

# Environment Plan Assessment

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## Abbreviations

<b>DoEE</b>	Commonwealth Department of Environment and Energy
<b>Environment Regulations</b>	Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009
<b>EP</b>	Environment plan
<b>EPBC Act</b>	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
<b>NOPSEMA</b>	National Offshore Petroleum Safety and Environmental Management Authority
<b>OPGGS Act</b>	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>
<b>OPP</b>	Offshore project proposal
<b>RON</b>	Representative of NOPSEMA

## 1. Purpose

The purpose of this policy is to describe NOPSEMA's administration of the regulations that relate to environment plans (EPs) to ensure a documented, systematic and consistent approach to assessment and decision-making.

Regulatory policies guide the exercise of NOPSEMA powers under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and subsidiary regulations and inform stakeholders on how NOPSEMA applies the legislation, including where NOPSEMA can exercise discretion. This regulatory policy does not replace the legislation, and in each case NOPSEMA will have regard to the regulations that apply, and legislation that informs how decisions are made by NOPSEMA. In accordance with good administrative decision-making principles, NOPSEMA considers the merits of the specific case made in conducting assessments and making decisions under the legislation.

## 2. Scope

This policy applies to the assessment of all EPs and proposed revisions to EPs submitted to NOPSEMA under the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (Environment Regulations). This policy should be read in conjunction with the overarching NOPSEMA Assessment Policy (N-04000-PL0050). Any reference to a regulation in this policy refers to the Environment Regulations unless otherwise specified.

For the purposes of this policy, unless otherwise specified, the term 'titleholders' refers to both current titleholders as well as applicants for petroleum access authorities, petroleum special prospecting authorities, pipeline licenses, greenhouse gas search authorities or greenhouse gas special authorities.

This policy applies to EP submissions made after 25 April 2019, to obtain the previous version of the policy which applies to all submissions made prior to this date please contact NOPSEMA.

## 3. Decision-making principles

The Environment Regulations specify that in order for an EP to be accepted, NOPSEMA must be 'reasonably satisfied that the EP meets certain acceptance criteria set out in regulation 10A of the Environment Regulations. To apply these criteria, NOPSEMA has adopted a decision-making approach which ensures that:

- Decision makers are satisfied that the EP meets the regulation 10A acceptance criteria.
- There is a reasonable basis for that satisfaction (supported by facts and evidence).

This approach is encapsulated in detail in NOPSEMA's EP decision making guidelines (N-04750-GL1721).

## 4. Submission requirements

The submission of an EP to NOPSEMA must be made by a titleholder for the activity<sup>1</sup>. If the title application is granted during the assessment of the EP, the titleholder should notify NOPSEMA.

Submission of an EP is an eligible voluntary action<sup>2</sup> and must be made either jointly (for activities with multiple titleholders) or by the titleholder that is nominated to undertake eligible voluntary actions on behalf of all registered titleholders. It is the titleholder's responsibility to ensure that a submission is made in accordance with section 775B of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGG Act).

### 4.1. Form of an environment plan

An EP must be in writing<sup>3</sup> and may include maps, diagrams and figures as relevant. NOPSEMA requests that EPs are submitted in electronic form (PDF, fully searchable, unprotected) and with specified appendices to facilitate consistent online publication, as described in the Making submissions to NOPSEMA guideline (N-04000-GL0225).

An EP may relate to multiple stages of a single activity, multiple activities, or multiple locations and activities undertaken by multiple titleholders<sup>4</sup>.

'Sensitive information'<sup>5</sup> that forms part of an EP must be submitted to NOPSEMA in a separate document and NOPSEMA will only consider a submission to be a full submission when both parts are submitted (see 4.5.2).

### 4.2. Information previously supplied to NOPSEMA

Regulation 31 provides for a titleholder to refer to information in their submission that they have previously given to NOPSEMA that directly relates to an EP content requirement<sup>6</sup>. Information referred to in this way will be taken to be part of the submitted EP.

Titleholders must ensure that where previous information is to be considered as part of the submission, identification of the source of this information are specific and unambiguous, and the information is publicly available (for example, in the titleholder's accepted EP published on the NOPSEMA website).

