



Australian Government

FINAL GOVERNMENT RESPONSE

TO THE REPORT OF
THE MONTARA COMMISSION OF INQUIRY

© Commonwealth of Australia 2011
ISBN 978-1-921812-36-1 (paperback)
ISBN 978-1-921812-37-8 (online PDF)

This work is copyright. Apart from any use as permitted under the Copyright Act 1968, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and enquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration, Attorney-General's Department, National Circuit, Barton ACT 2600 or posted at <http://www.ag.gov.au/cca>

For more information about this report please contact:

Manager

Media and Communications
Department of Resources, Energy and Tourism
GPO Box 1564
Canberra ACT 2601
Telephone: + 61 2 6276 7003
Facsimile: + 61 2 6243 7037
Email: ret@ret.gov.au

Produced by the Department of Resources, Energy and Tourism

Contents

Executive Summary	2
Introduction	2
Australia's Regulatory regime for offshore petroleum activities	2
Oil Spill Response Management	4
The Montara Incident	5
Summary of the <i>Report of the Montara Commission of Inquiry</i>	5
Draft Response to the <i>Report of the Montara Commission of Inquiry</i>	7
Final Response to the <i>Report of the Montara Commission of Inquiry</i>	7
Commonwealth Actions addressing the Recommendations of the Report	8
Actions on the Key Recommendations of the Report	10
PTTEP Australasia (Ashmore Cartier) Pty Ltd (PTTEP AA)	10
Actions of the Northern Territory Designated Authority	10
International Considerations	10
Offshore Petroleum Regulatory Reform	11
Key Actions Undertaken by the Offshore Petroleum Industry	12
Commonwealth Final Response	12
Chapter 3 – The Circumstances and Likely Cause(s) of the Blowout	13
Chapter 4 – The Regulatory Regime: Well Integrity and Safety	57
Chapter 5 – Arresting the Blowout	73
Chapter 6 – Environmental Response	83
Chapter 7 – Review of PTTEP AA's Permit and Licence at Montara and other Matters	103
Additional Recommendations for Industry – <i>Review of PTTEP Australasia's Response to the Montara Blowout</i>	109
Implementation Plan – <i>Report of the Montara Commission of Inquiry and the Review of PTTEP Australasia's Response to the Montara Blowout</i>	113
Appendix 1 – Summary of Stakeholder Submissions on the Commonwealth's Draft Response	119

Executive Summary

Introduction

The 21 August 2009 uncontrolled oil and gas release at the Montara oil field, operated by PTTEP Australasia (Ashmore Cartier) Pty Ltd (PTTEP AA), and the more recent incident on 20 April 2010 at the BP-operated Macondo oil field in the Gulf of Mexico, where 11 lives were lost, serve as strong reminders to governments, regulators, the offshore petroleum industry and the broader community of the risks of complacency in the operation and regulation of offshore petroleum activities.

The Commonwealth Government (the Commonwealth) has moved quickly to learn the lessons from the Montara and Gulf of Mexico incidents and is working to improve the protection of human health and safety and the protection of the marine environment so as to ensure that Australia continues to have a safe, strong and competitive offshore petroleum industry which is able to contribute to Australia's ongoing energy security and economic prosperity, and that of our major trading partners.

Australia's regulatory regime for offshore petroleum activities

Offshore petroleum operations beyond the designated state and territory coastal waters (three nautical mile baseline to 200 nautical miles of Australia's Exclusive Economic Zone) are governed by the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act) and related regulations.

While ultimate responsibility for Australia's offshore areas beyond the three nautical miles from the territorial baseline rests with the Commonwealth, the Commonwealth currently jointly administers the regulatory regime and supervises offshore petroleum industry activities with the State and Northern Territory governments through a Joint Authority/Designated Authority arrangement. The establishment of the single national regulator will see the proposed National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) become the regulator for all offshore petroleum activities beyond three nautical miles from the territorial sea baseline. In addition, under this model, the States and Northern Territory will be able to confer powers for the regulation of offshore petroleum activities under their respective legislation to NOPSEMA for coastal waters (ie up to the three nautical mile limit).

In 1991, in responding to *The Public Inquiry into the Piper Alpha Disaster* by the Hon Lord Cullen, the Commonwealth made a policy decision to implement the key outcomes of that report, in particular that a safety case regime be adopted and new performance/objective-based regulations be developed to replace the then prescriptive regulations. Today, Australia's regime is largely a performance/objective-based regime, in which the operator of an offshore facility is responsible for the safe and effective operation of the petroleum facility.

An important feature of objective-based regulation is that it encourages continuous improvement rather than a compliance mentality. The Australian objective-based regime places the onus on the industry to ensure and demonstrate to regulators that the risks of an incident relating to oil and gas operations are reduced to 'as low as reasonably practicable'. The regime ensures flexibility in operational matters to meet the unique nature of differing projects, and avoids a 'lowest common denominator' approach to regulation that can be observed in a prescriptive regime. The objective-based regime is not self-regulation by industry, as industry must demonstrate to regulators – and regulators must assess and approve or not approve – that it has reduced the risks of an incident to 'as low as reasonably practicable' in order to conduct operations.

It is essential that a regulatory system encourage the creator of the risk to move beyond minimum standards in a continuous effort for improvement, and not just accept the minimum standard.

The risk of specific standards is that they can shift the burden of responsibility from the operator to the government and stifle innovation. The Australian objective-based regime seeks to maintain clarity that the operator is responsible for evaluating risk and achieving fit-for-purpose design that reduces risk to 'as low as reasonably practicable'. Prescriptive-based regulation focuses on minimum compliance, requires frequent amendment and relies heavily on the ability of legislative drafters to understand and anticipate the risks and operational environment of the industry.

Until late April 2011, the structural integrity-related regulatory functions for offshore petroleum activities were exercised pursuant to the *Petroleum (Submerged Lands) (Management of Well Operations) Regulations 2004* and the *Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009* (Safety Regulations) and were fulfilled by:

- Designated Authorities assessing Well Operations Management Plans (WOMPs) and applications to conduct well activities in order to ensure that well operations were conducted in accordance with sound engineering principles and good oil field practice.
- The National Offshore Petroleum Safety Authority (NOPSA) assessing and challenging the facility operator's safety cases and seeking through oversight to ensure that occupational health and safety risks were properly managed by the operator.

In November 2010, the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Miscellaneous Measures) Act 2010* extended the functions and powers of NOPSA to include non-occupational health and safety aspects of structural integrity for petroleum facilities, wells and well-related equipment in Commonwealth waters, in addition to its existing occupational health and safety-related functions and powers under the OPGGS Act and the Safety Regulations.

This amendment in effect provides NOPSA with regulation and oversight of the whole of structural integrity of petroleum facilities (including pipelines), wells and well-related equipment in Commonwealth waters. This includes assessment of WOMPs and individual well activities. This responsibility is given effect through the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*.

These amendments have addressed the issues arising from the Montara incident in respect of wells operation approvals, compliance and monitoring.

Commonwealth, state and territory governments require petroleum companies operating in state/territory waters to conduct their activities in a manner that meets a high standard of environmental protection.

The OPGGS Act contains a broad requirement for titleholders to operate in accordance with 'good oil field practice'. Specific environmental provisions relating to work practices require operators to control and prevent the escape of wastes and petroleum. The OPGGS Act also requires activities to be carried out in a manner that does not interfere with other rights, including the conservation of the resources of the sea and seabed.

Key objectives of the Environment Regulations under the OPGGS Act include encouraging industry to:

- continuously improve its environmental performance;
- adopt best practice to achieve agreed environment protection standards in industry operations; and
- ensure operations are carried out in a way that is consistent with the principles of ecologically sustainable development.

Australia's national environment law, the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), also plays a key role in the regulation of offshore petroleum activities. The EPBC Act establishes a national approach to the protection and conservation of Australia's environment, and sets out a regulatory framework to protect those aspects of the environment considered to be matters of national environmental significance (NES), which includes the Commonwealth marine area.

Offshore petroleum activities that are likely to significantly impact NES matters require assessment under the EPBC Act and approval by the Environment Minister. The Environment Minister may attach conditions to an approval to protect, repair or mitigate damage to NES matters. The EPBC Act includes a wide range of coercive powers as well as criminal, civil and administrative sanctions for breaches of the Act.

Oil Spill Response Management

Australia is a State Party to both the *International Convention on Oil Pollution Preparedness, Response and Cooperation 1990* and the *Protocol on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances (HNS) 2000*. These conventions require Parties, individually or jointly, to take all appropriate measures in accordance with their provisions to prepare for and respond to a pollution incident by oil and HNS. Since October 1973, Australia has had in place a pre-planned national strategy to respond to marine spills. The original strategy dealt only with oil spills and was known as the National Plan to Combat Pollution of the Sea by Oil. In April 1998, the strategy was extended to deal with the response to maritime chemical spills in Australian waters and is now the *National Plan to Combat Pollution of the Sea by Oil and other Noxious and Hazardous Substances*, more commonly known as the 'National Plan'.

The National Plan is a national integrated government and industry organisational framework enabling effective preparedness and response to marine pollution incidents. On behalf of the Commonwealth, the Australian Maritime Safety Authority (AMSA) manages the National Plan, working with State/ Northern Territory governments and the shipping, oil, exploration and chemical industries and emergency services to maximise Australia's marine pollution response capability. The aim of the National Plan is to protect the community and the environment of Australia's marine and foreshore zones from the adverse effects of oil and other noxious or hazardous substances. It also aims to minimise those effects where protection is not possible.

Under the National Plan, AMSA has responsibility for the response effort, as the Combat Agency, where an incident takes place in Commonwealth waters (more than three nautical miles from the coastline). This responsibility involves:

- management and application of the National Oil and Chemical Contingency Plans;
- fixed wing aerial dispersant spraying of the spill site;
- maintenance of the oil spill response equipment stockpiles at the Australian Marine Oil Spill Centre (AMOSC);
- leadership of the National Response Team;
- provision of on-site advice during the incident in the role of the Combat Agency;
- facilitation of training programs in relation to spill response, research and development and oil spill trajectory modelling; and
- reviewing and reporting of incident responses and field exercises.

A comprehensive assessment and strengthening of the National Plan has been instigated by AMSA. This work, to be completed by the end of 2011, will consider Australia's marine oil and HNS spill preparedness and response capability and the National Maritime Emergency Response Arrangements (NMERA), which includes emergency towage capability. The aim of the work is to determine if current arrangements are adequate to provide an effective response to marine casualties and pollution of the sea by oil and HNS, and where deficiencies are identified, make recommendations to rectify them. It will provide an analysis of accountabilities, roles and resources required to meet the needs of AMSA and its National Plan/NMERA stakeholders for marine casualties and marine oil/HNS spill preparedness and response. The review will also provide details on the gaps in response preparedness and capabilities and any efficiencies that can be gained through improvements, as well as recommendations for the enhancement of the preparedness and response regime currently in place in Australia.

The Montara Incident

On Friday 21 August 2009, during activity being undertaken by the *West Atlas* jack-up drilling rig operated by Atlas Drilling, a hydrocarbon release was observed from the H1-ST1 well through the Montara Wellhead Platform at 0530 (WST). On 14 September 2009, work commenced on drilling a relief well. On 1 November 2009, a fire broke out on the *West Atlas* drilling rig and the Montara Wellhead Platform after the *West Triton*, which was drilling a relief well, successfully intercepted the leaking well on the fifth attempt. On 3 November 2009, successful well-kill operations were undertaken, the fire was extinguished and the oil leak was contained.

Summary of the *Report of the Montara Commission of Inquiry*

The Report contains 100 findings and 105 recommendations which have implications for governments, regulators and the operational processes and procedures of the offshore petroleum industry. It addresses the likely causes of the incident, the adequacy and effectiveness of the regulatory regime for offshore petroleum (including safety and environmental management), the level of compliance with legislative obligations, adequacy of the incident response by governments and the offshore petroleum industry, and the environmental impacts of the incident.

Chapter 3 The Circumstances and Likely Causes of the Blowout

Chapter 3 of the Report specifically focuses on the circumstances and technical causes of the Montara incident. The Report identifies 'direct causes' and 'systemic contributory factors'. The chapter also considers employee competency and the level of compliance by technical staff with the regulatory obligations for well activity.

The Report concluded that the source of the blowout was largely uncontested and was a result of the primary well control barrier failing. The Report further notes that initial cementing problems were compounded by the fact that only one of the two secondary well control barriers – pressure containing anti-corrosion caps – was installed.

Chapter 4 The Regulatory Regime: Well Integrity and Safety

Chapter 4 of the Report concludes that the existing regulatory regime supporting offshore petroleum activities provides sufficient powers to the regulator to enable the effective monitoring and enforcement of offshore petroleum-related operations. The inadequacies identified by the Inquiry primarily relate to the implementation of this regime.

Despite the deficiencies in the administration by the Northern Territory Department of Resources (DoR) of its Designated Authority functions, the Report concluded that the incident could have been avoided if PTTEP AA had adhered to the well control practices approved by the regulator and its own well construction standards.

The Report recommended pursuing regulatory reform through the establishment of a single, independent regulatory body looking after safety as a primary objective, well integrity and environmental management. The Commonwealth notes that the performance/objective-based regulatory regime will be further enhanced by the establishment of a single national regulator for offshore petroleum, mineral and greenhouse gas storage activities.

Chapter 5 Arresting the Blowout

Chapter 5 of the Report concludes that, in considering the initial response to the incident at the Montara Wellhead Platform and the steps taken by all parties involved in arresting blowout, it commends the response efforts by PTTEP AA and AMSA as the Combat Agency, NOPSA as the offshore petroleum safety regulator, and the former Department of Environment, Water, Heritage and the Arts (now the Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC)) as the environmental regulator.

The Report does however recommend changes to the Commonwealth's response to future incidents involving the offshore petroleum industry under the National Plan. The recommendations are aimed at improving the operation of the National Plan, including matters regarding the environmental response to future incidents. It has also recommended there be greater clarity regarding the roles and responsibilities of agencies in responding to future incidents under Australia's current incident response framework, which has been accepted by the Commonwealth. The review of the National Plan is currently underway.

Chapter 6 Environmental Response

Chapter 6 of the Report concludes that the protection and management of the marine environment is critical to the Australian community's confidence in the ability of the offshore petroleum industry to undertake operations in a safe and environmentally sound manner. The Inquiry considered those matters relating to the impact on, and remediation of, the surrounding environment during and post the response to the uncontrolled oil and gas release at the Montara Wellhead Platform.

The Report notes a lack of clarity regarding the implementation of the 'polluter pays' principle for costs associated with both preparedness and response capability for the offshore petroleum industry, as articulated through the National Plan. The Inquiry has recommended amendments to the EPBC Act and the OPGGS Act to reaffirm the Commonwealth's support of the 'polluter pays' principle as it applies to the offshore petroleum industry. Other recommendations made by the Inquiry include the establishment of "off-the-shelf" monitoring programs to be implemented following incidents in Commonwealth waters, and publication of Oil Spill Contingency Plans.

Chapter 7 Review of PTTEP AA's Permit and Licence at Montara and Other Matters

Chapter 7 of the Report details views regarding the conduct of PTTEP AA in respect of its interaction with the regulators and the Inquiry. The Report concludes that PTTEP AA, as operator of the Montara oil field, did not observe sensible oil field practices and that the company's widespread and systemic procedural shortcomings were a direct cause of the incident. Specifically the Report recommends that a review should be undertaken of PTTEP AA's permit and licence to operate through the issuing of a 'show cause' notice under the OPGGS Act.

The Report does note that PTTEP AA provided the Commission of Inquiry with a *Montara Action Plan* to address the technical and governance issues identified through the Inquiry process. The *Montara Action Plan* was also provided to the Commonwealth Minister for Resources and Energy. The Commissioner noted it was "comprehensive and impressive".

Draft Response to the *Report of the Montara Commission of Inquiry*

On 24 November 2010, the Commonwealth released the *Report of the Montara Commission of Inquiry* (the Report) and the Commonwealth's draft response to the Report's 105 recommendations. The Commonwealth's draft response was also informed by the incident in April 2010 at the BP-operated Macondo oil field in the Gulf of Mexico.

In the draft response, the Commonwealth outlined its policy direction and draft position regarding the Commissioner's recommendations and findings. In respect of the 105 recommendations made by the Commissioner, the Commonwealth proposed accepting 92 recommendations, noting 10 and not accepting three. In ensuring that the final response was achievable and considered both community expectations and current industry operating practices, a comprehensive three-month stakeholder and community consultation period was initiated on the draft response. Seventeen submissions (including three that were confidential and one that was not relevant to the draft response) were received from governments, industry and environmental stakeholders, with the non-confidential submissions published on the Montara Inquiry Response website.

In general the submissions were positive and demonstrated broad support for the Commonwealth's draft response to the majority of the 105 recommendations. The key issues identified by the submissions specifically related to industry operations (both technical and procedural). A summary of the submissions is included as an Appendix to the final response.

Final Response to the *Report of the Montara Commission of Inquiry*

This document sets out the Commonwealth's final response to the *Report of the Montara Commission of Inquiry*. The final response remains similar with 92 recommendations accepted, including two amended to "accepted in principle", 10 noted and three not accepted due to being technically inappropriate.

While the Commonwealth's position is consistent with its draft response to the Report, the changes to the final response reflect the information received in submissions from government, industry and environmental stakeholders. These changes provide greater clarification to the draft response, specifically in regards to the industry-related recommendations, and outline the Commonwealth's implementation activities since the release of its draft response.

The findings and recommendations of the *Report of the Montara Commission of Inquiry* are just one element of the Commonwealth's broader reform agenda for Australia's offshore petroleum industry.

In addition to the implementation of the accepted recommendations of the Report, the Commonwealth continues to move forward in establishing a single national regulator for all offshore petroleum activities in Commonwealth waters.

The "*Review of PTTEP Australasia's Response to the Montara Blowout*" report, which was released by the Minister for Resources and Energy on 4 February 2011, made numerous recommendations specific to PTTEP AA which are being implemented by the company. The report also identified a series of lessons arising from the Montara incident that may have relevance to the offshore petroleum industry. The lessons identified reflect internationally recognised themes supporting good governance and best

practices, and are to be continually considered and implemented through education and development by the industry, its representative bodies and the Commonwealth. The Department of Resources, Energy and Tourism (DRET), in conjunction with APPEA, will consider these recommendations as part of the high level International Offshore Petroleum Regulators and Operators Summit scheduled for 10–11 August 2011 and in addition as part of the 2011 APPEA Conference and Exhibition on 10–13 April 2011 and the APPEA Health and Safety Conference on 8–10 August 2011.

The Commonwealth remains firmly committed to improving the protection of human health and safety and the protection of the marine environment to ensure that Australia's offshore petroleum industry is the best and safest in the world and is able to contribute to Australia's ongoing energy security and economic prosperity.

Commonwealth Actions addressing the Recommendations of the Report

The Commonwealth has taken decisive action, in five key areas as follows, to address the recommendations of the *Report of the Montara Commission of Inquiry*. Since the release of the Report and the Commonwealth's draft response on 24 November 2010, the Commonwealth has:

Regulatory Regime

- Amended the OPGGS Act to strengthen the activities of NOPSAs and to ensure that well operations are conducted in accordance with good oil field practice. NOPSAs' powers to undertake occupational health and safety inspections have also been expanded to ensure greater levels of monitoring and verification of offshore petroleum titleholders.
- Progressed the Commonwealth's proposal to establish a single national offshore petroleum regulator for Commonwealth waters by January 2012 by expanding NOPSAs' existing functions to include regulation of environment plans and day-to-day operations. NOPSAs will become the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).
- Agreed to separate offshore regulation and titles administration to avoid any potential or perceived conflicts of objectives. Titles administration will be undertaken by a National Offshore Petroleum Titles Administrator (NOPTA) within DRET.
- Agreed to a way forward to provide regulator and industry clarification in respect of when a ship-like petroleum facility transitions from the offshore petroleum regime under the OPGGS Act to the maritime regime under the *Navigation Act 1912*.

Regulator Operating Practices

- Provided ongoing support to the NT DoR to fully address the deficiencies identified by the *Montara Commission of Inquiry* in its actions as the Designated Authority under the OPGGS Act. This included a consistent approach to approval, assessment and compliance monitoring of all offshore petroleum activities, until such time as the single national offshore petroleum regulator comes into effect.
- Worked with the Northern Territory Designated Authority to finalise the integrity testing program of the remaining wells at the Montara Wellhead Platform and all of PTTEP's suspended wells.
- Commissioned a consultancy to develop a National Legislative Compliance Framework to ensure a consistent best practice approach by regulators in the regulation of Australia's offshore petroleum industry in the areas of well operations, environment and integrity.

