

## Community & Environment Reference Group – Meeting 11

**Meeting Date: Thursday 23 March 2023**

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### Meeting objectives:

To seek the group's feedback and provide a variety of community perspectives on specific matters of interest to NOPSEMA or members of the reference group, relevant to offshore petroleum environmental management, to help guide NOPSEMA's approach to regulation of environmental management.

### Meeting details:

The meeting was held via Microsoft Teams and in person at 9:00am – 11:00pm AWST on Thursday 23 March 2023.

Attendees included representatives of NOPSEMA and members of the Community and Environmental Reference Group (CERG), as listed in Attachment 1.

### Meeting record:

#### Agenda Item 1 – Introduction and welcome

The Chair opened the meeting and welcomed all participants.

The agenda and objectives for the meeting were confirmed.

The new NOPSEMA CEO, Sue McCarrey, provided a brief background and initial observations after one month in the role.

#### Agenda Item 2 – Register of interests

The Chair noted the update to the register by Ms Rough and stated they were unlikely to present any issues for the meeting.

#### Agenda Item 3 – Confirmation of record of Meeting 10 and review of actions

The record of the meeting of 6 May 2022 were accepted. The Executive Officer observed there were some minor typographical errors in the record and those present agreed they could be amended as they did not impact the context of the meeting record.

#### Agenda Item 4 – Recent community interactions

##### Agenda Item 4.1 – Update from CERG members

CERG members provided an update of their most recent community interactions. A common theme was the increase in requests for or advice on consultation with relevant persons following the Federal Court decision in Santos NA Barossa Pty Ltd v Tipakalippa [2022] FCAFC 193. Members agreed many organisations appeared to be approaching consultation as a 'tick a box' exercise and had not understood the need for it to be a two-way process of genuine consultation aimed at informing and improving environmental management of their proposed activities.

The CERG discussed that many of the challenges being stated by offshore mining companies had been managed by onshore mining companies, particularly in Western Australia, more than twenty years ago as they worked through the implications of Native Title.

Members agreed it would be beneficial for NOPSEMA to develop and provide guidance to consultees, so there was a greater understanding of what consultation entails and the options available to consultees to manage the process. It was noted industry could be working harder to develop an understanding of the challenges faced by much smaller groups and entities with limited resources and their own priorities.

#### **Agenda Item 4.2 – Update from NOPSEMA**

NOPSEMA provided an overview of recent activities, including:

Decommissioning: A number of Directions have been issued and there has been a noticeable change of approach by some companies regarding leaving equipment in-situ. NOPSEMA is ensuring Environment Plans include advanced plans for decommissioning and are focusing on structural integrity through onsite inspections and Safety Cases. NOPSEMA has also cooperated and shared regulatory information with the Australian Securities and Investment Commission to ensure companies have made financial provision for decommissioning in annual reporting statements.

NOPSEMA advised that full removal remains the base case and is open to titleholders to consider alternatives but need to work through carefully and present the evidence (more research may be needed) to demonstrate acceptable levels of impact and risk, plus policy re equal or better environmental outcomes.

Offshore Renewables: The legislation (*Offshore Electricity Infrastructure Act*) is now in effect and the first licencing round is underway. NOPSEMA is working with the Department of Climate Change, the Environment, Energy and Water on regulations and then developing regulatory guidance. CERG members were advised there was strong interest from international companies seeking opportunities in Australia.

The CERG noted there is concern regarding exclusion zones for fishing. NOPSEMA advised that research was being undertaken on how this is managed in international jurisdictions with coastal areas, and input by NOPSEMA and DCCEEW on this subject. NOPSEMA were advised consultation by proponents had been good to date and that DCCEEW should be encouraged to engage directly with groups who may be impacted by offshore wind activities.

**ACTION:** NOPSEMA to circulate the (draft) OEI regulations to CERG members when they are available.

Research Strategy: NOPSEMA had released an updated [research strategy](#) this week that now includes offshore renewables related topics. CERG members were encouraged to share the opportunity to provide input into the strategy across their respective organisations and communities.

