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EPBC Act Streamlining Review



Review Report

NOPSEMA

August 2015

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ES1 EXECUTIVE SUMMARY

ES1.1 Background

In February 2014, the environmental management authorisation process for petroleum and greenhouse gas activities administered by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act) and associated regulations was endorsed by the Commonwealth Minister for the Environment under Part 10 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Subsequently the Minister for the Environment approved a class of actions for all activities undertaken in accordance with the endorsed Program. The Minister's approval means titleholders seeking to undertake offshore petroleum or greenhouse gas activities in Commonwealth waters in accordance with the Program will no longer need to refer those actions for assessment under the EPBC Act.

The endorsed Program aimed to deliver streamlined environmental approval processes for offshore petroleum and greenhouse gas activities, while ensuring offshore activities are carried out in a manner:

- In which impacts are reduced to as low as reasonably practicable and to an acceptable level;
- Which is consistent with the principles of ecologically sustainable development; and
- Which will not result in unacceptable impacts to matters protected under Part 3 of the EPBC Act.

The endorsed Program included a commitment to undertake an evaluation of NOPSEMA's performance against these objectives at the end of the first 12 months of operation. The EPBC Act Streamlining Review (the Review) itself is therefore a commitment under the Program.

ES1.2 Purpose and Scope of the Review

The attached Terms of Reference (TOR) for the Review of the Program outline the purpose of the Review. The focus of the Review was to assess the performance of the Program against Program objectives, outcomes and commitments and more specifically to assess NOPSEMA's compliance with the Program commitments. This will enable NOPSEMA to determine if refinements or modifications to management arrangements and standards are required to ensure the Program's commitments and objectives for matters protected under Part 3 of the EPBC Act are being delivered by the Program.

Since February 2014, NOPSEMA has been the sole environmental assessor of petroleum and greenhouse gas activities in Commonwealth waters, including the assessment of impacts and risks to matters protected under Part 3 of the EPBC Act. The scope of the Review was the environmental management authorisation process as applied to petroleum and greenhouse gas activities in Commonwealth waters for which an Environment Plan (EP) was assessed and accepted during the period from 28 February 2014 to 28 February 2015. The scope of the Review did not extend to EPs submitted and/or accepted outside of this period, nor did it extend to the assessment of merits of individual decisions made by NOPSEMA. The Review considered the processes in place to carry out this assessment, and considered a combination of case studies, collated information, and stakeholder interviews to draw conclusions as to whether the commitments in the Program are being met.

ES1.3 Review Methodology

The Review was conducted in accordance with the TOR. The approach was developed in consultation with the parties of the Program, namely NOPSEMA, Department of the Environment (DOE) and Department of Industry and Science (DOIS), prior to the commencement of the Review.

ES1.3.1 Reviewer

The Review was conducted by independent reviewer Environmental Resources Management Australia Pty Ltd (the Reviewer), selected by NOPSEMA and endorsed by DOE and DOIS in accordance with Australian Government procurement rules.

ES1.3.2 Review Approach

The basis for conducting an evaluation of NOPSEMA's performance against Program objectives, including ensuring that impacts on matters protected under Part 3 of the EPBC Act are not unacceptable, was set out in the Strategic Assessment Report.

The Review, undertaken following the first 12 months of Program implementation, was intended to confirm whether the environmental management authorisation process implemented by NOPSEMA is reliable and repeatable and continues to ensure that environmental outcomes achieved under the Program are acceptable.

The Reviewer undertook the Review using a systematic approach specific to the scope of the TOR provided. Prescribed steps were followed to understand the commitments of the Program, and to establish specific questions in order to determine whether the commitments have been met, and can continue to be met.

Performance against each commitment was determined based on the level of concurrent evidence collated by the Reviewer across the relevant evaluation mechanisms.

A conclusion was then drawn by the Reviewer based on the evidence gathered and their professional judgement, whereby each commitment may be determined to be met, partially met, not met or not triggered.

Through the evaluation of performance against commitments, the Reviewer could elect to provide:

- Formal recommendations (Recommendations) for modification of management arrangements, where a commitment has not been met;
- Suggestions for refinement of management arrangements (Opportunities for Improvement), where a commitment was met or partially met (where relevant) to ensure that Program objectives continue to be met in the future;
- Additional considerations (Observations), where feedback was received outside of the scope of the Review but deemed pertinent in the context of continuous improvement initiatives relevant to the Program.

The evidence considered against the program commitments is detailed in *Annex B*. The Review steps are shown in *Figure ES.1*.

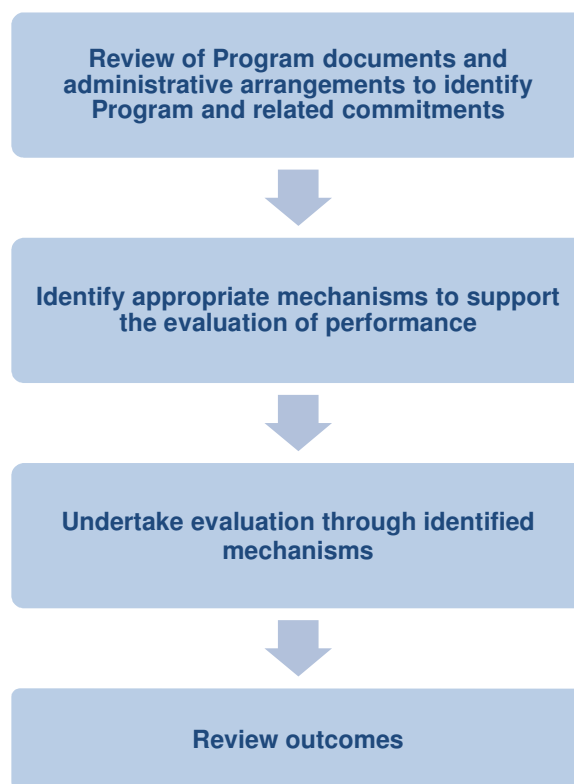


Figure ES.1 Review Methodology

ES1.3.3 Evaluation Mechanisms

The Review utilised a range of evaluation mechanisms which included:

- Review of submitted and accepted EPs and related EP summaries;
- Stakeholder interviews;
- Regulatory Management System (RMS) review;
- Review of NOPSEMA internal procedures;
- Review of NOPSEMA public guidance material; and
- Review of DOE public guidance material.

ES1.3.4 Case Studies

The Review also included the detailed evaluation of a sample of decisions made by NOPSEMA during the Review period. The case studies were selected in consultation with all parties to the Program and were considered to be representative of all decisions made by NOPSEMA during the Review period. The case studies were evaluated for appropriate consideration of matters protected under Part 3 of the EPBC Act. The selected case studies are shown in [Table ES.1](#).

The review considered several key areas in the context of selected case studies including; NOPSEMA's environmental management authorisation process, the effective implementation of the general and administrative arrangements, and performance against particular Program commitments relating to matters protected under Part 3 of the EPBC Act.

Table ES.1 Case Studies for Program Review

Activity Title	Titleholder	Activity Type	Adjacent State/Territory	Location
Flanagan 3D Marine Seismic Survey (T/49P)	3D Oil T49P Pty Ltd	Seismic survey	Tasmania	Otway Basin, 45 km NW of King Island (TAS), 45 km SW of Cape Otway (VIC) and 70 km SSE of Port Campbell
Julimar Subsea Installation	Apache Julimar Pty Ltd	Any other petroleum-related activity	Western Australia	The operational area is approximately 50 km from the WA coastline
Lightning 3D Marine Seismic Survey	Bight Petroleum Pty Ltd	Seismic survey	South Australia	100 km west of Kangaroo Island and 70 km south of Cape Carnot (Eyre Peninsula)
Imperial Multiclient 2D Marine Seismic Survey	CGG Services (Australia) Pty Ltd	Seismic survey	Western Australia	100 km from Exmouth, 90 km from Carnarvon and 25 km from Geraldton

Activity Title	Titleholder	Activity Type	Adjacent State/Territory	Location
Northern Endeavour FPSO Facility Operations	Woodside Energy Ltd	Operation of a facility	Northern Territory/ Western Australia	550 km WNW of Darwin and 250 km ESE from Kupang in West Timor
Marlin Complex	Esso Australia Resources Pty Ltd	Operation of a facility / Operation of a petroleum pipeline	Victoria	40 km off the Gippsland coast
Exploration Permit WA-481-P Drilling	Murphy Australia WA-481-P Oil Pty Ltd	Drilling	Western Australia	Approximately 340 km from the Western Australian Coast and 25 km from the Abrolhos Islands in the Perth Basin
WA-271-P Exploration Drilling Program	Woodside Energy Ltd	Drilling	Western Australia	Exmouth Sub-basin, 65 km north-west of Exmouth

ES1.4 *Review Findings*

Overall, the Reviewer determined that **the Program commitments have been met during the review period; and the required processes and procedures are in place for Program commitments to continue to be met in the future.** The main findings of the Review are as follows:

NOPSEMA's environmental management authorisation process

- NOPSEMA hold detailed procedures and work instructions to guide assessment teams in conducting their assessment. NOPSEMA's internal Environment Plan Assessment procedure provides for assessments relating to matters protected under Part 3 of the EPBC Act, whereby consideration should be given to the Program commitments.
- In the Reviewers opinion, NOPSEMA's detailed procedures and work instructions demonstrate genuine and appropriate consideration of the matters protected under Part 3 of the EPBC Act.

General and administrative arrangements

- The arrangements are detailed in the document 'Administrative Arrangements between DOE and NOPSEMA to implement the endorsed NOPSEMA Program'.
- The Administrative Arrangements in place are in general being met by all parties.

- Reporting, transfer of knowledge and capacity building between the parties to the Program has been evident throughout the Review period; however there were recognised opportunities for further collaboration between NOPSEMA and DOE.
- The Review highlighted the significant level of engagement undertaken with titleholders and stakeholders by NOPSEMA since commencement of the Program, to increase awareness of the environmental management authorisation process.

Although feedback from titleholders regarding the level of guidance provided by NOPSEMA is positive, there is potential to examine additional ways to inform third party stakeholders regarding the roles and responsibilities of the agencies as part of the Program.

Program commitments relating to matters protected under Part 3 of the EPBC Act

- The environmental management authorisation process implemented by NOPSEMA enables the assessment team to identify the potential interaction between the proposed activity and matters protected under Part 3 of the EPBC Act early in the environmental management authorisation process and plan for their consideration in their assessment.
- The case studies considered in the Review demonstrated that the Program commitments were met; including the commitment to not accept an EP that proposes activities that will contravene a plan of management or propose unacceptable impacts to a matter protected under Part 3 of the EPBC Act.
- Some plans of management, while being considered in the environmental management authorisation process are not detailed sufficiently to make clear to titleholders and NOPSEMA the expectations for management.

Out-of-scope feedback for further consideration

Through interviews with various stakeholders, including titleholders and third party stakeholders, additional feedback was recorded for consideration by the parties. This additional feedback is out of the scope of the Review and is not directly related to any Program commitments. Common themes identified across the interviews conducted, including potential for consideration as part of a continuous improvement process, included:

- Understanding of the environmental management authorisation process and supporting guidance – further clarity could be provided with regard to the definition as well as expectations and standards applicable to key aspects of the environmental management authorisation process such as ALARP and acceptability, and risk assessment.

- Understanding of the consultation process and supporting guidance – further clarity could be provided with regards to standards and expectations applicable to all parties involved for the various stages of consultation applicable to offshore petroleum activities.
- Transparency of the regulatory agency and decision making process – further consideration could be given to the level of information communicated to all parties involved as part of the environmental management authorisation process to ensure that an increased level of trust and comfort in the regulator and decision making process is further established.

ES1.5 *Review Outcomes*

As the Reviewer determined that the Program commitments had been met during the term of the review period, formal recommendations for modification of management arrangements have not been proposed. However, a number of suggestions for refinement of management arrangements (Opportunities for Improvement) have been proposed, as well as additional considerations outside of the scope of the Review (recorded as Observations) to further support meeting the Program commitments on an ongoing basis. These are summarised below, and detailed within the body of the Review Report, in [Table 4.1](#) and [Annex B](#).

<i>Opportunities for Improvement</i>	
I-1	NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.
I-2	The level of detail with regards to the application of specific plans of management related to matters protected under Part 3 of the EPBC Act as part of the assessment of impacts, and in the ALARP and acceptability justification contained in EPs is not recorded in RMS in a consistent manner for all case studies. NOPSEMA should consider setting expectations and standards within internal documentation referred to by the assessment teams to ensure that greater consistency in records is achieved.
I-3	Provide a reference to the Australian Government Guidance relating to Australian Government agencies' roles and relevance under the OPGGS Act, within the Environment Plan Content Requirements Guidance Note, to increase awareness of titleholders of the availability of DOE to provide advice related to matters protected under Part 3 of the EPBC Act.
I-4	Examine further opportunities to share resources and or information between NOPSEMA and DOE where relevant.
I-5	Review the search criteria applied for the EP submission and summaries search tool and consider functionalities to allow searches such as using radius/coordinates or environmental features (e.g. BIA, WHP, CMR) as references.
I-6	Examine ongoing opportunities for further data sharing between NOPSEMA, DOE, DOIS and titleholders.
I-7	NOPSEMA to consider notifying DOE when an EP is submitted to NOPSEMA for assessment that includes unplanned activities occurring within the boundaries of a WHP or proclaimed Marine Reserve, to support DOE in meeting their reporting obligations.

Observations	
O-1	Consider communicating more broadly the applicability of Commitment 1.1 and 1.2 to offshore petroleum activities to increase awareness and understanding amongst agency personnel, titleholders and stakeholders.
O-2	Consider processes (through liaison with titleholders or update of Guidance Note) to enable relevant DOE personnel to be available to titleholders to provide the relevant advice on matters protected under Part 3 of the EPBC Act and associated plans of management.
O-3	Follow-up inspections should include focus areas, targeting key threats to matters protected under Part 3 of the EPBC Act (vessel movements, noise emissions near values and sensitivities deemed sensitive to noise etc.).
O-4	It was recognised during interviews that, although communication and information exchanges between parties has occurred during the Review period, there is a need for closer relationships to be developed. The Reviewer noted that increased communication has been reported over the last quarter of the Review period, and it is anticipated that such communication lines would be fostered over time.
O-5	Consider the benefit in providing additional detail publically regarding the progress of the environmental management authorisation process for submitted EPs.
O-6	DOE to consider available mechanisms to enable more effective identification by titleholders, stakeholders and NOPSEMA assessment officers of the plans of management relevant to a particular petroleum activity, based on the specific characteristics of that activity (e.g. geography, type of activity, affected matters protected under Part 3 of the EPBC Act).
O-7	NOPSEMA, and by association, titleholders, rely on information that is available publically, and this information can be broad and difficult to interpret within the context of a specific activity. DOE may consider the issue of publically available advice on standards and best practice applicable to matters protected under Part 3 of the EPBC Act to guide titleholders and stakeholders with ALARP and acceptability criteria applicable to petroleum activities.
O-8	Further clarification on the applicability of the Transitional Management Arrangements for CMR would benefit titleholders and stakeholders in understanding the requirements applicable to the undertaking of oil and gas activities.
O-9	As part of the review and acceptance process for EP summaries, NOPSEMA should ensure that sufficient content related to matters protected under Part 3 of the EPBC Act provided in the EP (e.g. plans of management used in the assessment of impacts and risks) is presented in the EP summaries prepared by titleholders, to provide both DOE and stakeholders with visibility and certainty that the assessed and accepted EP had appropriate consideration for matters protected under Part 3 of the EPBC Act.
O-10	Examine whether the release of information on submission (rather than acceptance) on NOPSEMA's website meets the needs of DOE for stakeholder management purposes and international reporting obligations.
O-11	The review identified that the trigger for reporting to DOE on proposed major developments adjacent to a WHP is not clear to the agencies concerned, both in terms of what constitute 'major developments' and to what extent the proximity trigger is applicable. NOPSEMA could consider the requirement for reporting to DOE as part of the consultation requirements associated with proposed petroleum activities.
O-12	There may be further opportunities to examine the streamlining of conditions set for projects accepted prior to 28 February 2014.

1 INTRODUCTION

1.1 Background

Since February 2014, the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) has been the sole environmental assessor of petroleum and greenhouse gas activities in Commonwealth waters under Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), subject to the exclusions in the Minister of the Environment's Approval Notice.

The Program describing the environmental management authorisation process for petroleum and greenhouse gas activities administered by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act) and Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (the Regulations) for Offshore Project Proposals (OPPs) and Environment Plans (EPs), was endorsed by the Minister for the Environment under Part 10 of the EPBC Act. Subsequently the Minister for the Environment approved a class of actions for all activities undertaken in accordance with the endorsed Program.

