

Independent Audit of NOPSEMA's Consideration of Exploration in the Great Australian Bight: DISER Implementation Report

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Introduction

In September 2019, then-Australian Chief Scientist, Dr Alan Finkel, released the Independent Audit of NOPSEMA's Consideration of Exploration in the Great Australian Bight¹. The audit found the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA):

- to be a highly skilled, professional and competent regulator;
- has appropriate processes, procedures and guidance material in place to meet its regulatory requirements under the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (Environment Regulations); and
- has appropriate processes and practices to ensure environment plans are assessed against relevant and complete scientific and technical information.

The audit also outlined opportunities for industry, the regulator and governments to further build community assurance. NOPSEMA has responded to the opportunities specific to its regulatory responsibilities². The opportunities identified for the Australian Government are:

The Commonwealth Government could ensure documents and information from government organisations on which NOPSEMA and titleholders rely are maintained and kept up-to-date to reflect current and emerging science.

Governments could better explain to the public how the offshore industry is regulated and governed. This would help create a greater understanding of the low probability of risks eventuating.

Governments could better promote, and publish, how a response will be coordinated in the event of an oil spill, including where a spill crosses jurisdictional boundaries.

Governments could consider options to improve the transparency of the measures proposed by a titleholder to reduce the risk of an oil spill.

The Department of Industry, Science, Energy and Resources (DISER) continues to work with NOPSEMA, other government agencies and stakeholders to address the opportunities identified by the audit. The measures are reviewed regularly to ensure continuous improvement.

Working to increase the community's understanding of, and confidence in, the offshore petroleum regulatory framework is a key priority for the department. The audit identified a number of areas for Government to focus on. These include the gaps in public understanding of how the regulatory framework manages risks to the environment and how the industry is regulated throughout the lifecycle of an activity.

¹ www.industry.gov.au/data-and-publications/independent-audit-of-nopsemas-consideration-of-exploration-in-the-great-australian-bight.

² www.nopsema.gov.au/sites/default/files/documents/2021-03/A691851.pdf.

Summary of key actions

The department has implemented a number of measures to contribute to increased community understanding and confidence in the offshore petroleum regulatory framework.

These measures include:

- Amendments to the Environment Regulations, effective 25 April 2019, to require:
 - A mandatory 30-day public comment period for environment plans related to seismic surveys or exploratory drilling activities prior to assessment.
 - The publication of environment plans when submitted for assessment and again on acceptance by NOPSEMA.
- Community information sessions held in South Australia and New South Wales. These enabled the public to speak with government agency representatives about regulating offshore activities and responding to oil pollution emergencies.
- Participation in the Transparency Taskforce³ chaired by NOPSEMA. It included stakeholders from industry, state and territory governments, environmental non-government organisations (NGOs) and fishing industry representatives. The Taskforce delivered on its intended outcomes for transparency reforms to:
 - contribute to improving community confidence in the offshore petroleum environmental approvals process;
 - lifting industry performance through facilitating the sharing of knowledge;
 - assisting with community acceptance; and
 - building a better understanding of offshore petroleum activities.
- Significant restructure of the department's website. This included a comprehensive review of the offshore regulatory framework webpages to ensure the content is relevant, discoverable and accessible.
- Publication of the updated Offshore Petroleum Incident Coordination (OPIC) Framework⁴ on the department's website. The OPIC Framework outlines the Government's role and responsibilities in the rare event of an offshore petroleum incident in Commonwealth waters.
- Production of a factsheet on the OPIC Framework, distributed to delegates at events including the 2019 Spillcon Conference and 2019 APPEA Oil and Gas Conference.

³ www.nopsema.gov.au/community-resources/engagement-and-transparency.

⁴ www.industry.gov.au/data-and-publications/offshore-petroleum-incident-coordination-framework.

- Regular participation in industry-led simulated offshore oil spill response exercises in order to:
 - build capability to respond to an incident; and
 - educate companies on how Government actions will be coordinated.
- Improved consultation processes relating to the annual Offshore Petroleum Exploration Acreage release, including:
 - increased transparency with the release of public consultation comments received in relation to proposed areas for release; and
 - an improved targeted stakeholder list to better promote the annual public consultation period to interested community members.
- Detailed public submissions to Senate inquiries relevant to key social, economic and environmental elements of the offshore petroleum regulatory framework.