Topical Issues: NOPSEMA's priorities for the year ahead include: a digital transformation agenda; continued focus on decommissioning, relevant persons and cultural heritage impacts assessment and management; working with DCCEEW on EPBC and Cultural Heritage protection reforms; harassment prevention and management oversight, including ensuring NOPSEMA had the internal capacity to respond to any reports appropriately.

NOPSEMA advised the International Offshore Energy Regulators and International Offshore Petroleum Environmental Regulators conference and AGMs would be held in Perth in October.

In response to a query, NOPSEMA advised the EPBC Act reform program was being led by DCCEEW. NOPSEMA were engaging with DCCEEW to provide input and ensuring consideration of offshore elements were considered.

Seismic EP's and post activity impact monitoring was raised. NOPSEMA confirmed that some seismic survey EP's included a provision for post-survey monitoring of possible impacts but this was usually where there was uncertainty of the acceptability of impacts or to inform loss adjustment claims.

## **Agenda Item 5 – Topics for discussion/information**

### **Agenda Item 5.1 – Review of Terms of Reference and membership**

The revisions to the Terms of Reference were endorsed as tabled.

It was suggested LinkedIn would be a useful tool to broaden the reach of the expressions of interest process.

**ACTION:** The EO to finalise and publish the revised Terms of Reference

### **Agenda Item 5.2 – Update on relevant persons consultation paper**

NOPSEMA provided a brief background to the Santos v Tipakalippa (Barossa) appeal decision and broadening of the definition of relevant persons. The NOPSEMA guideline published shortly after the decision was constrained by how the Environment Regulations should be applied in line with the ruling.

NOPSEMA had responded to the Court's decision with a range of actions, including direct engagement with community and First Nation's groups, boards, Elders and industry groups such as fishing bodies. NOPSEMA will also increase its capability and understanding of cultural heritage matters, and how it can be made aware of activities earlier than by submission of an EP, and encourage industry to be more proactive in initiating engagement with relevant stakeholders.

In addition, NOPSEMA were investigating ways in which it can assist community groups, such as recasting the relevant person guideline to outline and clarify to consultees what the revised consultation obligations entail.

The CERG discussed that (some) in industry did not appear to understand that this type of consultation is a negotiation and relationship building process and are not seeing value in the opportunity to engage with and learn from stakeholders. The group agreed that good consultation results in better outcomes for all parties.

The CERG were advised NOPSEMA has found 18 EP's to be "incomplete" at the completion check phase since the Court's decision. NOPSEMA will not accept EP's where effective consultation against the regulatory requirements has not occurred (e.g. if it appears to have been undertaken as a 'box ticking' exercise).

**ACTION:** NOPSEMA to provide a consultee relevant persons communications material to CERG members for feedback.

### Agenda Item 5.3 – Topics for future meetings

The Chair invited suggestions for future meeting discussion topics which were noted as:

- An update on activities in the offshore regime (e.g. release of regulations) including the possibility for a representative from DCCEEW to attend.
- Updates on progress on the development of relevant persons consultation guidance and what activities have taken place.
- Discussion of how advice could be provided to First Nation's groups of NOPSEMA's functions and activities in a non-technical or non-legal manner so that it is more easily able to be understood.
- Provision of examples of post-activity monitoring outcomes with regard to greater transparency– have the impacts of the activity been managed in accordance with the EP? What does the Environmental Performance Report conclude?

**ACTION:** NOPSEMA to advise when the opportunity for public comment into the remake of the OPGGS Regulations is released by DISR.

### Agenda Item 6 – Review and close out

#### Agenda Item 6.1 – Date of next meeting and meeting topics

The next meeting was proposed to be held in September 2023.

The Chair thanked everyone for their participation and closed the meeting at 11am.

## Attachment 1

### Attendees list

NOPSEMA representatives	
Sue McCarrey, Chief Executive Officer (Chair)	In person
Cameron Grebe, Head of Environment, Renewables and Decommissioning Division	In person
Liz Houston, Executive Officer, CERG	In person
Community representatives	
Ms Jacqueline Hine	Teleconference
Ms Robyn Glindemann	In Person
Ms Jess Lerch	Teleconference
Ms Kirsten Rough	Teleconference
Apologies	
Dr Andrew Levings	
Mr Stuart Field	