whistleblower protections when raising matters of concern;
 - Initiate prosecutions with unions acting as their agent.
15. The OPGGSA should be amended, consistent with the Commonwealth's Work Health and Safety Act 2011, to allow unions the right to enter OPGGSA facilities

for WHS purposes. In the anticipation of this right being legislated, NOPSEMA should immediately facilitate the entry of unions to worksites for WHS purposes.

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Organisation name: *(AIMPE)*

Submission Questions
<p>1. From your perspective, describe the effectiveness of NOPSEMA to improve industry performance? You may consider:</p> <ul style="list-style-type: none"> + the occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations + the structural integrity of facilities, wells and well-related equipment + offshore petroleum environmental management including the effectiveness of the integration of environmental management into NOPSEMA functions since 1 January 2012 + offshore greenhouse gas storage environmental management
<p>Response:</p> <ul style="list-style-type: none"> • It strikes us that NOPSEMA places an over-reliance on the Safety Case pre-commissioning

document and biannual inspections. The flaw inherent to us is the virtual exclusion of operational personnel (especially HSRs) in the construction of the Safety Case and any ongoing review other than in the event of an incident and/or the issuance of an improvement notice;

- As we understand the state of play, NOPSEMA is unable to identify the number of HSRs in the Industry and when these employees received their training. This, notwithstanding NOPSEMA vets RTOs for accreditation for offshore oil & gas health and safety training;
- We note the total lack of trade union access to offshore installations in contrast to workplaces ashore or vessels in Port;
- It appears from to us from afar, that NOPSEMA sees its role as interpreting legislation as distinct from optimising safety at work.

2. From your perspective describe the NOPSEMA governance arrangements (pursuant to the Public Governance Performance and Accountability Act 2013):

- + promotes compliance with the law
- + works cooperatively to ensure that relevant parties are informed of regulatory activities
- + pursues a consistent national approach to regulation
- + ensures that duty holders identify and take action to deal with serious risks
- + holds accountable duty-holders who breach their requirements
- + allocates its resources properly in accordance with its priorities
- + cooperates with stakeholders about relevant information
- + has a streamlined and timely approval process

Response:

- As the NOPSEMA Board has no governance responsibilities it is unclear to us how discharges its obligations under the PGP&A Act 2013;
- As evidenced by the *Castoro Otto* incident and the *Karratha Spirit* incident there are legislative

uncertainties between the roles and jurisdictions of NOPSEMA and the AMSA;

- As to breaches and accountability we are aware of only one recommendation from NOPSEMA to the DPP to prosecute; the *Stena Clyde Incident*.

3. From your perspective describe the NOPSEMA capacity to respond to changes in industry; emerging issues and new technology such as seismic, deepwater drilling and (floating liquefied natural gas) FLNG. You may consider whether NOPSEMA is:

- + responsive to introduction of new technology that has potential to impact on your organisation and/or members
- + adequately staffed and resourced for new technology in development

Response:

- We anticipate the advent of the Shell FLNG *Prelude* will be a test of how responsive NOPSEMA is to new technology;
- AIMPE would be interested to ascertain the level of involvement of NOPSEMA in the development of safety in this Project, to date.

4. Describe NOPSEMA's interactions with your organisation to improve regulatory outcomes. You may consider:

- + if it is clear what NOPSEMA desired regulatory outcomes are
- + if communication with NOPSEMA adequate for your role/concerns

Response:

- We are not aware of any interactions with us, to improve regulatory outcomes;
- We note that previous tripartite consultative forums have been disbanded.



APPEA SUBMISSION

2015 OPERATIONAL REVIEW OF

NOPSEMA

15 May 2015



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1. INTRODUCTION

Nationally, almost \$180 billion is currently being invested in oil and gas projects in Australia, including six major liquefied natural gas (LNG) export projects¹ (following the commencement of the commissioning process for Australia's newest LNG project in December 2014). These projects include:

- largest resources projects and some of the largest capital projects ever undertaken in Australia;
- world's first projects featuring CSG to LNG developments;
- world's first floating LNG project; and
- largest greenhouse gas storage project in the world.

By 2020, the sector's economic contribution to the national economy is set to more than double to \$65 billion and taxation paid is projected to rise from \$8.8 billion (an estimated \$4.9 billion in corporate taxes and \$3.8 billion in production taxes) to reach almost \$13 billion.

With this huge investment and extensive oil and gas activity, the Australian oil and gas industry is committed to demonstrating it has uniformly high standards in place at all times to protect the safety, integrity and health of people, the environment and our communities. APPEA supports strong and independent regulation that sets an objective and science based framework for reducing risks while providing certainty to industry. Given the substantial benefits to the national economy, regulation of the oil and gas industry should be designed and implemented to promote high standards of actual operational performance and risk management without imposing unnecessary regulatory/administrative burdens.

APPEA has been an active partner with the Commonwealth and state/territory governments and regulators over many years in developing the current regulatory frameworks and industry practice governing safety, structural integrity and environment for oil and gas activities and operations. APPEA has provided leadership to further strengthen regulatory regimes, improve transparency around critical controls and build additional emergency response capability after recent serious offshore incidents. At the same time however, unnecessary and duplicative regulation, and inconsistency and confusion between different regulators has increasingly placed a costly and inefficient burden on oil and gas projects across Australia without contributing to raising standards or outcomes. APPEA therefore acknowledges the commitment of the Australian Government to address this regulatory burden and supports the initiatives to achieve a genuine 'one stop shop' regulator for oil and gas activities and facilities in Commonwealth waters, as well as pursuing further alignment with the regulatory regimes in state/territory waters and with

¹ Bureau of Resources and Energy Economics (2013), *Resources and Energy Major Projects*



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major hazard facilities regulation onshore. Further, APPEA supports the key role NOPSEMA plays in achieving an integrated, consistent, risk based and streamlined approach to the regulation of the industry's offshore oil and gas facilities and activities.

APPEA's submission to the 2015 Operational Review of NOPSEMA is intended to assist the Australian Government with the continuous improvement of the offshore regulatory regime applying to oil and gas activities and facilities in Commonwealth waters, and importantly to improve the operational performance of the industry, particularly in the prevention of major accident events.

UNDERPINNING PRINCIPLES OF REGULATION

Regulation of oil and gas operations should reflect leading practice and be objective-based. For industries subject to rapid technological change and which operate in dynamic, high risk environments, prescriptive regulation is likely to become quickly outdated and worse, counterproductive in terms of managing risk. Instead, regulations need to set clear objectives and leave it to operators to determine how these objectives are to be achieved and to provide a robust justification (or case for safety, environment and structural integrity) to an independent and competent regulator.

APPEA acknowledges that both industry and regulators need high levels of experience and competence in developing, assessing, implementing and adapting through management of change process an 'argued and justified case' that ensures:

- 'critical' controls (or barriers) are identified that can either prevent a serious incident occurring in the first place or minimize the consequences if a serious incident were to occur;
- the adequacy of those critical controls is assessed and justified (which requires both ALARP argument and identification of performance standards that are genuinely about the desired performance and are SMART – specific, measurable, achievable, realistic and time managed);
- accountability for their implementation is assigned; and
- their effectiveness in practice is verified – and where necessary changes are made and managed to the critical control and performance standard to ensure they are effective.

This requires a level of 'adaptive management' and engagement between industry and regulator, not a rigid adherence to the original documents submitted to the regulator and accepted, which will inevitably need refining in practice through the implementation process. It also requires a clear understanding of why and what are the 'critical' controls

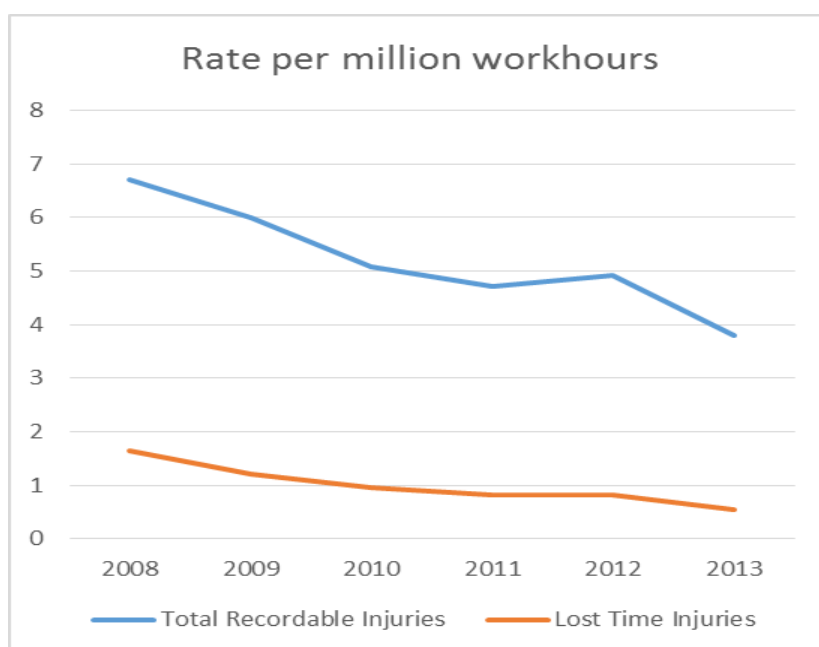
It is imperative in high hazard industries such as oil and gas operations that experiences and lessons are shared across the industry as effectively and rapidly as possible. Effective sharing of lessons is highly dependent on having in place a mature regulator(s) experienced in the field, and engaged with industry to share and problem solve through a flexible but transparent and managed approach to changing circumstances (technology, environments, science etc.) backed up by clear objective based regulation and ultimately independent, fair and firm enforcement.

A rigid and policing style of regulation where finding blame is the main game cannot contribute to best industry practice and performance through timely sharing of lessons and experiences.

2. OVERVIEW OF INDUSTRY'S HSE PERFORMANCE AND COLLABORATION

■ Safety Performance and Collaboration

APPEA has worked with the industry since 2007, through an annual CEO Safety Leadership Forum (which includes service sector/contractor CEOs from across all oil and gas operations in Australia) and the APPEA HSO Committee and forums, to achieve a significant improvement in personal safety performance across the industry. A series of industry and company initiatives have dramatically reduced injury rates whilst work hours have tripled.



There is however, always more that can and must be done and APPEA and the oil and gas industry leaders are continuing with the work to drive for better performance across all sectors of the industry. Some current APPEA initiatives aimed at achieving continuous improvement include for example:

- Alignment of APPEA's safety performance data reporting with the protocols of the International industry body IOGP in order to leverage global learnings, including collecting and publishing data on industry high potential events to foster rapid transfer of lessons between oil and gas industry companies.
- Co-ordination of specialist network groups to share lessons and understand best practice e.g. HSO Committee, APPEA Drilling Steering Committee, Human Factors Subcommittee, Safety Performance Reporting Subcommittee and Aviation/Search and Rescue Working Group.
- Conduct of a number of key safety/risk awareness and competence programs - the Common Safety Training Program (CSTP) and the Safe Supervisor Competency Program (SSCP) to build the safety and risk awareness and competency of its oil and gas workforce to support strong safety culture and continuous improvement. These programmes are discussed in more detail below.



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CSTP

The Common Safety Training Program (CSTP) is an initiative of the Australian Oil and Gas CEO Safety Leadership Forum and provides a benchmark for safety awareness and preparation for working in the oil and gas industry. Launched in 2010, the program reflects the commitment of oil and gas organisations to continually improve safety performance with nearly 8000 participants already completing the program.

The CSTP combines a structured off-the-job program in an immersive learning environment followed by a demonstration of behaviours and skills and peer assessment in the workplace.

CSTP is highly regarded because of its immersive learning techniques and hands-on approach to establishing safety behavioural skills and culture from the beginning of workers' career in the oil and gas industry and developing skills for experienced personnel. It has introduced a consistent, reliable and high-quality process that allows companies and the regulator to have confidence in entry-level safety training standards across the industry.

Since 2013 CSTP has been an industry requirement for all personnel working in offshore production and drilling activities in the Australian oil and gas industry. Some companies have mandated it for onshore projects.

SSCP

The Australian Oil and Gas CEO Safety Leadership Forum introduced the Safe Supervisor Competence Program in 2012 to develop supervisor skills in safety critical roles. Supervisors play a critical role in managing safety and productivity, and provide the interface between management and the frontline, contractors and operators. Supervisors are also critical to improving the attitude, culture and performance of their workforce, yet many are often selected on their technical skills and experience rather than their people and leadership skills.

Many supervisors do not receive any training or development prior to or after being assigned a supervisory role and the SSCP has been designed to provide supervisors, particularly those employed by contractors, a combination of practical, hands-on and simulated oil and gas learning, reinforced with demonstration in the workplace. The aim of the program is to allow companies and the regulator to have confidence in supervisor competency, particularly those with contractor companies who have relatively high staff turnover, and a mobile workforce that moves across projects.

A review and expansion of the SSCP program is proposed for 2015-16 to reflect changes to industry requirements and expectations as it transitions from construction to operations and maintenance.

Process Safety

In common with the global oil and gas industry, Australia's oil and gas industry is heavily focused on improving our collective process safety performance. Industry leaders recognise that we must take advantage of the lessons and experience we have gained from our persistent and successful focus on personal safety and convert this into a leadership framework for addressing the process safety challenges we face e.g.

- Triple the number of gas trains over the next few years
- Simultaneous construction and production at the same location

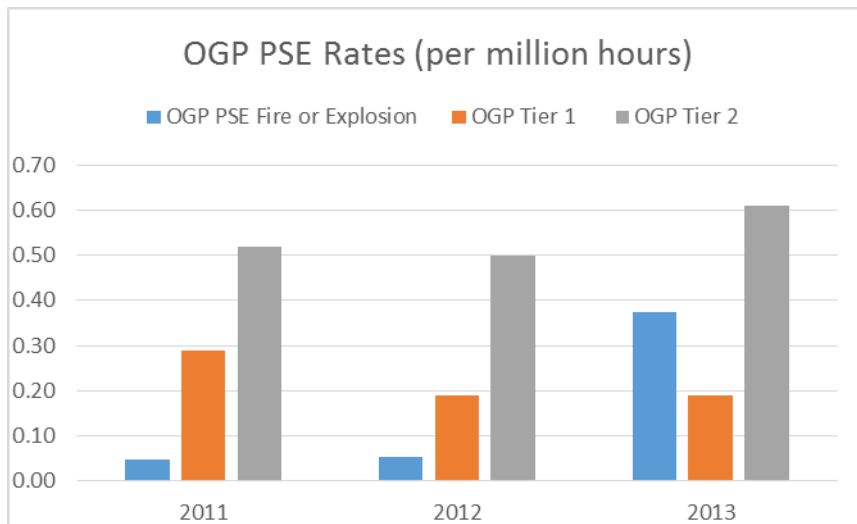


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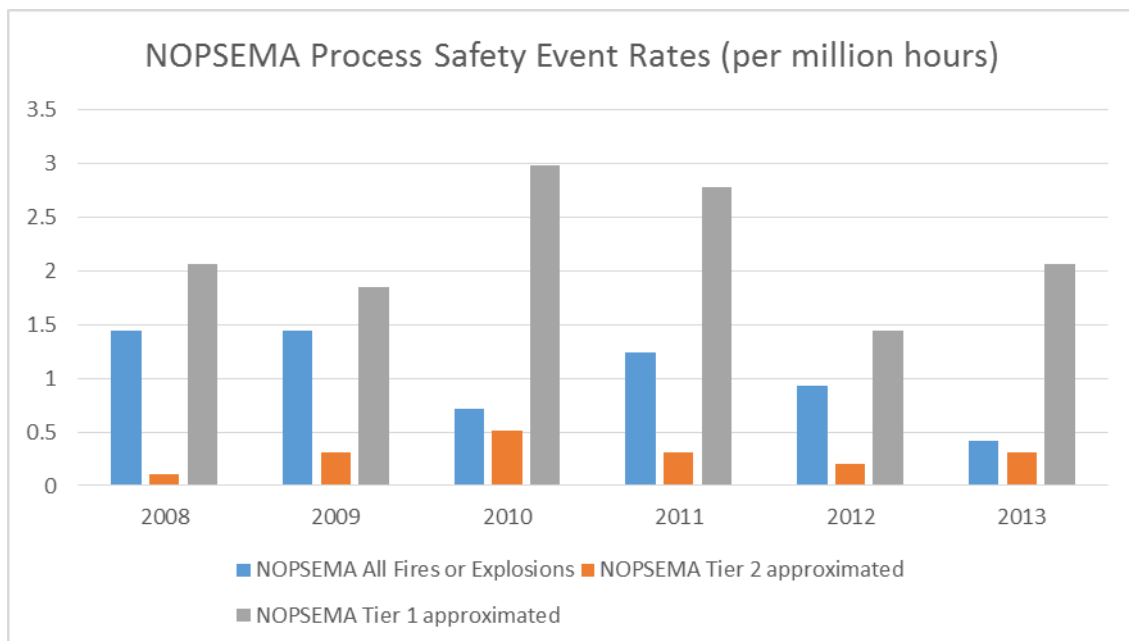
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- Plant life-extensions and facility decommissioning
- New technologies (e.g. CSG to LNG or FLNG).