The objectives of the Program are to ensure:

- Offshore petroleum activities are carried out in a manner in which impacts on the environment are reduced to as low as reasonably practicable (ALARP) and of an acceptable level;
- Offshore petroleum activities are carried out in a manner consistent with the principles of ecologically sustainable development and will not result in unacceptable impacts to matters protected under Part 3 of the EPBC Act; and
- Streamlined environmental approval processes are delivered for offshore petroleum activities in Commonwealth waters.

The endorsed Program included a commitment to undertake an evaluation of NOPSEMA's performance against these objectives at the end of the first 12 months of operation. The EPBC Act Streamlining Review (the Review) itself is therefore a commitment under the Program.

The final deliverable of the Review is the Review Report which outlines findings and review outcomes relating to NOPSEMA's performance under the Program against the Terms of Reference (TOR) agreed by NOPSEMA, DOE and DOIS ([Annex A](#)).

1.2 *Purpose of the Review*

The purpose of the Review is outlined in the TOR for the initial review of the NOPSEMA Program (as detailed in the Program report published in February 2014) endorsed under Part 10 of the EPBC Act, as follows:

- Assess the performance of the Program against Program objectives, outcomes and commitments outlined in the Program Report with particular reference to Appendix A of the Program Report;
- Enable NOPSEMA to determine if management arrangements and standards require modification to ensure the Program commitments and objectives to protect matters under the EPBC Act are being delivered by the Program;
- Ensure the impacts from actions authorised under the Program, on matters protected under Part 3 of the EPBC Act, are not unacceptable;
- Assess NOPSEMA's compliance with the Program commitments outlined in the Program Report (as shown in Attachment B of the TOR); and
- Enable NOPSEMA to determine if refinements to management arrangements and standards are required to ensure the Program commitments and objectives for matters protected under EPBC Act are being delivered by the Program.

As such, the focus of the Review is to assess the performance of the Program against Program objectives, outcomes and commitments and more specifically to assess NOPSEMA's compliance with the Program commitments and to provide a report of the outcomes of the Review. This enables NOPSEMA to determine if refinements or modifications to the management arrangements and standards are required to ensure the Program commitments and objectives for matters protected under Part 3 of the EPBC Act are being delivered by the Program.

1.3 *Scope of the Review*

The scope of the Review was limited to the environmental management authorisation process as applied to petroleum and greenhouse gas activities in Commonwealth waters for which an EP was assessed and accepted during the period between 28 February 2014 and 28 February 2015.

The Review did not include:

- EPs submitted and/or accepted outside of the Review period;
- Assessment of the merits of individual assessment decisions made by NOPSEMA;
- Inspections, enforcement and investigations related to impacts to matters protected under Part 3 of the EPBC Act outside of the environmental management authorisation process implemented by NOPSEMA; and

- Commitments made in the Program Report that relate to exclusions to approved class of actions, namely actions that:
 - Have, will have or are likely to have a significant impact on the environment on Commonwealth Land;
 - Are taken in any area of the sea or seabed that is declared to be a part of the Great Barrier Reef Marine Park under the *Great Barrier Reef Marine Park Act 1975 (Cth)*;
 - Have, will have or are likely to have a significant impact on the world heritage values of the Great Barrier Reef World Heritage Property (WHP) or on the national heritage values of the Great Barrier Reef National Heritage place;
 - Are taken in the Antarctic; and
 - Are injection and/or storage of greenhouse gas.

2 *REVIEW METHODS*

2.1 *Reviewer*

The Review was conducted impartially to the views of parties to the Program by independent reviewer Environmental Resources Management Australia Pty Ltd (ERM) (the Reviewer), as selected by NOPSEMA and endorsed by DOE and DOIS in accordance with Australian Government procurement rules.

2.2 *Review Framework*

The basis for conducting an evaluation of NOPSEMA's performance against Program objectives, including ensuring that impacts on matters protected under Part 3 of the EPBC Act are not unacceptable, is set out in the Strategic Assessment Report, whereby:

- The Strategic Assessment demonstrated how the Program (and associated commitments) provides for equivalent environmental protection as that achieved under the EPBC Act to ensure that in reducing regulatory burden, strong environmental safeguards are maintained;
- Endorsement of the Program by the Minister for the Environment meant he is satisfied the Program affords acceptable environmental outcomes and maintains high environmental standards.

Therefore, the Review is focused on the evaluation of NOPSEMA's performance against all commitments under the Program following the first 12 months of Program implementation, with the intent to determine whether:

- The outcome of the Strategic Assessment conducted by DOE and NOPSEMA can be confirmed; whereby the current environmental management authorisation process provides equivalent environmental protection as that achieved under the EPBC Act.
- The environmental management authorisation process implemented by NOPSEMA is reliable and repeatable and can be maintained in the future to ensure that environmental outcomes achieved under the Program continue to be acceptable.

2.3 *Evaluation Overview*

A systematic approach was employed by the Reviewer. This involved a number of steps to firstly understand the commitments of the Program and to then establish a set of questions to be explored within the scope of the Review. To answer these questions, various evaluation mechanisms were identified, the implementation of which led to findings detailed in a Review Report (this report) and allowed the Reviewer to reach informed conclusions as to the performance of the Program. The Review steps are shown in [Figure 2.1](#) and described further in the following subsections.

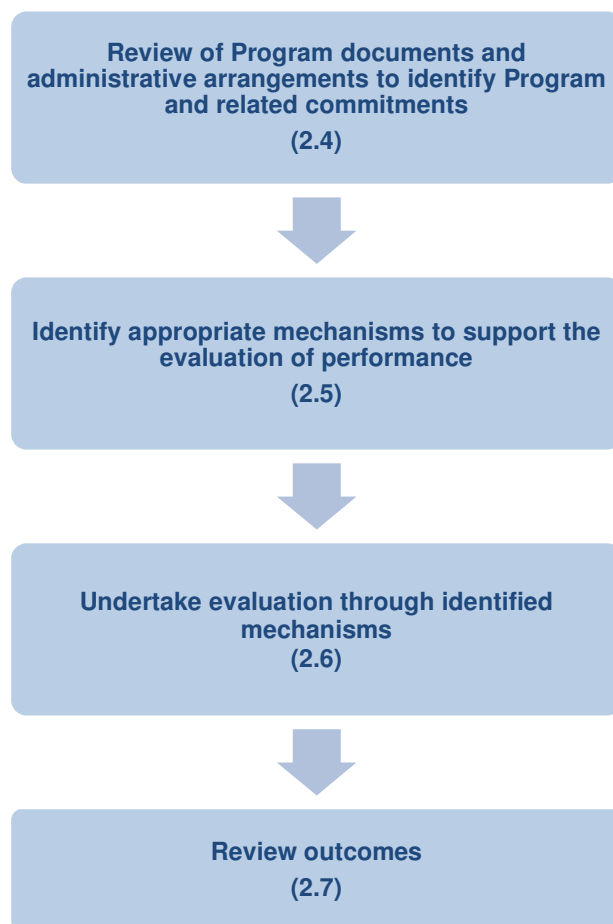


Figure 2.1 *Review Methodology*

2.4 *Review of Program Documents and Management Arrangements to Identify Commitments*

The Reviewer undertook a detailed review of the following documents to identify the commitments and objectives of the Program:

- [Strategic Assessment Report](#), February 2014;
- [Streamlining Offshore Petroleum Environmental Approvals - Program Report](#), February 2014;

- [Administrative Arrangements](#) between DOE and NOPSEMA to implement the endorsed NOPSEMA Program, Version 1.0, June 2014; and
- [Terms of Reference](#) for the initial Program review of the NOPSEMA Program endorsed by NOPSEMA, DOE and DOIS.

Based on the review of these documents, the Reviewer extracted three sets of commitments, namely:

- [Program Commitments](#) endorsed by the Minister for the Environment;
- [General Arrangements](#) made between agencies and endorsed by the Minister for the Environment, contained in the Program Report; and
- [Administrative Arrangements](#), made between agencies, contained in the Administrative Arrangements.

A total of 41 commitment categories were identified in the context of eight main themes, and assigned unique identification references as shown below:

- Program Commitments relating to matters protected under Part 3 of the EPBC Act (Theme ID#1-6):
 - World Heritage Property (#1.1, 1.2, 1.3, 1.4, 1.5);
 - National Heritage Places (#2.1, 2.2, 2.3, 2.4);
 - Wetlands of international importance (Ramsar wetlands) (#3.1, 3.2, 3.3);
 - Listed threatened species and ecological communities (#4.1, 4.2, 4.3, 4.4, 4.5);
 - Listed migratory species (#5.1, 5.2, 5.3); and
 - Commonwealth Marine Area (#6.1, 6.2, 6.3, 6.4, 6.5, 6.6).
- General Arrangements of the Program (Theme ID#7) (#7.1, 7.2, 7.3); and
- Administrative Arrangements (Theme ID#8):
 - Role of the parties to the Administrative Arrangements (#8.1);
 - Objectives of the Administrative Arrangements (#8.2);
 - Dispute resolution (#8.3);
 - Transfer of information, knowledge and expertise (#8.4);
 - Access to online data sources (#8.5);
 - Other ad hoc information transfers (#8.6);
 - Reporting (#8.7);
 - Reporting international obligations (#8.8);
 - NOPSEMA reporting (#8.9);
 - Incident reporting (#8.10);
 - Guidance (#8.11); and
 - Cross-jurisdictional projects (#8.12).

The full list of commitments for each of the themes listed above is provided in [Annex B](#).

While all of the commitments were considered in the scope of the Review, more detailed analysis and discussion is provided for the commitments that specifically relate to the matters protected under Part 3 of the EPBC Act (Theme ID #1-6).

2.5 *Identification of Appropriate Mechanisms to Support Evaluation of Performance*

The Reviewer analysed the commitments and determined a set of questions against which to evaluate the performance of the Program and assess compliance with the Program commitments and management arrangements. The full set of questions that were examined to evaluate performance and compliance are provided in *Annex B*.

The TOR provided an outline of the methodology to be employed for the Review, including specific methods such as the evaluation of case studies and conducting of stakeholder interviews.

Based on the initial document review, the Reviewer formulated a set of themes and identified mechanisms to determine whether the current environmental management authorisation process suitably addresses the commitments and objectives of the Program and associated responsibilities of relevant parties. Themes and identified mechanisms for determination are provided in *Table 2.1*.

This approach was adopted in order to best determine and present information factually and keep the Review and resulting findings within the boundaries of the Review established in the TOR.

Evaluation mechanisms are grouped broadly as:

- A review of submitted and accepted EPs and their published EP summaries;
- Stakeholder Interviews;
- Regulatory Management System (RMS) review;
- Review of NOPSEMA Internal Procedures;
- Review of NOPSEMA Public Guidance Material; and
- Review of DOE Public Guidance Material.

Further details for each of the evaluation mechanisms applicable to the Review are provided below.

Table 2.1 *Review Themes and Evaluation Mechanisms*

Mechanism	Review Themes					
	Plans of management documentation and related communication management	Assessment guidance material and communication management	Changes to management plans/principles/conservation advice and implications for NOPSEMA assessment and accepted EPs	Definition and criteria for 'unacceptability levels'	Reporting obligations	Opportunities for improvement
Review of submitted and accepted EPs	x		x			x
Review of refused/require to be modified EPs and associated correspondence from NOPSEMA to titleholders	x			x		x
Review of requests for further written information	x	x		x		x
Applicability of plans/principles of management and their status for implementation			x			x
Review of current guidance material		x		x		x
Interview with titleholders to identify level of understanding of requirements	x	x	x	x		x
Interview with DOE personnel	x	x	x	x	x	x
Interview with DOIS personnel	x	x	x	x	x	x
Interview with NOPSEMA personnel	x	x	x	x	x	x
Interview with key "stakeholders/custodians" of matters protected under Part 3 of the EPBC Act	x	x	x	x		x
Review of Standard Operating Procedures and Work Instructions					x	x

2.5.1 *Review of Submitted and Accepted Environment Plans*

Selection Criteria

The Review included the detailed evaluation of a sample of decisions made by NOPSEMA during the Review period to ensure appropriate consideration of matters protected under Part 3 of the EPBC Act.

The case studies were selected in consultation with all parties to the Program and were based on the commitment themes and appropriate mechanisms for evaluation. This enabled the Reviewer to generate a list of selection criteria which included:

- Type of activity, based on NOPSEMA's assessment categories;
- Titleholder tier, based on the number of submissions made within the review period;
- Assessment duration, based on submission and acceptance dates provided by NOPSEMA;
- Geographic location;
- Matters protected under Part 3 of the EPBC Act relevant to the submission;
- Public interest, based on public submissions received as part of the EP preparation process and general public interest and media context; and
- Follow up inspection, based on inspection documentation made available by NOPSEMA.

Review Case Studies

A total of 52 EPs were submitted and accepted during the Review period and eight of these (approximately 15%) were selected as case studies for the Review. The selected case studies are shown in [Table 2.2](#).

Table 2.2 Case Studies for Program Review

Activity Title	Titleholder (no. of submissions during Review period)	Activity Type	Adjacent State/Territory	Location	Assessment duration	Matters protected under part 3 of EPBC Act potentially affected	Complexity/Public interest	Has an inspection been undertaken?*
Flanagan 3D Marine Seismic Survey (T/49P)	3D Oil T49P Pty Ltd (1)	Seismic survey	Tasmania	Otway Basin, 45 km NW of King Island (TAS), 45 km SW of Cape Otway (VIC) and 70km SSE of Port Campbell	55 days	<ul style="list-style-type: none">Listed speciesCommonwealth Marine Area	<ul style="list-style-type: none">Activity located in Cwth and VIC fishing area.	Yes
Julimar Subsea Installation	Apache Julimar Pty Ltd (2)	Any other petroleum-related activity	Western Australia	The operational area is approximately 50 km from the WA coastline	113 days	<ul style="list-style-type: none">Ningaloo Coast WHPListed speciesCommonwealth Marine Area	<ul style="list-style-type: none">Longer assessment duration.No known stakeholder issues.	No
Lightning 3D Marine Seismic Survey	Bight Petroleum Pty Ltd (1)	Seismic survey	South Australia	100 km west of Kangaroo Island and 70 km south of Cape Carnot (Eyre Peninsula)	91 days	<ul style="list-style-type: none">Listed speciesCommonwealth Marine Area	<ul style="list-style-type: none">High level of stakeholder interest.	Yes
Imperial Multiclient 2D Marine Seismic Survey	CGG Services (Australia) Pty Ltd (2)	Seismic survey	Western Australia	100 km from Exmouth, 90 km from Carnarvon and 25km from Geraldton	81 days	<ul style="list-style-type: none">Ningaloo coast WHP and Shark Bay WHPCommonwealth Marine Area	<ul style="list-style-type: none">Covers extensive area.Multi-client type survey.Commercial fisheries interest.Proximity to WHP and recreational area/tourism hotspot.	Yes
Northern Endeavour FPSO Facility Operations	Woodside Energy Ltd (6)	Operation of a facility	Northern Territory/ Western Australia	550 km WNW of Darwin and 250km ESE from Kupang in West Timor	115 days	<ul style="list-style-type: none">Listed speciesCommonwealth Marine Area	<ul style="list-style-type: none">Longer assessment duration.No known stakeholder issues.	Yes
Marlin Complex	Esso Australia Resources Pty Ltd (11)	Operation of a facility/Operation of a petroleum pipeline	Victoria	40 km off the Gippsland coast	55 days	<ul style="list-style-type: none">RAMSAR siteListed speciesCommonwealth Marine Area	<ul style="list-style-type: none">Commercial fisheries interest.	No
Exploration Permit WA- 481-P Drilling	Murphy Australia WA-481-P Oil Pty Ltd (1)	Drilling	Western Australia	Approximately 340 km from the Western Australian Coast and 25 km from the Abrolhos Islands in the Perth Basin	104 days	<ul style="list-style-type: none">Listed speciesand Shark Bay WHPCommonwealth Marine Area, including Abrolhos CMR and Jurien Bay CMR	<ul style="list-style-type: none">Longer assessment durationCommercial fisheries interest.Proximity to WHP and recreational area/tourism hotspot.	No
WA-271-P Exploration Drilling Program	Woodside Energy Ltd (6)	Drilling	Western Australia	Exmouth Sub-basin, 65 km north-west of Exmouth	65 days	<ul style="list-style-type: none">Listed SpeciesNingaloo Coast WHPCommonwealth Marine Area	<ul style="list-style-type: none">Commercial fisheries interest.Proximity to WHP and recreational area/tourism hotspot.	No

*Note that information in Table 2.2 was current at the time of selection of the activities for the Review.

