

NATIONAL OFFSHORE PETROLEUM SAFETY AND ENVIRONMENTAL MANAGEMENT AUTHORITY

STATEMENT OF EXPECTATIONS – OCTOBER 2019

This Statement of Expectations sets out my expectations, as the responsible Commonwealth Minister under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act), as to the exercise by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) of functions and powers conferred on it under the OPGGS Act and associated Regulations, as well as under other relevant legislation.

Guiding principles

NOPSEMA is an independent, expert regulator established with the purpose of regulating offshore petroleum and greenhouse gas storage facilities and activities in Commonwealth waters, and in designated coastal waters where regulatory functions and powers have been conferred. Its mandate comprises oversight for health and safety, structural and well integrity and environmental management. NOPSEMA is the single national regulator for petroleum activities, reflecting international leading practice.

NOPSEMA's legislated functions, as outlined in the OPGGS Act, are to:

- develop and implement effective monitoring and enforcement strategies to secure compliance by persons with their obligations under the OPGGS Act and Regulations, and other applicable laws.
- investigate accidents, occurrences and circumstances relating to occupational health and safety, well integrity or environmental management.
- promote the occupational health and safety of persons involved in offshore petroleum operations or offshore greenhouse gas storage operations.
- advise on matters relating to occupational health and safety, well integrity and environmental management.
- make reports, including recommendations, to the Commonwealth Minister and each responsible State/Northern Territory (NT) Minister.
- cooperate with the National Offshore Petroleum Titles Administrator (NOPTA) in matters relating to the administration and enforcement of the OPGGS Act and regulations.
- cooperate with other Commonwealth, state and NT agencies or authorities having functions relating to regulated operations.

I expect NOPSEMA to exercise its functions and powers in good faith and to the best of its ability. In exercising its functions and powers, I expect NOPSEMA to:

- work with the offshore industry, workforce representatives, stakeholders and other authorities to ensure appropriate management of safety, well integrity and environmental risks.
- independently administer the offshore petroleum and greenhouse gas legislation, to the extent to which functions and powers are conferred on or delegated to NOPSEMA.
- promote the regulatory framework to encourage continuous improvement in safety, structural and well integrity and environmental risk management by the offshore petroleum

and greenhouse gas storage industries, to the extent to which functions and powers are conferred on or delegated to NOPSEMA.

- develop people, processes and systems that are efficient and effective.

Providing effective and efficient regulation

I expect NOPSEMA to act in accordance with regulatory best practice in its decision-making, and to develop, maintain and implement policies, processes and communication practices to maximise efficiency, effectiveness and transparency, and minimise compliance costs. I expect NOPSEMA to review its policies and procedures regularly, and to identify areas for improvement necessary to achieve these objectives. I expect NOPSEMA to take a risk-based, graduated approach to engagement and enforcement, allowing for proportionate responses to risks suited to their size, nature, and complexity.

Regulatory change

Key to effective regulation is the regular review of, and ongoing improvements to, existing regulations and regulatory practices. My department is reviewing the offshore safety regulatory regime to ensure it is fit-for-purpose, up-to-date and leading practice. It is similarly reviewing the framework for decommissioning, ahead of the anticipated increase in decommissioning activities in coming years.

I acknowledge the important role that NOPSEMA plays in highlighting issues that emerge as the Australian offshore resources sector matures. I expect NOPSEMA to continue with this, and work with my department in relation to any relevant review processes.

I expect NOPSEMA to provide an operational and regulatory perspective to assist with policy development, and to engage with industry, government and other stakeholders on implementing any changes to the regulatory regime arising from such reviews.

Stakeholder engagement, consultation and transparency

With increasing access to digital information, the Australian public is expecting more from government in relation to implementing effective, open and transparent regulatory services. Engagement with stakeholders including industry, government and the broader public is crucial to effective objective-based regulation, and to building and maintaining a social licence to regulate. Consequently, I expect NOPSEMA to:

- encourage continuous and systematic cooperation with industry, workforce representatives and the community in a proactive and consultative manner.
- promote and secure compliance with the requirements of the OPGGS Act and Regulations, including identified matters of national environmental significance, through monitoring enforcement and proactive engagement with stakeholders.
- keep me and other members of the COAG Energy Council informed of regulatory activities as required under the OPGGS Act, including notifying Ministers of significant incidents and emerging risks in a timely manner.
- work collaboratively with Commonwealth, state and NT government agencies in pursuit of best practice regulation and policy.
- work collaboratively with the Australian Maritime Safety Authority (AMSA) and other operational agencies in pursuit of streamlined regulation of the offshore petroleum sector and enhanced coordination of emergency response arrangements.
- work collaboratively with NOPTA, to improve end-to-end service to the industry and reduce costs without compromising regulatory integrity.

- work proactively with the NOPSEMA Board, and have regard to its advice on policy or strategic matters relating to the performance of NOPSEMA's functions.
- work cooperatively with international regulators, primarily through the International Regulators' Forum, to further international best practice regulation.
- continue to seek opportunities to improve stakeholder engagement mechanisms, increase transparency of its decision-making processes, and improve public access to matters within its regulatory remit to the extent permitted by law.

