



Australian Government



2015 OPERATIONAL REVIEW OF THE
NATIONAL OFFSHORE PETROLEUM
SAFETY AND ENVIRONMENTAL
MANAGEMENT AUTHORITY

Australian Government Response

December 2015

This report was prepared by the Department of Industry, Innovation and Science.

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EXECUTIVE SUMMARY

The then Minister for the Industry and Science portfolio, the Hon Ian Macfarlane MP, commissioned the 2015 Operational Review of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) in accordance the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act).

This is the third triennial review of the offshore petroleum regulator. Operational reviews were previously undertaken in 2008 and 2011 following the establishment in 2005 of the National Offshore Petroleum Safety Authority (NOPSA). This is the first review of NOPSEMA, covering the three years since its transition from NOPSA. Subsequent reviews of NOPSEMA are to be undertaken every five years.

The terms of reference for the 2015 Review are at **Appendix A** and include the effectiveness of NOPSEMA in bringing about improvements in occupational health and safety, structural integrity and the environmental management of offshore petroleum operations and activities. The terms of reference also include an examination of NOPSEMA's governance arrangements, its flexibility to deal with new technologies and its approach to stakeholder engagement.

The 2015 Review commenced on 6 March 2015 and was conducted by an independent panel of experts (the Review Panel) comprised of Mr Ken Fitzpatrick (Chair), Mr David Agostini and Mr Peter Wilkinson. Noetic Solutions provided secretariat services. The panel presented the 2015 Operational Review of the *National Offshore Petroleum Safety and Environmental Management Authority report* (the Review Report) to the then Minister Macfarlane on the 30 June 2015.

The Review Report presents the findings developed from the Panel's consultation with the offshore petroleum sector, governments, community groups, representative unions and other stakeholders, and research and analysis conducted by the 2015 Review's Secretariat. The findings and recommendations arising from the 2015 Review support the continuous improvement of safety, well integrity and environmental outcomes for the offshore petroleum sector.

The Australian Government has considered and accepted 15 of the Review Panel's 16 Recommendations, noted one and supports the 26 Findings. The Government supports the Review Panel's conclusion that NOPSEMA is an effective regulator that has made positive contributions to improving safety and well integrity, and managing Australia's offshore environment. NOPSEMA has made significant improvements in its operational capability since the 2011 Review. The challenges arising from integrating and operationalising the environmental regulations into NOPSEMA's remit has also led to improvements by the offshore petroleum sector, particularly in identifying environmental risks and controls and in oil spill planning and preparedness.

Strengthening the relationship with the National Offshore Petroleum Titles Administrator (NOPTA) provides an opportunity to share information which might be beneficial to improving delivery of services to industry and reduce the regulatory burden for the sector without compromising the independence of either organisation.

The inclusion of environmental regulations in NOPSEMA's remit has broadened the stakeholder landscape for NOPSEMA and for the offshore petroleum sector. Effective engagement in a more complex environment should continue to be a primary focus for NOPSEMA. Recognition by the broader stakeholder community that NOPSEMA is a mature, competent, effective and fair regulator is paramount to maintaining its social licence to regulate. NOPSEMA's governance arrangements, responsiveness to emerging developments, commitment to continuous improvement and increasing maturity as an international leading practice regulator are central to NOPSEMA's ability to maintain its social licence to regulate. This is also key to progressing the conferral of powers and functions on NOPSEMA to regulate occupational health and safety, well integrity and environmental management in designated coastal waters.

Appendix B to the Government Response is an implementation plan to progress the accepted outcomes of the 2015 Review. Of the 16 recommendations, implementation of 10 recommendations are the responsibility of the Chief Executive Officer of NOPSEMA, one recommendation is the responsibility of Government, to be progressed by the Department of Industry, Innovation and Science. One recommendation is a joint responsibility of the Chief Executive Officer of NOPSEMA and the National Offshore Petroleum Titles Administrator, and four recommendations are the joint responsibility of the Chief Executive Officer of NOPSEMA and the Department of Industry, Innovation and Science.

The Government supports the 26 Findings of the 2015 Review.

A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.

Introduction

Regulatory Regime

Offshore petroleum operations in Australian Commonwealth waters are governed by the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act) and related regulations.

Australia's offshore petroleum and greenhouse gas legislation, regulations and guidelines provide for the orderly exploration for and production of petroleum and greenhouse gas resources, and sets out a framework of rights, entitlements and responsibilities of government and industry.

Ultimate responsibility for Australia's offshore areas, beyond three nautical miles from the territorial sea baseline, rests with the Commonwealth Government, whereas onshore and as far as three nautical miles seaward of the baseline (referred to as 'coastal waters') petroleum operations are the responsibility of the individual state and territory governments.

Following the 1988 Piper Alpha disaster and the outcomes of the United Kingdom Committee of Inquiry chaired by Lord Cullen, the Australian Government adopted an objective-based approach to regulating offshore petroleum operations. Objective-based (or goal setting) regimes are based on the principle that the legislation sets the broad safety (or environmental) goals to be attained and those undertaking operations or activities must develop the most appropriate methods of achieving those goals.