### 4.3. Activities that are part of an offshore project

All offshore petroleum activities that are undertaken for the purpose of petroleum recovery, other than on an appraisal basis, must have undergone an offshore project proposal (OPP) assessment by NOPSEMA, or an equivalent assessment in accordance with the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), prior to commencing the EP assessment process (see NOPSEMA's Offshore project proposal assessment policy N-04790-PL1650).

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<sup>1</sup> Environment Regulations, regulation 9(2)

<sup>2</sup> *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, Part 9.6A

<sup>3</sup> Environment Regulations, sub-regulation 9(6)

<sup>4</sup> Environment Regulations, sub-regulation 9(7)

<sup>5</sup> Environment Regulations, regulation 4, Sensitive information

<sup>6</sup> Environment Regulations, Division 2.3

If these previous authorisations are not in place when an EP for a development activity is submitted, NOPSEMA will advise the titleholder that the EP is taken not to have been submitted.

#### **4.4. Completeness check of the environment plan**

NOPSEMA must undertake a completeness check within five business days<sup>7</sup> of receiving an EP<sup>8</sup> during which NOPSEMA will determine whether an EP submission includes material apparently addressing all the required contents of an EP<sup>9</sup>. A completeness check is undertaken prior to a submission being deemed suitable for publication, and prior to NOPSEMA commencing its assessment of the environment plan.

The completeness check is not an assessment of the quality, appropriateness or adequacy of the EP in relation to the acceptance criteria, rather its purpose is to determine that the information provided in the EP addresses each of the content requirements. A decision that the EP is complete is a provisional decision only and is not relevant to other regulatory decisions in relation to acceptability of the EP.

During the completeness check, if the submission is found to be incomplete, NOPSEMA will provide written notice to the titleholder identifying the items missing and inviting the titleholder to modify and resubmit the EP.

A resubmission by the titleholder will initiate another completeness check, but does not represent a new submission for the purposes of imposition of environment plan levies.

There is no limit to the number of times the completeness check may occur until the submission is deemed complete. However, if more than 12 months has passed and the EP remains incomplete, NOPSEMA will request the titleholder withdraw the EP.

NOPSEMA will notify the titleholder in writing once the EP is considered to be complete.

#### **4.5. Publication of environment plans and associated information during assessment and decision making**

##### **4.5.1. Stages of EP publication**

As soon as practicable following a provisional decision that the EP is complete (see section 4.4), NOPSEMA will publish on its website the following documents (with sensitive information removed):

- An EP for a seismic or exploratory drilling activity for a 30 day public comment period.
- Following the public comment period, an EP submitted by the titleholder for seismic or exploratory drilling activity, along with the titleholder's report on public comment, signifying the commencement of NOPSEMA's assessment process.
- An EP submitted to NOPSEMA for all types of activities that are not subject to the public comment period (this includes revisions to EPs<sup>10</sup>).

As soon as practicable following a decision that the EP meets the acceptance criteria, NOPSEMA will publish on its website the following documents (with sensitive information removed):

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<sup>7</sup> Five business days is measured according to the decision maker's location, and in most cases will be WA business days.

<sup>8</sup> Environment Regulations, regulation 9AA. Note that timeframes are calculated according to the *Acts Interpretation Act 1901* so that the day of submission is Day 0, and business days take into account Western Australian public holidays.

<sup>9</sup> Division 2.3, Environment Regulations

<sup>10</sup> This includes all EPs submitted in accordance with 17(6)

- The accepted EP (and EP summary, see section 6.4)
- For seismic and exploratory drilling EPs, a report on public comments (this document will be referred to as a Key matters report and will include statements as to how NOPSEMA has taken into account public comments made during the public comment period).

#### 4.5.2. Sensitive information

Sensitive information provided during the public comment period for seismic and exploratory drilling activities, or during consultation with relevant persons for any EP, is to be included in a separate sensitive information part of the EP, and submitted to NOPSEMA as a separate document.

NOPSEMA will not publish the sensitive information part of the EP.

'Sensitive information' specifically includes:

- Copies of full texts of consultation conducted with relevant persons during the development of the EP.
- Any information that is provided by a relevant person during consultation,<sup>11</sup> or by a person during the public comment period,<sup>12</sup> where that person has requested this information to not be published.
- Any personal information<sup>13</sup> (for example, names and contact details of individuals) provided during the public comment period, or during consultation with relevant persons.