I expect NOPSEMA to implement the opportunities identified by the Australian Chief Scientist and directed at NOPSEMA during the independent audit of NOPSEMA's consideration of exploration in the Great Australian Bight. In progressing these opportunities, I expect NOPSEMA to:

- enhance transparency during the assessment and decision-making process by providing additional public detail of requests for further written information and notices giving titleholders the opportunity to modify and resubmit an environment plan.
- provide clearer guidance to the public on what it considers when it assesses environmental impact and risk to be as low as reasonably practicable and acceptable.
- provide further clarification to the public of what it considers when it assesses whether titleholders have appropriately identified and consulted with relevant persons.
- provide clearer public guidance on how it considers matters protected under the *Environment Protection and Biodiversity Conservation Act 1999* and the principles of ecologically sustainable development in its decision-making.
- work with the Department of Industry, Innovation and Science to:
 - better explain to the public how the offshore industry is regulated and governed
 - consider options to improve the transparency of measures proposed by a titleholder to reduce the risk of an oil spill.

Reducing regulatory burden

The Australian Government is committed to reducing red tape and compliance costs for business and the community as a critical step towards improving Australia's productivity and competitiveness, and to increasing the appeal of Australia as an investment destination.

The Government has implemented a framework for policy development and regulatory change, through which to balance costs and benefits of proposed regulations. The framework ultimately aims to ensure that individuals, businesses and community organisations are subject to as little regulation as possible, while maintaining optimal risk management outcomes. I expect NOPSEMA to contribute to the deregulation process by looking for opportunities to remove duplication and streamline processes, to reduce regulatory burden, improve efficiency and lift productivity.

As part of its ongoing deregulatory agenda, the government is seeking to optimise the performance of regulators, including by supporting regulators to adopt consistent, risk-based approaches to administering regulation. Costs do not come simply from regulatory design; poorly administered regulation can impose unnecessary costs that can reduce productivity.

The Government's Regulator Performance Framework outlines key performance indicators (KPIs) to measure the performance of regulators against, including:

- not unnecessarily impeding the efficient operation of regulated entities.
- communicating with regulated entities in a clear, targeted and effective manner.

- undertaking actions that are proportionate to the risks being managed.
- coordinated and streamlined compliance and monitoring approaches.
- openness and transparency in dealings with regulated entities.
- active contribution to the continuous improvement of regulatory frameworks.

I expect NOPSEMA to adhere to the principles of the government's regulatory reform agenda, and work diligently to meet the KPIs outlined in the performance framework.

Decommissioning

I ask that NOPSEMA give heightened focus to oversight of titleholders' compliance with OPGGS Act section 572 obligations in relation to maintenance and removal of property and equipment brought onto title.

Given the s572 requirement for removal of property and equipment brought into a title area, I expect NOPSEMA, through its regulatory processes, to ensure titleholders are planning to manage property and equipment on this basis and only accept alternative arrangements where justification is appropriate and with regard to the *Offshore Petroleum Decommissioning Guideline*.

Relatedly, I expect NOPSEMA to update regulatory policies and practices to communicate how NOPSEMA will give effect to this, and continue cooperative efforts and information sharing with NOPTA on decommissioning matters, in particular in support of Joint Authority decision making.

Meeting the future challenges of industry

I expect NOPSEMA to review and, if necessary, adjust its policies, protocols and operating procedures to ensure that it can respond to the changing social, technological and commercial context in which it operates. I expect NOPSEMA to keep informed of technological developments in the offshore petroleum and greenhouse gas storage sectors, to ensure it can assess proposals in a timely manner with vigour and expertise.

In the context of fluctuating global oil prices and measures being introduced by industry to minimise its cost base in order to remain competitive, I expect NOPSEMA to continue to promote and secure ongoing compliance by industry with the requirements of the OPGGS Act and Regulations in light of the challenges faced by industry. I expect NOPSEMA to review its published guidance on a regular basis, to ensure that it accurately reflects current legislation and policy. I also expect NOPSEMA to develop policies and procedures that enable industry to take a cost-effective approach to petroleum activities while maintaining optimal safety, integrity and environmental management outcomes.

Operational Matters

To ensure its regulatory independence, NOPSEMA is separate from policy agencies, as well as from agencies that promote the development of Australia's offshore petroleum and greenhouse gas storage industries. I expect NOPSEMA to make merit-based decisions based on the material evidence and facts with which it is presented.

In order to undertake its duties in the most efficient manner, I expect NOPSEMA to:

- maintain appropriate staffing numbers with the necessary competence and technical proficiency to fulfil regulatory responsibilities.
- operate on a full cost-recovery basis from industry levies and fees in accordance with the Australian Government Cost Recovery Policy and the requirements of the *Public Governance, Performance and Accountability Act 2013*.

- maintain structure and governance arrangements that promote independence, transparency, and cost efficiency.

As a regulator, NOPSEMA engages daily with risk and risk assessments. To analyse and assess these risks, I expect NOPSEMA to:

- implement and maintain an effective, risk-based compliance monitoring and enforcement framework, and to employ appropriate regulatory tools to ensure compliance and risk mitigation in relation to offshore petroleum and greenhouse gas activities.
- maintain a transparent, systematic and well-documented risk management framework, to assist the identification, evaluation and mitigation of regulatory risks¹ and allocate resources to match identified priorities.
- have in place sound information management systems that record key aspects of regulatory decisions, including the rationale and supporting evidence for a decision.

¹ Regulatory risk is an actual or potential event or circumstance that interferes with the achievement of a regulation policy objective or administrative outcome. It can be categorised into two broad groups:

- risk that affects a regulator's ability to effectively administer regulation; and
- risk that decreases a regulated entity's ability or willingness to comply with regulatory requirements.