In the offshore petroleum regime general duties are imposed on titleholders, operators of facilities, other contractors, suppliers and all those who work at or near facilities. In addition, duty holders (titleholders and operators) are responsible for evaluating and managing risks and demonstrating to the offshore petroleum regulator that risks are reduced to 'as low as reasonably practicable' (ALARP). The ALARP principle recognises the point where the sacrifice required to reduce the risks of an activity any further would be extraordinarily disproportionate to the benefit gained and may not be practically feasible. The application of ALARP to offshore petroleum operations allows the duty holder to adopt practices and technologies best suited to individual circumstances, activities and locations.

On 5 August 2009 the then Commonwealth Minister for Resources and Energy, announced his intention to establish a national regulator for offshore petroleum, minerals and greenhouse gas storage activities in Commonwealth offshore areas by 1 January 2012. This followed the outcomes of the April 2009 Productivity Commission *Review of the Regulatory Burden on the Upstream Petroleum (Oil & Gas) Sector* which found that the regulatory burdens on industry could be reduced through new institutional arrangements, principally the establishment of a national regulator for offshore petroleum, on a full cost recovery basis, as well as the implementation of best practice regulatory principles in all jurisdictions.

On 21 August 2009 the Montara H1 Wellhead Platform had an uncontrolled release of oil and gas into the Timor Sea, an incident leading to major regulatory reform to the offshore petroleum regime governing Australian Commonwealth waters. In April 2010 further impetus was provided by the Macondo Deepwater Horizon disaster that unfolded in the Gulf of Mexico, claiming 11 lives.

One of the key recommendations of the Montara Commission of Inquiry, presented to the then Commonwealth Minister for Resources and Energy in June 2010, was that a single, independent national offshore regulator responsible for safety, well integrity and environmental approvals should, at a minimum, be pursued. This led to the establishment of NOPSEMA on 1 January 2012.

Role of NOPSEMA

NOPSEMA is the single national regulator for occupational health and safety, well integrity, environmental management, and day-to-day operations of offshore petroleum facilities in Commonwealth waters, and in coastal waters where state and Northern Territory powers have been conferred. NOPSEMA is an independent statutory authority established under Part 6.9 of the OPGGS Act and is accountable to the responsible Commonwealth Minister, the Minister for Resources, Energy and Northern Australia, the Hon Josh Frydenberg MP.

The single national regulator model reflects international leading practice for the regulation of offshore petroleum and provides nationally consistent safety, well integrity and environmental regulation across the offshore petroleum sector for Australia.

Australian Government Response: Recommendations and Findings

The Review Panel organised the Review Report in accordance with the four elements of the Terms of Reference. The Australian Government Response takes the same approach.

Overall Effectiveness

Recommendation 1: NOPSEMA should emphasise in its published documents the role it undertakes in the prevention of major accident events.

Response: Accepted

The major accident events that have shaped the Australian offshore petroleum regulatory regime, including Piper Alpha, the Montara oil spill and the Macondo blowout have all contributed to a regulatory focus on preventing major accident events. The role of the regulator in driving process safety improvements in the offshore petroleum sector cannot be under-estimated. Major accident event prevention has been emphasised in recent NOPSEMA publications, as recognised and supported by the Operational Review panel. The Government supports this trend.

Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.

Recommendation 2: NOPSEMA should further analyse and publish trends based on data gathered on process safety to encourage greater emphasis on process safety, including major accident events.

Response: Accepted

Gathering data through the use of leading and lagging performance indicators (where legislation permits), and quantifying and publishing trends in process safety, provides the regulator, industry, governments and community stakeholders with an understanding of the safety performance of the offshore petroleum sector over time.

Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.

Recommendation 3: NOPSEMA should consider developing or using lead indicators of major accident events performance such as those being developed by the International Association of Oil and Gas Producers (IOGP).

Response: Accepted

NOPSEMA will continue to use its membership of the International Regulators Forum to leverage internationally recognised lead indicators to ensure Australia's offshore petroleum sector can be benchmarked against international safety trends. There is an opportunity to work with the Australian Petroleum Production and Exploration Association to ensure indicators developed internationally are appropriate for the Australian offshore petroleum regulatory environment.

Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.

Organisational Capability

Recommendation 4: NOPSEMA should continue to invest in and improve the communications capability of its staff, with an emphasis on personnel who engage directly with stakeholders.

Response: Accepted

The communications capability of regulatory personnel is a key element of the operational capability required of NOPSEMA in the complex stakeholder environment in which it operates. NOPSEMA has been investing in its communication capability to support its engagement with government, industry, community and other interest groups, while preserving the independence of its regulatory decision making.

Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.

Tools and Techniques

Recommendation 5: NOPSEMA should continue to identify and implement cost effective and tailored/targeted education activities that improve its capacity to engage with stakeholders in order to share lessons, provide guidance and share new information.

Response: Accepted

The Government notes that integration of the environmental regulations has highlighted a need for effective engagement with industry, the community and other stakeholders to build a shared understanding of the offshore petroleum regime. An example is the engagement program undertaken by NOPSEMA's environmental division. The environment division has undertaken a series of consultative initiatives, including hosting information sessions with industry and the community addressing NOPSEMA's current work program on environmental management consultation and transparency of decision-making processes. The review panel also noted consultative examples relating to performance standards.

Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.