- Issued a Statement of Expectations to the Designated Authorities and NOPSA which sets out the expectations of the Minister for Resources and Energy of these agencies when performing their regulatory duties.

Response Arrangements

- Commenced a review of Australia's national incident response framework through the *National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances*. The review will be completed by the end of 2011.
- Developed a set of principles to inform a framework of equitable cost-sharing arrangements between the shipping and offshore petroleum industries in relation to oil spill preparedness and response capacities.

Environmental Management

- Enhanced environmental assessment processes under the EPBC Act by including 11 week spill scenarios for oil spill modelling for all drilling related actions. The requirement for scientific monitoring and environmental remediation in the event of an accident has been included in approval conditions for oil and gas developments since the Montara incident.
- Conducted a compliance audit of PTTEP AA under the EPBC Act. The outcomes of the audit will be published on the DSEWPaC website.

Review of PTTEP Australasia's Response to the Montara Blowout

- Commissioned an Independent Review of the PTTEP AA *Montara Action Plan*. The Independent Review report, "*Review of PTTEP Australasia's Response to the Montara Blowout*", was made public by the Minister for Resources and Energy on 4 February 2011.
- Considered whether to issue a 'show cause' notice to PTTEP that could lead to the cancellation of its petroleum titles. In releasing the Independent Review of the PTTEP AA *Montara Action Plan*, the Minister for Resources and Energy announced that he would not be issuing a 'show cause' notice at this time.
- Entered into a binding Deed of Agreement on 22 February 2011 with PTTEP which requires that the *Montara Action Plan* be implemented in full across all of PTTEP's Australian operations, and has appointed an independent consultant to conduct an 18-month program to monitor the implementation.
- Attached additional conditions of title to all of PTTEP's current Australian petroleum titles and any future renewals or granting of offshore petroleum title applications to PTTEP in Australia.
- Worked with all of the Designated Authorities to review the status and integrity of all suspended wells in Commonwealth waters since 2005, to the satisfaction of the Minister for Resources and Energy.
- Incorporated the Commonwealth's response to the industry recommendations identified in the "*Review of PTTEP Australasia's Response to the Montara Blowout*" report, which relate to the areas of acquisition and integration of production assets and governance and oversight, as part of the Commonwealth's final response to the *Report of the Montara Commission of Inquiry*.
- Undertaken an investigation into potential non-occupational health and safety breaches of the OPGGS Act with a brief of evidence to be provided to the Commonwealth Director of Public Prosecutions within the first half of 2011.

Actions on the Key Recommendations of the Report

PTTEP Australasia (Ashmore Cartier) Pty Ltd (PTTEP AA)

On 4 February 2011, the Minister for Resources and Energy released the report of the Independent Review of the PTTEP AA *Montara Action Plan*, entitled the “*Review of PTTEP Australasia’s Response to the Montara Blowout*”. The Independent Review found that the *Montara Action Plan* effectively responds to the issues identified by the *Montara Commission of Inquiry* and sets PTTEP AA on the path to achieving industry best practice standards for both good oil field practice and good governance.

In releasing the Independent Review report, the Minister also announced his decision not to issue a ‘show cause’ notice to the company at this time. This decision was subject to a binding Deed of Agreement between the Commonwealth and the Thai-based parent company PTTEP.

On 22 February 2011, a Deed of Agreement was signed that formalised the arrangements for the implementation of the *Montara Action Plan* and an 18-month monitoring program. On 16 March 2011, Noetic Solutions Pty Ltd was engaged to monitor the implementation of the *Montara Action Plan*.

In addition to the Deed of Agreement, the Minister for Resources and Energy has imposed an additional set of conditions on all of PTTEP’s current Australian petroleum titles and any future renewals or granting of offshore petroleum title applications to PTTEP in Australia.

The Commonwealth also acknowledges the changes to the leadership roles and structures at PTTEP AA and notes the appointment of Mr Ken Fitzpatrick as the new Chief Executive Officer of PTTEP AA. Mr Fitzpatrick, who was formerly the Senior Vice President of Assurance and Controls at Woodside Petroleum Ltd, will oversee the implementation of the *Montara Action Plan*.

Actions of the Northern Territory Designated Authority

In response to the issues identified in the *Report of the Montara Commission of Inquiry* regarding the performance of the Northern Territory DoR in discharging its legislative and regulatory obligations as the Commonwealth’s delegated Designated Authority for the offshore area of Ashmore and Cartier Islands, the Northern Territory Government and DoR have implemented changes that provide greater rigour to the way it conducts its offshore petroleum regulatory activities.

The Northern Territory DoR:

- Reviewed and implemented more robust approval assessment processes;
- Implemented a well operation activity approvals co-assessment system with the Western Australian Designated Authority; and
- Recruited petroleum engineers to address the gap in technical expertise.

The Commonwealth through Geoscience Australia and DRET will continue to work closely with the Northern Territory DoR by providing it with assistance in meeting its ongoing regulatory obligations until the establishment of a national offshore petroleum regulator.

International Considerations

The Commonwealth has taken note of the actions of the United States (US) Government following the Macondo oil spill in the Gulf of Mexico.

The final report of the US *National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling* concluded that the Macondo incident could have been prevented, stating that the immediate

causes were a series of identifiable mistakes made by BP, Halliburton and Transocean and that serious systemic failures were also identified in relation to risk management and the role of the regulator. These findings identify a number of similarities with the failings identified by the *Montara Commission of Inquiry* and have been considered closely in the development of the Commonwealth's final response to the *Report of the Montara Commission of Inquiry*.

Significantly, the National Commission's report recommends a shift in the US policy position for the regulation of offshore drilling from the current prescriptive model to a less prescriptive, "safety case" approach – similar to that in Australia.

In addition to the findings of the Montara Report, DRET intends to draw upon the findings of US Commission's Report to form the basis for the scope of the International Offshore Petroleum Regulators and Operators Summit.

The Commonwealth will be hosting an International Offshore Petroleum Regulators and Operators Summit on 10–11 August 2011 in Perth, Western Australia, following the APPEA Health and Safety Conference. The summit is targeting global senior-level policy makers, regulators, industry representatives and leading academics with the aim of developing a common understanding and consistent approach to the regulation of the global offshore petroleum industry.

With representatives from Australia, Brazil, Canada, Norway, the US and the UK and regionally from Indonesia, Timor-Leste and Papua New Guinea, the conference will provide delegates with a forum for the exchange of first-hand experiences and lessons learnt and applied particularly from the Montara and Macondo incidents.

In recognition of the importance of Australia and the US working together to discover and implement the lessons from both the Montara and Macondo incidents, the Commonwealth was a participant at the 14 April 2011 high-level US Ministerial Forum on Offshore Drilling Containment that was hosted by the US Secretary of the Interior in Washington DC.

Offshore Petroleum Regulatory Reform

The Commonwealth remains committed to the establishment of a national regulator for offshore petroleum activities by January 2012, as recommended by the Productivity Commission's *Review of Regulatory Burden on the Upstream Petroleum (Oil & Gas) Sector* (PC Review). The Commonwealth's final response to the PC Review will be released during 2011.

In recognition of the fundamental connection between the integrity of wells and structures, the safety of people and the protection of the environment, the Commonwealth will further expand the functions of NOPSA to become NOPSEMA.

NOPSEMA will become the regulator for all offshore petroleum activities in Commonwealth waters beyond three nautical miles from the territorial sea baseline. In addition to NOPSA's current regulatory functions, NOPSEMA will assume responsibility for environmental approvals, including Oil Spill Contingency Plans under the OPGGS Act. NOPSEMA will also regulate safety, integrity and environment plans for minerals extraction and greenhouse gas storage activities in Commonwealth waters.

AMSA will work with NOPSEMA to develop agreed arrangements to review Oil Spill Contingency Plans. The procedural framework supporting the agreed arrangements will be developed by DRET and AMSA in consultation with DSEWPac.

NOPTA will be established within DRET to administer titles and data relating to offshore petroleum, minerals and greenhouse gas storage activities in Commonwealth waters.

In addition, under the Commonwealth's model for NOPSEMA and NOPTA, the legislation will also allow State and Northern Territory jurisdictions to confer powers for the regulation of offshore petroleum activities under their respective legislation to NOPSEMA and NOPTA for the coastal waters (up to the three nautical mile limit).

Legislative amendments to implement this institutional reform will be introduced into the Australian Parliament during the Winter sitting period from May–June 2011. The reforms reflect extensive consultation with jurisdictions, industry and NOPSA and are supported by the offshore petroleum industry.

Key Actions undertaken by the Offshore Petroleum Industry

The offshore petroleum industry understands that in order to maintain its social licence to operate, it must put the safety of workers and the environment first as part of the responsible development of natural resources. The industry must be front and centre in the development of new international standards around the deployment of equipment and the competencies and training of personnel in safety-critical roles.

Australia's offshore petroleum industry has taken significant steps since the Montara incident.

Petroleum companies have individually and collaboratively comprehensively reviewed their prevention and response operations and procedures. Companies have conducted forensic analyses of well design, integrity and operations, and have reviewed oil spill response capacities and preparedness, and blowout contingency plans.

Industry has also reviewed accepted drilling practices, including the processes and procedures relating to the identification and reduction of risk, and for performance monitoring and assurance. In addition, industry has conducted a detailed analysis of all critical rig equipment and verified preventive maintenance requirements and integrity assessments.

Industry bodies such as the Australian Petroleum Production & Exploration Association (APPEA) are leading the industry through safety programs and best practice standards. As part of a strategic overhaul of collaborative safety leadership and strategy for the Australian oil and gas industry, APPEA's Health, Safety and Operations Committee has endorsed a new Safety Strategy for the Australian oil and gas industry. The strategic priorities include Safety Culture and Leadership; Process Safety; Structural and Asset Integrity; Emergency Management; Skills & Competence; Contractor Engagement; and Sharing Lessons and Good Practice. The Safety Strategy is due to be finalised by the end of 2011.

Industry, through APPEA's Montara Response Taskforce, has also identified a number of key tasks to implement the lessons from the Montara and Macondo incidents. These include a self-audit tool for the management of well operations; an agreed Australian industry position on cap and containment procedures; development of a mutual aid agreement; and a set of agreed strategies for oil spill response and preparedness. Industry also continues to promote training workshops and initiatives.

Commonwealth Final Response

The following chapters provide the Commonwealth's final response to the *Report of the Montara Commission of Inquiry* recommendations and to the nine recommendations that were made by Noetic Solutions Pty Ltd in the "*Review of PTTEP Australasia's Response to the Montara Blowout*" that may have relevance to the offshore petroleum industry.

Chapter 3 of the Montara Report

The Circumstances and Likely Cause(s) of the Blowout

Chapter 3 of the Report – The Circumstances and Likely Cause(s) of the Blowout focuses on the circumstances and technical causes of the Montara incident. The chapter contains 65 of 105 recommendations.

Chapter 3 – The Circumstances and Likely Cause(s) of the Blowout

Recommendations

Report Recommendations	Commonwealth Government Response	Implementation
1 The Minister should appoint a senior policy adviser to investigate and report on the best means to implement the recommendations contained in this Chapter.	<i>Accepted.</i>	<p>On 15 July 2010, the Minister for Resources and Energy tasked the Secretary of DRET with the responsibility for commissioning the preparation of a Commonwealth response to the Report.</p> <p>The Secretary established the Montara Response Team in the Resources Division of DRET to progress the Commonwealth's response to the Report and give effect to the Report's recommendations as appropriate.</p> <p>On 24 November 2010, the Commonwealth's draft response to the Report was released. The draft response accepted 92, noted 10 and did not accept three of the Report's 105 recommendations.</p>

Report Recommendations

Commonwealth Government Response

Implementation

2 WOMPs submitted by licensees to the regulator(s) should continue to be the primary framework document for achieving well integrity.

Accepted.

This recommendation is consistent with existing practice. In accordance with the existing regime under the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*, the Well Operations Management Plan (WOMP) is the primary document for the approval and management of well operations and integrity.

The WOMP demonstrates how an operator will safely manage the lifecycle of a well/field and refers to other key documents from the Operator's Safety Management System that set out standards and procedures for the management of well operations and integrity. This allows industry to target operational standards to a particular well being drilled.

The requirement for a WOMP was introduced under the Commonwealth's policy of establishing an objective-based petroleum regulatory regime.

An objective-based regime allows for processes and procedures to be changed in response to technology development and provides flexibility for industry to implement continuous improvement while adhering to legislative principles.

The Commonwealth has commissioned a consultancy to develop a National Legislative Compliance Framework (NLCF) to develop a consistent best practice approach to be used by regulators in their regulation of Australia's offshore petroleum industry in the areas of well operations, environment and integrity. The NLCF will be completed in the second half of 2011.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will also have regard to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act) and associated regulations; the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and associated Acts; the *Protection of the Sea Acts, the Navigation Act 1912* and relevant international treaties.

The Commonwealth will also consider if elements of the previously legislated *Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production* should be incorporated into the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*.

3 WOMPs should be comprehensive and freestanding, rather than an overarching document cross-referencing many other documents (although the Inquiry also recommends a freestanding well control manual; this should be a guide to rig and onshore personnel on good oilfield practice).

Noted.

In accordance with the regime under the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* and accepted industry practice, the WOMP is the principal document for the approval and management of well operations and integrity.

The WOMP demonstrates how an operator will safely manage the lifecycle of a well/field and refers to other key documents from the Operator's Safety Management System.

The Commonwealth considers that a free-standing document on the drilling rig would not add value to the operator's process or enhance operational safety. The Commonwealth notes that it is accepted industry practice to maintain a drilling operation manual covering all aspects of drilling, completion and well control activities on the rig. This manual is considered by the Regulator as part of the well approvals and management process.

4 The concept of 'good oilfield practice' should be supplemented by the requirement to incorporate into WOMPs non-exhaustive minimum compliance standards in relation to well control: for example, stipulations as to when BOPs and/or well control systems must be in place and when they can be removed and minimum barrier requirements (a number of other factors that should be stipulated are outlined in other recommendations below).

Accepted.

While this is primarily a matter for industry and the Regulator, the Commonwealth considers that it would be appropriate for industry and the Regulator to apply this recommendation in appropriate circumstances.

However, the Commonwealth considers that minimum compliance standards in relation to drilling and production should not be included in the WOMP.

The WOMP is the principal document for the approval and management of well operations and integrity. The WOMP demonstrates how an operator will safely manage the lifecycle of a well/field. It references other key documents from the Operator's Safety Management System that set out standards and procedures for the management of well operations and integrity.

Australia's objective-based regulatory regime allows for processes and procedures to be changed in response to technological development and provides flexibility for industry to implement continuous improvement while adhering to legislative principles.

As part of the broader consideration of all Commonwealth legislation applicable to the marine environment and petroleum legislation, the Commonwealth will consider if elements of the previously legislated *Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production* should be incorporated into the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*. This process will also consider the definition of 'good oil field practice'.

The Commonwealth has also commissioned a consultancy to develop a National Legislative Compliance Framework (NLCF) to develop a consistent best practice approach to be used by regulators in their regulation of Australia's offshore petroleum industry. The NLCF will be completed in the second half of 2011.

In addition the Commonwealth notes that industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool which provides companies with guidance in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

- 5 Well construction and management plans should include provision(s) for reviewing the integrity of barriers at safety-critical times or milestones, such as (i) prior to suspension involving departure of the rig from the platform; (ii) prior to re-entry of a well after suspension; (iii) prior to removal of any barrier.
- 6 Well construction and management plans, and drilling programs, should include provision for testing and verifying the integrity of all barriers as soon as practicable after installation.

Accepted.

While this is primarily a matter for industry and the Regulator, the Commonwealth considers that it would be appropriate for industry and the Regulator to carefully consider adopting these recommendations.

The Commonwealth notes that, pursuant to Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*, these matters are addressed in the WOMP.

7 Well construction and management plans should include provision for an independent compliance review of well integrity (i) in the event of stipulated triggers; and (ii) at least once in the period between perceived achievement of well integrity and production. The independent compliance review should be undertaken by an expert who is not involved in the day-to-day drilling operations. Reviews should be completed in sufficient time to enable results to be implemented in a meaningful manner.

Accepted.

While this is primarily a matter for industry and the Regulator, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting this recommendation in appropriate circumstances.

However, the Commonwealth considers that independent compliance reviews of well construction and management plans should be undertaken prior to submission of the well plan to the Regulator. The Regulator may require a further compliance review of well integrity in the event of a stipulated trigger and/or prior to production.

The Commonwealth notes that it is accepted industry practice to have operation and management plans reviewed by qualified individuals, who can be internal but are not involved in day-to-day operations.

Furthermore, industry already has in place formal "Management of Change" approvals and requirements.

Finally, consistent with current regulatory requirements, the Regulator must be notified of any deviations from an approved WOMP.

8 Wellbore gas bubbling should be regarded as a trigger for independent review of well integrity. Industry and regulators should identify and document other triggers.

Not Accepted.

As immediate well control action is required in the case of 'gas bubbling', the Commonwealth believes undertaking an independent review of well integrity would compromise safety by delaying an appropriate response.

9 If a risk assessment or compliance review is triggered by the happening of a pre-determined event, specific consideration should be given to whether a 'hold point' should be introduced such that work must cease until the problem is resolved (and the subject of appropriate certification).

Accepted.

While this is primarily a matter for industry and the Regulator, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting these recommendations in appropriate circumstances.

The Commonwealth notes that it is accepted industry practice that any deviation from the approved drilling, completion or testing program be considered through a formal "Management of Change" process, which is reported to the Regulator. This process incorporates an appropriate level of risk assessment with hold points and reviews where appropriate to the risk control strategy.

10 A separate, identifiable barrier manual should be agreed upon and used by licensees, rig operators, and cementing contractors. These manuals should set out best industry practice in relation to achieving and maintaining well integrity. They should describe barrier types, barrier standards, general principles of well integrity, testing and verification methods and technologies, standard operating procedures (including procedures for the capture and communication of relevant information within and between relevant stakeholder entities). Barrier manuals should address blowout control during drilling, completion, re-entry, tie-back of casing strings and so on. Barrier manuals should be the subject of expert external review, and should be regularly updated.

Noted.

The Commonwealth notes that numerous industry-accepted procedures, standards and operating manuals apply to petroleum operations, and that it is accepted industry practice to have a well control manual and a separate barrier manual. Both manuals are considered by the Regulator as part of the well approvals and management process.

The Commonwealth also notes that the facility safety case addresses safety at or near a facility in relation to:

- Identification of hazards and assessment of risks, including blow out control;
- The implementation of measures to eliminate the hazards or otherwise control the risks;
- A comprehensive and integrated system for management of the hazards and risks, including communication between stakeholders; and
- Monitoring, audit and review.

11 Memoranda of Agreement should be entered into between operators in relation to provision of emergency assistance in the event of blowouts.

Accepted.

While this is primarily an industry operating matter, the Commonwealth considers that it would be appropriate for industry to formalise assistance arrangements.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, is working to formalise assistance arrangements for the offshore petroleum industry and facilitate the sharing of resources and/or equipment through a memorandum of understanding around mutual aid.

Report Recommendations	Commonwealth Government Response	Implementation
<p>12 Pre-drilling assessments should include a risk assessment of the worst-case blowout scenario.</p>	<p><i>Accepted.</i></p> <p>The Commonwealth notes that this recommendation is consistent with accepted industry practice in which contingency planning is based on risk assessments that take into account probability and consequence specific to a well.</p> <p>The Commonwealth understands that accepted industry practice is to ensure that credible scenarios consider such attributes as well type (surface or subsea), the presence of drillpipe or tubulars in the wellbore, and offset production data.</p>	<p>Although the likelihood of such events remains low, the Commonwealth now requires that offshore petroleum drilling proposals (both exploration and production) assess a 'worst case scenario' loss of well control and describe the measures in place to prevent and respond to such an incident.</p>
<p>13 Problems which arise in the course of installing barriers must be the subject of consultation between licensees, rig operators, and contractors (if used). A proper risk assessment should then be carried out and remedial steps (including further testing/verification) should be agreed upon, and documented in writing before the performance of remedial work whenever practicable. Joint written certification as to resolution of the problem should take place before resumption of drilling operations. Senior onshore representatives of stakeholder entities should be involved in that certification process.</p>	<p><i>Accepted.</i></p> <p>While this is primarily an industry operational matter, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting these recommendations in appropriate circumstances.</p> <p>The Commonwealth notes that, in accordance with accepted industry practice, "Management of Change" processes and Well Acceptance Criteria apply to well operations. Any operational deviations are approved through formal "Management of Change" processes which are reported to the Regulator. The level of certification for activity during well operations is dependent on the risk of the situation.</p> <p>Furthermore, the Commonwealth notes that ultimate responsibility for the design and operation of a well lies with the operator. The operator should ensure that decisions made during the course of drilling involve full information and consultation with all parties on the rig.</p>	<p>Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.</p> <p>Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.</p>

14 Licensees should be subject to an express obligation to inform regulators of problems which arise in the course of installing barriers, even if they consider that well integrity is not thereby compromised. The information should be provided by way of special report, rather than included in a standard reporting document (such as a DDR). The information provided should include risk assessment details.