Response to individual findings and opportunities identified for Government

The department's responses to the Chief Scientist's individual findings and opportunities relevant to Government are outlined below. Details about the measures the department has implemented or is currently undertaking are provided.

Finding 12

A number of documents that NOPSEMA and titleholders are required to take into account as part of environment plan drafting and assessment are managed by other government agencies external to NOPSEMA. These agencies are responsible for updating this information at regular intervals and there is a possibility that some documents are not up-to-date.

NOPSEMA has demonstrated it is aware these documents contain potentially outdated information and the audit team is satisfied NOPSEMA has appropriate processes and practices in place to ensure environment plans reference complete scientific and technical information, including additional up to-date information as required, and that this information is used appropriately in its assessment and decision-making process. The audit team is satisfied the potentially outdated plans do not limit NOPSEMA's process for assessment and decision-making consistent with the Environment Regulations.

Opportunity

The Commonwealth Government could ensure documents and information from government organisations on which NOPSEMA and titleholders rely are maintained and kept up-to-date to reflect current and emerging science.

DISER Response

DAWE documents and information relevant to offshore petroleum activities

The department continues to engage with the Department of Agriculture, Water and the Environment (DAWE) to assist with identifying relevant documents and information that may require updating. For example:

- **Conservation Values Atlas⁵:** An interactive web-based tool to support the implementation of Marine Bioregional Plans which incorporates:
 - a range of national data on Australia's marine environment; and
 - specific information on the location and area of important marine habitats and other conservation values in the marine regions.

DAWE undertook a significant review of the Conservation Values Atlas in September 2020 and regularly updates the tool as new information becomes available.

- **Species Profile and Threats Database⁶:** Provides statutory, biological and ecological information on listed threatened, migratory and marine species, and threatened ecological communities, protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). DAWE compiles the information from a range of sources and it contains all current national recovery plans and conservation advices. All names, listing status and statutory document citations and links are quality assured and kept up-to-date.
- **EPBC Act Policy Statement 2.1 – Interaction between offshore seismic exploration and whales: Industry Guidelines⁷:** The guidelines aim to minimise the likelihood of injury or hearing impairment of whales and other large cetaceans. DAWE is reviewing the guidelines to:
 - identify and incorporate new scientific literature related to anthropogenic noise;
 - develop a contemporary understanding of the impacts of anthropogenic noise on whales; and
 - assess whether the mitigation and avoidance strategies outlined in the guidelines reflect current scientific information, technological developments and international best practice.
- **Recovery plans for listed threatened species and ecological communities⁸:** A recovery plan aims to maximise the long term survival of a threatened species or ecological community in the wild. The Australian Government Minister for the

⁵ [www.environment.gov.au/marine-bioregional-plans/conservation-values-atlas](http://www.environment.gov.au/marine/marine-bioregional-plans/conservation-values-atlas).

⁶ www.environment.gov.au/cgi-bin/sprat/public/sprat.pl.

⁷ www.environment.gov.au/epbc/publications/epbc-act-policy-statement-21-interaction-between-offshore-seismic-exploration-and-whales.

⁸ www.environment.gov.au/biodiversity/threatened/recovery-plans.

Environment may make or adopt and implement recovery plans under the EPBC Act. The process for making or adopting a recovery plan includes:

- consulting with state and territory governments and the public; and
- considering expert advice from the Threatened Species Scientific Committee.
- **Conservation advices for listed threatened species and ecological communities⁹:** Provide guidance on immediate recovery and threat abatement activities that can be undertaken to ensure the conservation of a newly listed species or ecological community. Under the EPBC Act, the Australian Government Minister for the Environment must ensure that there is an approved conservation advice for a listed threatened species or ecological community at all times whilst it is listed.
- **Threat abatement plans¹⁰:** Provide the research, management, and any other actions necessary to reduce the impact of a listed key threatening process on native species and ecological communities. Under the EPBC Act, the Australian Government Minister for the Environment may make or adopt and implement threat abatement plans. The EPBC Act requires a review of a threat abatement plan at least every five years.

DAWE's digital uplift to improve environmental data availability

The department continues to monitor the progress of DAWE's planned significant digital uplift. The digital uplift aims to improve the availability of data and analytics to end users.