Enforcement Process

Recommendation 6: NOPSEMA should review adequacy of guidance notes and improve communication of the assessment process to ensure industry understands the importance of nature and scale within the risk assessment process. NOPSEMA should also workshop actual examples of high risks, assessed impacts and agreed controls and mitigations to demonstrate how the process works in reality and best practices.

Response: Accepted

A shared understanding of the nature and scale of risks will ensure that environment plans are fit for purpose and that high order impacts and risks receive proportionate focus in environment plans. NOPSEMA will continue to work with industry to clarify expectations on risk assessment processes for environmental approvals to ensure that industry has sufficient ownership and recognition of the correct application.

Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.

Recommendation 7: NOPSEMA should review relevant guidelines in conjunction with relevant stakeholders (e.g. APPEA) to clarify the activities which require environment plans and oil pollution emergency plans.

Response: Accepted

NOPSEMA's guidance material provides an important resource for industry, particularly in their understanding of activities which will require interaction with the regulator, for example, the development of draft environment and oil pollution emergency plans. The Government supports NOPSEMA working with industry and other stakeholders to clarify expectations on approval processes for environmental approvals and oil pollution emergency plans.

Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.

Recommendation 8: The Department of Industry and Science (now the Department of Industry, Innovation and Science) should continue to review the scope of powers and authority that NOPSEMA requires for regulating activities associated with greenhouse gas storage.

Response: Accepted

Australia is one of the first countries in the world to have a legislative framework to regulate offshore greenhouse gas injection and storage. The creation of NOPSEMA post-dated the commencement of the greenhouse gas legislative framework. The Department of Industry, Innovation and Science, as the policy agency with responsibility for the OPGGS Act and NOPSEMA will continue to work to ensure the regulatory regime for greenhouse gas operations is robust and consistent with current governance and institutional arrangements under the OPGGS Act.

Implementation of this recommendation is the responsibility of the Department of Industry, Innovation and Science working with the Chief Executive Officer of NOPSEMA.

Governance in relation to the PGPA Act

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) took effect from July 2014. Under the PGPA Act, NOPSEMA became a Corporate Entity and the NOPSEMA Chief Executive Officer became the Accountable Authority, with a range of responsibilities, duties and obligations including promoting high standards of accountability and performance.

The Government notes that the Review Panel made no recommendations in relation to this Term of Reference. This is consistent with the positive outcome of the 2014 Australian National Audit Office review. NOPSEMA has implemented a range of internal processes and governance arrangements to ensure compliance with the PGPA Act.

Emerging issues including new technology and well decommissioning

Recommendation 9: The Department of Industry and Science (now the Department of Industry, Innovation and Science) should develop regulations regarding the Design Notification Scheme in collaboration with NOPSEMA and appropriate stakeholders.

Response: Accepted

The Department of Industry, Innovation and Science is currently working with NOPSEMA to develop and implement a Design Notification Scheme appropriate for the Australian offshore petroleum sector.

It is anticipated that the Design Notification Scheme will commence from 1 July 2016.

Implementation of this recommendation is the responsibility of the Department of Industry, Innovation and Science, working with the Chief Executive Officer of NOPSEMA.

Recommendation 10: NOPSEMA should prepare for increased decommissioning activity in the future by working with the Department of Industry and Science (now the Department of Industry, Innovation and Science), industry stakeholders and relevant parties to develop guidance notes on decommissioning.

Response: Accepted

The Offshore Petroleum Resource Management Review found that the offshore petroleum sector requires clarity regarding the Government's policy and requirements for the decommissioning of offshore facilities post production.

The Department of Industry, Innovation and Science has commenced the development of an offshore petroleum decommissioning policy framework. The framework will clarify Government policy and expectations for the decommissioning of offshore petroleum facilities, and ensure the regulatory regime for decommissioning strikes the right balance between environmental and safety outcomes, community expectations and productivity improvements for the offshore petroleum sector.

In July 2015, NOPSEMA released an information brochure clarifying the existing safety, well integrity and environment regulatory requirements regarding decommissioning. The Department will continue to work with NOPSEMA, in consultation with the offshore petroleum sector, to develop a decommissioning policy position and associated administrative arrangements and guidance material.

Implementation of this recommendation is the responsibility of the Department of Industry, Innovation and Science working with the Chief Executive Officer of NOPSEMA, in consultation with the offshore petroleum sector and other stakeholders.

Recommendation 11: The Department of Industry and Science (now the Department of Industry, Innovation and Science) should clarify the appropriate mechanism to allow NOPSEMA to vary legacy environmental conditions and associated approvals granted prior to 1 January 2012 where appropriate.

Response: Accepted

The Department of Industry, Innovation and Science will work with the Department of the Environment to clarify the processes and mechanism where legacy environmental conditions provided under the *Environmental Protection and Biodiversity Act 1999* prior to 1 January 2012 apply and where reconsideration of those conditions is appropriate.

Implementation of this recommendation is the responsibility of the Department of Industry, Innovation and Science.

Stakeholder engagement

Recommendation 12: NOPSEMA and AMSA should refresh their Memorandum of Understanding and in doing so seek clarity on their commitments and responsibilities under their respective Acts.