International process safety dataset for lagging process safety metrics (fires/explosions and hydrocarbon releases) demonstrates no discernible improvement in performance since data collection began in 2011 (source IOGP):



Whilst IOGP data is based upon definitions from the API Standard 754, NOSPEMA has also collected a similar dataset for offshore operations in the Commonwealth waters of Australia since 2008. Whilst the data is not directly comparable, the NOSPEMA dataset shows a similar lack of a discernible improvement trend over an extended period:



Process safety events usually occur as a result of a combination of 'hard to see' and often complex factors, and the relative rarity of process safety events means the absence of an incident is no predictor. The development of effective **lead indicators** is therefore critical (see section on IChemE Safety Centre work). Process safety is also not just about engineering and systems – it does involve organisational culture and **human factors** and there are strong lessons to be had from Macondo and other incidents.

APPEA has commenced a number of initiatives designed to drive continuous improvement in process safety performance across the oil and gas industry:

- Safety Case Working Group seeking to share and improve best practice in effective safety case development and implementation;
- Human Factors Subcommittee working on human factors in process safety.
- Representing the Australian oil and gas industry's participation in the IChemE Safety Centre, which is seeking to produce informative reference documents to represent best practice in process safety (e.g. leading process safety metrics, competency guides etc.) – see further information below.
- Steering the new oil and gas industry leadership initiative Stand Together for Safety (STFS) to achieve broad engagement in process safety from the front line to the boardroom and between companies, service providers and regulators.

Stand Together for Safety – Oil and Gas Industry Leadership Initiative

A STFS Leadership Steering Committee, made up of oil and gas industry leaders, contractors, workforce representatives and regulators, was formed in March 2014 with the following objectives:

- Significantly improve engagement with our workforce, contractors, representatives from technical, engineering and HSE roles and regulators through a new '*Stand Together for Safety*' leadership program;
- Leverage existing technical work and experience from across Australian and global industry, but adapt for the local workforce and regulators;
- Ensure that the wide range of views (Frontline to Boardroom) are considered;
- Resolve root cause issues, tackle workforce priorities and develop programs to achieve improvement;
- Target "global best in history" performance in process safety outcomes, increased accuracy of reporting of process safety metrics and significant reduction in Tier 1 hydrocarbon releases.

STFS aims to trigger an industry wide discussion on process safety and the verification of safety critical controls or barriers. Researchers worldwide have found that process safety and the prevention of major accident events require that the role of people in the operation and their understanding of safety-critical controls are as significant as engineering solutions.

The ability to hold informed discussions on a subject as complex and diverse as process safety can often be daunting for management, supervisors and personnel alike. Yet the ability for everyone to truly understand the status of plant is fundamental to ongoing safe operations. Equally important is the ability for everyone to be able to raise issues around process safety when usually the hazard may not be readily visible or the effects may not manifest for many years.



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STFS has endorsed a “*Process Safety - A Good Practice Guide*” template and an overarching implementation plan for improving process safety performance across the Australian oil and gas industry. The good practice guide utilises the proven successes from personal safety management approach (OGP 459 - Life Saving Rules). The guide defines “Golden Rules” for process safety and the behaviours associated with them. This concept has been taken further by including benchmarks of “what good looks like” in process safety, and providing a series of assurance questions to direct effective barrier verification discussions across the industry. The Process Safety guide will be peer reviewed by experts from a range of different disciplines (e.g. Commissioning and Simultaneous Operations/Maintenance; Drilling and Well Integrity; Decommissioning; Asset Life Extension; Design) to ensure the information is applicable to the entire life cycle of oil and gas activities.

IChemE Safety Centre and Process Safety (ISC)

The Institution of Chemical Engineers is the UK based organisation that provides oversight of the chemical engineering profession in the UK and internationally. Nine of the Australian oil and gas companies agreed to fund the establishment of the IChemE Safety Centre (ISC) in 2013 for an initial 3 years through APPEA. The ISC is subsequently starting to broaden its member base and networks around the world, in order to foster leading edge thinking in process safety on a global basis. This represents an opportunity for APPEA and its members to contribute to global best practice from an Australian footprint.

The ISC is developing activities in a number of areas and two of these are nearing completion:

- Establishment of a common set of leading metrics for process safety. These metrics are distinctive in that they are qualitative in nature to assist adoption by a diverse range of companies across multiple industries.
- Guidance about recommended process safety competencies from the frontline to the boardroom.

Environmental Performance and Collaboration

The Australian Government’s response to the Montara Commission of Inquiry Report, including major changes to the regulatory framework for environmental management under the OPPGS Act, and the 2010 Macondo incident in the Gulf of Mexico, have led to a significant focus on collaboration and improving the Australian oil and gas industry’s collective capacity (policy approaches, physical resources and shared knowledge) in environmental management and preparedness. The Macondo incident in particular has driven extensive global industry collaboration, and sharing of technology, good practice and lessons, including through international bodies such as IOGP and IPEICA.

The major industry wide initiatives cross several key areas:

- Oil Spill Response Capacity and Preparedness;
- Improving the Marine Environmental Science Knowledge Base;
- Commercial Fishing Sector Stakeholder Engagement
- Subsea Response and Well capping (not covered in this submission)



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Oil Spill Response Capacity and Preparedness

Oil Spill Response (Surface) Capacity and Preparedness Review

Significant progress has been made collectively by industry to build its capacity for subsea responses to uncontrolled well releases. In addition, under the new risk management processes underpinning the new regulatory framework, significant progress has been made by individual companies and through Oil Spill Response Agencies such as AMOSC and OSR Ltd to increase oil spill surface response options (for example the purchase by industry of an oiled wildlife mobile response centre in 2013).

However, in 2014 APPEA's members identified a need to have a clearer understanding of industry's collective capacity for surface response, thus allowing it to identify priority areas for future collective investment and to also identify any areas of unnecessary duplication in capacity.

In 2015 APPEA commissioned a national Oil Spill Response Capacity and Preparedness Review. The Review will involve all of APPEA's operating members, as well as gaining the perspective of regulators (particularly NOPSEMA) and Oil Spill Response Agencies.

The final report is due to be delivered to APPEA in August 2015.

APPEA's Oil Spill Response (OSR) Forum and Joint Industry Initiatives

In 2013, APPEA established its Oil Spill Response Forum. Its charter is to:

- Share regional, national and international research findings and best management practices with regards to Oil Spill Response (OSR)/Oil Spill Contingency Planning (OSCP);
- Share relevant OSR/OSCP information and learnings from member organisations;
- Provide a potential focal point for regulators to disseminate relevant OSR/OSCP information to members; and where identified by the Forum;
- Develop specific products or tools that will be useful to industry operating in the Forum's geographical focus area (e.g. initiatives, working groups).

Initiatives to date have included:

- The development of Sharing Environmental Solutions: Planning for Dispersant Use in Oil Spill Response – An Australian Perspective;
- The Oil Spill Response Capacity and Preparedness Review (see above);
- The Industry-Government Environmental Meta-Database Project (see Improving Marine Environmental Science Knowledge Base Below)
- Improving the use of Oil Spill Impact Assessment Tools Workshop;
- Exploring the use of Remote Surveillance Technologies in Oil Spill Response Workshop;
- Improving engagement with the IPIECA-OGP Oil Spill Response Joint Industry Projects (JIP)
- HSE Conference Keynote Session – Oil Spill Response Forum
- Exploring collaboration in developing Tactical Oil Spill Response Plans
- 2014 National Plan Review – Oil and Gas Industry Response



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Improving the Marine Environmental Science Knowledge Base

The Australian Oil and Gas Industry have a long track record as one of the leading investors in Marine Environmental Science. APPEA sees significant benefit in bringing this comprehensive knowledge together, and to provide platforms for increasing its availability for industry, government, the research sector and our stakeholders more broadly.

The APPEA Marine Environmental Science Program

The overall objectives for the APPEA Marine Environmental Science Program (MESP) are to:

- Help to build stakeholder confidence in the industry;
- Consolidate respected facts and data for easy and accessible reference;
- Support the industry's future growth potential;
- Maximise the investment already made by APPEA member companies in environmental research and oil spill response capacity; and
- Reduce the cost and effort in securing Environmental approvals.

The MESP is arranged to deliver a series of projects around key Australian Oil and Gas Industry Marine Environmental Science issues and currently includes:

- Underwater Sound and Vibration from Offshore Petroleum Activities (including Marine Seismic Surveying) and its Potential Effects on Marine Fauna
- Understanding the Potential Consequences of Unplanned Discharges
- Environmental Aspects of Decommissioning
- Managing Environmental Impacts of Planned Discharges
- Biosecurity Risk Management

The Industry-Government Environmental Metadata (I-GEM) Project

I-GEM Project is an industry and government collaboration to collate and present geospatial metadata on marine environmental baseline and monitoring studies collected in the last decade. The objective of this program is to ensure industry and government have the same marine studies knowledge base. The meta-geospatial database will allow organisations to understand what environmental baseline studies exist, where they exist, and who the custodian is. The database will provide a valuable shared resource to support impact assessment in the unlikely event of a major oil spill.

In its current pilot form I-GEM metadata are publically accessible on wa.aodn.org.au/waodn/ through in kind contribution of several companies, including: APPEA, WAMSI, IVEC, IMOS, AIMS and Woodside. The pilot phase contributed 148 metadata records to AODN and the commitment for 218 additional I-GEM metadata records



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Commercial Fishing Sector Stakeholder Engagement

Australia's marine environment is a significant source of both Food and Energy to Australia and the world and the petroleum and commercial fishing industries are significant contributors to the economy of Australia, and to our national identity.

There are several issues which have caused tension between the two industries, including the potential interactions between Marine Seismic Surveying and commercial seafood species, as well as oil spill response preparedness, rare issues with on-water interactions between vessels and the issue of recreational fishing from commercial oil and gas vessels.

Therefore the two industries have come to recognise that there is a common interest to work together to promote fair and reasonable access to the resources each industry extracts and to work together to positively influence the relationship between our members.

Joint Oil and Gas – Commercial Fishing Industry Memorandum of Understanding and Roundtable

In November 2015, APPEA entered into a Memorandum of Understanding (MOU) with 5 of Australia's peak Commercial Fishing and Seafood Industry Associations. The purpose of this MOU is to facilitate improved communication, cooperation and consultation arrangements between the Parties including:

- Identifying common goals;
- Improving strategic communications;
- Developing issue specific interaction frameworks where appropriate;
- Undertake joint initiatives that benefit both industries;
- Raise awareness and perspectives of issues facing each industry; and
- Promoting commonly agreed messages to each party's members and stakeholders.

The first expression of the MOU has been the creation of an Oil and Gas – Commercial Fishing Cross-Industry Roundtable, whose primary aim is to deliver on the objectives of the MOU.

The Roundtable has identified several initiatives it wishes to pursue including:

- The development of a public Joint Knowledge Base for scientific literature on the subject of Underwater Sound and Vibration from Offshore Petroleum Activities and its Potential Effects on Marine Fauna;
- The development of a joint industry website to improve the targeting of environmental and appropriate operational information, to streamline engagement between Oil and Gas and Commercial Fishing industry;
- Increased cross-engagement of both industries at each industries relevant national conferences;
- Agreement to a cross-industry position on not supporting recreational fishing from commercial fishing

3. ADDRESSING THE REVIEW'S TERMS OF REFERENCE

3.1 NOPSEMA'S EFFECTIVENESS IN BRINGING ABOUT IMPROVEMENTS IN WELL INTEGRITY, SAFETY & ENVIRONMENTAL MANAGEMENT

- There are a number of factors that contribute to NOPSEMA playing a key role in driving continuous improvement in the performance of what is a high hazard industry. These include:
 - The fact that NOPSEMA has a unique whole of industry view of both regulatory submissions, including the potential for early engagement on design and project development, but importantly also what is actually taking place in the field. This umbrella view should be strengthened further as NOPSEMA moves to a more integrated approach to their regulation of well integrity, safety and environmental management – given the highly interrelated nature of these activities.
 - The ability of NOPSEMA to take an objective, independent look at what industry is doing in practice, and to contribute to creating a vulnerable, questioning culture in a dynamic environment. This independence also means NOPSEMA can influence any lower performers for the benefit of the collective industry. These are the key values to be had from 'independence' – not therefore a 'hands off' approach as it so often seems to become. The focus should be on challenging and 'adaptive/change management' rather than blind compliance.
 - The ability of NOPSEMA to take an active role in the International Regulators Forum, and thereby have access to emerging trends in oil and gas industry performance globally and to best practice regulatory approaches.
 - The dual nature of NOPSEMA's regulatory function e.g. timely and proactive engagement and education on industry wide issues as well as titleholder or operator specific, backed up by firm and fair enforcement activity out in the field.
- One measure of the effectiveness of NOPSEMA is that since the creation of NOPSA in 2005, the safety performance of the industry in terms of recordable cases and injuries has steadily improved, and the number of fatalities in the industry has remained very low, with no fatalities recorded offshore since 2013. However, on the other side of the ledger there has been no discernible sustained improvement in the numbers of hydrocarbon releases (see previous section on industry performance), and an upward trend in reporting of damage to safety-critical equipment. This is a global trend and highlights the importance of the work the Stand Together for Safety Steering Committee (which NOPSEMA sits on) and the IChemE Safety Centre are doing on driving process safety improvement and ensuring a common and accessible approach to ensuring effective barriers are in place and working, and are understood by everyone at all levels (not just process engineers) and to develop lead indicators and competencies across the industry.
- Following the two previous statutory reviews and associated recommendations, NOPSA implemented a number of improvements to its inspection, investigation and enforcement approach, including adopting a risk and themed based approach to inspections. This approach has continued with the establishment of NOPSEMA covering structural integrity and environmental management. APPEA notes however, that to date the bulk of in the field



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activity appears to relate to OHS inspections, with environmental inspections slowly increasing.

- There seems to be little information available on well integrity inspections, and this is one area that APPEA believes needs far more attention or perhaps more broad and proactive engagement with industry through the APPEA Drilling Steering Committee (noting that hidden way on page 30 of the NOPSEMA Annual Report for 2013 is a reference to four risk based inspections of well operations – primary cementation, titleholder communications (internal and third party) and management of change). Well and structural integrity of facilities needs to have a significant focus given the potential for major accident events – including those resulting in major environmental impacts.
- Anecdotal reports from industry would also indicate a mixed experience in the depth and significance of NOPSEMA's inspections in terms of preventing major accident events, with too much focus on relatively trivial issues or inadequate in depth challenging of e.g. the genuine relevance and effectiveness of performance standards for critical barriers.
- NOPSEMA makes industry performance data and information available in a range of ways – directly to titleholders and operators, a quarterly newsletter addressing key issues 'The Regulator', publishing an annual performance report (usually released at APPEA's main conference) data reports and trends on the NOPSEMA Website, issuing of Safety Alerts (though APPEA notes only 3 were issued in 2014), publishing enforcement notices with lessons that may be applicable more broadly (on website at <http://www.nopsema.gov.au/resources/published-notices/> and putting NOPSEMA presentations on a resources section of the website with advice on priority focus areas and topic based inspections.
- APPEA is of the view however, that there is far more that NOPSEMA could do to apply the insights and learnings they gain from their overview of all of industry's operations, and from their interactions with global regulators. By way of example, in their annual performance report NOPSEMA present the findings of their topic based inspections. In 2013 they covered maintenance management and control of ignition sources focussing on hazardous area equipment, vessel and aircraft control (mainly helicopter operations), and emergency preparedness. The observations/findings from their inspections are set out at a very high level in what is once a year lag report (e.g. published around May of the following year). APPEA contents this is a missed opportunity for driving significant improvements by engaging with the whole industry, possibly through a joint APPEA/NOPSEMA workshop format - the preventative maintenance theme for example, being central to driving improvements in hydrocarbon releases.
- Whilst acknowledging the complexity of mounting successful prosecutions, the need for such action on occasions and the legal issues involved, APPEA is strongly of the view that more needs to be done to ensure timely and effectively sharing of learnings from serious incidents and investigations across the industry. By way of example, the root causes and deep learnings from the Stena Clyde incident (where two offshore workers lost their lives) have not been adequately shared across the industry nearly three years later. This is true for NOPSEMA but also for industry itself.
- APPEA is of the view that the NOPSEMA environment teams' focus on improving oil spill planning and preparedness is a particularly good example of where proactive engagement between the regulator and industry has resulted in significant improvements in planning and

capability across the industry, and triggered effective industry collaboration (see previous section on industry's environmental performance and collaboration). There is no doubt that the Australian oil and gas industry collectively is far ahead in terms of oil spill capability and readiness than it was five years ago.

