

## Slide Notes – Melbourne Operator Workshop

### Slide 4

EP Guidance Note Project – to develop a suite of documents to assist in providing clarity around NOPSEMA’s interpretation of the OPGGS(E) Regs

A couple of important key points to note:

- This represents NOPSEMA’s regulatory interpretation – is non-authoritative and represents one view – are many other regulatory interpretations that people are free to apply, if it allows them to prepare an EP that meets the regulatory requirements.
- In preparing the Guidance Note, NOPSEMA constantly challenged itself to develop an interpretation that a ‘reasonable person’ would reach upon reading the Regulations and other material
- As well as referring to the OPGGS Act and Environment Regulations, further sources of interpretation were referred to when the Act or Regulations did not provide adequate clarity, these sources included:
  - The Explanatory Memoranda and Statements that accompany any new or amended legislation – to provide further insight to the intent of any statutory change
  - International and Australian Standards - specifically ISO 14001 – Environmental Management Systems and ISO 31000 Risk Management
  - Relevant case law examples

### Slide 5

Hierarchy of NOPSEMA environment documents:

- Act and Regulations comprising legislation
- NOPSEMA Policies (e.g EP Assessment Policy)
- Guidelines, outlining NOPSEMA’s approach where there are areas of regulatory discretion (e.g. reasonable grounds)
- Guidance Notes, where NOPSEMA provides an interpretation of the regulations
- Practice Notes, where further subject specific advice is provided.

### Slide 6

The Guidance Note currently under preparation by NOPSEMA to provide a regulatory interpretation of the requirements of the OPGGS(E) Regulations.

Based on a system-based model

Guidance Note – Environment Plan Content Requirements

Key priority areas of guidance identified by industry will be retained, generally as a Practice Note



## Slide 7

Process – identifies the ‘process’ required by the OPGGS(E) Regs (e.g. describe or detail or monitor)

Element – identifies the component of the regulatory requirement that each process requires (e.g. describe (process) the environment (element) or evaluate (process) the impacts and risks (element)).

## Slide 8

OPGGS(E) Regs closely follow the ISO Standard for Risk Management (ISO 31000:2009)

There is a very good and logical fit of the ‘process’ components of the EP requirements into the standard risk management model.

## Slide 9

Building on this approach, there are 2 key components to the EP requirements

- the Activity assessment – built around the risk management model
- the Implementation strategy, incorporating the activity assessment, but focussing on the on-going implementation and continuous improvement aspects (mirroring the EMS process of ISO 14001)

## Slide 10

Outlines where the key ‘processes’ and ‘elements’ fit into the two stages of the EP process

## Slide 11

Taking the Activity assessment component, this figure shows a different representation of how the ‘process’ and ‘element’ components can be represented.

Shows how the Acceptable level requirements flow from the overall context of the individual activity.

Shows how the Evaluate loop repeats until ALARP levels met with appropriate controls.

Performance Objectives and appropriate Measurement Criteria to detail overall objectives to be attained.

Performance Standards and appropriate Measurement Criteria to detail standard expected of a control.

## Slide 12

Part 1 of the EP Content Requirements Guidance Note will provide the process overview (Activity Assessment and Implementation Strategy)

Part 2 of the Guidance Note will provide NOPSEMA’s regulatory interpretation of a ‘process’ and corresponding ‘element’ – in this example (not to be read, but as an example only), the structure of the interpretation of the requirements relating to evaluating and demonstrating (process) ALARP (element).

## Slide 13

OSCP Note, currently as Rev 2 and on NOPSEMA web-site

## Slide 14

Timeline for development and on-going revision of OSCP Note

## Slide 15

OSMP Note in development – as a key requirement and obligation on NOPSEMA resulting from the Government's response to the Montara Commission of Inquiry

## Slide 16

Key timing of OSMP Note development

## Slide 17

Document hierarchy showing examples of existing and planned environment advice published (or to be published) on the NOPSEMA website

## Slide 21

Lots of recent focus and discussion on the application of OSCPs to vessels

Some confusion over the regulatory overlap in this area

The complication ... sometimes vessels undertake petroleum activities...

The clarity... requirements of more than one agency may apply at any one time

(the same way that EPBC conditions need to be considered when developing an environment plan)

## Slide 22

Use the Nature and scale of the activity to determine what arrangements are required to manage the risk

- Depends on the context – ie spill risk, resourcing of organisation

## Slide 23

The delineation is clear in the case of vessels and facilities

Schedule 3, Clause 4 of the OPGGSA defines facility and determines when vessels are considered a facility

Section 640 of the OPGGSA dis-applies the Navigation Act in these circumstances

**Include FPSO, accommodation vessels, Pipelay vessels etc**

Complexity is added when a vessel that is not disappplied is conducting a petroleum activity

For example, seismic survey, supply vessels

In this case the requirements may overlap to some extent

No different to the application of EPBC conditions to an environment plan

The regs provide flexibility for setting the parameters around the petroleum activity

How big the overlap is between vessel and petroleum activity depends on the scope of the activity as defined by the operator

However, NOPSEMA would not be likely to accept a plan if vessels were completely excluded as it would not adequately identify impacts and risks for the activity

## Slide 24

The National plan introduces the terms combat agency and statutory agency

These terms do not have any effect on the responsibilities set out by the OPGGSA and Env Regs.