Titleholders are responsible for ensuring reasonable efforts are made to inform each relevant person consulted that they may request that particular, sensitive information provided during consultation is not published. This is not administered by NOPSEMA.

Sensitive information does not extend to details relating to the activity or environmental impacts and risks of the activity that have been provided by the titleholder and parties that are not considered relevant persons. Not every person or entity consulted during the development of an environment plan is a 'relevant person' for the purposes of regulation 11A. To avoid doubt, relevant persons do not include a related body corporate of a titleholder, or a person who will carry out operations in connection with the exercise of the titleholder's rights or obligations under a contract, arrangement or understanding with the titleholder<sup>14</sup>. Such persons may be required to provide details relating to the activity, environmental impacts and risks of the activity, and/or environmental management of the activity, including information that may be considered 'commercial and in confidence' though necessary to demonstrate that impacts and risks are being managed to as low as reasonably practicable and an acceptable level.

NOPSEMA will ensure that sensitive information is excluded from NOPSEMA's Key matters report (Report on public comment) for EPs that were subject to a public comment period where the regulator has made a decision to accept the EP either in full or in part (see section 6.3.4).

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<sup>11</sup> Environment Regulations, subregulation 11A(4))

<sup>12</sup> Environment Regulations subregulations 11(b)(1)(b))

<sup>13</sup> The definition of 'personal information' in the Privacy Act 1988 applies

<sup>14</sup> Offshore Petroleum and Greenhouse Gas Storage Act 2006, Offshore Petroleum and Greenhouse Gas Storage (Environment) Amendment Consultation and Transparency) Regulations 2019 – Explanatory Statement <https://www.legislation.gov.au>

## 5. Public comment for seismic and exploratory drilling activity environment plans

### 5.1. Public comment period

A 30 day public comment period applies to EPs submitted for seismic or exploratory drilling activities<sup>15</sup>. In circumstances where an EP includes multiple activities, if one or more of those activities is a seismic or exploratory drilling activity, the EP will be subject to public comment.

When an EP for a seismic or exploratory drilling activity has been considered complete (section 4.4), NOPSEMA will publish the EP on its website with an invitation for any person to provide written comments on the contents of the EP, within 30 calendar days<sup>16</sup>. Comments received outside of the public comment period will not be taken into account during NOPSEMA's assessment of the EP.

NOPSEMA must provide a copy of all comments received to the titleholder as soon as practicable<sup>17</sup>. To facilitate timely access, at the commencement of the public comment period NOPSEMA will provide the titleholder access to an electronic shared folder<sup>18</sup> that will be regularly updated by NOPSEMA with public comments received throughout the 30 day public comment period. NOPSEMA updates to the shared folder will be undertaken as soon as practicable after receipt and will generally not exceed five business days. The titleholder's access to the shared folder will cease 30 days following the end of the public comment period. NOPSEMA will not filter comments and will provide the public comments in the form they were submitted by the commenter.

In order for a comment to be taken into account by NOPSEMA it must be submitted within the formal public comment period and must be relevant to the content of the EP<sup>19</sup>. NOPSEMA will not consider public comments that are submitted prior to or after the public comment period.

### 5.2. Promotion of public comment period

To promote the public comment period for seismic and exploratory drilling EPs, titleholders should publish a notice inviting comments on the EP within the designated comment period in specific media. At a minimum, this should include:

- a prominent place on the titleholder website
- a national newspaper
- a state-wide daily newspaper(s) in the state(s) and/or Territory that are closest to the location of the activity
- a regional newspaper closest to location of the activity.

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<sup>15</sup> Environment Regulations, regulation 11B

<sup>16</sup> Environment Regulations, subregulation 11B(1). Note that timeframes are calculated according to the *Acts Interpretation Act 1901* so that the day of publication is Day 0, and if Day 30 falls on a weekend or Western Australian public holiday, the public comment period will continue until the end of the next business day.

<sup>17</sup> Environment Regulations, sub-regulation 11B(2)

<sup>18</sup> In the EP Submission Cover Sheet (N-4750-FM1257), the titleholder will nominate one email address for the primary person who will be granted access to the shared connect folder. At the discretion of the titleholder, access to the shared public comment folder may be provided to other relevant personnel responsible for managing the public comment process.