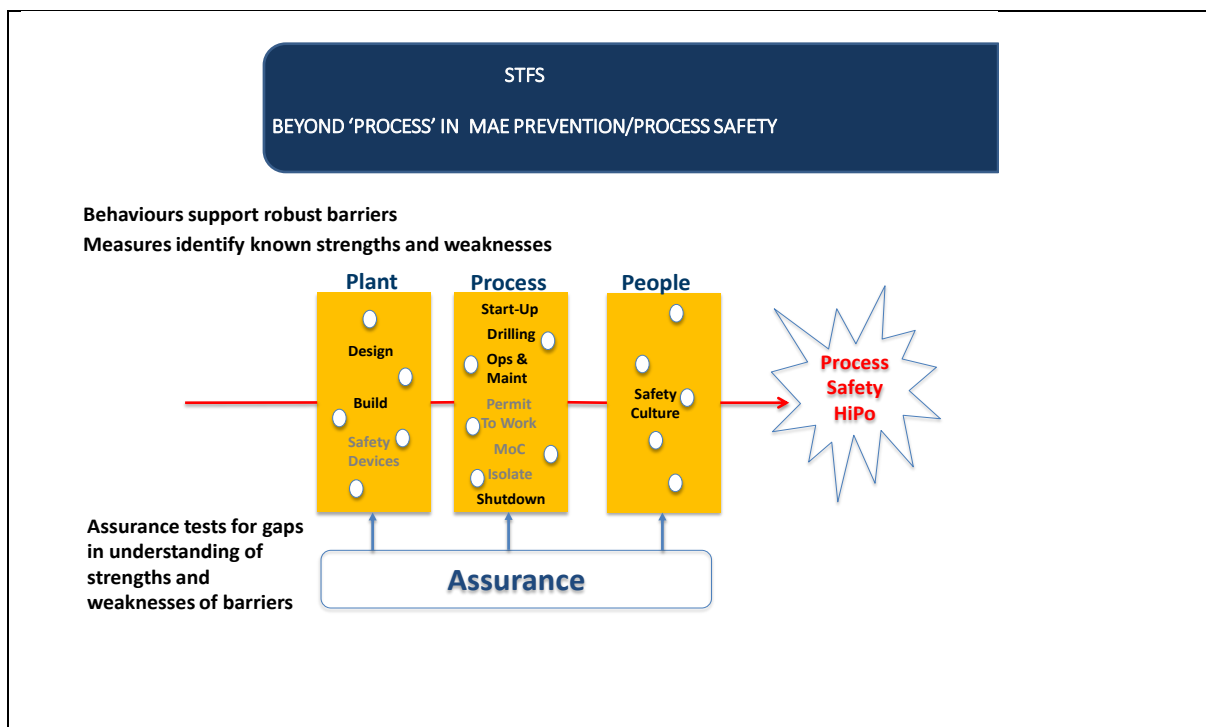
- In general, and despite the fact that NOPSEMA generally has a tendency to communicate from behind a wall of primarily legislative and at times highly confusing language, APPEA and industry have found the Environment Team in particular prepared to engage with APPEA and industry collectively on common issues emerging out of the submission of environment plans, and to hold workshops and forums to address these issues with industry where appropriate.
- Another good example has been the proactive and strategic approach taken by NOPSEMA to address the need for more extensive public transparency and stakeholder consultation triggered both by the requirements under the *OPGGS (Environment) Regulations* and also the endorsement of NOPSEMA's environmental authorisation process (the Program) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). NOPSEMA's approach has balanced the objective of building public and stakeholder confidence in the rigour and transparency of NOPSEMA's regulatory decision making processes, whilst also addressing the sensitive and complex nature of highly technical risk and ALARP arguments and the role for example of modelling to inform decision making.
- Under the NOPSEMA regime, we have seen continuous improvement in the timeliness and effectiveness of stakeholder consultation by our members. The industry is working both collectively at national and state levels to provide advance and strategic information on petroleum activities to stakeholder groups and also locally to engage and listen to stakeholder concerns. APPEA acknowledges the need for ongoing work to be done in this area (see previous section on Stakeholder Engagement and Roundtable with Fishing Industry), and APPEA is keen to have NOPSEMA contribute to a better understanding of this sometimes complex issue and to continue to assist in managing the expectations of stakeholders.
- One key area for improvement in the NOPSEMA regime is the engagement of the workforce and health and safety representatives. APPEA appreciates that NOPSEMA

3.2 NOPSEMA'S GOVERNANCE ARRANGEMENTS – EXPANDED FUNCTIONS

- See full response in Section 3.1 above, which also addresses a number of the specific questions posed under the second terms of reference, and highlights the integrated/interactive nature of offshore oil and gas activities and operations.
- In general, NOPSEMA has adopted a regulation driven approach to carrying out their functions and putting in place governance arrangements, and therefore consistency in approach across safety, well integrity and environment has been dependent on the respective regulatory provisions. NOPSEMA has developed a suite of transparent policy documents and wherever possible, aligned its' assessment, inspection and investigation policies for the three permissioning areas of safety, well integrity and environment. NOPSEMA's timeframes for assessment and acceptance are reported on their website and they are within the accepted timeframes set out by regulation and policy. There is however, more work that could be done to provide for greater consistency across the inspectorate, and to provide a more integrated approach as appropriate between the three key permissioning areas of safety, well integrity and safety case.

- NOPSEMA's necessary strict adherence to regulation, compliance and independence post Montara may mean we are missing an opportunity to genuinely engage in the field to drive the prevention of major accident events in particular. NOPSEMA should be asking challenging questions about the effectiveness of critical performance standards and barriers, and facilitating appropriate change management and continuous improvement rather than blind compliance with regulatory documents. Sometimes they are doing this well – but APPEA would contend perhaps not consistently and not always focussed on the highest risks. Both industry and NOPSEMA (and indeed other major hazard regulators) tend to get caught up in process and forget the people, behaviours and culture that are so critical to understanding weaknesses and verifying barriers – see STFS Diagram 1 below. Both industry and the Regulator need to do more work to improve the inspectors' and industry personnels' understanding of the behaviours required and competence to challenge and verify that there are robust barriers.

STFS Diagram 1:



- The one area NOPSEMA is appropriately focussed on continuous improvement is through revisions and new submissions, where NOPSEMA may not accept something that has been accepted before if it no longer is ALARP (or acceptable) because of changing knowledge, practice, technology, capacity for collaboration, cost structures etc. This is not 'gold plating' as some have claimed or prescription by stealth. It is exactly what an outcomes and risk based regime was intended to achieve. This must be offset however, by the diminishing return of exhaustive ALARP demonstration [whilst also noting that the commonly accepted concept of ALARP tested in courts, both in Australia and in the United Kingdom, involves some test of 'gross disproportion' i.e. it is not just balancing the costs and benefits of a measure].



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- NOPSEMA's published annual report sets out transparently its functions, strategies, key performance indicators and how it is tracking in meeting the performance indicators. This is a useful way of strategically reporting on how they are using resource and efforts most effectively and efficiently to fulfil their functions.
- Post Macondo and Montara, the Australian Government introduced a series of regulatory reforms aimed at aligning some of the provisions of the different regulations administered by NOPSEMA and strengthening the compliance and enforcement tools available to the regulator e.g. the *Offshore Petroleum and Green House Gas Storage Amendment (Compliance Measures) Act 2013* (Compliance Measures Act No. 1) and the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures No. 2) Act 2013* (Compliance Measures Act No. 2). Some of the changes included:
 - the introduction of a civil penalty regime, providing the regulator with an alternative enforcement tool aimed at improving compliance outcomes;
 - increasing the current criminal penalty levels under the *Offshore Petroleum and Greenhouse Storage Act 2006* (the Act) to bring them in line with other major hazard industry legislation;
 - harmonisation of OHS offence penalties with the Work Health and Safety Act 2011 to reflect the greater consequence involved in a major hazard industry;
 - redrafting of the Act to allow for the future triggering of the standard monitoring and investigation powers in the proposed *Regulatory Powers (Standard Provisions) Bill 2012* (the Regulatory Powers Bill), which enables NOPSEMA inspectors to use the monitoring and investigation powers in the Regulatory Powers Bill to monitor and investigate compliance with all obligations of persons under the Act and associated regulations; enabling the parties responsible for administering the Act to share information in appropriate circumstances;
 - implementing a range of alternative enforcement mechanisms, such as infringement notices, adverse publicity orders, injunctions and continuing penalties;
 - enabling NOPSEMA inspectors to issue environmental prohibition notices and environmental improvement notices to require petroleum titleholders to take action where required to remove significant threats to the environment; and
 - requiring NOPSEMA to publish OH&S and environment improvement notices and prohibition notices on its website.
- NOPSEMA are producing and making transparent a range of regulatory and compliance information, including making improvement and prohibition notices available on its website. These notices provide an important tool to NOPSEMA to direct duty holders to take action to deal with serious issues and risks, and highlight areas of concern that may have broader application to all duty holders and industry generally. Whilst prohibition notices are by nature heavy enforcement, improvement notices should be seen as 'education' tools as much as enforcement tools, and generally retain the outcome focus of the regulatory regime.



3.3 NOPSEMA'S CAPACITY TO RESPOND TO CHANGES IN INDUSTRY – OPERATIONS & TECHNOLOGY

- An objective, outcomes or performance based approach to regulation, such as that provided for under the OPGGSA regime, is best suited to high risk and dynamic work environments, and this has been confirmed through numerous local and global reviews and inquiries. Objective regulation facilitates an adaptive management approach to high risk (or continuous improvement) rather than blind adherence to prescribed, generic and minimum standards. Such prescribed standards are too often inadequate, irrelevant to the specific environment or real problems and out of date (due to real challenges in developing, getting multiple party agreement to and legislating for such prescriptive regulation).
- In complex, dynamic and high risk activity such as hydrocarbon processing facilities, it is essential that the responsibility for managing the risks lies at the point of operations. The fundamental principles are 'continuous improvement' not minimum compliance.
- Such an approach does enable the regulator to respond to changes in industry's operations and technology, and there is plenty of evidence that ALARP demonstration under the NOPSEMA regime does change dependent on knowledge, practice, technology, operational structures, costs etc.
- FLNG provides an interesting case study into the ability of NOPSEMA to influence the 'design' phase of petroleum activities and facilities. Though in itself FLNG is not new technology, the scale is new and it is a different operating model for LNG.
- On Thursday 7 May, the Western Australian Legislative Assembly Economics & Industry Standing Committee (the Committee) tabled its report entitled "*Safety-related matters relating to FLNG projects in Australian waters off the Western Australian coast.*" The report is available from the Committee's [website](#). The Report provides an excellent summary of the evolution and effectiveness of objective and risk based regulation as well as an excellent summary of the legally tested concept of 'as low as reasonably practicable' or ALARP.
- Reducing risks to ALARP levels in the case of FLNG design is largely through the concept of 'safety in design' and through the use of the bowtie approach to preventing major accident events (verifying layers of barriers) and also mitigation in response to an event. The information generated by an operator's safety in design processes can then be incorporated into its safety case for submission to NOPSEMA.
- Currently however, the OPGGS Safety Regulations do not currently provide the flexibility to allow NOPSEMA and proponents to meaningfully discuss the technical complexities and design issues often associated with new technologies. Further, the OPGGSA regime does not provide a formal mechanism for the proponent of a new offshore production facility to engage with NOPSEMA regarding the design and concept selection of a proposed facility at an early stage in the concept selection process. NOPSEMA has no formal mechanism for challenging the concept selection and proposed design of a production facility at that early stage in the process. By the time a safety case is submitted the proponent of a facility has usually committed to a specific design.



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- Amendments were made to the OPGG (Safety Levies) Regulations in 2010 allow the regulator (then NOPSA and now NOPSEMA) to recover the costs of engagement with industry regarding design issues for proposed facilities. This was intended to be a temporary measure (using safety levies). Industry has participated in this trial early engagement process, and supports the concept.
- An Early Engagement Safety Case submission is currently a voluntary submission to NOPSEMA. An EESC is submitted 'soon after the project concept selection stage and prior to a Final Investment Decision is made and/or detailed design for the facility is commenced'.
- The Commonwealth's Department of Industry and Science has recently commenced drafting a consultation paper to formalise the implementation of a 'Design Notification Scheme' similar to the design notification scheme that applies to the UK offshore oil and gas industry. APPEA supports the concept and will work closely with the Australian Government and the Department to finalise an 'early engagement on design' process that best suits the Australian offshore petroleum regime.

3.4 NOPSEMA'S INTERACTION WITH EXTERNAL PARTIES TO IMPROVE REGULATORY OUTCOMES

- See full response in Section 3.1.
- In concluding APPEA's comments, it is worth underlining that NOPSEMA interact effectively with third parties in the regime, such as independent scientific bodies, NGOs and unions. NOPSEMA has engaged with a range of parties, listened to their issues and positions and where appropriate provided information, clarification and advice on the application of objective based regulations and ALARP/Acceptable demonstration. A key area for NOPSEMA and industry is working collaboratively to better understand and communicate on the technology, research and science underpinning demonstration of ALARP, particularly in environmental management. NOPSEMA have held a strong and clear position, and not allowed the regulator to be used or captured by self-interested advocates or commercial interests.

STAKEHOLDER SUBMISSION

Please provide submissions for the following questions to: spencer.stubbins@noeticgroup.com by the **30 April 2015**. Submissions received after this date may not be considered for inclusion in the final review and report.

Organisations that provide a submission will be listed as participating stakeholders in the review. Please keep the submission responses as concise as possible; you may seek to limit your responses to 250 words.

Confidentiality

Do you consent to having this response published on the Department of Industry and Science's website? (Is this submission confidential?)	Please mark your response here with an X
Yes, I consent to having my response published	x
No, I would like my response to be confidential	

Organisation name: (BP Developments Australia 2006-2014)

I represented BP Developments Australia on the NWS joint venture from 2006-2011 primarily providing oversight of BP's investment from a technical projects and operations perspective. I also provided peer support for the BP Browse project team from 2006 and for the NWS team from 2011 onward. In these roles I had secondary exposure to Woodside's engagements with NOPSEMA.

In 2011 I took on an internal regulator role for BP's Great Australian Bight exploration activities as head of the Safety & Operational Risk function. I had a more direct engagement with NOPSEMA in this regard.

From 2008 to 2014, I was involved with the APPEA HSO committee and had some involvement with industry-regulator engagements in this capacity.

From 2014, I began working for APPEA and my NOPSEMA experiences from this point have been incorporated into APPEA's submission.

Submission Questions

1. From your perspective, describe the effectiveness of NOPSEMA to improve industry performance? You may consider:

- + the occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations
- + the structural integrity of facilities, wells and well-related equipment
- + offshore petroleum environmental management including the effectiveness of the integration of environmental management into NOPSEMA functions since 1 January 2012
- + offshore greenhouse gas storage environmental management

Response: Effective regulation is paramount to support the oil and gas industry in continuing to meet the challenges of growing international demand. NOPSEMA have a vital role in ensuring industry meets a minimum acceptable level of performance and also work constructively to support continuous improvement. Overall, my impression is that NOPSEMA do a reasonable job at discharging their responsibilities, but have an opportunity to do more to more effectively support industry on their continuous improvement journey.

The industry's personal safety performance has demonstrated significant improvement since NOPSA was founded. The industry has yet to see a significant improvement in process safety performance. Environmental performance is yet to benefit from the establishment of NOPSEMA, but the transition to an objectives based approach sets a good basis for which to address this moving forward.

The regulator's support for a constructive higher level engagement on improving performance has been varied over recent years and some individuals are better at industry engagement than others. There is a clear opportunity for NOPSEMA to build from their safety case review and compliance strengths, to help industry deliver performance improvement.

In my BP experience, NOPSEMA were helpful in providing guidance on regulatory compliance in Environment plans but constrained by their fierce adherence to independence. Bridging between an independent view and providing guidance is tricky and similar issues arose in BP with the formation of their S&OR function, similarly to the point where activity was held up.

NOPSEMA did not make a significant contribution to BP's HSE performance improvement, though some high level advice on critical issues post Montara and Macondo, were helpful. This did require BP to be active listeners (which post Macondo, they were keen to do). BP as titleholders, were required to submit evidence of continuous improvement to NOPTA in their annual title report, but interestingly this was not required to be sent to NOSPEMA.

There is a significant opportunity to influence future performance improvements - this needs both operators and regulators to collaborate and I would encourage this as an area for NOSPEMA to strengthen. NOSPEMA provide highly useful data in their regular industry performance reports, but I am unaware how this is utilised, either by regulator or industry, as a trigger for continuous improvement.

2. From your perspective describe the NOPSEMA governance arrangements (pursuant to the Public Governance Performance and Accountability Act 2013):

- + promotes compliance with the law
- + works cooperatively to ensure that relevant parties are informed of regulatory activities
- + pursues a consistent national approach to regulation
- + ensures that duty holders identify and take action to deal with serious risks
- + holds accountable duty-holders who breach their requirements
- + allocates its resources properly in accordance with its priorities
- + cooperates with stakeholders about relevant information
- + has a streamlined and timely approval process

Response: I have had little exposure to the NOPSEMA governance arrangements, but note that historical board reports have translated into the NOPSEMA corporate plan.

Compliance with the law has been a clear strength in my direct and indirect experience with NOPSEMA. Working co-operatively to inform stakeholders of regulatory activities has been variable over the years. NOSPEMA have always been prepared to comment about the regulations, sometimes to the exclusion of any other comment.

