



Australian Government

STREAMLINING OFFSHORE **PETROLEUM** ENVIRONMENTAL APPROVALS

Supplementary Report

Strategic Assessment of the environmental management authorisation process for petroleum and greenhouse gas storage activities administered by the National Offshore Petroleum Safety and Environmental Management Authority under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

February 2014



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Abbreviations

ALARP	as low as reasonably practicable
APPEA	Australian Petroleum Production and Exploration Association
DoE	Department of Environment
DoI	Department of Industry
EIS	environmental impact statement
EMAP	NOPSEMA's environment management authorisation process
environmental NGOs	environmental non-government organisations
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cwth)
ESD	ecologically sustainable development
MNES	matters of national environmental significance
OPGGS Act	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>
OPGGS(E) Regulations	<i>Offshore Petroleum and Greenhouse Gas Storage</i> <i>(Environment) Regulations 2009</i>
NOPSEMA	National Offshore Petroleum Safety and Environment Authority

1.0 Introduction

On 25 October 2013, the Minister for Industry, the Hon. Ian Macfarlane MP, the Minister for the Environment, the Hon. Greg Hunt MP and the CEO of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), Ms Jane Cutler, agreed to undertake a Strategic Assessment of the Offshore Petroleum and Greenhouse Gas environmental management authorisation process (the Program) administered by NOPSEMA under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act) and Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (the OPGGS(E) Regulations).

Currently the OPGGS Act and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) environmental protection processes overlap in many respects, and largely adopt the same legislative objectives. The aim of the Strategic Assessment is to reduce regulatory burden and deliver streamlined environmental approvals for offshore petroleum and greenhouse gas activities in Commonwealth waters.

The Strategic Assessment provides the basis for the Minister for the Environment to consider endorsing the Program. If endorsed, the Minister may then approve the taking of actions in accordance with the Program. For actions that fall within the scope of this approval, proponents will no longer need to seek separate approval under the EPBC Act. Accordingly, the proposal will deliver streamlined environmental approval processes for offshore petroleum and greenhouse gas activities in Commonwealth waters, and in state or territory waters where relevant environmental management powers have been conferred under legislation to NOPSEMA, while maintaining strong environmental safeguards.

1.1 The Program

The Program is an environmental management authorisation process established under the OPGGS Act. It aims to ensure all offshore petroleum and greenhouse gas activities regulated by NOPSEMA, are carried out in a manner where impacts on the environment, including those matters protected under Part 3 of the EPBC Act, are of an acceptable level and reduced to as low as reasonably practicable (ALARP). In addition, all activities carried out under the Program must be done in a manner that is consistent with the principles of ecologically sustainable development (ESD). The classes of actions covered under the Program include all offshore petroleum or greenhouse gas activities authorised by the OPGGS Act.

1.2 The Strategic Assessment Report

The Strategic Assessment Report has been developed in accordance with the Terms of Reference agreed between the Minister for the Environment, the Minister for Industry and the CEO of NOPSEMA. Its purpose is to assess how the Program will ensure the appropriate level of consideration and management of impacts on matters protected under Part 3 of the EPBC Act, and to enable the Minister for the Environment to consider endorsing the Program under Part 10 of the EPBC Act.

1.3 The current status of the Strategic Assessment

The NOPSEMA Strategic Assessment comprises three documents as follows:

- 1) The Program Report, which describes NOPSEMA's environment management authorisation process under the OPGGS Act;

- 2) The Strategic Assessment Report, which provides a comprehensive assessment of how the Program addresses matters protected under Part 3 of the EPBC Act; and
- 3) The Supplementary Report (this document), which documents and provides responses to public comments and discussion, and describes any changes to the Program and Strategic Assessment Report resulting from consultation.

1.4 Purpose of this Supplementary Report

Public consultation on the draft Program and Strategic Assessment Reports is a requirement of the Strategic Assessment process under the EPBC Act. After a 28 day public consultation period, a Supplementary Report (this document) is required to be prepared. The purpose of this Supplementary Report is to:

- provide an overview of public submissions received on the draft Program and Strategic Assessment Reports, and discuss how and where these issues have been addressed in the final Program and Strategic Assessment Reports; and
- discuss how the final Program and Strategic Assessment Reports have been amended from the draft versions as a result of the submissions received.

From 22 November to 20 December 2013 the draft Program and Strategic Assessment Reports were available for public comment. The taskforce coordinating the public consultation process (the Taskforce) received feedback at 13 information sessions and 38 written submissions.

Preparation of the Supplementary Report involved analysis of information session feedback and submission content and resulted in revisions to the Program report and the draft Strategic Assessment Report in response to the issues raised. For a complete understanding of the Strategic Assessment and its outcomes, the three key reports: the Program, the Strategic Assessment Report and the Supplementary Report should be read in conjunction.

This Supplementary Report is structured as follows:

- *Part 1:* provides an introduction to the program and the issues addressed in this report.
- *Part 2:* provides an overview of the consultation process.
- *Part 3:* identifies and responds to the key issues raised in the consultation process.
- *Part 4:* provides a summary of the changes made to the draft Program and Strategic Assessment Reports to develop the final reports.
- *Part 5:* provides a conclusion.

The report also includes a summary of written submissions in Appendix 6.1.

2.0 The consultation process

2.1 Summary

The Department of Industry established an Offshore Environmental Streamlining Taskforce on 21 October 2013 to develop the Strategic Assessment. The Taskforce consisted of officers from the Departments of Industry and the Environment, NOPSEMA and technical support from industry. It developed draft Program and Strategic Assessment Reports, which were released for public consultation on 22 November 2013, by the Ministers for Industry and Environment. The public consultation was advertised in national newspapers on Saturday 23 November 2013, and submissions closed on 20 December 2013.

On 6 December 2013, the Taskforce also released an Exposure Draft of amendments to the OPGGS(E) Regulations, acceptance of which will be required for the Program to be implemented. Comments on the draft regulations also closed on 20 December 2013.

The Taskforce developed an extensive list of stakeholders for the purposes of consultation, consisting of key industry bodies, members of the offshore sector, relevant environment organisations and Commonwealth and state/territory government departments.

Consultation by the Taskforce on the draft documents involved both face to face information sessions and written submissions.

- **Information sessions**

Invitations to information sessions and regular updates were sent to the Taskforce stakeholder list (approx. 350 subscribers), Australian Petroleum News (approx. 1200 subscribers), and NOPSEMA's stakeholder information alert system (approx. 880 subscribers). Notices were also published on the Department of Industry, the Department of the Environment, and NOPSEMA websites. Information was also placed on the Australian Fisheries Management Authority website and in their newsletter.

Each session involved both a Taskforce presentation and question and answer segment, where comments and questions of clarification were put to the Taskforce.

- **Written submissions**

Invitations to make a written submission were sent to all who attended the information sessions, as well as to all the stakeholders and subscribers to the lists identified above.

2.2 Overview of information sessions

Thirteen information sessions were held about streamlining between 25 November and 12 December 2013. After the release of the draft Regulations on 6 December, sessions also addressed these. A total of 308 people attended, representing industry, environmental NGOs, the fishing industry and government (see Table 2.1).

Table 2.1: Attendance at streamlining information sessions.

Date/time	Place	Topic	Attended
25 November	Melbourne	Streamlining	16
25 November	Melbourne	Streamlining	5

26 November	Perth	Streamlining	53
26 November	Perth	Streamlining	31
27 November	Perth	Streamlining	46
27 November	Perth	Streamlining	4
29 November	Canberra	Streamlining	20
9 December	Hobart	Streamlining / Environment Regulations	5
10 December	Melbourne	Environment Regulations	12
11 December	Adelaide	Streamlining / Environment Regulations	10
11 December	Perth	Streamlining / Environment Regulations	20
12 December	Perth	Environment Regulations	36
12 December	Perth	Environment Regulations	50
TOTAL NUMBER OF ATTENDEES			308

The areas discussed by stakeholders in the information sessions included:

- effectiveness of streamlining in reducing regulatory burden;
- adequacy of environmental protection;
- NOPSEMA decision-making processes;
- review processes and the need for independence;
- adequacy of consultation, transparency and consideration of public interest; and
- detailed questions about a range of matters including mechanics of the Program, transition arrangements, compliance and enforcement, and cross-jurisdictional issues.

The information sessions indicated that the Program was found to be workable by most stakeholders, with questions focused on mechanics, and details and implications related to participants' particular perspectives. Industry focused on certainty of process and reduction of regulatory burden, while environmental NGO and government stakeholders focused on environmental standards, public interest and transparency.

2.3 Written submissions

Thirty-eight written submissions were received commenting on the Strategic Assessment, with 32 of these including comments on the Exposure Draft of the Regulations. The submissions were published in full on the Department of Industry's website, except for 13 submissions that were marked as confidential. Appendix 6.1 contains brief summaries of all submissions. A breakdown of the submissions by organisation type is shown below.

Table 2.2: Types of written submissions received

Organisation Type	Number of Submissions
Industry	13
Government	10
Environmental NGO	08

Fishing Industry	01
Consultants	04
Individuals	02
TOTAL	38

Written submissions indicated broad support for streamlining environmental approvals while maintaining existing environmental safeguards: 28 submissions received were supportive, six were not supportive and four were neutral.

Lack of support for streamlining was centred on environmental NGO confidence in the adequacy of environmental protection provided by the Program. Submissions sought further detail about how Part 3 matters would be protected, and identified consideration of cumulative impacts as an area of concern.

Industry stakeholders were broadly supportive of the policy intent and proposed mechanisms to achieve streamlining of environmental management regulation for offshore petroleum and greenhouse gas activities under the Program. Most submissions sought clarification on matters of detail associated with the proposed Program and its implementation, in particular the Offshore Project Proposal process.

Consultation was a theme common to all stakeholder groups. Industry expressed concern about 'consultation fatigue' in relation to stakeholder's ability to respond to existing consultation requirements. They also expressed concern about whether the Program would mean an increase in consultation activities required to meet their obligations. The development of more 'strategic' approaches to ensure efficiency and effectiveness was seen as essential. On the other hand fishing, industry and environmental NGO stakeholders identified their capacity to respond to requests for consultation as an issue, and suggestions included government resourcing to address this. One submission suggested that perhaps a 'strategic' approach might be to consider consultation as part of the acreage release process.

2.4 Targeted stakeholder consultations

The Taskforce targeted some key stakeholders from industry, government and environmental NGOs and held meetings and teleconferences to engage groups, answer questions, and discuss issues and perspectives throughout the consultation period.

3.0 Responses to key issues

The key issues identified in both the information sessions and the written submissions have been summarised and are responded to in Table 3.1 below. The table also identifies the action that has been taken in relation to the issue.

Issues and discussion	Action
<h3>3.1 Environmental protection under the Program</h3>	
<p>1 Protection of matters protected under Part 3 of the EPBC Act¹</p> <p>A number of submissions commented on the protection of matters under Part 3 of the EPBC Act under the Program. Submissions from industry supported the Program and its ability to deliver environmental outcomes equivalent to those achieved under the EPBC Act while environmental NGOs raised concerns.</p> <p>Concerns raised related to:</p> <ul style="list-style-type: none"> perceived lack of explicit and specific commitment in the Program to EPBC Act objects, statutory documents and relevant international agreements; level of legal protection afforded by the Program (through the Regulations); ability of the program to achieve protection without specific and detailed prescriptions; explicit and vigilant application of the precautionary principle; and delegation of approval powers away from the Minister for the Environment in relation to Protected Matters. <p>Several other submissions identified other legislation and treaties relevant to protection of the marine environment and queried whether these were integrated into the Program.</p> <p><u>Response</u></p> <p>The Taskforce considers that the Strategic Assessment Report, prepared in accordance with the Terms of Reference, demonstrates how the Program provides for environmental outcomes equivalent to those achieved under the EPBC Act.</p> <p>The Taskforce notes that the Program addresses protection of Part 3 Protected Matters in some detail (refer to Section 1.7, Section 8, Part C and Appendix A); it makes commitments and describes how they will be protected, including through reference to statutory obligations and documents, such as plans of management, listing statements and recovery plans. The Strategic Assessment Report (Chapters 4, 5 and 7, in particular) also describes in some detail how matters under Part 3 of the</p>	<p>The Taskforce has:</p> <ul style="list-style-type: none"> added information to Part B(Section 8), Part C and Appendix A of the Program Report in relation to protection of matters under Part 3 of the EPBC Act added information to Chapter 7 of the Strategic Assessment Report in relation to protection of matters under Part 3 of the EPBC Act.

¹ Submissions often refer to protection of 'matters of national environmental significance' (MNES). However, the Program also aims to protect Commonwealth land which is not a MNES in terms of the EPBC Act. The Program therefore collectively refers to these and MNES as matters protected under Part 3 of the EPBC Act (or 'Part 3 Protected Matters') which incorporates MNES and Commonwealth land. Where comments in submissions refer to MNES (Appendix 1), this is deemed equivalent to 'Part 3 Protected Matters'.

Issues and discussion	Action
<p>EPBC Act will be protected under the Program. The Taskforce also points out that to the Strategic Assessment Report, which specifically addresses the how the Program addresses the objects of the EPBC Act, principles of ESD and the precautionary principle (in Chapter 4).</p> <p>While the Taskforce considers these matters have been sufficiently addressed, it suggests that some concerns may arise from lack of familiarity among some environmental NGOs with the objective-based approach to regulation under the Program as opposed to the prescriptive approach under the EPBC Act. On the other hand industry stakeholders are familiar with and have confidence in the objective based approach. The objective-based approach to regulation under Program is discussed both in the Program Report (Section 3) and Strategic Assessment Report (Chapters 3 and 8). Objective-based regulation requires titleholders to achieve particular environmental outcomes, but does not prescribe the specific method or means to do so. It places the duty on the titleholders to meet and demonstrate they have met these outcomes. Chapter 7 of the Strategic Assessment Report describes scenarios (case studies) to illustrate how objective-based regulation under the Program ensures environmental protection.</p> <p>The Taskforce is of the view that the objectives-based approach is in fact a key strength of the Program, and has the potential to improve environmental outcomes, including protection of Part 3 matters. Objective-based regulation allows flexibility to ensure adaptive management, innovation in methodology and continuous improvement in achieving acceptable environmental outcomes. It also ensures the relevance, currency and ongoing appropriateness of regulatory controls.</p> <p>The Taskforce, however, acknowledges the concerns raised, and has added further detail about the protection of matters under Part 3 of the EPBC Act to the Program and Strategic Assessment Report, to ensure all stakeholders are satisfied.</p> <p><i>Other matters</i></p> <p>With respect to the other issues raised, the Taskforce emphasises that NOPSEMA has no formal legislative responsibility for other international treaties and/or legislation relating to the environment. Consequently the Program itself does not refer to these, although the Strategic Assessment Report (section 5.6) notes them as part of the broader context of the Program. The Taskforce also points out that the content requirements of Environment Plans and Offshore Project Proposals under the Program mean that any permits and/or responsibilities and commitments required by the titleholder be described, and any actions identified. The Taskforce suggests that NOPSEMA will continue to liaise with other agencies with regard to these matters, but is of the view that no change is required to the Program or Strategic Assessment Report.</p> <p><i>Submissions that referred to this issue: 3, 6, 7, 10, 14, 15, 18, 19, 21, 28, 35, 38.</i></p>	

	Issues and discussion	Action
2	<p>NOPSEMA capabilities to assess impacts on Protected Matters</p> <p>A number of submissions questioned if NOPSEMA has the necessary level of corporate and technical experience required for environmental assessments under the EPBC Act, noting NOPSEMA was only established as an independent statutory authority under the OPGGS Act on 1 January 2012. Some submissions queried how NOPSEMA would raise adequate funds to remain effectively resourced going forward.</p> <p>Submissions also specifically queried NOPSEMA's capability to assess potential impacts on matters of national environmental significance (MNES), particularly acoustic impacts on cetaceans and the maintenance of access to environmental expertise through DoE.</p> <p><u>Response</u></p> <p>As noted in Issue 27 (Cost Recovery), NOPSEMA operates on a full cost recovery basis, which ensures it has the resources to maintain appropriate and specialist environmental expertise. NOPSEMA also has the ability to seek external expertise on a case-by-case basis. The Program provides that NOPSEMA will enter into administrative arrangements with the Department of the Environment to ensure appropriate information sharing for implementation of the Program. The Taskforce notes that as of January 2014 NOPSEMA and the Department of the Environment have already commenced work in relation to implementation activities.</p> <p><i>Submissions that referred to this issue: 3, 21, 22.</i></p>	<p>The Taskforce has clarified specific sections (4.4, 5.2, 9.3) of the Strategic Assessment Report as set out in Issue 27 (Cost Recovery).</p>

Issues and discussion	Action
<h3>3.2 Cumulative impacts</h3>	
<p>3</p> <p>Cumulative impacts should be explicitly and transparently considered in the Program</p> <p>Submissions noted a number of issues regarding the consideration of cumulative impacts during Offshore Project Proposal and Environment Plan development:</p> <p>Due consideration</p> <p>Concerns were raised that cumulative impacts may not be adequately considered as there is no specific regulatory requirement to do so. The Environmental Defender’s Office of Western Australia stated that <i>“Under the Program, an OPP can be obtained prior to all information relevant to the particular project being obtained but there may be no way at that stage to accurately assess what the cumulative effects of the project might be until further work is done.”</i></p> <p>It was also suggested that Offshore Project Proposals may not consider the full range of associated activities and therefore not consider the full range of risks and impacts. Submissions recommended that the regulations should make it explicit that cumulative impact assessment must be undertaken and that assessments should consider impacts over the life of the activity and over a region, for example in relation to multiple simultaneous discharges. It was also recommended that NOPSEMA should have the power to assess cumulative impacts, request that cumulative impacts are assessed if not present in the submission, and publicly report on cumulative impacts. One submission also recommended that social and economic impacts be included as a part of cumulative impact assessment.</p> <p>Review</p> <p>Submissions also recommended ongoing review, consideration and reporting of cumulative impacts. One submission suggested that ongoing reassessment of cumulative impacts should be considered for Offshore Project Proposals and Environment Plans, and setting and monitoring environmental outcomes can address this. <i>“A regular review of cumulative impacts under the Offshore Project Proposal and the power to issue directions about future Environment Plans’ impact on particular concerns may address this,”</i> was suggested by the Environmental Defender’s Office of Western Australia.</p> <p>Guidance</p> <p>Submissions indicated there is a need for guidance around cumulative assessment with specific consideration afforded to the measurement of cumulative impacts, consideration of impacts over time (i.e. for the life of the activity), seasonal timing, consecutive and simultaneous activities, and all associated activities including marine traffic and monitoring. In addition, there were strong statements around the need to consider how cumulative impacts will be assessed and measured in an agreed manner before inclusion in Regulation as without this clarity the effectiveness of streamlining may be affected.</p>	<p>The Taskforce has added information on how the Program takes into account cumulative impacts to Section 4.3 and Appendix 4 of the Strategic Assessment Report.</p>