<sup>19</sup> Guidance on how to effectively contribute to public comment on exploration EPs is provided in NOPSEMA's Public comment guidance note (GN – 4750 – 1847 – Responding to public comment).

To facilitate this process, titleholders are encouraged to have advertisements prepared prior to submitting the EP to NOPSEMA. Titleholders should publish the promotional notices in relevant media once notification has been provided that the EP has been deemed 'complete for public comment' following NOPSEMA's completeness check (see section 4.4).

### 5.3. Public comment method

Any member of the public can provide a comment to NOPSEMA on a seismic or exploratory drilling EP at any time during the 30-day public comment period. NOPSEMA's preferred method of receiving public comments is through the online form<sup>20</sup> provided for each EP that is open for comment. However, if the commenter wishes to submit 'sensitive information' or there are issues with accessibility, comments can be submitted via email or post<sup>21</sup>.

Comments made on social media platforms and broad objections to offshore petroleum exploration or the petroleum industry that are not specific to the contents of an environment plan<sup>22</sup> will not be considered 'submitted' and will not be taken into account by NOPSEMA during decision making.

NOPSEMA will consider public comments in the course of its assessment and decision making process as part of determining if acceptance criteria for an EP have been met<sup>23</sup>.

In instances where a high number of public comment submissions are received, NOPSEMA will apply a tailored approach for each EP submission that ensures a practicable expenditure of effort for the consideration of relevant matters raised through the public comment process.

### 5.4. Titleholder actions following a public comment period

Information received through the public comment process must be considered by the titleholder before the EP is provided to NOPSEMA for assessment. If comments are received, the titleholder must provide NOPSEMA with a written statement that includes a general response to the comments and clarifies where and how the EP has been modified in response to comments (if at all). All sensitive information must be excluded from the titleholders' report on public comment and included in the 'sensitive information' part of the submission (see section 4.5.2).

To complete the Report on public comment the titleholder must use the template provided on NOPSEMA's website (Form – 04750 – FM 1846 Titleholders report on public comment) to ensure a clear and consistent approach to the publication of these reports. The template can be downloaded from NOPSEMA's website. Comments may be grouped and presented with references to sections of the EP that have been modified<sup>24</sup>.

NOPSEMA will not assess the appropriateness of the content of the report itself, however the titleholder should be aware that the intent of the titleholder's report on public comment is to make clear how comments made have been taken into account.

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<sup>20</sup> NOPSEMA's website provides members of the public with a simple and efficient method of submitting their comments via an online form specific to each EP that is open for comment. The public comment platform can be navigated to from NOPSEMA's homepage and by clicking on 'Have your say'

<sup>21</sup> Brochure – how to make public comments

<sup>22</sup> Environment Regulations, Division 2.3

<sup>23</sup> Environment Regulations, Regulation 10A

<sup>24</sup> For further guidance on how to take into account public comment and the preparation of the public comment report refer Guidance note – 04750-GN1847 – Responding to public comment on EPs



Regardless of whether comments were received, and/or whether changes to the EP were made, the titleholder must provide the EP for assessment within 12 months following the completion of the public comment period<sup>25</sup>. If the EP is not resubmitted within 12 months it will be taken to be withdrawn<sup>26</sup> and a notice of withdrawal will be published on NOPSEMA's website<sup>27</sup>.

## 5.5. Repeat public comment period for significant changes to activities

If a titleholder significantly modifies the proposed seismic or exploratory drilling activity after the period for public comment but before NOPSEMA has made a final decision, the titleholder must resubmit the EP<sup>28</sup> to NOPSEMA for a repeat public comment. A repeat public comment process will not be required if changes to EP content are made that do not relate to the proposed activity. Titleholders proposing to significantly modify the EP in this way are encouraged to discuss their particular circumstance with NOPSEMA.

On submission of the plan for a modified activity, NOPSEMA will cease its assessment of the previous version of the plan and a new assessment period will commence following the public comment period. In these circumstances an additional environment plan levy is not payable.

Where NOPSEMA has expended significant assessment effort and the titleholder wishes to significantly modify the EP during the assessment, NOPSEMA may choose to continue assessing the existing EP under the current assessment process.