Response: Accepted

The Government notes the Review Panel's finding that NOPSEMA and AMSA cooperate well at the operational level and supports the agencies' establishing a documented process for collaboration and consultation. This could take the form of a refreshed Memorandum of Understanding, or exchange of letters. Regardless, the document should be reviewed annually to ensure it remains relevant and there is a shared contemporary understanding of each party's regulatory remit and approach. In line with the Ministerial Statement of Expectations for NOPSEMA this should also include a collaborative approach to enhance coordination of emergency response arrangements.

Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.

Recommendation 13: NOPSEMA should develop a mechanism to provide greater transparency of decision making and assessments to stakeholders.

Response: Accepted

NOPSEMA has commenced the development of improvements to the transparency of environment plan assessment and decision-making in consultation with stakeholders and industry. NOPSEMA will work with the Department of Industry, Innovation and Science where any associated amendments to legislation are required. Any changes will be managed through the existing legislative change process.

Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA working with the Department of Industry, Innovation and Science.

Recommendation 14: NOPSEMA should continue to seek expert advice from the Board when necessary.

Response: Accepted

The Government notes that the NOPSEMA Advisory Board forms a critical knowledge base from which the NOPSEMA Chief Executive Officer, the responsible Commonwealth Minister and the relevant State and Territory Ministers can seek advice regarding the effectiveness and performance of NOPSEMA with regard to its functions and operational policy and strategic matters.

Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.

Recommendation 15: NOPTA and NOPSEMA should develop a mechanism (for example an MOU or charter of engagement) to identify the interfacing points, cooperation and responsibilities.

Response: Noted

The Government notes that the 2015 Review found that NOPSEMA and NOPTA have improved their inter-agency cooperation since the initial period of operations when engagement was almost by necessity focused on discharging their new responsibilities. Legislative change has since enabled better sharing of information which provides opportunities for further cooperation.

Both organisations have demonstrated the capacity to work cooperatively on matters relating to the regulation of offshore petroleum titles and greenhouse gas operations, the Government does not consider a formal instrument of engagement between NOPSEMA and NOPTA is necessary provided the areas of co-operation and consultation are documented and updated to ensure currency.

Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA and the National Offshore Petroleum Titles Administrator.

Recommendation 16: NOPSEMA should provide more engagement mechanisms to collaborate with the workforce and health and safety representatives.

Response: Accepted

The Government supports the Review Panel's view that positive engagement with the workforce, health and safety representatives and workforce representatives is essential for ongoing improvements to safety in particular. As the Review Panel noted, building trust with key stakeholders is an essential element of NOPSEMA's social licence to regulate. NOPSEMA will explore mechanisms to supplement the existing substantial communication with health and safety representatives and the ongoing participation in relevant conferences organised by the Australian Council of Trade Unions and APPEA.

Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.

Appendix A: Terms of Reference

In accordance with Section 695 (2) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, the 2015 Operational Review of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) will give consideration to:

- The effectiveness of NOPSEMA in bringing about improvements in:
 - The occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations.
 - The structural integrity of facilities, wells and well-related equipment.
 - Offshore petroleum environmental management including the effectiveness of the integration of environmental management into NOPSEMA's functions since 1 January 2012 (but not specific issues to be reviewed as part of the 2015 review of the environmental streamlining Program).
 - Offshore greenhouse gas storage environmental management.

This will include NOPSEMA's performance against its functions and powers as set out in the OPGGS Act and regulations and consideration of opportunities consistent with the Government's deregulation agenda.

- NOPSEMA's governance arrangements in the context of its expanded functions and the requirements of the *Public Governance, Performance and Accountability Act 2013*.
- NOPSEMA's capacity to respond to changes in industry including emerging issues such as changes in industry operations and new technologies.
- NOPSEMA's interaction with external parties (including industry, federal, state and territory government bodies, other stakeholders and the NOPSEMA Advisory Board) to improve regulatory outcomes in an objectives-based regulatory environment.

This Review should have regard to the findings of related reviews including the 2008 and 2011 NOPSA Operational Reviews, the Government Response to the Montara Commission of Inquiry and the 2014 Australian National Audit Office Report into the Establishment and Administration of NOPSEMA.

Appendix B: Implementation Plan

Recommendations

Recommendation and Government Response	Responsibility for Implementation and Timeframe
<p>1. NOPSEMA should emphasise in its published documents the role it undertakes in the prevention of major accident events.</p>	<p>Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
Accepted	
<p>2. NOPSEMA should further analyse and publish trends based on data gathered on process safety to encourage greater emphasis on process safety, including major accident events.</p>	<p>Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
Accepted	
<p>3. NOPSEMA should consider developing or using lead indicators of major accident events performance such as those being developed by the International Association of Oil and Gas Producers (IOGP).</p>	<p>Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
Accepted	
<p>4. NOPSEMA should continue to invest in and improve the communications capability of its staff, with an emphasis on personnel who engage directly with stakeholders.</p>	<p>Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
Accepted	
<p>5. NOPSEMA should continue to identify and implement cost effective and tailored/targeted education activities that improve its capacity to engage with stakeholders in order to share lessons, provide guidance and share new information.</p>	<p>Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
Accepted	