Issues and discussion	Action
<p>Data</p> <p>Submissions noted existing limitations on access to adequate data for cumulative impact assessment. Data sharing issues were also limiting availability of data for cumulative impact assessment purposes.</p> <p>The key point raised was that due to commercial and technical constraints, individual titleholders cannot reasonably be expected to have detailed knowledge of the environmental status and activities that are occurring in neighbouring leases, and therefore are essentially unable to effectively determine the cumulative impacts of the proposed activity nor to comprehensively describe the receiving environment.</p> <p>It was recommended that the development of information on data standards, data coordination, centralised data management and the release/sharing of non-commercially sensitive data is necessary. There were also concerns raised that titleholders will not have access to sufficient information to consider cumulative impacts because the data is not available.</p> <p><u>Response</u></p> <p>The Taskforce notes the concerns in relation to consideration of cumulative impacts under the Program. Additional information on cumulative impacts has been included in the Strategic Assessment Report. More broadly, the Taskforce recognises the consideration of cumulative impacts in environmental impact assessments is a challenge nationally and internationally for regulators, policy makers and proponents.</p> <p>The Program specifically refers to the matter of cumulative impact assessment in Sections 4.5.1 and 5.1.1 of the Program Report. The Program presents a positive step forward for effective consideration of potential cumulative impacts associated with offshore petroleum and greenhouse gas activities. The objective-based regime requires proponents to demonstrate continuous improvement. This ensures that ongoing impacts must continue to be identified and reduced to ALARP (as low as reasonably practicable) via appropriate monitoring activities. ALARP requires that control measures continue to be effective in ensuring that impacts and risks will remain within acceptable levels and those environmental performance outcomes will continually be met. This objective-based framework means that the Regulations do not need to have a specific reference to cumulative impacts.</p> <p>A benefit of the Program is that NOPSEMA, as the single national regulator, will assess Offshore Project Proposals earlier in their development stream. This will ensure appropriate consideration of lifecycle and cumulative impacts through the implementation of the Offshore Project Proposal process.</p> <p>The Taskforce acknowledges that there are limitations in the data currently available across the offshore petroleum sector, and agrees that data is important to facilitate detailed cumulative impact assessments. The Taskforce encourages industry to pursue data sharing opportunities to ensure access to relevant information. Data is discussed further in the Environmental Data section below (Issue 4).</p> <p><i>Submissions that referred to this issue: 3, 6, 7, 11, 12, 22, 28, 37</i></p>	

Issues and discussion		Action
3.3 Environmental data		
4	<p>Baseline environmental data</p> <p>A number of submissions, as well as comments from industry stakeholders during information sessions, noted the lack of a central repository for environmental and other data that could be of use in determining a baseline for environmental conditions and to inform ongoing monitoring of the environment over time. It was noted that adequate information and data helps to ensure the appropriate assessment and management of potential impacts and risks on the environment, particularly in the long term and in relation to considering cumulative impacts (refer to Issue 3). Further, submissions suggested that, under the Program, the Government would lose its ability to compel a proponent to provide and make certain environmental data associated with a proposal public.</p> <p><u>Response</u></p> <p>The Taskforce recognises the importance of baseline data and supports collection and publication of data to improve understanding of the marine environment for all stakeholders. It is important to note, however, that the EPBC Act does not currently require proponents to publish data. The Taskforce acknowledges the benefit that would be achieved through improvement in collection, availability and access to data by stakeholders. Sharing of data would reduce the cost to industry of baseline information acquisition and enable a more sophisticated data set for the assessment of environmental impacts and risks. The Taskforce recommends that the Department of Industry pursue this as a policy issue through the Energy White Paper process.</p> <p><i>Submissions that referred to this issue: 12, 14, 21, 22, 38.</i></p>	<p>The Taskforce has recommended that the Department of Industry pursue this matter via the Energy White Paper.</p>
3.4 Decision-making processes		
5	<p>Definitions and parameters for decision-making</p> <p>Some submissions suggested changes to the way the Program references and defines environment, matters of national environmental significance (MNES), and the principles of Ecologically Sustainable Development (ESD).</p> <p>These submissions proposed that the principles of ESD, including the precautionary principle, should form part of the acceptance criteria for both Offshore Project Proposals and Environment Plans (through reference in the definition of ALARP), to improve clarity and help ensure strong environmental safeguards are maintained.</p>	<p>The Taskforce has included an explicit reference to Part 3 matters of the EPBC Act as part of the description of the environment required for an</p>

Issues and discussion	Action
<p>Submissions also suggested that:</p> <ul style="list-style-type: none"> • certain terms should be defined in Regulations to provide additional clarity in decision-making, including: ‘reasonably satisfied’, ‘appropriate’, ‘significant impact’, ‘acceptable’ and ‘unacceptable’ • for the definition of ‘environment’ to be amended to refer specifically to MNES, and that this change would ensure threatened and migratory species in particular are adequately protected under the endorsed Program • clarification on how social and economic factors, as referenced in the definition of ‘environment’, are taken into account in decision-making processes be provided • references in the Program be changed from ‘critical habitat’ (as defined and given legal meaning under the EPBC Act – s207A) to threatened and migratory species to ‘biologically important habitat’, due to the fact that many more species have such habitats identified in marine bioregional plans. <p><u>Response</u></p> <p>The definition of the ‘environment’ in the Program mirrors the EPBC Act. Many other terms used in the Program such as ALARP, reasonably satisfied, and acceptable have legally accepted meanings with a basis in case law. These deliberately have not been defined to avoid the risk of unintentionally narrowing their definition or creating the circumstances for unintended legal consequences. The Taskforce has, however, included an explicit reference to Part 3 matters of the EPBC Act as part of the description of the environment required for an Offshore Project Proposal and Environment Plan.</p> <p>The principles of ESD are defined in the OPGGS(E) Regulations. The Program’s acceptance criteria (Section 5.1) requires that an Environment Plan must comply with all requirements of the OPGGS Act and OPGGS(E) Regulations; therefore, if an Environment Plan meets the acceptance criteria, it must meet the principles of ESD as required in the Regulations. ESD principles are also a consideration of an Offshore Project Proposal, where the key consideration is about the acceptability of the whole of the project including the appropriateness of the ‘nature and scale’ of the project, environmental evaluation and performance outcomes, and public consultation.</p> <p>The Program provides for the development of guidance material by NOPSEMA to provide further clarity, where required, on terms relied on in the Program that are demonstrated to need further definition. Such guidance will operate similarly to current EPBC Act guidelines (e.g. on significance). The Program has mandated reviews, which provide for analysis of the effectiveness of the Program’s operation. These reviews will also identify areas where guidance should be developed.</p> <p>The Taskforce does not consider it necessary to change ‘critical habitat’ to ‘biologically important habitat’ as the Program uses the language of the EPBC Act and its supporting policy guidance documents.</p> <p>On balance, the Taskforce considers that the case for amendments to references and definitions in the Program has not been</p>	<p>Offshore Project Proposal and Environment Plan in the OPGGS(E) Regulations.</p>

Issues and discussion	Action
<p>made. The Taskforce has, however, amended the OPGGS(E) Regulations to included specific reference to Part 3 Protected Matters in the description of the environment requirements for both the Offshore Project Proposal and Environment Plan processes.</p> <p><i>Submissions that referred to this issue: 1, 3, 5, 7, 8, 21, 22, 27, 29, 31.</i></p>	
<p>6</p> <p>Assessment and decision-making through public inquiry</p> <p>Three submissions noted the capacity under the EPBC Act for the Minister for the Environment to decide that assessment of a controlled action should be by public inquiry. Several submissions suggested that this approach could be a form of review. It was also suggested that the ability to call a public inquiry of this nature should be retained or provided to NOPSEMA under the Program.</p> <p><u>Response</u></p> <p>A public inquiry assessment approach under the EPBC Act is where the Minister for the Environment assigns a commissioner to investigate a matter. The commissioner determines the assessment process they will use – which may be the equivalent of an environmental impact statement (EIS) – and usually invites submissions from the public. This method of assessment has seldom been used under the EPBC Act. EPBC Act guidance material states a public inquiry is “<i>appropriate where impacts are likely to be outside the control of a single proponent</i>” and it is necessary or desirable to have a commissioner oversee the assessment process.</p> <p>A public inquiry assessment approach is not considered necessary as NOPSEMA regulates the actions and environmental consequences of individual titleholder’s activities. Furthermore, the Program establishes an Offshore Project Proposal process that provides for a detailed early assessment of an individual proponents project. An Offshore Project Proposal mandates public consultation and is early notification of a project. The Offshore Project Proposal is roughly equivalent to an EIS under the EPBC Act.</p> <p>On this basis the Taskforce has not included the suggestion for assessment, decision-making and/or review to be conducted through public inquiry.</p> <p><i>Submissions that referred to this issue: 10, 19, 21.</i></p>	<p>The Taskforce has not taken any further action on this issue.</p>
<p>7</p> <p>Independence of NOPSEMA as decision-maker</p> <p>Industry stakeholders generally supported the transfer of decision-making power to NOPSEMA for matters protected under</p>	<p>The Taskforce has not taken any further action on</p>

Issues and discussion	Action
<p>Part 3 of the EPBC Act. Environmental stakeholders indicated a preference that the decision remains with the Minister for the Environment. One submission also suggested that the final decision remain with the Minister for the Environment while assessment functions could be transferred to NOPSEMA.</p> <p>Some submissions expressed concern that the proposed regulatory framework may result in unintended consequences, noting NOPSEMA is not privy to broader national interest knowledge held at the Ministerial level and that it does not have a mandate to make decisions that balance environmental as well as economic and social considerations.</p> <p>One submission suggested that there was not a separation of powers as NOPSEMA was both assessor and decision-maker and that this posed a risk for decision-making, while another recommended that environmental assessment processes need to be independent of government departments.</p> <p><u>Response</u></p> <p>Several government inquiries have noted duplication of environmental assessments for the offshore oil and gas industry. The Program removes this duplication by setting out environmental standards and commitments equivalent to the EPBC Act that NOPSEMA must meet in undertaking its assessment processes.</p> <p>In response to concerns over the independence of the decision-maker, the Taskforce notes that NOPSEMA is an independent statutory authority. NOPSEMA has been established under the OPGGS Act with the clear purpose of separating the policy and resource promotion aspects of the offshore petroleum industry from the environmental, safety and well integrity regulation of that industry. This model is consistent with international regulatory practice for high-hazard industries.</p> <p>The Department of the Environment will remain responsible, under the EPBC Act, for policy matters such as species listings, recovery plans, conservation and policy advices (all required to be considered by the Program). If the Program is endorsed and approved under the EPBC Act monitoring and compliance of the Program will remain the responsibility of the Department of the Environment.</p> <p>The Taskforce has not amended the Program or Strategic Assessment Report in response to submissions on the independence of NOPSEMA as a decision-maker.</p> <p><i>Submissions that referred to this issue: 10, 13, 17, 22, 33.</i></p>	<p>this issue.</p>
<p>8</p> <p>Processes and information required for decision-making</p> <p>A significant number of submissions sought clarity on the implications of the requirement to consider documents that are prescriptive in nature (such as EPBC Recovery Plans and Management Plans) and not developed by NOPSEMA. It was noted</p>	<p>The Taskforce has updated Section 5.2 of the Strategic Assessment Report</p>

Issues and discussion	Action
<p>that these requirements may lead to industry confusion, duplication and ad-hoc and subjective regulation.</p> <p>Submissions from environment stakeholders suggested that Environment Plans should include more information. In particular, they suggested that the Program should specifically require Environment Plans to include information on the environmental track record of the titleholder; whether the impacts of the activity are likely to be unknown, unpredictable or irreversible; and the source, date and reliability of all information.</p> <p>Submissions also noted that:</p> <ul style="list-style-type: none"> • Environment Plans, like Offshore Project Proposals, should discuss alternative options for conducting activities • NOPSEMA should only approve Environment Plans for 12 months at a time, and should not approve 'strategic', or diverse, multi-year Environment Plans • EPBC Act Policy Statement 2.1 is outdated and should be revised • NOPSEMA did not have sufficient expertise in marine ecology and that a Memorandum of Understanding would be required between NOPSEMA and the Department of the Environment to provide access to their expertise. <p><u>Response</u></p> <p>The Department of the Environment will remain responsible for developing plans and guidance in accordance with its responsibilities under the EPBC Act and the Australian Government's international treaty obligations. Section 10.3.2 of the Program refers to EPBC Act plans, policies and guidance that are relevant to the offshore oil and gas industry. The Program states that NOPSEMA will develop guidance material and undertake assessments with regard to these relevant policy documents. Appendix A of the Program commits NOPSEMA to consider particular plans or advices, such as plans of management and recovery plans, which are a statutory requirement of the EPBC Act.</p> <p>The assessment processes outlined in the Program draw on NOPSEMA's current assessment and decision-making framework which is a merit based assessment system that challenges and analyses the titleholder's case presented in their Environment Plan. NOPSEMA, as a regulator, is dedicated specifically to the offshore oil and gas industry. The purpose of NOPSEMA's establishment was to develop an agency that has good knowledge of the industry and the ability to meet environmental and safety commitments. As the dedicated petroleum regulator, NOPSEMA is aware of a proponent's track record in achieving environmental objectives and their ongoing compliance. NOPSEMA adapts compliance and enforcement activities based on risk and a range of other matters, including a proponent's environmental record. Information on this is available on NOPSEMA's website.</p> <p>The Program describes the Environment Plan and Offshore Project Proposal processes. These are different assessment paths based on activity type. As described in the Strategic Assessment Report, the Offshore Project Proposal assessment captures development activities. As such, the Offshore Project Proposal provides for an early publication, notification, and assessment</p>	<p>to clarify current arrangements and how they apply to the Program.</p>

Issues and discussion	Action
<p>process. Public notification enables stakeholders to provide information on a range of matters, including alternatives to the proposal and a proponent's environmental record. In an Offshore Project Proposal a proponent is able to consider alternatives because its submission is at an early stage in the project's development. The requirement for consideration of alternatives is a fundamental principle of environmental impact assessment and is already applied. This requirement is consistent with current EPBC assessment processes. The Environment Plan process in this regard remains unchanged. The Taskforce notes that such a change would increase duplication as an Environment Plan is required as a later step (following an Offshore Project Proposal). It is considered that duplicating the requirements of an Offshore Project Proposal at the Environment Plan stage does not provide material benefit. The Taskforce notes several submissions raised the issue of 'consultation fatigue' and additional requirements have potential to add to this issue.</p> <p>The Environment Plan process provides for stakeholder engagement of 'relevant persons'. These persons may make submissions on relevant matters such as feasible alternatives or a proponent's environmental record. The Program provides for receipt of Environment Plans to be notified on the NOPSEMA website.</p> <p>Refer to Issue 24 for detail on NOPSEMA's expertise and personnel.</p> <p>The Taskforce considers that there is merit in further clarifying current arrangements in the Strategic Assessment Report. However, the Taskforce has not adopted the suggestions put forward in submissions.</p> <p><i>Submissions that referred to this issue: 4, 7, 15, 19, 21, 22, 27, 28, 36.</i></p>	
<h3>3.5 Offshore Project Proposal Process</h3>	
<p>9 Requirements for an Offshore Project Proposal</p> <p>A large number of submissions sought clarification on a proponent's obligations to submit an Offshore Project Proposal, including for exploration activities, new activities, and decommissioning activities.</p> <p>Several submissions, in particular from environmental stakeholders, recommended that an Offshore Project Proposal should be required for exploration activities as well as development activities, while others suggested the requirement for an Offshore Project Proposal should be based on the significance of potential impacts.</p> <p>Submissions also suggested further clarity was required regarding the ability for proponents to submit an Offshore Project Proposal for exploration activities. Some stakeholders recommended that NOPSEMA have the right to require an Offshore</p>	<p>The Taskforce has clarified the definition of an 'offshore project' in the amendments to the OPGGS(E) Regulations.</p>

Issues and discussion	Action
<p>Project Proposal for exploration activities on a case-by-case basis, or that NOPSEMA and the proponent should at least consult on the question for exploration activities.</p> <p>Submissions sought clarity on whether a decommissioning activity would require an Offshore Project Proposal, noting the Offshore Project Proposal content requirements refer to decommissioning activities, but those activities are not part of the draft definition of an 'offshore project'. Submissions also sought clarification on the definition of 'offshore project', highlighting inconsistencies between the amendment Regulations, Program and draft Strategic Assessment Report. It was suggested that 'development' could also be defined. Clarification was sought regarding greenhouse gas activities under the Program and one submission supported their inclusion.</p> <p><u>Response</u></p> <p>Separate Offshore Project Proposal and Environmental Plan assessment streams are fundamental to the streamlining process.</p> <p>The Offshore Project Proposal must describe the whole lifecycle (including activities that will be likely to take place such as development drilling, construction, operation and decommissioning) of the proposed project and include a mandatory period of public consultation. Subsequent Environment Plans will be required for all activities encompassed in the project.</p> <p>Proponents may also elect to submit an Offshore Project Proposal for an activity that is not part of a development project, to take advantage of the key steps, including public consultation. The Program states that NOPSEMA will provide guidance about matters proponents may wish to consider in deciding whether to submit an Offshore Project Proposal for exploration activity.</p> <p>An Offshore Project Proposal submission can be scaled to be appropriate to the nature of the proposed development and the receiving environment in which it is to take place while still meeting all the content requirements prescribed by the OPGGS(E) Regulations. The Program states that NOPSEMA will prepare guidance on meeting the regulatory requirements for Offshore Project Proposals.</p> <p>Requiring an Offshore Project Proposal for all activities, such as seismic surveys, will increase regulatory burden and is not considered necessary to ensure high environmental standards are maintained. Prior to the Strategic Assessment, under the EPBC Act, proponents made a decision whether to refer actions based on their own assessment of significance; the result was that not all offshore oil and gas projects were referred. Requiring an Offshore Project Proposal for all such projects would therefore increase the regulatory burden and not in any way improve environmental outcomes.</p> <p>The Taskforce has clarified the definition of an 'offshore project' in the amendments to the Environment Regulations.</p> <p><i>Submissions that referred to this issue: 4, 5, 7, 9, 12, 15, 18, 19, 22, 25, 27, 30, 31, 36,38.</i></p>	

Issues and discussion	Action
<p>10 OPP process and streamlining: changes to, or additional activities</p> <p>Some submissions expressed concern that the Offshore Project Proposal process may, in certain scenarios, increase regulatory burden, to the detriment of streamlining.</p> <p>Submissions sought clarity on Offshore Project Proposal requirements for new activities planned in relation to an existing Offshore Project Proposal approval. They generally recommended that such new activities should not require a new Offshore Project Proposal, or should only do so if the new activities were extensions to existing projects where the environmental risk or impact may be unacceptable.</p> <p>Submissions noted the potential for activities that would not have been referred under the EPBC Act to require an Offshore Project Proposal under the Program, particularly in the case of minor offshore drilling campaigns and additional drilling (tie-backs) as part of an existing project. It was also suggested that the content requirements for an Offshore Project Proposal could be more onerous than current EPBC Act requirements, in particular for smaller projects.</p> <p>Submissions highlighted that the Program does not provide for revision or amendment of an Offshore Project Proposal, and sought clarification on whether changes in an activity requiring an Offshore Project Proposal would mean a new or additional Offshore Project Proposal was required. It was suggested that this would be more onerous than current EPBC processes.</p> <p><u>Response</u></p> <p>The distinction between an Offshore Project Proposal and an Environment Plan in the Program ensures those activities with the potential for higher environmental impacts undergo early public consultation through the Offshore Project Proposal process. All activities, including those with lower potential environmental impacts will undergo an Environment Plan assessment. The Offshore Project Proposal and Environment Plan pathways have an activity basis that is linked to the types of activities authorised by title under the OPGGS Act. The purpose of this is to remove ambiguity. Under the EPBC Act, proponents are required to make a decision whether to refer actions based on their own assessment of significance. This can result in uncertainty for industry about when to refer, and over regulation because proponents submitted 'precautionary' referrals. Having an activity based trigger removes the ambiguity about which process applies and increases overall efficiency by reducing 'double-handling'.</p> <p>The Taskforce notes the concerns raised in submissions relating to new development activities planned, but which are connected to existing projects. The Taskforce acknowledges that some minor development activities may have been required to have an Offshore Project Proposal under the draft Program that may not have otherwise been referred under the EPBC Act.</p> <p>The Taskforce has considered this issue at length, discussing it and potential solutions with a number of industry participants</p>	<p>The Taskforce has:</p> <ul style="list-style-type: none"> amended the requirement for an Offshore Project Proposal to apply to only new development activities in the OPGGS(E) Regulations. provided further clarification in Section 5.2 of the Strategic Assessment Report. <p>The Taskforce also notes that NOPSEMA is preparing guidance for proponents about Offshore Project Proposal assessment process. This will specify information requirements for an Offshore Project Proposal appropriate to nature and scale of the activity.</p>