The department also continues to work with other government agencies to identify relevant documents and information requiring immediate or ongoing updates, including:

- the Australian Institute of Marine Science (AIMS)
- the Commonwealth Scientific and Industrial Research Organisation (CSIRO)
- the National Environmental Science Program (NESP)
- Geoscience Australia (GA)

Queries regarding the process and anticipated timing for updating the above documents, information and tools should be directed to the relevant government agency.

Finding 15

There is a role for governments and their agencies to better explain, on a continuous basis, how the regulatory regime manages risks to the environment. The audit team's consultation sessions indicated communities wanted more information on the measures in place to prevent an oil spill and the response plan if a spill occurs.

⁹ www.environment.gov.au/biodiversity/threatened/conservation-advice.

¹⁰ www.environment.gov.au/biodiversity/threatened/threat-abatement-plans.

Opportunity

Governments could better explain to the public how the offshore industry is regulated and governed. This would help create a greater understanding of the low probability of risks eventuating.

DISER Response

Community information sessions on how the government regulates offshore petroleum activities

In 2018-19, the department held targeted information sessions in communities near to proposed offshore petroleum activities. Their purpose was to increase public awareness and understanding of how the government regulates offshore activities and manages potential impacts and risks to the environment. The sessions enabled the public to meet with representatives from government agencies with a role in regulating resources activities and responding to oil pollution emergencies in Commonwealth waters.

DISER website restructure

In 2019, the department completed a significant restructure of its website. This included a comprehensive review of the offshore regulatory framework webpages to ensure the content is relevant, discoverable and accessible.

Publicly available research on the impacts of offshore petroleum activities

The Government supports research into the impacts of offshore petroleum activities on marine animals and the marine environment. Robust research will better enable predictions of potential impacts and inform evidence-based regulatory assessments and policy development. This research is delivered by a suite of agencies and mechanisms, including:

- the Australian Institute of Marine Science (AIMS)
- the Commonwealth Scientific and Industry Research Corporation (CSIRO)
- the National Environmental Science Program (NESP)
- Geoscience Australia (GA)
- the Fisheries Research and Development Corporation (FRDC)

The outcomes of this research are publicly available.

Examples include:

- AIMS North West Shoals to Shore Research Program: *A large-scale experiment finds no evidence that a seismic survey impacts a demersal fish fauna* (2021)¹¹

¹¹ www.pnas.org/content/118/30/e2100869118.

- FRDC: *Examining the potential impacts of seismic surveys on Octopus and larval stages of Southern Rock Lobster (Part A: Southern Rock Lobster)* (2021)¹²
- FRDC: *Multiple – Before After Control Impact (M-BACI) analysis of the effect of a 3D marine seismic survey on Danish Seine catch rates* (2020)¹³

Further, the first phase of NESP¹⁴ produced almost 400 successful science projects that are shaping policy and delivering practical environmental outcomes. The second phase of NESP features four new research hubs: Climate Systems, Resilient Landscapes, Marine and Coastal, and Sustainable Communities and Waste.

Building community awareness of the offshore petroleum regulatory framework

The department continues to support initiatives to build community awareness and understanding of the offshore petroleum regulatory framework and how environmental risks are mitigated and managed. This includes:

- Detailed public submissions to relevant Senate inquiries, including:
 - Oil or Gas Production in the Great Australian Bight¹⁵
 - Impact of seismic testing on fisheries and the marine environment¹⁶
 - Work health and safety of workers in the offshore petroleum industry¹⁷
 - Australia's oil and gas reserves¹⁸
 - Offshore Petroleum and Greenhouse Gas Storage Amendment (Benefit to Australia) Bill 2020¹⁹
- Consideration of future targeted community information sessions in areas near possible acreage release areas and/or offshore petroleum activities.
- Publication of updates in the Australian Petroleum News.
- Using the Resources Twitter feed to provide facts on the offshore petroleum regulatory framework and promote the contents of the Australian Petroleum News²⁰.
- Continue to review and develop the department's website and informational material for stakeholders. This will include information on the low probability of risks eventuating and about oil spill response (see below).

¹² www.frdc.com.au/project/2019-051.

¹³ www.frdc.gov.au/project/2019-072.

¹⁴ www.environment.gov.au/science/nesp.

¹⁵ www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Great_Aus_Bight.

¹⁶ www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/SeismicTesting.