Recommendation and Government Response	Responsibility for Implementation and Timeframe
<p>6. NOPSEMA should review adequacy of guidance notes and improve communication of the assessment process to ensure industry understands the importance of nature and scale within the risk assessment process. NOPSEMA should also workshop actual examples of high risks, assessed impacts and agreed controls and mitigations to demonstrate how the process works in reality and best practices.</p>	<p>Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
Accepted	
<p>7. NOPSEMA should review relevant guidelines in conjunction with relevant stakeholders (e.g. APPEA) to clarify the activities which require environment plans and oil pollution emergency plans.</p>	<p>Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
Accepted	
<p>8. The Department of Industry and Science (now the Department of Industry, Innovation and Science) should continue to review the scope of powers and authority that NOPSEMA requires for regulating activities associated with greenhouse gas storage.</p>	<p>Implementation of this recommendation is the responsibility of the Department of Industry, Innovation and Science working with the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
Accepted	
<p>9. The Department of Industry and Science (now the Department of Industry, Innovation and Science) should develop regulations regarding the Design Notification Scheme in collaboration with NOPSEMA and appropriate stakeholders.</p>	<p>Implementation of this recommendation is the responsibility of the Department of Industry, Innovation and Science, working with the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
Accepted	
<p>10. NOPSEMA should prepare for increased decommissioning activity in the future by working with the Department of Industry and Science (now the Department of Industry, Innovation and Science), industry stakeholders and relevant parties to develop guidance notes on decommissioning.</p>	<p>Implementation of this recommendation is the responsibility of the Department of Industry, Innovation and Science working with the Chief Executive Officer of NOPSEMA, in consultation with the offshore petroleum sector and other stakeholders.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
Accepted	

Recommendation and Government Response	Responsibility for Implementation and Timeframe
<p>11. The Department of Industry and Science (now the Department of Industry, Innovation and Science) should clarify the appropriate mechanism to allow NOPSEMA to vary legacy environmental conditions and associated approvals granted prior to 1 January 2012 where appropriate.</p>	<p>Implementation of this recommendation is the responsibility of the Department of Industry, Innovation and Science.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
Accepted	
<p>12. NOPSEMA and AMSA should refresh their Memorandum of Understanding and in doing so seek clarity on their commitments and responsibilities under their respective Acts.</p>	<p>Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
Accepted	
<p>13. NOPSEMA should develop a mechanism to provide greater transparency of decision making and assessments to stakeholders.</p>	<p>Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA working with the Department of Industry, Innovation and Science.</p>
Accepted	<p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
<p>14. NOPSEMA should continue to seek expert advice from the Board when necessary.</p>	<p>Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.</p>
Accepted	<p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
<p>15. NOPTA and NOPSEMA should develop a mechanism (for example an MOU or charter of engagement) to identify the interfacing points, cooperation and responsibilities.</p>	<p>Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA and the National Offshore Petroleum Titles Administrator.</p>
Noted	<p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
<p>16. NOPSEMA should provide more engagement mechanisms to collaborate with the workforce and health and safety representatives.</p>	<p>Implementation of this recommendation is the responsibility of the Chief Executive Officer of NOPSEMA.</p>
Accepted	<p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>

Findings

Finding and Government Response	Responsibility for Implementation and Timeframe
<p>NOPSEMA's operational practice is strongly focused on compliance with controls identified in safety cases and well operations management plans (WOMP) to minimise the risk of major accident events and in environment plans to prevent impacts on sensitive environment receptors. The focus on major accident events has become clearer in recent NOPSEMA published material. There is an opportunity for NOPSEMA to provide leadership on process safety by making use of whole-of-sector data to identify trends in process safety. NOPSEMA can leverage its membership of the International Regulators Forum, and other sector engagement (i.e. conferences), to identify developing process safety practices and learnings, and communicate those to its stakeholders.</p>	<p>This finding gave rise to Recommendations 1, 2 & 3. Please refer to the Recommendation table above for the "Responsibility for Implementation and Timeframe".</p>
<p>Supported</p> <p>NOPSEMA has made significant improvements in its operational capability since the last review. The extent and range of compliance or enforcement actions undertaken indicates that NOPSEMA is acting as an effective and capable regulator. The organisation has invested in the individual operational capability of its inspectors who demonstrate a breadth of experience and depth of knowledge appropriate for their role. NOPSEMA has recognised that it may need to seek additional expertise outside the organisation, and collaborate with appropriately knowledgeable agencies or organisations.</p>	<p>This finding gave rise to Recommendation 4. Please refer to the Recommendation table above for the "Responsibility for Implementation and Timeframe".</p>
<p>Supported</p> <p>There is an opportunity for NOPSEMA to invest in improving the communications capability of its personnel. This includes 'softer' communications skills, for example, influencing and negotiating skills. Developing the communications capability of NOPSEMA personnel can directly contribute to NOPSEMA's ability to be seen as a competent regulator. This is an important part of the process of earning a social licence to regulate.</p>	<p>This finding gave rise to Recommendation 4. Please refer to the Recommendation table above for the "Responsibility for Implementation and Timeframe".</p>
<p>Supported</p>	