Issues and discussion	Action
<p>throughout the consultation period. As a result of these discussions, the scope of activities that will be mandatory for an Offshore Project Proposal has been amended. An Offshore Project Proposal will be required for all new development activities that do not have prior EPBC Act Part 9 approval. Additional or new stages of existing developments will not be subject to the mandatory Offshore Project Proposal provisions, but will of course, require an accepted Environment Plan in place before any new stage of an activity can commence.</p> <p>The Taskforce considers that an Offshore Project Proposal revision mechanism is not required. NOPSEMA's compliance mechanism is through Environment Plans. A final Environment Plan may be revised from the original Offshore Project Proposal that was submitted for the activity; in this case, if there is a difference between an initial Offshore Project Proposal and Environment Plan, the Environment Plan must explain these differences, and demonstrate how performance outcomes are appropriate (with reference to modifications from the original Offshore Project Proposal).</p> <p>The Taskforce recognises there may be some transitional uncertainty about the Offshore Project Proposal process for proponents. Further clarification has been provided in the Strategic Assessment Report and NOPSEMA will include further information on this matter in its guidance.</p> <p><i>Submissions that referred to this issue: 9, 11, 15, 24, 27, 29, 30, 33, 34.</i></p>	
<p>11 Offshore Project Proposal process and streamlining: Offshore Project Proposal and Environment Plan processes</p> <p>Submissions questioned whether having both an Offshore Project Proposal process and an Environment Plan process requirements would increase the level of assessment and regulatory burden compared with current arrangements.</p> <p>Submissions also sought clarification on the possibility of parallel assessment of Offshore Project Proposals and Environment Plans, noting that the amendment Regulations as drafted would not allow for parallel processing as an Environment Plan must not be submitted unless an Offshore Project Proposal has been accepted.</p> <p><u>Response</u></p> <p>Streamlining under the Program offers benefits of a single independent regulator, and a legal framework under the Program which is objective-based. While parallel assessment of an Offshore Project Proposal and Environment Plan is not possible, proponents are encouraged to think strategically about how to approach the Offshore Project Proposal to maximise flexibility under the model and how the preparation of an Offshore Project Proposal can contribute to and streamline the development and assessment of subsequent and related Environment Plans.</p>	<p>The Taskforce has taken no further action on this matter.</p>

Issues and discussion	Action
<p>As described in item 10 above, the Taskforce considers the certainty provided by having a clear activity based definition about when an Offshore Project Proposal applies, combined with NOPSEMA guidelines about information requirements for an Offshore Project Proposal delivers a net regulatory reduction benefit.</p> <p><i>Submissions that referred to this issue: 9, 11, 15, 24, 27, 29, 30, 33, 34.</i></p>	
<p>12 Detailed Offshore Project Proposal processes and guidance</p> <p>Submissions sought clarification on certain process matters for Offshore Project Proposals, and made recommendations for NOPSEMA guidance development and content.</p> <p>Submissions sought clarification on the level of detail required in an Offshore Project Proposal, including whether performance outcomes and management controls would need to be identified.</p> <p>Submissions also questioned whether the provision allowing NOPSEMA to request additional information on an Offshore Project Proposal inferred that proponents would only have one opportunity to provide further information before a complete resubmission would be required. It was recommended that, if this is the case, clarification was needed on whether public consultation would be required for a second Offshore Project Proposal submission.</p> <p>Submissions recommended Offshore Project Proposal guidance, including guidance on framing environmental performance outcomes, should be made available by the date of commencement of the Regulations. It was also recommended that NOPSEMA guidance address implications.</p> <p><u>Response</u></p> <p>The Program specifies content requirements for an Offshore Project Proposal in Section 4.2. This includes the need to identify environmental performance outcomes for the activities that will be carried out for the project. There are two decision points required from NOPSEMA:</p> <ul style="list-style-type: none"> – Prior to public consultation – to confirm the Offshore Project Proposal meets requirements and contains sufficient information to allow for the public to make meaningful comment. – Following public consultation – to confirm the Offshore Project Proposal addresses comments from the public comment period and meets the acceptance criteria. <p>NOPSEMA may request further written information about any matters to be included in the Offshore Project Proposal following the public consultation period. The Regulations do not prohibit proponents from having more than one opportunity to provide further information. Once NOPSEMA has made a decision to refuse to accept an Offshore Project Proposal and publish a</p>	<p>The Taskforce notes that NOPSEMA guidance will outline Offshore Project Proposals in detail.</p>

Issues and discussion	Action
<p>statement of reasons on its website, opportunity for proponents to provide further information has passed, and a new offshore project proposal is required.</p> <p>The Program commits NOPSEMA to preparing guidance for proponents about the Offshore Project Proposal process that address this matter.</p> <p><i>Submissions that referred to this issue: 11, 27, 29, 30, 33.</i></p>	
<p>13 Offshore Project Proposal decision</p> <p>Submissions from a number of environmental stakeholders raised concerns that proponents may manipulate an open-ended ability to resubmit Offshore Project Proposals and recommended that there should be a provision for a final rejection of a project, or a 'clearly unacceptable decision' as exists under the EPBC Act. Some stakeholders questioned whether NOPSEMA could issue a definite 'no' decision (for both Offshore Project Proposals and Environment Plans).</p> <p>Submissions from industry stakeholders questioned whether an Offshore Project Proposal acceptance would provide the certainty required for proponents to make investment decisions, as EPBC Act decisions currently commonly provide this level of certainty.</p> <p><u>Response</u></p> <p>The Offshore Project Proposal process has been developed to capture offshore projects that may have an impact on a matter protected under Part 3 of the EPBC Act. An Offshore Project Proposal will be able to encompass multiple activities as part of a development project, and its whole lifecycle, although it can apply to discrete activities (e.g. one-off seismic surveys) where proponents opt in to the Offshore Project Proposal process.</p> <p>An Offshore Project Proposal is intended to provide certainty to proponents for the purposes of investment decision-making. An Offshore Project Proposal is a demonstration that a proposed project will not have an unacceptable impact on the environment, including matters protected under Part 3 of the EPBC Act. It can be used for all petroleum activities and is mandatory for development projects. An Offshore Project Proposal deemed 'not acceptable' by NOPSEMA is equivalent to 'clearly unacceptable' under EPBC Act.</p> <p>While an Offshore Project Proposal is intended to provide investment certainty, approval of an Offshore Project Proposal alone does not give the proponent approval for any activity to take place; an accepted Environment Plan must be gained before any activity can commence. The Taskforce is confident the Offshore Project Proposal acceptance under the Program provides the certainty equivalent to that provided under the EPBC Act referral process for financial investment decision-making.</p>	<p>The Taskforce has taken no further action on this matter.</p>

Issues and discussion		Action
	<i>Submissions that referred to this issue: 3, 33.</i>	
3.6	Consultation	
14	<p>Adequacy of streamlining consultation process</p> <p>Submissions noted the short timeframes associated with consultation on the Program, draft Amendment Regulations and draft Strategic Assessment Report. Other comments noted that information sessions did not have broad enough regional coverage and that there was confusion arising from conducting consultation on both the Regulations and the Program, as well as website technology issues.</p> <p><u>Response</u></p> <p>The Taskforce does not accept the timing and timeframe concerns that have been raised in these submissions. The consultation timeframes were set as required under the EPBC Act, and in line with the Ministerial statement with a clear intention not to consult over the Christmas holiday period. The project timeframe is driven by the Government's commitment to strengthen Australia's productivity and international competitiveness through delivery of a streamlined framework for environmental approvals processes for offshore petroleum projects.</p> <p>The Taskforce, established on 21 October 2013, placed a heavy emphasis on communication, with regular updates to interested parties through direct contact (email and telephone) and the Department of Industry's website. The Department sent bulletins using multiple extensive mailing lists sourced from within the Department of Industry, the Department of the Environment and NOPSEMA. The Taskforce also held 13 information sessions covering Hobart, Melbourne, Adelaide and Perth during November and December 2013. In addition, the Taskforce held teleconferences with regional stakeholders in advance of the consultation period to facilitate maximum access to and availability of information within the timeframe available.</p> <p>The Taskforce also notes that efforts to streamline the regulatory requirements of the EPBC Act and the OPGGS Act began in 2009 following the Productivity Commission Review of Regulatory Burden in the Upstream (Oil and Gas) Sector. In relation to the Strategic Assessment in particular, the Taskforce notes consultation also took place on the draft Terms of Reference in September 2013.</p> <p>Finally, the Taskforce notes that the Program will be subject to review after one year, and then every five years. The outcome of periodic reviews will be made public. Chapter 10 of the Strategic Assessment Report refers to arrangements for these</p>	<p>The Taskforce has clarified public consultation as part of the planned reviews of the Program in Chapter 10 (Section 10.2) of the Strategic Assessment Report.</p>

Issues and discussion		Action
	<p>reviews.</p> <p><i>Submissions that referred to this issue: 5, 6, 13, 19, 22, 27.</i></p>	
15	<p>Consultation on streamlining implementation phase</p> <p>A range of submissions suggested further consultation was required in relation to the implementation of streamlining. One submission suggested that NOPSEMA have consultation sessions as part of the preparation of guidance notes and establish a multi-stakeholder advisory panel for ongoing input into the process.</p> <p><u>Response</u></p> <p>The Taskforce has not changed the current position in the Program and Strategic Assessment Reports on this matter. However the Taskforce notes the importance of ongoing consultation and engagement with stakeholders in the development of guidance and implementation of Regulations, as part of good business practice.</p> <p>The Taskforce also notes that NOPSEMA is developing a communications and implementation strategy in relation to the Program, and suggests that NOPSEMA consider the suggestion to utilise consultations as part of guidance development and a multi-stakeholder advisory panel as mechanisms of ongoing consultation during the streamlining implementation phase.</p> <p><i>Submissions that referred to this issue: 5, 24, 31, 33.</i></p>	<p>The Taskforce has taken no further action on this matter. The Taskforce has suggested that NOPSEMA consider holding consultations and developing a multi-stakeholder advisory panel for ongoing input to Program implementation.</p>
16	<p>Public consultation requirements for Offshore Project Proposals</p> <p>Submissions presented various views on the public consultation requirements for Offshore Project Proposals, stating that either the proposed four-week minimum was not enough in any circumstance, or that a maximum consultation period be prescribed under the Program, with some suggesting that this should be four weeks.</p> <p>Submissions also requested clarification on the proposed Regulations and whether the proponent can negotiate the length of consultation with NOPSEMA. Industry stakeholders at information sessions also raised concerns about the uncertainty of</p>	<p>The Taskforce has revised Chapter 5 (Section 5.3) of the Strategic Assessment Report to clarify processes and consultation requirements under</p>

Issues and discussion	Action
<p>timeframes if NOPSEMA were able to determine the length of the consultation beyond four weeks.</p> <p><u>Response</u></p> <p>The Taskforce considers that early and effective consultation is an expectation of government and community for social licence to operate. The four-week minimum prescribed in the Program was designed to be equivalent to the minimum required under the EPBC Act for assessment of activities that are likely to have an impact on Protected Matters.</p> <p>In relation to suggestions that a maximum consultation timeframe be prescribed, the Taskforce points to the intention of the Program: to provide for a consultation period, of at least four weeks, but one that is commensurate to the nature and scale of the project, potential risks, and potential impacts. While a maximum timeframe based on known potential impacts and risks of projects may provide certainty for industry, it may not provide for adequate consultation for all proposed projects in the future. The flexible approach of the Program was also designed to provide incentive for early consultation as part of Offshore Project Proposal, which, in consultation with NOPSEMA and demonstrated, might result in a requirement for the minimum four-week public consultation.</p> <p>NOPSEMA is developing specific guidance for Offshore Project Proposals and will also update its existing consultation guidance in relation to this matter. NOPSEMA will ensure that through these documents it provides a clear indication of potential consultation timeframes that may be appropriate for Offshore Project Proposals in different circumstances, to ensure appropriate opportunity for comment for all stakeholders.</p> <p>On balance, it is the view of the Taskforce that the minimum four-week consultation period is appropriate, with no maximum set for consultation. In order to increase clarity, the process for determining the consultation period for a specific project has been further developed in the Strategic Assessment Report.</p> <p><i>Submissions that referred to this issue: 3, 5, 10, 15, 19, 25, 29, 39.</i></p>	<p>the Program for Offshore Project Proposals.</p>
<p>17</p> <p>Providing for ‘public interest’ access to consultation.</p> <p>A number of submissions sought clarification and expansion of the definition of ‘relevant persons’, to ensure that the ‘public interest’ is represented in the assessment process. Some also requested full public consultation for all Environment Plans. One submission suggested narrowing the definition of ‘relevant persons’.</p> <p><u>Response</u></p> <p>The Taskforce notes that early and effective consultation is an expectation of governments and the community as part of maintaining social licence to operate for industry. However given concerns about ‘stakeholder fatigue’ from both environmental</p>	<p>The Taskforce has not actioned any change to existing provisions.</p>

Issues and discussion	Action
<p>groups and industry there is a need to ensure consultation processes are efficient. From the Taskforce's perspective this means that public interest access to offshore assessment and decision-making must meet society's expectations but be efficient at the same time. Consultation arrangements for the Program are described in Chapter 5 of the Strategic Assessment Report. The Taskforce is of the view that on balance, the arrangements described are appropriate and that no change is required to the Program or Strategic Assessment report. The reasons for this are as follows.</p> <p>First, the Offshore Project Proposal process provides for four weeks minimum public consultation for assessment of all activities that are likely to have an impact on matters protected under the EPBC Act, in line with the minimum requirement under the EPBC Act.</p> <p>Secondly, in relation to Environment Plans, concern about absence of public access may arise from the definition of 'relevant persons' (as defined in the Environment Regulations) and doubts about whether interest groups qualify under the definition. However the Taskforce points out that environmental NGOs, who have provided submissions on this issue, can and have previously qualified as 'relevant persons' for the purpose of Environment Plan consultation. The Taskforce also notes the extent and effectiveness of consultation, as a Titleholder must submit a report to NOPSEMA on all consultations between the operator and any relevant person. This must include an assessment of the merits of any objection or claim and the Titleholders response. NOPSEMA is unable to accept an Environment Plan unless these requirements are met.</p> <p><i>Submissions that referred to this issue: 3, 5, 6, 10, 13, 19, 21, 22, 27, 28, 29.</i></p>	
<p>18</p> <p>Risk of stakeholder 'consultation fatigue'</p> <p>Submissions from all stakeholder groups (industry, fishing industry, environmental NGOs and government) noted the general and increasing volume of consultation required in relation to offshore petroleum exploration and development and described it as 'consultation fatigue'. It was suggested that this could possibly increase under the Program. A number of submissions suggested government funding for environmental NGOs may assist in managing stakeholder fatigue.</p> <p>Submissions also suggested that the streamlining process presents an opportunity to make improvements in the traditional consultation process, by suggesting a more strategic approach be adopted rather than commenting on individual Environment Plans. The work between the industry peak body, the Australian Petroleum Production and Exploration Association (APPEA) and fishing interests was identified as a process that could lead to the development of a framework for effective engagement with fishing stakeholders.</p> <p><u>Response</u></p> <p>The Taskforce is of the view that early engagement is a clear expectation of government and community to maintain a social</p>	<p>The Taskforce has amended Chapter 5 (Section 5.3) of the Strategic Assessment Report to make reference to the use of strategic consultation under the Program.</p> <p>The Taskforce has also recommended that NOPSEMA encourage effective, strategic and streamlined consultation in</p>

Issues and discussion		Action
	<p>licence to operate for industry, and is good business practice.</p> <p>The Taskforce agrees that development of strategic and efficient approaches to consultation will be of clear benefit to both industry and stakeholders and encourages both parties to pursue such arrangements under the Program. The Taskforce notes that NOPSEMA guidance on consultation is to be updated to reflect the amendments to the Regulations and introduction of the Offshore Project Proposal process.</p> <p>The Taskforce recommends that NOPSEMA consider its role in encouraging strategic and streamlined consultation, as appropriate, for example through the development of frameworks for engagement in relation to the implementation of the Program (see also Issue 15 – consultation arrangements for implementation).</p> <p><i>Submissions that referred to this issue: 13, 15, 23, 24, 28, 29, 33.</i></p>	updated guidance.
<h3>3.7 Transparency</h3>		
19	<p>Notifications and publication of documents</p> <p>Comments on transparency varied between stakeholder groups. Industry submissions raised concerns in relation to the potential requirement to publish commercial-in-confidence information as part of an Offshore Project Proposal. They also suggested that there was an increase in regulatory burden where additional information is to be included in Environment Plan summaries.</p> <p>Environmental NGOs and fishing industry stakeholders sought increased transparency through full publication of Environment Plans with relevant data and supporting evidence to also be provided.</p> <p>Several submissions from all groups recommended that NOPSEMA provide notifications of proposals, revisions and decisions via an electronic system that relevant persons could register to receive.</p> <p><u>Response</u></p> <p>The Program provides for full publication of Offshore Project Proposals in line with expected transparency arrangements for matters that are likely to have an impact on a matter protected under Part 3 of the EPBC Act.</p>	The Taskforce has recommended that NOPSEMA pursue an electronic notifications system.

Issues and discussion	Action
<p>Further, the new notification provision and expanded Environment Plan summary contents both seek to ensure adequate information is provided in the public domain about how environmental outcomes are being achieved under the Program as under the EPBC Act. The Program promotes transparency in these processes through notification requirements, clear acceptance criteria, and publication of information. Section 5.4 of the Strategic Assessment Report and sections 4.5 and 5.5 of the Program Report provide details of these processes.</p> <p>The Taskforce believes that these requirements deliver an appropriate level of transparency while maintaining protection of commercially sensitive information and managing regulatory burden. The Taskforce supports the suggestion that NOPSEMA provide notifications via an electronic system, and notes that NOPSEMA is investigating various mechanisms for effective notification as part of its implementation strategy.</p> <p><i>Submissions that referred to this issue: 5, 11, 18, 21, 22, 27, 28, 29.</i></p>	
<p>20</p> <p>Feedback to agencies providing inputs</p> <p>One submission noted that it is not always clear how information provided to a Titleholder in the course of consultation is incorporated into resulting Environment Plans. The submission sought amendment or clarification such that Titleholders should be required to provide written feedback to stakeholders following consultation.</p> <p><u>Response</u></p> <p>The Taskforce considers that the ongoing relationship between titleholders and 'relevant persons' is paramount in ensuring the effectiveness of the Program, but is the responsibility of the titleholder. The Taskforce notes that where agencies or stakeholders request written feedback from titleholders, good practice would indicate that a titleholder should provide such feedback. The Taskforce considers that this is a matter best addressed through guidance and ongoing engagement between the titleholder and relevant persons, and recommends that NOPSEMA incorporate this issue into its updated guidance.</p> <p><i>Submissions that referred to this issue: 14.</i></p>	<p>The Taskforce has recommended NOPSEMA address the issue of provision of responses to relevant persons in updated guidance.</p>
<p>21</p> <p>Publication of statements of reasons for decisions</p> <p>A number of submissions sought the publication of statements of reasons for all decisions – for both accepting and refusing to accept Offshore Project Proposals and Environments Plans. The submissions suggested that these statements should be made available on request as a minimum.</p>	<p>The Taskforce has amended Chapter 5 (Section 5.2) of the Strategic Assessment Report to provide more</p>