¹⁷ www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/WHSinoffshorepetroleum.

¹⁸ www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Australiasoilandgas.

¹⁹ www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/OPGGSABenefittoAus.

²⁰ www.industry.gov.au/data-and-publications/australian-petroleum-news.

- Continued public consultation on offshore petroleum issues that are of interest to the community. Over the last 12 months, this has included:
 - the 2021 offshore petroleum acreage release²¹
 - the offshore oil and gas safety review²²
 - the offshore oil and gas decommissioning review²³
 - legislative changes²⁴ to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*
 - the 2021 offshore greenhouse gas acreage release²⁵

Opportunity

Governments could better promote, and publish, how a response will be coordinated in the event of an oil spill, including where a spill crosses jurisdictional boundaries.

DISER Response

Public communication on how offshore petroleum incidents are managed

The Offshore Petroleum Incident Coordination Framework (2019) is available on the department's website. The framework outlines the Government's role and responsibilities in the rare event of an offshore petroleum incident in Commonwealth waters.

The department provides information on how offshore environmental incidents are managed on the 'Regulating offshore oil and gas in Australian waters' webpage²⁶.

The 2018-19 community information sessions provided an overview of the arrangements in place to respond to the rare event of an oil spill or gas leak in Commonwealth waters.

The department regularly reviews the information on the 'Offshore Petroleum Incident Coordination Framework' webpage to ensure currency and relevance.

The department publishes information about its oil spill response exercises on its website. This aims to raise awareness about the department's testing of its oil spill preparedness and response arrangements.

The department continues to promote the Government's offshore oil pollution incident response arrangements to the public by:

- enhancing information on the department's website to provide up-to-date details, including where an oil spill crosses jurisdictional boundaries; and

²¹ <https://consult.industry.gov.au/offshore-exploration/2021-acreage-release-consultation/>.

²² <https://consult.industry.gov.au/offshore-resources-branch/offshore-oil-and-gas-safety-review/>.

²³ <https://consult.industry.gov.au/offshore-resources-branch/offshore-decom/>.

²⁴ <https://consult.industry.gov.au/offshore-resources-branch/opggs-amendment/>.

²⁵ www.industry.gov.au/regulations-and-standards/regulating-offshore-greenhouse-gas-storage-in-australian-commonwealth-waters/offshore-greenhouse-gas-storage-acreage-release-process.

²⁶ www.industry.gov.au/regulations-and-standards/regulating-offshore-oil-and-gas-in-australian-waters.

- publicising this information via relevant channels.

The department will distribute detailed and accessible factsheets at any future targeted community information sessions.

Industry and stakeholder communication on how offshore petroleum incidents are managed

The department produced and distributed an explanatory factsheet on the Offshore Petroleum Incident Coordination Framework to all delegates at events such as the:

- Spillcon Conference in May 2019; and
- APPEA Oil and Gas Conference in May 2019.

The department periodically participates in industry-led, simulated offshore oil spill response exercises, in order to:

- build capability to respond to an incident, and
- educate companies on the Government's role and actions during an oil spill incident.

In September 2019, the department ran the 'Oil Spill Response Exercise 2019' in conjunction with Shell Australia's Exercise Mirda Djimbu and the Western Australian Department of Transport's Exercise Browse Challenge. The exercise examined the department's Response Team's operations and communications during an offshore petroleum incident. The exercise assisted the department to identify areas for improvement and provided direction on how to achieve more effective outcomes.

Opportunity

Governments could consider options to improve the transparency of the measures proposed by a titleholder to reduce the risk of an oil spill.

DISER Response

Offshore oil spill preparedness and response arrangements review

The department notes that the audit identified distrust in the process for preventing oil spills because the measures for prevention are not publicly-available. This information is included in the titleholder's well operations management plan (WOMP) which is not usually published.

The department is undertaking a review of the existing oil spill preparedness and response arrangements (ORPR) across the offshore petroleum sector. The project aims to ensure that the ORPR arrangements are fit-for-purpose, particularly in the context of the potential restrictions that the COVID-19 pandemic may continue to place on an emergency response.

Once the review is complete, the department will consider options to develop and publish relevant information about emergency response measures that titleholders may carry out to prevent oil spills.

The department ran an open tender process for Phase 1 of the project, and expects to complete it in mid-2022.