NOSPEMA have been entirely consistent in their approach in commonwealth waters in my experience. I am aware of industry's concern about the different approaches taken by the various states, but have little direct experience of this. I believe that NOSPEMA's involvement in providing oversight of lower risk activities such as seismic and site surveys under a broad interpretation of petroleum activity under the OPGGSA, is of little value as these areas are already adequately covered under different legislative instruments such as the Navigation Act. Conversely, I do believe NOPSEMA's role in regard to the EPBC act is appropriate and enables them to more effectively engage in areas of potentially high sensitivity (e.g. sound and marine life).

I have had no direct exposure to NOSPEMA's interventions to ensure duty holders are taking action to deal with serious risks or in holding duty holders to account. I am aware of a number of serious HiPo's that have occurred in Australian commonwealth waters and NOPSEMA's resultant action was not especially prominent.

NOPSEMA's effort in promoting safety and providing industry advice could be substantially improved. This would be more effective in my view, than reviewing E-P's for seismic surveys, for example. This declined substantially after Montara.

Approvals duration is a key performance indicator for the regulator, in which proponents play an equal part. Post Montara, E-P rejection without clear feedback as to why, did create industry to suffer unnecessary cost and delay. BP's experience contradicted this trend. This seems to have improved substantially, though no doubt could be further improved by encouraging simplicity in permissioning documents.

3. From your perspective describe the NOPSEMA capacity to respond to changes in industry; emerging

issues and new technology such as seismic, deepwater drilling and (floating liquefied natural gas) FLNG. You may consider whether NOPSEMA is:

- + responsive to introduction of new technology that has potential to impact on your organisation and/or members
- + adequately staffed and resourced for new technology in development

Response: My understanding (from review of floating LNG projects) is that NOPSEMA's ability to respond to changes in industry is constrained to a degree with respect to new technology. Whilst UK HSE has the ability to provide official early advice, NOPSEMA have found a way to do so by deploying a clumsy bureaucratic fix. I understand that this has since been resolved.

Having said that, NOSPEMA's review of FLNG was helpful in providing confidence to industry in pursuing new technology as a feasible option.

NOPSEMA's resources appear adequate to enforce regulation. I wouldn't see that NOPSEMA needs to retain specialist expertise in new technologies as it already has capacity to address such issues under scopes of validation. The safety case approach arose precisely because the technical complexities of the industry and its capacity to innovate at pace.

They may, however, need to bring in, or develop some engagement skills, in order to be more effective in assisting industry on their continuous improvement journey.

4. Describe NOPSEMA's interactions with your organisation to improve regulatory outcomes. You may consider:

- + if it is clear what NOPSEMA desired regulatory outcomes are
- + if communication with NOPSEMA adequate for your role/concerns

Response:

In my time in BP I had little requirement to work with NOPSEMA to improve regulatory outcomes. On the occasions where BP sought advice in this area, some NOPSEMA employees were more effective in assisting than others. There is a tendency for NOPSEMA employees to speak fluent government, whereas a bilingual capability is far more effective in sharing understanding and steering outcomes.

My APPEA experience provides far more relevant engagement in this area and this has been incorporated into the APPEA submission.

STAKEHOLDER SUBMISSION

Please provide submissions for the following questions to: spencer.stubbins@noeticgroup.com by the **30 April 2015**. Submissions received after this date may not be considered for inclusion in the final review and report.

Organisations that provide a submission will be listed as participating stakeholders in the review. Please keep the submission responses as concise as possible; you may seek to limit your responses to 250 words.

Confidentiality

Do you consent to having this response published on the Department of Industry and Science's website? (Is this submission confidential?)	Please mark your response here with an X
Yes, I consent to having my response published	X
No, I would like my response to be confidential	

Organisation name: *International Fund for Animal Welfare (IFAW)*

Submission Questions

1. From your perspective, describe the effectiveness of NOPSEMA to improve industry performance? You may consider:

- the occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations
- the structural integrity of facilities, wells and well-related equipment
- offshore petroleum environmental management including the effectiveness of the integration of environmental management into NOPSEMA functions since 1 January 2012
- offshore greenhouse gas storage environmental management

Response: As an organisation interested in the protection of marine life, IFAW has particular concerns about the risks and impacts of the offshore petroleum industry to acoustically-sensitive marine species. Specifically, our concerns in this submission relate to marine seismic surveys and the effectiveness of

NOPSEMA to improve industry performance and so our response to the above question relates directly to “offshore petroleum environmental management including the effectiveness of the integration of environmental management into NOPSEMA functions since 1 January 2012”.

In this regard, IFAW believes that since NOPSEMA became the sole authority for environmental assessments and approvals for seismic surveys, industry performance has in fact declined. It appears that NOPSEMA’s focus on oil pollution / spill risk means that the risks and impacts associated with seismic surveying are largely being ignored, despite the wealth of scientific literature available on this subject.

This lack of progress and effectiveness in environmental management is well demonstrated by a number of Environment Plans (EPs) approved by NOPSEMA since January 2012. For example:

- **Approval to conduct seismic surveying within marine sanctuaries.** Whilst the management plans for Commonwealth Marine Reserves are currently suspended, IFAW believes NOPSEMA should have recognised the high conservation values of these areas to refuse approval of the plans recently submitted by Spectrum Geo (accepted 26/11/14) to conduct seismic testing in Marine National Parks (IUCN II marine sanctuaries). By comparison, in 2013 the then Minister of Environment Tony Burke declared a proposal by Apache Energy to be ‘clearly unacceptable’ as it included plans for seismic surveying in part of the Ningaloo World Heritage Area.

Ironically, the latest NOPSEMA newsletter states “NOPSEMA has a key role in ensuring the values identified in marine reserves are protected from offshore petroleum activities. Titleholders are reminded to have due regard to these values.”

- **NOPSEMA’s approach to assessing cumulative impacts of multiple seismic surveys.** As highlighted in a recent report by IFAW (see attached), it is apparent that NOPSEMA are not taking the cumulative impacts of seismic surveying into account during the assessment and approval process of individual proposals. In the example of the blue whale through Australian waters, it was found that 67% of the mapped biologically important areas for this species would be subject to seismic testing during the 2014-15 migration period.

However, one of the purported advantages advocated at the time of the NOPSEMA “one-stop-shop” being introduced was that it would lead to better assessment of cumulative impacts of offshore petroleum activities. In the case of seismic surveying and cetaceans, IFAW has seen no evidence of these impacts being more adequately assessed or regulated. IFAW has serious concerns about the combined impact of sustained noise pollution across biologically important areas to protected marine species. To date, NOPSEMA’s approach to this issue seems not to be giving any consideration of concurrent or consecutive seismic surveys occurring throughout the range of protected and/or endangered marine species when assessing individual proposals.

2. From your perspective describe the NOPSEMA governance arrangements (pursuant to the Public Governance Performance and Accountability Act 2013):

- promotes compliance with the law
- works cooperatively to ensure that relevant parties are informed of regulatory activities
- pursues a consistent national approach to regulation
- ensures that duty holders identify and take action to deal with serious risks
- holds accountable duty-holders who breach their requirements
- allocates its resources properly in accordance with its priorities
- cooperates with stakeholders about relevant information
- has a streamlined and timely approval process

Response: IFAW has a number of concerns about the way in which NOPSEMA communicates with stakeholders. Specifically, there is a distinct lack of transparency around the Environment Plan assessment process undertaken by NOPSEMA in order to reach approval decisions. In fact, in order to attain further details as to this process in one instance, it was necessary for IFAW to submit a Statement of Reasons request and a Freedom of Information (FOI) request in order to gain clarity around the justification for NOPSEMA's decision to approve a highly contentious seismic survey. However, NOPSEMA did not provide adequate information via these routes, and IFAW has now had to submit an AAT application in order to gain access to the assessment documents requested under FOI.

Further, IFAW considers the process available to stakeholders to submit feedback to NOPSEMA to be highly unsatisfactory. NOPSEMA responds to stakeholder concerns with what appear to be a series of standardised responses, referring simply to regulations rather than supplying any substantive response, leaving stakeholders disinclined to express further concerns or provide further feedback. These standard replies have also resulted in concerns as to how stakeholder feedback is considered in the assessment process, if at all.

In terms of NOPSEMA's 'streamlined and timely' approval process, this is also an issue of concern for IFAW. The speed at which NOPSEMA has approved a number of seismic survey EP submissions may be to the detriment of the environment, not providing adequate protection for Matters of National Environmental Significance (MNES).

One example is the TGS-NOPEC 'Nerites' seismic survey, which the Department of Environment assessment led to a number of additional conditions being required to protect whales (referral 2013/7020). These included the use of passive acoustic monitoring to help detect whales in proximity to the seismic survey vessel and restrictions on surveying near feeding blue whales. Yet NOPSEMA approved an EP for this survey in its original format, containing only the use of Marine Mammal Observers and no further mitigation measures.

This issue is further illustrated with Woodside's 'Babylon' seismic survey off the Ningaloo Reef World Heritage Area and the Muiron Islands. Here, the Department of Environment considered risks to world heritage areas and threatened and migratory species to be sufficient to warrant a controlled action decision, requiring a higher level of environmental assessment (referral 2013/7081). Yet NOPSEMA had already signed off on an

EP for this survey.

In both cases, the Department of Environment clearly identified that the proposed mitigation measures were not sufficient to reduce risk to acceptable levels and therefore insisted on extra conditions. It is of concern that NOPSEMA's assessment process did not identify these shortcomings. These decisions call into question the ability of NOPSEMA's streamlined approach to ensure MNES, such as threatened and migratory whales, are protected adequately from seismic surveys.

3. From your perspective describe the NOPSEMA capacity to respond to changes in industry; emerging issues and new technology such as seismic, deepwater drilling and (floating liquefied natural gas) FLNG. You may consider whether NOPSEMA is:

- responsive to introduction of new technology that has potential to impact on your organisation and/or members
- adequately staffed and resourced for new technology in development

Response: IFAW has long advocated for the development of new technologies, such as marine vibroseis, as an alternative to the use of seismic airguns as these have the potential to significantly reduce environmental impacts by reducing underwater noise at the source. The airguns used by the offshore petroleum industry to conduct seismic surveys have remained largely unchanged since the 1960s and these airguns produce a considerable amount of 'waste' energy, which the industry do not make use of, nor even record. This wasted energy therefore needlessly impacts marine life, especially animals with mid- or high-frequency hearing. However, it is unlikely that a shift towards quiet technology will occur without the incentives or compulsion from regulators to do so.

IFAW has seen no evidence of NOPSEMA driving this change in industry. In all correspondence with industry, the option of alternative technology development or use has been dismissed by the proponent and the EP approved by NOPSEMA regardless. By comparison the Bureau of Ocean Energy Management (BOEM), the agency responsible for the management of offshore oil and gas exploration in the USA has at least made some effort to explore the options available to reduce noise during seismic surveys (i.e. the "Quieting Technologies for Reducing Noise During Seismic Surveying and Pile Driving: A BOEM Workshop on the Status of Alternative and Quieting Technologies", 25-27 Feb 2013).

4. Describe NOPSEMA's interactions with your organisation to improve regulatory outcomes. You may consider:

- if it is clear what NOPSEMA desired regulatory outcomes are
- if communication with NOPSEMA adequate for your role/concerns

Response: There are significant limits to what the regulations and NOPSEMA's own policies allow it to do in relation to environmental assessment. NOPSEMA is limited in its ability to refuse to accept an EP. Its oversight role is constrained, with Regulation 11 providing that NOPSEMA "must accept the environment plan" as long as "reasonable grounds" exist that the EP meets the basic content parameters provided for in the

Regulations.

NOPSEMA has chosen to limit its ability to require specific mitigation of environmental impacts and risks and drive best practices and better environmental standards by refusing to impose conditions when approving EPs. This is despite clear authority to do so. Regulation 11(4) provides that NOPSEMA may “impose limitations or conditions applying to operations for [an] activity.” Nothing in the Environment Regulations limits this authority, and it could be used to provide for mitigation of environmental impacts and risks or to drive innovation and industry uptake of new technologies. However, NOPSEMA indicates that its “acceptance decisions shall be unconditional and without limitations” except in extraordinary circumstances. The policy does not elaborate as to what might constitute such circumstance. This abdication of a significant regulatory authority stems from the theory that Australia’s objective-based strategy will allow industry best practices to drive improvement rather than rely on what the Australian government has described as a “lowest common denominator” approach to environmental regulation – that is, prescriptive regulations that rely on minimum standards. However, as outlined in the example above about new seismic technology, IFAW has seen no evidence of industry driving innovation. In fact, to the best of our knowledge, the only place in the world where new seismic technology is being actively pursued is in the Gulf of Mexico, and this is only as a result of litigation in U.S courts.

2015 NOPSEMA OPERATIONAL REVIEW - SUMMARY OF IMCA COMMENTS

Summary of IMCA members' feedback, based on individual company responses to the IMCA questionnaire on NOPSEMA's operational performance.

- ◆ There seems to be a perception that NOPSEMA sees themselves solely as enforcers of the rules, and not there to assist industry in understanding how to comply. They don't interact with the industry as constructively or as consistently as other offshore regulators (eg the UK HSE) or other Australian government agencies (eg. Western Australian Dept of Mines and Petroleum (DMP)).
- ◆ NOPSEMA doesn't interact with industry that well – they are reluctant to engage in individual discussions with companies and there is an over-reliance on industry forums to communicate policies or changes in regulations (eg. changes in lifeboat capacities was first communicated at a conference in Brazil and not disseminated locally).
- ◆ NOPSEMA is not that keen to embrace new technologies, and NOPSEMA still doesn't really understand the marine construction industry. Construction vessels don't fit into the NOPSEMA framework very well.
- ◆ There's a disconnect between Commonwealth and State Regulators when applying the Act and Regulations, and the varied interpretation of risks. High level discussions to try to address this don't seem to have filtered down to day to day operations. NOPSEMA is also not very flexible when it comes to aligning with other regulators or industry bodies (eg. AMSA, IMCA).
- ◆ Assessment of Safety Cases and DSMSs is inconsistent, so no level playing field. There doesn't appear to be much room for consultation, and the assessment and review processes can be slow. NOPSEMA are reluctant to provide advice on implementation, and it often appears that there is only one 'correct' way of doing things, even though the official policy is that companies can propose alternative mitigations.

However, on the positive side:

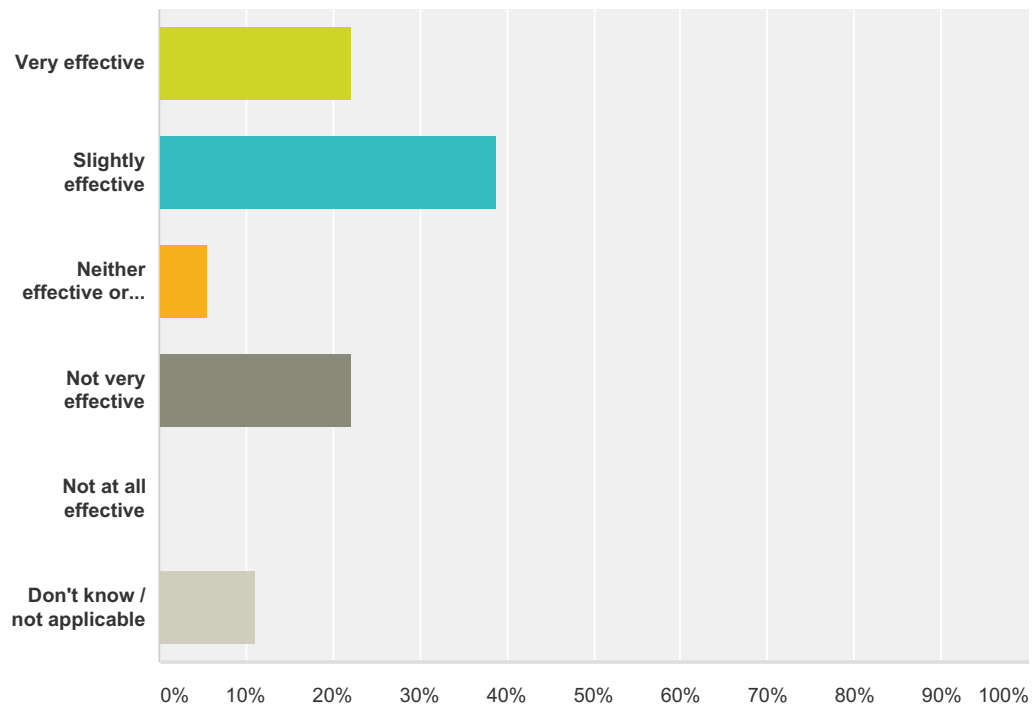
- ◆ The NOPSEMA website has improved – it's user friendly, with useful links and information. And The Regulator newsletter is informative.
- ◆ Experiences of NOPSEMA vessel inspections were mainly very positive – inspectors usually seen as well organised, professional and don't disrupt the vessel.
- ◆ NOPSEMA does seem to have raised its standards and raised the bar in applying lessons learnt from recent industry incidents.