Issues and discussion		Action
	<p><u>Response</u></p> <p>Transparency arrangements under the Program are discussed in Chapter 5 of the Strategic Assessment Report. As the Strategic Assessment Report points out, as the Program is an objective-based regime, whereby the acceptance criteria effectively provide 'statements of reason' where an offshore proposal or Environment Plan is accepted. This is because the regulator makes its decision on the basis that all the criteria have been met by the submission. This is in combination with publication of the whole Offshore Project Proposal or the Environment Plan summary.</p> <p>In the event that an Offshore Project Proposal is refused acceptance, NOPSEMA will publish a notification and statement of reasons for the decision. If an Environment Plan is refused acceptance, NOPSEMA will publish a notification of the decision.</p> <p>The Taskforce believes that these arrangements are appropriate and commensurate with the EPBC Act, in relation to matters protected under Part 3. Chapter 5 of the Strategic Assessment Report has been updated for clarity.</p> <p><i>Submissions that referred to this issue: 5, 22, 28.</i></p>	<p>information in relation to statements of reasons and the relevance of acceptance criteria in the event that a proposal or plan is accepted.</p>
<h3>3.8 NOPSEMA Processes</h3>		
22	<p>Use of condition-setting powers</p> <p>Environmental stakeholders suggested that NOPSEMA, in relation to its decision-making for matters protected under Part 3 of the EPBC Act, should be specifically empowered to make conditions about these matters. Submission 22 also suggested that NOPSEMA's lack of application of condition-setting powers is limiting the ability to drive industry innovation and risk reduction, and should be used if the objective-based regime does not achieve environmental improvement.</p> <p>More generally, stakeholders suggested that condition-setting for Environment Plans should be subject to consultation with the proponent (as is the case under the EPBC Act).</p> <p><u>Response</u></p>	<p>The Taskforce has taken no further action on this matter.</p>

Issues and discussion	Action
<p>NOPSEMA has the regulatory ability to accept an Environment Plan either in part, or with limitations or conditions (Section 5.6.6 of the Program Report; Regulation 10(6)). The use of this regulatory power is detailed in NOPSEMA's Environment Plan Assessment Policy, available on NOPSEMA's website.²</p> <p>NOPSEMA's general policy is that the titleholder should be able to address any requirement considered necessary for effective management of environmental risks and impacts in their Environment Plan submission, and not rely on the regulator to set conditions. However, it is acknowledged that this may not be the case in all circumstances, and NOPSEMA has, from time to time, exercised its powers under Regulation 10(6).</p> <p>In determining whether to accept a submission in part with limitations or conditions, NOPSEMA, as a matter of good practice, engages with the titleholder on the proposed decision.</p> <p><i>Submissions that referred to this issue: 22, 27.</i></p>	
<p>23 NOPSEMA decision-making</p> <p>Stakeholders suggested certain modifications and clarifications for the decision-making process, including that NOPSEMA take account of public comments in an Offshore Project Proposal acceptance decision, and that the Program should clarify that an Environment Plan will not be 'accepted' where an impact on a threatened species habitat is not acceptable.</p> <p>A further submission suggested that NOPSEMA should consult with the relevant state or territory government in its assessment and decision-making processes, as provided for in the EPBC Act.</p> <p><u>Response</u></p> <p>Offshore Project Proposal Consultation</p> <p>The proponent of an offshore project proposal is required to address all comments raised regarding their proposed activity, and provide a full transcript to NOPSEMA of all consultations. The Offshore Project Proposal also places the onus of addressing public submissions on the proponent by requiring that they assess the merits of any objections or claims made in the submissions and provide a statement of the response to any claims, including any changes to the proposal as a result of the submissions.</p>	<p>The Taskforce has taken no further action on this matter.</p>

² <http://www.nopsema.gov.au/assets/Policies/N-04700-PL0930-Environment-Plan-Assessment-Policy.pdf>

Issues and discussion	Action
<p>NOPSEMA will not accept an Offshore Project Proposal if the assessment of the submissions, and the proposed response by the proponent is not adequate.</p> <p>Environment Plan Acceptance</p> <p>An Environment Plan must describe the environment in which the proposed activity will be taking place, including any environmental sensitivity. This broad definition of the environment includes not just threatened species, but also key components of their habitat. The Environment Plan must also detail how the relevant elements of the environment may be impacted by the proposed activity and what control measures will be in place to reduce the impacts to acceptable levels.</p> <p>NOPSEMA cannot accept an Environment Plan unless the demonstrations required by the acceptance criteria are met, including that impacts and risk will be reduced to acceptable levels.</p> <p>Consultation with state/territory agencies</p> <p>In the preparation of an Environment Plan, a titleholder must consult with each agency of a state/territory to which the activities may be relevant; and with the department of the responsible state/territory Minister. The results of this consultation are required to be documented in the Environment Plan.</p> <p>NOPSEMA can and does consult with relevant state/territory agencies in relevant circumstances. There are administrative arrangements (in the form of Memoranda of Understanding or other agreements) in place with a number of jurisdictions, which are reviewed and updated from time to time.</p> <p><i>Submissions that referred to this issue: 19, 20, 36.</i></p>	
<p>24</p> <p>Verification process for information provided by a proponent</p> <p>Submissions suggested that NOPSEMA must consider whether the proponent's determination of risk (and significance) is acceptable to NOPSEMA and that reporting requirements under the Program rely on self-reporting by proponents. While it was noted that NOPSEMA administers a monitoring and inspection process, it was recommended that there be a process of verifying data submitted.</p> <p><u>Response</u></p> <p>NOPSEMA's Environment Division is staffed by suitably qualified and experienced personnel across a range of disciplines including science and regulatory policy. They have extensive experience in environmental management in the petroleum sector</p>	<p>The Taskforce has taken no further action on this matter.</p>

Issues and discussion		Action
	<p>enabling them with the appropriate skills to critically analyse information provided in Titleholder submissions and reports.</p> <p>In addition NOPSEMA also retains the capacity and statutory ability to either independently verify information and claims contained in titleholder submissions, or request that the Titleholder provide further evidence in support of the information or claims.</p> <p><i>Submissions that referred to this issue: 3, 29.</i></p>	
3.9 Compliance and enforcement		
25	<p>Penalties for Protected Matters compared to EPBC Act.</p> <p>Several submissions expressed concern that the penalties under the Program were reduced compared to those in the EPBC Act, and that the provisions under the OPGGS Act were not sufficient as they had no focus on matters of national environmental significance (MNES).</p> <p><u>Response</u></p> <p>Part B (Section 6) of the Program Report and Chapter 6 of the Strategic Assessment Report describe compliance and enforcement under the Program. NOPSEMA has a wide range of graduated response options available to it under the Program. NOPSEMA can also facilitate enforcement under the EPBC Act.</p> <p>The Taskforce also notes that, if the Program is endorsed and actions or classes of actions approved under Part 10 of the EPBC Act, the penalties under the EPBC Act still apply where the proponent is found to have incurred a significant impact on a matter protected under Part 3 of the EPBC Act and is not acting in accordance with the endorsed Program. This means that, contrary to the assertion that penalties would be reduced under the Program, penalties under the Program and the EPBC Act will continue to apply.</p> <p>The Taskforce acknowledges that this issue was not clearly explained in the Strategic Assessment report and has reviewed and amended the text to clarify this.</p> <p><i>Submissions that referred to this issue: 3, 10, 19, 21, 22, 28.</i></p>	<p>The Taskforce has clarified Chapter 6 (Section 6.1) of the Strategic Assessment Report to reflect that EPBC Act penalties continue to apply if a proponent does not act in accordance with the Program and, as a result, cause a significant impact on a matter protected under Part 3 of the EPBC Act.</p>

Issues and discussion	Action
<p>26 Public reporting of compliance and enforcement for Protected Matters</p> <p>Submissions suggested that the reporting of compliance and enforcement action in relation to environment performance is not currently sufficiently detailed and should be more transparent as NOPSEMA will have additional enforcement responsibilities relating to EPBC Act Protected Matters under the Program.</p> <p><u>Response</u></p> <p>The Taskforce is of the view that performance reporting is consolidated and more readily accessible under the Program. NOPSEMA publishes annual industry performance reports and quarterly KPI update reports on its website outlining key matters in relation to industry's performance against regulatory requirements. NOPSEMA also includes compliance and enforcement reporting as part of the published Annual Report. Chapter 9 of the Strategic Assessment Report refers to reporting arrangements.</p> <p>The Taskforce also notes that the Program will be subject to review after one year, and then every five years, in relation protection of matters under Part 3 of the EPBC Act, including relevant compliance and enforcement. The outcome of these reviews will be made public. Chapter 10 of the Strategic Assessment Report refers to arrangements for these reviews.</p> <p>Further, both the NOPSEMA Annual Report and annual plan are published documents. The annual plan is a statutory requirement for NOPSEMA to publish an operational plan for its activities over the forward 12 months. The Annual Report is also a statutory requirement for NOPSEMA to publish reporting on its general activities over the previous 12 months.</p> <p><i>Submissions that referred to this issue: 3, 28.</i></p>	<p>The Taskforce has:</p> <ul style="list-style-type: none"> • amended Chapter 9 (Section 9.1) of the Strategic Assessment Report to include reference to industry performance reporting. • amended Chapter 10 (Section 10.2) of the Strategic Assessment Report to clarify that the outcome of Program reviews will be made public.
<p>3.10 Cost recovery</p>	
<p>27 Adequacy of NOPSEMA resourcing</p> <p>Several submissions from both environmental and industry perspectives noted the importance of NOPSEMA being adequately resourced to ensure it can implement and deliver the commitments of the Program and to ensure there are no unnecessary delays to assessments during the transition phase and in the longer term. NOPSEMA, in its submission, also noted that it must</p>	<p>The Taskforce has:</p> <ul style="list-style-type: none"> • clarified Sections 4.4 and 5.2 of the

Issues and discussion	Action
<p>be able to levy all Environment Plans to ensure efficient and effective regulation.</p> <p>Submissions also:</p> <ul style="list-style-type: none"> questioned whether NOPSEMA had adequate expertise and resourcing, and suggested that NOPSEMA's levies may need to be increased to ensure adequate resourcing. <p><u>Response</u></p> <p>The Taskforce notes that NOPSEMA is a fully cost-recovered agency. Its activities and functions are funded through levies on the petroleum industry and/or a fee-for-service arrangement. This ensures that NOPSEMA's resourcing is consistent with the level of regulatory activity required and provides the flexibility to manage the changing requirements presented by the implementation and management of the Program.</p> <p>The arrangements for levies are provided for under the <i>Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003</i> and the <i>Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004</i>. Specifically, assessments of Environment Plans are funded through an Environment Plan activity levy, and compliance inspections are funded through an Environment Plan compliance levy. The specific levy amounts under these arrangements are set out and approved by the Australian Government on a regular basis through a Cost Recovery Impact Statement (CRIS). The CRIS development process must include stakeholder consultation.</p> <p>For the proposed Offshore Project Proposals, a fee-for-service will apply according to time required to undertake assessment. NOPSEMA already applies a fee-for-service arrangement for early engagement on Safety Cases under the <i>Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009</i>. NOPSEMA will issue guidance in relation to the proposed fees for Offshore Project Proposal assessment by the end of February 2014 (prior to commencement of the amended Regulations).</p> <p>In relation to NOPSEMA's human resourcing, the Taskforce notes that the cost recovery model ensures NOPSEMA has the resources to ensure access to and maintenance of appropriate and specialist environmental expertise, and the ability to seek external expertise on a case-by-case basis. The Program also provides that NOPSEMA will enter into administrative arrangements with the Department of the Environment to ensure appropriate information sharing for implementation of the Program. The Taskforce notes that as of January 2014 NOPSEMA and the Department of the Environment have commenced preparatory work in relation to implementation activities.</p> <p><i>Submissions that referred to this issue: 8, 22, 25, 33, 35.</i></p>	<p>Strategic Assessment Report to explain NOPSEMA's cost recovery arrangements under the Program, in particular to ensure strong environmental safeguards.</p> <ul style="list-style-type: none"> clarified Section 9.3 of the Strategic Assessment Report to address transitional matters including NOPSEMA's ability to call upon external expertise in the course of exercising its functions.

Issues and discussion	Action
<h3>3.11 Environment Regulations review</h3>	
<p>28 Implications of change from ‘Operator’ to ‘Titleholder’</p> <p>NOTE: This change is to implement a policy outcome of the 2012 Environment Regulations Review and is not for consideration as part of the Strategic Assessment.</p> <p>A concern raised by several submissions was the potential for unintended consequences arising from the transfer of responsibility from the ‘operator’ to a ‘titleholder’, in relation to activities undertaken across multiple title areas held by different titleholders. In particular, submissions raised the potential for the unintended consequences this may have for multi-client seismic operators, with concerns the new process would require multiple Environment Plans to be submitted for a single survey and would not allow for gaps in seismic schedules to be easily filled.</p> <p><u>Response</u></p> <p>The proposed amendments to the Environment Regulations include a change from ‘operator’ to ‘titleholder’ as the responsible entity for submission of, and compliance with, an Environment Plan (and also more generally responsibility for compliance with the requirements of the Environment Regulations). The concept of an ‘operator’ will be removed from the Environment Regulations.</p> <p>The Regulations do not prevent a single activity being carried out across multiple title areas, as the Regulations are activity-based, rather than title-based. In these cases, the titleholder for each title area could sign their name to a single Environment Plan for the activity to be submitted to the Regulator on behalf of all the titleholders (with the name and contact details for each titleholder included in the Environment Plan). The Taskforce intends to clarify this in the Explanatory Statement supporting the regulatory amendments, which will be released publicly at the end of February 2014.</p> <p>The majority of multi-client surveys are undertaken using a combination of petroleum special prospecting authorities (SPAs) and petroleum access authorities (AAs) held by the survey operator. Under the proposed regulatory amendments holders of SPAs and/or AAs, as ‘titleholders’ for the purposes of the Regulations, will be responsible for submission of Environment Plans for activities undertaken under those titles. In practice, this will mean the process for submitting Environment Plans for multi-client surveys undertaken under those titles will be simplified, as no separate nomination of an operator for the activity will be required.</p> <p>This process is further supported by amendments allowing applicants for SPAs and AAs to submit Environment Plans for acceptance prior to the grant of the title. This will ensure that if an addition to a survey is proposed, the proponent may submit or revise an Environment Plan once they have lodged an application for the SPA or AA with the National Offshore Petroleum</p>	<p>Taskforce to clarify titleholder/operator transition in the Explanatory Statement supporting the regulatory amendments.</p>

Issues and discussion	Action
<p>Titles Administrator (NOPTA). Further, if the plan is accepted by NOPSEMA prior to grant of the title, the survey can proceed as soon as the SPA or AA is granted. This will maintain the flexibility to add additional areas to a multi-client seismic survey.</p> <p><i>Submissions that referred to this issue: 15, 27, 29, 33.</i></p>	
<p>29 Ambiguity of definitions, requiring further explanation and guidance from NOPSEMA</p> <p>A number of submissions requested greater clarity and clear consistency between the Strategic Assessment Report, the Program, the amended Regulations and existing processes for key concepts such as: 'offshore project', 'Offshore Project Proposal', 'development project', 'Brownfield', 'Greenfield', 'whole-of-lifecycle', 'acceptable level', and 'credible scenario'.</p> <p><u>Response</u></p> <p>The Taskforce notes the request for greater clarity and consistency of key terms in the Program, Strategic Assessment Report and the amended Environment Regulations. The Taskforce will address and clarify definitions in the amended Environment Regulations where appropriate and further information will also be provided in the Explanatory Statement. These documents will be released publicly by the end of February 2014.</p> <p>Please refer to Issue 5 for information of definition of terms.</p> <p><i>Submissions that referred to this issue: 11, 15, 27, 29, 30, 31.</i></p>	<p>Taskforce to clarify definitions in the amended Environment Regulations and Explanatory Statement supporting the regulatory amendments.</p>
<p>30 Definition of 'petroleum activity'</p> <p>NOTE: This change is to implement a policy outcome of the 2012 Environment Regulations Review and is not for consideration as part of the Strategic Assessment.</p> <p>A number of submissions sought further clarification about the proposed definition of "petroleum activity", arguing the new definition is still quite broad and ambiguous, and may capture work program commitments. The submissions stated the definition of 'petroleum activity' should be limited to that of exploration and production activities undertaken directly for the purpose of exploring for or producing hydrocarbons, primarily seismic surveying and the drilling of wells. Several of the submissions sought the specific exclusion of certain low risk activities in the definition. The activities suggested included geotechnical/geophysical surveys, environmental and oceanographic surveys, and airborne surveys.</p> <p><u>Response</u></p>	<p>Taskforce to clarify definitions in the amended Environment Regulations and Explanatory Statement supporting the regulatory amendments.</p>

Issues and discussion	Action
<p>The review of the Environment Regulations considered the definition of 'petroleum activity' with a view to clarifying and reducing the scope of the definition, to ensure it would not potentially capture ordinary maritime activities. This amendment is also linked to the policy decision to transfer responsibility for compliance with the Environment Regulations from the 'operator' to the 'titleholder' (discussed above in Issue 28), to ensure the titleholder is responsible for managing the environmental impacts and risks created by the activities they undertake, and reflecting the titleholder's responsibility for compliance with environmental obligations under the OPGGS Act.</p> <p>The new definition removes the reference in the current Regulations to 'any activity relating to petroleum exploration or development which may have an impact on the environment', significantly narrowing the scope of the definition. The new definition also links petroleum activities directly to the rights conferred on a titleholder under the OPGGS Act by a title, or obligations imposed on a titleholder by or under the OPGGS Act. The Department of Industry considered a list of indicative exclusions from the definition, including proposed exclusions provided by industry in the course of consultations on the review. However, many of the proposed exclusions would already fall outside the scope of the amended definition; therefore to expressly include them would create regulatory uncertainty as to the definition itself. The Taskforce considers that the new definition of 'petroleum activity' sufficiently reduces the scope for inclusion of activities that should not require an Environment Plan under the Regulations, and therefore has not included a list of exclusions within the definition.</p> <p>The Taskforce intends to further clarify this in the Explanatory Statement supporting the regulatory amendments, which will be released publicly at the end of February 2014. This will also include an explanation of the application or otherwise of the definition to work program commitments.</p> <p><i>Submissions that referred to this issue: 11, 15, 24, 25, 27, 29, 30, 31, 33, 34,36.</i></p>	
<p>31</p> <p>Monitoring discharges</p> <p>NOTE: This change is to implement a policy outcome of the 2012 Environment Regulations Review and is not for consideration as part of the Strategic Assessment.</p> <p>Several submissions expressed concern at the removal of prescriptive requirements regulating discharges of produced formation water. On the other hand, other submissions supported the removal of the prescriptive requirements. The latter submissions, however, noted the potential for the regulator to push goals beyond what is accepted 'good oilfield practice' around the world.</p> <p><u>Response</u></p> <p>The regulations relating specifically to the measurement and management of petroleum discharged in produced formation</p>	<p>The Taskforce has taken no further action on this matter.</p>

Issues and discussion	Action
<p>water did not reinforce the principles of reduction of environmental impacts and risks to ALARP or an acceptable level. The monitoring of all discharges, including produced formation water, is required under the amended sub-regulation 14(7), which requires a titleholder to provide for monitoring of all emissions and discharges sufficient to assess whether the environmental performance outcomes and standards in the Environment Plan are being met. In accordance with the acceptance criteria for an Environment Plan, arrangements relating to discharges of produced formation water will be sufficient if they demonstrate that discharges will be managed to ALARP and an acceptable level.</p> <p><i>Submissions that referred to this issue: 10, 15, 21, 24.</i></p>	
<p>32 Incident notification requirements</p> <p>NOTE: This change is to implement a policy outcome of the 2012 Environment Regulations Review and is not for consideration as part of the Strategic Assessment.</p> <p>A submission suggested the existing requirement to notify the regulator of all reportable incidents within two hours was unrealistic and that the Environment Regulations be amended to align with the Safety Regulations, where the notification requirement is “as soon as practicable” after the incident. Specific request for clarification around the timing of written notifications was also made.</p> <p>A further submission asked what arrangements would be in place to ensure NOPSEMA is available 24 hours a day, 7 days a week to receive oral notifications of reportable incidents.</p> <p><u>Response</u></p> <p>The titleholder must orally notify the regulator within two hours of any incident relating to an activity that has caused, or has the potential to cause, moderate to significant environmental damage, and provide a written report to the regulator within three days. This will ensure quick and appropriate action in the event of a reportable incident, which will in turn provide the public with confidence that an incident is being managed appropriately. On this basis, it is not appropriate to reduce the current incident notification requirement.</p> <p>The Taskforce notes that NOPSEMA has an incident response phone number (prominent on NOPSEMA’s website), which is manned by a duty officer 24 hours a day, 7 days a week.</p> <p><i>Submissions that referred to this issue: 11, 30, 36.</i></p>	<p>The Taskforce has taken no further action on this matter.</p>