The division of responsibility for oil spills in Australian waters is defined in Australia's National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances (the National Plan) and its supporting Intergovernmental Agreement (IGA).

Schedule 1 of the IGA, NOPSEMA is the statutory agency for spills originating from offshore petroleum operations (which means an operation governed by the OPGGSA 2006) and the operator of the petroleum activity is the combat agency.

The OPGGSA and Env Regs place the responsibility for managing ALL risks on the operator of the activity.

The National Plan provides a response framework, that whilst sitting outside the OPGGSA, can assist operators in managing this risk and demonstrating ALARP.

However, the National Plan does provide for the Combat Agency to be assisted by other National Plan stakeholders and NOPSEMA. Under the consultation provisions of the OPGGS (Environment) Regulations the details of any assistance must be agreed prior to the commencement of operations. It should also be noted that NOPSEMA does not have a combat agency function.

## Slide 26

Division of regulatory responsibility

When does the petroleum activity commence?

Vessel travelling to location is outside the scope of the petroleum activity. The operations are typical of any vessel and covered by the National Plan

Think... does this include run-out and run-in of streamers?

National Plan

States that AMSA is the Statutory agency and Combat agency for all vessels outside petroleum operations

NOPSEMA is the SA and the operator is the CA for all petroleum activities

## Slide 29

Regulation 11A requires consultation with relevant persons

Each Department or agency of a State/Territory to which the EP may be relevant

or organisation whose functions, interests or activities may be affected by the activity

Consultation must provide sufficient information relevant to the activities impact on the functions, interests and activities of stakeholders and a reasonable period of time

This must be evident in a report on consultation provided in the submission - Regulation 16(b)

The level of information NOPSEMA needs to see in order to be satisfied

(appropriate response arrangements – as an operator how are you satisfied the risk is managed if you receive no response)

### Slide 32

There has been a continual improvement in the quality of submissions since the start of the year

- Plans relevant to the risk presented (appropriate for the scale and nature of the activity)
- Performance objectives, standards and measurement criteria covering preparedness and response aspects, not only prevention (allowing operators to gauge performance in the event of a spill)
- Development of credible and reasoned spill scenarios
- Evaluation includes supported measures to determine the ZPI

### Slide 33

Consistent themes appearing in OSCPs that can be applied to various aspects of the plan

These have implications for compliance with the content requirements and acceptability criteria

They are often interlinked

### Slide 34

The response activity is effectively a control measure for minimising the impact caused in the event of an oil spill

What are you going to do to whom, how and when?

Activation triggers, Mobilisation times

Geographic locations – protection priorities etc

### Slide 35

The regs provide flexibility for how an EP/OSCP is submitted.

Consider what is the purpose of the OSCP... tactical response plans...

If it's not helping you achieve that, don't put it in the plan.

Describe what actions will be undertaken to manage the risk

### Slide 36

Two key components:

- The demonstration and justification
- And the operational plan (or output of the process)

Currently the balance is skewed towards the justification of activities.  
The challenge for industry is to achieve balance.

### Slide 37

The description of shoreline response was limited to a listing of equipment which included liner sheets, a pressure washer unit and shovels.  
No reasonable basis for believing the risk will be managed within timeframes

### Slide 38

Activities undertaken during a response may present further risk to the environment that needs to be managed.  
The evaluation should demonstrate that the impacts and risks of a response activity are both acceptable and ALARP.  
In layman's terms – is it the right response – how do you know?  
For example, shoreline clean-up in a mangrove, spray washing shorelines, shoreline clean-up near breeding locations, dispersant use etc.

### Slide 39

Dispersant as an example...  
Discussion around shoreline response – for example, use of heavy machinery next to shorebird breeding site during breeding period.

### Slide 40

Dispersant application may not always be a beneficial response strategy.  
There is the potential to cause further harm if oil/dispersant mix is introduced into the water column, particularly in shallow environments.  
The evaluation should demonstrate that dispersant application is the right response – Potentially making trade-offs.  
For instance, is the oil dispersible, will it be effective, where will it be sprayed, how toxic is the resulting mixture, are sensitivities particularly vulnerable to entrained oil.  
This sort of evaluation is similar to a NEBA – though not in the event of an incident.  
Control measures can be implemented to manage the impacts and risks associated with the response activity. These should be described in the plan to demonstrate an appropriate implementation strategy.

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Why is pre-approval of dispersant use appropriate for offshore petroleum?

- There are a lot less variables than Shipping (known location, known oil type etc)
- This allows more effective planning

## Slide 41

Regs require NOPSEMA to have reasonable grounds for believing that the plan includes an appropriate implementation strategy.

Operators need to provide a reasonable basis for the components of the plan to enable NOPSEMA to make this judgement.