2.5.2 *Stakeholder Interviews*

Selection Criteria

To assist in meeting the TOR for the Review, the Reviewer conducted a number of interviews with various stakeholders. These organisations and their appropriate representatives were selected systematically based on the evaluation questions as described in [Annex B](#). Questions were tailored to the specific topics relevant to each category of interviews undertaken, namely with government agencies, stakeholders and titleholder representatives.

Review Interviews

The interviews were undertaken with representatives from relevant organisations. In particular, the Review focused on the level of awareness and understanding of stakeholder representatives with regard to the Program and its commitments, as well as the content of associated guidance and internal procedures where relevant. Where either face to face or phone interviews could not be held, written feedback was requested.

A list of stakeholder organisation representatives which provided feedback as part of the Review is provided in [Table 2.3](#). Additional stakeholders and titleholders were provided the opportunity to input to the Review; however these parties either declined to respond or else did not respond to the request within the Review period.

A log of communications, phone interviews and face to face meetings conducted as part of the Review is provided in [Annex C](#).

Table 2.3 *Stakeholder Representatives Providing Interview Feedback and/or Written Submissions*

DOE Representatives	
<ul style="list-style-type: none"> • Director, Audit and Assurance, Compliance and Enforcement – Branch, Environment Assessment and Compliance Division • A/g Assistant Director, Outcomes Based Approaches Project, Compliance and Enforcement Branch, Environment Assessment and Compliance Division • Director, Migratory Species Section, Wildlife, Heritage and Marine Division • Assistant Directors, Migratory Species Section, Wildlife, Heritage and Marine Division • Acting Assistant Secretary, Commonwealth Marine Reserves, Parks Australia • Acting Assistant Secretary, Policies and Program Coordination, Parks Australia • Policies and Program Coordinator, Parks Australia • Director Natural Heritage Section, Wildlife Heritage and Marine Division • Senior Heritage Officer – Natural Heritage Section, Wildlife Heritage and Marine Division • Policy Officer, International Heritage Section, Wildlife Heritage and Marine Division 	
DOIS Representatives	
<ul style="list-style-type: none"> • Manager, Environment, Safety and Security Section • Senior Policy Officers, Environment, Safety and Security Section • Senior Policy Officer, Regulatory Streamlining Section 	
NOPSEMA Representatives	
<ul style="list-style-type: none"> • Head of Division, Environment • Manager Assessment & Inspection, Drilling and Development • Manager Assessment & Inspection, Seismic and Production Operations • Environment Specialist, Assessment & Inspection - Seismic and Production Operations • Environment Specialist, Assessment & Inspection - Drilling and Development 	
Third Party Stakeholder Organisation Representatives	
<ul style="list-style-type: none"> • Marine Campaigners, International Fund for Animal Welfare (IFAW) • Directors, Wild Migration • Secretary, Cape Conservation Group • Executive Officer, Pearl Producers Association • Environmental Impact Assessment (Biodiversity Section) Officer, Aquatic Environment Branch, Western Australian Department of Fisheries • Chief Executive Officer, Australian Southern Bluefin Tuna Industry Association • Chief Executive Officer, Commonwealth Fisheries Association • Chief Executive Officer, Victorian Scallop Fishermen's Association • Executive Officer, Tasmanian Scallop Fishermen's Association 	

DOE Representatives

- Environment Director, Australian Petroleum Production & Exploration Association
- Mayor, Kangaroo Island Council
- Communications and Programs Officer, Western Australian Fishing Industry Council
- Chief Executive Officer, Commonwealth Fisheries Association
- Campaign Manager, The Wilderness Society

Titleholder Representatives

- Health, Safety and Environment Manager, Murphy Australia Oil Pty Ltd
- Principal Environmental Advisor, Woodside Energy Ltd
- Environmental, Regulatory and Risk Group Supervisor, Production SSH&E, Esso Australia Pty Ltd
- Environmental & Regulatory Advisor, Regional Environment & Regulatory Support, Central SSH&E, Mobil Oil Australia Pty Ltd
- Senior Geophysicist, 3D Oil Ltd
- Environmental Advisor, 3D Oil Ltd
- External Affairs Manager, BP Developments Australia Pty Ltd
- Regulatory Compliance and Environment Manager, BP Developments Australia Pty Ltd
- Environmental Advisors, Quadrant Energy Ltd
- Technical Operations Manager, Multiclient and New Ventures, CGG
- Environmental Advisor, Drilling and completions, Chevron Australia
- Senior Environmental Advisor – Approvals, Policy, Government and Public Affairs (Gorgon), Chevron Australia
- Environmental Approvals Coordinator, Policy, Government and Public Affairs (Gorgon), Chevron Australia
- Health, Environment and Safety Specialist - Environmental Approvals (Australian Business Unit), Chevron Australia
- Government Affairs Advisor, Policy, Government and Public Affairs, Chevron Australia

2.5.3 *Regulatory Management System (RMS) Review*

NOPSEMA's Regulatory Management System (RMS) is the platform used by NOPSEMA officers to integrate and manage records such as submission information, assessment findings, and decisions.

To support the Review, the Reviewer was provided access to information maintained in RMS regarding the selected case studies. This included assessment findings and decisions made by NOPSEMA against the various clauses of the Regulations.

Eight RMS assessment findings worksheets were reviewed during the Review. Each of these contained numerous comments relating to the assessment of the selected case studies against the relevant regulation clauses.

In addition to assessment findings, the Reviewer was also provided with all the documentation related to the selected case studies, including EPs, minutes of meetings and email correspondence along with correspondence relating to requests for further information and opportunities for modification and resubmission of the EP issued to the titleholders. The documents relevant to the Review findings have been referenced in the text.

2.5.4 *Review of NOPSEMA Internal Procedures*

NOPSEMA maintain internal procedures and work instructions that guide assessment officers to undertake the assessment of EPs in accordance with the 'NOPSEMA Assessment Policy' (N-04000-PL0050) and 'Environment Assessment Policy' (N-04750-PL1347).

The Reviewer was provided with a number of documents that detailed how NOPSEMA assessment officers assess EPs and the administrative process that is followed. The Review focussed specifically on the details around how the assessment gives regard to information on any matters protected under Part 3 of the EPBC Act relevant to the assessment.

2.5.5 *Review of NOPSEMA Public Guidance Material*

In addition to the Strategic Assessment Report and Program Report available publically, NOPSEMA maintain a series of documents on the NOPSEMA website to inform and assist stakeholders with interpreting and meeting the requirements of the OPGGS Act and associated Regulations.

These documents, including the various policies, guidance notes, guidelines and information papers, were used during the Review to evaluate the performance of the Program and assess compliance with the Program commitments and management arrangements.

The documents relevant to the Review findings have been referenced in the Review Report.

2.5.6 *Review of DOE Public Guidance Material*

DOE maintain a series of public guidance materials on their website; including materials on matters protected under Part 3 of the EPBC Act which provide guidance on the practical application of the requirements of the EPBC Act.

The Review considered this material, including policies and guidelines, lists and related documents, recovery and threat abatement plans, information on Commonwealth Marine Reserves (CMR) and management plans and other relevant information sources to evaluate the performance of the Program and assess compliance with the Program commitments and management arrangements.

The documents relevant to the Review findings have been referenced in the Review Report.

2.6 *Evaluation Through Identified Mechanisms*

Evaluation via the identified mechanisms described above was undertaken by the Reviewer following endorsement of the Review plan, over the period 22 April to 17 July 2015. During this period:

- Eight case studies and the associated documentation (e.g. EPs, EP summaries, meeting minutes, requests to titleholders for further written information and clarification) totalling 268 files, were reviewed;
- RMS findings working sheets for each case study were considered;
- Approximately 12 internal documents, including Standard Operating Procedures and internal email communications relevant to the Review scope, were made available by NOPSEMA and considered;
- Approximately 25 NOPSEMA and DOE public guidance materials were accessed;
- Approximately 34 interviews with relevant parties (or the review of written submissions as appropriate) were undertaken including representatives from titleholders, NOPSEMA, DOE, DOIS, and third party stakeholders.

Details of these evaluations are provided in [Annex B](#) and summarised in [Section 3](#), structured as per the evaluation mechanisms applied to each commitment, where relevant, namely:

- Findings of Documentation Review;
- Findings of Case Studies Review; and
- Stakeholder Feedback.

2.7 *Review Outcomes and Recommendations*

Performance against each commitment was determined based on the level of concurrence in findings across the range of evidence collated by the Reviewer, from all the relevant evaluation mechanisms identified to be applicable to the commitment in question.

A conclusion has then been formed by the Reviewer based on the evidence reviewed and their professional judgement. Categories for evaluation of performance against each of the commitments assessed during the Review are provided in [Table 2.4](#) below.

Table 2.4 *Review Outcome Categories*

Review Outcome	Achieved through
Commitment Met <i>The Reviewer is reasonably satisfied, based on the review of evidence and professional judgement, that a commitment has been met as part of the implementation of the Program over the first 12 months.</i>	Broad concurrence in evidence gathered that the Program commitments have been and can continue to be met. Evidence of a repeatable process that has been followed in all instances considered.
Commitment Partially Met <i>The Reviewer is reasonably satisfied, based on the review of evidence and professional judgement, that a commitment has been partially met as part of the implementation.</i>	Broad concurrence in evidence gathered that the Program commitments have been met. Evidence of a process that has been followed in most instances considered, but with some inconsistencies that require adjustment to ensure repeatability in process.
Commitment Not Met <i>The Reviewer is reasonably satisfied, based on the review of evidence and professional judgement, that a commitment has not been met as part of the implementation.</i>	No concurrence in evidence gathered across relevant evaluation mechanisms that the Program commitments have been or can be met.
Commitment Not Triggered <i>The Reviewer is reasonably satisfied, based on the review of evidence and professional judgement, that a commitment has not been triggered (over the first 12 months of the Program) as part of the implementation.</i>	Relevant activity undertaken as part of the Program has been shown to have not occurred during the first 12 months of the Program.

Through the evaluation of performance against commitments, the Reviewer could elect to provide:

- Formal recommendations (Recommendations) for modification of management arrangements, where a commitment has not been met;
- Suggestions for refinement of management arrangements (Opportunities for Improvement), where a commitment was met or partially met (where relevant) to ensure that Program objectives continue to be met in the future;

- Additional considerations (Observations), where feedback was received outside of the scope of the Review but deemed pertinent in the context of continuous improvement initiatives relevant to the Program.

3

REVIEW FINDINGS

Through the assessment conducted against Program objectives, outcomes and commitments outlined in the Program Report, the following have been collated and presented in the subsections below:

- Findings regarding the environmental management authorisation process implemented by NOPSEMA for each case study are presented in *Section 3.1*.
- Findings and assessment of performance against the commitments relating to matters protected under Part 3 of the EPBC Act (Theme ID #1-6) are presented in *Section 3.2*, including relevant Opportunities for Improvement and Observations;
- Findings and assessment of performance against commitments relating to the general Administrative Arrangements (Theme ID #7) are presented in *Section 3.3*, including relevant Opportunities for Improvement and Observations.
- Findings and assessment of performance against commitments relating to specific Administrative Arrangements (Theme ID #8) are presented in *Section 3.4*, including relevant Opportunities for Improvement and Observations.
- Out of scope themes identified during the Review based on interviews with government agencies, titleholders and third party stakeholders (or alternatively, feedback received from written submissions), deemed pertinent for consideration by NOPSEMA in the context of continuous improvement initiatives relevant to the Program are presented in *Section 3.5*.
- A summary of Opportunities for Improvement and Observations is presented in *Section 4*.

3.1

Environmental Management Authorisation Process

NOPSEMA's environmental management authorisation process was considered in detail during the Review. It was observed that NOPSEMA maintain a thorough set of internal procedures and work instructions that guide assessment officers to undertake the assessment of EPs in accordance with the 'NOPSEMA Assessment Policy' (N-04000-PL0050) and 'Environment Assessment Policy' (N-04750-PL1347).

The Review observed that each EP submission is subject to an assessment approach comprising three components: a critical deficiencies review, a general assessment and detailed topics assessment, documented accordingly in RMS.

The critical deficiencies review occurs immediately on receipt of the submitted EP by NOPSEMA. If the EP omits significant content requirements of the Regulations or the activity is proposed to occur in a declared WHP, the titleholder is notified and the assessment does not proceed further.

The general assessment is undertaken to determine that the EP is appropriate to the activity and the surrounding environment and complies with all requirements of the Regulations.

The detailed topics assessment is also conducted on one or more key topic areas of the EP. Topic areas are generally focused on the components of the activity that pose the highest potential environmental risk.

The environmental management authorisation process was considered in the Strategic Assessment relevant to the endorsement of the Program. [Table 3.1](#) below sets out the environmental management authorisation process and how the process steps were approached and the findings of the Review determined based on a number of case studies. Findings captured in [Table 3.1](#) also include information gathered through interviews with government agencies, titleholders and stakeholders.

Table 3.1 *Details of the Application of NOPSEMA's Environmental Management Authorisation Process to Selected Case Studies*

#	Environmental management authorisation process Step (As Detailed in the Strategic Assessment Report)	Findings of the Review
1	Administrative check	<p>The Reviewer is satisfied that the appropriate administrative checks have been conducted for each of the case studies reviewed, based on the collated evidence:</p> <ul style="list-style-type: none"> Each case study assessment proceeded to completion (as demonstrated below), indicating that the administrative check confirmed that all components of a submission meet regulatory requirements; the Reviewer understands that the administrative check forms part of the inherent process captured in RMS, whereby the Regulatory Assistant must have reviewed each submission and assessed it as complete before RMS enables the next stage of the environmental management authorisation process to be accessed by the assessing team; The RMS findings for each case study include evidence that EPs for each case study were reviewed and subject to the full environmental management authorisation process by the assessment team; The NOPSEMA Environment Plan Assessment Procedure clearly indicates the procedure to follow to complete the required administrative check; There is evidence that NOPSEMA has developed a specific work instruction (Regulatory Assistant – Administration of Environment Submissions) to support effective implementation of the administrative check step of the environmental management authorisation process (including reference in the NOPSEMA Environment Plan Assessment Procedure); Interviews with NOPSEMA personnel indicated that the administrative check step of the environmental management authorisation process and the associated procedure contained in NOPSEMA's Environment Plan Assessment Procedure is well known and understood; Interviews with titleholders confirmed that NOPSEMA has sought further information related to the administrative requirements of the EP submission when such submission was deemed incomplete.
2	Public notification of EP on the NOPSEMA website	<p>The Reviewer is satisfied that NOPSEMA has publically notified the submission of the EP for each case study reviewed, based on the collated evidence:</p> <ul style="list-style-type: none"> A notification of EP submission was present on the NOPSEMA website for all case studies reviewed at the time of the Review; The NOPSEMA Environment Plan Assessment Procedure clearly indicates the procedure to follow to complete the required public notification; There is evidence that NOPSEMA has developed a specific work instruction (EP Summary Work Instruction) to support effective implementation of the public notification step of the environmental management authorisation process (including reference in the NOPSEMA Environment Plan Assessment Procedure); Interviews with other government agency personnel and stakeholders indicated that it is common knowledge that information on EP submissions can be found on the NOPSEMA website. <p>The Reviewer also notes that, post Review period, NOPSEMA has implemented a new process which sees information related to the activity, including a location map, being published on the NOPSEMA website on submission of the EP, rather than information being available in the form of an EP summary, published post-acceptance of the EP. This process has been welcomed by stakeholders during interviews.</p>

#	Environmental management authorisation process Step (As Detailed in the Strategic Assessment Report)	Findings of the Review
3	Representative of NOPSEMA appoints a Lead Assessor	<p>The Reviewer is satisfied that NOPSEMA has appointed a Lead Assessor for each of the case studies reviewed, based on the collated evidence:</p> <ul style="list-style-type: none"> • The NOPSEMA Environment Plan Assessment Procedure clearly indicates the procedure to follow for a Lead Assessor to be appointed to an assessment; • The RMS findings for each case study include evidence that the assessment of EPs for each case study involved a Lead Assessor; • Interviews with NOPSEMA personnel indicated that the Lead Assessor Appointment step of the environmental management authorisation process and the associated procedure contained in NOPSEMA's Environment Plan Assessment Procedure is well known and understood; • Some of the documentation associated with the case studies reviewed included email communications identifying the Lead Assessor involved in the assessment.
4	Initial review of EP undertaken by the Lead Assessor	<p>The Reviewer is satisfied that for each case study reviewed, an initial review of the EP was undertaken by the Lead Assessor, based on the collated evidence:</p> <ul style="list-style-type: none"> • The NOPSEMA Environment Plan Assessment Procedure clearly indicates the procedure to follow for the Lead Assessor to conduct the initial review of an EP; • The RMS findings for each case study include evidence that an initial assessment of EPs for each case study was conducted, based on the fact that key focus areas for the assessment were identified; • Evidence that an initial assessment of EPs for each case study was conducted also included evidence that the rest of the assessment team was identified based on potential impacts and risks of the activity, which inherently indicates that an initial review of the EP was conducted to identify such impacts and risks; • Interviews with NOPSEMA representatives indicated that the EP Initial Review step of the environmental management authorisation process and the associated procedure contained in NOPSEMA's Environment Plan Assessment Procedure is well known and understood.
5	Assign assessment team based on risk and need for specialist skills	<p>The Reviewer is satisfied that for each case study reviewed, an assessment team was assigned to the assessment in accordance with the risk profile of the activity and associated need for specialist skills, based on the collated evidence:</p> <ul style="list-style-type: none"> • The NOPSEMA Environment Plan Assessment Procedure clearly indicates the procedure to follow for the assessment team to be assigned to an assessment; • The RMS findings for each case study include evidence that the assessment of EPs for each case study was conducted on a team-approach basis; • Evidence in the form of email correspondence was sighted by the Reviewer which indicates that specific team members have been selected to assess certain aspects of the scope based on skills and activity specific risks. One case study required input from specific members of the Environmental Effects and Spill Risk teams to conduct the detailed assessment of activity specific produced formation water and spill topics; • Interviews with NOPSEMA representatives indicated that Team Assignment and Assessment Approach step of the environmental management authorisation process and the associated procedure contained in NOPSEMA's Environment Plan Assessment Procedure is well known and understood.