## 6. Assessment process

### 6.1. EP assessment principles

NOPSEMA has adopted the following principles for guiding the administration of its assessment process:

- **Environmental outcomes focused** - seek to secure titleholder commitments in EPs to achieve defined levels of performance that reflect responsible environmental management.
- **Titleholder accountability** - drive titleholder accountability for the management of environmental impacts and risks that they create.
- **Reliability of content** – premise that the content provided in EPs is reliable and accurate unless supporting information gives reason to believe otherwise.
- **Highest impacts and risks** - direct EP assessment effort toward titleholders' evaluation and management of the greatest environmental impacts and risks.
- **Team based** - use a team based approach which draws on expertise from relevant disciplines and facilitates informed, unbiased 'good practice' administrative decision making.
- **Consistent** - apply consistent processes and considerations so that consistent assessment outcomes are achieved for comparable activities.
- **Flexible and contemporary** - adapts to changes in external context that is relevant to assessment processes and decision making.

<sup>25</sup> Environment Regulations, subregulation 11B(3)

<sup>26</sup> Environment Regulations, subregulation 11B(7)

<sup>27</sup> Environment Regulations, subregulation 11AA(2)

<sup>28</sup> Environment Regulations, regulation 11C

- **Transparent** - setting clear regulatory expectations and providing guidance to explain how these expectations are to be achieved.

During the assessment of an EP, NOPSEMA tests the sufficiency, appropriateness, completeness, adequacy and certainty of the information in the EP. NOPSEMA considers information provided in an EP submission as well as other relevant information such as peer reviewed scientific literature, relevant Department of the Environment and Energy (DoEE) policies, guidelines, plans of management and other material relating to matters protected under Part 3 of the EPBC Act relevant to the activity.

## 6.2. Commencement of assessment

NOPSEMA's EP assessment process will commence for:

- Seismic and explorative drilling activities, on submission of a seismic or exploratory drilling EP submitted following the public comment period<sup>29</sup> with a separate document containing sensitive information and the statement of the titleholder's response the public comment.
- All other activities not subject to a public comments period, once the completeness check confirms that the EP is complete with all sensitive information separated into separate document that will not be published.

The titleholder will be provided with written notice of the date of commencement of the EP assessment following a maximum five day completeness check.

## 6.3. Assessment team

Assessments are undertaken by teams to remove individual bias and ensure expert knowledge is applied relative to the types of activities in the EP and their associated risks and impacts. Teams generally consist of two to four people, depending on the complexity of the EP.

Final decision making is the role of a Representative of NOPSEMA (RON) who has authority delegated from the NOPSEMA's Chief Executive Officer (CEO). RONS are typically team managers with oversight of a wide range of offshore petroleum and greenhouse gas activities of similar types.

One of the team members will be appointed as Lead Assessor, and will provide their contact details to the titleholder when the submission is received, and liaise with the titleholder throughout the assessment process.

### 6.3.1. Assessment scoping

The assessment consists of two key focus areas:

- A general assessment, which broadly tests whether the submission as a whole has appropriate systems, processes and methods applied to environmental impact and risk assessment and management in the context of the acceptance criteria<sup>30</sup>; and
- One or more detailed topic assessment which focuses on the highest impacts and/or risks and scrutinises the evidence that supports the case in the EP as to how the acceptance criteria are met in relation to the specific topic. This assessment scope considers:

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<sup>29</sup>EP submitted in accordance with Environment regulations, sub-regulation 11B(3) following a public comment period

<sup>30</sup> Environment Regulations, regulation 10A

- the impacts and risks that, if not managed appropriately, are likely to have the greatest environmental impacts
- particular environmental features that are sensitive to disturbance from various aspects of the activity
- the knowledge base and certainty about the impacts and risks on the values and sensitivities of the environments in which the activity is proposed to occur
- the extent to which the titleholder has adopted novel approaches or new technology
- regulatory intelligence including from previous assessments and compliance monitoring activities for the titleholder, similar activity types, and receiving environment.

The RON reviews and endorses the assessment scope prior to commencement of the assessment by the team. The assessment scope is shared with the titleholder by inclusion in correspondence.

