

# Streamlining environmental regulation of petroleum activities in Commonwealth Waters

Document No: N-04750-IP1382 A341856

Date: 29/05/2020

---

## Table of Contents

1.	Glossary of terms.....	2
2.	Purpose.....	2
3.	What is streamlining?.....	2
4.	Which activities does streamlining apply to?.....	3
5.	How will matters protected be assessed?.....	4
	5.1. Offshore project proposals.....	4
	5.2. Environment plans.....	4
6.	Information relating to matters protected .....	4

## 1. Glossary of terms

For the purposes of this Information Paper:

- Streamlining environmental regulation of petroleum activities in Commonwealth waters is referred to as “streamlining”.
- The Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 is referred to as the “Environment Regulations”.
- All matters protected under Part 3 of the EPBC Act with the exception of Commonwealth land are referred to as “matters protected”
- “Submission” refers to offshore project proposal and / or environment plan submissions.
- Proponents for offshore project proposals and titleholders for environment plans are referred to collectively as duty holders
- The National Offshore Petroleum Safety and Environment Management Authority is referred to as “NOPSEMA”.
- While this information paper refers predominantly to petroleum activities, concepts are equally applicable to greenhouse gas activities.

## 2. Purpose

The purpose of this information paper is to clarify:

- What is meant by streamlining (section 3 of this Paper)
- Which activities streamlining applies to (section 4 of this Paper)
- How matters protected will be assessed by NOPSEMA (section 5 of this Paper)
- The information relating to matters protected that should be considered during the development of a submission and to provide links to this information (sections 6 and 7 of this Paper)

## 3. What is streamlining?

The Australian Government is committed to strengthening Australia’s productivity and international competitiveness through streamlined environmental approval processes for offshore petroleum projects that achieve both regulatory efficiency and strong environmental safeguards.

In accordance with this commitment, NOPSEMA’s environmental management authorisation process has been endorsed by the Federal Minister for the Environment as a Program (the Program) that meets the requirements of Part 10, section 146, of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). Subsequently the Minister for the Environment approved a class of actions which, if undertaken in accordance with the endorsed Program, will not require referral, assessment and approval under the EPBC Act.

The endorsed Program consists of the following components:

- The Environment Regulations inclusive of amendments that take effect from 28 February 2014; and

## Streamlining environmental regulation of petroleum activities in Commonwealth Waters Information Paper

- The Program commitments as specified in the Program Report - Streamlining Offshore Petroleum Environmental Approvals, Program Report February 2014<sup>1</sup>.

Endorsement of the Program and approval of classes of actions streamlines environmental regulation of petroleum activities in Commonwealth waters by making NOPSEMA the sole Commonwealth regulator for these activities.

Streamlining provides the following benefits:

- In accordance with the endorsed Program referral, assessment and approval of petroleum activities in Commonwealth waters under the EPBC Act is no longer necessary. Impacts on matters protected under Part 3 of the EPBC Act will be assessed by NOPSEMA.
- As a result of streamlining, duty holders will have clarity, certainty and consistency in their engagement with the sole Commonwealth regulator for petroleum activities, NOPSEMA.
- Duplication in environmental regulation will be reduced while maintaining strong environmental safeguards.

### 4. Which activities does streamlining apply to?

All petroleum and greenhouse gas activities undertaken in Commonwealth waters in accordance with the endorsed Program are considered as “approved classes of action” with the exception of petroleum and greenhouse gas activities that:

- have, will have or are likely to have a significant impact on the environment on Commonwealth land
- are taken in any area of the sea or seabed that is declared to be part of the Great Barrier Reef Marine Park under the Great Barrier Reef Marine Park Act 1975 (Cth)
- have, will have or are likely to have a significant impact on the world heritage values of the Great Barrier Reef World Heritage property or on the national heritage values of the Great Barrier Reef National Heritage place
- are taken in the Antarctic
- are injection and / or storage of greenhouse gas.