Issues and discussion		Action
33	<p>Revision of Environment Plans for decreased environmental risk</p> <p>A submission recommended a titleholder may wish to submit a proposed revision of an Environment Plan if there has been a significant decrease in an existing environmental impact or risk.</p> <p><u>Response</u></p> <p>The Environment Regulations require a titleholder to submit a proposed revision of an Environment Plan where there is any significant new environmental impact or risk, or an increase in an existing environmental impact or risk, not already provided for in the Environment Plan in force for the activity. Additionally, a titleholder must submit to the regulator a revision of the Environment Plan at least every five years. In circumstances where there is a decrease in risk (but not a new risk), the in-force Environment Plan would address the nature of that risk, albeit at a higher level. Requiring a titleholder to submit a proposed revision of an Environment Plan for a decrease in risk will increase the regulatory burden on industry, without delivering a measurable improvement in environmental standards. Therefore, the Taskforce does not propose an amendment to the Regulations to this effect.</p> <p><i>Submissions that referred to this issue: 7.</i></p>	<p>The Taskforce has taken no further action on this matter.</p>
<h3>3.12 Reporting</h3>		
34	<p>Reporting of all environmental damage</p> <p>A submission recommended that the Program require notification of all environmental damage. The submission expressed concern that the Program requires notification of incidents 'only in relation to moderate to significant environmental damage', and recommended there be an obligation to notify all environmental damage. The submission noted, however, that damage other than moderate to significant need not be notified with the same urgency.</p> <p><u>Response</u></p> <p>The Program already requires notification of all reportable incidents (reportable incident, for a titleholder undertaking an activity, means an incident relating to the activity that has caused, or has the potential to cause, moderate to significant environmental damage).</p>	<p>The Taskforce has not actioned any change to current provisions.</p>

Issues and discussion		Action
	<p>In addition to the notification requirements for incidents in relation to moderate to significant environmental damage, titleholders must provide a monthly report of 'recordable incidents'. A 'recordable incident' is any instance in which the titleholder has breached an environmental performance outcome or standard under an accepted Environment Plan. The report must contain a record of all recordable incidents during the month, all material facts and circumstances concerning the incidents, any action to avoid or mitigate adverse environmental impacts, corrective action that has been or will be taken, and action taken to prevent similar incidents in the future. A titleholder must also prepare and submit a report detailing its environmental performance for an activity no less than annually.</p> <p>The Taskforce is confident that the Program, as currently drafted, provides an adequate level of notification for environmental damage.</p> <p><i>Submissions that referred to this issue: 3.</i></p>	
<h3>3.13 Cross-jurisdictional issues</h3>		
35	<p>Integration of the Program with state assessment processes (state waters and land)</p> <p>Submissions from industry expressed concern about the integration of the NOPSEMA offshore streamlining process and state assessment processes for state waters, as well as the broader bilateral COAG environmental approvals streamlining processes for linked land-based activities. It was suggested that unless these issues were resolved there could be duplication and added complexity, which would increase the cost and time associated with projects.</p> <p>Submissions sought further information and clarification around how cross-jurisdictional approval processes will be managed. One submission also suggested that the alignment of state-based assessments with the EPBC Act impact-based approach (compared to the activity-based approach of the Program) could add to the regulatory burden and that this aspect needed careful consideration. This issue was identified as critical to the success of the streamlining reforms by a number of submissions, which argued for a longer implementation lead-time to ensure the impacts on business from the transition were minimised. Integration in relation to implementation of compliance requirements of the EPBC Act and OPGGS(E) Regulations was also identified as a specific issue.</p> <p><u>Response</u></p>	<p>The Taskforce has reviewed and clarified Section 4.3 of the Strategic Assessment Report.</p> <p>The Taskforce also recommends that the Department of Industry and the Joint Authority continue to encourage states and the Northern Territory to consider conferral</p>

Issues and discussion		Action
	<p>The Strategic Assessment is one step of a multi-pronged government approach to streamlining of environmental approvals. The one-stop-shop Commonwealth–state/territory streamlining reform, which as a Council of Australian Governments (COAG) process, is necessarily more complex and time consuming. This means that the full benefits will be gradually realised as each tranche of streamlining is completed. The intention, however, is to achieve the best offshore streamlining outcome possible and it has been progressed as a stand-alone initiative to achieve timely and tangible progress for the offshore industry sector as a priority. Integration with other related processes, including alignment of regulatory approaches, will remain a challenge for all parties – but one that will be subject to further discussions with industry as these processes progress.</p> <p>States may currently confer powers to NOPSEMA under the OPGGS Act in relation to state waters and this would add to the effectiveness of offshore streamlining. The Program anticipates this possibility and has been developed to enable this, should it occur, with as little regulatory impact as possible.</p> <p>The Taskforce notes the concerns raised and has reviewed the Program and Strategic Assessment Reports in relation to this issue, to ensure clarity. Other responses relevant to this issue can be found in Transitional Arrangements (Issue 36, 37) and Compliance and Enforcement (Issue 25, 26).</p> <p><i>Submissions that referred to this issue: 11, 15, 17, 22, 27, 29, 33, 35, 36, 38.</i></p>	of environmental management functions.
<h3>3.14 Transitional arrangements</h3>		
36	<p>Delayed implementation of the Program</p> <p>Many industry stakeholders sought clarification of matters relating to the implementation of the Program, noted the scale and complexity of the proposed regulatory amendments and recommended a delayed implementation of these provisions, to ensure the greater understanding of the Program and minimise any unintended consequences.</p> <p><u>Response</u></p> <p>The Taskforce notes that streamlining offshore environmental approvals will reduce regulatory burden on industry while maintaining existing environmental safeguards, in accordance with the Government’s agenda to provide a one stop shop for environmental approvals, as well as its broader deregulation agenda.</p> <p>The Taskforce also notes the Government’s commitment to streamline offshore environmental approvals by March 2014.</p>	The Taskforce has not actioned any changes in relation to this issue.

Issues and discussion	Action
<p>The Ministerial announcements and the Strategic Assessment Agreement indicate the Government's commitment to completing the Strategic Assessment by end February 2014. The Taskforce is continuing to work towards this commitment.</p> <p><i>Submissions that referred to this issue: 15, 17, 24, 27, 29, 31, 33, 35.</i></p>	
<p>37 Further clarity and guidance is required about transition and implementation matters</p> <p>Several industry submissions identified a number of aspects of implementation and transitional arrangements as a source of significant uncertainty, which they suggest require further clarification in the Program or as part of NOPSEMA guidance.</p> <p>These included:</p> <ul style="list-style-type: none"> • the transfer of EPBC Act conditions to NOPSEMA from existing EPBC Act approvals; • compliance and enforcement arrangements between the Department of the Environment and NOPSEMA); and • arrangements for 'brownfields' projects approved prior to the EPBC Act. <p>A number of submissions also sought continued engagement with the Taskforce or NOPSEMA to assist with implementation and to develop shared expectations.</p> <p><u>Response</u></p> <p>The Taskforce notes that, under the Program, NOPSEMA has committed to developing and updating a suite of guidance documents to assist industry and other stakeholders to understand the Program and assist in the transition period. The Taskforce notes that NOPSEMA's approach to the preparation of guidance seeks to involve stakeholders, as appropriate, in order to ensure their continuous relevance and improvement. The Taskforce also notes that NOPSEMA will continue undertake information sessions and workshops with industry, as required, to ensure industry preparedness for implementation.</p> <p>In relation to existing EPBC Act conditions and approvals, the Taskforce recommends that the Department of the Environment provide information to industry and other stakeholders in relation to compliance and enforcement for existing EPBC Act approvals and conditions.</p> <p><i>Submissions that referred to this issue: 15, 17, 24, 27, 29, 31, 33, 35.</i></p>	<p>The Taskforce recommends that the Department of the Environment clarify transitional matters in relation to existing EPBC Act approvals and conditions.</p> <p>The Taskforce also notes NOPSEMA is preparing guidance outlining implementation and transitional arrangements.</p>

Issues and discussion	Action
<h3>3.15 Review</h3>	
<p>38</p> <p>Review of NOPSEMA decisions and procedural fairness</p> <p>A number of submissions mentioned the issue of lack of availability of procedural review of NOPSEMA decisions (e.g. Environment Plan withdrawal) in the context of procedural fairness.</p> <p><u>Response</u></p> <p>The Taskforce notes that the opportunity for procedural review of regulatory decisions under the Program exists and is the same as that under the EPBC Act. This matter is already addressed in the Strategic Assessment Report. Section 5.5 of the Strategic Assessment Report states that procedural reviews can be sought under the <i>Administrative Decisions (Judicial Review) Act 1977</i>. Industry stakeholders would have standing to bring proceedings under this Act if they consider that they are aggrieved by a NOPSEMA decision. The Taskforce notes that neither the Program nor EPBC Act has the facility for an independent ‘merit’ review of decisions.</p> <p><i>Submissions that referred to this issue: 20, 29.</i></p>	<p>The Taskforce has reviewed and clarified Section 5.5 of the Strategic Assessment Report with respect to this issue.</p>
<p>39</p> <p>Need for extended standing provisions to provide for public access</p> <p>Several submissions from environmental NGOs suggested that there was a need for the Program to have extended standing provisions, as is the case for the EPBC Act. Without this, they suggested, access to a review of decisions by public interest groups would be limited.</p> <p><u>Response</u></p> <p>The Strategic Assessment Report discusses judicial review and standing in Section 5.6, which points out that while the Program does not have extended standing as for the EPBC Act, current approaches by courts to standing of environmental groups in relation to the <i>Administrative Decisions (Judicial Review) Act 1977</i> have been liberal. Environmental groups have been able to receive standing when they have been able to establish an organisational eminence in the particular field and a close connection between the issue in dispute and the organisation’s activities. The Taskforce suggests that it may be indicative of standing that many environmental NGOs have established themselves as ‘relevant persons’ under the OPGGS Act in terms of consultation on Environment Plans by the offshore industry. This has been based on their expertise in and</p>	<p>The Taskforce has not actioned any changes in relation to this issue.</p>

Issues and discussion	Action
<p>information they collect on marine conservation and related matters (refer also to discussion re 'relevant persons' in relation to consultation on Environment Plans).</p> <p>The Taskforce is therefore of the view that extended standing is not required under the Program.</p> <p><i>Submissions that referred to this issue: 10, 19, 21, 22, 28.</i></p>	
<p>40</p> <p>Review of Program operation</p> <p>Several submissions from both industry and environmental NGOs, commented about the importance of reviewing the Program. Some mentioned the need for further clarification and others mentioned the need for public consultation to be part of a program review.</p> <p><u>Response</u></p> <p>The Taskforce notes that Part D of the Program Report and Section 10 of the Strategic Assessment Report outline the agreed arrangements for review of the Program. These include:</p> <ul style="list-style-type: none"> • a review of the Program after 12 months operation, submitted within 18 months of endorsement. The findings of this review will be provided to the Minister for Industry and the Minister for the Environment. The aim will be to refine management arrangements and standards and ensure that the Program's commitments to matters protected under Part 3 of the EPBC Act are being delivered, • a review of the program every five years to assess progress in achieving objectives, and • an annual report detailing all relevant decisions made under the Program. <p>The Taskforce considers that the arrangements as set out in the Strategic Assessment Report and Program are adequate. The Taskforce has reviewed the text of the Strategic Assessment reports to ensure clarity.</p> <p><i>Submissions that referred to this issue: 6, 15, 22.</i></p>	<p>The Taskforce has:</p> <ul style="list-style-type: none"> • Reviewed text of Chapter 10 in the Strategic Assessment Report to ensure clarity. • Reviewed Part D (Section 11) of the Program Report to ensure clarity. • Recommended that DoE undertake public consultation as part of the review of the Program.

Issues and discussion	Action
<h3>3.16 Opportunities for further streamlining</h3>	
<p>41 Assessment of ‘significant’ risks and impacts rather than ‘all’ risks</p> <p>A large number of submissions noted that the Program requires consideration of all impacts and risks, while the EPBC Act is limited to matters that may have a significant impact on Protected Matters. Some submissions recommended that the Program only require consideration of significant impacts and risks, while others recommended that the Program adopt a ‘nature and scale’ approach such that low risks and impacts could be addressed routinely through management systems, with only ‘significant’ risks and impacts requiring a detailed level of assessment (whether as part of an Offshore Project Proposal or Environment Plan). It was also suggested that monitoring be risk-based and consistent with nature and scale.</p> <p><u>Response</u></p> <p>The OPGGS Act and the OPGGS(E) Regulations described in the Program set out NOPSEMA’s responsibilities to ensure compliance with environmental management requirements. To implement these responsibilities the OPGGS(E) Regulations require titleholders to assess all impacts and risks to the environment. These include, but are not limited to, ‘significant’ impacts and risks, and EPBC Protected Matters of the environment.</p> <p>The Program does not set a significance threshold in relation to environmental impacts and risks, but instead adopts a ‘nature and scale’ approach.</p> <p>The Taskforce acknowledges that the ‘nature and scale’ approach under the Program may not have been well understood, and has amended the OPGGS(E) Regulations to clarify that the assessment of impacts and risk in an Offshore Project Proposal and Environmental Plan are to be appropriate to the nature and scale of those impacts and risks.</p> <p>The Taskforce also notes suggestions that the regulations include a ‘major environmental event’ (MEE) definition analogous to the ‘major accident event’ (MAE) definition in the OPGGS (Safety) Regulations. Such a definition would facilitate a more structured ‘nature and scale’ approach, but is not feasible under the OPGGS(E) Regulations because the nature of an ‘environmental event’ would differ depending on the type of activity and also the particular receiving environment. For this reason, the OPGGS(E) Regulations will not include an MEE concept.</p> <p>However, the Taskforce suggests that the peak industry body, APPEA, work to develop a framework that could assist industry stakeholders in adopting a ‘nature and scale’ approach in identifying, assessing and managing environmental risks and impacts.</p>	<p>The Taskforce has amended the OPGGS(E) Regulations to clarify the assessment of impacts and risks in Offshore Project Proposals and Environment Plans.</p>

Issues and discussion		Action
	<p>Regarding monitoring and evaluation, NOPSEMA adapts compliance and enforcement activities based on risk and a range of other matters, including a proponent's environmental record. Information in this regard is available on NOPSEMA's website.</p> <p><i>Submissions that referred to this issue: 7, 11, 15, 24, 27, 29.</i></p>	
42	<p>Conferral of state and territory powers to NOPSEMA</p> <p>Submissions noted that NOPSEMA's powers only apply to offshore petroleum and greenhouse gas activities undertaken in Commonwealth waters, and to state and territory waters where functions have been conferred. It was recommended that relevant states and territories confer powers to NOPSEMA in order to achieve 'true' streamlining for offshore activities.</p> <p><u>Response</u></p> <p>The Taskforce agrees that further benefits will arise where relevant states and territories confer powers to NOPSEMA. This issue is also discussed in Cross-jurisdictional Issues (Issue 35).</p> <p><i>Submissions that referred to this issue: 35, 36.</i></p>	The Taskforce has taken no further action on this matter.
43	<p>Alignment of Offshore Project Proposal/Environment Plan requirements to ensure efficiency</p> <p>Submissions noted that administration of the Offshore Project Proposal and Environment Plan processes by NOPSEMA would need to ensure these are aligned to realise the full benefits of reduced duplication. In particular, information provided for the purpose of an Offshore Project Proposal should not be required for an Environment Plan, and stakeholder engagement requirements could be reviewed if an activity has already been subject to an Offshore Project Proposal acceptance.</p> <p><u>Response</u></p> <p>The Taskforce notes the submissions on streamlining the Offshore Project Proposal and Environment Plan processes. An Environment Plan is a subsequent step and is required after an Offshore Project Proposal has been accepted, as stated in the Program and required under the OPGGS Act. NOPSEMA will have full 'line of sight' through a project's assessment commencing with an Offshore Project Proposal through to an Environment Plan's assessment. The benefit of an Offshore Project Proposal is that both NOPSEMA and proponents can gain an early understanding of key issues and agree on information requirements and standards. This approach is anticipated to reduce assessment timeframes at the submission of the final Environment Plan.</p>	The Taskforce notes that NOPSEMA guidance will outline Offshore Project Proposals in detail.

Issues and discussion		Action
	<p>The Taskforce notes the potential for significant alignment of the Offshore Project Proposal and the Environment Plan, as the structure, decision-making process and information requirements are compatible. In addition, consultation requirements by an Offshore Project Proposal should inform titleholders as to relevant persons for Environment Plan preparations. (Refer also to Issue 11)</p> <p><i>Submissions that referred to this issue: 7, 24, 35.</i></p>	
<h3>3.17 Separate policy issues</h3>		
44	<p>Acreage release process</p> <p>Several submissions identified the acreage release process as an important process with a bearing on environmental outcomes. Submissions sought the opportunity to comment on proposed areas for release and for greater transparency in relation to the data underpinning the process.</p> <p><u>Response</u></p> <p>Acreage release falls outside the Terms of Reference of this Strategic Assessment. However, the Taskforce notes the importance of the acreage release process in the offshore petroleum sector and its development. The Taskforce considers that there may be scope for greater community engagement in the acreage release process.</p> <p>The Taskforce notes that a five year acreage release strategy is being developed by the Department of Industry. The Taskforce recommends that the Offshore Resources Branch in the Department of Industry consider the scope for consultation as part of the acreage release strategy and process.</p> <p><i>Submissions that referred to this issue: 22, 5, 33.</i></p>	<p>The Taskforce recommends that Offshore Resources Branch in the Department of Industry, in consultation with Geoscience Australia consider the merits of public consultation in the acreage release process.</p>
45	<p>Financial assurance provisions</p> <p>Submission 11 suggested that financial readiness should be tiered to reflect risk, and submission 5 suggested that titleholders should contribute to a 'trust fund' to cover costs of any initial emergency actions and as a consequence to minimise delays.</p>	<p>The Taskforce recommends that the Offshore Resources Branch in the Department of Industry consider</p>

Issues and discussion		Action
	<p><u>Response</u></p> <p>The Taskforce notes that these comments relate to financial assurance and polluter pays provisions under the OPGGS Act, and that the Department of Industry is pursuing regulatory amendments to implement these provisions.</p> <p>These matters fall outside the Terms of Reference for this Taskforce, which has passed the comments to the relevant area within the Department of Industry.</p> <p><i>Submissions that referred to this issue: 11, 5.</i></p>	<p>the submissions' comments in its deliberations on the matter.</p>
46	<p>Delegation of approvals for greenhouse gas activities to NOPSEMA</p> <p>A submission noted that NOPSEMA has delegated powers for environmental approvals in relation to greenhouse gas activities and requested clarification about whether this will be retained after 30 June 2014.</p> <p><u>Response</u></p> <p>NOPSEMA's greenhouse gas environmental approvals role is well referenced in the Program. The Taskforce notes, however, that the current responsibility for approvals relating to greenhouse gas activities has been delegated to NOPSEMA by the Minister for Industry, and that this delegation is not currently permanent. The matter of delegation is one for the Minister for Industry.</p> <p><i>Submissions that referred to this issue: 38.</i></p>	<p>The Taskforce recommends that the Resources Division in the Department of Industry consider the submissions' comments in its deliberations on the matter.</p>
<h3>3.18 Case studies</h3>		
47	<p>Minor technical issues in Chapter 7 of the SAR</p> <p>APPEA requested technical clarifications in the detailed content of Chapter 7 of the Strategic Assessment Report. The submission specified four specific matters:</p> <ul style="list-style-type: none"> • The scenario for World Heritage properties (Section 7.2) refers to Whale Sharks, and suggests consideration of Policy 2.1 (cetaceans). Whale Sharks are not cetaceans. • The scenario for National Heritage Places (Section 7.3) refers to production drilling in the heading, and then refers to exploration drilling in the main body of the scenario. 	<p>The Taskforce has revised Chapter 7 of the Strategic Assessment Report.</p>

Issues and discussion	Action
<ul style="list-style-type: none"> • The scenario for Commonwealth Marine Areas (Section 7.7) indicates additional or higher level scrutiny for activities near Western Kangaroo Island Marine reserve would apply, in a way that could be interpreted as inferring a 'buffer zone'. The submission recommends that additional or higher scrutiny should not extend beyond the boundaries of marine reserves. • The Commonwealth land scenario (Section 7.8) should use a less unique example than Cartier Island as it is not a typical example. <p><u>Response</u></p> <p>The Taskforce has amended Chapter 7 of the Strategic Assessment Report for technical accuracy.</p> <p>The Taskforce agrees Whale Sharks are not cetaceans. However, several cetacean species also occur within the Ningaloo Coast World Heritage property which is why Policy Statement 2.1 is referenced. The Strategic Assessment Report has been amended to clarify that there are also cetaceans within the Ningaloo Coast World Heritage property, and that robust justification and controls to demonstrate that impacts and risks to Whale Sharks will be within acceptable levels will be required.</p> <p>The Taskforce agrees this is an error. The scenario is for a production drilling activity. The Strategic Assessment Report has been corrected.</p> <p>The Taskforce agrees that there is no buffer zone in place around reserves, and the Strategic Assessment Report does not refer to any buffer zones. However, the demonstration of 'as low as reasonably practicable' must take into account the environment, including reserves and other features that are of varying distances from a proposed activity. A higher level of scrutiny for projects in close proximity to Commonwealth marine reserves is consistent with the application of the 'nature and scale' acceptance criteria in relation to the receiving environment.</p> <p>The Taskforce maintains that the Commonwealth land scenario is appropriate as a demonstration scenario. The Strategic Assessment Report will also note, however, that the majority of impacts to other areas of Commonwealth land are likely to be onshore from tier three spill based sources.</p> <p><i>Submissions that referred to this issue: 15.</i></p>	

4.0 Outcomes of consultation

Stakeholders identified 47 key issues during the consultation process (Table 3.1) all of which were given careful consideration by the Taskforce in determining a response and any relevant actions.