International Marine Contractors Association (IMCA)

May 2015

Q1 How effective is NOPSEMA in bringing about improvements in - offshore petroleum environmental management, including the effectiveness of the integration of environmental management into NOPSEMA's functions since 1 Jan 2012?

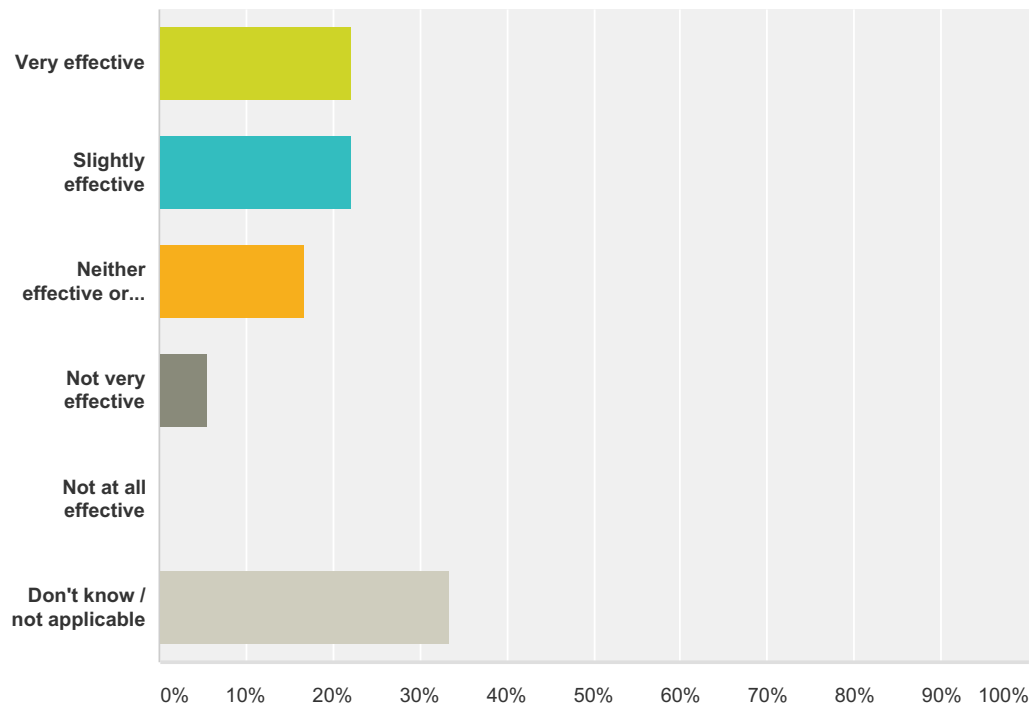
Answered: 18 Skipped: 0



Answer Choices	Responses	
Very effective	22.22%	4
Slightly effective	38.89%	7
Neither effective or ineffective	5.56%	1
Not very effective	22.22%	4
Not at all effective	0.00%	0
Don't know / not applicable	11.11%	2
Total		18

Q2 The Public Governance, Performance and Accountability Act 2013 replaced the Financial Management and Accountability Act 1997 (FMA Act) and the Commonwealth Authorities and Companies Act 1997 (CAC Act) on 1 July 2014. As the primary piece of Commonwealth resource management legislation, the PGPA Act establishes a coherent system of governance and accountability for public resources, with an emphasis on planning, performance and reporting. How effective are NOPSEMA's governance arrangements in the context of its expanded functions and the requirements of the Public Governance, Performance and Accountability Act 2013?

Answered: 18 Skipped: 0

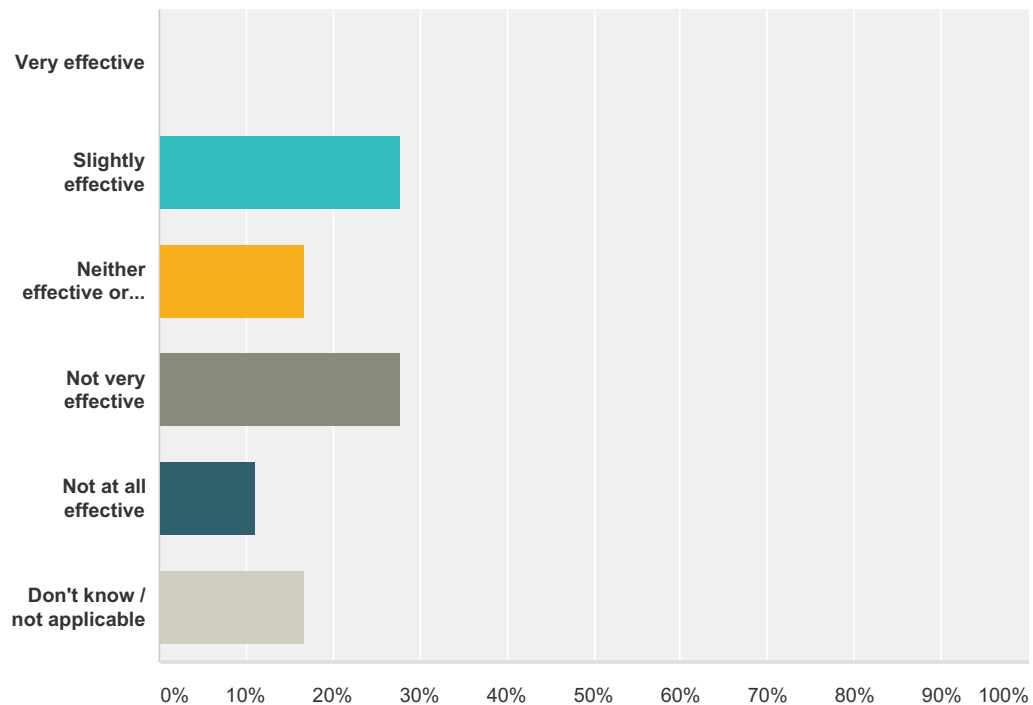


Answer Choices	Responses
Very effective	22.22% 4
Slightly effective	22.22% 4
Neither effective or ineffective	16.67% 3

Not very effective	5.56%	1
Not at all effective	0.00%	0
Don't know / not applicable	33.33%	6
Total		18

Q3 How effective is NOPSEMA's capacity to respond to changes in industry including emerging issues such as changes in industry operations and new technologies?

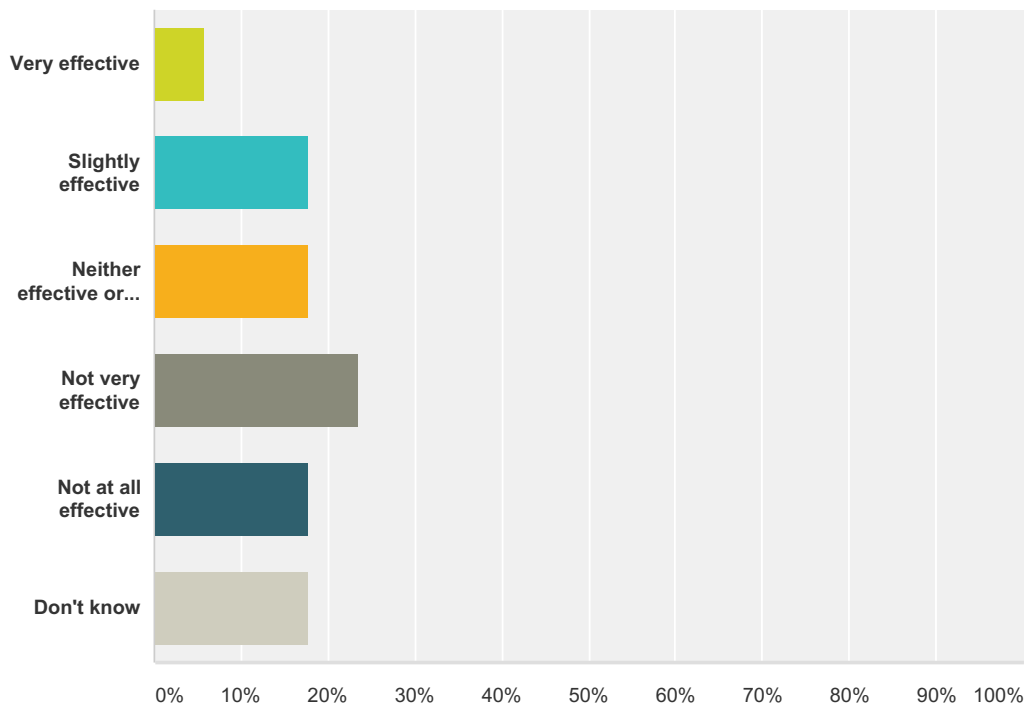
Answered: 18 Skipped: 0



Answer Choices	Responses
Very effective	0.00% 0
Slightly effective	27.78% 5
Neither effective or ineffective	16.67% 3
Not very effective	27.78% 5
Not at all effective	11.11% 2
Don't know / not applicable	16.67% 3
Total	18

Q4 How effective is NOPSEMA's interaction with external parties (including industry, Federal, State and Territory government bodies, other stakeholders and the NOPSEMA Advisory Board) to improve regulatory outcomes in an objectives-based regulatory environment?

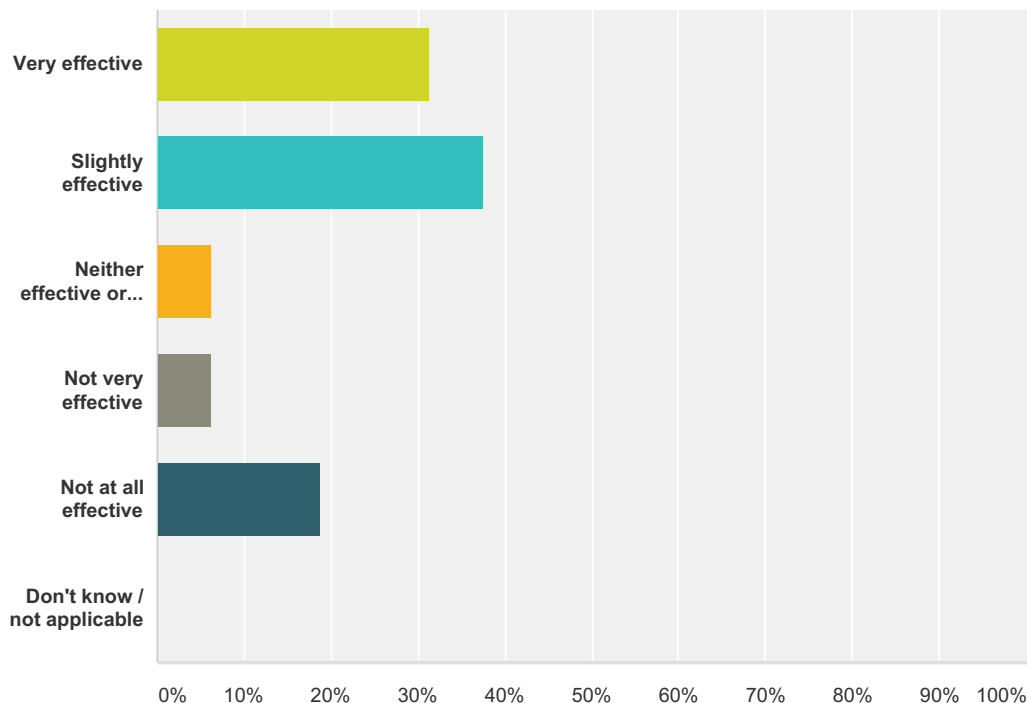
Answered: 17 Skipped: 1



Answer Choices	Responses	
Very effective	5.88%	1
Slightly effective	17.65%	3
Neither effective or ineffective	17.65%	3
Not very effective	23.53%	4
Not at all effective	17.65%	3
Don't know	17.65%	3
Total		17

Q5 How effective are NOPSEMA's communications? Please consider the following NOPSEMA communications: a) the NOPSEMA website; b) Safety Alerts; c) Guidance Notes; d) The Regulator Newsletter; e) Workshops; f) Industry Briefings; g) Conference presentations

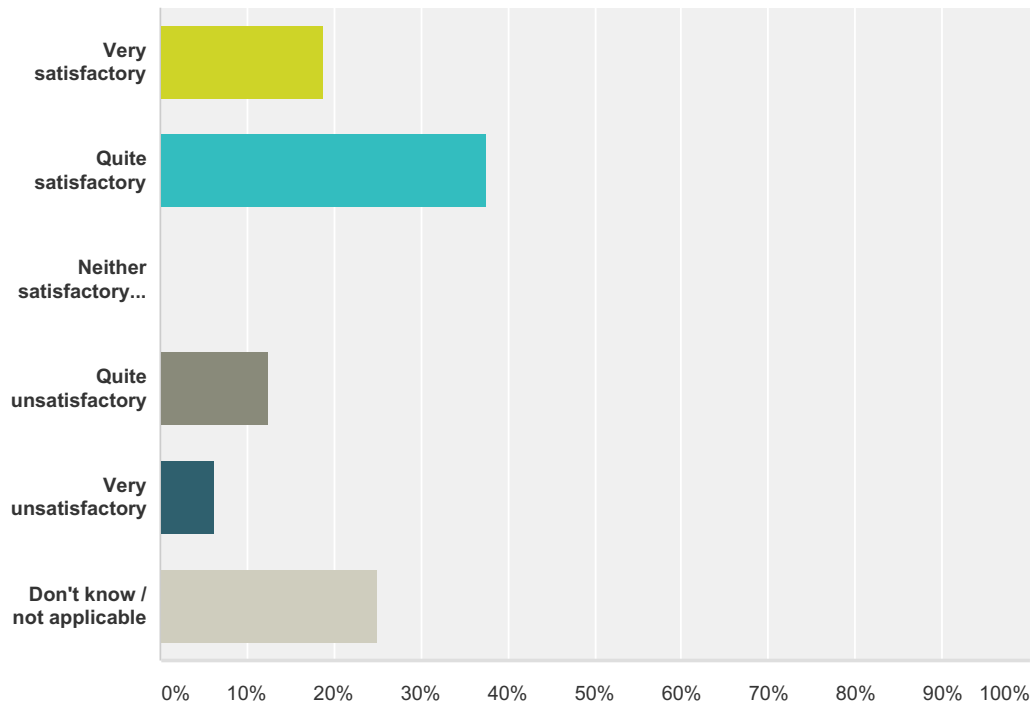
Answered: 16 Skipped: 2



Answer Choices	Responses	
Very effective	31.25%	5
Slightly effective	37.50%	6
Neither effective or ineffective	6.25%	1
Not very effective	6.25%	1
Not at all effective	18.75%	3
Don't know / not applicable	0.00%	0
Total		16

**Q6 Please rate your experience with
NOPSEMA vessel inspections – in terms of:
timeliness, flexibility, professional conduct,
credibility, accuracy/appropriateness of
reports**

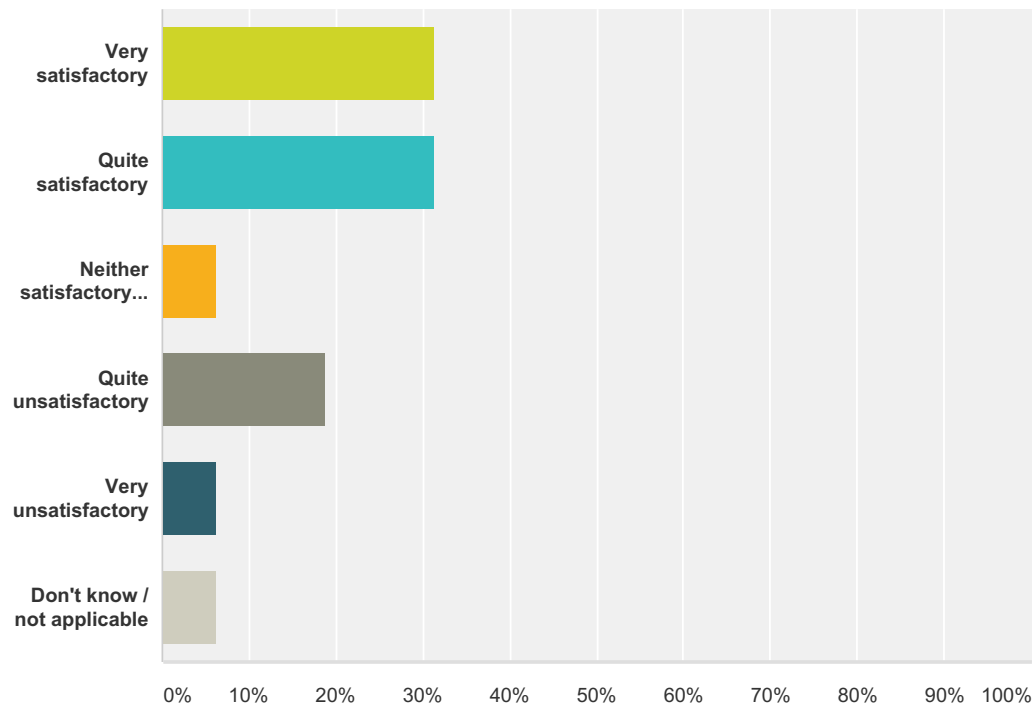
Answered: 16 Skipped: 2



Answer Choices	Responses	
Very satisfactory	18.75%	3
Quite satisfactory	37.50%	6
Neither satisfactory or unsatisfactory	0.00%	0
Quite unsatisfactory	12.50%	2
Very unsatisfactory	6.25%	1
Don't know / not applicable	25.00%	4
Total		16