Accepted in part.

The Commonwealth notes that this recommendation is consistent with current regulatory practice and that, pursuant to Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*, an obligation exists for operators to inform the Regulator of well activity operations and well integrity hazards, including problems encountered during barrier installation.

This information is provided to the Regulator through the daily drilling report. The Commonwealth considers that this method of reporting is sufficient.

Report Recommendations

Commonwealth Government Response

Implementation

15 As soon as a risk of barrier failure arises, no other activities should take place in the well other than those directed to removal of the risk.

Accepted.

The Commonwealth notes that this is accepted industry practice.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

In relation to occupational health and safety considerations, NOPSA has increased its focus on safety case assessments and through its inspection of drilling rigs, regarding:

- *Command and control arrangements:* specifically including communication between the titleholder's and operator's representatives onboard drilling rigs.
- *Simultaneous operations:* specifically including safety-related interface arrangements between titleholders and operators of separate facilities conducting co-located simultaneous operations.

In addition, NOPSA has increased its planned inspection frequency for manned drilling and production facilities from once to twice per year. A recruitment programme has been instigated to resource this higher frequency.

16 The use/type of barriers (including any change requests relating thereto) must be the subject of consultation between licensees and rig operators prior to installation. A proper risk assessment should be carried out, agreed upon, and documented in writing before installation. Joint written certification as to the appropriateness of the use of particular barriers should take place before installation. Senior onshore representatives of stakeholder entities should be involved in that certification process.

Accepted.

While this is primarily an industry operational matter, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting this recommendation.

The Commonwealth notes that, prior to the commencement of any drilling activity, the use/type of barriers and associated risks must be approved by the Regulator through the WOMP. Only the titleholder has overall responsibility for the design and approval of all well operating activities being undertaken in the petroleum title area. This is a regulatory requirement under Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*. Furthermore, any variation to the WOMP must also be approved by the Regulator. Again, only the titleholder is responsible for variation of an approved WOMP.

The Commonwealth notes that the role of the Regulator is to determine if the activity is in accordance with the regulatory regime requirements as part of the approval process. Consistent with this principle, the Commonwealth further notes that implementation of a formal internal certification process would not add value to the approvals process but instead would add further regulatory burden and potential liability exposure to individuals within the organisation.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

17 The successful installation of every barrier should be the subject of written verification within and between licensees and rig operators; and should be the subject of explicit reporting to the relevant regulator(s).

Accepted.

While this is primarily an industry operational matter, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting this recommendation.

The Commonwealth notes that, pursuant to Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*, the titleholder must inform the Regulator of well activity as a requirement of the WOMP.

This information is provided to the Regulator through the daily drilling report. The Commonwealth considers that this method of reporting is sufficient and that an explicit report after the installation of every barrier is not required.

Furthermore, industry already has in place formal "Management of Change" approvals and requirements, and consistent with current regulatory requirements, the Regulator must be notified of any deviations from an approved WOMP.

18 Removal of a barrier must be the subject of consultation between licensees and rig operators prior to removal. A proper risk assessment should be carried out and agreed upon, and documented in writing before removal. Joint written certification as to the appropriateness of removal should take place before removal. Senior onshore representatives of stakeholder entities should be involved in that certification process.

Accepted in principle.

While this is primarily an industry operational matter, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting this recommendation.

The Commonwealth notes that the licensee has overall responsibility for the design and approval of all well operating activities being undertaken in the petroleum title, not the rig operator.

The Commonwealth further notes it is accepted industry practice for the operator to undertake the risk assessment for barrier removal during the detailed design phase of the well construction planning process, not just prior to the installation. The necessity for risk assessment and "Management of Change" should only be required if removal of a barrier(s) is non-compliant with the approved well program.

The Commonwealth notes that the Regulator determines if the activity is in accordance with the regulatory requirements as part of the approval process. Consistent with this principle, the implementation of a formal internal certification process would not add value to the approvals process but instead would add further regulatory burden and potential liability exposure to individuals within the organisation.

Report Recommendations

Commonwealth Government Response

Implementation

19 Licensees should be subject to an express obligation to inform regulators of the proposed removal of a barrier, even if they consider that well integrity is not thereby compromised. The information should be provided by way of special report, rather than included in a standard reporting document (such as a DDR). The information provided should include risk assessment details. Removal of a barrier should not take place without prior written approval of the relevant regulator(s).

Accepted in part.
 This recommendation is consistent with current regulatory practice and requirements. Pursuant to Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*, all activities relating to the installation, removal or change of barriers must be approved by the Regulator through the WOMP.
 The Commonwealth notes the daily drilling report is sufficient to address these matters.
 Furthermore, any deviation from the approved drilling program would be subject to formal "Management of Change" processes which must be approved by the Regulator.

The Commonwealth has commissioned a consultancy to develop a National Legislative Compliance Framework (NLCF) to develop a consistent best practice approach to be used by regulators in their regulation of Australia's offshore petroleum industry. The NLCF will be completed in the second half of 2011.

20 If a dispute arises between a licensee and a rig operator in relation to a well control issue, and is not resolved between them, the matter must be raised with the relevant regulator before discretionary operations proceed.

Not accepted.
 The Commonwealth considers that Australia's objective-based regime imposes responsibility on operators for maintaining well control and well integrity. Well control issues need to be resolved quickly by the operator so the issue does not escalate further and any delays in seeking the Regulator to arbitrate disputes may result in additional complications. Such action would also in effect transfer the risk to the Regulator rather than the operator who is best placed to assess and understand the risks.
 Any well control issues should be reported to the Regulator in the daily drilling report.
 Section 569 of the OPGGS Act requires petroleum titleholders to carry out their petroleum recovery operations in accordance with good oilfield practice.

- | | | |
|----|--|---|
| 21 | Perceived time and cost savings relating to any matters impacting upon well control should be subjected to rigorous safety assessment. | <i>Accepted.</i> |
| 22 | Wells drilled into hydrocarbon zones should be treated as live wells, with the potential to blowout unless a documented risk assessment establishes otherwise. | <i>Accepted.</i>
The Commonwealth agrees that wells drilled into hydrocarbon zones should be treated as live wells, and notes that all well activity should be reported to the Regulator in the daily drilling report.

In this regard the Commonwealth notes that this recommendation is consistent with current regulatory practice and requirements. Reporting of a well activity is a legislative requirement under Part 5 of the <i>Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011</i> . |

23 Use of single strings of intermediate casing to penetrate hydrocarbon bearing zones should be carefully risk assessed. Multiple strings of intermediate casing have the advantage of isolating lost circulation zones and sealing off anomalous pressure zones. If intermediate casing is set in a hydrocarbon zone it should be treated as production casing.

Accepted.

The Commonwealth accepts that the use of single casing strings should be risk assessed and notes that all well activities must be approved by the Regulator through the WOMP.

The Commonwealth further notes that casing design and placement was addressed in Clause 503 of the previously legislated *Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production*, which has been adopted by the industry as accepted industry practice.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea* Acts, the *Navigation Act 1912* and relevant international treaties.

The Commonwealth will also consider if elements of the previously legislated *Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production* should be incorporated into the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*.

Report Recommendations

Commonwealth Government Response

Implementation

24 A *minimum* of two barriers should be in place at all times (including during batched operations) whenever it is reasonably practicable to do so.

25 Reliance upon one barrier against a blowout must not take place except with the prior written approval of the relevant regulator and then only in a true emergency situation (see below).

26 Regulatory approval to rely on only one barrier should not be given unless (i) a proper risk assessment is carried out; (ii) exceptional circumstances exist; and (iii) risks involved are reduced to 'as low as reasonably practicable'. The default position must be that well integrity must be assured.

Accepted.

While this is primarily a matter for industry and the Regulator, the Commonwealth considers that it would be appropriate for industry and the Regulator to carefully consider adopting these recommendations in appropriate circumstances.

The Commonwealth understands that the accepted industry practice is for two tested/verified well barriers to be available during all well activities and operations, including suspended and abandoned wells, where a pressure differential exists that may cause uncontrolled outflow from the borehead/wellhead to the external environment.

Furthermore, the Commonwealth notes that these recommendations are consistent with current regulatory practice. The use of barriers and associated risks must be approved by the Regulator through the drilling program, and the Regulator has the power to request additional barriers should it be considered necessary. Any changes to the drilling program are subject to formal "Management of Change" processes and must be reported to the Regulator.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

Furthermore, the Commonwealth has issued a Statement of Expectations to the Designated Authorities and NOPSA which sets out the Minister for Resources and Energy's expectations, as the responsible Commonwealth Minister, on matters relating to the exercise of their functions and powers under the OPGGS Act and associated regulations and principles of best practice regulatory administration.

Furthermore, the Commonwealth has commissioned a consultancy to develop a National Legislative Compliance Framework (NLCF) to develop a consistent best practice approach to be used by regulators in their regulation of Australia's offshore petroleum industry. The NLCF will be completed in the second half of 2011.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea Acts*, the *Navigation Act 1912* and relevant international treaties.

The Commonwealth will also consider if elements of the previously legislated *Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production* should be incorporated into the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*.

27 Licensees and rig operators should install an additional barrier whenever (i) there is any real doubt as to the integrity of any barrier; (ii) whenever the risk of flow from a reservoir increases materially in the course of operations; and (iii) where the consequences of a blowout are grave (for example, for reef systems or shorelines).

Accepted.

While this is primarily an industry operational matter, the Commonwealth considers that it would be appropriate for industry and the Regulator to carefully consider adopting these recommendations.

Pursuant to Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*, titleholders are required to inform the Regulator of well activity as a requirement of the WOMP. This information is by accepted industry practice provided to the Regulator through the daily drilling report.

Furthermore, the Commonwealth notes that the use of barriers and associated risks must be approved by the Regulator through the WOMP, and that the Regulator can request additional barriers if appropriate prior to any activity being undertaken.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

Report Recommendations

Commonwealth Government Response

Implementation

28 The industry standard of two barriers should be replaced with the concept of 'two or *more* barriers' as a minimum standard. A *minimum* standard when operations proceed normally should never be regarded as a *sufficient* standard in other circumstances.

Accepted.

The Commonwealth accepts that two barriers should be available during all well activities and operations and further notes that this is an existing, accepted industry practice.

The Commonwealth also notes that this recommendation is consistent with current regulatory practice, where the Regulator has the power to request additional barriers as a part of the approval of the WOMP.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea* Acts, the *Navigation Act 1912* and relevant international treaties.

The Commonwealth will also consider if elements of the previously legislated *Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production* should be incorporated into the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*.

Report Recommendations

Commonwealth Government Response

Implementation

29 Industry, regulators, and training/research institutions should develop standards that address best practices for cementing operations (including liaising, as appropriate, with overseas regulators) with a view to overcoming problems which can effect the integrity of cemented casing shoes, annulus and cement plugs.

Accepted.
The Commonwealth considers that it would be appropriate for industry and the Regulator to carefully consider adopting these recommendations.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

30 Tracking and analysis of cementing problems/failures should occur to assess industry trends, principal causes, remedial techniques and so on.

The Commonwealth notes that industry has implemented accepted industry practices for cementing operations, which are reviewed and updated where appropriate.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

31 It is recommended that industry, regulators, and training/research institutions liaise with one another with a view to developing better techniques for testing and verifying the integrity of cemented casing shoes as barriers (particularly in atypical situations such as where the casing shoe is located within a reservoir in a horizontal or high angle position at great depth).

Industry has also established a Drilling Steering Committee and an Emergency Management Steering Committee to identify and implement cross-industry learnings from the Montara and Gulf of Mexico incidents. There are also numerous Industry Skills Councils and Education Taskforces that provide a framework in which accepted competency standards are developed.

32 Cement integrity should be evaluated wherever practicable by way of cement evaluation tests, rather than relying on pre-operational calculations of cement and displacement fluid volumes.

In relation to occupational health and safety considerations, NOPSA has increased its focus on safety case assessments and through its inspection of drilling rigs, regarding:

- *Command and control arrangements:* specifically including communication between the titleholder's and operator's representatives onboard drilling rigs.

- *Simultaneous operations*: specifically including safety-related interface arrangements between titleholders and operators of separate facilities conducting co-located simultaneous operations.

In addition NPSA has increased its planned inspection frequency for manned drilling and production facilities from once to twice per year. A recruitment programme has been instigated to resource this higher frequency.

Report Recommendations

Commonwealth Government Response

Implementation

33 It should be standard industry practice to re-test a cemented casing shoe (that is, after WOC) whenever the plugs do not bump or the float valves apparently fail. Standard industry practice should require consideration of other tests in addition to a repeat pressure test.

Accepted.
The Commonwealth considers that it would be appropriate for industry and the Regulator to carefully consider adopting these recommendations. The Commonwealth notes that industry has implemented accepted industry practices for cementing operations, which are reviewed and updated where appropriate. In addition, the Commonwealth notes industry advice that barrier and cementing manuals already define the process of testing well integrity and explanation of any deviations made subject to "Management of Change" processes.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

34 Any indication of a compromised cemented shoe which cannot be resolved with a high measure of confidence should result in the installation of additional well control barrier(s).

Industry through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

In relation to occupational health and safety considerations, NOPSA has increased its focus on safety case assessments and through its inspection of drilling rigs, regarding:

- *Command and control arrangements:* specifically including communication between the titleholder's and operator's representatives onboard drilling rigs.
- *Simultaneous operations:* specifically including safety-related interface arrangements between titleholders and operators of separate facilities conducting co-located simultaneous operations.

In addition NOPSA has increased its planned inspection frequency for manned drilling and production facilities from once to twice per year. A recruitment programme has been instigated to resource this higher frequency.

35 Volumes of cement used in connection with barrier installation should be calculated with the assistance of a pro-forma which records all relevant baseline data, which should be verified by onshore personnel.

Accepted in part.

The Commonwealth notes that this recommendation is consistent with accepted industry practice. Preliminary cement volume calculations are included in the WOMP, which is approved by the Regulator before activity commences. As such, an additional requirement for a pro-forma is not required.

The Commonwealth notes that according to accepted industry practice, cement volume calculations should be verified by the on-rig technical specialist once the actual measured depths and hole and casing sizes are finalised, and reported to the Regulator in the daily drilling report.

36 If performance of barrier installation is outsourced by a licensee, the contractor (for example, the cementing company) should be engaged on terms which clearly require the provision of expert advisory services by the contractor with respect to barrier integrity.

Accepted.

Noting this is an industry operational matter, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting these recommendations in appropriate circumstances.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

Operators are also working to clarify company operational practices and methods of communication onshore and offshore to prevent misunderstandings and miscommunications from occurring.

37 Consideration should be given to ways to ensure that contractors who are involved in barrier installation (such as cementing companies) have a direct interest in the performance of works to a proper standard. In particular, consideration should be given to (i) preventing contractors from avoiding the economic consequences of negligent installation of barriers; and/or (ii) imposing specific legislative standards of workmanship on contractors with respect to well control (similar to those which presently apply to licensees).

Accepted.
The Commonwealth notes that this recommendation, if progressed, may have significant commercial and contractual impacts for the operations of the offshore petroleum industry.

The Commonwealth considers that it is appropriate to address standards of workmanship by all parties involved in a drilling operation through contractual arrangements, rather than legislative mechanisms.

The Commonwealth understands that it is accepted industry practice to include in contracts between operators and contractors clauses relating to contractor liability which provide recourse where the contractor has been negligent.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

Operators are also working to clarify company operational practices and methods of communication onshore and offshore to prevent misunderstandings and miscommunications from occurring.

38 Horizontal or high angle penetration of a reservoir should be avoided *wherever practicable* until such time as the apparent problems associated with the cementing of a casing shoe in these situations are satisfactorily overcome. If a casing string does penetrate a well horizontally or at a high angle, standard practice should be to install two secondary barriers in addition to the cemented casing shoe.

Not accepted.

The Commonwealth notes the Commissioner's views but does not agree that horizontal, multi-lateral and high-angle drilling methods should be avoided. Horizontal, multi-lateral and high-angle production wells are commonly drilled worldwide and are essential technology for efficient reservoir drainage.

The Montara incident was caused by operator complacency and a lack of adherence to standard operating procedures, not the extension of casing in the horizontal well section.

39	The BOP and rig should not move from a well until barrier integrity has been verified.	<p><i>Accepted.</i></p> <p>The Commonwealth agrees that the BOP and rig should not be moved from a well until the integrity of all barriers has been verified.</p>	<p>Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.</p>
40	<p>Barriers should not be installed or removed off-line. The derrick should be located over a well at the time of removal and installation of any barrier. This will enable more decisive action to be taken in the event a problem arises.</p>	<p><i>Accepted.</i></p> <p>The Commonwealth accepts that the derrick should be over the well during installation or removal of a barrier to allow for timely action in the event of a problem arising.</p> <p>However, the Commonwealth notes that there are a number of well operations that are performed during the well production life that do not require a derrick above the well, such as wireline, slick line, coil tubing, hydraulic snubbing unit, subsurface safety valve and tree removal operations.</p> <p>Pursuant to Part 5 of the <i>Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011</i>, titleholders are required to comply with the standards and processes in the WOMP, which has been approved by the Regulator.</p>	<p>Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.</p>

Report Recommendations

Commonwealth Government Response

Implementation

41 Secondary barriers (including PCCCs) should only be installed, tested, and removed with a BOP in place unless a documented risk assessment indicates that well control can be maintained at all times.

Accepted.

The Commonwealth accepts the Commissioner's view. In the case of Montara, the BOP could not be installed on the H1 well prior to removal of the PCCC. A BOP is not applicable in every possible well operation as a well control measure.

Pursuant to Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*, titleholders are required to comply with the standards and processes in the WOMP, which has been approved by the Regulator.

42 PCCCs should be installed in a timely manner (for example, to prevent corrosion in the MLS apparatus). Non-installation in order to park a BOP is not acceptable.

Accepted.

The Commonwealth accepts that this recommendation is consistent with current regulatory requirements and practices. Pursuant to Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*, operators are required to inform the Regulator of well activity as a requirement of the WOMP, including installation of PCCCs.

This information is by accepted industry practice provided to the Regulator through the daily drilling report. This requirement is enforced under Australia's objective-based regime which imposes responsibility on operators for maintaining well control and integrity.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

Operators are also working to clarify company operational practices and methods of communication onshore and offshore to prevent misunderstandings and miscommunications from occurring.

43 Wells should be re-entered with a BOP in place unless a documented risk assessment indicates that well control can be maintained at all times.

Accepted.

The Commonwealth accepts the Commissioner's view but notes that a BOP is not applicable in every possible well operation as a well control measure.

This recommendation is consistent with current regulatory requirements and accepted industry practices. Activities relating to the installation, removal or change to barriers must be approved by the Regulator through the WOMP.

The Commonwealth also notes that the daily drilling report is sufficient to address these matters.

44 Any equipment (including PCCCs) used as, or to install, a barrier should be manufactured for that purpose and be generally recognised as fit for purpose. If equipment is designed in-house by a licensee or rig operator it should not be approved for use unless and until it is subjected to expert external analysis.

Accepted in principle.

While this is primarily a matter for industry, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting these recommendations.

The Commonwealth notes the Commissioner's view and suggests that industry consider carefully if all barrier equipment needs to be subject to specific expert external analysis.

Materials and equipment used in drilling operations are assessed in the WOMP, and were also considered in Clause 502 of the *Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production*, which has been adopted by the industry in general as part of accepted industry practices.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea* Acts, the *Navigation Act 1912* and relevant international treaties.