Overall support for the Program in the submissions was high. Many (25) of the issues raised have resulted in amendments to the Program, Strategic Assessment Report and Environment Regulations. The remainder were responded to but the Taskforce felt that on balance no action was required.

Eight issues related to implementation of the Program at a more detailed operational level. The Taskforce recommended that these be considered by NOPSEMA in this context, particularly in development or revision of guidance for industry about the Program. A further five issues, although not within the scope of the Strategic Assessment, were relevant within the broader policy context of the offshore petroleum sector, and actions were identified for consideration in other policy forums.

Stakeholder clarifications and revisions to the draft Program and/or Strategic Assessment Reports were identified for 17 issues as responses to matters raised in the consultation and/or explanation of aspects of the Program. The most substantial change was the addition of information to Chapter 7 of the final Strategic Assessment Report on the potential impacts of petroleum and greenhouse gas activities on matters protected under Part 3 of the EPBC Act, and how they are protected under the Program.

Stakeholders also raised a number of matters through the consultation relevant to the amendments to the OPGGS(E) Regulations associated with the Program. These were considered as part of the detailed consideration of regulation amendments.

4.1 Changes to the Program

The Program was found largely to be a workable model by stakeholders. Nevertheless several changes were made to address concerns identified in the consultation process and as a result of further work by the Taskforce. Issues addressed included environmental protection and an industry concern about the Offshore Project Proposal process.

Environmental protection

- **World Heritage Property exclusion**
The Taskforce further strengthened the level of protection afforded to World Heritage properties in the Program in recognition of the outstanding universal values and the sensitivities of World Heritage properties. The change means that NOPSEMA cannot accept an Offshore Project Proposal or an Environment Plan that involves any activity or part of an activity, being undertaken in any part of a declared World Heritage property, other than arrangements for environmental monitoring and for responding to an emergency in relation to a petroleum or greenhouse gas activity. Further, for any activities that take place it must be demonstrated to NOPSEMA that they do not have unacceptable impacts on World Heritage properties.
- **Clarification of protection of Part 3 matters under the Program**
The Taskforce notes that the Program addresses protection of Part 3 Protected Matters in some detail, makes commitments and describes how they will be protected, including

through reference to statutory obligations and documents such as plans of management, listing statements and recovery plans. However the Taskforce has also acknowledged the concerns raised and has added further detail to Part B(Section 8), Part C and Appendix A of the Program about the matters protected under Part 3 of the EPBC Act.

Offshore Project Proposal requirement for existing activities

Several industry submissions raised concerns relating to the potential to incur additional regulatory burden arising from applying the mandatory Offshore Project Proposal requirements to brownfields, and smaller-scale or incremental developments, such as the drilling and tie-back of one well to an existing production facility. The Taskforce has amended the regulatory requirements so that mandatory requirements for an Offshore Project Proposal apply only to new development activities, and does not include new stages of existing development activities that have already received prior environmental authorisation (e.g. accepted Environment Plan or Part 9 EPBC Act approval). This amendment will retain the intent of applying the Offshore Project Proposal and Environment Plan requirements for new development activities, while subjecting additional stages of existing developments to the Environment Plan process.

4.2 Changes to the Strategic Assessment Report

Changes were made to the Strategic Assessment report in relation to 17 issues. These are identified in Table 4.1. These were mostly clarifications and minor amendments or enhancements in relation to the range of issues identified in the consultation process.

Specific changes were made in relation to the issue of environmental protection under the Program. These were:

- Inclusion of more detail in Chapter 7 on impacts of petroleum and greenhouse gas activities on matters protected under Part 3 of the EPBC Act and how the Program protects them. This resulted from further work by the Taskforce and addressed concerns of environmental NGOs and other stakeholders identified in the consultation process.
- Further information was provided in relation to how the Program addresses cumulative impacts, also a concern articulated by environmental NGOs and others during consultation.

Table 4.1: Changes to the Program and Strategic Assessment Reports

Issue	Specific Issue	Action in Program/SAR
Environmental protection under the program	1. Protection of matters protected under Part 3 of the EPBC Act	<ul style="list-style-type: none"> • Add information to Chapter 7 of the Strategic Assessment Report • Add information to Part B (Section 8), Part C and Appendix A of the Program Report
	2. NOPSEMA capabilities to assess impacts on matters protected under Part 3 of the EPBC Act	<ul style="list-style-type: none"> • Clarify Sections 4.4, 5.2 and 9.3 of the Strategic Assessment Report

Cumulative impacts	3. Cumulative impacts should be explicitly and transparently considered in the program.	<ul style="list-style-type: none"> • Add information to Section 4.3 and add Appendix 4 to the Strategic Assessment Report
Decision-making processes	5. Definitions and parameters for decision-making	<ul style="list-style-type: none"> • Change to Regulations – explicit reference to Part 3 Protected Matters as part of description of the environment.
	8. Processes and information required for decision-making	<ul style="list-style-type: none"> • Clarify existing arrangement in Section 5.2 of Strategic Assessment Report.
The Offshore Project Proposal process	10. The offshore project proposal process and streamlining – changes to or additional activities.	<ul style="list-style-type: none"> • Change Regulations and the Program to require Offshore Project Proposal only for new development activities. • Clarify Section 5.2 of the Strategic Assessment Report.
Consultation	14. Adequacy of the streamlining consultation process	<ul style="list-style-type: none"> • Clarify Section 10.2 of the Strategic Assessment Report relating to public consultation as part of reviews.
	16. Public consultation requirements for offshore project proposals	<ul style="list-style-type: none"> • Clarify Section 5.3 of Strategic Assessment Report.
	18. Risk of stakeholder consultation ‘fatigue’	<ul style="list-style-type: none"> • Clarify Section 5.3 of the Strategic Assessment Report.
Transparency	21. Publication of statement of reasons for decisions	<ul style="list-style-type: none"> • Clarify Section 5.2 of the Strategic Assessment Report.
Compliance and enforcement	25. Penalties in the Program compared to the EPBC Act	<ul style="list-style-type: none"> • Clarify Section 6.1 of the Strategic Assessment Report. •
	26. Public reporting of compliance and enforcement	<ul style="list-style-type: none"> • Clarify Section 9.1 and 10.2 of the Strategic Assessment Report.
Cost recovery	27. Adequacy of NOPSEMA resourcing	<ul style="list-style-type: none"> • Clarify Sections 4.4, 5.2, and 9.3 of the Strategic Assessment Report.
Cross jurisdictional issues	35. Integration of the Program with state assessment processes (state waters and land)	<ul style="list-style-type: none"> • Clarify Section 4.3 of the Strategic Assessment Report.
Review	38. Review of NOPSEMA decisions and procedural fairness	<ul style="list-style-type: none"> • Clarify Section 5.5 of the Strategic Assessment Report.
	40. Review of Program operation	<ul style="list-style-type: none"> • Clarify Section 10.2 of the Strategic Assessment Report

		<ul style="list-style-type: none"> Clarify Part D (Section 11) of the Program Report.
Case studies	47. Minor issues with case studies in chapter 7 of the Strategic Assessment Report	<ul style="list-style-type: none"> Revise Chapter 7 of the Strategic Assessment Report.

5.0 Conclusions

5.1 The Program

The Program for Offshore Petroleum and Greenhouse Gas environmental management authorisation administered by NOPSEMA has been developed to deliver streamlined processes for offshore petroleum and greenhouse gas activities while maintaining strong environmental safeguards, in Commonwealth waters and in state or territory waters where relevant environmental management powers have been conferred under legislation to NOPSEMA.

Consultation on the Program indicated that most stakeholders, industry in particular, found it a workable model that would deliver streamlining while maintaining the existing level of environmental protection. Comments from industry about the application of the Offshore Project Proposal process in the Program to new stages of existing developments with existing approvals under Part 9 of the EPBC Act have been addressed in the final Program.

Comments from environmental NGO stakeholders have also been addressed in the final Program. They indicated that further detail was needed on how the Program protects Part 3 Matters. The Taskforce has added further information on this in the final Strategic Assessment Report.

Further, consultation confirmed that stakeholders believed the Program could deliver streamlining benefits such as:

- increased consistency in decision-making;
- increased efficiency through a single point of contact for regulation and by providing one assessment timeline for industry; and
- reduced risks of conflicting approval requirements.

The objective-based approach of NOPSEMA also ensures all environmental regulatory activities are exposed to continuous innovation and an adaptive approach to management of the environment. This means that the Program not only maintains the current level of environmental protection but provides opportunity for improved environmental outcomes as well as reducing duplication in application, assessment, approvals and compliance. All of these benefits create an overall reduction in the costs to industry, government and the community.

5.2 Other related issues arising from consultation

Consultation about the NOPSEMA Strategic Assessment related to a specific context – the offshore oil and gas sector regulated by NOPSEMA. However some stakeholder comments arising out of this consultation related to the broader regulatory reform agenda and hence were outside the scope of the Strategic Assessment. The Taskforce was of the view that

some of the themes identified in the consultation highlighted the importance of the broader agenda and pointed to actions for consideration by others beyond this Strategic Assessment. These are identified below:

- Objective based regulation

One of the key challenges for efficient assessment and approval of developments more broadly is ‘scaling’ recently identified by the Productivity Commission³ – designing a system that is flexible enough to take account of the vast diversity of projects in terms of size, types, and circumstances. The Program is a system that has this flexibility and forms a useful example for consideration in relation to regulatory reform more generally. One of the keys to its flexibility is the objective-based regulatory approach, which underpins it.

The NOPSEMA Strategic Assessment has provided the opportunity to demonstrate to the community how an objective-based regulatory process can protect the environment and indeed improve environmental outcomes. It does this by placing the onus and duty of care for environmental protection on proponents. The outcome of an objective-based regime is that proponents consider the costs and implications to the environment as an integral part of their investment decisions. This means that it encourages awareness of environmental issues, development of competencies, and an approach that results in continuous improvement rather than minimum compliance. It ensures flexibility in operational matters to meet the unique nature of different projects, and avoids a ‘lowest common denominator’ approach to regulation.

Objective-based regulation is well established in the context of occupational health and safety in Australia but not in the context of environmental management, although this is the case elsewhere. This consultation process demonstrated a lack of familiarity with the approach, particularly among environmental NGOs, despite its potential to improve environmental management outcomes. This is a relevant consideration in achieving future regulatory reforms (for example in the fishing industry) and also means that the NOPSEMA Strategic Assessment forms a good example for educational purposes.

- Cross-jurisdictional issues

Consultation highlighted the importance of integration of the Program with assessment processes for state waters as well as the COAG process for streamlining of state environmental approvals for land-based activities through bilateral agreements. Given that offshore developments often involve state land and waters, progress on such cross-jurisdictional integration is effectively a risk to the overall effectiveness of the Program. Despite being outside the scope of the Strategic Assessment, actions to minimise this risk form part of the broader implementation of the Program. For example, in relation to state waters, the conferral of state powers to NOPSEMA is an option currently available under the OPGGS Act, which could be pursued more actively in the short term.

- Opportunities for further streamlining

Consultation emphasised that assessment should not be the only focus of ‘streamlining’ – application processes, consultation, compliance and enforcement were all identified by stakeholders as relevant in contributing to the effectiveness of streamlining even though they may not be directly within the scope of this Strategic Assessment.

- Effective and efficient consultation

³ Productivity Commission 2013, Major Project Development Assessment Processes, Research Report, Canberra.

Meaningful consultation and engagement with stakeholders is a key expectation of society, and one that the industry must continue to address and in some cases, improve its performance of. Stakeholders from all perspectives clearly identified the challenge of efficiency and effectiveness in relation to consultation. Development of such approaches is an important area for future dialogue between the industry and all its stakeholders.

At a broader level, stakeholder comment also included a suggestion for a more 'strategic approach' to consultation, where dialogue about appropriate activities takes place at an even earlier stage of the resource allocation process. A suggestion was that public consultation could potentially be integrated into the acreage release process, and that this possibility could be discussed as part of a review process.

- Accessibility and coordination of environmental data in the marine environment.

Some stakeholders identified the importance of data both for industry and for best practice environmental management, particularly in the context of cumulative impacts. The Taskforce recognises the benefits of collection, coordination and access to data for all stakeholders, in ensuring efficiency and effectiveness of all aspects of the Program, from application to consultation and assessment. It is recommended that further consideration of this policy issue potentially be required by governments.

6.0 Appendices

Appendix 6.1 Summary of written submissions

Submission Number	Stakeholder Name	Theme	Issues identified/ Comments
01	Jan Price	Decision making processes	<ul style="list-style-type: none"> Sees the Program as positive. Use of 'should' is weak compared to 'must' in terms of consideration of consultation outcomes in risk assessments etc. and in application of principles of ecologically sustainable development. (Strategic Assessment Report (SAR) Section 4.3).
02	Social Resources	Separate policy issues	<ul style="list-style-type: none"> Currently response actions under the National Marine Oil Spill Contingency Plan are exempt from the EPBC Act. Asks whether the exemption will remain and what the implications are for oil spill response.
03	Environmental Defenders Office WA (EDO WA)	Adequacy of environmental protection	<ul style="list-style-type: none"> Suggests that standard of protection of Commonwealth marine environment and Commonwealth land be higher than 'maintain' – it should be 'improvement' of degraded ecosystems. Queries NOPSEMA qualifications and capacity to inspect.
		Compliance and enforcement	<ul style="list-style-type: none"> Concern about the level of monitoring and enforcement and funding of that. Inspectors should be qualified, independent and have coercive powers.
		Consultation/transparency	<ul style="list-style-type: none"> Period of Offshore Project Proposal consultation not long enough, considering potential magnitude of environmental impacts – suggest s 60 days. Level of discretion creates uncertainty – concerned representative groups should be able to register to receive notification for all applications. Notification on Environment Plans should be broadened – interested parties must be consulted and those comments must be considered by NOPSEMA. Clarification is required about reports and whether they will be published – is the 'annual plan' the same as the 'annual report'? Suggests that Annual Report must be published.
		Cumulative impacts	<ul style="list-style-type: none"> Ongoing review of cumulative impacts under Offshore Project Proposal and Environment Plan is required.
		Decision making processes	<ul style="list-style-type: none"> 'Acceptable/unacceptable' impacts should be defined.
		Offshore Project Proposal process	<ul style="list-style-type: none"> There should be a provision for a final rejection of a project. Need a clearly unacceptable decision (areas where environmental impacts so high that project can never proceed). It is suggested that proponents could continually resubmit Offshore Project Proposal to postpone removal of tenure rights.
		Reporting	<ul style="list-style-type: none"> Operators should report all environmental damage, not just 'moderate and significant'.

Submission Number	Stakeholder Name	Theme	Issues identified/ Comments
			<ul style="list-style-type: none"> Reporting relies on proponent providing data – should be a process for providing all data for verification, including data that could indicate an environmental impact.
04	WA Fisheries	Decision making processes	<ul style="list-style-type: none"> Broadly supportive. To reflect the dynamic nature of the marine environment and fisheries management Environment Plans should be current for 12 months at a time, with subsequent approval of relevant persons required beyond this. Do not support trend for 'strategic' (diverse multi-year) Environment Plans.
		Offshore Project Proposal process	<ul style="list-style-type: none"> NOPSEMA should retain the right to 'call-in' an Offshore Project Proposal in specific circumstances (e.g. seismic survey in sensitive area).
05	Wild Migration	Consultation/transparency	<ul style="list-style-type: none"> NOPSEMA guidance re Offshore Project Proposals should include clear guidance to encourage early consultation and identification of relevant persons for subsequent Environment Plans. Statement of reasons for approving and rejecting both Offshore Project Proposals and Environment Plans should be transparently available. Full Environment Plans should be published. Extended standing provisions of EPBC Act should apply. Suggest consultation about guidance notes being prepared by NOPSEMA. Time for this consultation process too short – suggests establishment of multi-stakeholder advisory panel for ongoing input into the process. Oil Pollution Emergency Plans should involve public consultation and be published in full.
		Decision making processes	<ul style="list-style-type: none"> 'As low as reasonably practicable' definition should include specific reference to consistency with EPBC Act.
		Offshore Project Proposal process	<ul style="list-style-type: none"> Seismic surveys should require an Offshore Project Proposal in a 'cradle to grave' model for assessing the full life cycle of the exploration and production. Certainty of the Offshore Project Proposal process would allow companies to invest in more expensive but lower impact technologies (Attachment relates to impacts of seismic exploration).
		Separate policy issues	<ul style="list-style-type: none"> Acreage release process needs review. Suggest titleholders make payment into a 'trust fund' to cover costs of initial emergency actions to minimise delays.
06	Cape Conservation Group	Adequacy of environmental protection	<ul style="list-style-type: none"> Vigilance on use of precautionary principle required in 'one-stop-shop' model.
		Consultation/transparency	<ul style="list-style-type: none"> Issues with this process – website was non-functional just prior to close of submission date. Confusion with consultation on both regulations and Program. Lack of resources of community groups to respond. Support proposed new approach but recommend ability to make direct submission to regulator where there may be

Submission Number	Stakeholder Name	Theme	Issues identified/ Comments
			conflict of interest.
		Cumulative impacts	<ul style="list-style-type: none"> Not taken into account in current approach and more guidance needed in this complex and increasingly important area. Make detailed suggestions about what guidance will need to address: seasonal timing, annual timing, consecutive and simultaneous activities, all associated activities including marine traffic; and monitoring. Environment Plan summary should include section on cumulative impacts.
		NOPSEMA processes	<ul style="list-style-type: none"> Need for environmental assessment processes to be independent of government departments.
		Review	<ul style="list-style-type: none"> Need for ongoing regular review of adequacy of Strategic Assessments.
07	International Association of Geophysical Contractors	Adequacy of environmental protection	<ul style="list-style-type: none"> Figure 3.2 of the Strategic Assessment Report inaccurate with respect to risks of seismic surveys – portrayed as higher than they are (see detail in submission).
		Consultation/transparency	<ul style="list-style-type: none"> Definition of 'relevant person' should be revised to ensure that only 'bona fide' research, conservation and community groups with an interest in or surrounding an area (drawn from first-hand experience).
		Cumulative impacts	<ul style="list-style-type: none"> Serious consideration of cumulative impacts and how to measure, before inclusion in regulations. Lack of agreed approach to measurement and monitoring will create issues for both NOPSEMA and industry and may affect effectiveness of streamlining.
		Decision making processes	<ul style="list-style-type: none"> Overall support for streamlining but a number of concerns. A number of definitions required: 'reasonably satisfied', 'appropriate', 'significant impact', 'acceptable' and 'unacceptable'. Replace 'not unacceptable' with 'acceptable' (Program Section 7). Environment Plan revision need may also result from decrease in environmental risk (Program Section 5.3) Guidance in EPBC Act Policy Statement 2.1 is outdated and should be revised by NOPSEMA to reflect current knowledge.(Program Section 10.2)
		NOPSEMA processes	<ul style="list-style-type: none"> Concern at how NOPSEMA will address inconsistent conservation advice (Program p42). NOPSEMA need to consider lack of robustness of information e.g. in Marine Bioregional Plans and Conservation Values Atlas, in Environment Plan acceptance and review. 'Previous observations' or 'historical facts' should also be considered by NOPSEMA in whether they are 'reasonably satisfied' (SAR p56).
		Offshore Project Proposal process	<ul style="list-style-type: none"> Transition from Environment Plan to Offshore Project Proposal should be based on environmental risk i.e. between seismic and drilling, not exploration and development. Suggest that a deep water exploration well should require an Offshore Project Proposal.