Why we need POS&C relevant to the OSCP.

The POS&C as defined by 13(4) must "address legislative and other controls that manage environmental features of the activity".

The OSCP is one of these controls.

In a purely practical sense the OSCP should define what the contingency plan intends to achieve (objectives), how it will be implemented (standards) and how the operator will demonstrate to stakeholders and the public that the objectives were achieved, the response was successful and termination criteria have been met (measurement criteria).

## Slide 42

How long can they be available to the operator for response - a single day, a week, standby of a drilling campaign, full duration for drilling of a relief well?

What equipment is available and when can it be mobilised?

What personnel are available and when can they be mobilised?

Do they have the required training and competence for this circumstance?

## Slide 43

Is the equipment / personnel appropriate to the situation?

Are there sufficient supplies (of the equipment.... and also logistics, personnel matches the equipment)

## Slide 46

Through 9 months of assessing environment plans and inspecting compliance against accepted plans, NOPSEMA has a number of areas where it remains a challenge for NOPSEMA to find reasonable grounds (as required by regulation 11(1)) to accept submissions.

Four Priority Focus Areas are outlined below, representing areas where NOPSEMA's assessment focus will concentrate on regarding future submissions in order to support operators in preparing and submitting regulatory compliant plans.

## Slide 47

### Further Improvement Possible

#### Description of Control Measures

- Lack of detail incorporated into response strategies can lead to;
- Lack of appropriate evaluation of control measures
- Lack of appropriate controls

- Failure to demonstrate impacts and risks will be reduced to ALARP and be of an acceptable level

Submissions need to strike the balance between ‘stating your case to operate’ and ‘executable planning’

- The OSCP is an operational component of the implementation strategy
- Information presented in the EP is not required in the OSCP and vice versa. All component documents are considered a single submission
- Information in the plan should assist a responder in achieving the plans objectives
- Plans should include affirmative language of what will be done to manage the risk rather than training doctrine

### **Evaluation of Impacts and Risks from Control Measures**

Control measures implemented in an emergency might introduce significant impacts and risks that need to be evaluated.

The submission must demonstrate that these impacts and risks are both ALARP and acceptable.

### **Demonstrated access to Resources to Implement Control Measures**

The submission must demonstrate the arrangements in place to access to resources required to implement control measures. In short, what provides you the assurance that control measures will be implemented.

- What equipment is available and when can it be mobilised?
- What personnel are available and when can they be mobilised?
- Do they have the required training and competence for this circumstance?

## **Slide 48**

Points for operators to consider when developing performance objectives and associated measurement criteria + performance standards and associated measurement criteria

## **Slide 49**

There are no prescriptive requirements for how monitoring should be included in the EP planning and implementation process and there are many ways that monitoring can be used by operators to demonstrate that the acceptability criteria outlined in the regulations are being met.

This gives operators the flexibility to tailor monitoring solutions to their particular circumstance and to the nature and scale of their activity, for example ‘end-of pipe’ style monitoring for discharges where risks and impacts are well understand and low vs monitoring programs in the receiving environment where risks and impacts of activities are not well understood and potentially of high consequence such as unplanned hydrocarbon spills at the other end of the scale. NOPSEMA supports this approach and it allows operators to demonstrate that they are operating in accordance with principles of ecologically sustainable development.

Some of the more obvious links to monitoring within regs include performance objectives and performance standards to set the level of environmental performance to be achieved during the activity and then provide a means by which to measure that performance in the environment.

Inclusion of monitoring as a control with associated performance standards in adaptive management scenarios where impacts from the activity may not be well known and certain responses in the environment detected during monitoring can be used as early warning systems to result in changes on board the rig or as part of an emergency response.



Implementation strategy – outlines the specific systems, practices, procedures relating to monitoring environmental performance.

On a broader level the Montara Commission of Inquiry final report indicated the need for adequate baseline data to be collected by operators and monitoring plans to be designed implemented in the event of a spill – OSMPs should be developed and submitted to NOPSEMA as part of the EP and OSCP.

### Slide 50

Specific areas of focus by NOPSEMA related to monitoring that require improvement by operators

Clear links throughout the plan between impacts and risks, choice of indicators, monitoring design and what the monitoring data will be used for

Also focussed on the implementation of monitoring – will it achieve what is claimed and can it be implemented in the timeframe allocated by the operator

### Slide 51

Requirement of the regulations and acceptance criteria that the operator consider how the proposed activity complies with all the requirements of the OPGGS Act and Regulations.

In preparing the activity description, consideration should be given to ensuring that the description does not conflict with other requirements of the regime.

Example provided of not clearly stating whether material used in conjunction of an activity will be removed at the completion of the activity (in contravention of section 572 of OPGGS Act).

And if material was to be left in situ, assessment of the impact and risks of doing so – for the entire duration of the material remaining in place.

### Slide 58

Assessments 98% in timeframe – 1 exception at 32 days.

5 workshops included – 4 in Perth and 1 in Melbourne.