The Commonwealth will also consider if elements of the previously legislated *Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production* should be incorporated into the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*.

Report Recommendations	Commonwealth Government Response	Implementation
<p>45 Manufacturers should be consulted about how to address non-routine operational problems affecting their well control equipment.</p>	<p><i>Accepted.</i></p> <p>While this is primarily an industry operational matter, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting this recommendation.</p>	<p>Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.</p> <p>Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.</p>
<p>46 Drilling programs dealing with barrier installation should incorporate relevant aspects of manufacturer's instructions.</p>	<p><i>Accepted.</i></p> <p>The Commonwealth notes the Commissioner's views and considers that as part of any drilling program the detailed manufacturer's operating manual and service procedures for equipment used should be available onsite.</p>	

47 Any pro-formas used by licensees, rig operators and contractors for recording information about installation of barriers should explicitly provide for 'exception reporting', that is, the form should include provision for recording any unforeseen or untoward events which occur in the course of installation.

Accepted.

While this is primarily an industry operational matter, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting these recommendations.

The Commonwealth notes that, pursuant to Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*, titleholders must inform the Regulator of well activity as a requirement of the WOMP.

This information is provided to the Regulator through the daily drilling report. The Commonwealth considers that this method of reporting is sufficient.

Industry through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

Operators are working to clarify company operational practices and methods of communication onshore and offshore to prevent misunderstandings and miscommunications from occurring.

48 Careful consideration must be given to equipment compatibility as part of well construction design.

Accepted.

The Commonwealth accepts that equipment compatibility should be considered in the well construction design phase.

Materials and equipment used in drilling operations are considered by the Regulator in the WOMP, and were also considered in Clause 502 of the previously legislated *Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production*, which has been adopted by the industry in general as part of accepted industry practices.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

The Commonwealth has commissioned a consultancy to develop a National Legislative Compliance Framework (NLCF) to develop a consistent best practice approach to be used by regulators in their regulation of Australia's offshore petroleum industry in the areas of well operations, environment and integrity. The NLCF will be completed in the second half of 2011.

In relation to occupational health and safety considerations, NOPSA has increased its focus on safety case assessments and through its inspection of drilling rigs, regarding:

- *Command and control arrangements:* specifically including communication between the titleholder's and operator's representatives onboard drilling rigs.
- *Simultaneous operations:* specifically including safety-related interface arrangements between titleholders and operators of separate facilities conducting co-located simultaneous operations.

In addition NOPSA has increased its planned inspection frequency for manned drilling and production facilities from once to twice per year. A recruitment programme has been instigated to resource this higher frequency.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea* Acts, the *Navigation Act 1912* and relevant international treaties.

49 Batched drilling operations should only be undertaken after careful assessment of the special risks which such operations give rise to; well control must be maintained during the course of batched drilling operations.

Accepted.

The Commonwealth accepts the Commissioner's view but considers that these recommendations are essentially the same as 'batched drilling operations' which occur when multiple wells are drilled. Operators are responsible under the OPGGS Act for maintaining well control and well integrity.

50 Where multiple wells are drilled, operations and occurrences at one well must be carefully assessed for any implications with respect to well control at other wells.

Accepted.

This recommendation is consistent with current regulatory requirements and accepted industry practices. Pursuant to Part 5 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*, drilling activities and associated risks are assessed by the Regulator through the WOMP.

Section 569 of the OPGGS Act also requires petroleum titleholders to carry out their petroleum recovery operations in accordance with good oil field practice.

51 The mere fact that the rig is over the platform should not be regarded by licensees or regulators as sufficient justification for reliance on only one barrier. The default position should be that producible wells are shut-in when a rig is moved on and off a platform, or when a drilling unit is moved between wells on a platform.

Accepted.

The Commonwealth accepts that the placement of the rig over the platform should not justify reliance on one barrier.

Under Australia's objective-based regime, responsibility for maintaining well control and well integrity is placed on operators.

The Commonwealth understands that accepted industry practice is for two tested/verified well barriers to be available during all well activities and operations, including suspended and abandoned wells, where a pressure differential exists that may cause uncontrolled outflow from the borehead/wellhead to the external environment.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

Furthermore, the Commonwealth has issued a Statement of Expectations to the Designated Authorities and NOPSA which sets out the Minister for Resources and Energy's expectations, as the responsible Commonwealth Minister, on matters relating to the exercise of their functions and powers under the OPGGS Act and associated regulations and principles of best practice regulatory administration.

The Commonwealth has also commissioned a consultancy to develop a National Legislative Compliance Framework (NLCF) to develop a consistent best practice approach to be used by regulators in their regulation of Australia's offshore petroleum industry. The NLCF will be completed in the second half of 2011.

In relation to occupational health and safety considerations, NOPSA has increased its focus on safety case assessments and through its inspection

of drilling rigs, regarding:

- *Command and control arrangements:* specifically including communication between the titleholder's and operator's representatives onboard drilling rigs.
- *Simultaneous operations:* specifically including safety-related interface arrangements between titleholders and operators of separate facilities conducting co-located simultaneous operations.

In addition NOPSA has increased its planned inspection frequency for manned drilling and production facilities from once to twice per year. A recruitment programme has been instigated to resource this higher frequency.

52 Relevant personnel from licensees and rig operators should meet face to face to agree on, and document, well control issues/arrangements prior to commencement of drilling operations. Well control should be regarded as a so-called SIMOP to signify its critical importance to both licensees and rig operators, and to ensure that they each take responsibility for achievement and maintenance of well control.

53 Prior to commencement of drilling operations, senior representatives of the licensee and rig operator should exchange certificates to the effect that their respective key personnel and contractors have been informed in writing of agreed well control arrangements.

54 Information relevant to well control must be captured and communicated *within* and *between* licensees and rig operators (and relevant third party contractors), in a manner which ensures it comes to the attention of relevant personnel. In particular, protocols should be developed to ensure that changes in shift and hitch do not operate as communication barriers.

55 All communications between on-rig and onshore personnel relating to well control should be documented in a timely manner.

Accepted.
While this is primarily an industry operational matter, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting these recommendations.

The Commonwealth also notes that operators already have well control and operating standards in place that are detailed in the WOMP and approved by the Regulator.

The Commonwealth understands that the primary communication tools for service providers include the drilling operational programme and induction sessions, where information is provided to all personnel.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

Operators are also working to clarify company operational practices and methods of communication onshore and offshore to prevent misunderstandings and miscommunications from occurring.

In relation to occupational health and safety considerations, NOPSA has increased its focus on safety case assessments and through its inspection of drilling rigs, regarding:

- *Command and control arrangements:* specifically including communication between the titleholder's and operator's representatives onboard drilling rigs.
- *Simultaneous operations:* specifically including safety-related interface arrangements between titleholders and operators of separate facilities conducting co-located simultaneous operations.

In addition NOPSA has increased its planned inspection frequency for manned drilling and production facilities from once to twice per year. A recruitment programme has been instigated to resource this higher frequency.

56 Logistics management of well control equipment should be conducted in such a way as to operate as a check against deficient well control practices, for example, use of serial numbers to track availability, testing, and deployment of well control equipment.

Accepted.

While this is primarily an industry operational matter, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting this recommendation.

The Commonwealth considers that the logistics management process of an organisation provides an important mechanism for ensuring that all appropriate documentation, certification, testing reports etc, that confirm that a particular piece of equipment being used for a well (or other activity) are fit for purpose, are easily accessible, traceable and clearly linked to the particular piece of equipment.

However, the Commonwealth notes that the logistics management team is not the appropriate team to assess the adequacy of well management or well design.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

57	Decision-making about well control issues should be professionalised. Industry participants must recognise that decision-makers owe independent duties to the public, not just their employer or principal, in relation to well control. Risk management in the context of well control needs to be understood as an ethical/professional duty. Self-regulation contemplates self-regulation by the industry, not just by individual licensees and operators.	Accepted. While this is primarily an industry operational matter, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting these recommendations. The Commonwealth also notes that operators already have well control and operating standards in place.	Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel. Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures. Operators are also working to clarify company operational practices and methods of communication onshore and offshore to prevent misunderstandings and miscommunications from occurring. In relation to occupational health and safety considerations, NOPSA has increased its focus on safety case assessments and through its inspection of drilling rigs, regarding:
58	Existing well control training programs should be reviewed by the industry, regulators and training providers, with a focus on well control accidents that have occurred (in Australia and overseas).		<ul style="list-style-type: none"> • <i>Command and control arrangements</i>: specifically including communication between the titleholder's and operator's representatives onboard drilling rigs. • <i>Simultaneous operations</i>: specifically including safety-related interface arrangements between titleholders and operators of separate facilities conducting co-located simultaneous operations.
59	A specific focus on well control training should be mandatory for key personnel involved in well control operations (including both on-rig personnel and onshore personnel in supervisory capacities).		In addition NOPSA has increased its planned inspection frequency for manned drilling and production facilities from once to twice per year. A recruitment programme has been instigated to resource this higher frequency.
60	Licensees and rig operators (and third party contractors involved in well control operations) should specifically assess, and document, the nature and extent of knowledge/skills of relevant personnel in relation to well control (including familiarity of personnel with agency-specific requirements and procedures). Training needs and opportunities should be identified. This process should take place on engagement and at appropriate intervals.		

61 Licensees, rig operators, and relevant third party contractors should develop well control competency standards for their key personnel. Wherever possible, the competencies of key personnel should be benchmarked against their roles and responsibilities.

Accepted.

While this is primarily an industry operational matter, the Commonwealth considers that it would be appropriate for industry to carefully consider adopting these recommendations.

62 Licensees, rig operators and relevant third party contractors should develop well control competency standards for key personnel in other entities involved in well control operations.

The Commonwealth notes that operators already have well control and operating standards in place.

Following the Montara and Gulf of Mexico incidents, the offshore petroleum industry has performed its own safety checks. A number of companies have implemented further actions including reviews of well plans, drilling processes, blow-out contingency plans, testing frequencies and training of personnel.

Industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

Operators are also working to clarify company operational practices and methods of communication onshore and offshore to prevent misunderstandings and miscommunications from occurring.

In relation to occupational health and safety considerations, NOPSA has increased its focus on safety case assessments and through its inspection of drilling rigs, regarding:

- *Command and control arrangements:* specifically including communication between the titleholder's and operator's representatives onboard drilling rigs.
- *Simultaneous operations:* specifically including safety-related interface arrangements between titleholders and operators of separate facilities conducting co-located simultaneous operations.

In addition NOPSA has increased its planned inspection frequency for manned drilling and production facilities from once to twice per year. A recruitment programme has been instigated to resource this higher frequency.

63	Achievement and maintenance of well control should be written into the job responsibilities of key personnel, at every level up to and including CEOs. That is, a functional line of accountability for well control must exist up to, and including, CEOs.	<i>Accepted.</i> The achievement and maintenance of well control is fundamental to the petroleum industry maintaining its licence to operate.
64	Supervision/oversight of well control operations (within licensees, rig operators and by regulators) must occur without assuming adherence to good oilfield practice. The opposite assumption should prevail: namely adherence to good oilfield practice may well be compromised by the pursuit of time and cost savings.	<i>Noted.</i> The Commonwealth notes the Commissioner's view.
65	Licensees and rig operators should be astute in ensuring that corporate systems and culture encourage rather than discourage raising of well control issues. For instance, do performance bonuses or rewards actually encourage or discourage reporting of issues? Is there a system in place to enable anonymous reporting of well control concerns? What whistleblower protections are in place?	<i>Accepted in principle.</i> The Commonwealth notes the questions raised by the Commissioner, which are appropriate for industry to respond to.

Chapter 4 of the Montara Report

The Regulatory Regime: Well Integrity and Safety

Chapter 4 of the Report – The Regulatory Regime considers the adequacy of the existing regulatory regime as it applies to offshore petroleum activities, including compliance and enforcement. The chapter contains 12 of 105 recommendations.

Chapter 4 – The Regulatory Regime: Well Integrity and Safety

RECOMMENDATIONS

Report Recommendations	Commonwealth Government Response	Implementation
<p>66 The Inquiry supports the objective (rather than prescriptive) approach to regulation now followed in Australia. However, the pendulum has swung too far away from prescriptive standards. In some areas relating to well integrity there needs to be minimum standards.</p>	<p><i>Accepted in part.</i></p> <p>The Commonwealth supports the objective-based regime for the regulation of offshore petroleum activities and notes that this regime will be further enhanced by the establishment of a single national regulator for offshore petroleum, mineral and greenhouse gas storage activities.</p> <p>The Australian objective-based regime places the onus on the industry to ensure and demonstrate to regulators that the risks of an incident relating to oil and gas operations are reduced to 'as low as reasonably practicable'. The regime ensures flexibility in operational matters to meet the unique nature of differing projects, and avoids a 'lowest common denominator' approach to regulation that can be observed in a prescriptive regime. The objective-based regime is not self-regulation by industry, as industry must demonstrate to regulators – and regulators must assess and approve or not approve – that it has reduced the risks of an incident to as low as reasonably practicable in order to conduct operations.</p> <p>An important feature of objective-based regulation is that it encourages an improvement rather than a compliance mentality. It is essential that a regulatory system encourage the creator of the risk to move</p>	<p>The Minister for Resources and Energy in his speech to the Parliament on 24 November 2010 reaffirmed the Commonwealth's commitment to the establishment of a national regulator for offshore petroleum activities by 1 January 2012.</p> <p>In addition, the Commonwealth has expanded the functions of NOPSA under the OPGGS Act to include the non-occupational health and safety (OHS) aspects of structural integrity for facilities, wells and well-related equipment in Commonwealth waters. This reform also applied an OHS duty of care to petroleum and greenhouse gas titleholders in relation to wells and well-related equipment, and improved NOPSA's inspection and investigation powers in relation to suspected breaches.</p> <p>The <i>Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011</i> give effect to these amendments by providing NOPSA with regulatory responsibility for assessing WOMPs and associated well activities.</p> <p>From 2012, the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) will have responsibility for regulating well operations and integrity; environmental plans and Oil Spill Contingency Plans; and occupational health and</p>

beyond minimum standards in a continuous effort for improvement and not just accept the minimum standard. The risk of specific standards is that they can shift the burden of responsibility from the operator to the government and stifle innovation.

The Australian objective-based regime seeks to maintain clarity that the operator is responsible for evaluating risk and achieving fit for purpose design that reduces risk to 'as low as reasonably practicable'. Prescriptive-based regulation focuses on minimum compliance, requires frequent amendment and relies heavily on the ability of legislative drafters to understand and anticipate the risks and operational environment of the industry.

safety in Commonwealth waters. AMSA will work with NOPSEMA to develop agreed arrangements to review Oil Spill Contingency Plans. The procedural framework supporting the agreed arrangements will be developed by RET and AMSA in consultation with DSEWPaC.

Also, under this model, the States and Northern Territory will be able to confer powers for the regulation of offshore petroleum activities under their respective legislation to NOPSEMA for coastal waters (ie up to the three nautical mile limit).

The Commonwealth has also commissioned a consultancy to develop a National Legislative Compliance Framework (NLCF) to develop a consistent best practice approach to be used by regulators in their regulation of Australia's offshore petroleum industry in the areas of well operations, environment and integrity. The NLCF will be completed in the second half of 2011.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea* Acts, the *Navigation Act 1912* and relevant international treaties.

The Commonwealth will also consider if elements of the previously legislated *Schedule of Specific*

Requirements as to Offshore Petroleum Exploration and Production should be incorporated into the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*.

In addition, the industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed a Self-Audit Tool to guide companies in the management of well operations, and an agreed Australian industry position on Cap and Containment procedures.

67

To better ensure that 'risks' are identified and managed in accordance with sound engineering principles and good oilfield practice, it is recommended that regulation 25(1)(a)(i) and (2)(a)(i) of the Management of Well Operations Regulations, be reworded as follows: 'A titleholder must not commence/continue a well activity if...a well integrity hazard exists in relation to the well.'

Accepted.

The Commonwealth notes that there is already a requirement in the OPGGS Act for the operator to take all reasonable steps to identify well integrity hazards and control risks to 'as low as reasonably practicable'.

Part 5, Division 8 of the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* gives effect to this recommendation.

68 The definition of 'good oilfield practice' in the OPGGS Act is unduly narrow. The current definition is incapable of application except where things 'are generally accepted as good and safe'. The definition should be amended such that 'good oilfield practice includes.....'

Accepted.

The Commonwealth agrees that amendments to the definition of 'good oil field practice' are required.

This amendment would be consistent with Australia's current non-prescriptive (objective-based) petroleum regulatory regime. Such a regime allows for the introduction of new and improved operator processes and procedures in response to technologies and other circumstances while adhering to the key legislative principles.

As the Department with policy responsibility for the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (and its associated regulations), consideration of this recommendation will be led by DRET.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea Acts*, the *Navigation Act 1912* and relevant international treaties.

The Commonwealth will also consider if elements of the previously legislated *Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production* should be incorporated into the *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011*. This process will also consider the definition of 'good oil field practice'.

This process will be completed during the second half of 2011, with any legislative amendments required introduced as soon as they can be accommodated within the legislative timetable.

Written (rather than verbal) approval from the DA (or new regulator) should be obtained before the commencement of well activities that lead to a physical change of a wellbore, other than in a true emergency situation (requiring amendment to regulation 17 of the Management of Well Operations Regulations).

69

Accepted.

The Commonwealth notes this recommendation is consistent with existing practices where written approval from the relevant Regulator is required for all permissioning documents including WOMPs, safety cases and environmental plans prior to the commencement of any offshore petroleum activity.

Written approval from the Regulator is required prior to any well activity occurring. The granting of verbal approval in relation to well activities is not standard practice.

The Commonwealth agrees that in an emergency situation where a well control issue needs to be resolved quickly, an operator cannot wait for a written response from the Regulator and that verbal approval would be appropriate in this circumstance.

The Montara incident identified the need for more active emergency response engagement by Regulators and industry. Such engagement needs to be balanced to ensure both operator and Regulator independence is not compromised.

In collaboration with DRET, the Northern Territory Department of Resources (NT DoR) has strengthened its approvals processes and clarified that all approvals must be made in writing.

The Commonwealth is satisfied that the immediate deficiencies identified by the Commissioner have been adequately addressed.

Specifically, the NT DoR has applied more rigour to the assessment of petroleum applications and has engaged an additional two petroleum engineers for the NT DoR Minerals and Energy Division. Further, all applications for approval and subsequent compliance data monitoring are being co-assessed by interstate regulatory staff (primarily from Western Australia). The system of co-assessment will continue pending a comprehensive skills and resourcing audit.

The Commonwealth through DRET and Geoscience Australia will continue to work with the NT DoR until the establishment of a national offshore petroleum regulator in 2012.

Furthermore the Commonwealth has issued a Statement of Expectations to the Designated Authorities and NOPSA which sets out the Minister for Resources and Energy's expectations, as the responsible Commonwealth Minister, on matters relating to the exercise of their functions and powers under the OPGGS Act and associated regulations and principles of best practice regulatory administration.

The Commonwealth has also commissioned a consultancy to develop a National Legislative Compliance Framework (NLCF) to develop a consistent best practice approach to be used by regulators in their regulation of Australia's offshore petroleum industry. The NLCF will be completed in the second half of 2011.

70 The OPGGS Act should be amended to allow for a power to suspend a petroleum production licence (in addition to the current power to cancel a licence or suspend its conditions).

Noted.

The Commonwealth notes the Commissioner's view on this matter.

The omission of a power to suspend a production licence was deliberate. The Commonwealth in preparing the legislation (Section 266 Suspension of rights – petroleum exploration permit or petroleum retention lease) determined this power to suspend should not apply to rights conferred under production licences, infrastructure licences or pipeline licences. The distinction was made on the basis of the higher capital investment and the smaller total areas of the seabed that operations under these licences involve.

The Commonwealth notes that the OPGGS Act and its associated regulations provide a number of mechanisms that allow for the withdrawal of a production licensee's right to operate. These mechanisms include the withdrawal of approvals by the Regulator for Well Operations Management Plans; the Environment Plan; and Safety Case.

An operator can only undertake an offshore petroleum activity if all approvals have been granted.

Report Recommendations

Commonwealth Government Response

Implementation

71 There should be a review to determine whether it is appropriate to introduce a rigorous civil penalty regime and/or substantially increase some or all of the penalties that can be imposed for breaches of legislative requirements relating to well integrity and safety.

Accepted.