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		Opportunities for further streamlining	<ul style="list-style-type: none"> • Questions whether 'oil spill modelling, prevention measures, mitigation and remediation strategies' are required for individual seismic surveys. • Requirement to identify/assess and avoid "any and all risks" retrograde step and may risk the objective of streamlining. Should focus only on significant risks associated with an activity. • Environment Plans may take longer (all needing to consider EPBC Matters) and negate streamlining benefits (SAR Section 1.1)
08	CONF	Cost recovery	<ul style="list-style-type: none"> • NOPSEMA needs to be able to levy all Environment Plans to ensure efficient and effective regulation. Applicants for specific titles may currently avoid levy as 'Titleholder' is the 'Duty-holder' for Environment Plans. Consequential amendments required.
		Decision making processes	<ul style="list-style-type: none"> • Program commitments to threatened and migratory species are not supported by regulation amendments. Could be addressed by clearly identifying MNES in definition of the 'environment'.
09	Rob Tyler	Offshore Project Proposal process	<ul style="list-style-type: none"> • Environment Plan/Offshore Project Proposal cut off will result in increased regulatory burden, particularly for small companies. Majority of offshore drilling campaigns are minor, and would not have previously been referred, but will now require an Environment Plan/Offshore Project Proposal route. Suggests that Offshore Project Proposal determination should be based on an assessment of risk rather than activity, e.g. simplified EPBC Act significance test incorporated into regulations.
10	Humane Society International	Adequacy of environment protection	<ul style="list-style-type: none"> • Current levels of EPBC Act protection not reflected in the Program (Strategic Assessment TOR 3). • Objects of EPBC Act not adequately reflected in Regulations, which are too unspecific/general (i.e. they are objective-based rather than making specific reference to MNES, specific treaties and documents such as Recovery Plans) therefore not providing legal protection, or ability to attach conditions. • Lack of inclusion of precautionary principle means insufficient protection.
		Consultation/transparency	<ul style="list-style-type: none"> • Guidance on length of public consultation required. • 'Relevant persons' limits engagement which will reduce public confidence in the outcome.
		Decision making process	<ul style="list-style-type: none"> • No capacity to hold public enquiry as under EPBC Act. • NOPSEMA conflict of interest in in making decisions about the environment Minister for Environment should make decisions about impact on Matters of National Environmental Significance (not Minister for Industry, through NOPSEMA).
		Review	<ul style="list-style-type: none"> • No extended standing provisions.
11	CONF	Consultation/transparency	<ul style="list-style-type: none"> • Offshore Project Proposal publication – some material may be commercial in confidence and require confidentiality.

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		Cumulative impacts	<ul style="list-style-type: none"> • Notion of EPBC Act 'related action' not adopted, but would require all titleholders to identify all related operations. • Offshore Project Proposal may not include full range of activities and therefore all impacts and risks (if applies only to activities which require a petroleum permit).
		Environment regulations review	<ul style="list-style-type: none"> • Increased clarity re 'other surveys' which are included in definition of petroleum activity.
		Offshore Project Proposal process	<ul style="list-style-type: none"> • More projects will require an Offshore Project Proposal, which will increase regulatory burden. • Proposal plus Environment Plan may increase level of assessment and regulatory burden. • Change from 'likely significant impacts' to 'all potential impacts' in Offshore Project Proposal could result in need for extensive information not necessarily available at early stage. • Schedule for delivery of guidance notes should be made available by NOPSEMA (and ready by implementation date).
		Separate policy issues	<ul style="list-style-type: none"> • Financial readiness should be tiered to reflect risk for Oil Pollution Emergency Plans.
		Cross-jurisdictional issues	<ul style="list-style-type: none"> • Queries how the Program will interact with state legislation.
12	Australian Institute of Marine Science (AIMS)	Cumulative impacts	<ul style="list-style-type: none"> • Data inadequate to support assessment of cumulative impacts in particular. • Recommend development of data standards, data coordination and central management, including the release of non-commercially sensitive data is necessary.
		Environmental data	<ul style="list-style-type: none"> • Baseline data inadequate to support the Program (based on review of publicly available data).
		Offshore Project Proposal process	<ul style="list-style-type: none"> • Exploration should require Offshore Project Proposal as data shows that there are more well 'blow outs' during exploration than development (80–90%).
13	National Seafood Industry Alliance	Consultation/transparency	<ul style="list-style-type: none"> • Pre-Christmas timing and short time frame for consultation difficult for fishing industry. Information sessions not regionally adequate – should have included NT. • Endorse NOPSEMA as the single independent regulator. • Lack of fishing industry resources to respond to offshore industry consultation needs. • Offshore Project Proposal process should require targeted consultation in addition to public consultation to successfully engage fishing stakeholders.

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			<ul style="list-style-type: none"> • Web portal is not sufficient – local community meetings/email more effective. • Suggest fishing industry could submit 'reference' information directly to NOPSEMA. • Outcomes of Fisheries Research and Development Corporation project (APPEA/Fishing industry project to develop consultation process re seismic testing) could provide input to framework for effective fishing industry engagement.
14	Aust. Maritime Safety Authority (AMSA)	Consultation/transparency	<ul style="list-style-type: none"> • Titleholders should be required to advise authorities consulted in Environment Plan development how their advice has been incorporated.
		Adequacy of environmental protection	<ul style="list-style-type: none"> • Program should specifically reference the international Convention for the Prevention of Pollution from Ships (MARPOL), which applies to offshore petroleum activities.
		Environmental data	<ul style="list-style-type: none"> • Program should indicate NOPSEMA commitment to Marine Spatial Planning initiative (AMSA/Geoscience Australia).
15	APPEA	Adequacy of environmental protection	<ul style="list-style-type: none"> • Supports the Strategic Assessment Report, which demonstrates that Program provides for outcomes equivalent to the EPBC Act.
		Case studies	<ul style="list-style-type: none"> • Detailed feedback on Strategic Assessment Report : <ul style="list-style-type: none"> – Whale Shark is not a cetacean (i.e. application of seismic guidelines not appropriate (p86)) – p. 89 production drilling activity, but refers to adjacent exploration activities – clarification required. – p. 116 higher level scrutiny near Western Kangaroo Island marine reserve – do not support buffer zones around marine reserves. – p. 120 Commonwealth land – this is unique situation. Should point out that State/territory more likely situation.
		Consultation/transparency	<ul style="list-style-type: none"> • Concerned that Offshore Project Proposal consultation requirement will lead to 'consultation fatigue'. • Expectation is that 4 week timeframe more than sufficient. • Concern that case studies in Strategic Assessment Report do not provide sufficient context to be illustrative of the logic.
		Cross-jurisdictional issues	<ul style="list-style-type: none"> • Supports streamlining. Careful consideration is needed as soon as possible as to how this will interact with current and future State frameworks (which must have an approach consistent with the Program's objective-based approach or risk increasing regulatory burden).
		Decision making processes	<ul style="list-style-type: none"> • Concerned that requirement to consider documents which have prescriptive approach such as Recovery Plans and Management Plans, not developed by NOPSEMA, may result in industry confusion, duplication and ad-hoc and subjective regulation. Require clarity about use of external documents by NOPSEMA in determining acceptability.
		Environment	<ul style="list-style-type: none"> • Definition of 'petroleum activity' ambiguous – should reflect Act intent i.e. activities directly related to exploration and

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		regulations review	<ul style="list-style-type: none"> production. change from 'titleholder' to 'operator' consequences: <ul style="list-style-type: none"> Environment Plan link to titleholder rather than operator may have significant consequences for seismic industry that needs further consideration. Concern that low risk activities linked indirectly to lease will require Offshore Project Proposal through titleholder obligations. Support new provisions to request further information.
		Offshore Project Proposal process	<ul style="list-style-type: none"> Offshore Project Proposal requirement activity based – may be required for things which previously did not require referral i.e. increasing regulatory burden. Definition does not reflect stated intent to capture major development projects. No provision for Offshore Project Proposal revision – risk of increased regulatory burden. Case for 'opt-in' not made in the Program. Risk of scope creep: guidance is required. Support Offshore Project Proposal content appropriate to nature and scale. Focus should be on 'significant' impacts and risks not 'all'. Low risk extensions to existing projects should not require separate proposal. Should only be required where environmental risk or impact may be unacceptable.
		Opportunities for further streamlining	<ul style="list-style-type: none"> Program appears to require assessment of acceptability and 'as low as reasonably practicable' (ALARP) to 'all' risks (rather than 'significant' ones) – will not reduce regulatory burden. Suggest working with NOPSEMA to develop agreed evaluation approach for risks and impacts. Low risks and impacts could then be addressed routinely through management system, with only 'significant' ones assessed for acceptability and ALARP. Streamlining of approvals/permits under EPBC Part 15 should be considered (Marine Reserves).
		Review	<ul style="list-style-type: none"> Support regular review.
		Transition arrangements	<ul style="list-style-type: none"> Application of program to existing approved 'brownfields' projects not clear: <ul style="list-style-type: none"> Offshore Project Proposal requirements for tie-backs. Guidance required for expansion or modification of existing approval. Existing EPBC Act approvals. Mechanism for NOPSEMA to raise fees for 'transferred' conditions and impact on their resources and capabilities.
16	CONF	Environment regulations review	<ul style="list-style-type: none"> Detailed comment on Regulations for future discussion with Department of Industry.
17	Chamber of Minerals and Energy WA	Cross-jurisdictional issues	<ul style="list-style-type: none"> Integration of program with bilateral agreements needs to be carefully considered to ensure streamlining is ultimately effective.

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		Decision making processes	<ul style="list-style-type: none"> Support streamlining objectives and role of NOPSEMA as single independent regulator. Support Offshore Project Proposal/Environment Plan approach with opt-in provision.
		Transition arrangements	<ul style="list-style-type: none"> Complex – require thorough planning to minimise issues.
18	WA Dept. of Transport	Adequacy of environmental protection	<ul style="list-style-type: none"> Exploration drilling should require an Offshore Project Proposal as this is an activity with significant risk (Montara was exploration drilling). Acknowledged that this can be voluntary but incentive to do it not clear. More detail required on how Environment Plan/Offshore Project Proposal framework ensures protection of MNES (including state waters).
		Consultation/transparency	<ul style="list-style-type: none"> Support proposed notification of Environment Plan submission. Suggest NOPSEMA also notify relevant persons. Support requirements for increased information in the Environment Plan summary.
		Offshore Project Proposal process	<ul style="list-style-type: none"> Exploration drilling should require an Offshore Project Proposal as this is an activity with significant risk (Montara was exploration drilling). Acknowledged that this can be voluntary but incentive to do it not clear.
19	Australian Network of Environmental Defenders Offices	Compliance and enforcement	<ul style="list-style-type: none"> Penalties not equivalent to EPBC Act. i.e. not sufficient to reflect importance of MNES. Recommend that civil penalties for undertaking an activity without an Environment Plan should be more severe and criminal offences should be reinstated.
		Consultation/transparency	<ul style="list-style-type: none"> Concerned re brevity and timing of streamlining consultation. Program does not meet EPBC Act requirements for consultation: all Environment Plans should be published in full with plain English summary and have minimum of twenty days of public consultation.
		Decision making processes	<ul style="list-style-type: none"> Program (through regulations) does not sufficiently protect MNES and must: <ul style="list-style-type: none"> explicitly incorporate all EPBC Act Objects, explicitly require Environment Plans and Offshore Project Proposals to identify and protect MNES, including through conditions, and require NOPSEMA explicitly to not act inconsistently with obligations to each and every relevant international treaty. Program (through Regulations) does not take account of sufficient information in making decisions in relation to MNES: <ul style="list-style-type: none"> Environment Plans should be required to include more extensive information (as in EPBC Act), including environmental 'track record' of proponent; whether impacts of activity are likely to be unknown, unpredictable or irreversible; and source, date, and reliability of information. Environment Plans: NOPSEMA must take account of public comments in acceptance decision. Environment Plans: NOPSEMA to take account of principles of ecologically sustainable development, and precautionary principle (specifically identified, not just included as one of 6 ecologically sustainable development

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			<ul style="list-style-type: none"> – principles). – ALARP definition not consistent with ecologically sustainable development needs amendment to take account of precautionary principle and intergenerational equity. • Program does not provide for public access and conservation interests in processes as in EPBC Act and recommends that there should be capacity for public inquiry.
		Adequacy of environmental protections	<ul style="list-style-type: none"> • Oppose streamlining as not adequately protecting the environment but if it is to go ahead recommend how it should meet requirements of EPBC Act.
		Offshore Project Proposal process	<ul style="list-style-type: none"> • Offshore Project Proposal should be required for exploration.
		Review	<ul style="list-style-type: none"> • Program does not provide for public access and conservation interests in review processes as in EPBC Act and recommends that there should be extended standing provisions.
20	Conoco Phillips	NOPSEMA processes	<ul style="list-style-type: none"> • Support APPEA response. In addition: <ul style="list-style-type: none"> – Regulations should prescribe NOPSEMA considerations for assessment of Environment Plans, including nature and scale of activity, impacts, record of environmental management and compliance – Regulations should prescribe that NOPSEMA consult with proponent re content requirements, including deficiencies during their assessment – Regulations should prescribe a range of factors that NOPSEMA should consider in determining whether it will withdraw acceptance of an Environment Plan, including whether the impact or risk is new, whether withdrawal is necessary to protect the environment, the imminence of environmental damage, whether withdrawal will engender confidence in the regulator, whether there are relevant aggravating/mitigating factors, track record of environmental management, alternative responses, relevant information provided by the operator or instrument holder. NOPSEMA should be required to have a 'hearing' process prior to withdrawal and be required to advise Minister of intention and reasons.
		Review	<ul style="list-style-type: none"> • Regulations should provide for procedural fairness and natural justice through establishment of an appeals/review process in relation to NOPSEMA Environment Plan acceptance decisions.
21	World Wildlife Fund (WWF)	Compliance and enforcement	<ul style="list-style-type: none"> • Major reduction in penalties from EPBC Act. • No offence provisions focused on MNES.
		Consultation/transparency	<ul style="list-style-type: none"> • Program constrains public access and conservation interests in consultation through: <ul style="list-style-type: none"> – targeted consultation only for Environment Plans – publication of Environment Plan summaries only ('lower' level of consultation than EPBC Act).

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		Decision making processes	<ul style="list-style-type: none"> • Program does not adequately protect MNES as it does not: <ul style="list-style-type: none"> – explicitly incorporate all EPBC Act Objects, – lacks specific guidance on acceptable impacts, – lacks explicit requirement to act consistently with Recovery plans, conservation plans etc.; and – lacks explicit identification of obligations to no act inconsistently with relevant international treaties’, and – lacks option of a public inquiry.
		Decision making processes	<ul style="list-style-type: none"> • Information considered not sufficient in Environment Plans, Does not include environmental ‘track record’ of proponent; whether impacts of activity are likely to be unknown, unpredictable or irreversible; and source, date, and reliability of information (as in EPBC Act). • NOPSEMA not empowered specifically to make conditions relating to MNES. • Weakens provisions of ecologically sustainable development – fails to require NOPSEMA to take account of precautionary principle and intergenerational equity. • Program constrains public access and conservation interests through lack of capacity for public inquiry as in EPBC Act.
		Environmental data	<ul style="list-style-type: none"> • Lack of baseline data on which to base ecologically sustainable development decisions.
		Adequacy of environmental protection	<ul style="list-style-type: none"> • Do not support the streamlining process based on evidence of duplication provided in the reports. Further dialogue required.
		Review	<ul style="list-style-type: none"> • Program constrains public access and conservation interests in review through lack of extended standing provisions as in EPBC Act.
22	International Fund for Animal Welfare (IFAW)	Compliance and enforcement	<ul style="list-style-type: none"> • Should be in line with EPBC Act.
		Adequacy of environment protection	<ul style="list-style-type: none"> • Concerned about NOPSEMA’s capability to assess potential impacts on Matters of MNES, particularly acoustic impacts. Access to Department of the Environment expertise should be maintained through administrative arrangements.
		Consultation/ transparency	<ul style="list-style-type: none"> • Streamlining consultation rushed. • Program will reduce ability of public and conservation interests to be consulted, and provide information in particular for exploration (seismic) activities. • Environment Plan consultation is scant. Summary should be released for public comment. • Definition of ‘relevant person’ should include those with interests in conserving the environment. • Minimum consultation period should be set for Environment Plans. • Environment Plan summary information should include data and supporting evidence.

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			<ul style="list-style-type: none"> NOPSEMA should prepare guidance re consultation and encourage wide interpretation. Statement of reasons for Environment Plans as well as Offshore Project Proposals.
		Cost recovery	<ul style="list-style-type: none"> Increase levy to adequately resource NOPSEMA.
		Cumulative impacts	<ul style="list-style-type: none"> Titleholders should be required to explicitly consider through Regulations. NOPSEMA require ability to request information to allow consideration.
		Decision making processes	<ul style="list-style-type: none"> Program will not meet objects of EPBC Act without explicitly incorporating all EPBC Act Objects and making specific requirements to act consistently with Recovery Plans etc. and international treaties. Guidance on MNES should be produced before endorsement. Final decisions re MNES should remain with the Minister for the Environment – should be responsible for OPGGS(E) Regulations. Environment Plans should include alternatives. Clarify that Environment Plan will not be 'accepted' where impact on threatened species habitat is not acceptable. Legal definition too rigid given uncertainty – change 'critical habitat' to 'biologically important habitat'. ALARP definition not consistent with ecologically sustainable development needs amendment to take account of precautionary principle and intergenerational equity. NOPSEMA acceptance of Environment Plan should be required to be consistent with ecologically sustainable development (as for Offshore Project Proposal). Environment Plans should be required to include more extensive information (as in EPBC Act), including whether impacts of activity are likely to be unknown, unpredictable or irreversible; and source, date, and reliability of information. Concerned that Program will reduce effectiveness of offsets.
		NOPSEMA processes	<ul style="list-style-type: none"> NOPSEMA lack of use of condition setting powers is limiting its ability to drive innovation and environmental risk reduction. Should be used if objective-based regulation not achieving improvements.
		Offshore Project Proposal process	<ul style="list-style-type: none"> Offshore Project Proposal should be required for exploration.
		Separate policy issues	<ul style="list-style-type: none"> Acreage release process needs review.
		Review	<ul style="list-style-type: none"> Clarify review processes (Strategic Assessment Report and Program not consistent). Should be extended standing provisions as in EPBC Act. Should be capacity for 'limited' merits review (Productivity Commission 2013 p 20). Should be public consultation for Program review.