### **6.3.2. Team assessment and conclusions**

The assessment team will conduct its assessment in accordance with this policy and procedures and provide advice to the RON. The findings and conclusions of the general assessment and each topic assessment are evaluated together to assist the RON in determining whether he/she can be reasonably satisfied that the EP, as a whole, meets the acceptance criteria.

Where there is scientific uncertainty or technical complexity associated with the information presented in an EP, NOPSEMA may seek expert technical advice from an appropriately experienced third party to support decision making.

Factors considered in this assessment and decision making process are explained in NOPSEMA's environment plan decision making guidelines<sup>31</sup>.

### **6.3.3. Reasonable opportunity to modify the EP prior to making a final decision**

In the event that NOPSEMA's assessment identifies inadequacies in the EP, a titleholder must be provided with a reasonable 'opportunity to modify' the EP before NOPSEMA can make a final decision on its acceptability<sup>32</sup>. This means that NOPSEMA must provide a written notice to the titleholder requesting that the EP is modified and resubmitted to address specific matters relating to the criteria for acceptance. This notification will state the reasons as to why modifications to the EP have been requested and will include a specified date by which the modified EP is to be resubmitted. Should a titleholder be unable to meet the timeframe for resubmission specified in the notification, the titleholder must inform NOPSEMA and request an extension, which will be granted at NOPSEMA's discretion.

NOPSEMA will provide a 'reasonable opportunity to modify' the EP in the form of either a 'request for further written information<sup>33</sup>' or a 'not reasonably satisfied decision<sup>34</sup>'. NOPSEMA will typically first request further written information<sup>35</sup> from the titleholder that identifies the matters that need to be addressed

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<sup>31</sup> GL1721 – Environment plan decision making guideline

<sup>32</sup> Acceptability refers to the EP's demonstration that the criteria for acceptance set out in Regulation 10A of the Environment Regulations have been met

<sup>33</sup> Environment Regulations, regulation 9A

<sup>34</sup> Environment regulations, regulation

<sup>35</sup> Environment Regulations, sub-regulation 9A(1)

before NOPSEMA can make a decision<sup>36</sup>. In addressing the request for further written information, the titleholder will be required to modify and resubmit the EP in full.

Following assessment of the titleholder's response to a request for further written information provided in the resubmitted EP, if NOPSEMA is not reasonably satisfied that the acceptance criteria under regulation 10A have been met, it will issue a 'Not reasonably satisfied' decision notification.

If the titleholder does not provide the modified EP within the period specified by NOPSEMA or a longer agreed period, NOPSEMA may make a final decision on the version of the EP to which the decision notification related.

#### **6.3.4. Final decisions**

##### ***Decision to accept***

If the EP meets the acceptance criteria, NOPSEMA must accept the EP. The EP is considered to be in force from the day that NOPSEMA accepts the EP (see section 6.3.5 for communication of assessment decisions).

##### ***Decision to accept the plan in part or subject to limitations or conditions***

In some circumstances NOPSEMA may decide to accept an EP in part for a particular stage of an activity or accept a plan subject to limitations or conditions applying to the operational aspects of an activity. Such decisions may require consultation with NOPSEMA's CEO.

##### ***Decision to refuse***

Following multiple opportunities to modify and resubmit the EP typically by way of one or more requests for further written information, and one 'not reasonably satisfied' decision<sup>37</sup>, if NOPSEMA is still not reasonably satisfied that the EP meets the acceptance criteria, the EP will be refused and the reasons for the refusal will be provided to the titleholder in writing.

Alternatively, NOPSEMA may decide to give the titleholder a further opportunity to modify and resubmit, or accept the EP in part or with limitations or conditions<sup>38</sup>, which may require consultation with NOPSEMA CEO.

#### **6.3.5. Communication of assessment decisions and website publication**

In all cases, assessment decisions will be communicated to the titleholder via a written decision notice.

Requests for further written information or 'not reasonably satisfied' decisions are not final assessment decisions and will not be published on NOPSEMA's website. In cases when there is a high level of public interest in an EP, NOPSEMA may publish information about the type of assessment decision that has been made and the key matters that need to be addressed by the titleholder.

Each EP that is under assessment can be viewed from NOPSEMA's website which will indicate whether the EP is under assessment by NOPSEMA, or with the titleholder for modification.