Q7 Please rate your experience of dealing with NOPSEMA regarding Safety Case or legislative queries, including handling of Safety Case response notes:

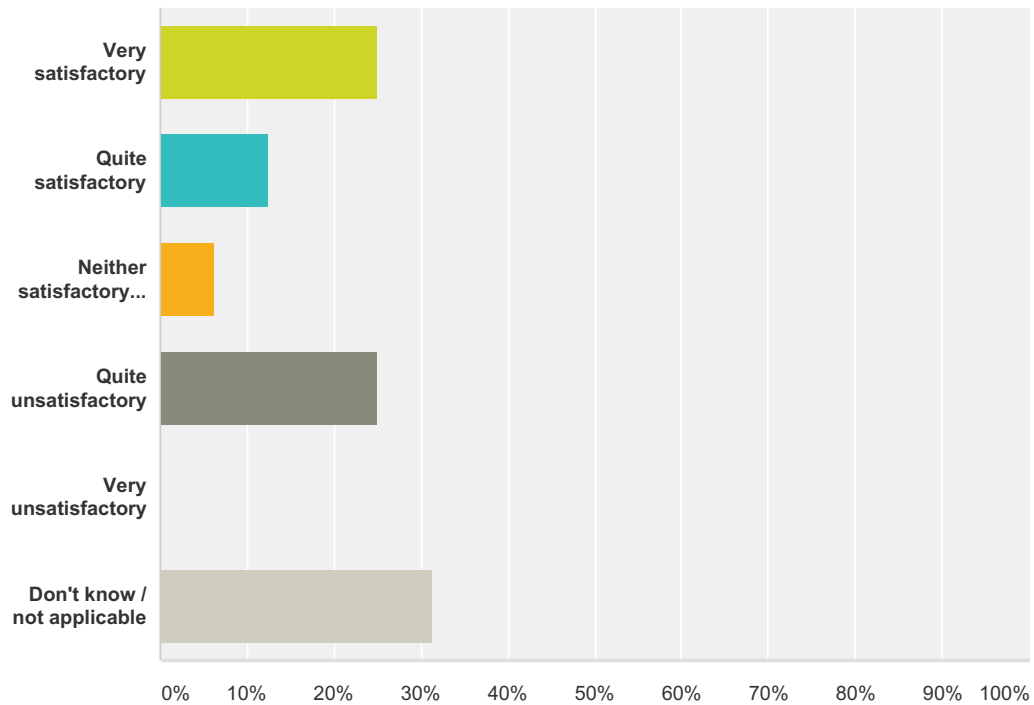
Answered: 16 Skipped: 2



Answer Choices	Responses	
Very satisfactory	31.25%	5
Quite satisfactory	31.25%	5
Neither satisfactory or unsatisfactory	6.25%	1
Quite unsatisfactory	18.75%	3
Very unsatisfactory	6.25%	1
Don't know / not applicable	6.25%	1
Total		16

Q8 Please rate your experience of dealing with NOPSEMA on Diving Safety Management Systems (DSMS):

Answered: 16 Skipped: 2



Answer Choices	Responses	
Very satisfactory	25.00%	4
Quite satisfactory	12.50%	2
Neither satisfactory or unsatisfactory	6.25%	1
Quite unsatisfactory	25.00%	4
Very unsatisfactory	0.00%	0
Don't know / not applicable	31.25%	5
Total		16

Q9 Please comment on any other issues regarding NOPSEMA's operational performance and your company's experiences of dealing with NOPSEMA that you would like to raise in this review:

Answered: 9 Skipped: 9

STAKEHOLDER SUBMISSION

Please provide submissions for the following questions to: spencer.stubbins@noeticgroup.com by the **30 April 2015**. Submissions received after this date may not be considered for inclusion in the final review and report.

Organisations that provide a submission will be listed as participating stakeholders in the review. Please keep the submission responses as concise as possible; you may seek to limit your responses to 250 words.

Confidentiality

Do you consent to having this response published on the Department of Industry and Science's website? (Is this submission confidential?)	Please mark your response here with an X
Yes, I consent to having my response published	X
No, I would like my response to be confidential	

Organisation name: *(National Offshore Petroleum Titles Administrator)*

Submission Questions
<p>1. From your perspective, describe the effectiveness of NOPSEMA to improve industry performance? You may consider:</p> <ul style="list-style-type: none"> + the occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations + the structural integrity of facilities, wells and well-related equipment + offshore petroleum environmental management including the effectiveness of the integration of environmental management into NOPSEMA functions since 1 January 2012 + offshore greenhouse gas storage environmental management
<p>Response: The transition of NOPSA to NOSPEMA in 2012, and then the subsequent streamlining of environmental plans (2014), has better positioned the offshore regulatory regime (ORR) in order to improve</p>

effective engagement with industry.

There have been significant in-roads and an overall improvement in the quality and type of engagement with NOPSEMA since the appointment of the current CEO. NOPSEMA is now delivering on its potential and working well within the regime, rather than in isolation. Interactions are more frequent, more positive and generally improving the way that the regime operates. In line with government policy on relieving regulatory burden, the approach NOPSEMA has adopted gives greater comfort that ORR can occur smoothly and progressively.

2. From your perspective describe the NOPSEMA governance arrangements (pursuant to the Public Governance Performance and Accountability Act 2013):

- + promotes compliance with the law
- + works cooperatively to ensure that relevant parties are informed of regulatory activities
- + pursues a consistent national approach to regulation
- + ensures that duty holders identify and take action to deal with serious risks
- + holds accountable duty-holders who breach their requirements
- + allocates its resources properly in accordance with its priorities
- + cooperates with stakeholders about relevant information
- + has a streamlined and timely approval process

Response: I cannot comment on this as I do not have a line of sight to those issues listed above. Nevertheless, I have no reason to doubt that NOPSEMA is fully compliant and has an effective governance regime in place.

3. From your perspective describe the NOPSEMA capacity to respond to changes in industry; emerging issues and new technology such as seismic, deepwater drilling and (floating liquefied natural gas) FLNG. You may consider whether NOPSEMA is:

- + responsive to introduction of new technology that has potential to impact on your organisation and/or members
- + adequately staffed and resourced for new technology in development

Response: I have no critical comment on this. However, I would like to see NOPSEMA and NOPTA utilising each other's specialists when necessary and where appropriate. Also, I have every confidence that the current CEO will consider the further potential for NOPSEMA and NOPTA to work cooperatively where appropriate without impinging each other's independence.

4. Describe NOPSEMA's interactions with your organisation to improve regulatory outcomes. You may

consider:

- + if it is clear what NOPSEMA desired regulatory outcomes are
- + if communication with NOPSEMA adequate for your role/concerns

Response: Communications and cooperation between NOPSEMA and NOPTA is steadily and significantly improving

I see the greatest area for potential will be in the way we can share and use data, especially in relation to industry/operators/titleholders compliance – (for example: daily drilling reports). That may extend to the broadened application of NEATS (as envisaged by the Productivity Commission) or a portal arrangement that would streamline submission, management and retrieval of data for industry.

Another area where NOPTA relies on NOPSEMA is in relation to the cancellation/surrender of titles. Over time I have seen significant improvement in the way NOSPEMA responds to what is likely to be an area of heightened activity. Some further effort in streamlining the process will reduce regulatory burden and assist titleholders in that area, and improve the quality of advice provided to the Joint Authority.

29 May 2015



The Wilderness Society (South Australia) Inc

To: 2015 NOPSEMA Operational Review

Re: Current lack of transparency and accountability compromises environmental protection

The Wilderness Society (SA) Incorporated is an independent, self-funded non-profit organisation that seeks to protect, promote and restore wilderness and natural processes across Australia for the survival and ongoing evolution of life on Earth.

The protection of the environment in Commonwealth waters is a Matter of *National Environmental Significance* under the EPBC Act 1999 and is part of TWS (SA)'s long standing and ongoing functions, interests and activities.

The Great Australian Bight is a unique ecosystem of international conservation importance and must be protected from any *unacceptable* impacts in proposed oil industry activities.

NOPSEMA has a legislative obligation to protect the Bight from any *unacceptable* impacts.

This submission focuses on *Review Terms of Reference* 1.c & 4, and on the *Montara Commission of Inquiry* Findings and Recommendations - that the Review is tasked to have regard to as a cited related review.

1. The effectiveness of NOPSEMA in bringing about improvements in:

1.c "Offshore petroleum environmental management including the effectiveness of the integration of environmental management into NOPSEMA's functions since 1 Jan 2012"

This will include NOPSEMA's performance against its functions and powers as set out in the OPGGS Act and regulations.

4. NOPSEMA's interaction with external parties, including stakeholders to improve regulatory outcomes in "an objectives-based regulatory environment".

the wilderness society (south australia) inc.

Level 7/118 King William St, Adelaide 5000 - GPO box 1734, Adelaide 5001

p + 61 8 8231 6586: +61 8 7127 5013 • f +61 8 8231 1068

e mail: sa@wilderness.org.au

ABN 48718158379

<http://www.wilderness.org.au/sa>

As a non-government stakeholder, TWS (SA) appeared as a witness before the Review Panel on 12 May 2015. This submission outlines and follows our discussion with the Panel.

1 Transparency & Accountability are fundamental pre-requisites of public confidence in NOPSEMA performance, regulation, consultation, assessments & decision process.

Following the *Montara Commission of Inquiry*, and the parallel BP Deepwater Horizon disaster and subsequent Report to the US President, NOPSEMA's regulatory roles were significantly expanded including the integration of environmental management into NOPSEMA's functions.

On behalf of the Commonwealth, NOPSEMA has a responsibility to learn the lessons from these two oil industry disasters. These lessons include the Findings and Recommendations of the *Montara Commission of Inquiry* and the Conclusions of the Report to the US President.

Transparency & Accountability are fundamentally important.

2 BP's Oil Exploration Drilling in the Gulf of Mexico caused the largest oil spill in history and the biggest Fisheries closures ever in the USA:

On May 22, 2010, President Barack Obama announced the creation of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. The Commission reported to the President seven months later, stating in the **Forward** (p.vi) that

*"The explosion that tore through the Deepwater Horizon drilling rig last April 20, as the rig's crew completed drilling the exploratory Macondo well deep under the waters of the Gulf of Mexico, **began a human, economic, and environmental disaster.**"*

In: **"Deep Water. The Gulf Oil Disaster and the Future of Offshore Drilling, Report to the President"** (National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, January 2011)

The President's Report (p.vii) states that: **"As a result of our investigation, we conclude:**

- *The immediate causes of the Macondo well blowout can be traced to a series of identifiable mistakes made by BP, Halliburton, and Transocean that **reveal such systematic failures in risk management that they place in doubt the safety culture of the entire industry.***
- ***Deepwater energy exploration and production, particularly at the frontiers of experience, involve risks for which neither industry nor government has been adequately prepared, but for which they can and must be prepared in the future...***
- ***Scientific understanding** of environmental conditions in sensitive environments in deep Gulf waters, along the region's coastal habitats, and in areas proposed for more drilling, such as the Arctic, **is inadequate. The same is true of the human and natural impacts of oil spills.***

Extract of Conclusions. See:

<http://www.gpo.gov/fdsys/pkg/GPO-OILCOMMISSION/pdf/GPO-OILCOMMISSION.pdf>

BP's Gulf of Mexico oil exploration well blowout disaster spewed 4.9 million barrels of oil into the sea and continued uncontrolled for an 87 day period from 20 April 2010. BP was found to be "grossly negligent", costs are expected to reach US\$42 billion, and court cases continue.

All of the resources of the USA could not stop this spill from spreading across the coast of four US States, with over 1700 km of shoreline inundated by oil, almost the distance from Melbourne to Brisbane.

BP's oil spill resulted in some of the largest Fisheries closures in US history, with closures for up to 7 months across an area of 226 600 km², equivalent to twice the size of Tasmania.

Deep Water Exploration drilling has the highest risk of an oil blowout across all stages of Oil Industry operations. The biggest oil spills have occurred at the Exploration drilling stage.

However, in the same month that the US National Commission of Inquiry reported these *chilling* Conclusions to the US President, BP were granted four EPP titles for proposed oil exploration drilling in the Great Australian

the wilderness society (south australia) inc.

Level 7/118 King William St, Adelaide 5000 - GPO box 1734, Adelaide 5001

p + 61 8 8231 6586: +61 8 7127 5013 • f +61 8 8231 1068

e mail: sa@wilderness.org.au

ABN 48718158379

<http://www.wilderness.org.au/sa>

Bight, in far rougher, deeper, less scientifically understood, and more remote waters than the Gulf of Mexico.

3 The Montara Commission of Inquiry Recommended Environment Plans to be made publicly available, which is not the case with NOPSEMA at present:

The integration of environmental management into NOPSEMA's functions since 1 Jan 2012 followed on from and was supposed to be informed by the Recommendations of the "Report of the Montara Commission of Inquiry" (June 2010), which included Recommendation 97:

"Environment plans and OSCP's should be made publicly available as a condition of approval of proposals under the OPGGS Act, and should clearly set out Scientific Monitoring requirements in the event of an oil spill." (emphasis added)

Note: OPEPs (Oil Pollution Emergency Plans) have since replaced the earlier role of OSCP's (Oil Spill Contingency Plans).

The correspondent Finding 89 of the *Report of the Montara Commission of Inquiry* states:

"The Inquiry sees value in having both environment plans and OSCP's prepared for new developments made public. This would be consistent with the publication of the documentation relating to the assessment and approval of development proposals under the EPBC Act. This would allow an increased degree of public scrutiny of development proposals, but need not pose commercial in confidence issues." (emphasis added)

This was an 'across government' position, as the "Regulation Impact Statement. Government response to the Report of the Montara Commission of Inquiry" (April 2011, p.14) stated:

"All the submissions presented by the Government agencies agreed to the Commission's recommendation to make environment plans publicly available in full, provided issues around commercial confidentiality were addressed."

(emphasis added)

The “*Final Government response to the Report of the Montara Commission of Inquiry*” (May 2011) accepted 102 of 105 Rec's of the Montara COI including the Environmental Management Recommendations & Rec. No. 97. It committed by the end of 2012 to:

“Strengthen the environmental protection regime for Commonwealth waters, through the legislative regime and the National Plan. This will also take into account other regulatory obligations such as those required under the EPBC Act.”
(emphasis added)

However: At present, NOPSEMA do not make EP's and OPEP's publicly available, and only tasks an oil industry proponent to make a *Summary* document public *after* an approval has been granted.

A lack of transparency is a serious issue that represents:

- A breach of public trust in Commonwealth regulation of the offshore oil and gas industry operations and related environmental protection;
- A failing with the integration of environmental management responsibilities into NOPSEMA's functions and a serious set-back to decades of *Environmental Impact Assessment* and EPBC Act standards and practice.

4 NOPSEMA decisions lack Accountability as EPs & OPEPs are not disclosed:

Transparency and Accountability are co-dependent aspects of NOPSEMA's performance against its functions and powers, and co-dependent pre-requisites in public confidence.

In NOPSEMA's process the full Environment Plan and the full Oil Pollution Emergency Plan are regulatory documents that are effectively decision conditions of an approval.

A NOPSEMA approval is an acceptance of an iteratively amended EP and typically doesn't have separate approval conditions as an Environment Minister's EPBC Act decision provides. Also, it doesn't have an Assessment Report as was provided by the Federal Environment Department.

Consequences of the lack of public access to the full Environment Plan and full OPEP:

- There is no way for the public to know if - or to ensure that – petroleum industry companies and offshore operations are meeting their obligations under the law;
- Stakeholders outside of NOPSEMA are unable to know the extent of possible impacts and consequences of the approved petroleum industry activities on their ongoing functions, interests and activities;
- Independent, third party and expert scrutiny and appraisal is prevented;
- Stakeholders are denied the right to know the ‘worse case’ possible impacts of an oil well blowout and the proponent's required and actual OPEP response capacity is not public and thus unable to be verified or independently tested;
- This lack of transparency potentially compromises the important regulatory functions and real world role of an OPEP in an emergency. Once approved by NOPSEMA, an OPEP is said to be ready to be implemented at call under the *National Plan for Maritime Emergencies* - without any further role or decision by NOPSEMA or any decision by the AMSA;
- No one outside of NOPSEMA can know or independently appraise if the regulator is complying with their own legal requirements;
- No one outside of NOPSEMA can know or independently appraise if the regulator is delivering on EPBC Act standards of environmental protection, especially to ensure that possible “unacceptable” impacts are not approved, and that impacts of approved activities are mitigated to an “acceptable” level by the required EP and OPEP;
- Public confidence is compromised and stakeholders are left with lengthy, difficult and expensive legal action as the only available option to ensure transparency and accountability. This is in no one's interests;

the wilderness society (south australia) inc.