The Commonwealth is considering amending the OPGGS Act to provide the power to impose a civil penalty regime. This process will also consider increasing some or all of the existing penalties.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea Acts*, the *Navigation Act 1912* and relevant international treaties.

As part of this review, the Commonwealth will address the civil penalty regime for the offshore petroleum industry.

Report Recommendations

Commonwealth Government Response

Implementation

72 NOPSA's prohibition powers should be extended such that a prohibitional notice can be issued where a NOPSA Occupational Health and Safety Inspector believes, on reasonable grounds, that an activity is occurring or may occur at a facility involving an immediate threat to the health or safety of a person.

Accepted.
The Commonwealth supports amendment to the prohibition notice powers under the OPGGS Act. This recommendation is consistent with existing practices. NOPSA's submission to the Montara Commission of Inquiry highlighted the need for the broadening of NOPSA's OHS inspector's powers in the event that an operator is not willing to comply, or if the circumstances are such that an inspector was prevented from issuing a notice due to the current narrowness of the prohibition powers.

This amendment would enable inspectors to intervene and issue notices prohibiting entry to facilities where the inspector considers an immediate risk to the health or safety of a person is occurring or may occur at a facility.

The Commonwealth further notes that the proposed amendment is consistent with other Commonwealth and State-based safety legislative frameworks.

As the Department with policy responsibility for the OPGGS Act (and its associated regulations), consideration of this recommendation will be led by DRET.

This process will be completed during the second half of 2011, with any legislative amendments required introduced as soon as they can be accommodated within the legislative timetable.

73	<p>A single, independent regulatory body should be created, looking after safety as a primary objective, well integrity and environmental approvals. Industry policy and resource development and promotion activities should reside in government departments and not with the regulatory agency. The regulatory agency should be empowered (if that is necessary) to pass relevant petroleum information to government departments to assist them to perform the policy roles.</p>	<p><i>Accepted.</i></p> <p>The Commonwealth supports reform of the current offshore petroleum regulatory arrangements.</p> <p>Noting the fundamental relationship between the integrity of facilities and the safety of people and operations, the Commonwealth supports the expansion of NOPSA's responsibilities beyond occupational health and safety issues to also include responsibility for the structural integrity of pipelines, wells and well-related equipment including the environmental aspects of petroleum development.</p> <p>The Commonwealth further supports the establishment of a single government department or agency to advise on title decisions and administration, and major questions of resource management and development.</p>	<p>On 24 November 2010 in releasing the <i>Report of the Montara Commission of Inquiry</i> and the Commonwealth's draft response, the Minister for Resources and Energy also announced the Commonwealth's intention to implement the proposal of the Productivity Commission <i>Review of Regulatory Burden on the Upstream Petroleum (Oil & Gas) Sector</i> (PC Review) to establish a national offshore petroleum regulator. This independent regulatory body will have responsibility for well integrity, safety and environmental regulation.</p> <p>On 11 April 2011, the Minister for Resources and Energy reaffirmed that the Commonwealth would be progressing the establishment of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) in Commonwealth jurisdictions from 1 January 2012 by expanding the functions of NOPSA.</p>
			<p>NOPSEMA will become the regulator for all offshore petroleum activities in Commonwealth waters beyond three nautical miles from the territorial sea baseline. In addition to NOPSA's current regulatory functions, NOPSEMA will assume responsibility for environmental approvals, including Oil Spill Contingency Plans under the OPGGS Act. NOPSEMA will also regulate safety, integrity and environment plans for minerals extraction and greenhouse gas storage activities in Commonwealth waters.</p> <p>AMSA will work with NOPSEMA to develop agreed arrangements to review Oil Spill Contingency Plans. The procedural framework supporting the agreed arrangements will be developed by RET and AMSA in consultation with DSEWPac.</p>

A National Offshore Petroleum Titles Administrator (NOPTA) will be established within DRET to administer titles and data relating to offshore petroleum, minerals and greenhouse gas storage activities in Commonwealth waters.

In addition, under this model, the States and Northern Territory will be able to confer powers for the regulation of offshore petroleum activities under their respective legislation to NOPSEMA and NOPTA for coastal waters (ie up to the three nautical mile limit).

Legislative amendments to implement this institutional reform will be introduced into the Commonwealth Parliament during the Winter sitting period from May–June 2011. The reforms reflect extensive consultation with jurisdictions, industry and NOPSA and are supported by the offshore petroleum industry.

In addition, the Commonwealth has expanded the functions of NOPSA under the OPGGS Act to include the non-OHS aspects of structural integrity for facilities, wells and well-related equipment in Commonwealth waters. This reform also applied an OHS duty of care to petroleum and greenhouse gas titleholders in relation to wells and well-related equipment, and improved NOPSA's inspection and investigation powers in relation to suspected breaches.

The *Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011* give effect to these amendments by providing NOPSA with regulatory responsibility for assessing WOMPs and associated well activities.

Report Recommendations	Commonwealth Government Response	Implementation
74 The proposal of the Productivity Commission's Research Report (<i>Review of Regulatory Burden on the Upstream Petroleum (oil and Gas) Sector</i> , April 2009) to establish a NOPR should be pursued at a minimum.	<i>Accepted.</i> Refer recommendation 73.	Refer recommendation 73.
75 Responsibility for well integrity should be moved to NOPSA (as also proposed by the Productivity Commission).	<i>Accepted.</i> Refer recommendation 73.	Refer recommendation 73.

- 76 In the meantime, the Minister should:
- a. consider revoking the existing delegation to the Director of Energy, NT DoR providing the functions and powers of the DA under the OPGGS Act and Regulations specified in item 1 of the Schedule to that instrument (the Minister's DA powers and functions) and transferring this delegation to either NOPSA, the Commonwealth Department of Resources, Energy and Tourism (RET), or a DA from another state;
 - b. enquire into whether the other DAs to whom he has delegated his functions and powers relating to well integrity are adequately fulfilling their roles; and
 - c. consider amendments to the OPGGS Act to enable DAs to be given direction as to the performance of their regulatory roles.
- Accepted in part.*
- a. Accepted in part
- Section 72(3) of the OPGGS Act provides for the ability to revoke an existing delegation of functions and powers of the Designated Authority for the Territory of Ashmore and Cartier Islands. The delegation of the Commonwealth's Designated Authority powers and functions to the Territory of Ashmore and Cartier Islands has historically been viewed as an extension to the principal Northern Territory offshore area.
- However the power to revoke a delegation under section 72(3) of the OPGGS Act does not extend to the functions and powers of the Northern Territory Designated Authority in relation to the Northern Territory offshore area, or any other Designated principal offshore area.
- The Commonwealth therefore considers that the withdrawal of the delegation for the Ashmore and Cartier Islands area would not address the full range of systemic issues identified by the Inquiry given the Northern Territory's ongoing responsibility as the Designated Authority for the Northern Territory principal offshore area.
- b. Accepted.
- The Commonwealth, through DRET, has requested all Designated Authorities (Tasmania, Western Australia, Northern Territory, Victoria, South Australia, New South Wales and Queensland) undertake a number of reviews to ensure the integrity of wells and their assessment, approvals and monitoring of offshore petroleum activities were in accord with the OPGGS Act.
- The Commonwealth is satisfied that the immediate deficiencies identified by the Commissioner have been adequately addressed.
- The Commonwealth, through DRET and Geoscience Australia, will continue to work with the NT DoR until the establishment of a national offshore petroleum regulator in 2012.
- All Designated Authorities have cooperated fully and provided assurances to the Commonwealth that rigorous regulatory practice are being implemented in relation to the approval and compliance monitoring of well operation activities.
- In addition the Commonwealth has issued a Statement of Expectations to the Designated Authorities and NOPSA which sets out the Minister for Resources and Energy's expectations, as the responsible Commonwealth Minister, on matters relating to the exercise of their functions and powers under the OPGGS Act and associated regulations and principles of best practice regulatory administration.
- The Commonwealth has also commissioned a consultancy to develop a National Legislative Compliance Framework (NLCF) to develop a consistent best practice approach to be used by regulators in their regulation of Australia's offshore petroleum industry. The NLCF will be completed in the second half of 2011
- c. Refer recommendation 73

c. Accepted

Should the deficiencies identified by the Montara Commission of Inquiry not be satisfactorily addressed through the current offshore petroleum regulatory reform, consideration may be given to introducing amendments to the OPGGS Act to provide the responsible Commonwealth Minister with a new or extended 'general power of direction', as part of the Commonwealth's broader review of marine environment and petroleum legislation.

The Commonwealth notes, however, that such an amendment may erode the 'co-operative' relationship model upon which the offshore petroleum regulatory regime is based and lead to other constitutional issues such as Commonwealth Minister directing a State Government agency which would erode State Government Ministerial accountability.

77 The recommendations of the Inquiry in relation to suitable ways of achieving well integrity contained in Chapter 3 be included in a guidance manual that is issued for the assistance of industry and regulators.

Noted.

The Commonwealth notes that the cause of the Montara incident was not a lack of industry-accepted procedures, standards and operating manuals, but failure to follow them. As such, an additional guidance manual is unnecessary.

The Commonwealth notes that this recommendation is consistent with existing practice. The existing regime requires the written approval from the relevant Regulator for all permissioning documents including WOMPs, safety cases and environmental plans prior to the commencement of any offshore petroleum activity. These documents set out the processes, practices and actions that must be met by operators to ensure they meet their safety, integrity and environmental obligations.

Furthermore, it is common industry practice to have a drilling operations manual covering all aspects of drilling, completion and well control operations on the rig.

Chapter 5 of the Montara Report

Arresting the Blowout

Chapter 5 of the Report – Arresting the Blowout considers the initial response to the incident at the Montara Wellhead Platform and the steps taken by the operator and responsible Government agencies in arresting the blowout. The chapter contains 8 of 105 recommendations.

Chapter 5 – Arresting the Blowout

Recommendations

Report Recommendations	Commonwealth Government Response	Implementation
<p>78 In the future, and in the interests of ensuring that all possible well control options are comprehensively pursued to exhaustion, decisions as to well control response options should be the result of collaboration between the regulator and the operator rather than leaving one party to make unilateral judgements as to the appropriateness of various well control operations. The regulator should provide transparent and contemporaneous explanations to the public of all well control options under consideration at any particular time.</p>	<p><i>Noted.</i></p> <p>Refer recommendation 84.</p> <p>The Commonwealth notes that the Montara incident identified the need for more active emergency response engagement by Regulators and industry. Such engagement needs to be balanced to ensure both operator and Regulator independence is not compromised.</p> <p>In responding to the Montara incident, the Commonwealth did not rely only on the operator's decision regarding well control options. The Commonwealth received independent advice on all options for controlling the well from GA and NOPSA (who also sought advice from its international peers).</p> <p>Australia's offshore legislative and regulatory regime places legal obligations on operators for well control, including arresting a well blowout.</p> <p>The Commonwealth understands that it is accepted industry practice to report to and engage with the Regulator in the case of serious well control incidents, such as underground flow or loss of surface containment. Minor incidents not involving a breach of the well envelope are dealt with by the operator in compliance with its Well Control Manual, and reported to the Regulator in the daily drilling report. If significant deviation was required from approvals, the Regulator must be informed.</p>	<p>The Commonwealth (through DRET and NOPSA) is progressing the Terms of Reference for the 2011 review of NOPSA's operations. The 2011 NOPSA Operational Review will focus on the legislated requirement to assess the effectiveness of NOPSA; NOPSA's engagement with operators; and NOPSA's role in responding to incidents involving the offshore petroleum industry.</p> <p>In addition the Commonwealth has issued a Statement of Expectations to the Designated Authorities and NOPSA which sets out the Minister for Resources and Energy's expectations, as the responsible Commonwealth Minister, on matters relating to the exercise of their functions and powers under the OPGGS Act and associated regulations and principles of best practice regulatory administration.</p> <p>The Commonwealth has also commissioned a consultancy to develop a National Legislative Compliance Framework (NLCF) to develop a consistent best practice approach to be used by regulators in their regulation of Australia's offshore petroleum industry. The NLCF will be completed in the second half of 2011.</p> <p>The development of an incident management and coordination framework for dealing with incidents involving the offshore petroleum industry will be led by DRET in conjunction with NOPSA and relevant stakeholders, and will be finalised by the end of 2011.</p>

The Commonwealth recognises the need for a more transparent communication strategy to inform stakeholders and the public and is developing an incident management and coordination framework based on proven frameworks such as the National Counter-Terrorism Plan. This framework will be coordinated by the central body to be established pursuant to recommendation 84 and will include a clearly defined, transparent communication strategy for incident response.

79 The regulator, rather than the responsible Minister, should be given the power to direct an operator to use a particular rig for the purpose of well control operations, if appropriate in the circumstances, and the power should be used in the future if that rig is the best option available. This would necessarily involve the operator fully compensating for the use of the rig and any other associated costs. The Inquiry suggests that this power could be invoked and given effect as a condition of an operator's licence.

Noted.

The Commonwealth notes that the OPGGS Act provides the Designated Authorities, as the appropriate Regulator, with the power to issue directions (refer Part 6.2 OPGGS Act). In relation to the Montara incident, the Commonwealth Minister for Resources and Energy is the Designated Authority for the Territory of Ashmore Cartier Islands offshore area and was therefore the appropriate decision-maker.

In respect of compensation and associated costs, the Commonwealth does not intervene in commercial negotiations between operators.

The Commonwealth is seeking further advice on the utility of such directions powers for use in these circumstances. This advice will be taken into consideration in the development of the Commonwealth's broader incident management and coordination framework which will be completed by the end of 2011.

In addition, the industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, is working to formalise assistance arrangements for the offshore petroleum industry and facilitate the sharing of resources and equipment through a memorandum of understanding around mutual aid. Industry has established a Drilling Steering Committee and an Emergency Management Steering Committee to identify and implement cross-industry learnings from the Montara and Gulf of Mexico incidents.

80 The regulatory regime should also impose an obligation on an operator to ascertain the availability, and provide details to the regulator, of any potential relief well rigs, prior to the commencement of drilling operations (including prior to each phase of a drilling operation where applicable).

Noted.

The identification of a relief well rig is an operational matter and one that the Commonwealth considers should form part of an operator's risk management strategy, which is part of the process for seeking approval to undertake an offshore petroleum activity.

The Commonwealth considers that the risk management strategy should be identified and considered as part of the process for seeking approval to undertake an offshore petroleum activity. However, the Commonwealth does not consider that this requirement needs to be formalised in the regulatory regime.

The offshore petroleum industry has performed its own safety checks and reviews of its processes and procedures including the consideration of well plans, drilling processes, blow-out contingency plans, testing frequencies, training regimes for personnel and emergency response capabilities. The petroleum industry through AMOSC has also reviewed its equipment stockpile and capacity to respond to an incident.

In addition, the industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, is working to formalise assistance arrangements for the offshore petroleum industry and facilitate the sharing of resources and equipment through a memorandum of understanding around mutual aid.

The Designated Authorities have been requested to provide clarification to all operators that the risk management strategy in force during an approved drilling program must include identification by the operator of suitable rigs within the area that could be utilised in the event of an emergency.

Report Recommendations

Commonwealth Government Response

Implementation

81 NOPSAs develop a policy of engagement with operators so as to enable experts (including safety experts) to canvas all available options for well control in the event of a blowout.

Accepted.
The Commonwealth notes that the Montara incident identified the need for more active emergency response engagement by Regulators and industry. Such engagement needs to be balanced to ensure both operator responsibility and Regulator independence is not compromised.

The Commonwealth (through DRET and NOPSA) is progressing the Terms of Reference for the 2011 review of NOPSAs's operations. The 2011 NOPSA Operational Review will focus on the legislated requirement to assess the effectiveness of NOPSAs; NOPSAs's engagement with operators; and NOPSAs's role in responding to incidents involving the offshore petroleum industry.

Furthermore, the Commonwealth has issued a Statement of Expectations to NOPSAs which sets out the Minister for Resources and Energy's expectations, as the responsible Commonwealth Minister, on matters relating to the exercise of their functions and powers under the OPGGS Act and associated regulations and principles of best practice regulatory administration.

The development of an incident management and coordination framework for dealing with incidents involving the offshore petroleum industry will be led by DRET in conjunction with NOPSAs and relevant stakeholders, and will be finalised by the end of 2011.

82 The Inquiry also supports Bills and Agostini's recommendation:

'...in relation to safety case development and compliance overall, that NOPSA revise its approach to interacting with operators prior to the safety case assessment process and subsequently direct more resources into its advisory functions. We further recommend that NOPSA develop and implement a formal plan for supporting and guiding each operator prior to safety case acceptance, as well as for ongoing compliance with that safety case, recognising the unique experience, capabilities and assessed risk of that operator. Each plan needs to include advice, education and liaison meetings with the operators. The plan needs to be continuously reviewed and reassessed based on the latest information, including the interaction with the operator.'

Accepted.

The Commonwealth considers that this recommendation is consistent with recommendation 3 of the Offshore Petroleum Safety Regulatory Inquiry (NOPSA Report).

Consistent with the Commonwealth's response to recommendation 3 of the NOPSA Report, the Commonwealth notes that NOPSA has commenced work to address these issues and will continue to be responsible for improving interaction and consultation with stakeholders on this.

The Commonwealth proposes that, as part of the 2011 NOPSA review, a review of policy matters around the safety case framework (including development, content requirements and implementation) be included.

The Commonwealth (through DRET and NOPSA) is progressing the Terms of Reference for the 2011 review of NOPSA's operations. The 2011 NOPSA Operational Review will focus on the legislated requirement to assess the effectiveness of NOPSA; NOPSA's engagement with operators; and NOPSA's role in responding to incidents involving the offshore petroleum industry.

Furthermore, the Commonwealth has issued a Statement of Expectations to NOPSA which sets out the Minister for Resources and Energy's expectations, as the responsible Commonwealth Minister, on matters relating to the exercise of their functions and powers under the OPGGS Act and associated regulations and principles of best practice regulatory administration.

The CEO of NOPSA will be responsible for improving the interaction between NOPSA and its stakeholders. The Commonwealth will work with the CEO to determine the process for the 2011 review and will consult with stakeholders to determine the most appropriate means of ensuring improvements in the development, implementation and compliance with the safety case requirement.

83 The regulator should pre-assess and review in a generic sense, and in conjunction with the offshore petroleum industry, available options for well control in the event of a blowout. Being 'match fit' in this sense will enable a quicker and more effective response in terms of safety assessment, and will ensure that expectations of both operator and regulator are more readily aligned.

Accepted in principle.

The Commonwealth agrees that the Montara incident identified the need for more active emergency response engagement by regulators and industry. Such engagement needs to be balanced to ensure both operator responsibility and regulator independence is not compromised.

The Commonwealth (through DRET and NOPSA) is progressing the Terms of Reference for the 2011 review of NOPSA's operations. The 2011 NOPSA Operational Review will focus on the legislated requirement to assess the effectiveness of NOPSA; NOPSA's engagement with operators; and NOPSA's role in responding to incidents involving the offshore petroleum industry.

Furthermore, the Commonwealth has issued a Statement of Expectations to NOPSA which sets out the Minister for Resources and Energy's expectations, as the responsible Commonwealth Minister, on matters relating to the exercise of their functions and powers under the OPGGS Act and associated regulations and principles of best practice regulatory administration.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea Act*; the *Navigation Act 1912* and relevant international treaties.

As part of this process, legal consideration will be given to the engagement between the regulator(s) and operator(s) in responding to a well control incident.