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<sup>36</sup> Environment Regulations, sub-regulation 10(2)

<sup>37</sup> Environment Regulations, sub-regulation 10(1)(b)

<sup>38</sup> Environment Regulations, sub-regulation 10(4)(b)

For EPs subject to a public comment period, if NOPSEMA decides that the EP meets the acceptance criteria<sup>39</sup> NOPSEMA will publish the accepted EP as soon as practicable along with NOPSEMA's Key matters report containing statements on how key matters raised in public comment submissions received during the public comment period were taken into account in making this decision<sup>40</sup>. The report will also communicate how key matters raised during the assessment have been considered by NOPSEMA and explain why NOPSEMA is satisfied that impacts and risks have been demonstrated to be reduced to an acceptable and as low as reasonably practical level. Where no public comments are received for the EP, NOPSEMA may still choose to publish a key matters report.

Decisions to accept (including in part or with conditions or limitations), or refuse to accept are final decisions, and signify the completion of NOPSEMA's assessment process. NOPSEMA is required to publish these final decisions on its website as soon as practicable after giving notice to the titleholder<sup>41</sup>.

### 6.3.6. Timeframe for assessment

NOPSEMA must make its assessment decision within 30 days<sup>42</sup> from the commencement of the assessment. This is taken to be 30 days:

- Following a completeness check on the initial submission under regulation 9.
- From the day of submission following a public comment period for seismic and exploratory drilling activities.
- From the day of submission following a 'not reasonably satisfied' decision.

For EPs submitted to NOPSEMA following the public comment period, should a completeness check identify an incomplete submission, NOPSEMA will notify the titleholder in writing and provide the titleholder with an opportunity to submit a complete EP. NOPSEMA's 30 day assessment timeframe will commence when the titleholder resubmits a complete EP.

In certain circumstances, NOPSEMA may be unable to make a decision within this time and may notify the titleholder of an alternative date<sup>43</sup>. This may occur for a range of reasons including, but not limited to:

- A seismic or exploratory drilling activity EP submitted following a public comment period is deemed to be incomplete<sup>44</sup>.
- The complexity of the submission (i.e. for complex or large activities).
- Prioritisation of EP submissions in consultation with the titleholder (i.e. when other submissions from the same titleholder are identified to be of a higher priority).
- Issue of a request for further written information.
- NOPSEMA awaiting financial assurance declarations or confirmation from a titleholder.

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<sup>39</sup> Environment Regulations, regulation 10A

<sup>40</sup> Environment Regulations, subregulation 11(2A)

<sup>41</sup> Environment Regulations, sub-regulation 11(3)(a)

<sup>42</sup> Environment Regulations, sub-regulation 10(1). Note that timeframes are calculated according to the *Acts Interpretation Act 1901* so that the day of submission is Day 0, and if Day 30 falls on a weekend or Western Australian public holiday, the assessment timeframe will continue until the end of the next business day.

<sup>43</sup> Environment Regulations, sub-regulation 10(1)(c)

<sup>44</sup> Submitted under sub-regulation 11B(3)

NOPSEMA seeks to meet statutory timeframes in every instance, but assessment decisions remain valid even if NOPSEMA does not meet the 30-day assessment timeframe<sup>45</sup>.

#### **6.4. Environment plan summary**

The titleholder must submit an EP summary as required by sub-regulations 11(3) and (4). The EP summary can be provided utilising the EP summary statement form provided on NOPSEMA's website which encourages the cross referencing of various sections of the EP that align with the material required as part of an EP summary<sup>46</sup>.

To facilitate an efficient and consistent approach, NOPSEMA's preference is that titleholders use the EP summary statement form provided and attach this completed form to the beginning of the EP when the EP is submitted for assessment and if the EP is modified and resubmitted. Alternative approaches should not be pursued without prior agreement from NOPSEMA and will still require an EP summary to be provided on first submission.

#### **6.5. Confirmation of financial assurance prior to environment plan acceptance**

Prior to accepting an EP, NOPSEMA must be reasonably satisfied that the titleholder has demonstrated compliance with the financial assurance requirements of subsection 571(2) of the OPGGS Act in a form acceptable to NOPSEMA<sup>47</sup>. NOPSEMA's financial assurance for petroleum titles guideline (N-04730-GL1381) details what a form acceptable to NOPSEMA entails. Financial assurance declarations may be submitted to NOPSEMA at any time.