Finding and Government Response	Responsibility for Implementation and Timeframe
<p>The Panel found that NOPSEMA takes a pragmatic approach to inspections but could be more flexible in increasing or decreasing the number of inspections in regard to the operators' risk profiles. A more flexible approach could contribute to NOPSEMA's ability to act effectively by facilitating a more efficient allocation of NOPSEMA's resources. This would improve NOPSEMA's capacity to focus on high risk facilities.</p> <p>Supported</p>	<p>Addressing this finding is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
<p>NOPSEMA has not always engaged as effectively as possible with industry stakeholders to develop practical guidance. However, NOPSEMA has demonstrated that it understands the importance of effective engagement, and has demonstrated that it is undertaking improvements in this area.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 5. Please refer to the Recommendation table above for the "Responsibility for Implementation and Timeframe".</p>
<p>Comparable to the 2011 Triennial Operational Review of NOPSEMA, stakeholders consulted during this review have advised the Panel that inconsistencies exist between individual inspectors from the Environment and Safety sections. The Panel understands that NOPSEMA is addressing these inconsistencies. NOPSEMA have established a regular internal peer review process for safety cases, WOMPs, and environment plans with the aim of ensuring greater consistency between permissive document assessments. NOPSEMA is currently meeting its statutory timeline obligations for permissioning documents. NOPSEMA appear to understand the importance of consistency, both from a process perspective, i.e. better consistency leads to better operational efficiencies, and through the lens of improving stakeholder perceptions. Notwithstanding the challenges of achieving total consistency in a goal setting regime, NOPSEMA is actively seeking to operate in a more consistent manner.</p> <p>Supported</p>	<p>Addressing this finding is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>

Finding and Government Response	Responsibility for Implementation and Timeframe
<p>The Panel found a consensus exists with stakeholders that the transition to the new regime was challenging for both the industry and NOPSEMA. The Panel understands the challenges that impeded effectiveness have largely been resolved or that NOPSEMA is working to address them. Communication between NOPSEMA and industry has steadily improved. The working relationship between industry and NOPSEMA on environmental matters has improved, with more clarity on the responsibilities of each. Both industry and NOPSEMA have acknowledged that further improvement can be made.</p> <p>Supported</p>	<p>Addressing this finding is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government’s response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
<p>Not all industry Duty Holders recognised the importance of the nature and scale of a risk in the preparation of environment plans as they relate to lower order impacts and risks. Industry routinely puts disproportionate effort into preparing content on low/medium impacts and risks. The majority of NOPSEMA’s assessment findings related to higher order impacts and risks and the inconsistent application of proponents’ risk assessment processes. Lower order impacts and risks are required to have controls identified, but it is more straightforward to demonstrate that they are managed to acceptable levels and ALARP (usually relevant standards for these such as the International Convention for the Prevention of Pollution from Ships (MARPOL)), for sewage.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 6. Please refer to the Recommendation table above for the “Responsibility for Implementation and Timeframe”.</p>
<p>The Panel found NOPSEMA has an adequate set of enforcement tools available, and appears to be using those tools appropriately. The additional enforcement tools legislated in October 2014 are noted in the Table 6: NOPSEMA’s Enforcement Tools. NOPSEMA has used a balanced approach to regulation using both enforcement and education. The Panel believes that NOPSEMA should take additional educational initiatives specifically to improve industry performance. The Panel recognises that education activities are resource intensive. Increasing the amount of compliance-related education will require NOPSEMA to work effectivity within its current budget and identify the most cost effective education activities, for example, sharing industry-wide improvements in forums such as workshops.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 5. Please refer to the Recommendation table above for the “Responsibility for Implementation and Timeframe”.</p>

Finding and Government Response	Responsibility for Implementation and Timeframe
<p>The Panel noted that NOPSEMA has conducted a limited number of assessments of greenhouse gas storage seismic survey activities through delegation of authority from the Minister. To enable NOPSEMA to routinely carry out these functions in the future, the Panel believes that the Department of Industry and Science (“the Department”) should give further consideration to the scope of NOPSEMA powers with respect to greenhouse gas storage operations.</p>	<p>This finding gave rise to Recommendation 8. Please refer to the Recommendation table above for the “Responsibility for Implementation and Timeframe”.</p>
<p>Supported</p> <hr/> <p>The Panel found that NOPSEMA demonstrates an effective internal governance structure with appropriate policies and procedures. The Panel found that:</p> <p>The internal corporate structure provides a governance arrangement that promotes independence, transparency, cost recovery and is appropriate to the organisation.</p> <p>The number of stakeholders with environmental concerns is significantly larger than those with an interest in safety regulation. Consequently, stakeholder engagement with environmental stakeholders is considerably greater, and likely to be more resource intensive. This needs to be considered in future NOPSEMA resource planning.</p> <p>NOPSEMA has an appropriate Freedom of Information management system.</p> <p>NOPSEMA is supported by an appropriate Quality Management System and Regulatory Management System.</p> <p>NOPSEMA has made improvement in the way it shares information (both inter agency and with external stakeholders).</p> <p>Inter-agency collaboration is being undertaken with appropriate acknowledgement of risks which impact multiple agencies.</p> <p>The Panel believes that the internal governance structure within NOPSEMA provides both the appropriate oversight and should support the future growth of the organisation, and the capacity to take on additional responsibilities in a way that does not impede or undermine its ability to conduct its current responsibilities.</p> <p>Supported</p> <hr/>	<p>The Government supports this positive finding of the Review Panel.</p>