84	<p>In any future similar blowout or offshore emergency situation, the Minister appoint (through either a NOPR or the relevant Department) a senior public servant to establish and oversight a central coordinating body that will facilitate interaction between regulators, industry, AMSA and the owner/operator. Primary responsibility for stopping a blowout should remain with the owner/operator but should be subject to direction from the central coordinating body in consultation with stakeholders (including the owner/operator).</p>	<p><i>Accepted.</i></p> <p>Refer recommendation 94.</p> <p>The Commonwealth accepts the recommendation for the establishment of a central coordinating body in responding to a future offshore petroleum incident. This role will be fulfilled by DRET. The incident response will be supported by a framework for incident management and coordination. This framework will clearly define the responsibilities of each agency, including procedures and accountabilities for the management of future oil spill incidents.</p>	<p>The Commonwealth (through DRET and NOPSA) is progressing the Terms of Reference for the 2011 review of NOPSA's operations. The 2011 NOPSA Operational Review will focus on the legislated requirement to assess the effectiveness of NOPSA; NOPSA's engagement with operators; and NOPSA's role in responding to incidents involving the offshore petroleum industry.</p>
		<p>The Commonwealth notes that the purpose of the central coordinating body in responding to a future offshore petroleum incident will be to facilitate interaction and communication between stakeholders and with the public. This body will not assume any aspect of the Combat Agency role as designated under the National Plan.</p>	<p>Furthermore, the Commonwealth has issued a Statement of Expectations to NOPSA which sets out the Minister for Resources and Energy's expectations, as the responsible Commonwealth Minister, on matters relating to the exercise of their functions and powers under the OPGGS Act and associated regulations and principles of best practice regulatory administration.</p>
		<p>Australia's offshore legislative and regulatory regime places legal obligations on operators for well control, including arresting a well blowout.</p>	<p>The development of an incident management and coordination framework for dealing with incidents involving the offshore petroleum industry will be led by DRET in conjunction with NOPSA and relevant stakeholders, and will be finalised by the end of 2011.</p>

Report Recommendations

Commonwealth Government Response

Implementation

85 The body established to undertake a central coordination and facilitation role in the event of any future blowout in Commonwealth waters should undertake to make all relevant information publicly available from one, authoritative and easy to access source.

Accepted.
Refer recommendations 84 and 94.

The Commonwealth agrees that the purpose of the central coordinating body will be to facilitate interaction and communication between stakeholders and with the public. This role will be fulfilled by DRET. In this regard, it will also have responsibility for communicating to the public on all elements of the incident.

The development of an incident management and coordination framework for dealing with incidents involving the offshore petroleum industry will be led by DRET in conjunction with NOPSA and relevant stakeholders, and will be finalised by the end of 2011.

In fulfilling this function, DRET will be able to request, and have access to, specialised capability from other agencies to provide it with the necessary resources, such as satellite imagery, during the course of an incident response. This will also ensure that that adequate and relevant information is disseminated to the public throughout the course of the incident response.

In advancing the incident management and coordination framework, which will be a key element of the operating platform for the central coordinating body, the Commonwealth will work to develop the capacity where gaps are identified in respect of specialised infrastructure or training.

Chapter 6 of the Montara Report

Environmental Response

Chapter 6 of the Report – Environmental Response considers the protection and management of the marine environment and remediation of the area both during and post the Montara incident. The chapter contains 15 of 105 recommendations.

Chapter 6 – Environmental Response

Recommendations

Report Recommendations	Commonwealth Government Response	Implementation
<p>86 The National Plan should be reviewed to clarify the arrangements to apply in Commonwealth waters regarding key roles and responsibilities, including in relation to the ESC, in the event of an oil spill. This should also address any necessary training required.</p>	<p><i>Accepted.</i></p> <p>The Commonwealth agrees that the responsibilities of stakeholders under the National Plan need to be clarified, noting that the National Plan is not a legally enforceable instrument.</p> <p>The comprehensive assessment of the National Plan currently being conducted by AMSA in consultation with the National Plan stakeholders will define the roles and responsibilities specific to Commonwealth agencies within the National Plan. This will include having clearer arrangements for both operational and scientific monitoring.</p> <p>The Commonwealth is progressing the development of a response plan for the Commonwealth marine area as a subset of the National Plan. Such a plan would specify responsibilities of each Commonwealth department and agency in relation to the oil spill response and specifically address the matter of the ESC.</p> <p>There are currently arrangements in place with states and territories that provide for the utilisation of operational capability from these jurisdictions in responding to incidents in Commonwealth waters.</p> <p>All appropriate training in respect of the National Plan is and will continue be provided by AMSA and the relevant National Plan stakeholders. Training for offshore petroleum personnel is to be provided on a cost recovery basis.</p>	<p>Consistent with arrangements under the National Plan, AMSA established an Incident Analysis Team (IAT) to review the response to the Montara Wellhead Platform. The purpose of the review was to provide strategic recommendations for improvements to the National Plan arrangements and identify lessons learned to improve future major incident responses. The March 2010 Report of the IAT identified eight recommendations which are being progressed.</p> <p>A comprehensive assessment of the National Plan is underway and will be finalised by the end of 2011. The purpose of this assessment is to determine if current arrangements are adequate to provide an effective response to marine casualties and pollution of the sea by oil and hazardous noxious substances and, where deficiencies are identified, make recommendations to rectify them.</p>
		<p>The assessment will provide analysis on any gaps in response preparedness and capabilities and provide recommendations for improvement to the current regime, and will also consider succession planning and training arrangements under the National Plan.</p>

Report Recommendations

Commonwealth Government Response

Implementation

87 DEWHA should participate in training programs and exercises relevant to an oil spill in the marine environment.

Accepted.

The Commonwealth notes that, since the Montara incident, in advance of a decision regarding responsibilities under the National Plan, the Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) (formerly DEWHA) has undertaken to develop staff capability through appropriate training and participation in courses.

Further implementation of this recommendation will be informed by the outcomes of the comprehensive assessment of the National Plan which is being coordinated by AMSA and the National Plan stakeholders and will be finalised by the end of 2011.

88

The National Plan should be revised to ensure that it fully comprehends environmental matters and that it recognises the importance of the prompt implementation of Scientific Monitoring to facilitate the assessment of the environmental impacts of an incident.

Accepted.

The Commonwealth is progressing National Contingency Plans as a part of the comprehensive assessment of the *National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances* that is being undertaken by AMSA in consultation with National Plan stakeholders.

The assessment of National Contingency Plans will develop a clear plan and delivery mechanism for the provision of environmental advice, preparation and maintenance of Net Environmental Benefit Analysis, wildlife response and monitoring for a spill where the Commonwealth is the lead agency (refer recommendation 3 of the IAT Report). It will also include a clear statement on sourcing Commonwealth environmental and scientific advice. Industry and other stakeholders have an opportunity to provide input on the most appropriate mechanism for seeking expert advice through the National Contingency Plan assessment process.

Consistent with arrangements under the National Plan, AMSA established an IAT to review the response to the Montara Wellhead Platform. The purpose of the review was to provide strategic recommendations for improvements to the National Plan arrangements and identify lessons learned to improve future major incident responses. The March 2010 Report of the IAT identified eight recommendations which are being progressed.

The comprehensive assessment of the National Plan is underway and will be finalised by the end of 2011. The purpose of this assessment is to determine if current arrangements are adequate to provide an effective response to marine casualties and pollution of the sea by oil and hazardous noxious substances and, where deficiencies are identified, make recommendations to rectify them.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea Acts*, the *Navigation Act 1912* and relevant international treaties.

The Commonwealth will also implement changes through appropriate legislative instruments to ensure the prompt implementation of Scientific Monitoring following an incident.

In addition, the industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed Oil Spill Preparedness and Response Improvement Strategies for the upstream petroleum industry which includes response monitoring (operational and scientific).

89 Procedures for the approval of development projects should ensure that conditions of approval are comprehensive and clearly set out the obligations of their proponents in relation to environmental matters (including expected monitoring and remediation obligations).

Accepted.

The Commonwealth agrees that the requirements for Scientific Monitoring and environmental remediation in the event of an incident should be included as a condition of approval under the EPBC Act for future petroleum activities. Such a condition will reaffirm the 'polluter pays' principle in that the operator will be responsible for covering the costs of Scientific Monitoring and/or environmental remediation in the event of an incident.

Mechanisms for requiring Scientific Monitoring and remediation under the OPGGS Act will also be investigated. The Commonwealth notes that Part 6.4 of the OPGGS Act (Restoration of the Environment) provides the Designated Authority with the authority to issue a direction to an operator in respect of environmental remediation.

Under the EPBC Act, all new approved offshore production facilities will include requirements to obtain sufficient baseline information to enable an assessment of any impacts and implement an agreed monitoring program in the event of a spill.

The Commonwealth will implement changes through appropriate legislative instruments to ensure the prompt implementation of Scientific Monitoring during an incident.

The implementation of this recommendation as it applies to approvals under the OPGGS Act and the EPBC Act will be led by DRET and DSEWPaC respectively, on an ongoing basis.

The Long Term Scientific Monitoring Programme, as agreed by PTTEP AA, will continue to be managed by DSEWPaC. Lessons learned from the implementation of this plan will inform the future development of "off the shelf" monitoring plans.

In addition, the industry, through the Australian Petroleum Production and Exploration Association (APPEA), the peak industry body representing Australia's offshore oil and gas industry, has developed Oil Spill Preparedness and Response Improvement Strategies for the upstream petroleum industry which includes response monitoring (operational and scientific). Industry has established Emergency Management Steering Committee to identify and implement cross-industry learnings from the Montara and Gulf of Mexico incidents.

Report Recommendations

Commonwealth Government Response

Implementation

90 DEWHA, in concert with AMSA and with expert input, should develop 'off the shelf' monitoring programs that can be speedily implemented following incidents in Commonwealth waters. In this context, the utility of the current Scientific Monitoring program should be peer reviewed to inform future policy.

Accepted.

Refer recommendation 97.

The Commonwealth agrees that a suite of "off the shelf" monitoring programs to cater for the different environments in which an oil spill could occur, for example, the Bass Strait or in proximity to sensitive marine environments such as the Ningaloo Reef or the Ashmore Reef and Cartier Islands area, is required and is developing such programs.

A requirement to implement these monitoring programs in the event of a spill will be reflected in the conditions of approval for petroleum activity.

The review of the PTTEP AA Long Term Scientific Monitoring Program will inform the development of the "off the shelf" monitoring programs.

Under the EPBC Act, all new approved offshore production facilities will include requirements to obtain sufficient baseline information to enable an assessment of any impacts and implement an agreed monitoring program in the event of a spill resulting from offshore petroleum activity(ies).

The development of the "off the shelf" monitoring programs will be led by the primary regulator of the operation of offshore production facilities, in consultation with DSEWPac on matters of National Environmental Significance as defined under the EPBC Act.

A review of the Montara Long Term Scientific Monitoring Program will be undertaken for the specific purpose of informing the development of "off the shelf" monitoring programs for use in future incidents.

91 The funding arrangements that support the National Plan should be reviewed to ensure that the costs associated with both preparedness and response capability are equitably shared between the shipping and offshore petroleum industries.

Accepted.

The Commonwealth accepts that the Montara incident highlighted the need to address the funding arrangements supporting the National Plan.

The Commonwealth supports the 'polluter pays' principle and in accepting this recommendation the Commonwealth will establish a framework that provides equitable cost-sharing arrangements between the shipping and the offshore petroleum industry as it relates to preparedness and response capability to a future offshore petroleum incident. As a part of its broader legislative review of the marine environment and petroleum legislation, the Commonwealth will identify and implement an ability to enforce the 'polluter pays' principle in the offshore petroleum industry.

A discussion paper, *Montara Commission of Inquiry – Equitable funding between the shipping and offshore petroleum industries*, has been provided to key stakeholders. AMSA and DRET will meet with these stakeholders to further discuss and test the principle and assumptions identified in the discussion paper.

This is an important element in identifying a preferred option for equitable cost-sharing arrangements between the offshore petroleum and shipping industries on oil spill preparedness and response capability under the National Plan.

A comprehensive assessment of the National Plan is currently being undertaken by AMSA in consultation with the National Plan stakeholders. The assessment will be finalised by the end of 2011.

The assessment will specifically consider the adequacy and appropriateness of funding mechanisms and the efficiency of cost recovery arrangements in the delivery of the required outcomes of the National Plan.

The Commonwealth, in consultation with the offshore petroleum industry, is undertaking a detailed analysis of cost recovery arrangements in regards to oil spill preparedness and response capability. This will inform future changes to the funding arrangements under the National Plan, specifically for the offshore petroleum industry.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will identify the most appropriate mechanisms for enforcing the Commonwealth's 'polluter pays' principle and will ensure consistency and prevent duplication. It will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea Acts*, the *Navigation Act 1912* and relevant international treaties.

92 The National Plan should specify that the cost of responding to an oil spill, or other damage to the offshore marine environment, will be totally met by the owner/operator. This would be consistent with the Inquiry's recommendation for legislative changes to the regulatory framework concerning owner/operators meeting the cost of monitoring and remediation of environmental damage.

Accepted.

Refer recommendation 88.

The Commonwealth supports the 'polluter pays' principle and in accepting this recommendation the Commonwealth will establish a framework that provides equitable cost-sharing arrangements between the shipping and the offshore petroleum industry as it relates to responding to a future offshore petroleum incident.

The Commonwealth notes that currently there is no legislative requirement to recover costs incurred from an offshore petroleum activity incident response under the National Plan, but understands that the offshore petroleum industry currently contributes a proportion of the National Plan funding through LNG and crude tanker movements in addition to the direct funding of AMOSC.

The Commonwealth also notes that the OPGGS Act contains requirements for petroleum titleholders to have adequate insurance cover (refer s571) to meet the costs of remediation of environmental damage. Further, Part 6.4 of the OPGGS Act provides the authority to give remediation directions to titleholders in relation to the restoration of the environment.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation.

It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. It will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea* Acts, the *Navigation Act 1912* and relevant international treaties.

This process will identify and implement an ability to legislatively enforce the 'polluter pays' principle for the offshore petroleum industry, including prompt implementation of Scientific Monitoring following an offshore petroleum incident, and will ensure consistency and prevent duplication.

93	<p>The National Plan should be reviewed:</p> <ol style="list-style-type: none"> to ensure that it adequately addresses the risks associated with offshore oil and gas exploration; to revisit the underlying risk assessment undertaken to inform capacity and preparedness under the National Plan; to ensure that response operations can be coordinated effectively with state and territory arrangements where a response requires operations across Commonwealth and state or territory borders; and to explore the state of readiness of equipment and resources in the context of the future expansion of the petroleum industry. This should be undertaken by AMSA in consultation with AMOSC. 	<p><i>Accepted.</i></p> <p>The Commonwealth is undertaking a comprehensive assessment of the National Plan. It will address items (a), (b), (c) and (d) and will define the roles and responsibilities specific to Commonwealth agencies within the National Plan.</p> <p>The Commonwealth agrees that contingency planning needs to be based on risk assessments that take into account probability and consequence. The Commonwealth notes that Australia has arrangements in place to obtain international assistance in the event of larger scale incidents than Montara.</p> <p>A risk assessment addressing issues such as the current level of risk of pollution of the sea, coastline and ports of EEZ and offshore territories by oil from ships, offshore installations (fixed and floating) and drilling rigs, with regard to the location, is being undertaken as part of the review of the National Plan.</p> <p>The risk assessment will inform future contingency planning in regard to the capacity both in the nine AMSA Tier two/three stockpiles around the Australian coastline and the AMOSC stockpile in Geelong. Resourcing implications arising from this risk assessment will be identified and addressed accordingly. This may also include a minimum requirement for response capacity and capability to be identified in contingency plans and implemented and resourced by the offshore petroleum industry in the event of an incident.</p>	<p>A comprehensive Review of the National Plan has commenced and is being coordinated by AMSA in consultation with the National Plan stakeholders. The Review is to be finalised by the end of 2011.</p> <p>The purpose of the Review, amongst other matters, is to determine if current arrangements are adequate to provide an effective response to marine casualties and pollution of the sea by oil and hazardous noxious substances and, where deficiencies are identified, make recommendations to rectify them.</p> <p>The Review is considering the adequacy of the Inter-Governmental Agreements and the existing domestic legal, regulatory, governance and procedural regime that applies to the National Plan. It is also considering the effectiveness of current functions and resourcing levels to deliver on National Plan outputs and services, and the appropriateness of current hardware and equipment holdings and locations.</p>
----	--	--	---

- 94 Procedures and accountabilities should be established to ensure, in the event of a future incident, that:
- a. there is adequate monitoring of the volume of oil spilt and the spread of the oil (both surface and sub-surface dispersed oil); and
 - b. information about the volume and spread of the oil is made available to the public through regular updates.

Accepted.

Refer recommendation 84.

The Commonwealth is progressing the incident management and coordination that will provide clearly defined responsibilities for agencies, including procedures and accountabilities for the management of future oil spill incidents.

In responding to a future offshore petroleum incident, the Commonwealth has identified DRET as the central coordinating body. In fulfilling this function, DRET should be able to request, and have access to, specialised capability from other agencies to provide it with the necessary resources, such as satellite imagery, during the course of the response. This will assist in ensuring there is adequate monitoring of and information dissemination about the oil spill. Where gaps are identified in respect of specialised infrastructure or training, the Commonwealth will work to develop this capacity.

a. Accepted

The provision of adequate sub-surface monitoring for oil spill response is specialised and requires infrastructure (including fluorometry and sampling equipment) and trained personnel in readiness for an incident.

In respect of the Montara incident, there was never sufficient information to estimate the oil flow rate with a high degree of accuracy. This issue was also identified during the Gulf of Mexico incident where five different methodologies were being used at any one time, and it was impossible for the oil flow rate to be accurately determined.

The development of the offshore petroleum incident management and coordination framework for dealing with incidents involving the offshore petroleum industry will be led DRET, in conjunction with NOPSA and relevant stakeholders, and will be finalised by the end of 2011.

The framework will clearly define the role of the central coordinating body, in having responsibility for the management and communication of incident responses, and the role of the Combat Agency, as having operational responsibility under the National Plan for the incident response.

The development of an improved sub-surface monitoring capability for oil spill responses will be coordinated by AMSA on an ongoing basis.

The outcomes of the Review of the National Plan in relation to the adequacy and appropriateness of funding mechanisms and the efficiency of cost recovery arrangements in the delivery of the National Plan will be considered in the implementation of this recommendation.

b. Accepted

Refer recommendation 84.

The Commonwealth proposes that the purpose of the central coordinating body will be to facilitate interaction and communication between stakeholders and with the public. In this regard, it will have responsibility for informing the public about the volume and extent of an oil spill.

95 The regulatory framework should provide that in respect of all activities in Commonwealth waters:

- a. there are powers to require companies involved in an incident causing significant environmental damage to undertake actions to remediate the damage to a standard determined by the regulatory authorities;
- b. the nature of the Scientific Monitoring and the remediation required should be determined by environmental regulatory agencies rather than the companies involved;
- c. the costs of all Scientific Monitoring and remediation should be fully borne by the companies involved, whether the remediation is undertaken by the companies or another party to the standard determined by the regulatory authorities; and
- d. penalties should be payable for pollution on a no fault basis.

The EPBC Act should be amended to include the powers in a, b, c and d above. These powers should be applicable to both prospective and existing operations in Commonwealth waters.

Accepted in principle.

The Commonwealth supports the 'polluter pays' principle and will establish a framework that provides equitable cost-sharing arrangements between the shipping and the offshore petroleum industry as it relates to responding to a future offshore petroleum incident.

Mechanisms for requiring companies to bear the cost of monitoring to identify environmental damage and subsequent remediation activities, as identified by the relevant regulatory agency, will be investigated through the legislative review being led by DRET. This review will identify the appropriate legislation and/or regulations which could most effectively take account of this recommendation. This review will include consideration of possible amendments to the EPBC Act.

Under the OPGGS Act there are existing powers, including the authority in Part 6.4 of the OPGGS Act (Restoration of the Environment), which allows the Regulator give remedial directions to titleholders in relation to the restoration of the environment.

The Commonwealth supports the need for overarching penalty provisions to be applied to the offshore petroleum industry. The Commonwealth's review of the legislative framework will consider the appropriate mechanisms for implementing these penalty provisions for the offshore marine environment, including a broader range of compliance tools such as the ability to impose a civil fine or prohibition notice as well as a general contravention offence following the causing of serious or material harm to a protected matter or a breach of approval conditions.

Penalty provisions in respect of the OHS legislative regime for the offshore petroleum industry are also being considered.

Since the Montara incident, the Commonwealth has included requirements for Scientific Monitoring and environmental remediation in the event of an incident as a condition of approval under the EPBC Act for petroleum activities. This condition reaffirms the 'polluter pays' principle in that the operator will be responsible for covering the costs of Scientific Monitoring and/or environmental remediation in the event of an incident.

The Commonwealth is considering amending the OPGGS Act to provide the power to impose a civil penalty regime. This process will also consider increasing some or all of the existing penalties. This process will be completed during the second half of 2011, with any legislative amendments required introduced as soon as they can be accommodated within the legislative timetable.

The implementation of this recommendation will be further informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. It will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea Acts*, the *Navigation Act 1912* and relevant international treaties.

This process will identify and implement an ability to legislatively enforce the 'polluter pays' principle for all activities in Commonwealth waters, including prompt implementation of Scientific Monitoring following an offshore petroleum incident, and will ensure consistency and prevent duplication.