NOPSEMA prefers that a financial assurance confirmation is provided at the time of submission of an EP. NOPSEMA will proceed with an assessment of an EP in instances where a declaration and confirmation remain outstanding. However, NOPSEMA is unable to accept the EP until such time as these have been provided.

#### **6.6. Assessment process for proposed revisions**

The assessment process for proposed revisions<sup>48</sup> to EPs is the same as for new EP submissions. To determine when to submit a proposed revision, titleholders should have regard to Guideline N-04750-GL1705 –

When to submit a proposed revision.

Proposed revisions submitted because of a change in titleholder, or revisions submitted after a five-year period, will be assessed as if they are new EPs. Where an EP is submitted under regulation 17 or 18, NOPSEMA may, under regulation 19(1)(c), notify the titleholder that the period of five years for this revision of the EP starts on the date of the previously accepted EP. This means that a proposed revision of the EP must be submitted to NOPSEMA at least 14 days before this date.

For proposed revisions regarding specific matters, assessment of the EP will focus primarily on the reason for the revision and the changes in external context since acceptance. The extent and significance of the

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<sup>45</sup> Environment Regulations, sub-regulation 10(7)

<sup>46</sup> Environment Regulations, subregulation 11(4)(a)

<sup>47</sup> Environment Regulations, regulation 5G

<sup>48</sup> Environment Regulations, regulation 17

changes to the activity and the associated impacts and risks are determined by NOPSEMA when scoping the assessment (section 6.3.1).

Proposed revisions of seismic or exploration drilling EPs submitted under subregulation 17(5), for a significant modification or new stage of the activity that is not provided for in the in force EP, will be subject to a new public comment period.<sup>49</sup>

EPs that are revised and submitted to NOPSEMA under subregulation 17(6) (a new or increased environmental impact or risk) arising from the activity described in the in force EP, are not required to undergo a new public comment period because the 'activity' has already been subject to a 30 day public comment period.

## **6.7. Withdrawal of an environment plan submission from assessment**

A titleholder may notify NOPSEMA in writing of a request to withdraw an EP submission from assessment at any time before an acceptance or refusal decision has been made. As soon as practicable after this notification, NOPSEMA will publish a notice on its website that the submission has been withdrawn<sup>50</sup>.

## **7. Titleholders must not act in a manner contrary to an EP in force for an activity**

The Environment Regulations preclude a titleholder from carrying out an activity in a manner that is contrary to the accepted EP unless the titleholder has consent in writing from NOPSEMA<sup>51</sup>. The Environment Regulations do not permit NOPSEMA to issue such consent unless there are reasonable grounds for believing that the manner in which the activity will be carried out will not result in any significant, new or increased impact or risk. NOPSEMA will only issue written consent under this provision in exceptional circumstances. In most circumstances, any change to an EP in force will need to be undertaken in accordance with the requirements for a proposed revision to an EP (see section 6.6 above).

## **8. Policy review**

NOPSEMA will review and update this policy regularly and as the assessment process is refined. Reviews may be prompted by changes to legislation or by lessons learned as a result of environmental incidents and investigations.

## **9. Relevant legislation**

*Offshore Petroleum and Greenhouse Gas Storage Act 2006*

*Environment Protection and Biodiversity Conservation Act 1999*

Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009

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<sup>49</sup> A decision by the regulation to accept or refuse to EP has not been made under the Environment Regulations, regulation 10.

<sup>50</sup> Further information on the implications of withdrawal of an EP on levies payable to NOPSEMA is provided in the Environmental management cost recovery guideline (N-04750-GL1350).

<sup>51</sup> Environment Regulations, sub-regulation 7(2)

## 10. Related documents

PL0050 – Assessment policy

PL1650 – Offshore project proposal assessment policy

GL1721 – Environment plan decision-making guideline

GL0225 – Making submissions to NOPSEMA guideline

GL1381 – Financial assurance for petroleum titles guideline

GL1705 – When to submit a proposed revision

GN1344 – Environment plan contents requirements guidance note

GN1847 – Responding to public comments on environment plans guideline

FM1846 – Titleholder report on public comment form

FM1848 – EP summary statement form