#	Environmental management authorisation process Step (As Detailed in the Strategic Assessment Report)	Findings of the Review
6	Establish assessment scope, taking into account the nature and scale of the activity and sensitive environments. Includes assigning a general assessment and detailed topic assessment	<p>The Reviewer is satisfied that for each case study reviewed, an assessment scope was established in accordance with the nature and scale of the activity and the sensitivities of the receiving environment, based on the collated evidence:</p> <ul style="list-style-type: none"> • The NOPSEMA Environment Plan Assessment Procedure clearly indicates the procedure to follow for the assessment scope to be established for an assessment; • The RMS findings for each case study include evidence of the detailed topics being selected for assessment for each of the case studies, to the nature and scale of the activity and sensitivity of the surrounding environment. • The RMS findings clearly show that a general assessment and detailed topic assessment have been conducted; • Interviews with NOPSEMA representatives indicated that the Assessment Scope Establishment step of the environmental management authorisation process and the associated procedure contained in NOPSEMA's Environment Plan Assessment Procedure is well known and understood.
7	Delegate approves assessment scope and focused topic assessment	<p>The Reviewer is satisfied that for each case study reviewed, a delegate of NOPSEMA has approved the assessment scope, based on the collated evidence:</p> <ul style="list-style-type: none"> • The NOPSEMA Environment Plan Assessment Procedure clearly indicates the procedure to obtain Delegate approval for the assessment scope; • Evidence in the form of email correspondence was sighted by the Reviewer which confirms that a delegate approved the selected assessment scope and focused topic assessment; • Interviews with NOPSEMA representatives indicated that the Delegate Approval of the Assessment Scope step of the environmental management authorisation process and the associated procedure contained in NOPSEMA's Environment Plan Assessment Procedure is well known and understood.
8	Assess submission under the Program, in particular against acceptance criteria. Assessment includes a general assessment of all environmental impacts and risks, as well as detailed topic assessments based on the greatest potential impacts or risks posed by the activity (including matters protected under Part 3 of the EPBC Act where relevant).	<p>The Reviewer is satisfied that for each case study reviewed, the EP submission was assessed against acceptance criteria, based on the collated evidence:</p> <ul style="list-style-type: none"> • The NOPSEMA Environment Plan Assessment Procedure clearly indicates the procedure to follow to conduct an assessment under the Program against acceptance criteria, including an assessment of the level of information being provided on relevant values and sensitivities associated with matters protected under Part 3 of the EPBC Act; • Evidence was sighted of records held in RMS that compliance against acceptance criteria for each aspect of the EP assessment was recorded; • The RMS findings for each case study include evidence that matters protected under Part 3 of the EPBC Act have been considered by the assessment team; • The Reviewer understands that assessment of compliance against acceptance criteria forms part of the inherent process captured in RMS, whereby the assessor must have assessed all selected aspects of the EP as 'compliant' before RMS enables the next stage of the environmental management authorisation process to be accessed by the assessing team; • Interviews with NOPSEMA representatives indicated that the EP Submission Assessment step of the environmental management authorisation process and the associated procedure contained in NOPSEMA's Environment Plan Assessment Procedure is well known and understood.

#	Environmental management authorisation process Step (As Detailed in the Strategic Assessment Report)	Findings of the Review
9	Findings recorded in RMS	<p>The Reviewer is satisfied that for each case study reviewed, assessment findings are recorded in RMS, based on the collated evidence:</p> <ul style="list-style-type: none"> • The NOPSEMA Environment Plan Assessment Procedure clearly indicates where records are required to be entered into RMS throughout the assessment process, including roles and responsibilities for entering this information; • The Reviewer sighted RMS records of findings for all case studies. The notes provided in RMS are detailed and follow up actions (subsequent communication requirements to titleholders in the form of request for further written information or opportunity to modify letters) are clearly identified. Compliance against acceptance criteria for each aspect of the EP assessment was also sighted to be recorded in RMS; • The Reviewer notes that the level of detail of the records made by the assessment officers relating to the application of specific plans of management applicable to matters protected under Part 3 of the EPBC Act as part of the assessment of impacts, and in the ALARP and acceptability justification contained in EPs, was not provided in a consistent manner for all case studies.
10	Recommendation provided to delegate for consideration	<p>The Reviewer is satisfied that a recommendation is provided to the delegate for consideration, based on the collated evidence:</p> <ul style="list-style-type: none"> • The NOPSEMA Environment Plan Assessment Procedure clearly indicates the procedure to follow for the Delegate to consider recommendations made at the outcome of the EP assessment by the assessment team; • The Reviewer sighted evidence in the form of RMS records that the assessment team members assigned to each EP assessment did record their findings in RMS and provided proposed recommendations for follow-up actions in the form of draft requests for further information. This was sighted for all case studies reviewed; • Interviews with NOPSEMA personnel confirmed that the Delegate conducts a review of the recommendations for follow-up actions prior to these being finalised and the titleholders being contacted; • Interviews with NOPSEMA representatives indicated that the requirement for the Delegate to consider recommendations made by the assessment team and the associated procedure contained in NOPSEMA's Environment Plan Assessment Procedure is well known and understood.
11	Delegate to make a decision on EP submission – accept, refuse to accept, opportunity to modify and resubmit, accept in part or with conditions or limitations	<p>The Reviewer is satisfied that a delegate made a decision on the EPs for each case study reviewed, using the findings recorded in RMS, based on the collated evidence:</p> <ul style="list-style-type: none"> • The NOPSEMA Environment Plan Assessment Procedure clearly indicates the procedure to follow for the Delegate to make a decision on the EP submission; • Evidence in the form of subsequent written communications to titleholders (either requests for further written information or opportunity to modify letters, and subsequent resubmissions of revised EPs); • Interviews with NOPSEMA representatives indicated that the Delegate Decision step of the environmental management authorisation process and the associated procedure contained in NOPSEMA's Environment Plan Assessment Procedure is well known and understood.

#	Environmental management authorisation process Step (As Detailed in the Strategic Assessment Report)	Findings of the Review
12	Communication of decision to titleholder via letter and liaison meeting if requested	<p>The Reviewer is satisfied that notification of decision to titleholders has been conducted for each case study, based on the collated evidence:</p> <ul style="list-style-type: none"> The NOPSEMA Environment Plan Assessment Procedure clearly indicates the procedure to follow for the appropriate level of communication to titleholders to be delivered; The Reviewer sighted for each of the case studies reviewed evidence that the titleholder had been notified of the assessment decision in the form of acceptance letters, request for further written information and opportunity to modify and resubmit letters. This was sighted for all case studies reviewed, as well as meeting agendas and minutes of follow-up liaison meetings conducted between NOPSEMA and titleholders; Interviews with NOPSEMA personnel and titleholders confirmed that communications on assessment outcomes are being provided. <p>The Reviewer noted, however, that the level of detail contained in the request for further written information and/or opportunity to modify is not consistent with the level of detail captured in RMS by the assessment team.</p>
13	Summary of EP must be accepted and published on NOPSEMA website	<p>The Reviewer is satisfied that summaries of the EPs for each case study reviewed have been accepted by NOPSEMA and published on the NOPSEMA website, based on the collated evidence:</p> <ul style="list-style-type: none"> The NOPSEMA Environment Plan Assessment Procedure clearly indicates the procedure to accept and publish summaries of EPs; The Reviewer noted that for all case studies reviewed an EP summary was published on the NOPSEMA website; Interviews with titleholders confirmed that the EP summary acceptance process is well understood. <p>The reviewer noted, as part of stakeholder feedback during interviews, that there has been discrepancy in the level of detail contained in the EP summary in comparison to the level of consultation undertaken between the titleholder and the stakeholder on specific concerns, including the lack of a detailed assessment based on the claims brought to the titleholders' attention. Stakeholders also raised the concern that the EP summary does not provide sufficient evidence of the assessment of impacts and risks to ALARP and acceptable levels.</p>
14	Titleholder must submit revised EP if there are significant changes to the activity, impacts or risks	<p>Outside of scope of the Review as there were no EP revisions due to a significant change in activity, impacts or risks submitted to NOPSEMA within the Review period.</p> <p>It is noted however that the Reviewer has sighted evidence in the form of EPs submitted to NOPSEMA outside of the Review period that activities previously accepted by NOPSEMA have been resubmitted for assessment due to a change in activity (e.g. schedule).</p>
15	Compliance against accepted EP is monitored through routine inspections	<p>Outside of scope of the Review as the compliance monitoring / inspection aspect of the environmental management authorisation process is not related to any commitment made under the Program.</p> <p>It is noted however that the Reviewer has sighted evidence in the form of inspection briefs for three of the four case studies selected, generated from the assessment findings recorded in RMS based on the aspects of the EP that required further clarification from the titleholder, or aspects associated with high risk activities (refer to <i>Section 4.2.2</i>).</p>

#	Environmental management authorisation process Step (As Detailed in the Strategic Assessment Report)	Findings of the Review
16	Titleholder must notify NOPSEMA of reportable (environmental damage) and recordable (breach of performance outcome or standard) incidents	<p>Outside of scope of the Review as incident reporting by titleholders is not related to any commitment made under the Program.</p> <p>It is however noted that the Reviewer has sighted evidence in the form of NOPSEMA's annual offshore performance reports available on their website that reportable and recordable incidents are reported to NOPSEMA by titleholders.</p>
17	Titleholder must submit a performance report against environmental performance outcomes, performance standards and measurement criteria	Outside of scope of the Review as environmental performance reporting by titleholders is not related to any commitment made under the Program.
18	Titleholder must submit a revised EP upon request by NOPSEMA	Outside of scope of the Review as EP revision requests by NOPSEMA is not related to any commitment made under the Program.

The Review found that the NOPSEMA environmental management authorisation process is appropriate to ensure Program commitments are met. This was further demonstrated by a detailed review of the case studies selected for the Review, to identify the relevant component of the assessment and the regulatory mechanisms employed to meet each commitment, as detailed in the sections below.

3.2 *Program Commitments Relating to Matters Protected under Part 3 of the EPBC Act (Theme ID#1-6)*

3.2.1 *Commitment 1.1*

Commitment 1.1

NOPSEMA will not accept an EP that involves the activity or part of the activity, other than arrangements for environmental monitoring or responding to an emergency, being undertaken in any part of a declared World Heritage Property within the meaning of the EPBC Act.

Findings of Documentation Review

There is a clearly defined step in the environmental management authorisation process, as detailed in both the Assessment Policy (N-04750-PL0050) and the Environment Plan Assessment Procedure (N-04750-SOP1369) that enables NOPSEMA to identify any critical deficiencies in the EP, in particular activities that are proposed to occur within the boundaries of a WHP.

Findings of Case Studies Review

The Review found that the NOPSEMA environmental management authorisation process is appropriate to ensure Program commitments are met. This was demonstrated by a detailed review of the case studies selected for the Review, to identify the relevant component of the assessment and the regulatory mechanisms employed to meet the commitment. For all case studies considered, this commitment was met, and none of those accepted were proposed to take place in WHP boundaries.

The following case study examples (#1-2) are presented as demonstration of how the Review found that this commitment was met.

Case Study Example 1

Assessment against Matter Protected under Part 3 of the EPBC Act - World Heritage Property

NOPSEMA's environmental management authorisation process considers whether the activity, or part of the activity other than arrangements for environmental monitoring or responding to an emergency, are proposed to be undertaken in any part of a declared World Heritage Property within the meaning of the EPBC Act.

For a proposed large scale seismic activity, RMS assessment notes recorded that NOPSEMA carried out an assessment on whether or not the activity or part of the activity is to be carried out in a WHP. The assessment findings reported that through further communication with the titleholder it was confirmed that the activity was not to be undertaken in a WHP and identified that the closest WHP is onshore, at considerable distance from the activity.

In this case study it is demonstrated that NOPSEMA has not accepted an EP where the activity is proposed to occur within a WHP.

Case Study Example 2

Assessment against Matter Protected under Part 3 of the EPBC Act - World Heritage Property

NOPSEMA's environmental management authorisation process considers whether the activity, or part of the activity other than arrangements for environmental monitoring or responding to an emergency, are proposed to be undertaken in any part of a declared World Heritage Property within the meaning of the EPBC Act.

For a construction activity, RMS assessment notes found that NOPSEMA carried out an assessment on whether or not the activity or part of the activity is to be carried out in a WHP. During the general scope assessment NOPSEMA determined that the activities were not going to be undertaken in a WHP.

In this case study it is demonstrated that NOPSEMA has not accepted an EP where the activity is proposed to occur within a WHP.

In consideration of the case studies selected for the Review, there was one reference made by NOPSEMA to a titleholder in response to a submission that "NOPSEMA cannot accept an EP if any planned part of the activity is undertaken in a WHP". This comment was made in relation to an activity which included a component of potential "interaction" with WHP boundaries, rather than the physical undertaking of an activity within WHP boundaries. Further information was sought from NOPSEMA by providing the titleholder with an opportunity to modify and resubmit their EP.

Stakeholder Feedback

This particular case study was further discussed through interviews with NOPSEMA, which identified there was ongoing uncertainty as to what NOPSEMA consider an activity under Commitment 1.1. Clarity could be improved by increasing alignment between language used in the EPBC Act and the Regulations; or through provision of additional guidance that expands on the interfaces between these regimes.

Review Outcomes

The EPBC Act addresses environmental management around the concept of impact (specifically around the concept of significant impact), whereas the Regulations treat all impacts and environmental risks consistently, and instead address environmental management around the concept of an activity type.

While there has been discussion regarding what NOPSEMA consider to be an activity with respect to this commitment, and some suggestions from stakeholders that this be clarified, the Reviewer has not identified any EPs submitted and accepted for activities proposed to occur within the boundaries of a WHP, whereby the objectives of the Program have been met.

In light of this, the Reviewer considers that this commitment has been met, with the following observations (O-1 and O-2) identified which intend to address stakeholder feedback gathered during the Review ([Table 4.1](#)):

Observations

O-1: Consider communicating more broadly the applicability of Commitment 1.1 and 1.2 to offshore petroleum activities to increase awareness and understanding amongst agency personnel, titleholders and stakeholders.

O-2: Consider processes (through liaison with titleholders or update of Guidance Note) to enable relevant DOE personnel to be available to titleholders to provide the relevant advice on matters protected under Part 3 of the EPBC Act and associated plans of management.

3.2.2 *Commitments 1.2, 2.1, 3.1, 4.1, 4.2, 5.1, 6.1*

Commitment 1.2, 2.1, 3.1, 4.1, 4.2, 5.1, 6.1

NOPSEMA will not accept an EP that proposes activities that will contravene a plan of management for a matter protected under Part 3 of the EPBC Act or proposes unacceptable impacts to a matter protected under Part 3 of the EPBC Act, namely:

- World Heritage Properties
- National Heritage Places
- Wetlands of International importance (Ramsar wetlands)
- Listed Threatened Ecological Communities
- Listed Threatened Species
- Listed Migratory Species
- Commonwealth Marine Area

Findings of Documentation Review

As referenced in the Assessment Policy (N-04750-PL0050), the environmental management authorisation process implemented by NOPSEMA enables the assessment team to identify the potential interaction between the proposed activity and matters protected under Part 3 of the EPBC Act early in the assessment process, whereby the required description of matters protected under Part 3 of the EPBC Act and the associated impact and risk assessment are reviewed as part of both the General Assessment and the Topics Assessment processes conducted by NOPSEMA ([Section 3.1](#)).