In addition to the above exceptions, any petroleum activity in Commonwealth waters that does not have an accepted EP is not an approved class of action under the Program and is subject to the requirements of the EPBC Act.

---

<sup>1</sup> The report can be accessed at <http://www.industry.gov.au/resource/UpstreamPetroleum/OffshorePetroleumEnvironment/Pages/StreamliningOffshorePetroleumEnvironmentalApprovals.aspx>

## 5. How will matters protected be assessed?

Under the Program, there are two submissions which are assessed by NOPSEMA in accordance with the Environment Regulations.

These are:

- Offshore Project Proposals (OPP) for offshore projects as defined in the Environment Regulations; and
- Environment Plans (EP) for all petroleum activities in Commonwealth waters.

### 5.1. Offshore project proposals

For offshore projects (as defined in the Environment Regulations), the Program requires the submission of an OPP to NOPSEMA for assessment on a 'whole-of-lifecycle' basis. The OPP must include details of the project, environmental impacts and risks, environmental performance outcomes and a description of potential alternatives. The OPP, which is subject to a mandatory period of public comment, is accepted or refused by NOPSEMA.

### 5.2. Environment plans

Prior to commencing an activity, a titleholder must submit an EP to NOPSEMA for assessment and may not commence the activity until such time as the EP has been accepted by NOPSEMA.

An EP for an activity that is, or is part of, an "offshore project" as defined under the Environment Regulations cannot be submitted unless NOPSEMA has accepted an OPP that includes that activity or the Environment Minister has provided a relevant decision or approval under the EPBC Act.

To accept an EP, NOPSEMA must be reasonably satisfied that the EP meets the criteria for acceptance under section 10A of the Environment Regulations. The criteria for acceptance apply to the management of all impacts and risks including those matters protected under Part 3 of the EPBC Act.

For further details on preparing OPPs and EPs, please refer to NOPSEMA's Environmental Management web page: <http://www.nopsema.gov.au/environmental-management/>

## 6. Information relating to matters protected

The Program requires submissions to demonstrate that environmental impacts and risks from an activity will be of an acceptable level. Recent amendments to the Environment Regulations as a result of streamlining have made it explicit that submissions must consider the relevant values and sensitivities of matters protected as well as all other values and sensitivities that exist in the environment.

The specific EPBC Act matters protected relevant to the Program are:

- The World Heritage values of a declared World Heritage property (sections 12 and 15A of the EPBC Act)
- National Heritage values of a declared National Heritage place (sections 15B and 15C of the EPBC Act)
- The ecological character of a declared Ramsar wetland (sections 16 and 17B of the EPBC Act)
- Listed threatened species and ecological communities (sections 18 and 18A of the EPBC Act)
- Listed migratory species (sections 20 and 20A of the EPBC Act)

## Streamlining environmental regulation of petroleum activities in Commonwealth Waters Information Paper

- The environment in a Commonwealth marine area (sections 23 and 24A of the EPBC Act).

For both OPPs and EPs, the matters protected must be considered as part of the relevant sensitivities of the environment and an evaluation of impacts and risks of the proposal on those sensitivities must be included.

NOPSEMA will not accept an OPP that does not set out appropriate environmental performance outcomes that demonstrate that the environmental impacts and risks of the project will be managed to acceptable levels.

Similarly for EPs, NOPSEMA will not accept an EP that does not contain appropriate environmental performance outcomes, environmental performance standards and measurement criteria to demonstrate that the environmental impacts and risks of the activity will be managed to as low as reasonably practicable and to acceptable levels.

The Environment Regulations place the onus on the duty holder to demonstrate in any environment submission that impacts and risks to matters protected under part 3 of EPBC Act have been identified, evaluated and reduced to levels that are acceptable. Relevant information on the Department of Environment website should inform the acceptable levels of impact and risk defined in environment submissions. . Further information is available in the guidance note N-04750-GN1344 – EP content requirements.