Level 7/118 King William St, Adelaide 5000 - GPO box 1734, Adelaide 5001

p + 61 8 8231 6586: +61 8 7127 5013 • f +61 8 8231 1068

e mail: sa@wilderness.org.au

ABN 48718158379

<http://www.wilderness.org.au/sa>

- Australia is potentially exposed to **human, economic, and environmental disasters** in the real world risk of oil well blowouts without an effective response capacity.

5 Consultation process must provide required “sufficient information”:

TWS (SA) considers industry proponents have a legal obligation to comply with Consultation requirements issued by NOPSEMA (updated Dec 2014) under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

The regulatory requirement for “Sufficient information” is central to Consultation:

3.2 *Provision of Information and time*, 3.2.1 **Sufficient information**
 “Sub-regulation 11A(2) of the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* provides that:

For the purpose of the consultation, the titleholder must give each relevant person sufficient information to allow the relevant person to make an informed assessment of the possible consequences of the activity on the functions, interests or activities of the relevant person.

See p.8 of: <http://www.nopsema.gov.au/assets/Information-papers/N-04750-IP1411-Consultation-Requirements-Under-the-OPGGS-Environment-Regulations-2009.pdf>

TWS (SA) is a “relevant person” under the OPGGS Act and our core *functions, interests and activities* are subject to possible impact and consequence by BP’s proposed oil exploration drilling program in the Great Australian Bight.

Our *functions, interests and activities* include informing and responding to enquiries from members, the general public and a range of stakeholders on the protection of Commonwealth waters off SA and in the Bight. It also includes the related protection of State waters, and SA environmental, social and economic interests subject to possible impact and consequences from BP’s activity in this proposed oil exploration drilling program.

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p + 61 8 8231 6586: +61 8 7127 5013 • f +61 8 8231 1068

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We formally provide this Review with our submission to BP as a real world example of a stakeholder's appraisal of the extent of required *sufficient information* under NOPSEMA's Consultation process regarding proposed oil exploration drilling operations.

See (Appendix A): "*Required Consultation information, BP Australia proposed Oil Exploration Drilling Program in the Great Australian Bight*" (TWS SA, March 2015).

Our submission finds that the provision of "*sufficient information*" to allow an informed assessment of the *possible consequences* of proposed oil drilling activity in the Bight requires BP to provide the following as soon as possible:

- Oil Spill Modelling, assumptions, parameters and outputs for a "worst case" oil blowout during this proposed 4 well Oil Exploration drilling program, including projected spill volumes, flow rates and hydrocarbon types & characteristics;
- The "Environment Plan" (EP) that BP submits to NOPSEMA for assessment of this activity. In any interim, a draft or equivalent information for Consultation with relevant persons during this part of the Consultation process; and
- The "Oil Pollution Emergency Plan" and proposed response capacity that BP submits to NOPSEMA for Assessment. In any interim, equivalent information for Consultation with relevant persons during this part of the Consultation process.

Regulatory requirements for a proponent to provide "*sufficient information*" should be enforceable by stakeholders and *must* be enforced by NOPSEMA.

6 Adverse developments in the NOPSEMA Consultation process:

BP initially stated they would *voluntarily* make a *Summary* of their EP & OPEP publicly available - but only *after* submission of their EP to NOPSEMA for formal Assessment. BP is now saying they will release a report?

This appears to suggest no public access to key relevant Environmental Impact Assessment documentation for appraisal and input by stakeholders to fulfil the regulatory required provision of "*sufficient information*" during the *Consultation* period.

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p + 61 8 8231 6586: +61 8 7127 5013 • f +61 8 8231 1068

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ABN 48718158379

<http://www.wilderness.org.au/sa>

BP is required to comply with regulatory obligations to provide *sufficient information* well prior to the start of any Assessment period.

Stakeholders must be given an informed opportunity and timeline to submit to the process before the formal Assessment process and period begins.

NOPSEMA consultation requires the proponent to inform, to take into account, and to iteratively respond to input from stakeholders.

NOPSEMA may be provided with *sub-standard* EP & OPEP without strict compliance with the regulatory requirement for provision of “*sufficient information*” by the proponent during the *Consultation* period and their properly taking stakeholders input into account in the EP and OPEP plans submitted to the regulator.

Consultation to date potentially compromises NOPSEMA fulfilling its own legal obligations and leaves the regulator to face ongoing public controversy.

7 Required public information on NOPSEMA's operational performance:

Basic information that is required under Term of Reference 1.c to assess the effectiveness of NOPSEMA's Operational performance and the integration of environmental management into NOPSEMA's functions is not available as EPs & OPEPs are currently not being made public.

Questions: What oil spill risks are present in offshore oil industry EP operations?

Q: How prepared are proponents and operators to respond to worst case oil spills and well blowouts and what are - and how effective are - OPEP response capacities?

Q: What are the array of Oil Spill Modelling projected spill volumes and durations in OPEP's across oil industry operations off WA, off Victoria and proposed off SA?

Q: What are the required Relief Well 2nd rig response times to potential oil well blowouts and what is the availability of suitable 2nd rigs off WA, off Victoria and proposed off SA. How does this NOPSEMA practice compare with international practice and requirements?

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ABN 48718158379

<http://www.wilderness.org.au/sa>

Yours Sincerely

Peter Owen
Director.

(Appendix A)

Andy Holmes
President, BP Australia

17/3/2015



Sent via email: gabconsultation@se1.bp.com

Re: Required Consultation information, BP Australia proposed Oil Exploration Drilling Program in the Great Australian Bight

The Wilderness Society (TWS) is an independent, self-funded non-profit organisation that seeks to protect, promote and restore wilderness and natural processes across Australia for the survival and ongoing evolution of life on Earth.

The protection of the environment in Commonwealth waters is a Matter of *National Environmental Significance* under the EPBC Act 1999 and is part of TWS (SA)'s long standing and ongoing functions, interests and activities.

The Great Australian Bight is a unique ecosystem of international conservation importance and must be protected from any unacceptable impacts in BP's proposed activities.

TWS (SA) write to request required Consultation information from BP Australia, in accordance with NOPSEMA regulations, pertaining to BP's proposed Oil Exploration Drilling Program of 4 oil wells that BP propose to be conducted from early 2016 in the Great Australian Bight.

BP has said that a meeting held in the SA Department of State Development offices on Friday 13th February commenced BP's formal Consultation process with TWS (SA) on this project.

the wilderness society (south australia) inc.
Level 7/118 King William St, Adelaide 5000 - GPO box 1734, Adelaide 5001
p + 61 8 8231 6586: +61 8 7127 5013 • f +61 8 8231 1068
e mail: sa@wilderness.org.au
ABN 48718158379
<http://www.wilderness.org.au/sa>

However, a basic power point presentation dated Dec 2014, first provided to TWS on 11 Feb 2015, and a brief project site at www.bpgabproject.com.au (last updated 19 Dec 2014) is the only Consultation information available to the public and provided by BP.

BP has a legal obligation to comply with Consultation requirements issued by NOPSEMA, the Federal Petroleum Industry Regulator, under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (dated Dec 2014). The requirement for “*Sufficient information*” is critical:

3.2 Provision of Information and time (p.8)

3.2.1 **Sufficient information**

“Sub-regulation 11A(2) of the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* provides that:

For the purpose of the consultation, the titleholder must give each relevant person sufficient information to allow the relevant person to make an informed assessment of the possible consequences of the activity on the functions, interests or activities of the relevant person.

See: <http://www.nopsema.gov.au/assets/Information-papers/N-04750-IP1411-Consultation-Requirements-Under-the-OPGGS-Environment-Regulations-2009.pdf>

TWS (SA) is a “*relevant person*” under the Act and our core functions, interests and activities are subject to impact and consequence by this proposed Oil Exploration drilling program.

The functions, interests and activities of TWS include informing and responding to enquiries from members, from the general public and from a range of stakeholders on the protection of Commonwealth waters off SA and in the Bight. It also includes the related protection of State waters, and SA environmental, social and economic interests subject to impact and possible consequences from BP's activity in this proposed Oil Exploration drilling program.

TWS (SA) has repeatedly stated to BP that the provision of “*sufficient information*” to allow an informed assessment of the possible consequences of this proposed activity on the functions, interests or activities of TWS requires BP to provide the following as soon as possible:

the wilderness society (south australia) inc.

Level 7/118 King William St, Adelaide 5000 - GPO box 1734, Adelaide 5001

p + 61 8 8231 6586: +61 8 7127 5013 • f +61 8 8231 1068

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- Oil Spill Modelling, assumptions, parameters and outputs for a “worst case” oil blowout during this proposed 4 well Oil Exploration drilling program, including projected spill volumes, flow rates and hydrocarbon types & characteristics;
- The “Environment Plan” (EP) that BP submits to NOPSEMA for assessment of this activity, and in the interim a draft Environment Plan or equivalent information for Consultation with relevant persons during this part of the Consultation process; and
- The “Oil Pollution Emergency Plan” that BP submits to NOPSEMA for assessment, and in the interim a draft Oil Pollution Emergency Plan or equivalent information for Consultation with relevant persons during this part of the Consultation process.

Transparency is a fundamentally important required standard. It is a pre-requisite to public confidence in both government and corporate consultation, assessment and decision processes.

TWS is seriously concerned that BP have so far declined to commit to publicly release Oil Spill Modelling and Oil Pollution Emergency Response information. In the absence of this information, determining the impacts and potential consequences of this activity on our functions, interests and activities is impossible.

Further, TWS require sufficient information in a timely way so as to be able to obtain independent expert review and assessment of BP's proposed activities and possible consequent impacts on the environment and on our functions, interests, and activities. This includes risk management strategies and claimed, proposed and required response capacities to mitigate impacts and prevent unacceptable impacts.

To fulfil our function, TWS needs to be able to source and share said independent advice with our members in a timely way, and to answer public interest inquiries. We need to provide said advice to a range of stakeholders so that they can also determine the impacts of BP's proposed Oil Exploration drilling activities in a timely way and within this Consultation period prior to the onset of NOPSEMA's assessment period.

BP have said they will release a ‘Summary’ of the EP that is submitted to NOPSEMA for assessment, and to only provide the Summary shortly

the wilderness society (south australia) inc.

Level 7/118 King William St, Adelaide 5000 - GPO box 1734, Adelaide 5001

p + 61 8 8231 6586: +61 8 7127 5013 • f +61 8 8231 1068

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after submitting the full EP to the regulator. This approach cannot address our interests in the matter.

NOPSEMA says that an accepted EP effectively constitutes the Conditions of an Approval, as the proponent is required to carry out and comply with all that an approved Final EP sets out.

TWS needs to see and appraise the full activities proposed by BP, in the full EP to be assessed by the regulator, so as to know the type, scale and extent of those activities. In the absence of this, it is impossible to determine the consequent impacts of such activities.

Potentially misleading and insufficient information in BP's Consultation to date

BP has a responsibility to provide accurate and sufficient information in this public consultation process. There are a range of concerns on information provided to date.

BP Australasia claims to have learnt the lessons of the BP Oil Exploration drilling disaster in the Gulf of Mexico. Transparency is a key lesson from BP's Gulf disaster.

1. BP refuse to release Oil Spill Modelling for public scrutiny and independent assessment and fail to provide a required worst case oil blowout impact model:

Consultation material presented by BP to date is seriously misleading in significantly underestimating the extent and scale of risks to the environment and to the Fishing Industry from an uncontrolled worst case oil well blowout in the Bight.

BP assumes an arbitrary and unrealistic limit on an uncontrolled oil blowout of a maximum of 35 days duration. This is contrary to evidence and experience including government required assessments in oil well blowout modelling around the world.

The Montaro oil blowout off Western Australia in 2009 spewed uncontrolled for 74 days and took 104 days for a required Intervention 'relief' well to close off the damaged well. The BP Gulf of Mexico disaster took 87 days to stop uncontrolled oil release into the marine environment and over 150 days for Intervention 'relief' well closure.

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p + 61 8 8231 6586: +61 8 7127 5013 • f +61 8 8231 1068

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BP has submitted to the Federal Department of Environment that an Intervention 'relief' well required to close off a potential Oil Exploration well blowout in the Bight could take up to 158 days and require a full international response.

2. BP fail to disclose socio-economic and Fisheries impact oil spill modelling:

BP fail to disclose the extent and scale of sea surface oil pollution plumes and fail to inform the public on the extent and scale of socio-economic impacts and consequent required Fisheries closures in the Great Australian Bight.

Consultation information for the first proposed set of four oil Exploration drill wells has arbitrarily limited BP's definition of a sea surface oil pollution plume to an industry practice *threshold* of oil thickness on the surface of 4.5 g/m².

BP states this threshold "*is considered the minimum thickness that might lead to a successful spill response*". This is only to do with the use of booms and oil skimmers on quiet water. This cannot credibly substitute for socio-economic impact modelling.

In consultation with TWS on 13 February 2015, BP asked for help from TWS on socio-economic impact and Fisheries closure threshold information.

It appears BP have not learnt the lessons of the Gulf where BP Oil Exploration drilling caused some of the largest ever Fisheries closures in US Federal waters.

Firstly, the Federal Department of Environment have recommended BP review their oil spill modelling thresholds for the Great Australian Bight, citing 1 g/m² as the threshold for biological impacts in sea surface oil spill modelling. This must now be provided in full.

Secondly, a realistic socio-economic threshold for oil pollution impacts on the Fishing Industry is the level of oil pollution that will trigger Fisheries closures in the Bight.

The National Oceanic and Atmospheric Agency (NOAA) in the US Department of Commerce use a socio-economic impact threshold for water surface area exposed to floating oil at 0.01 g/m². This impact

the wilderness society (south australia) inc.

Level 7/118 King William St, Adelaide 5000 - GPO box 1734, Adelaide 5001

p + 61 8 8231 6586: +61 8 7127 5013 • f +61 8 8231 1068

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threshold triggers Fisheries closures and corresponds to a minimum level of visible oil on the sea surface.

BP's arbitrary sea surface oil plume threshold of 4.5 g/m² is some 450 times higher than the NOAA standard.

The extent and scale of socio-economic impacts and Fisheries closures in the Bight that would be caused by a potential BP oil blowout is clearly significantly greater than the small area identified as a potential sea surface oil pollution plume in Consultation materials presented and provided by BP.

Further, Fisheries closures are ordered over wider areas to try and stay ahead of oil pollution plumes, in an attempt to contain business and reputational damage to Fisheries. Therefore, closure areas are larger than the projected oil plume.

BP must provide sea surface oil pollution plume socio-economic impact and Fisheries closure modelling at the NOAA threshold of 0.01 g/m² AND for a worst case oil blowout duration (not limited to arbitrary 35 day duration).

3. BP fail to provide Oil Pollution Emergency Plan (OPEP) information:

In parallel with transparent worst case oil blowout impact modelling, BP has an equal responsibility to provide correspondent Oil Pollution Emergency Plan information to demonstrate a capacity to prevent and mitigate impacts to an "acceptable" level.

How can BP claim to formally consult on a proposed Oil Exploration drilling program in the Bight under NOPSEMA's requirements without providing an OPEP?

Having regard to TWS's functions, interests and activities, BP should now make public and provide TWS with the following initial OPEP information as soon as possible and a Full OPEP as available.

The OPEP response measures, the role, capacity, location, availability and transit times of required OPEP resources regarding a worst case oil blowout in the Bight including:

- Intervention 'Relief' Well Plan and response durations or equivalent information including the identity, location and

the wilderness society (south australia) inc.

Level 7/118 King William St, Adelaide 5000 - GPO box 1734, Adelaide 5001

p + 61 8 8231 6586: +61 8 7127 5013 • f +61 8 8231 1068

e mail: sa@wilderness.org.au

ABN 48718158379

<http://www.wilderness.org.au/sa>

availability of the required second Purpose Built Drilling Rig to conduct Intervention 'Relief' well operations;

- Comparative Intervention 'Relief' Well response times if a required second Rig is located off the North West Shelf, in Bass Strait, the Bight or elsewhere?
- Well Capping Plan or equivalent available information, required Capping Stack and response kit stored in Singapore and Houston and required Vessels;
- Remotely Operated Vehicles (ROV) Intervention Plan and required surface Vessels, crews, and support capacity;
- Proposed Net Environmental Benefit Analysis (NEBA) specifically relevant to the Bight, Oil Spill Response Strategy and proposed selected range of specific response techniques based on NEBA and tactical plans;
- Aerial Dispersant Planes, type and capacity, including the capacity of planes to potentially replace the role of dispersant Vessels in rough sea conditions, and the weather constraints on aerial dispersant response measures;
- List of potential dispersants, including any variants of Corexit if proposed;
- Sea surface Vessels and capacity for proposed boom and skimmer measures, and the weather and sea condition constraints on these measures;
- Sea surface Vessels and sub-surface ROV's for proposed dispersant release, and the weather and sea condition constraints on these measures;
- Mobilisation Plans for Oil Shoreline Contamination response and 'clean up';
- Proposed required Waste Storage and Disposal locations, including required Facilities in the Bight region, in SA & in WA, and if proposed elsewhere in Australia or overseas;
- Proposed Response Exercises to test and demonstrate Response Capacity;

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- Oil Spill Monitoring Plan (OSMP), including Oiled Wildlife Response Plans, Waste Management Plans, and Scientific Monitoring Plans;
- Sensitivity Mapping proposed to feed into the OPEP and OSMP.