This provides an added level of scrutiny on activities with the potential to impact matters protected under Part 3 of the EPBC Act.

It is also worth noting that the Environment Division of NOPSEMA, responsible for the implementation of the environmental management authorisation process, is organised into four different teams, namely the Seismic and Production Operations, Drilling and Developments, Spill Risk, and Environmental Effects teams. This enables NOPSEMA to form assessment teams with the appropriate combination of competencies and specialist skills tailored to the specificity of each assessment, including specialist knowledge of matters protected under Part 3 of the EPBC Act. Email communications were provided to the Reviewer by NOPSEMA which demonstrate that, where required to conduct an assessment, specific skills (examples sighted related to spill risk and impacts of produced formation water) are sought out within the pool of NOPSEMA assessment officers.

The review of internal NOPSEMA procedures did not identify a documented process for NOPSEMA assessment officers to identify which plans of management are relevant to a specific activity and should be taken into consideration during assessment. Interviews with both titleholders and NOPSEMA representatives indicated however that it is well understood that the consideration of key plans of management for relevant matters protected under Part 3 of the EPBC Act is a critical part of the EP preparation and assessment process. This is particularly the case with more mature titleholder organisations with long term experience in managing offshore petroleum activities in Commonwealth waters.

Sub-regulation 13(3) of the OPGGS (Environment) Regulations requires that a description of relevant values and sensitivities of the environment that may be affected by the activity, which may include matters protected under the EPBC Act, be provided in the EP, and on acceptance of the EP, in the publically available EP summary, published on NOPSEMA's website. A review of EP summaries published on NOPSEMA's website during the Review period demonstrated that the accepted EPs contained consideration of appropriate plans of management for relevant matters protected under Part 3 of the EPBC Act. Further details on the relevant consideration to ensure no EP is accepted that will contravene a plan of management for a matter protected under Part 3 of the EPBC Act are provided below.

Consideration of Plans of Management for Matters Protected under Part 3 of the EPBC Act in EP Summaries Published on NOPSEMA's Website During the Review Period

Sub-regulation 11(3) provides the requirement for submission of an EP summary. In order to ensure that information relevant to the environmental management of petroleum activities in Commonwealth waters is appropriately disclosed, the Regulations require titleholders to prepare an EP summary.

Titleholders must ensure that sufficient information from the EP is included in the summary to, in particular:

- Demonstrate how the potential environmental impacts and risks of the proposed activity have been identified;*
- Demonstrate how the titleholder is managing those environmental impacts and risks.*

The EP summary should include a description of relevant values and sensitivities of the environment that may be affected by the activity, which may include matters protected under the EPBC Act as outlined in sub-regulation 13(3) of the Environment Regulations.

EP summaries for all eight case studies were published on NOPSEMA's website and available at the time of the Review. The Reviewer reviewed the contents of all these EP summaries and found evidence of consideration of matters protected under Part 3 of the EPBC Act that have the potential to be affected by the proposed activity, namely:

- Values and sensitivities of World Heritage Properties, National Heritage places, Ramsar wetlands, Commonwealth Marine Reserves, Commonwealth Heritage places and key Ecological Features;
- Ecological characteristics of listed threatened species and ecological communities as well as migratory species;
- Management measures in accordance with relevant Regulations (EPBC Regulations Part 8), Policy Statements (EPBC Act Policy Statement 2.1 - Interaction between offshore seismic exploration and whales) as well as bioregional plans (e.g. Biologically Important Areas and seasonality of sensitivities).

The use of other material such as online databases (e.g. Species Profile and Threats Database, Conservation Values Atlas, IUCN databases) and marine bioregional plans was also clearly sighted in these documents.

The inclusion of such information in the EP summaries demonstrates that titleholders first, and subsequently NOPSEMA, have given consideration to this information during preparation and assessment of the EP respectively. NOPSEMA's subsequent acceptance of the EP, together with the supporting evidence and associated communications sighted during the Review, indicates that the information provided in the EP was sufficient for NOPSEMA to be reasonably satisfied that the activities proposed do not contravene plan(s) of management for, or do not propose unacceptable impacts to, matters protected under Part 3 of the EPBC Act.

Finally, although out of the scope of the Review, the Reviewer sighted evidence that follow-up inspections are undertaken, with a focus on specific aspects of an activity identified during the environmental management authorisation process, which enables NOPSEMA to confirm compliance with management measures detailed in the EP to ensure that impacts to matters protected under Part 3 of the EPBC Act are not unacceptable.

Findings of Case Studies Review

From the review of assessment findings for each case study selected, it was evident that a detailed review of the assessment presented in the EP on impacts and risks to matters protected under Part 3 of the EPBC Act is undertaken by the assessment officers to ensure that ALARP and acceptability criteria have been met, taking into consideration the relevant values and sensitivities of each of the matters of interest.

Several case studies for the Review included requests from NOPSEMA to the titleholder to provide further information related to the assessment of impacts and risks relating to values and sensitivities of matters protected under Part 3 of the EPBC Act, so as to be satisfied that impacts and risks are ALARP and acceptable.

With reference to the specific matters for protection, the following case study examples (#3-7) are presented as demonstration of how the Review found that the particular Program commitment for NOPSEMA to not accept an EP that proposes activities that will contravene a plan of management or propose unacceptable impacts to a matter protected under Part 3 of the EPBC Act, was met.

Case Study Example 3

Assessment against Matter Protected under Part 3 of the EPBC Act – World Heritage Property

As part of the environmental management authorisation process, NOPSEMA consider whether the impact assessment, and the proposed controls are appropriate to the nature and scale of the activity (Regulation 10A(a) of the Regulations).

In the review of the assessment notes for one case study, the Reviewer found it was noted by NOPSEMA that several aspects of the environment, including the values and sensitivities of a WHP were not described sufficiently to allow appropriate and supported evaluation of impacts. Given this, it was determined that the evaluation of impacts from the activity was not appropriately detailed or supported, and the titleholder was required to provide additional information in a revised submission before acceptance.

This can be considered as demonstration that NOPSEMA did not accept an EP that did not adequately describe and evaluate the details of a WHP to inform the assessment of impacts and risks to a sufficient level.

Case Study Example 4

Assessment against Matter Protected under Part 3 of the EPBC Act – World Heritage Property

NOPSEMA's environmental management authorisation process considers whether the proposed implementation strategy is appropriate for the activity (Regulation 14(8D)(a - b) of the Regulations).

In the review of the assessment notes for one case study, the Reviewer found the EP identified potential environmental risks to adjacent sensitive environments, including WHP, as result of a spill of marine diesel. Initially, the titleholder did not demonstrate adequate arrangements to be in place to monitor these environments in the event of a spill, that in NOPSEMA's opinion were commensurate to the nature and scale of impacts to the WHP.

In accordance with their internal procedures, NOPSEMA cannot accept an EP for an activity with potential for impact on the values of a WHP if it is not demonstrated that there is a feasible implementation strategy to ensure that impacts and risks are of an acceptable level, and reduced to ALARP. As such, this contributed to the decision by NOPSEMA to not accept the EP and that more information was required, which resulted in the titleholder being informed in a request for further written information letter.

The titleholder responded in a resubmission with further details of a scientific monitoring plan, applicable to the WHP and the particular values of these properties to address this deficiency.

In this case study it is demonstrated that NOPSEMA did not accept an EP for an activity with the potential to impact on the values of a WHP until it demonstrated a clear implementation strategy which ensures that the risks and impacts from activities on a WHP are acceptable and reduced to ALARP.

Case Study Example 5

Assessment against Matter Protected under Part 3 of the EPBC Act – World Heritage Property

NOPSEMA's environmental management authorisation process considers whether environmental impacts and risks from World Heritage Property will be reduced to ALARP (10A(b)) and acceptable levels (10A(c)).

In one case study which formed part of the Review, it was found during the NOPSEMA assessment that there were insufficient controls proposed to be in place to minimise the impact of emissions and discharges to features of a WHP and as such the titleholder was provided with the opportunity to modify and resubmit the EP to address these aspects.

The titleholder responded by implementing additional controls, which were assessed to meet ALARP and acceptability criteria for acceptance of the EP.

In this case study it is demonstrated that NOPSEMA did not accept an EP until it was clearly demonstrated that the risks and impacts from activities on a WHP were acceptable and reduced to ALARP.

Case Study Example 6

Assessment against Matter Protected under Part 3 of the EPBC Act – Listed Threatened Species

NOPSEMA's environmental management authorisation process considers whether environmental impacts and risks from activities on threatened species will be reduced to ALARP (10A(b)) and acceptable levels (10A(c)).

In a case study which was analysed in detail during the Review, it was noted that a number of listed marine species, for which there are relevant management plans, could occur in the area potentially affected.

The Reviewer noted that NOPSEMA, in their assessment findings, considered the content of relevant plans, and made a determination that the majority of the relevant recovery plans' objectives were supported by the management measures proposed by the titleholder in the EP.

However it was deemed by the Regulator that the activity may not be consistent with specific components of a recovery plan. As a result, NOPSEMA sought clarification from the titleholder as to the relevant controls and performance criteria provided in the EP relevant to the particular objectives of the recovery plan in question.

In response, the titleholder clarified a commitment to controls, which resulted in the EP being assessed as acceptable on this particular aspect.

In this case study it is demonstrated that NOPSEMA did not accept an EP until it was clearly demonstrated that the risks and impacts from activities on threatened species are acceptable and reduced to ALARP.

Case Study Example 7

Assessment against Matter Protected under Part 3 of the EPBC Act – Listed Threatened Ecological Communities

NOPSEMA's environmental management authorisation process considers whether the proposed implementation strategy is appropriate for the activity (Regulation 14(8D)(a - b) of the Regulations).

In the review of a case study, which demonstrates management of impacts to listed threatened ecological communities, the Review considered one case study, for which the titleholder had identified potential risk to adjacent sensitive environmental receptors including a listed threatened ecological community.

While the EP identified this area for potential impact, it was not clear that it was considered in the operational Net Environmental Benefit Assessment (NEBA) during spill response and monitored in the event of a spill. In accordance with their internal procedures, NOPSEMA cannot accept an EP for an activity with potential for impact on a threatened ecological community if it is not demonstrated that there is a feasible implementation strategy to ensure that impacts and risks will be of an acceptable level, and reduced to ALARP. As such, this contributed to the decision by NOPSEMA that more information was required, and the titleholder was informed in a request for further written information letter.

Case Study Example 7 (continued)

Assessment against Matter Protected under Part 3 of the EPBC Act – Listed Threatened Ecological Communities

The titleholder responded in a resubmission with further details of a scientific monitoring plan applicable to the threatened ecological community in question.

In this case study it is demonstrated that NOPSEMA did not accept an EP until a clear implementation strategy was demonstrated which ensures that the risks and impacts from activities on a threatened ecological community are acceptable and reduced to ALARP.

Stakeholder Feedback

Where external specialist knowledge or expertise is required for a particular assessment, interviews have confirmed that NOPSEMA has consulted with appropriate specialists, for example with scientists of the Australian Antarctic Division (AAD) with regards to matters related to cetaceans.

Although the Reviewer was able to identify the steps taken during the assessment by NOPSEMA to ensure that impacts to matters protected under Part 3 of the EPBC Act are not unacceptable, interviews identified that stakeholders have limited visibility, unless engaged in a proactive consultation process with titleholders, on the progress of the environmental management authorisation process for submitted petroleum activities. Furthermore, stakeholders raised the concern that there is no perceived mechanism to verify compliance with management measures proposed in the EP, and measure environmental performance.

Stakeholders claimed that they would benefit from NOPSEMA providing additional detail publically regarding the environmental management authorisation process to increase awareness and visibility amongst stakeholders that the environmental management authorisation process is applied rigorously to all proposed activities. While this is noted as an observation, it does not appear that the OPGGS Act and associated regulations have provisions for the publishing of additional information related to the environmental management authorisation process, and the value it would offer to stakeholders. It is worth noting, however, that the provisions made in the Regulations with regards to the OPP process, although not tested during the Review period, do allow for additional notifications and consultation.

Review Outcomes

The Reviewer considers that NOPSEMA maintains appropriate procedures and levels of competency amongst personnel based on a thorough competency assessment framework, in order to meet this commitment. Furthermore, the review of case studies (#3-7) demonstrated that NOPSEMA has not accepted EPs for activities that contravene a plan of management for a matter protected under Part 3 of the EPBC Act or result in unacceptable impacts to a matter protected under Part 3 of the EPBC Act.

The Reviewer is aware that NOPSEMA has developed a Petroleum Environmental Inspections Policy (N-02200-PL0973 Petroleum Environmental Inspections Policy), and has implemented monitoring and enforcement strategies to ensure compliance with the OPGGS Act and associated regulations, based on a risk- based methodology, including consideration of:

- The environment that may be affected by planned activities and/or unplanned events including matters protected under Part 3 of the EPBC Act;
- Socio-economic values and sensitivities;
- Target hydrocarbon type (where applicable);
- Industry trends in recordable and reportable environmental incidents.

The scope of the review did not, however, include investigation of the inspection process.

As such the Reviewer considers that this commitment has been met. Based on the assessment of performance under this commitment, two opportunities for improvement (I-1 and I-2) and five observations (O-1, O-3, O-4, O-5 and O-6) were identified ([Table 4.1](#)).

Opportunity for Improvement
I-1: NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.
I-2: The level of detail with regards to the application of specific plans of management related to matters protected under Part 3 of the EPBC Act as part of the assessment of impacts, and in the ALARP and acceptability justification contained in EPs, is not recorded in RMS in a consistent manner for all case studies. NOPSEMA should consider setting expectations and standards within internal documentation referred to by the assessment teams to ensure that greater consistency in records is achieved.
Observations
O-1: Consider communicating more broadly the applicability of Commitment 1.1 and 1.2 to offshore petroleum activities to increase awareness and understanding amongst agency personnel, titleholders and stakeholders.
O-3: Follow-up inspections should include focus areas, targeting key threats to matters protected under Part 3 of the EPBC Act (vessel movements, noise emissions near values and sensitivities deemed sensitive to noise etc.).
O-4: It was recognised during interviews that, although communication and information exchanges between parties has occurred during the Review period, there is a need for closer relationships to be developed. The Reviewer noted that increased communication has been reported over the last quarter of the Review period, and it is anticipated that such communication lines would be fostered over time.
O-5: Consider the benefit in providing publically additional detail regarding the progress of the environmental management authorisation process for submitted EPs.
O-6: DOE to consider available mechanisms to enable more effective identification by titleholders, stakeholders and NOPSEMA assessment officers of the plans of management relevant to a particular petroleum activity, based on the specific characteristics of that activity (e.g. geography, type of activity, affected matters protected under Part 3 of the EPBC Act)

3.2.3 *Commitments 1.3, 1.5, 2.2, 2.4, 3.2, 4.3, 4.5, 5.3, 6.2, 6.3, 6.4, 6.6*

Commitment 1.3, 1.5, 2.2, 2.4, 3.2, 4.3, 4.5, 5.3, 6.2, 6.3, 6.4, 6.6

If there is no plan of management for a matter protected under Part 3 of the EPBC Act, then NOPSEMA will take all reasonable steps to ensure that any accepted EP is not inconsistent with the relevant management principles. NOPSEMA will have regard to any relevant documentation (e.g. conservation advice, bioregional plan) and not act inconsistently with these in deciding whether or not to accept an EP. In undertaking assessments, NOPSEMA will have regard to relevant policy documents, guidelines and plans of management on the Department of the Environment website.

Findings of Documentation Review

Reference to documentation relevant to matters protected under Part 3 of the EPBC Act was evident in NOPSEMA's internal standard operating procedures. Furthermore, the Reviewer also noted that the team approach applied to the environmental management authorisation process, whereby at least two Environment Division staff members are required to undertake the EP assessment, as well as the several endorsements required throughout the environmental management authorisation process by Representatives of NOPSEMA (RON), delivers a thorough and comprehensive assessment of offshore petroleum activities.

Stakeholder Feedback

The Reviewer found interviewed NOPSEMA personnel to be familiar with the documentation published on DOE's website relevant to matters listed under Part 3 of the EPBC Act. However interviews with stakeholders and associated written submissions highlighted concerns related to the perceived acceptance of EPs inconsistent with relevant management principles. A specific example was provided which related to management principles applicable to a CMR categorised under IUCN guidelines, which appeared not to be taken into consideration. When this example was further discussed with NOPSEMA, it was clarified that NOPSEMA assessment officers sought clarification from DOE on the specific management applicable to this particular CMR under the Transitional Arrangements (whereby a General Approval was in place from the Director of National Parks for activities to take place within the CMR).