96 The obligation of companies involved in an incident to meet the full costs of monitoring and remediation should be made a condition of approval of proposals under the EPBC Act and OPGGS Act. Suitable arrangements (insurance or otherwise) need to be in place to ensure that companies have this capacity.

Accepted.

Refer recommendation 89.

The Commonwealth supports the 'polluter pays' principle and in accepting this recommendation the Commonwealth will establish a framework that provides equitable cost-sharing arrangements between the shipping and the offshore petroleum industry as it relates to responding to a future offshore petroleum incident.

The Commonwealth agrees that conditions of approval should clearly set out the proponent's obligations in relation to environment matters. The legislative review will consider the most appropriate legislative mechanisms for addressing environmental matters, including incorporating the 'polluter pays' principle in Australia's legislative framework and requiring monitoring and remediation in the event of an incident.

Mechanisms for requiring Scientific Monitoring and remediation will be investigated through the legislative review being led by DRET. The Commonwealth notes that Part 6.4 of the OPGGS Act (Restoration of the Environment) provides the Designated Authority with the authority to issue a direction to an operator in respect of environmental remediation. The Commonwealth also notes that insurance is a requirement under the OPGGS Act. Since the Montara incident, the Commonwealth has including requirements for Scientific Monitoring and environmental remediation as a condition of approval under the EPBC Act for petroleum activities; however the Commonwealth notes that not all petroleum activities are regulated by the EPBC Act.

Since the Montara incident, the Commonwealth has included requirements for Scientific Monitoring and environmental remediation in the event of an incident as a condition of approval under the EPBC Act for petroleum activities. This condition reaffirms the 'polluter pays' principle in that the operator will be responsible for covering the costs of Scientific Monitoring and/or environmental remediation in the event of an incident.

The implementation of this recommendation will be further informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. It will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea Acts*, the *Navigation Act 1912* and relevant international treaties.

This process will identify and implement an ability to legislatively enforce the 'polluter pays' principle for the offshore petroleum industry, including prompt implementation of Scientific Monitoring following an offshore petroleum incident, and will ensure consistency and prevent duplication.

Furthermore, the Commonwealth, in conjunction with the offshore petroleum industry, will examine the legislative arrangements concerning insurance to ensure cost recovery arrangements following oil spills are effective. This review will recommend any necessary improvements.

Report Recommendations

Commonwealth Government Response

Implementation

97 Environment plans and OSCPs 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.

Accepted.
Refer recommendation 90.

The Commonwealth, in consultation with the offshore petroleum industry, is considering whether Oil Spill Contingency Plans can be provided to the public without commercial prejudice to the operator. The Commonwealth notes that environmental plans are very detailed. Under the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009*, a summary of an operator's environmental plan is made publicly available.

The Commonwealth agrees that an operator should be required to undertake Scientific Monitoring in the event of an incident and this will be considered as part of the legislative review being led by DRET.

Any conditions on approval relating to Scientific Monitoring in the event of a spill will need to be informed by the existing level and type of monitoring that is undertaken by the offshore petroleum industry in the course of their petroleum operations.

The requirement for scientific monitoring and environmental remediation in the event of an incident has been included in EPBC Act approval conditions for oil and gas developments since the Montara incident. Since the Montara incident, it has become a standard requirement for all proponents to publish all management and scientific plans required by EPBC Act approval conditions and to publish the reports of performance against those plans.

In respect of the publication of Oil Spill Contingency Plans, the implementation of this recommendation will be led by DRET and will be completed within the second half of 2011. The imposition of conditions on petroleum activity will be coordinated by DRET on an ongoing basis.

Furthermore, the establishment of National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), through the expansion of NOPSA, will result in NOPSEMA becoming the regulator for all offshore petroleum activities in Commonwealth waters beyond three nautical miles from the territorial sea baseline. Under this model, the States and Northern Territory will be able to confer powers for the regulation of offshore petroleum activities under their respective legislation to NOPSEMA for coastal waters (ie up to the three nautical mile limit).

In addition to NOPSA's current regulatory functions, NOPSEMA will also assume responsibility for environmental approvals, including Oil Spill Contingency Plans under the OPGGS Act. NOPSEMA will regulate safety, integrity and environment plans, including Oil Spill Contingency Plans, for minerals

extraction and greenhouse gas storage activities in Commonwealth waters.

AMSA will work with NOPSEMA to develop agreed arrangements to review Oil Spill Contingency Plans. The procedural framework supporting the agreed arrangements will be developed by RET and AMISA in consultation with DSEWPac.

The Commonwealth has also issued a Statement of Expectations to NOPSA which sets out the Minister for Resources and Energy's expectations, as the responsible Commonwealth Minister, on matters relating to the exercise of their functions and powers under the OPGGS Act and associated regulations and principles of best practice regulatory administration.

98 The Government should examine the scope for a single environment plan to meet the regulatory requirements of both the OPGGS Act and the EPBC Act. This could possibly be achieved by way of bilateral agreements and accreditation arrangements and/or legislative amendment.

Accepted.

The Commonwealth considers that this recommendation is consistent with the *Independent Review of the Environment Protection and Biodiversity Conservation Act 1999*, undertaken by Dr Allan Hawke AC in 2009 (the Hawke Review).

The implementation of this recommendation will be determined by the Commonwealth's response to the Hawke Review.

99 OSCP's should be endorsed by AMSA prior to regulatory approval to ensure that they align with the National Plan. Once field operations commence, the capability of operators should be assessed against their plans, and exercises conducted to ensure the plans remain effective.

Accepted.

The Commonwealth agrees that an opportunity exists for AMSA to be consulted as part of the assessment of an environmental plan under the OPGGS Act. Through this process of consultation, AMSA will have regard to the adequacy of resources available to mitigate pollution and ensure consistency with the National Plan.

The Commonwealth will strengthen current procedures for consultation in relation to approvals for offshore petroleum activity to ensure comprehensive consultation on Oil Spill Contingency Plans is being implemented between DRET, AMSA and DSEWPaC.

The Commonwealth recognises that the establishment of a more comprehensive consultation and assessment process in relation to Oil Spill Contingency Plans may result in additional resourcing costs for Commonwealth agencies, and that such costs will need to be recovered from the offshore petroleum industry. The cost recovery arrangements will be considered as part of the Commonwealth's broader review of the marine environment and petroleum legislation.

In relation to the assessment of operator capability, the Commonwealth notes that Australia's offshore petroleum legislative framework places obligations on operators to demonstrate to the regulator how they intend to effectively acquit their responsibilities under the OPGGS Act, which includes environmental requirements.

The Commonwealth is working to strengthen the effectiveness of the compliance and monitoring framework through mechanisms such as the proposed penalty provisions identified in recommendation 95(d)

On 11 April 2011, the Minister for Resources and Energy reaffirmed that the Commonwealth would be progressing the establishment of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) from 1 January 2012 by expanding the functions of NOPSA.

Upon establishment, NOPSEMA will become the regulator for all offshore petroleum activities in Commonwealth waters beyond three nautical miles from the territorial sea baseline. In addition to NOPSA's current regulatory functions, NOPSEMA will assume responsibility for environmental approvals, including Oil Spill Contingency Plans under the OPGGS Act. NOPSEMA will also regulate safety, integrity and environment plans for minerals extraction and greenhouse gas storage activities in Commonwealth waters.

AMSA will work with NOPSEMA to develop agreed arrangements to review Oil Spill Contingency Plans. The procedural framework supporting the agreed arrangements will be developed by RET and AMSA in consultation with DSEWPaC.

A National Offshore Petroleum Titles Administrator (NOPTA) will be established within DRET to administer titles and data relating to offshore petroleum, minerals and greenhouse gas storage activities in Commonwealth waters.

Under this model, the States and Northern Territory will be able to confer powers for the regulation of offshore petroleum activities under their respective legislation to NOPSEMA and NOPTA for coastal waters (ie up to the three nautical mile limit).

and through the development of consistent and best practice approaches to the administration of offshore petroleum regulation.

This framework will be further enhanced by the establishment of a single national regulator for offshore petroleum, mineral and greenhouse gas storage activities. The Commonwealth has announced its intention to have the single national regulator in place by January 2012.

Legislative amendments to implement this institutional reform will be introduced into the Commonwealth Parliament during the Winter sitting period from May–June 2011. The reforms reflect extensive consultation with jurisdictions, industry and NOPSA and are supported by the offshore petroleum industry

The Commonwealth has also issued a Statement of Expectations to NOPSA which sets out the Minister for Resources and Energy's expectations, as the responsible Commonwealth Minister, on matters relating to the exercise of their functions and powers under the OPGGS Act and associated regulations and principles of best practice regulatory administration.

The implementation of this recommendation will be informed by a broader consideration of all Commonwealth legislation applicable to the marine environment and offshore petroleum legislation. It will address gaps or outstanding issues in the offshore petroleum legislative regime as identified through the Montara Commission of Inquiry and other relevant reports as appropriate. This process will also have regard to the OPGGS Act and associated regulations; the EPBC Act and associated Acts; the *Protection of the Sea* Acts, the *Navigation Act 1912* and relevant international treaties.

As part of the legislative review, the Commonwealth is developing guidelines for the petroleum industry regarding the requirements for Oil Spill Contingency Plans, and also around the information requirements for offshore drilling referrals under the EPBC Act.

Report Recommendations	Commonwealth Government Response	Implementation
<p>100 Arrangements should be developed to minimise duplication between the EPBC Act and the OPGSS Act Environment Regulation.</p>	<p><i>Accepted.</i></p> <p>The Commonwealth considers that this recommendation is consistent with the Hawke Review and the Productivity Commission <i>Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector</i> (the PC Review), undertaken in 2009.</p> <p>The Hawke Review noted that streamlining should maximise regulatory efficiency while maintaining strong environmental safeguards. The PC Review noted the merit in retaining an independent decision maker of last resort, particularly in relation to matters of potential national environmental significance.</p>	<p>In May 2011, the Commonwealth released its response to the PC Review. The Commonwealth's response notes a number of initiatives progressed to date aimed at streamlining requirements between the EPBC Act and the OPGSS Act. This includes progressing strategic assessments under the EPBC Act and maintaining bilateral agreements with state and territory jurisdictions.</p> <p>Further implementation of this recommendation will be determined by the Commonwealth's response to the Hawke Review.</p>

Chapter 7 of the Montara Report

Review of PTTEP AA's Permit and Licence at Montara and Other Matters

Chapter 7 of the Report – Review of PTTEP AA's Permit and Licence at Montara and Other Matters considers the oil field practices of PTTEP AA, as the operator of the Montara Wellhead Platform, and provides views in respect of its interaction with the regulators and the Montara Commission of Inquiry. The chapter contains 5 of 105 recommendations.

Chapter 7 – Review Of PTTEP AA's Permit and Licence at Montara and Other Matters

Recommendations

Report Recommendations	Commonwealth Government Response	Implementation
101 The Minister should, as the JA for the offshore area of the Territory of Ashmore and Cartier Islands, undertake a review of PTTEP AA's permit and licence to operate at the Montara Oilfield.	<i>Accepted.</i>	In September 2010, the Commonwealth commissioned an independent assessment through two separate, complementary, consultancies: an assessment of the technical adequacy of the <i>Montara Action Plan</i> as against industry/leading practice standards; and a governance review of PTTEP AA's organisational structures, policies and procedures to ensure the effective implementation of the <i>Montara Action Plan</i> and continuous improvement by PTTEP AA in respect of operational and corporate functions. These consultancies also identified leading practice actions that will be shared with the offshore petroleum industry more generally.
102 For the purposes of that review, the Minister should issue a 'show cause' notice to PTTEP AA under s 276 of the OPGGS Act.	<i>Noted.</i> The Commissioner noted (page 11 of his Report) that shortly prior to the finalisation of his Report, PTTEP AA provided him with the <i>Montara Action Plan</i> which was comprehensive and impressive, and effectively addressed the shortcomings in PTTEP AA's operations identified by the Commissioner. The Minister has moved to address the Commissioner's findings through ongoing interaction with PTTEP AA and by directing that an independent assessment of the <i>Montara Action Plan</i> be undertaken. The Independent Assessment will provide advice to the Minister on whether the <i>Action Plan</i> , once implemented, will ensure that PTTEP AA's operational and procedural measures meet industry best practice standards. It will also identify whether PTTEP AA has the organisational culture and capability to properly implement the <i>Action Plan</i> . Evidence that PTTEP AA's <i>Montara Action Plan</i> is implementing industry best	The Independent Review concluded that the <i>Montara Action Plan</i> effectively responds to the issues identified by the Montara Commission of Inquiry and sets PTTEP AA on the path to achieving industry best practice standards for both good oil field practice and good governance. In releasing the Independent Review report on 4 February 2011, the Minister for Resources and Energy announced that he would not be issuing a 'show cause' notice to the company that could lead to the cancellation of its petroleum titles.

practice and its ongoing commitment to operational improvement will be central to the consideration of whether a 'show cause' notice is issued, as it demonstrates measures to remove or prevent recurrence of the grounds for cancellation.

The Independent Assessment of the *Montara Action Plan* does not prevent the Minister from taking further action.

This decision was conditional on PTTEP and PTTEP AA entering into a binding Deed of Agreement with the Commonwealth in which it was agreed that the *Montara Action Plan* will be implemented in full in respect of all of PTTEP Australian's operations, and that this implementation will be subject to an 18 month monitoring program undertaken by independent experts appointed by DRET.

The Deed of Agreement was signed on 22 February 2011. It formalises the implementation of the *Montara Action Plan* and the arrangements for the 18 month monitoring program, incorporating additional actions identified by the Independent Review of the *Montara Action Plan*.

On 16 March 2011, Noetic Solutions Pty Ltd was engaged by DRET to monitor the implementation of the PTTEP *Montara Action Plan*.

Should the *Montara Action Plan* not be fully completed and properly implemented, or should any other concerns arise that warrant it, the Minister is able to issue a 'show cause' notice to PTTEP AA at any time.

PTTEP will also be subject to an additional set of conditions on the renewal or future granting of offshore petroleum title applications in Australia. These conditions will ensure that good oil field and governance practices are applied by the company across its Australian operations.

Report Recommendations	Commonwealth Government Response	Implementation
<p>103 In carrying out a review of PITEP AA's permit and licence, the Minister should have regard to this Report, particularly (i) the adverse findings set out in this Chapter; and (ii) the extent to which PITEP AA has implemented the Action Plan submitted to the Inquiry, or otherwise addressed the matters canvassed in this Report.</p>	<p><i>Accepted.</i> Refer to Recommendation 102</p>	<p>Refer recommendation 102.</p>
<p>104 The Minister consider legislative amendments to the OPGGS Act which make clear that (i) the Minister can direct a titleholder to obtain an independent report into the circumstances and likely causes of a blowout; and (ii) the Minister can direct that such a report be provided to him (and such direction overrides any legal professional privilege which otherwise attaches to the report).</p>	<p><i>Noted.</i></p>	

105 In view of the numerous well integrity problems in all of the Montara Oilfield wells, the Minister should commission a detailed audit of all the other offshore wells operated by PTTEP AA to determine whether they too may suffer from well integrity problems.

Accepted.

The Commonwealth agrees that an audit of the other suspended wells at the Montara Wellhead Platform was required to ascertain the integrity of the suspended wells.

PTTEP AA has verified the integrity of the remaining wells at the Montara Wellhead Platform and these results have been confirmed by Geoscience Australia, providing the Commonwealth with confidence in the integrity of all wells at the Montara Wellhead Platform.

In addition to work undertaken with the NT DoR, on 31 May 2010 the Commonwealth requested all other Designated Authorities to undertake a number of reviews to ensure the integrity of wells, in particular the status of all completed and suspended wells since 2005, and their assessment, approvals and monitoring of offshore petroleum activities were in accord with the OPGGS Act.

All Designated Authorities have cooperated fully and provided assurances to the Commonwealth that that rigorous regulatory practice are being implemented in relation to the approval and compliance monitoring of well operation activities.

In addition the Commonwealth has issued a Statement of Expectations to the Designated Authorities and NOPSA which sets out the Minister for Resources and Energy's expectations, as the responsible Commonwealth Minister, on matters relating to the exercise of their functions and powers under the OPGGS Act and associated regulations and principles of best practice regulatory administration.

Additional Recommendations for Industry

Review of PTTEP Australasia's response to the Montara Blowout

The Department of Resources, Energy and Tourism commissioned an independent review of PTTEP Australasia's Montara Action Plan to determine whether all necessary measures have been taken to prevent any future incident like Montara.

The Independent Review also identified a series of lessons arising from the Montara incident that are relevant to the oil and gas industry. The lessons address themes within the acquisition and integration of production assets; and governance and oversight. The following chapter contains the nine recommendations and the Commonwealth's response.

Additional Recommendations for Industry – Review of PTTEP Australasia’s Response to the Montara Blowout (Noetic Report)

Recommendations

Noetic Report Recommendations	Commonwealth Government Response	Implementation
<p>1 DRET should work with industry and the Australian Petroleum Production & Exploration Association (APPEA) to develop programs to ensure greater understanding of Major Accident Events (MAE) include causes, prevention and management.</p>	<p><i>Noted.</i></p>	<p>In addition to the recommendations made by Noetic Solutions Pty Ltd in the “Review of PTTEP Australasia’s Response to the Montara Blowout” (Review Report) that were specific to PTTEP Australasia (Ashmore Cartier) Pty Ltd, the Review Report identified a series of lessons arising from the Montara incident that may have relevance to the offshore petroleum industry.</p>
<p>2 DRET should work with APPEA and other industry bodies to ensure senior executives in the industry clearly understand the distinction between auditing and performance monitoring.</p>		<p>As stated by Noetic in the Review Report, there are “few, if any, completely new lessons” for industry arising from the Montara Commission of Inquiry.</p>
<p>3 DRET should work with the industry to identify mechanisms to publish factual reports as soon as possible after an incident to assist others engaged in similar activities or using similar equipment to avoid an incident.</p>		<p>The lessons identified by Noetic reflect internationally recognised themes supporting good governance and best practices, and are to be continually considered and implemented through industry education and development by the industry, its representative bodies and governments.</p>
<p>4 DRET should work with industry and APPEA to develop mechanisms to share information on high potential incidents.</p>		<p>As the peak industry body for Australia’s offshore petroleum industry, the Australian Petroleum Production and Exploration Association (APPEA) has the capacity to issue “high potential incident alerts” to industry stakeholders as a mechanism for highlighting learnings and strategies for industry to prevent major</p>
<p>5 DRET should work with industry and APPEA to enhance the training available to personnel involved in well operations.</p>		

- 6 DRET should consider working with APEPA to promote and educate industry on matters relating to good practice in undertaking due diligence around safety, health and environment.
- 7 DRET should consider working with APEPA to promote and educate industry on matters relating to good practice in dealing with asset integration to ensure asset integrity following acquisition.
- 8 DRET should work with APEPA to improve the ability of mid to small tier companies to incorporate HSE issues into corporate planning frameworks.
- 9 DRET should work with APEPA to provide advice to industry on the use of advisory boards to enhance safety, health and environmental outcomes.

incidents. As the national offshore safety regulator, NOPSA is continuing to examine options to share information and learnings on specific safety incidents with the industry.

In addition, APEPA has established a "Montara Response Taskforce". This Taskforce has identified a number of key tasks in relation to well operations and containment; a mutual aid agreement; oil spill response and preparedness strategies and industry best practice. APEPA will be asked to ensure that the lessons identified by Noetic are incorporated as part of the Taskforce's activities.

The Commonwealth notes that elements of the Noetic recommendations specifically relating to matters around acquisition, integration and governance will be considered as part of the high level International Offshore Petroleum Regulators and Operators Summit scheduled for 10-11 August 2011.

In addition these matters will also be raised with industry as part of the 2011 APEPA Conference and Exhibition on 10-13 April 2011 and the APEPA Health and Safety Conference on 8-10 August 2011.

The Commonwealth through DRET will work with APEPA in implementing the lessons identified across the offshore petroleum industry.

Implementation Plan

Report of the Montara Commission of Inquiry and the Review of PTTEP Australasia's Response to the Montara Blowout

The Implementation Plan identifies how the recommendations arising from the *Report of the Montara Commission of Inquiry* and the *Review of PTTEP Australasia's Response to the Montara Blowout* have been; are being; or will be progressed.