Fact: All the resources of the USA in the home of the Oil Industry could not stop the BP Oil Exploration blowout disaster in the Gulf of Mexico from spreading oil pollution across the Gulf and contaminating the shorelines of four US States.

Given this fact, and in British Petroleum claiming to have learnt the lessons of the Gulf:

BP must explain and demonstrate how Oil Spill Response Capacities may have improved since 2010, and if so, to what significant degree in effectiveness & reliability?

Further, BP must explain and demonstrate how required Oil Spill Response Capacities can be available *at call* to operate reliably in the Bight in a far more remote region, in significantly rougher seas, and more extreme weather conditions than prevail in the Gulf of Mexico?

4. Great Australian Bight Environmental Sensitivities:

BP's EPP's overlap the pre-existing Great Australian Bight Commonwealth Marine Reserve including the Benthic Protection Zone.

Potentially misleading information should be corrected on the record as soon as possible.

Regarding key "*Environmental Sensitivities – Threatened and Migratory Species*", TWS pointed out on Feb 13 that BP's Consultation power point presentation incorrectly claims that:

"Blue whales - foraging at eastern GAB upwelling and Kangaroo Island canyons ~150 km from drilling area at closest point."

The Federal Department of Environment Atlas of Conservation Values is clear that Blue whale foraging extends across and out beyond the shelf break of the Great Australian Bight.

Blue whales forage across much of BP's EPP's and the proposed Oil Exploration Drilling area in the Bight. The Department pointed this out to

the wilderness society (south australia) inc.

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BP in correspondence in 2013 regarding BP Referral 2013/6863. **Why has BP not recognised this key Environmental Sensitivity?**

The Federal Department twice required a range of additional information from BP (in May and Oct 2013), and stated in reference to their examination of BP's Referral 2013/6863 for proposed Oil Exploration drilling in the Bight (Department Letter to BP, dated 30 May 2013, Attachment A, Point 7 *Hydrocarbon spill scenarios*, p3-4) that:

"...examination of your Referral indicates that there is insufficient information to allow us to consider all the relevant issues."

BP continues to provide insufficient information to allow relevant persons to make an informed assessment of the consequences of proposed oil drilling activity.

In Consultation with TWS on Friday 13th February a BP representative claimed that there *'is no longer a Benthic Protection Zone'*. This should be clarified on the record.

Further, under *"Potential Impacts – Discharge of cuttings & Drill Muds"* the BP Consultation power point presentation incorrectly claims that this proposed discharge, smothering and contamination of four km² of seabed and benthic communities is:

"Unlikely to impact areas of high benthic biodiversity (ancient, coastline and shelf break), located ~50 km from drilling area."

This is potentially misleading. The Benthic Protection Zone was put in place to protect the whole benthic area, its ecology and communities, not just a particular feature of the area.

Discharge of drill wastes to the Bight and resultant intended smothering and contamination of up to 4 km² of benthic ecology is an "unacceptable impact".

BP should prepare and present alternative waste management to prevent this impact.

In response, BP cited that such oil drilling waste discharge is an industry practice elsewhere.

TWS asked BP a Key Question in Consultation on Feb 13, and now formally ask:

Q: Is BP intending to only provide minimum compliance with environmental protection standards in this proposed four well Oil Exploration drilling program in the Bight?

BP Australia's "*Health, Safety, Security and Environmental Policy*" (Dec 2011) states:

"Our goals are simply stated. No accidents, no harm to people, and no damage to the environment. ... We will continue to drive down the environmental and health impact of our operations by reducing waste, emissions and discharges..."

Q: Is BP going to honour this HSSE Policy and prevent damage and unnecessary waste discharge to the environment, in BP's proposed Oil Exploration drilling program in the Great Australian Bight?

TWS have requested public access (on Feb 13) to the outputs and results of a BP "*Environmental Impact Identification (ENVIID) Workshop*."

This workshop was conducted in Sept 2014 to identify potential impacts, existing and recommended mitigation measures, and which according to the Consultation power point presentation, is to be used "*to form the basis of the EP*".

TWS request electronic and hard copy provision of all of the above initial information as soon as possible.

Yours Sincerely,

Peter Owen
Director.

2015 NOPSEMA REVIEW

noetic

STAKEHOLDER SUBMISSION

Please provide submissions for the following questions to: spencer.stubbins@noeticgroup.com by the **30 April 2015**. Submissions received after this date may not be considered for inclusion in the final review and report.

Organisations that provide a submission will be listed as participating stakeholders in the review. Please keep the submission responses as concise as possible; you may seek to limit your responses to 250 words.

Confidentiality

Do you consent to having this response published on the Department of Industry and Science's website? (Is this submission confidential?)	Please mark your response here with an X
Yes, I consent to having my response published	X
No, I would like my response to be confidential	

Organisation name: *WAFIC (Western Australian Fishing Industry Council) and PPA (Pearl Producers Association)*

CONTACT: Aaron Irving (aaron@pearlproducersaustralia.com)

Submission Questions

1. From your perspective, describe the effectiveness of NOPSEMA to improve industry performance? You may consider:
 - + the occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations
 - + the structural integrity of facilities, wells and well-related equipment
 - + offshore petroleum environmental management including the effectiveness of the integration of environmental management into NOPSEMA functions since 1 January 2012
 - + offshore greenhouse gas storage environmental management

Response:

From an operational point of view, effectiveness can be seen in the lack of adverse environmental incidents with respect to structural facilities, petroleum product holding facilities and the surrounding environment.

In addition, conversations with Oil and Gas personnel in various fora indicate that NOPSEMA requirements and follow through are very effective at effectuating industry performance, and require a substantial amount of resources to address.

2. From your perspective describe the NOPSEMA governance arrangements (pursuant to the Public Governance Performance and Accountability Act 2013):
 - + promotes compliance with the law
 - + works cooperatively to ensure that relevant parties are informed of regulatory activities
 - + pursues a consistent national approach to regulation
 - + ensures that duty holders identify and take action to deal with serious risks
 - + holds accountable duty-holders who breach their requirements
 - + allocates its resources properly in accordance with its priorities
 - + cooperates with stakeholders about relevant information
 - + has a streamlined and timely approval process

Response:

GOVERNANCE arrangements are certainly and demonstrably pursuant to Legislation, however there are some underlying policy aspects that could be improved.

We acknowledge that although the current governance arrangements are consistent with the legislative requirements and from our experience applied consistently and timely where appropriate, there are inconsistencies and a lack of clarity in places with respect to stakeholder cooperation and communication.

Our experience shows that while NOPSEMA takes interactions with stakeholders seriously and has implemented a number of steps to optimise communication with stakeholders, improvements could still be made, especially with respect to the nature of any action or steps being undertaken by NOPSEMA with pursuant to their legislative and regulatory functions. As a regulator, NOPSEMA must understand, that stakeholders will place considerable reliance on NOPSEMA undertakings even if they are non regulatory, advocacy based undertakings.

It is in our view that it is of OPTIMAL importance that NOPSEMA (as the regulator) is transparent and communicates expressly and clearly to all affected parties the nature and scope of any activity that is being undertaken, and whether they are acting as a regulator, or acting as an advocate, and when they are undertaking another function altogether. In one recent case, this separation of process was not clearly communicated to an affected party/ stakeholder, and consequently, the lack of communication by NOPSEMA resulted in loss of opportunity for that affected party to dedicate limited resources to the effects of the application activity on their pre-existing activity. While this may not have been the intention of NOPSEMA, it was certainly the result.

3. From your perspective describe the NOPSEMA capacity to respond to changes in industry; emerging issues and new technology such as seismic, deepwater drilling and (floating liquefied natural gas) FLNG. You may consider whether NOPSEMA is:

- + responsive to introduction of new technology that has potential to impact on your organisation and/or members
- + adequately staffed and resourced for new technology in development

Response:

From a WAFIC/PPA perspective, NOPSEMA's responses with respect to seismic activity and FLNG have been been variable.

It would appear that NOPSEMA as a regulator stays at arms length from any application in order to maintain its independence and therefore its regulatory function. However, It is equally arguable that in this context NOPSEMA's advocacy/policy function, there could be valuable in improving the approach by stakeholders and applicants alike, to content of applications including alternative technological and best practice options.

4. Describe NOPSEMA's interactions with your organisation to improve regulatory outcomes. You may consider:

- + if it is clear what NOPSEMA desired regulatory outcomes are
- + if communication with NOPSEMA adequate for your role/concerns

Response:

With the increase in Petrochemical activity in North-Western Australia, WAFIC and the PPA have had an increasing amount of interaction with NOPSEMA in recent years.

From a WAFIC/PPA perspective, the Petrochemical Industry interpretation of NOPSEMA's desired regulatory outcomes are clear and well known; and it is our contention that this Petrochemical Industry driven interpretation, makes good sense when activities are located in deep-water, and almost exclusively impacting on other Oil and Gas interests, and very little else. However and conversely, It is also clear that were oil and gas activities interact with other activities (fisheries, pearling), coastal marine habitats, marine ecosystems and other activities, regulatory outcomes need to be more inclusive, and accommodating. It would seem that this is not the case currently.

We note that the OPGGS Act and Regulations have wide definitions and broadly scoped principles that provide for the accommodation of conflicting interests, yet it would seem that currently there is insufficient policy in place that gives effect to both these conflicting interests and to extant widely drafted statutory and regulatory provisions.

One example for this is the NOPSEMA regulatory outcome for any applicant to satisfy the ALARP principle. In addition the OPGGS regulations provide a widely worded road map that includes the necessary provision of a balanced or proportional evaluation of environmental impacts and risks. Eg. Sub-regulation 5A(8) of the OPGGS Regulations provides that a proposal to undertake an activity "*must include*" (a) details of the environmental impacts and risks for the project; and (b) an evaluation of all the impacts and risks, appropriate to the nature and scale of each impact or risk."

Yet it is the observation of WAFIC and the PPA that in satisfying this burden many applicants provide evaluations of environmental impact and risk which can be characterized by their opacity, their 'inhouse' exclusiveness and lack of methodological rigour. Furthermore, in these evaluations of environmental impact and risk, risk is addressed in an 'industrial' activity first context, rather than an 'environmental' first context that the OPGGS regulations implicitly require.

The lack of the implementation of underpinning policy (that is best practice and inline with other Commonwealth and State Departments e.g. Dept. Agr and Dept Env.) in highly used coastal and ecologically significant environments is extremely noticeable, and increasingly questionable. What is more stakeholders and pre-existing interest holders are increasingly coming away from 'Environmental Consultation' processes that are undertaken pursuant to the OPGGS regulations (especially after an activity is approved) by applicants feeling dis-satisfied, alienated and unimportant, with an often repeated opinion that the whole process is simply "box ticking" in favour of Oil and Gas.

Responses like that mentioned above are indicative of a regulatory framework that has process gaps and inconsistencies. It is our firm understanding that this could be readily fixed with GOOD policy that underpins NOPSEMA regulatory requirements.

Good policy in the case of ALARP and assessing Environmental risks and impacts would be policy that calls for a transparent and inclusive risk assessment process, based on an agreed ecological risk assessment (ERA) methodology, that includes pre-existing interests and affected parties, and where determinations of risk are made together through consensus.

While such an ERA framework approach maybe cumbersome and laborious in the beginning, where consensus at first blush may seem hard to achieve, examples in Australia and abroad show that these ERA processes provide increased confidence in ERA determinations (including information gaps) down the track, increased ownership by all parties involved of the outcomes, and exponentially improved risk and impact management.

Conclusion

Both WAFIC and the PPA are very keen to work with NOPSEMA along with other organisations including the Dept of Fisheries WA, to develop an ERA policy framework to put 'meat on the bones' of the OPGGS regulations, especially in marine spaces that are subject to multiple uses and interests or marine spaces which are characterized by a lack of relevant scientific and technical information.

We look forward to meeting with the Review Panel to discuss this submission further.

Aaron Irving

Executive Officer – Pearl Producers Association

PO Box 1605. Fremantle, WA 6959. Australia

M +61 452 379 054

P +61 8 9432 7731

E aaron@pearlproducersaustralia.com

STAKEHOLDER SUBMISSION

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Organisation name: *Wild Migration*

Submission Questions
<p>1. From your perspective, describe the effectiveness of NOPSEMA to improve industry performance? You may consider:</p> <ul style="list-style-type: none"> + the occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations + the structural integrity of facilities, wells and well-related equipment + offshore petroleum environmental management including the effectiveness of the integration of environmental management into NOPSEMA functions since 1 January 2012 + offshore greenhouse gas storage environmental management
<p>Response:</p> <p>We strongly object to the notion that NOSPEMA's role is only restricted to improving industry performance.</p>

NOSPEMA also has a role in ensuring environmental management (as defined by the EPBC Act), which also includes aspects which are beyond industry operations. It is in this area that we believe NOSPEMA has failed since January 2012.

NOSPEMA has deflected their EPBC responsibility onto industry, with no transparent checks and balances in place. There is no way to track if issues have been addressed. NOSPEMA takes no responsibility for checking the efficacy of proponent EPs including legitimate issues raised by stakeholders. The information about stakeholder consultation is not transparently available. Only summaries, drafted by proponents, are published. Stakeholders are given no right of reply.

None of the information about any of NOSPEMAs discussions or investigations with proponents are transparently available.

Under EPBC, a significant proportion of information was available before approvals were given and it was possible to seek a 'Statement of Reasons' from the Minister that carefully and thoroughly detailed the reasons behind specific decisions after they were made. NOSPEMA fails an equivalency test in this respect.

Even when new information is brought forward, NOSPEMA fails to trigger their legislative obligations to investigate. If they do investigate the stakeholder concerned has no way of knowing and never hears the result.

2. From your perspective describe the NOSPEMA governance arrangements (pursuant to the Public Governance Performance and Accountability Act 2013):

- + promotes compliance with the law
- + works cooperatively to ensure that relevant parties are informed of regulatory activities
- + pursues a consistent national approach to regulation
- + ensures that duty holders identify and take action to deal with serious risks
- + holds accountable duty-holders who breach their requirements
- + allocates its resources properly in accordance with its priorities
- + cooperates with stakeholders about relevant information
- + has a streamlined and timely approval process

Response:

NOSPEMA operates without any ethical considerations about community and stakeholder concerns. Under EPBC, the Ministerial oversight provided the ethical dimension that is now missing in the NOSPEMA process.

Their governance model is heavily weighted towards industry. The system works on the premise of managing the impact after the horse is bolted (a spill, or proven ecosystem impacts – before NOSPEMA steps in).

NOSPEMA never officially rejects any proponent's proposal. Proponents are given an indefinite opportunity to re-present proposals, regardless of how unacceptable they are. The impact that this open-ended process has

on other stakeholders is profound, because the threat of the activity remains open indefinitely.

NOSPEMA have approved a number of EPs that have failed to adequately address the impact to EPBC listed species. When this information has been brought to NOSPEMA's attention they have directed the stakeholder to approach the proponent (again). When the proponent fails to act, NOSPEMA appears to do nothing. This is very clearly a breach of EPBC obligations.

3. From your perspective describe the NOPSEMA capacity to respond to changes in industry; emerging issues and new technology such as seismic, deepwater drilling and (floating liquefied natural gas) FLNG. You may consider whether NOPSEMA is:

- + responsive to introduction of new technology that has potential to impact on your organisation and/or members
- + adequately staffed and resourced for new technology in development

Response:

NOSPEMA is not responsive to new technologies. They have not formally directed any proponent to consider quieter technology and have approved standard seismic surveys in all EPs presented, despite new, quieter technologies being available.

4. Describe NOPSEMA's interactions with your organisation to improve regulatory outcomes. You may consider:

- + if it is clear what NOPSEMA desired regulatory outcomes are
- + if communication with NOPSEMA adequate for your role/concerns

Response:

Our interactions with NOSPEMA are very poor. NOSPEMA are unresponsive to our concerns, are overly procedural and secretive.

As an organisation we have invested considerable time and energy in engagement with NOSPEMA's process and have provided NOSPEMA with significant documents to help evolve their process. We are very disappointed with the outcomes.

The consultation process is weighted towards industry. Stakeholders raising legitimate concerns with NOSPEMA are repeatedly and exhaustingly directed to the industry proponent to consult further, when the proponent has already displayed a disinterest in engagement, does not take the concern on board and there is clearly no resolution in sight.

NOSPEMA directs stakeholders to put requests for information in writing, such as being given the opportunity to see and comment on draft EPs' before they are submitted. Anecdotally industry tells us that NOPSEMA has given industry a counter-direction that they are under no obligations to show stakeholders any information at

all.

The convoluted nature of the NOSPEMA process is beyond the public's ability to engage. Legitimate stakeholders are forced to face hostile industry proponents, and are not given information when they ask for it. NOSPEMA has shifted the burden of proof to the community.