Findings of Case Studies Review

The review of the case studies (example #8-9) demonstrated a thorough environmental management authorisation process with detailed findings, including reference to management documentation relevant to matters listed under Part 3 of the EPBC Act recorded in RMS by the assessment team.

Case Study Example 8

Assessment against Matter Protected under Part 3 of the EPBC Act– Ramsar wetland

NOPSEMA's environmental management authorisation process considers whether the proposed implementation strategy is appropriate for the activity (Regulation 14(8D)(a&b) of the Regulations).

One EP relating to a case study considered in the Review identified the potential for shoreline impacts from a spill of hydrocarbons to a Ramsar wetland. These sensitivities were reported to be impacted by various exposure levels of surface, entrained and dissolved hydrocarbons.

The Oil Spill Monitoring Program (OSMP) provided with the EP and OPEP described in detail the long term monitoring programs for the Ramsar values, and as such demonstrated that the implementation strategy is acting towards ensuring that impacts and risks will be of an acceptable level and ALARP.

In this case study NOPSEMA accepted the EP, as it demonstrated a clear implementation strategy which ensured that the risks and impacts from activities on a Ramsar wetland are acceptable and reduced to ALARP.

In comparison, another case study considered in the Review also identified potential risks to adjacent sensitive environments, including a Ramsar wetland. While the EP identified these areas for potential impact, it was not clear that they were to be considered in the operational NEBA during spill response and monitored in the event of a spill.

In accordance with their internal procedures, NOPSEMA cannot accept an EP for an activity with potential for impact on the values of a Ramsar wetland if it is not demonstrated that there is a feasible implementation strategy to ensure that impacts and risks will be of an acceptable level, and reduced to ALARP. As such, this contributed to the decision by NOPSEMA that more information was required, and the titleholder was informed in a request for further written information letter.

The titleholder responded in a resubmission with further details of a scientific monitoring plan, applicable to the wetland.

While it was possible to identify examples in the case studies of NOPSEMA implementing their environmental management authorisation process to meet the Program commitments, in some instances the consideration of all the relevant plans for management were not documented in either the accepted EP summaries or the corresponding NOPSEMA assessment notes contained in RMS and responses to titleholders.

As an example, one accepted EP related to a case study identified the potential for shoreline impacts from a spill of hydrocarbons to a Ramsar wetland. One of the management plans relating to this wetland was referenced in the EP, but there was no evidence whether the titleholder or NOPSEMA, in determining acceptability, considered this (and other) management plans. The Reviewer notes however, that the values of the wetland, and the particular requirements of the related management plans were captured in the assessment and proposed management of the activity contained in the EP, even though there was no visible written reference made to these documents in the related assessment documentation.

This has been noted as an observation only, in that consideration of management plan contents and requirements by both the titleholder and Regulator should be more visible and consistently recorded in assessment documentation.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Based on the assessment of performance under this commitment, two opportunities for improvement (I-2 and I-3) and two observations (O-7 and O-8) were identified ([Table 4.1](#)).

Opportunity for Improvement
<p>I-2: The level of detail with regards to the application of specific plans of management related to matters protected under Part 3 of the EPBC Act as part of the assessment of impacts, and in the ALARP and acceptability justification contained in EPs, is not recorded in RMS in a consistent manner for all case studies. NOPSEMA should consider setting expectations and standards within internal documentation referred to by the assessment teams to ensure that greater consistency in records is achieved.</p> <p>I-3: Provide a reference to the Australian Government Guidance relating to Australian Government agencies' roles and relevance under the OPGGS Act, within the Environment Plan Content Requirements Guidance Note, to increase awareness of titleholders of the availability of Department of the Environment to provide advice related to matters protected under Part 3 of the EPBC Act.</p>
Observation
<p>O-7: NOPSEMA, and by association, titleholders, rely on information that is available publicly, and this information can be broad and difficult to interpret within the context of a specific activity. DOE may consider the publication of advice on management standards and/or best practice applicable to matters protected under Part 3 of the EPBC Act to guide titleholders and stakeholders with ALARP and acceptability criteria applicable to petroleum activities.</p> <p>O-8: Further clarification on the applicability of the Transitional Management Arrangements for CMR would benefit titleholders and stakeholders in understanding the requirements applicable to the undertaking of oil and gas activities.</p>

3.2.4 Commitments 1.4, 2.3, 3.3, 4.4, 5.2, 6.5

Commitment 1.4, 2.3, 3.3, 4.4, 5.2, 6.5
<p>NOPSEMA will develop guidance (that will be updated from time to time) that titleholders should have regard to in the preparation of their EPs. The guidance will:</p> <ul style="list-style-type: none"> • Make reference to consideration of the protection of the values relevant to matters protected under Part 3 of the EPBC Act. • Include reference to relevant guidance documents to be considered by the titleholders in preparing EPs.

Findings of Documentation Review

The Reviewer has reviewed guidance developed and updated through the Review period which has been published on the NOPSEMA website for access by titleholders. In particular, the Environment Plan Content Requirements Guidance Note (N-04750-GN1344) refers to the consideration of relevant values and sensitivities related to matters protected under Part 3 of the EPBC Act. The Guidance Note also refers to the Streamlining Environmental Regulation of Petroleum Activities in Commonwealth Waters Information Paper (N-04750-IP1382), which lists the relevant guidance documents to be considered by titleholders in the preparation of EPs.

Stakeholder Feedback

Interviews with titleholders confirmed that they are familiar, to varying degrees, of the various guidance documents related to the environmental management authorisation process under the Regulations. It seems however that familiarity and experience with the environmental management authorisation process however varied based on the maturity of the titleholder (i.e. number of years operating in Australia and number of EPs submitted since NOPSEMA's inception), as well as the level of environmental management knowledge available to the titleholder either in-house or through consultant resources, with only limited influence provided by the guidance available publically.

For those titleholders with less experience with the environmental management authorisation process, it was evident that the information contained in Regulatory Streamlining Information Paper N-04750-IP1382, although related to matters protected under Part 3 of the EPBC Act, was not immediately recognised as a source of information to be considered during the preparation of EPs.

Review Outcomes

Based on the contents of the reviewed guidance available to titleholders, and feedback provided by titleholders, the Reviewer considers that this commitment has been met, with two opportunities for improvement (I-1 and I-3) relating to the assessment of performance against this Program commitment identified (*Table 4.1*).

Opportunities for Improvement

I-1: NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note, to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.

I-3: Provide a reference to the Australian Government Guidance relating to Australian Government agencies' roles and relevance under the OPGGS Act, within the Environment Plan Content Requirements Guidance Note, to increase awareness of titleholders regarding the availability of DOE to provide advice related to matters protected under Part 3 of the EPBC Act.

3.3

General Commitments of the Program Report (Theme ID #7)

In addition to the Program commitments relating to matters protected under Part 3 of the EPBC Act, further commitments are made and detailed in the Program to ensure that the implementation and administration of the Program deliver on the commitment to ensure that activities carried out under the Program do not have unacceptable impacts on matters protected under Part 3 of the EPBC Act.

These commitments, which apply to both NOPSEMA and DOE relate to the administration of the Program and broadly cover the agreement to enter into Administrative Arrangements with DOE and to prepare amendments and develop advice documentation. Review findings against these commitments are presented below.

3.3.1

Commitment 7.1

Commitment 7.1

Agree and enter into the Administrative Arrangements with the Department of the Environment for the transfer of relevant information regarding the administration of the Program.

Findings of Documentation Review

A Performance Report for EPBC Streamlining, sighted by the Reviewer, was presented to the Minister for the Environment Hon Greg Hunt MP for the period 28 February 2014 to 30 June 2014. In this report NOPSEMA reported on the compliance with the commitments specified in the Program Report. This report specifically informs that the Administrative Arrangements between DOE and NOPSEMA were finalised and agreed to in July 2014.

These arrangements are detailed in the document 'Administrative Arrangements between DOE and NOPSEMA to implement the endorsed NOPSEMA Program' which was provided to the Reviewer during the Review.

Stakeholder Feedback

At the Program officer level in both organisations, interviews confirmed that there is a high degree of familiarity with the commitments made under the Administrative Arrangements relating to the transfer of information between DOE and NOPSEMA. Evidence of continuous improvement to further facilitate communication and knowledge sharing, beyond the specific commitments made in the Administrative Arrangements, was also noted during interviews with representatives from DOE and NOPSEMA.

An example of this is the development of the online submission search tool, which enables immediate exchange of information relevant to several reporting commitments made by NOPSEMA, whereby DOE does not solely rely on the issue of the Quarterly Ministers Report to obtain this information.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. No opportunities for improvement and/or observations relating to the assessment of performance against this Program commitment have been identified.

3.3.2

*Commitment 7.2***Commitment 7.2**

Prepare amendments to NOPSEMA's existing advice documents to reflect consideration of matters protected under Part 3 of the EPBC Act.

Findings of Documentation Review

The Performance Report for EPBC Streamlining (28 February 2014 to 30 June 2014) sighted by the Reviewer reported compliance with this commitment. The Report detailed that existing NOPSEMA advice material was reviewed and updated to incorporate consideration of matters protected under Part 3 of the EPBC Act. This included updates to the following:

- NOPSEMA Assessment Policy (N-04000-PL0050);
- Environment Plan Content Requirements Guidance Note (N-04750-GN1344).

The NOPSEMA Assessment Policy and the Environment Plan Content Requirements Guidance Note were both updated on 28 February 2014. These contain specific details around the inclusion of assessment of matters protected under Part 3 of the EPBC Act.

Stakeholder feedback

However, the Reviewer found (and it was raised by a number of titleholders through interviews) that the specific details around inclusion of assessment of matters protected under Part 3 of the EPBC Act are not easily accessible via NOPSEMA's advice documents. This information is provided in the Regulatory Streamlining Information Paper N-04750-IP1382 "Streamlining environmental regulation of petroleum activities in Commonwealth waters" Rev 0 February 2014. This particular advice document does not appear to be routinely utilised by titleholders, and as such the links are not easily obtainable.

Review Outcomes

In light of this, the Reviewer considers that although this commitment has been met, one opportunity for improvement (I-1) was identified ([Table 4.1](#)).

Opportunity for Improvement

I-1: NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.

3.3.3

*Commitment 7.3***Commitment 7.3**

Develop specific advice document (s) that titleholders should consider in the preparation of their OPPs and EPs, to make reference to consideration of the matters protected under Part 3 of the EPBC Act. This advice should include references to relevant guidance documents to be considered by titleholders in preparing Offshore Project Proposals and EPs such as EPBC Act guidance documents.

Findings of Documentation Review

The Performance Report for EPBC Streamlining (28 February 2014 to 30 June 2014) sighted by the Reviewer reported that NOPSEMA developed guidance in consultation with DOE to ensure that this commitment was met. The following documents were published between February and June 2014:

- NOPSEMA Assessment Policy (N-04000-PL0050)
- Streamlining Environmental Regulation of Petroleum Activities in Commonwealth Waters Information Paper (N04750-IP1382)
- Offshore Project Proposal Content Requirements Guidance Note (N-04750-GN1346)
- Environment Plan Content Requirements Guidance Note (N-04750-GN1344)
- Environment Plan Summaries Guidance Note (N-04750-GN1448)

The Streamlining Information Paper is the document that provides links to relevant DOE guidance documents. These references are not specified in the EP Content Guidance Note and as such may not be obvious to titleholders (see previous discussion regarding Commitment 7.2).

Stakeholder Feedback

A number of interviews with titleholders revealed that (although outside of the scope of this review) some of the EPBC Act guidance documents are very broad and the advice and expectations for management may not be obvious for titleholders.

Review Outcomes

In light of this, the Reviewer considers that while the commitment to develop specific advice documents has been met, two opportunities for improvement (I-1 and I-3) and two observations (O-6 and O-7) were identified ([Table 4.1](#)).

Opportunity for Improvement

I-1: NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.

I-3: Provide a reference to the Australian Government Guidance relating to Australian Government agencies' roles and relevance under the OPGGS Act, within the Environment Plan Content Requirements Guidance Note, to increase awareness of titleholders of the availability of DOE to provide advice related to matters protected under Part 3 of the EPBC Act.

Observations

O-6: DOE to consider available mechanisms to enable more effective identification by titleholders, stakeholders and NOPSEMA assessment officers of the plans of management relevant to a particular petroleum activity, based on the specific characteristics of that activity (e.g. geography, type of activity, affected matters protected under Part 3 of the EPBC Act)

O-7: NOPSEMA, and by association, titleholders, rely on information that is available publically, and this information can be broad and difficult to interpret within the context of a specific activity. DOE may consider the issue of publically available advice on standards and best practice applicable to matters protected under Part 3 of the EPBC Act to guide titleholders and stakeholders with ALARP and acceptability criteria.

3.4

Commitments Made under the Administrative Arrangements (Theme ID#8)

The 'Administrative Arrangements between DOE and NOPSEMA to implement the endorsed NOPSEMA Program' provide a mechanism for continuous improvement through learning from the outcomes of assessment decisions, any relevant reviews, updates to relevant policies, guidelines, recovery plans and any other new information that relates to the protection of matters protected under Part 3 of the EPBC Act.

The agreed arrangements outline specific commitments for both NOPSEMA and DOE around their roles and the objectives of the arrangements, dispute resolution, transfer of information, reporting and review, guidance and cross jurisdictional projects.

In addition to a more detailed review of the Program commitments which relate specifically to the matters protected under Part 3 of the EPBC Act, the various commitment themes of the Administrative Arrangements have been addressed, with the findings of the Review for each of the commitments detailed below.

3.4.1 *Commitments 8.1.1 and 8.1.2 - Role of the Parties to the Administrative Arrangements (Theme ID#8.1)*

Commitment 8.1.1

NOPSEMA's role is to ensure and demonstrate to the Department of the Environment that the Program commitments relating to the protection of EPBC Act matters are met.

This general commitment is outlined within the Administrative Arrangements. Review against this commitment is outlined in the detailed review in [Sections 3.1, 3.2 and 3.3](#).

Commitment 8.1.2

The Department of the Environment's role is to ensure compliance with the NOPSEMA Program and class of actions approval. The Department of the Environment's role is also to update relevant policies, plans and guidelines that support the Program.

Findings from Documentation Review

Review of documentation available for the Review highlighted that the sole mechanism for DOE to formally monitor compliance with the Program is through the undertaking, completion and endorsement by the Minister of the Environment of the Review. As the Review will only be complete once endorsement has been achieved, it is not possible for the Reviewer to determine at this stage whether part of this commitment has been met. DOE has however access to other indirect mechanisms to monitor compliance during implementation of the Program, through the review of information published on the NOPSEMA website (both guidance and EP submission updates), Quarterly Ministers Report and Annual Report provided by NOPSEMA to DOE.

The Reviewer noted that DOE information updates which contained information such as details of new listed species, or the release of updated plans such as the Grey Nurse Recovery Plan were provided regularly to NOPSEMA. These were internally circulated to NOPSEMA assessment officers for their information and future consideration.

Stakeholder feedback

During interviews, the Reviewer noted several examples of well-developed communication channels at Program officer levels of DOE and NOPSEMA, with regular interactions reporting as required under the Program through a range of mechanisms, including formal updates, workshops and information sharing sessions as well as informal discussions on a monthly basis.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been partially met. No opportunities for improvement and/or observations relating to the assessment of performance against this commitment were identified.

3.4.2 *Commitments 8.2.1 - Objectives of the Administrative Arrangements (Theme ID#8.2)*

Commitment 8.2.1

The parties agree to maintain regular contact at an officer level to ensure the effective operation of the endorsed NOPSEMA Program through teleconferences and written dialogue.

Findings from Documentation Review

Examples of engagement between DOE and NOPSEMA were identified in the Review, with NOPSEMA undertaking frequent visits to Canberra over this time. The majority of engagements were at the higher managerial officer levels. Some formal workshops were undertaken including two occasions where the NOPSEMA environmental management authorisation process was presented in detail to DOE personnel.

Stakeholder Feedback

Interviews with NOPSEMA and DOE personnel indicated that NOPSEMA is currently considering accessing third party specialist advice (AAD acoustic experts) and have been meeting with DOE and AAD during the Review period to address related procurement matters.

