

NOPSEMA Statutory Review

Terms of Reference

Legislative context

Under section 695(1) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the Act) the responsible Commonwealth Minister must cause to be conducted a review of the operation of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).

The Act requires that the review will relate to the 5-year period of 1 January 2020 to 31 December 2024.

Timeframes

The Review will commence on the date that is announced by the responsible Commonwealth Minister and be completed within six-months of this date.

Roles and responsibilities

The review will be led by a Head of Review appointed by the responsible Commonwealth Minister, supported by a Secretariat within the Department of Industry, Science and Resources. The Head of Review will be responsible for leading the reviews and delivering the findings and recommendations to the Government.

Purpose and scope

The review of operations of NOPSEMA comes at a time where the adaptability of the regulator to a rapidly changing economic, technological and regulatory environment is critical. This is particularly important given the significance of the resources sector to the Australian economy and the role it will play in achieving net zero. The review will provide government with an opportunity to consider whether NOPSEMA is operating effectively and appropriately equipped to manage current and emerging challenges.

In accordance with section 695 of the Act, the review of operations of NOPSEMA must include:

1. An assessment of the effectiveness of NOPSEMA in bringing about improvements in:
 - a. The occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations.
 - b. The structural integrity of facilities, wells and well-related equipment.
 - c. Offshore petroleum environmental management.
 - d. Offshore greenhouse gas storage environmental management.

In the context of the Act and regulations, including the legislated functions of NOPSEMA across both petroleum and greenhouse gas functions, this review will consider, assess and provide recommendations in relation to:

2. The efficiency and effectiveness of NOPSEMA's application, assessment and approvals processes, including:
 - a. Regulatory approval timeframes, including internal systems and procedures to support timely decision-making and any bottlenecks or inefficiencies.

- b. How regulatory approvals are progressed and managed, including application tracking, documentation and record-keeping practices and decision-making.
 - c. Knowledge sharing, training and assurance procedures and whether these are sufficient to support consistent and timely decision-making.
 - d. Opportunities for process improvement to support efficient and transparent regulatory outcomes.
- 3. The extent to which NOPSEMA's interpretation and exercise of its legislative powers aligns with the intent of the Act. This is to consider NOPSEMA's:
 - a. Interpretation of its legislative power and how this influences its approach, including whether there is scope for greater flexibility while maintaining its regulatory requirements under the Act.
 - b. Understanding of how its advice and expertise informs broader policy and decision making, including to support the Government achieve its objectives.
- 4. The effectiveness of NOPSEMA's compliance, monitoring and enforcement activities in line with its legislative remit for these activities and considering:
 - a. How compliance, monitoring and enforcement activities have been conducted during the review period.
 - b. The effectiveness of compliance, monitoring and enforcement activities and reporting mechanisms, including the process for notifying the responsible Commonwealth Minister (where relevant) and the Commonwealth Director of Public Prosecution.
 - c. The appropriateness and effectiveness of systems in place to support compliance and enforcement measures and any adjustments necessary for continuous improvement.
 - i. This should consider the process in place with NOPTA to report matters of compliance to NOPSEMA.
 - d. NOPSEMA's proactiveness in taking compliance and enforcement action, including any factors that may limit or deter NOPSEMA from responding effectively to non-compliance matters identified by NOPSEMA or by NOPTA.
- 5. The capacity and capability of NOPSEMA, including whether it has the right resources, expertise, staffing and organisational structure to respond to varying levels of industry activity, support the policy functions and strategic priorities of government and to address new technologies and other emerging issues. This should consider:
 - a. How NOPSEMA's resourcing, expertise and structure enables it to meet government expectations on key issues.
 - b. Any opportunities to improve efficiencies across NOPSEMA.
- 6. How NOPSEMA has responded and adjusted its practices following court cases and legislative and regulatory amendments, such as the Offshore Petroleum and Greenhouse Gas (Safety) Regulations 2024, *Offshore Petroleum and Greenhouse Gas Storage Amendment (Titles Administration and Other Measures) Act 2021* and the Offshore Petroleum and Greenhouse Gas (Environment) Regulations 2023.
- 7. The appropriateness of NOPSEMA's approach to risk identification and management, including if NOPSEMA's risk tolerance settings influence the exercise of its functions and engagement across the broader government. This should also consider:
 - a. NOPSEMA's approach to risk management in relation to oil spill preparedness and processes to ensure companies are appropriately equipped to respond if necessary.

- b. NOPSEMA's approach to risk management in relation to ongoing legal proceedings.
- 8. The effectiveness of NOPSEMA's communication and co-operation with other government regulators, NOPTA, as well as other Commonwealth agencies and organisations on matters related to the administration and enforcement of the Act and its associated regulations. This should consider:
 - a. The organisational culture of NOPSEMA and the extent to which this impacts its interactions across government.
 - b. How this impacts and supports regulatory and policy outcomes, broader policy development by government and decision-making processes.
- 9. The effectiveness of NOPSEMA's communication, engagement and relationships with external stakeholders, including but not limited to state and territory governments, oil, gas, greenhouse gas industries and First Nations stakeholders. This should consider how NOPSEMA:
 - a. Conveys information to stakeholders, including making information publicly available to stakeholders and the community and the ease of use and accessibility of the information.
 - b. Contributes to and maintains community confidence through its engagement activities.
 - c. Responds to community concerns and other matters within an appropriate timeframe and ensuring the department and/or the Responsible Commonwealth Minister are aware of these matters in a timely manner.
 - d. The transparency of NOPSEMA's regulatory assessment processes, monitoring, compliance and enforcement activities to maintain community confidence that these processes are undertaken with appropriate regulatory oversight.
 - e. Collaborates internationally to improve its regulatory practices.
- 10. The provision of information and advice to the relevant Joint Authority (where applicable) and/or the responsible Commonwealth Minister and/or NOPTA on compliance, monitoring and enforcement and other related matters. This should consider:
 - a. Whether the scope, method and efficiency of the information provided meets needs of the end user and aligns with the broader government policies (where relevant).
- 11. The suitability of current cost recovery arrangements outlined in the current Cost Recovery Impact Statement, to determine whether the levies and fees collected by NOPSEMA are adequate to support NOPSEMA in performing its functions. This should also consider:
 - a. Opportunities where NOPSEMA can reduce its operating costs, increase efficiencies across the organisation and streamline functions to reduce the financial burden on industry.
 - b. The utilisation and allocation of cost recovery funds over the review period.
- 12. The role and functions of the NOPSEMA Board and the skills and experience of Board members, to determine whether the current structure is the best mechanism to support its CEO and the responsible Commonwealth Minister in performing their functions under the Act. This should also consider:
 - a. The appropriateness, role and function of an advisory board to support NOPSEMA.

Out of scope

- NOPSEMA's role in the regulation of offshore infrastructure under the *Offshore Electricity Infrastructure Act 2021*.

- NOPSEMA's progress in achieving the objective of the Endorsed Program Report under the *Environment Protection and Biodiversity Conservation Act 1999*.

Related matters

The review should have regard to the findings of related reviews including the:

- Future Gas Strategy .
- 2020 Independent review into the circumstances leading to the administration and liquidation of Northern Oil and Gas Australia.
- 2020 Productivity Commission review into resources sector regulation.
- Relevant Senate inquiry reports from the review period.
- 2020 review of operations of NOPSEMA.
- 2015 review of operations of NOPSEMA.
- Relevant government responses to previous statutory reviews.
- Relevant court judgements relating to NOPSEMA during the review period.
- 2014 ANAO Report in the Establishment and Administration of NOPSEMA.