Finding and Government Response	Responsibility for Implementation and Timeframe
<p>The Panel found that NOPSEMA's corporate risk is well managed. This includes an annual review of the risk register and ownership of risks and controls by key staff. The risks are identified, appropriate controls established and effectiveness monitored and rated. Overall, the corporate risk management framework is comprehensive and residual risk is managed effectively.</p> <p>The Panel found that NOPSEMA engages daily with risk and risk assessments and analyses and assesses these risks by:</p> <ul style="list-style-type: none"> • Implementing and maintaining an effective risk-based monitoring and compliance framework, and employing appropriate regulatory tools to ensure compliance and risk mitigation. • Maintaining a transparent and well documented systematic risk management framework to assist in the identification, evaluation and mitigation of regulatory risks and ensure that NOPSEMA resources are allocated to match identified priorities. • Undertaking the Comcover benchmarking survey to establish a risk management policy and framework. 	<p>The Government supports this positive finding of the Review Panel.</p>
<p>Supported</p> <p>The Panel has sighted NOPSEMA's internal audit systems and relevant documents, and is satisfied that the financial systems and controls in place are appropriate to ensure compliance with the Public Governance, Performance and Accountability Act 2013 (Cwlth) (PGPA Act).</p>	<p>The Government supports this positive finding of the Review Panel.</p>
<p>Supported</p> <p>New technologies are being developed by the oil and gas industry on a continuous basis and regulators need to be able to assess the risk analysis presented to them by industry in each case. The major emerging case in the Australian environment is Floating Liquefied Natural Gas (FLNG). The Panel has seen evidence of a process of early engagement with Shell as the Prelude FLNG project moved through various stages of its development. This has facilitated NOPSEMA's ability to access the risk management strategy proposed by Shell.</p>	<p>This finding gave rise to Recommendation 9. Please refer to the Recommendation table above for the "Responsibility for Implementation and Timeframe".</p>

Finding and Government Response	Responsibility for Implementation and Timeframe
<p>Duty holders that have participated in the early engagement process have commented positively on the value of the engagement with NOPSEMA at the design phase of a proposed production facility. However, operational experience has revealed that the Safety Regulations do not currently provide the necessary flexibility to allow NOPSEMA and duty holders to meaningfully discuss the technical complexities and design issues often associated with new technologies. The Panel supports the design notification scheme as an important early engagement mechanism.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 9. Please refer to the Recommendation table above for the “Responsibility for Implementation and Timeframe”.</p>
<p>The Australian oil and gas industry is anticipating a large increase in decommissioning activity in the future. In preparation for this, additional resources will need to be identified by NOPSEMA to support the increased management of decommissioning activities. A pragmatic approach to the management of decommissioning activities may facilitate better management of the decommissioning of pipelines, wells and subsea equipment, with flexibility to address decommissioning on a case by case merit. However, a lack of clarity identifying the most appropriate mechanism to revise legacy environment approvals may constrain this.</p> <p>Supported</p>	<p>This finding gave rise to Recommendations 10 & 11. Please refer to the Recommendation table above for the “Responsibility for Implementation and Timeframe”.</p>
<p>In the past it had been difficult for NOPTA to obtain suitable advice regarding well abandonment in order to finalise its advice regarding Titleholder applications to surrender permits in good standing.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 15. Please refer to the Recommendation table above for the “Responsibility for Implementation and Timeframe”.</p>
<p>The Panel found there is a need for a suitable agency (or agencies) to act as the custodian of independent environmental studies. This will help to ensure credibility of the studies for industry and community stakeholders.</p> <p>Supported</p>	<p>Addressing this finding is the responsibility of the Department of Industry, Innovation and Science working with the Chief Executive Officer of NOPSEMA and the Department of the Environment, in consultation with the offshore petroleum sector and other stakeholders.</p>
<p>Supported</p>	<p>A progress report on implementation of the Government’s response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>

Finding and Government Response	Responsibility for Implementation and Timeframe
<p>The Panel have found that NOPSEMA's regulation of the oil and gas industry's access to marine areas may temporarily displace other non-industry users during the period of oil and gas activity. This may have a commercial impact on the other industries, i.e. ecotourism, fishing, recreational users. However, there is a perception that NOPSEMA is ineffective at ensuring Duty Holders effectively engage with other users. It is therefore critical that NOPSEMA regulates the oil and gas industry access to marine areas with awareness of how its decisions may impact other industries.</p>	<p>Addressing this finding is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
<p>Supported</p> <p>NOPSEMA needs to balance stakeholder engagement without compromising its regulatory independence. The Panel has found a need for NOPSEMA to build a social licence to regulate, which is further discussed in Section 8.5: Toward a Social Licence to Regulate.</p>	<p>Addressing this finding is the responsibility of the Chief Executive Officer of NOPSEMA.</p> <p>A progress report on implementation of the Government's response to the 2015 Operational Review will be provided to the responsible Commonwealth Minister by 31 August 2016.</p>
<p>Supported</p> <p>NOPSEMA has a role in promoting continuous improvement in industry performance. The engagement with industry has resulted in improvements in risk identification, management and control in environment plans and oil pollution emergency plans.</p>	<p>This finding gave rise to Recommendation 5. Please refer to the Recommendation table above for the "Responsibility for Implementation and Timeframe".</p>
<p>Supported</p> <p>Similarly to the 2011 Triennial review the relationship between AMSA and NOPSEMA has been constrained by a lack of clarity on the touch points between the two agencies and their legislations. This has been slowly improving, to the extent that the Panel heard that the agencies cooperate well at an operational level. A proactive approach from both agencies and the policy departments could be useful in clarifying the interaction between the two agencies and the two pieces of legislation.</p>	<p>This finding gave rise to Recommendation 12. Please refer to the Recommendation table above for the "Responsibility for Implementation and Timeframe".</p>
<p>Supported</p> <p>NOPSEMA has achieved an increasing number of positive environmental outcomes since assuming responsibility for the new environmental regime. However, a significant lack of transparency and trust with environmental non-government organisations (NGOs) and community still exists. The Panel believes that NOPSEMA should, whenever appropriate, provide reasons for decisions to community and stakeholders. Acting transparently by sharing the reasons for decisions should contribute to building and improving trust with community and stakeholders.</p>	<p>This finding gave rise to Recommendation 13. Please refer to the Recommendation table above for the "Responsibility for Implementation and Timeframe".</p>
<p>Supported</p>	