Interviews also identified an instance where a required notification from NOPSEMA to DOE did not occur within the expected timeframe. This related specifically to the notification of a seismic activity within a 'Biologically Important Area'. This particular issue was discussed and resolved at officer levels at the time, to ensure that future notification and liaison between NOPSEMA and DOE occurs in a timely manner.

Review Outcomes

While the Review determined that the commitment has been met, it was found through interviews with both DOE and NOPSEMA representatives that further opportunities to share resources and knowledge would be welcomed by all parties.

In light of this, the Reviewer considers that this commitment has been met, with one opportunity for improvement (I-4) relating to the assessment of performance against this commitment identified ([Table 4.1](#)).

Opportunity for Improvement

I-4: Examine further opportunities to share resources and or information between NOPSEMA and DOE where relevant.

3.4.3 *Commitment 8.3.1 - Dispute Resolution (Theme ID#8.3)*

Commitment 8.3.1

The parties commit to resolve disputes at the lowest level possible. The nominated contact officers will undertake to resolve the issue.

Findings of Documentation Review

The review of all documentation conducted as part of the Review did not identify any evidence of disputes between the relevant parties under the Program.

Stakeholder Feedback

In interviews with both DOE and NOPSEMA, the Reviewer asked whether there had been any occasions during the 12 month Review period where disputes arose. Interviewed personnel did not report any dispute between NOPSEMA and DOE requiring dispute resolution over the Review period.

Review Outcomes

In light of this, the Reviewer considers that this commitment has not been triggered. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

3.4.4 *Commitments 8.4.1 – 8.4.10 - Transfer of Information, Knowledge and Expertise (Theme ID#8.4)*

Commitment 8.4.1

The parties agree to notify each other in a timely manner, about knowledge and information of potential relevance to the other agency's regulatory responsibilities.

Findings of Documentation Review

The Reviewer sighted evidence that information relevant to either NOPSEMA or DOE's regulatory responsibilities was shared with the relevant party. Different mechanisms were identified, including inclusion of relevant information in the Quarterly Ministers Report, and/or email notification related to the implementation of new, or updates to existing, management documentation, as reported in previous sections. In addition, although outside of the Review period, it is worth highlighting the implementation of the new EP submission search tool on NOPSEMA's website, allowing timely and consistent reporting of information relevant to DOE's regulatory responsibilities, such as international reporting obligations.

With respect to post decision notifications, NOPSEMA's work procedures were found to include notification requirements to DOE for particular issues, including the notification of activities proposed to occur in CMR.

Stakeholder Feedback

During interviews with NOPSEMA personnel, it was evident that the key mechanism for assessment teams to access information that might be relevant during NOPSEMA's assessment was via searches of the publically available information on DOE's website. However interviews also noted some occurrences of discussions between NOPSEMA and DOE personnel aimed at clarifying information of relevance to assessments of specific EPs (i.e. Transitional Arrangements for CMR).

Interviews also determined that in some instances, there may be material that is relevant to NOPSEMA's regulatory responsibilities that is not publically available, and as such may not be given consideration in their assessment of an activity. This included the example of the Blue Whale Recovery Plan, which had been previously released for comment, but had not been updated and issued in the 12 month period. As such, the requirements that are outlined in this plan are not visible to both NOPSEMA and titleholders, and may not be considered in the management of the activity.

However the timing of release of more detailed information about the assessment was reported to be not ideal to manage external queries regarding consideration of targeted projects. For example, it was reported that the EP submission page (and more recently, the EP submission search tool) does not provide a sufficient level of detail to DOE to manage queries from third parties with regards to potential impacts to WHP or CMR, including unplanned events, such as hydrocarbon spills that may extend into the boundaries of a designated conservation area. It was noted that, although outside of the scope of the Review, NOPSEMA has implemented the requirement to submit additional information on submission of an EP for petroleum activities, including maps and description of activity. This information is yet to be tested to confirm whether it provides a sufficient level of detail to support DOE with its reporting obligations.

Review Outcomes

In general, the Reviewer considers that this commitment has been met for both parties. Opportunities for improvement and observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.4.2

The Department of the Environment will notify NOPSEMA of any expected changes to plans of management and other external publications.

Findings of Documentation Review

The Reviewer found that DOE provide regular written and verbal updates to NOPSEMA. Correspondence was sighted during the review between a NOPSEMA manager and a DOE Director which provided an update of DOE policies, plans etc. including status of CMR.

Stakeholder Feedback

Interviews identified there is a good level of communication at the higher levels of DOE and NOPSEMA, with regular interactions at the Manager/Director level and formal updates provided. There was less interaction reported at the lower levels.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.4.3

The Department of the Environment will be available to provide specialist expertise as required.

Findings of Documentation Review

Although initially identified through interviews with DOE and NOPSEMA personnel, the Reviewer further examined the content of a Consultation Guidance note issued by DOE and available on their website, highlighting the roles and responsibilities of DOE in the provision of specialist advice related to matters protected under Part 3 of the EPBC Act for consideration in the preparation of EP.

Stakeholder feedback

Through interviews, the Review found that in the 12 month Review period, NOPSEMA have made requests to DOE for specialist expertise and DOE have provided advice. This includes a request for and provision of advice from DOE in relation to whale strandings that occurred during the Review period.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.4.4

The provision of expert advice from the Australian Antarctic Division (AAD) relating to cetaceans, marine mammals and acoustic disturbance will be provided on a fee-for-service arrangement as agreed in writing between NOPSEMA and the Chief Scientist of the AAD.

Stakeholder Feedback

Through interviews with NOPSEMA and DOE representatives, it was evident that the AAD has been used to provide expert advice relating to cetaceans and acoustic disturbance on ad-hoc basis during the Review period.

Although the Review confirmed that no formal fee-for-service arrangement had been made over the course of the Review period, the Review established that NOPSEMA and DOE were currently in the process of setting up formal arrangements to access third party (AAD acoustic experts) advice.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been partially met. Opportunities for improvement and observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.4.5

NOPSEMA will notify the Department of the Environment of any expected changes to legislation or regulations that may impact an ability to act in accordance with the NOPSEMA Program.

Findings of Documentation Review

The Review found that DOE were notified of changes to NOPSEMA legislation including the financial assurance requirements for the Regulations via updates to the NOPSEMA website and the NOPSEMA newsletter “The Regulator, Issue 6”. No changes to legislation occurred however that could have impacted on the ability of NOPSEMA to act in accordance with the Program.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.4.6

NOPSEMA will notify the Department of the Environment when an EP has been accepted by NOPSEMA covering seismic activities that have interacted with 'Critical Habitat', 'habitat critical to the survival of species' or 'Biologically Important Areas' for cetaceans, pinnipeds and marine turtles at biologically important time as identified in Recovery Plans, Marine Bioregional Plans (prepared under the EPBC Act) and the Conservation Values Atlas.

Findings of Documentation Review

The Review found no evidence of this commitment being addressed in standard operating procedures used by NOPSEMA. The Review identified that NOPSEMA do not have a formal process to identify which plans of management should be considered for an assessment. However reviews of documentation related to the selected case studies, including RMS findings, EPs and EP summaries, indicate that relevant plans of management are taken into consideration as part of the EP preparation and assessment processes.

Findings of Case Studies Review

The review of the selected case studies showed that during the Review period, at least two EPs for seismic activities have been accepted for activities that overlap with 'Biologically Important Areas'.

The Review highlighted that notification by NOPSEMA to DOE since implementation of the Program as per a number of Program commitments, including Commitment 8.4.6, has been undertaken through the EP summary webpage (and since the Review period ending, through the EP submission search tool), as well as through the Quarterly Ministers Report.

Stakeholder feedback

Interviews with DOE identified that information regarding activities occurring in 'Critical Habitat', 'habitat critical to the survival of species' or 'Biologically Important Areas' for cetaceans, pinnipeds and/or marine turtles is received as part of the Quarterly Ministers Report. Although the first instance of 'acceptance of an EP with potential for interaction' was reported during interviews to be missing from the relevant report to DOE, it was confirmed that discussions between the two agencies resulted in the report template being updated to reflect such occurrences.

Interviews with NOPSEMA personnel confirmed that, although no formal processes are available within NOPSEMA's internal operating procedures describing the procedure to follow to identify the relevant plans of management when assessing an EP, NOPSEMA assessment officers are suitably qualified and experienced to rely on their own experience and knowledge of the matters protected under Part 3 of the EPBC Act and associated plans of management potentially affected by the activity under assessment.

Review Outcomes

Other than the reported delay in notification relevant to the first instance of 'acceptance of an EP with potential for interaction', the Reviewer is aware that notification between NOPSEMA and DOE regarding interactions of petroleum activities with matters protected under Part 3 of the EPBC Act occur as part of various mechanisms (e.g. Quarterly Ministers Report, EP submission list). Although it is outside of the Review period, it is worth noting that DOE has collaborated with NOPSEMA to develop the current online submission search tool to enhance the capacity for DOE to be notified of any specific interactions. As such the Reviewer considers that this commitment has been met. Based on the assessment of performance under this commitment, one opportunity for improvement (I-5) and one observation (O-6) were identified ([Table 4.1](#)).

Opportunity for Improvement

I-5: Review the search criteria applied for the EP submission and summaries search tool and consider functionalities to allow searches such as using radius/coordinates or environmental features (e.g. BIA, WHP, CMR) as references.

Observation

O-6: DOE to consider available mechanisms to enable more effective identification by titleholders, stakeholders and NOPSEMA assessment officers of the plans of management relevant to a particular petroleum activity, based on the specific characteristics of that activity (e.g. geography, type of activity, affected matters protected under Part 3 of the EPBC Act)

Commitment 8.4.7

The objective (of above notification) is to provide targeted projects for the Department to review through publically available EP summaries.

Findings of Documentation Review

The Review found there to be no reported occurrences of where this notification triggered further review of the activity EP summaries.

Stakeholder feedback

However the timing of release of more detailed information about the assessment was reported to be not ideal to manage external queries regarding consideration of targeted projects. For example, it was reported that the EP summary webpage (and more recently, the EP submission search tool) does not provide a sufficient level of detail to DOE to manage queries from third parties with regards to potential impacts to WHP or CMR, including unplanned events, such as hydrocarbon spills that may extend into the boundaries of a designated conservation area. It was noted that, although outside of the scope of the Review, NOPSEMA has implemented the requirement to submit additional information on submission of an EP for petroleum activities, including maps and description of activity. This information is yet to be tested to confirm whether it provides a sufficient level of detail to support DOE with its reporting obligations.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met, with two observations (O-9 and O-10) relating to the assessment of performance against this commitment identified ([Table 4.1](#)).

Observations

O-9: As part of the review and acceptance process for EP summaries, NOPSEMA should ensure that sufficient content related to matters protected under Part 3 of the EPBC Act provided in the EP (e.g. plans of management used in the assessment of impacts and risks) is presented in the EP summaries prepared by titleholders, to provide both DOE and stakeholders with visibility and certainty that the assessed and accepted EP had appropriate consideration for matters protected under Part 3 of the EPBC Act.

O-10: Examine whether the release of information on submission (rather than acceptance) on NOPSEMA's website meets the needs of DOE for stakeholder management purposes and international reporting obligations.

Commitment 8.4.8

NOPSEMA will notify the Director of National Parks (through the Department of the Environment) of any accepted EPs covering activities in proclaimed Commonwealth Marine Reserves.

Findings of Documentation Review

The Review found that this requirement is clearly specified in the NOPSEMA Standard Operating Procedures (SOP).

Stakeholder feedback

Through interviews, the Review found that the Commonwealth Marine Branch is aware of the EP submission page (and more recently, the EP submission search tool developed by NOPSEMA, post the review period). There are further discussions underway with NOPSEMA with regards to specific search criteria related to CMR, such that they can be notified immediately on acceptance of an EP which triggers this commitment.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met, with one opportunity for improvement (I-5) and one observation (O-8) relating to the assessment of performance against this commitment identified ([Table 4.1](#)).

Opportunity for Improvement

I-5: Review the search criteria applied for the EP submission and summaries search tool and consider functionalities to allow searches such as using radius/coordinates or environmental features (e.g. BIA, WHP, CMR) as references.

Observation

O-8: Further clarification on the applicability of the Transitional Management Arrangements for CMR would benefit titleholders and stakeholders in understanding the requirements applicable to the undertaking of oil and gas activities.

Commitment 8.4.9

Status of major investigations will be reported quarterly through NOPSEMA's Quarterly Ministers Report

Stakeholder feedback

The Review found through interview with DOE that Quarterly Ministers Reports were being provided to DOE. It was established however that no major investigations occurred in the last 12 months. Although reportable incidents were reported to NOPSEMA during the Review period, as indicated by statistics published on their website, NOPSEMA has procedures in place to determine which reportable environmental incidents may result in a major investigation being initiated.

Further discussions with NOPSEMA and DOE regarding this topic indicated that reporting requirements to DOE related to future major investigations will be further discussed between NOPSEMA and DOE and will be addressed through amendments to the Administrative Arrangements.

Review Outcomes

In light of this, the Reviewer considers that this commitment has not been triggered. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.4.10

NOPSEMA shall provide additional information on investigation upon request, in accordance with the NOPSEMA Information Sharing Policy.

Stakeholder feedback

The Review found that NOPSEMA and DOE have worked collaboratively on the investigation of whale strandings during the Review period. Both parties provided information on request in relation to the investigation.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

3.4.5 *Commitments 8.5.1, 8.5.2 and 8.5.3 - Access to Online Data Sources (Theme ID#8.5)*

Commitment 8.5.1

Access to online data sources will be maintained by the Department of the Environment - these include the Conservation Values Atlas, Protected Matters Search Tool, Species Profile and Threats Database and National Marine Mammal Database.

Stakeholder feedback

The Review found that DOE maintain sources of online data including the Protected Matters Search Tool, various lists, recovery plans etc. For example, the Conservation Values Atlas was reported to have been updated within the Review period.

Various titleholders reported in interviews, and it was evident from the EP submissions, that these data sources are accessed routinely for use in the assessment of offshore petroleum activities.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.5.2

The Department of the Environment will continue to encourage industry to provide information to expand online references through its communications networks.

Stakeholder feedback

Through interviews with DOE representatives and titleholders, the Review found that DOE continues to encourage the reporting of marine mammal sightings to the Australian Marine Mammal Database, and that this was being maintained as a commitment in EPs.

DOE also reported that if a titleholder had information that would be of broader use, DOE may encourage publication. There were however no reported cases of where this has happened.

Further discussions with DOE also indicated that the National Environmental Research Programme (NERP), in place since 1989 through former initiatives, supports data sharing and facilitate closer liaison amongst government agencies to support the management of matters protected under Part 3 of the EPBC Act.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met, with one opportunity for improvement (I-6) relating to the assessment of performance against this commitment identified in ([Table 4.1](#)).

Opportunity for Improvement

I-6: Examine ongoing opportunities for further data sharing between NOPSEMA, DOE, DOIS and titleholders.

Commitment 8.5.3

NOPSEMA will encourage titleholders to provide environmental and activity data direct to the Department of the Environment to expand online data sources in its guidance and communications to industry.

Findings of Documentation Review

The Review found that NOPSEMA provide encouragement to titleholders to report marine mammal sightings to the Australian Marine Mammal Database, and that this was being maintained as a commitment in EPs, as sighted in EPs reviewed as part of the selected case studies.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

3.4.6

Commitments 8.6.1 and 8.6.2- Other Ad Hoc Information Transfers (Theme ID#8.6)

Commitment 8.6.1

The Department of the Environment will provide timely responses to information requests as required.

Stakeholder Feedback

During interviews with DOE and NOPSEMA representatives, the Review found that there were no reported instances of requested information being provided in an untimely manner.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.6.2

The Department of the Environment will endeavour to provide sufficient early notification of information requests requiring NOPSEMA input.

Stakeholder Feedback

The Review found that there were no reported instances of requested information being provided in an untimely manner.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

3.4.7 *Commitments 8.7.1 and 8.7.2 - General Reporting (Theme ID#8.7)*

Commitment 8.7.1

The Program also requires NOPSEMA to provide an annual report on the Program, highlighting: the decisions made under the Program, the findings of compliance inspections, environmental incidents reported by titleholders and any investigations underway for the previous year.

Findings of Documentation Review

The Review found that NOPSEMA provides an annual report on the Program, highlighting the decisions made under the Program, the findings of compliance inspections, environmental incidents reported by titleholders and any investigations underway for the previous year.