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		Environmental data	<ul style="list-style-type: none"> EPBC Act requires publication of environmental data – this will be lost under Program but is crucial to understanding the marine environment.
23	Australian Fisheries Management Authority (AFMA)	Consultation/transparency	<ul style="list-style-type: none"> Fishing industry is concerned about impacts of offshore activities but lack capacity to respond to petroleum industry Environment Plan requests.
24	CONF	Consultation/transparency	<ul style="list-style-type: none"> Feedback from stakeholders that they are suffering from ‘fatigue’ – this should be considered in review of Environment Plan consultation requirements. Welcome the opportunity to further discuss with the Department of Industry and NOPSEMA.
		Decision making processes	<ul style="list-style-type: none"> Urge consideration of concept of ‘major environment event’ requiring full demonstration of ALARP (as for safety) while other risks require evidence of management.
		Environment Regulations Review	<ul style="list-style-type: none"> ‘petroleum activity’ definition very broad – should be limited to exploration and production Support proposed changes to Environment Plan content requirements, and ‘request for more information’. Operator vs titleholder definition requires further consultation (Regulations). Oil Pollution Emergency Plan (OPEP) requirement to quantitatively monitor discharges requires set up time – not possible to implement instantaneously. OPEP – responsibility for oil spills from vessels needs clarifying.
		Offshore Project Proposal process	<ul style="list-style-type: none"> Offshore Project Proposal requirement will stop minor activities such as geotechnical surveys, progressing while under assessment. Requirement for revision may cause delay if minor marine activities are required which are not anticipated.
		Opportunities for further streamlining	<ul style="list-style-type: none"> To achieve effective streamlining the content and stakeholder requirements for Environment Plans (with a Proposal) should be reviewed to minimise overlap.
		Transition arrangements	<ul style="list-style-type: none"> Transfer of EPBC Act conditions to NOPSEMA is of interest for discussion.
25	CONF	Consultation/transparency	<ul style="list-style-type: none"> Seeks maximum consultation for Offshore Project Proposals should be 4 weeks (not minimum). NOPSEMA decision on ‘adequacy’ of consultation is subjective and should be removed. NOPSEMA can view the full text of consultations and response.
		Cost recovery	<ul style="list-style-type: none"> NOPSEMA needs to be adequately resourced to ensure no delays.

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		Decision making processes	<ul style="list-style-type: none"> • More specificity in timeframes in regulations.
		Environment regulations review	<ul style="list-style-type: none"> • Further clarification of definition of 'petroleum activity' required. • OPEP – requirement for testing burdensome without environmental benefit. • Supports proposal for NOPSEMA to request additional information.
		Offshore Project Proposal process	<ul style="list-style-type: none"> • Seeks clarification on requirement for Offshore Project Proposal where decommissioning to take place.
26	CONF	Opportunities for further streamlining	<ul style="list-style-type: none"> • Supports APPEA submission. • Until Management Plans in place for Marine Reserves, duplication will remain, inconsistent with streamlining. Recommends that Environment Plan approval deemed an approval to operate in Marine Reserve under EPBC Act.
27	CONF	Consultation/transparency	<ul style="list-style-type: none"> • Concerned about lack of time to examine revised regulations • Case study implies requirement for early stakeholder notification for Environment Plan which does not currently exist (Strategic Assessment Report p 75) – required clarification • Clarification is requested about 'relevant person' definition for Environment Plan where Offshore Project Proposal has been undertaken (Program 4.3, p17; 5.1.2 p 21) (Titleholder decides relevance? And no requirement to consult 'non-relevant'?).
		Cross jurisdictional issues	<ul style="list-style-type: none"> • Further information required in integration – major source of uncertainty in short term.
		Decision making processes	<ul style="list-style-type: none"> • Program (Section 3, p 11–12) – 'two environmental assessment paths' misleading – there are two different 'requirements'. • Clarification required about NOPSEMA ability to require conditions and industry ability to negotiate these. • NOPSEMA continue to require demonstration of ALARP for all risks and impacts – more onerous than EPBC Act. Demonstration should apply only to significant risks. • Definition of 'petroleum activity' (Program 3.2, p 141–15) – require clarification of 'significant modification'.
		Environment regulations review	<ul style="list-style-type: none"> • Definition of 'petroleum activity' (Program 3.2, p 141–15) – require clarification of 'significant modification' • Further clarification of definition of 'petroleum activity' required (Regulations)
		Offshore Project Proposal	<ul style="list-style-type: none"> • Clarification of Offshore Project Proposal requirement in greenfield vs brownfield situation required (Program, p 5) • Clarification needed re Offshore Project Proposal requirement for 'whole of lifecycle' although not required for exploration. Confusion between Program (Section 4 p16–17) and Regulations (Part 1A, 5A (1) p 8) needs resolution.

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		process	<p>Consistency of language is needed in Program, Regulations and guidance.</p> <ul style="list-style-type: none"> • Definition of 'development' is required. • Appears titleholders only have one opportunity to provide further information on Offshore Project Proposal before NOPSEMA must reject. If a new Offshore Project Proposal is then submitted clarity needed about whether public consultation required. • Change to scope of Offshore Project Proposal <ul style="list-style-type: none"> – Requirement to submit whole new Proposal if new activity not part of original approval is more onerous than EPBC processes. Process required that can assess need depending on environmental risk – i.e. give flexibility required through detailed design phase. Clarification required in relation to what level of change will require new Proposal. – If new Proposal requires further public consultation this is increase in consultation. • Requirement for Offshore Project Proposals to investigate feasible alternatives is onerous compared to EPBC Act.
		Transition arrangements	<ul style="list-style-type: none"> • Significantly more detail is required to reduce uncertainty. e.g. for complex legacy projects with existing Environment Impact Statement, for existing Environment Plans when audited. • EPBC Act Policy Guidance on Strategic Assessments not publicly available as promised. • Industry required guidance material by implementation – not reflected in the Program (p 31). Prefer commencement delay and certainty of guidance material complete.
28	Wilderness Society (WS) Wilderness Society WA (WS WA) and Australian Marine Conservation Society (AMCS)	Decision making processes	<ul style="list-style-type: none"> • Lack of NOPSEMA expertise in marine ecology – requires Memorandum of Understanding between Department of the Environment and NOPSEMA.
		Adequate environmental protection	<ul style="list-style-type: none"> • Given the sensitivity of marine environments, 100 km buffer zones from which oil and gas activities are excluded should be established around marine protected areas and all Commonwealth marine areas with high conservation values.
		Compliance and enforcement	<ul style="list-style-type: none"> • NOPSEMA reporting of environmental performance not currently sufficiently detailed. Information about compliance and enforcement action should be reported publicly, in particular on Part 3 Matters.
		Consultation/transparency	<ul style="list-style-type: none"> • Industry only required to consult those with commercial interest in existing Environment Plan process and this has not been effective. For proposed consultation regime to be effective, extensive guidance from NOPSEMA will be required. • Environment Plan should also require public consultation (10 days). • Public notification currently by titleholder rather than NOPSEMA and is limited. Recommend NOPSEMA provide notifications of proposals, revisions and decisions via electronic system of reporting which anyone can register for. • Lack of stakeholder capacity to respond to volume of consultation requests. Suggest Australian Government fund community consultation positions housed in conservation councils to facilitate. • Statements of reasons should be publicly available (at least on request).
		Cumulative	<ul style="list-style-type: none"> • Titleholders are not likely to have access to sufficient information to consider cumulative impacts. Regulations should

Submission Number	Stakeholder Name	Theme	Issues identified/ Comments
		impacts	require NOPSEMA to assess and publicly report.
		Review	<ul style="list-style-type: none"> Program should include extended standing provisions as per the EPBC Act.
29	CONF	Consultation/ transparency	<ul style="list-style-type: none"> NOPSEMA needs to consider how to convey additional Environment Plan notification process proposed in the Program is notification and not consultation. 'Stakeholder fatigue' is an issue, and additional 'early consultation' on Offshore Project Proposal plus Environment Plan requirements may exacerbate. Recommend a strategic negotiated approach to consultation rather than prescriptive activity by activity approach. Strategic Assessment Report identifies NOPSEMA as determining the length of consultation (Section 5.3) and liaising with industry re extensions but Titleholder should be able to agree on a length commensurate to the activity. Section 5.3 example re consultation implies requirement to advertise in print media. This is not clearly articulated elsewhere. Strategic Assessment Report implies that third party can make representation to NOPSEMA that they were consulted or aware. Highlights concern that there is no positive obligation on third parties to be aware. Strategic Assessment Report implies minimum 4 week and max 12 week consultation (by example) – this is not supported by the proposed Regulations. Increase in Environment Plan summary content is increase in regulatory burden.
		Cross jurisdictional issues	<ul style="list-style-type: none"> No clarity in Program or Strategic Assessment Report on arrangements for integration between NOPSEMA and States to ensure consistency of approach. Uncertainty about how risks (e.g. hydrocarbon spill) addressed in Program (EPBC addresses cross-jurisdictional operation).
		Decision making processes	<ul style="list-style-type: none"> For Environment Plans 'acceptability' and ALARP should be assessed only for high residual impact/risk event. Interaction of risk assessment with financial assurance regime needs careful consideration. NOPSEMA need to consider whether titleholder determination of 'significance' of risk acceptable to NOPSEMA (as for 'damage'). Monitoring should be risk-based, consistent with nature and scale rather than 'all'.
		Environment regulations review	<ul style="list-style-type: none"> Many terms in regulations are ambiguous and definitions require clarification: 'petroleum activity', 'nature and scale', 'acceptability level' and 'significance', 'moderate to significant environmental damage' 'ALARP', change from 'operator to titleholder'. Supports including concept of 'major environmental event' as per safety case. Timeframes and process for NOPSEMA requests for additional information need further clarification. Change to recordable incident definition requires clarification.
		Offshore Project Proposal	<ul style="list-style-type: none"> Many queries about implementation, including, expected timeframes and costs, test of acceptability for Offshore Project Proposal compared to Environment Plan; acceptance thresholds, rights of appeal and review, ability to modify scope after approval, how to achieve 'quick yes' for small scale (as is possible now under EPBC Act), possibility of

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		process	<ul style="list-style-type: none"> parallel processing of Offshore Project Proposal /Environment Plans. Need clarity about treatment of aggregated developments (functionally related but spatially disparate) e.g. Browse Floating Liquid Natural Gas. Recommends assessment of 'significant' impacts and risks, rather than 'all' in relation to Proposals (which it suggests is both unnecessary and inefficient).
		Transition arrangements	<ul style="list-style-type: none"> Arrangements for developments approved prior to EPBC Act, and developments currently being assessed under EPBC Act are now not clear. Supports streamlining but given the complexity of proposed issues suggest that there is merit in delay of Program endorsement or incorporation of transition to Offshore Project Proposal process upon commencement. Department of Environment/NOPSEMA arrangements for compliance not clear.
30	CONF	Environment regulations review	<ul style="list-style-type: none"> 'petroleum activity' definition too broad and ambiguous – should exclude peripheral activities such as marine surveys. No Environment Plan should be required for routine use of marine vessels, decommissioning activities. Requirement to notify NOPSEMA about reportable incidents within 2 hours is not realistic – suggest 'as soon as practicable'.
		Offshore Project Proposal process	<ul style="list-style-type: none"> Recognise alignment of Offshore Project Proposal with Environmental Impact Assessment. Suggest all EPBC Act requirements should be accommodated within existing Environment Plan process, with a voluntary Offshore Project Proposal path (similar to early engagement safety case). More guidance required on level of detail required in Offshore Project Proposal (e.g. does it include performance outcomes and management controls?). Further clarification needed of which projects require a Proposal and the scope required.
31	CONF	Decision making processes	<ul style="list-style-type: none"> Definition of 'environment' includes social and economic but it is not clear how these will be taken account of by NOPSEMA. Concerned that additional material on social and economic factors may need to be provided as part of Offshore Project Proposal, with associated outcomes, and how these will be assessed by NOPSEMA. Definition of Offshore Project Proposal in Program clearer than in regulation amendments. Additional guidance required.
		Environment regulations review	<ul style="list-style-type: none"> Supports regulation amendments in general terms (Specific comments).
		Offshore Project Proposal process	<ul style="list-style-type: none"> Definition of Offshore Project Proposal in Program clearer than in regulation amendments. Additional guidance required.
		Transition	<ul style="list-style-type: none"> Supports streamlining of offshore regulation – Program and proposed regulatory amendments as proposed are generally sound.

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		arrangements	<ul style="list-style-type: none"> • Further clarity is required about the transition. • Suggest that there will be considerable effort required in initial implementation. Commit to working with industry and government to develop shared understanding of expectations.
32	CONF	Review	<ul style="list-style-type: none"> • Regulations should include review process similar to EPBC Act (s45c or 46)
33	CONF	Consultation/transparency	<ul style="list-style-type: none"> • Traditional approaches to consultation have resulted in 'consultation fatigue'. Streamlining presents opportunity to revisit consultation approaches and develop most strategic ways to benefit stakeholders, industry and government. Encourages government to explore alternatives to traditional Environment Plan, Offshore Project Proposal consultation, e.g. at point of acreage release – this could provide opportunity for more meaningful discussions about core question of whether a development should occur or not. • Support streamlining but more time needed to work through the reforms, ensure adequate consultation but no unintended consequences.
		Cost Recovery	<ul style="list-style-type: none"> • NOPSEMA must be adequately resourced to meet commitments of the Program.
		Cross-jurisdictional issues	<ul style="list-style-type: none"> • Leaving these issues unresolved ahead of implementation of the Program will mean duplication (Offshore Project Proposal and EPBC Act), added complexity, adding to costs and time, inconsistencies in decision-making and added material project risks (e.g. cash-flow and project finance, deferral of revenue, potential to render marginal projects unviable) and no added environmental protection benefits. • Recommend that Commonwealth–state waters need to be considered along with land based environmental approvals already underway. • Lack of alignment of Program with EPBC Act may also cause jurisdictional issues.
		Decision making processes	<ul style="list-style-type: none"> • Approval decisions for Offshore Project Proposals should be Ministerial, as for EPBC Act, reflecting the importance of the investments and broad national social and economic factors to be considered. NOPSEMA may lack breadth of social and economic expertise and knowledge. Support NOPSEMA in the assessment role.
		Offshore Project Proposal process	<ul style="list-style-type: none"> • Concerned that activity-based trigger for Offshore Project Proposal, rather than significance of impact (as for EPBC Act) may cause approval requirement where none required before. • Lack of amendment mechanism, if circumstances change, is a concern. • Concerned that approval will not provide the certainty required for the 'financial investment decision' that EPBC Act approval delivers. Seeking more alignment with existing EPBC Act arrangements. • Guidance on framing of environmental performance outcomes will be required for Offshore Project Proposals, in consultation with industry.
		Transition arrangements	<ul style="list-style-type: none"> • Timing for implementation of changes should be linked to financial assurance provisions.
034	CONF	Environment	<ul style="list-style-type: none"> • Definition of a 'petroleum activity' is too broad – captures low risk routine activities such as geotechnical surveys (no

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		regulations review	additional risks compared to any other vessel based activity in Australian waters).
		Offshore Project Proposal process	<ul style="list-style-type: none"> Content requirements (assessment of all risks and acceptability) appear more onerous than for EPBC Act referral, particularly for brownfields developments or smaller projects such as a tieback to an existing facility. Current proposed definition of Offshore Project Proposal requirements will capture more projects and increase upfront workload and development time, compared to referral process. Lack of ability for concurrent consideration of Proposals and Environment Plans will add at least 4 months lead time to assessment of Environment Plans for small projects such as tie-backs. Requirement to address all risks and impacts in Offshore Project Proposal unnecessarily onerous.
35	Origin	Adequate environmental protection	<ul style="list-style-type: none"> Satisfied that the Program will protect matters protected under Part 3 of the EPBC Act.
		Cost recovery	<ul style="list-style-type: none"> NOPSEMA will need adequate resourcing to ensure maximum effectiveness, particularly in initial transition phases and the government will need to put in place contingency arrangements.
		Cross-jurisdictional issues	<ul style="list-style-type: none"> Cross-jurisdictional approvals have been found to be costly and confusing with little gain in environmental protection.
		Opportunities for further streamlining	<ul style="list-style-type: none"> For true streamlining to be achieved states and territories will need to confer powers to NOPSEMA. Administration of Offshore Project Proposal /Environment Plan process by NOPSEMA will need to ensure alignment of these to realise the benefits of reduced duplication (e.g. assessment framework will need to maximise use of similar information in Offshore Project Proposal/Environment Plans).
		Transition arrangements	<ul style="list-style-type: none"> Endorses APPEA submission and supports government's streamlining objectives. But many areas of uncertainty in relation to transition (modification of existing EPBC Act approvals, compliance of current EPBC Act approvals, transition of current conditions).
36	CONF	Consultation/transparency	<ul style="list-style-type: none"> NOPSEMA guidance should encourage consultation re matters of state environmental, economic and social matters.
		Cross-jurisdictional issues	<ul style="list-style-type: none"> Seek clarification re whether administrative arrangements include this organisation. NOPSEMA guidance should provide proponents with appropriate guidance re cross-jurisdictional issues and implications.
		Decision making processes	<ul style="list-style-type: none"> Program reads that additional information can be provided to NOPSEMA without being added to Environment Plan – this may pose a challenge in keeping track of what constitutes the final Environment Plan (Program p 26).

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			<ul style="list-style-type: none"> Suggest state government must be consulted by NOPSEMA as provided for in EPBC Act, OPGGS Act and Strategic Assessments. For example this in relation to verification of proponent information and in development of conditions.
		Offshore Project Proposal process	<ul style="list-style-type: none"> Clarification is required about when an Offshore Project Proposal is required for activities other than development projects. Suggest NOPSEMA and operator should consult re 'opting-in'. Seek clarification re content and scope of Proposals where new activities are planned in relation to existing approval. Offshore Project Proposal process needs to be enhanced to provide clarity, certainty and transparency to stakeholders (state agencies in particular) re cross-jurisdictional matters. Query whether NOPSEMA guidance will address implications re matters of State significance.
37	Tasmanian Dept. of Primary Industries, Parks, Water and Environment (DPIPWE)	Cumulative impacts	<ul style="list-style-type: none"> The Program does not adequately indicate how these will be considered. Assessment should consider these over time (the life of an activity and/or project), over a region and in relation to multiple simultaneous discharges. Cumulative impacts on social and economic factors (e.g. other industries) should also be considered.
		Environment regulations review	<ul style="list-style-type: none"> No mechanism for cumulative impact assessment or capacity to refuse to accept Environment Plan on this basis included in proposed regulations.
		Consultation/transparency	<ul style="list-style-type: none"> Supports streamlining and the need to ensure consultation with stakeholders affected.
38	CONF	Offshore Project Proposal process	<ul style="list-style-type: none"> Definition of Offshore Project Proposal in the Regulations does not include greenhouse gas activities. This is inconsistent with the Strategic Assessment Report. Recommend including greenhouse gas activities in regulations to ensure streamlining. Offshore Project Proposal definition in the Strategic Assessment Report: <ul style="list-style-type: none"> 'Facilities' is not intended to cover exploration activities; however, in OPGGS Act 'facilities' has the potential to cover these activities. Clarification of intent is required. Further clarification required for 'construction' and 'operation', re whether they apply to petroleum and or greenhouse gas activities. Is injection of a greenhouse gas on an appraisal basis excluded? Clarify in Strategic Assessment Report, Program and Regulations.
		Separate Policy Issues	<ul style="list-style-type: none"> Clarification sought about NOPSEMA's role re. approvals for greenhouse gas activities.
		Environmental data	<ul style="list-style-type: none"> Clarification sought about policy progress on submission of environmental data.
		Adequacy of environmental	<ul style="list-style-type: none"> Other laws apply in the marine environment (e.g. Sea Dumping and Sea Installations Acts), queried whether these could be incorporated into the Strategic Assessment in the future.

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		protection	
		Cross jurisdictional issues	<ul style="list-style-type: none">• Further explanation was sought on how conferral of environmental management powers to NOPSEMA in state waters could be brought within the scope of the Strategic Assessment.