Implementation Plan

Implementation of the Government's response to the *Report of the Montara Commission of Inquiry* will provide operational direction for industry and will establish a regulatory framework for approval and compliance monitoring by regulators. Implementation will require significant and sustained efforts over several years by governments, industry and regulators.

A significant number of recommendations are already being implemented by the Commonwealth, the Northern Territory Designated Authority and industry. It will be undertaken by different Government agencies, and will also involve the engagement of state/Northern Territory agencies.

In addition to the *Report of the Montara Commission of Inquiry* the Government has undertaken to implement the lessons for the offshore petroleum industry as identified through the independent review of PTTEP Australasia's *Montara Action Plan* (the *Review of PTTEP Australasia's Response to the Montara Blowout*). The Independent Review, undertaken by Noetic Solutions Pty Ltd, made nine recommendations covering the acquisition and integration of production assets, and governance and oversight (refer Appendix 2). The Minister for Resources and Energy, the Hon Martin Ferguson AM MP, tabled the Independent Review report in Parliament on 4 February 2011.

This Implementation Plan identifies how the recommendations arising from the *Report of the Montara Commission of Inquiry* and the Independent Review of PTTEP Australasia's *Montara Action Plan* have been; are being; or will be progressed.

Implementation of the Government's response includes a suite of initiatives that involve potential amendments to legislation and improvements to strengthen and clarify the administrative and operating practices of the regulator and the offshore petroleum industry. Recommendations are addressed against the following key themes:

1. Regulatory Regime
2. Regulator Operating Practices
3. Response Arrangements
4. Environmental Management
5. *Review of PTTEP Australasia's Response to the Montara Blowout*; and
6. Additional Recommendations.

Key implementation activities, and timing, for these themes are addressed below.

1. Regulatory Regime

Recommendations: 2; 23-26; 28; 44; 48; 66; 68; 71-72; 79; 83; 88-89; 91-92; and 95-97.

The Government will:

- Review all Commonwealth legislation applicable to the marine and offshore petroleum environment to strengthen the marine and offshore petroleum legislative frameworks to ensure a comprehensive, consistent approach to the regulation of petroleum activities in Commonwealth waters.
- Develop and implement a model that ensures an appropriate cost sharing framework between shipping and marine industries relating to incident response and preparedness.

Timing: To be completed by the end of June 2012.

2. Regulator Operating Practices

Recommendations: 5-9; 14; 16-18; 19; 22-35; 39-44; 48-51; 69; 81-83; and 89-90.

The Government will:

- Clarify and strengthen the robustness of the current regulatory regime through the actions of regulators for offshore petroleum activities, in discharging their regulatory obligations by:
 - Strengthening the framework for engagement between regulators and the offshore petroleum industry in responding to a future offshore petroleum incident.

Timing: To be completed by June 2012

- Developing a National Legislative Compliance Framework that will clarify and strengthen the role of the regulator for offshore petroleum activities through the development of a consistent and best practice approach in discharging their regulatory responsibilities.

Timing: To be completed by December 2011

- Continuing with the establishment of a national offshore petroleum regulator for Commonwealth waters (beyond the three nautical miles from the territorial sea baseline) – the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA). NOPSEMA will assume responsibility for environmental approvals, including oil spill contingency plans under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*. NOPSEMA will also regulate safety, integrity and environment plans for minerals extraction and greenhouse gas storage activities in Commonwealth waters:
 - The states/Northern Territory will have an ability to confer power, under their respective legislation, to NOPSEMA for the regulation of offshore petroleum activities in coastal waters.
- Continuing with the establishment of a separate titles administrator, the National Offshore Petroleum Titles Administrator (NOPTA) within the Department of Resources, Energy and Tourism. It will administer titles and data relating to offshore petroleum, minerals and greenhouse gas storage activities in Commonwealth waters.
 - The states/Northern Territory will have an ability to confer power, under their respective legislation, to NOPTA to undertake titles administration for offshore petroleum titles in coastal waters.

Timing: To be completed by January 2012

3. Response Arrangements

Recommendations: 81; 84-86; and 94

The Government will:

- Establish an incident management and coordination framework that is specific to an offshore petroleum incident in Commonwealth waters and that provides a transparent communication strategy, including communication with the public.

Timing: To be completed by April 2012

- Clarify the roles and responsibilities in responding to an offshore petroleum incident under Australia's *National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substance* (the National Plan).
- Review Australia's National Plan to ensure appropriate risk management and emergency response strategies are in place and that equipment is appropriately placed.

Timing: The Review of Australia's National Plan is to be completed by the end of 2011.

4. Environmental Management

Recommendations: 86-93 and 95-100

The Government will:

- Strengthen the environmental protection regime for Commonwealth waters, through the legislative regime and the review of the National Plan:
 - This will also take into consideration other regulatory obligations, such as those required under the *Environmental Protection and Biodiversity Conservation Act 1999*.
- Clarify the cost of responding to an oil spill, or other damages to the offshore and broader environment will be totally met by the owner/operator responsible for the offshore petroleum activity through the 'polluter pays' principle.

Timing: To be completed by the end of June 2012

- Establish "off the shelf" scientific environmental monitoring programs that can be speedily implemented during a response to an offshore petroleum incident.

Timing: To be completed by the end 2012.

5. Review of PTTEP Australasia's Response to the Montara Blowout

In addition to the findings and recommendations made by Noetic Solutions Pty Ltd in the *Review of PTTEP Australasia's Response to the Montara Blowout* (Review Report) that were specific to PTTEP Australasia (Ashmore-Cartier) Pty Ltd, the Review Report identified a series of lessons arising from the Montara incident that potentially have relevance to the offshore petroleum industry.

The lessons and corresponding recommendation address themes within the acquisition and integration of production assets; and governance and oversight. The Review Report specifically tasks the Department of Resources, Energy and Tourism (DRET) with taking forward the nine recommendations with industry participation through the Australian Petroleum Production and Exploration Association (APPEA).

Timing: *August 2011 and ongoing:* The Department of Resources, Energy and Tourism will consider the elements of these recommendations specifically relating to matters around acquisition, integration and governance, as part of the high level International Offshore Petroleum Regulators and Operators Summit scheduled for 10-11 August 2011.

6. Additional Recommendations

There are a number of recommendations that are specific to the offshore petroleum industry; that have been completed that the Government has agreed to "Note" or are "Not accepted")

Offshore Petroleum Industry

Recommendations: 4; 11-13; 15; 21; 36-37; 45- 47; 52-63; and 65

It is appropriate that the offshore petroleum industry carefully consider adopting those recommendations, which are not already addressed of accepted industry practice, that relate to operating matters specific to the industry.

Completed Actions

Recommendations: 1; 67; 73-76; 101; 103; and 105

A number of Recommendations has been identified as having been addressed by the Government or are currently being implemented through the Government's upstream petroleum regulatory reform agenda.

Noted Recommendations

Recommendations: 3; 10; 64; 70; 77-80; 102; and 104

These recommendations have been noted by the Government as not requiring further action or implementation as they relate to actions or information that are already required by the existing regulatory regime, or are considered to be primarily operational matters for industry.

Not Accepted Recommendations

Recommendations: 8; 20; and 38

The three recommendations not accepted are considered technically inappropriate, may potentially compromise safety, or are factually incorrect.

Appendix 1 to the Final Commonwealth Government Response

Stakeholder Consultation

Provides a summary of stakeholder submissions on the Commonwealth's draft response to the *Report of the Montara Commission of Inquiry*

Appendix 1 to the Final Commonwealth Government Response

Stakeholder Consultation

Summary of stakeholder submissions on the Commonwealth's draft response to the *Report of the Montara Commission of Inquiry*

Seventeen submissions, three of which were confidential and one which was considered as not relevant, were received from a range of stakeholders including governments, industry, environmental representatives and the community. The remaining thirteen non-confidential submissions that made substantive comments on the draft response are available at www.ret.gov.au/montarainquiryresponse.

The comments received from stakeholders have been considered carefully in the development of the Commonwealth's final response to the *Report of the Montara Commission of Inquiry*.

	Stakeholder	Sector
1.	Mr Wayne Needoba, Managing Director, Labrador Holdings WA Pty Ltd	Community
2.	ExxonMobil Australia	Industry
3.	WWF-Australia	Environmental
4.	Australian Marine Oil Spill Centre Pty Ltd (AMOSC)	Industry
5.	Plexus Ocean Systems (Malaysia) Sdn Bhd	Industry
6.	Australian Institute of Marine Science (AIMS)	Government
7.	Northern Territory Government	Government
8.	Australian Network of Environmental Defender's Offices (ANEDO)	Environmental
9.	Australian Petroleum Production and Exploration Association Ltd (APPEA)	Industry Body
10.	Western Australian Department of Mines and Petroleum (WA DMP)	Government
11.	Environs Kimberley	Environmental
12.	Chevron Australia	Industry
13.	West Timor Care Foundation	Environmental

The submissions presented by *government* indicated support for a minimum of two or more barriers being adopted and noted that the removal or installation of barriers was assessed on a case-by-case basis.

The Northern Territory Department of Resources (NT DoR) provided a whole of NT Government response outlining the actions undertaken by the Commonwealth and the NT (as already publicly noted) and reiterating its position that at "all material times there was no formal arrangement stipulating the manner in which the position of Director of Energy was to account to the Commonwealth in relation to the performance of the functions as the Commonwealth's delegate".

The Western Australian Department of Mines and Petroleum (WA DMP) made several comments relating to the National Offshore Petroleum Safety Authority (NOPSA)'s approval or compliance checking of the safety case, expressing some criticism that these matters were not considered by the Montara Commission of Inquiry. WA DMP did not support Recommendation 37 relating to contractor liability, and suggested that minimum standards in relation to drilling operations be identified and adhered to by all parties.

Submissions received from *industry* demonstrated broad support for the Commonwealth's draft response and outlined detailed information regarding industry operating practices in a number of areas including clearly articulated "Management of Change" processes and procedures; well barrier design and operations management; and accepted industry procedures, practices and commitment to the application of best practice.

Industry however sought further clarification regarding the Commonwealth's position on Well Operations Management Plans, well integrity hazards and 'worst-case' scenario planning, and recommended that the Commonwealth amend its draft response to not accept Recommendations 2,3,4,16,17,18,25,26,28,37,40 and 56. Industry noted that the licensee (not the rig operator or contractor) is responsible for the well design, including installation of barriers, and there are many practical examples where barriers are installed or removed offline. Submissions also indicated that the logistics team is not the appropriate party to assess the adequacy of well management (or well design) as suggested by the Commissioner in Recommendation 56. Industry also reiterated that any change brought forward in the definition of 'good oil field practice' should not diminish from the objective-based regulatory regime.

In its submission, the Australian Petroleum Production and Exploration Association (APPEA), as the peak industry body representing Australia's offshore oil and gas industry, noted that through the APPEA Montara Response Taskforce, the industry has developed:

- A Self-Audit Tool for Management of Well Operations;
- A draft Memorandum of Understanding around Mutual Aid;
- An agreed position for Australian Industry on Cap and Containment; and
- Oil Spill Preparedness and Response Improvement Strategies.

APPEA also noted that the offshore petroleum industry acknowledges that it must be able to demonstrate its leadership and commitment to achieving the highest standards if it is to retain its social license to operate and achieve strong public confidence in its operations.

The *environmental representatives* while supporting the objective-based regulatory regime recommended that it be supported with minimum standards for well operations and barriers (set in legislation), including reiterating a minimum two barrier well control configuration, cementing

standards, drilling standards, and well trained and qualified industry and government personnel to implement more robust auditing and compliance/integrity testing. Furthermore, WWF in its submission recommended that the Commonwealth should review and approve industry training programs and establish well control competency standards.

Community stakeholders provided an opinion on the causes of the spill, and suggested that industry could fund the modelling of geological complexities and their impact on barrier quality in regards to well control, matters which the Commonwealth considers are appropriate for the offshore petroleum industry to consider.

Chapter 4 The Regulatory Regime: Well Integrity and Safety

The submissions presented by *government* varied. The NT DoR indicated support for the establishment of a single national regulator. However, the WA DMP did not support Recommendations 73,74,75 and 76(c) and suggested that the establishment of a national offshore petroleum regulator contradicts the evidence presented by the Report. WA DMP did not support Recommendation 69, noting that initial verbal approval is sufficient for the regulator to be satisfied that the changes to the well bore will occur without incident, followed up with a written request as soon as reasonably practicable (usually within 6-8 hours). WA DMP notes that NOPSA should be the regulator for all well integrity matters, and does not support any amendment of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act) to enable Designated Authorities to be given direction by the Commonwealth Minister as to their regulatory performance.

Submissions received from *industry* indicated support for the objective-based regulatory regime, noting that this approach encourages continuous improvement by industry. Submissions provided information on agreed industry practice relating to situations where collaboration with the regulator was required. APPEA noted that the regulator should be accountable through a governance board, and that a change/management transition plan developed jointly by industry and government would assist in smoothing the transition to the new regulatory arrangements under the National Offshore Petroleum Safety and Environmental Management Authority. Industry recommended the draft response be amended to not accept Recommendation 67 to reflect that in some circumstances, the whole purpose of a well activity is to address a well integrity hazard.

The *environmental representatives* expressed support for the objective-based regulatory regime. However, Environs Kimberley recommended that a combination of both prescriptive and objective-based regulation be implemented, which is supported by a clear definition of 'sensible oil field practice' and consistent application of the term 'good oil field practice' to recognise that the regulatory framework is only as effective as the compliance regime. Environs Kimberley expressed support for the establishment of a national offshore petroleum regulator that is empowered to enforce a clearly defined regulatory framework and is adequately resourced to do so, and supported the Commonwealth's commitment to consider improving the penalty regime for pollution of Commonwealth waters.

Chapter 5 Arresting the Blowout

In respect of the submissions received by *government*, the WA DMP made comments regarding Recommendations 78 and 83, suggesting that these recommendations should not be supported as the consideration of options for arresting the blowout should be the responsibility of the operator, and that NOPSA, "not the regulator", should pre-assess available options for well control.

Submissions received from *industry* indicated support for the need for clarity in respect of incident response management and co-ordination when responding to an offshore petroleum incident. Industry

also emphasised the importance of an integrated industry/government response team supported by sufficient resources for response personnel. Submissions noted that the offshore petroleum industry is committed to contributing to Tier 2 regional spill clean-up response capability and maintaining a Tier 3 oil spill clean-up equipment stockpile under the management of the industry-funded Australian Marine Oil Spill Centre (AMOSOC). Industry recommended the Commonwealth's draft response be amended to not accept Recommendations 78 and 82, which in the view of industry have recommended a change in the accountability and roles of regulators versus operators.

The *environmental representatives* noted the parallels between the Montara and *Deepwater Horizon* incidents and recommended that an appropriate penalty regime be established.

Chapter 6 Environmental Response

The submissions presented by *government* agreed to the Commissioner's recommendation to make environment plans publicly available in full, provided issues around commercial confidentiality were addressed. The NT DoR promoted an environmental security bond or the establishment of a contingency fund as possible mechanisms to address costs associated with preparedness and responsible capabilities. Submissions noted that specific responsibilities for key roles in oil spill response should be documented in Australia's *National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances* (National Plan), and take into consideration the mobile nature of oil slicks in that they often involve multiple jurisdictions.

The WA DMP in its submission noted that, as Western Australia has the highest level of offshore oil and gas activity in Australia, equipment stockpile locations in WA should form part of the 2011 Review of the National Plan being undertaken by the Australian Maritime Safety Authority to ensure that equipment and resources are strategically placed and are readily accessible where most needed. WA DMP did not support Recommendations 98 and 99 which in the view of WA DMP add regulatory burden and duplication to the approvals process.

Submissions received from *industry* indicated in principle support for the equitable cost-sharing proposal and support for a risk-based approach to determining the appropriate level of contribution. Submissions noted that the responsibility for meeting costs incurred in the clean-up of an offshore petroleum incident rests with the facility operator, and requested clarification of the legislative position around this and associated insurance and liability issues as well as the scope and application of the 'polluter pays' principle.

APPEA in its submission noted the work of the industry in establishing an Oil Spill Preparedness and Response Focus Team to advise the APPEA Board on industry's response to the Montara and Macondo incidents. The Focus Team is also liaising with the International Oil and Gas Producers Forum on international developments in this area. Some of APPEA members are also working on the development of a Scientific Monitoring Program for the Prelude floating liquefied natural gas project.

The Australian Marine Oil Spill Centre (AMOSOC) noted that the oil and gas industry supports a minimum requirement for response capacity and capability to be identified in contingency plans, and implemented and resourced by the industry in the event of an incident. AMOSOC also noted that the oil industry has well established mutual aid arrangements with other oil spill response organisations around the world that have been operationalised so mutual aid can be provided at short notice, with pre-agreed arrangements to manage liabilities and costs. AMOSOC also pointed to the training programs provided by industry to maintain personnel competency in oil spill response.

The *environmental representatives* requested that the Commonwealth in its final response acknowledge the current Marine Bioregional Planning process and support the establishment of a network of

"highly" protected marine parks. Submissions also recommended that a comprehensive risk assessment of the offshore petroleum industry be undertaken to indicate any high conservation areas and values as a matter of priority, and suggested that requirements for sufficient baseline information be extended to include exploratory drilling activities near sensitive marine environments. Submissions also suggested that the distinction between operational and scientific monitoring be removed in the National Plan to give equal status to both types of monitoring.

WWF Australia throughout the submission expressed concern that some of the recommendations and the draft response appear to rely too heavily on industry-led programs where industry "... is handed the reins to write their own rules".

The submission from the West Timor Care Foundation (WTCF) focused specifically on Recommendation 86 and included unverified new data concerning the impact on West Timor which it stated has been independently collected by the WTCF, but was not available in its original submission to the Montara Commission of Inquiry. The WTCF noted concerns that the implementation identified in the draft response does not address "marine casualties and pollution by oil and hazardous noxious substances" beyond Commonwealth waters, and noted several additional areas that were not addressed in the draft response, including evidence of oil and dispersants in Indonesian waters resulting from the Montara incident that occurred in Australian waters; the decision to use Corexit 9500 in addition to other dispersants and its impact on environment, health and economic livelihoods of people; and Australia's obligations under the United Nations Convention on the Law of the Sea.

The Australian Institute of Marine Science (AIMS) made specific comments in relation to Recommendations 88-93, and suggested that further discussion between the linkages of the "off the shelf" monitoring plans and baseline data should be undertaken. AIMS recommended that baseline assessments and scientific monitoring be developed in tandem, and that the distinction between operational and scientific monitoring should be removed from the National Plan to give both types of monitoring equal status.

AMOSOC made specific comments in relation to Recommendations 86-100. AMOSOC supported the need for clear guidelines for the exercise of powers and responsibilities for managing and coordinating a response to an offshore petroleum incident, as well as incident preparedness and monitoring, and noted the need for clarity of the legislative position around clean-up costs, insurance and no-fault liability. AMOSOC supported a minimum Tier 1 standard for equipment requirements at each operational facility that reflect the appropriate risk factors, and noted that the oil industry is committed to contributing to Tier 2 regional spill clean-up response capability and maintaining a Tier 3 oil spill clean-up equipment stockpile under AMOSOC management. AMOSOC expects that industry mutual aid agreements (including international agreements) will be activated in the event of an incident. AMOSOC also emphasised the importance of appropriate competency-based training.

Community stakeholders noted that the draft response addresses the numerous issues raised in submissions made to the Montara Commission of Inquiry, and suggested that further discussion between the linkages of the "off the shelf" monitoring plans and baseline data needs to be undertaken so that both baseline assessments and scientific monitoring can be developed in tandem.

APPEA's submission on behalf of *industry* noted that any attempt to diminish legal professional privilege in relation to reporting into the causes of well blowouts should be resisted as decision makers in the offshore petroleum industry need the benefit of professional legal assistance free from the apprehension of disclosure. Industry recommended a change in the draft response to not accept Recommendation 104 and resist any attempt to diminish legal professional privilege.

The Australian Network of Environmental Defender's Offices (ANEDO) submission on behalf of *environmental representatives* raised concerns with the decision of the Minister for Resources and Energy not to issue a 'show cause' notice to PTTEP Australasia (Ashmore Cartier) Pty Ltd (PTTEP AA), and suggested that the Minister should cancel the company's Montara production licence or suspend the licence until the requisite remedial action has been taken. ANEDO also suggested cancelling all other production licences held by PTTEP AA to send a message to other oil field operators.



Australian Government