Finding and Government Response	Responsibility for Implementation and Timeframe
<p>In the past the Board has been under-utilised, however this has improved over the period of this review. The Panel found there is a formal mechanism for NOPSEMA to seek advice from the Board. The Panel expects this will improve the utilisation of the Board and its capacity to provide appropriate guidance.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 14. Please refer to the Recommendation table above for the “Responsibility for Implementation and Timeframe”.</p>
<p>During the initial period of operations of both agencies, NOPSEMA and NOPTA had limited cooperation, however this is improving. The Panel believes an opportunity exists to further improve cooperation. The most appropriate mechanism to facilitate this is the existing Memorandum of Understanding. However, this may require review and refinement in order to expressly clarify the interfacing points between the agencies. If in the future NOPSEMA provides regular services to NOPTA, both agencies will need to clarify the supporting financial arrangements.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 15. Please refer to the Recommendation table above for the “Responsibility for Implementation and Timeframe”.</p>
<p>NOPSEMA’s regulation of the oil and gas industry’s access to marine areas may temporarily displace other non-industry user’s access during periods of oil and gas activities. This may have a commercial impact on the other industries. It is therefore critical that NOPSEMA regulates the oil and gas industry access to marine areas with awareness of how its decisions may impact other industries.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 13. Please refer to the Recommendation table above for the “Responsibility for Implementation and Timeframe”.</p>
<p>We found non-oil and gas companies that engage with NOPSEMA have minimal transparency over NOPSEMA’s decision making process. In addition, they believe NOPSEMA does not understand the impact oil and gas activities may have on the commercial interests of other users.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 13. Please refer to the Recommendation table above for the “Responsibility for Implementation and Timeframe”.</p>
<p>As discussed in Section 8.1 (The Role of Stakeholder Engagement) and Section 8.3.3 (Environment Non-Government Organisations and Community), there is an opportunity for NOPSEMA to better share the reasons for its decisions as part of an improved education process, and to more effectively regulate oil and gas industry access to marine areas in a fair and balanced way.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 13. Please refer to the Recommendation table above for the “Responsibility for Implementation and Timeframe”.</p>

Finding and Government Response	Responsibility for Implementation and Timeframe
<p>Given the central role to workplace consultation and the involvement of the workforce in safety case regulation, both APPEA and the Australian Council of Trade Unions (ACTU) are of the view more should be done to engage with the workforce and health and safety representatives. This could be through NOPSEMA's sponsorship or co-sponsorship and lead of the annual Health and Safety Representatives Forum, refreshing the Health and Safety Representative Guidance notes and other means of communication.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 16. Please refer to the Recommendation table above for the "Responsibility for Implementation and Timeframe".</p>
<p>Conferral of powers is a complex issue. A major barrier is the lack of insufficient trust in NOPSEMA to appropriately regulate the environment, specifically the EPBC Act. The Panel found insufficient trust is an issue for state regulators, their respective ministers, the community and environment NGOs.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 13. Please refer to the Recommendation table above for the "Responsibility for Implementation and Timeframe".</p>
<p>Each of the state and territory jurisdictions have different capabilities to carry out the regulation of offshore oil and gas activities independently. It is therefore likely that conferral will occur on a different timetable for each jurisdiction, and also less rapidly for conferral of environmental regulation than for safety and well integrity. The objective of full conferral will be facilitated by ensuring that the state and territory jurisdictions develop full confidence in NOPSEMA's capability to recognise the impacts on other users and balance their concerns and priorities when regulating oil and gas activities.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 13. Please refer to the Recommendation table above for the "Responsibility for Implementation and Timeframe".</p>
<p>Industry stakeholders generally support conferral, in particular those stakeholders which have facilities that operate over multiple jurisdictions. Conferral to a single regulator would reduce the regulatory burden of compliance.</p> <p>Supported</p>	<p>This finding gave rise to Recommendation 13. Please refer to the Recommendation table above for the "Responsibility for Implementation and Timeframe".</p>