This report is provided to the Minister for Industry and Science, and the Minister for the Environment and published on the NOPSEMA website. The first report is available on the NOPSEMA website, and covered the period from the 28 February 2014 to 30 June 2014.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.7.2

NOPSEMA to provide Quarterly Ministers Reports

Stakeholder Feedback

The Review found through interview with DOE that Quarterly Ministers Reports were being provided to DOE. Further discussion found that there was some initial feedback provided by DOE to NOPSEMA on the format of the first report and it was updated accordingly.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

3.4.8 *Commitments 8.8.1 – 8.8.4 - International Obligations Reporting (Theme ID#8.8)*

Commitment 8.8.1

Offshore petroleum activities are not permitted inside a World Heritage Property

Findings of Documentation Review

Based on a review of the case studies, no activities submitted and accepted during the Review period have been proposed to be undertaken in a WHP.

Stakeholder feedback

During the Review it was found through interviews with NOPSEMA officers that there were occasions in the Review period where activities were proposed that appeared would be undertaken inside a WHP. In all instances, the activities were redefined and corresponding EPs were modified or withdrawn such that this did not eventuate.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.8.2

Australia will report on major developments proposed adjacent to a World Heritage Property

Findings of Documentation Review

The Review found that, during the Review period, there have been no major developments as defined under the Regulations (i.e. OPP) proposed that would trigger this requirement.

Review Outcomes

In light of this, the Reviewer considers that this commitment was not triggered during the Review period. However one opportunity for improvement (I-7) and one observation (O-11) relating to the assessment of performance against this commitment has been identified ([Table 4.1](#)).

Opportunity for Improvement

I-7: NOPSEMA to consider notifying DOE when an EP is submitted to NOPSEMA for assessment that includes unplanned activities occurring within the boundaries of a WHP or proclaimed Marine Reserve, to support DOE in meeting their reporting obligations.

Observation

O-11: The review identified that the trigger for reporting to DOE on proposed major developments adjacent to a WHP is not clear to the agencies concerned, both in terms of what constitute 'major developments' and to what extent the proximity trigger is applicable. NOPSEMA could consider the requirement for reporting to DOE as part of the consultation requirements associated with proposed petroleum activities.

Commitment 8.8.3

NOPSEMA will advise the Department of the Environment the details of an OPP submission accepted for public exhibition at least two business days prior to publication under the Regulations, if planned activities from the proposal could impact on the Outstanding Universal Values of a World Heritage Property, to allow time for appropriate liaison by the Department of the Environment with the WHC and WH properties committees as appropriate.

Findings of Documentation Review

The Review found, that during the Review period, there were no OPP submissions.

Review Outcomes

In light of this, the Reviewer considers that this commitment was not triggered during the Review period. Opportunities for improvement and observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.8.4

NOPSEMA will notify the Department of the Environment as soon as reasonably practicable of any changes or likely changes to the ecological character of a Ramsar wetland and will provide a summary of corrective action planned or taken. Notification by NOPSEMA will be sent to:

RamsarEPBCadvice@environment.gov.au

Findings of Documentation Review

The Review found, that during the Review period, there have been no instances of any changes or likely changes to Ramsar wetlands as a result of accepted activities.

Review Outcomes

In light of this, the Reviewer considers that this commitment was not triggered during the Review period. Opportunities for improvement and observations relating to the assessment of performance against this commitment were not identified.

3.4.9 *Commitment 8.9.1 - NOPSEMA Reporting (Theme ID#8.9)*

Commitment 8.9.1

NOPSEMA publishes an annual offshore performance report that includes regulatory data such as incidents, inspections and enforcement.

Annual Offshore Performance Report is to be provided to the Ministers of the Environment, Industry and published on NOPSEMA's website. As well as to the Department of the Environment.

Findings of Documentation Review

The Review found that NOPSEMA publishes an annual offshore performance report which includes data and regulatory information collected by NOPSEMA on injuries and fatalities, incidents, inspections, assessments, investigations and enforcements from offshore petroleum operations in the authority's jurisdiction.

The last report was found to be published in April 2014 and is available on NOPSEMA's website.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

3.4.10 *Commitments 8.10.1 and 8.10.2 - Incident Reporting (Theme ID#8.10)*

Commitment 8.10.1

If NOPSEMA is notified of an environmental reportable incident that, in NOPSEMA's determination, could have potentially significant impacts on an EPBC Act matter covered by the Program, NOPSEMA will notify the Department of the Environment within 14 days of receiving the notification from the titleholder. NOPSEMA will keep the Department of the Environment informed of updates and investigations related to these incidents until issue is resolved.

Findings of Documentation Review

The Review found there was no instance of an environmental reportable incident that, in NOPSEMA's determination, could have potentially significant impacts on a matters protected under Part 3 of the EPBC Act covered by the Program, occurring in the Review period. The Reviewer noted that reportable incidents are made publically available in NOPSEMA's annual offshore performance report, available on their website. In accordance with NOPSEMA's internal standard operating procedures, not all reportable environmental incidents require further investigation. NOPSEMA has procedures in place to determine which reportable environmental incidents may result in a major investigation being initiated.

Review Outcomes

In light of this, the Reviewer considers that this commitment has not been triggered during the Review period. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.10.2

The Program commits to an initial review following the first year of implementation and then five-yearly reviews of the operation of the Program.

The initial Program review (this Review) is currently underway.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

3.4.11

Commitments 8.11.1 – 8.11.4 - Guidance (Theme ID#8.11)

Commitment 8.11.1

The Department of the Environment will share internal and external guidance with NOPSEMA to support the commitment under the Program to have regard to relevant policy documents, guidelines, Statements of Outstanding Values, Ramsar information sheets, Ecological Character descriptions, gazettal instruments, and plans of management the Department of Environment hold.

Findings of Documentation Review

The Review found that DOE make available all relevant information on DOE website.

The Regulatory Streamlining Information Paper (N-04750-IP1382) provides a list of all relevant documentation to support NOPSEMA's assessment of EPs. This information links to a range of information available on DOE's website.

Evidence was also sighted of email communications between DOE and NOPSEMA regarding the implementation of new, or updates of existing, plans of management (as described in previous sections).

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.11.2

NOPSEMA will consider relevant policy documents, guidelines, plans of management and other online data sources available on the Department of the Environment website or provided directly by the Department of the Environment when preparing guidance material.

Findings of Documentation Review

The Review found that NOPSEMA hold detailed procedures and work instructions to guide assessment teams in conducting their assessment. NOPSEMA's internal Environment Plan Assessment procedure provides for assessments relating to matters protected under the EPBC Act, whereby consideration should be given to the Program commitments provided in the Regulatory Streamlining Information Paper (N- 04750-IP1382).

NOPSEMA's detailed procedures and work instructions demonstrate genuine consideration of the matters protected under Part 3 of the EPBC Act.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

Commitment 8.11.3

Where assessments relate to plans of management for Commonwealth marine reserves, NOPSEMA will have regard to the representative values of the reserves.

Findings of Documentation Review

The Regulatory Streamlining Information Paper (N-04750-IP1382) provides a list of all relevant documentation to support NOPSEMA's assessment of EPs.

The Review found that NOPSEMA's internal Environment Plan Assessment procedure provides for assessments relating to matters protected under Part 3 of the EPBC Act, whereby consideration should be given to the relevant documentation provided in the Regulatory Streamlining Information Paper (N-04750-IP1382), available on NOPSEMA's website. Furthermore, as a part of the environmental management authorisation process as detailed in [Section 3.1](#), there are several endorsements required to ensure matters protected under Part 3 of the EPBC Act are included as part of the assessment scope.

Findings of Case Studies Review

The review of the case studies (example #9) demonstrated a thorough environmental management authorisation process with detailed findings, including reference to plans of management relevant to matters listed under Part 3 of the EPBC Act recorded in RMS by the assessment team.

Case Study Example 9

Assessment against Matter Protected under Part 3 of the EPBC Act – Commonwealth Marine Area

NOPSEMA's environmental management authorisation process considers, amongst several aspects of the Commonwealth Marine Area, the conservation values of Commonwealth Marine Reserves and whether environmental impacts and risks from activities on these values will be reduced to ALARP (10A(b)) and acceptable levels (10A(c)).

In a case study considered in the Review, it was found that vessels associated with the activity may potentially intersect a CMR. The EP proposed management controls to minimise the risk to the conservation values of the CMR, including those specified under EPBC Policy Statement 2.1.

However in their assessment and subsequent request for further written information correspondence to the titleholder, NOPSEMA sought confirmation that additional controls would be implemented including to shut down the activity, while in the CMR, and to provide further detail to demonstrate impacts and risks to the sensitivities of the CMR were reduced to ALARP.

Additionally, in consideration of the specific values of the CMR, NOPSEMA requested further controls be considered around the discharge of liquid wastes while in the CMR. It was acknowledged in the NOPSEMA assessment that discharge is allowable while within the CMR in accordance with MARPOL 73/78, but did not consider that this was ALARP and requested additional reasoning to support the ALARP argument.

Similarly their assessment found that not accounting for the potential for vessel refuelling while in the CMR was deemed not ALARP and sought reconsideration prior to accepting the EP.

In response to these matters, the titleholder responded with additional controls with demonstration of ALARP and acceptability which enabled (in part) final acceptance of the EP by NOPSEMA.

In this case study it is demonstrated that NOPSEMA did not accept an EP until it was clearly demonstrated that the risks and impacts from activities on the conservation values of Commonwealth Marine Reserves are acceptable and reduced to ALARP.

Stakeholder Feedback

The requirement to take this documentation into consideration is understood by NOPSEMA and reflected in internal operating procedures. However it has been reported that the Transitional Management Arrangements for CMR published on DOE's website have resulted in misinterpretation by titleholders and other stakeholders regarding the type of activities allowed to occur within designated CMR.

Interviews with representatives from NOPSEMA and DOE confirmed that discussions had been held to clarify requirements under the Transitional Arrangements so that the environmental management authorisation process is not affected.

Interviews with titleholders and DOE personnel also recorded some instances whereby titleholders contacted the CMR Branch to seek clarification on the applicability of the CMR Framework specific to a proposed activity.

Review Outcomes

Although informal mechanisms seem to be in place to account for the appropriate management considerations for CMR, further clarification is deemed to be necessary to ensure that information is disseminated to titleholders and stakeholders to ensure expectations for management are clearly communicated.

Notwithstanding this, the case studies reviewed supported the Reviewer's position that this commitment has been met, with one observation (O-8) relating to the assessment of performance against this commitment identified (*Table 4.1*).

Observation

O-8: Further clarification on the applicability of the Transitional Management Arrangements for CMR would benefit titleholders and stakeholders in understanding the requirements applicable to the undertaking of oil and gas activities.

Commitment 8.11.4

When preparing external guidance, NOPSEMA will prepare EPBC Act relevant content in consultation with the Department of the Environment.

Findings of Documentation Review

The Review found that the NOPSEMA Guidance Notes, originally published prior to the streamlining initiative were updated on 28 February 2014 and contain some high level references to the assessment of matters protected under Part 3 of the EPBC Act.

In addition, more detailed notes regarding the streamlining process were prepared based on the outcomes of the Strategic Assessment led by the multi-agency task force. This is presented in the publication N-04750-IP1382 Streamlining environmental regulation of petroleum activities in Commonwealth Waters.

Stakeholder Feedback

Interviews with NOPSEMA and DOE representatives identified a Consultation Guidance note, prepared by DOE in collaboration with NOPSEMA, which details the expectations with regard to seeking advice from DOE during development of an EP.

Review Outcomes

Given the involvement of the taskforce in development of IP1384, and the collaboration in development of the Consultation Guidance Note, the Reviewer considers that this commitment has been met. Opportunities for improvement and/or observations relating to the assessment of performance against this commitment were not identified.

3.4.12

Commitments 8.12.1 – 8.12.4 - Cross-jurisdictional projects (Theme ID#8.12)

Commitment 8.12.1 – 8.12.4

The Department of the Environment will maintain an ongoing dialogue with NOPSEMA, and vice versa to identify and progress further streamlining. Future opportunities for further streamlining can be explored and both parties agree to keep each other informed. NOPSEMA will continue to administer its legislative obligations under current arrangements.

Findings of Documentation Review

The Review found that NOPSEMA, DOE and DOIS as well as state and territory representatives maintain ongoing consultation around the streamlining process.

Further opportunities for streamlining the regulatory arrangements for petroleum activities are currently being examined, this includes working with officials from states and territories to further streamline offshore petroleum approval processes in their coastal waters. The streamlining process involves:

- Making amendments to relevant state/territory legislation that applies to coastal waters to ensure the laws substantially correspond to the provisions under the OPGGS Act, and to confer the powers and functions on NOPSEMA for offshore petroleum operations in designated coastal waters.
- Undertaking of a strategic assessment, in accordance with the provisions of Part 10 of the EPBC Act, for each conferring jurisdiction's coastal waters.

Stakeholder Feedback

In addition it was found during interviews that DOE have had discussions with NOPSEMA about further streamlining of conditions set for offshore petroleum activities; this includes petroleum activities currently undergoing assessment under the EPBC Act (noting that these particular activities were referred under the EPBC Act prior to Program implementation), and for petroleum activities governed by prior EPBC Act approvals and associated conditions.

Review Outcomes

In light of this, the Reviewer considers that this commitment has been met, with one observation (O-12) relating to the assessment of performance against this Program commitment identified ([Table 4.1](#)).

Observation

O-12: There may be further opportunities to examine the streamlining of conditions set for projects accepted prior to 28 February 2014.

3.5

Themes for Further Consideration Identified from Feedback Received

On completion of interviews and/or review of written submissions received from representatives of government agencies, titleholders and third party stakeholders, feedback received by the Reviewer was either specifically referenced in the relevant sections of this report (where identified to be relevant to a specific commitment made either in the Program Report or

Administrative Arrangements and therefore specifically referenced in the relevant sections of this report), or captured as out-of-scope feedback.

Although out of scope, identified themes presented in [Table 3.2](#) are deemed pertinent for consideration by NOPSEMA within the context of continuous improvement initiatives relevant to the Program.

Table 3.2 *Common Out-of-Scope Themes Identified from Feedback Received*

Common Theme	Review Comments
Understanding of environmental management authorisation process and supporting guidance	<p>The Review identified that there were varying degrees of awareness and understanding of the environmental management authorisation process and associated Regulations, and of the supporting information contained in guidance notes and other publically available material.</p> <p>Examples were provided from all parties regarding discrepancies in interpretation of guidance materials, in particular around definition of activity, interaction, ALARP and acceptability (see below) and also expectations and standards applicable to risk and impact assessment of offshore petroleum activities in the context of matters protected under Part 3 of the EPBC Act (with particular regard to CMR and WHP).</p>
Consultation	<p>The Review identified the common perception that the consultation process is not appropriate to provide the level of comfort to stakeholders that:</p> <ul style="list-style-type: none"> • All relevant persons are included in, and have the opportunity to participate in, the consultation process, as NOPSEMA does not facilitate the process conducted by stakeholders; • Environmental risks and impacts are assessed by titleholders based on robust information (as this is not made available to stakeholders); • Claims made by stakeholders have been addressed appropriately in the EP; and • Consultation outcomes (i.e. agreed mitigation) have been adequately captured in the EP.
ALARP/Acceptability Criteria	<p>The Review identified a discrepancy in understanding of the concepts of ALARP and acceptability, and how these are applied to the assessment of environmental risks and impacts to matters protected under Part 3 of the EPBC Act. Several stakeholders and titleholders have also raised the discrepancy between language used in the EPBC Act and in the OPPGS Act in terms of significance of impacts and applicability of the precautionary principle.</p>
Lack of transparency of NOPSEMA and the environmental management authorisation process	<p>The Review identified that NOPSEMA is not perceived to be a transparent regulator and decision maker, which is not aided by the lack of information released publically during the environmental management authorisation process. There is also a lack of visibility from stakeholders and titleholders alike as to how continuous improvement initiatives drive the implementation of best practice for offshore petroleum activities.</p>
Lack of transparency of decision making process	<p>The Review identified that the majority of the stakeholders interviewed recognised that the EP summary does not provide sufficient information to back outcomes of the decision making process, in particular the lack of detail related to acceptance criteria.</p>

OVERALL REVIEW OUTCOMES

The purpose of the Review was to assess the performance of the Program against the Program commitments to ensure the impacts from actions authorised under the Program, on matters protected under Part 3 of the EPBC Act, are not unacceptable; as well as to assess NOPSEMA's compliance with the Program commitments to determine if refinements to management arrangements and standards are required to ensure the Program commitments and objectives are being delivered by the Program.

As such, the review broadly looked at on key areas including NOPSEMA's environmental management authorisation process, the general and administrative arrangements, and the particular Program commitments relating to matters protected under Part 3 of the EPBC Act by considering these in the context of selected case studies.

Overall, the Reviewer determined that **the Program commitments have been met during the term of the review period**. More specifically the Review found:

NOPSEMA's environmental management authorisation process

- NOPSEMA hold detailed procedures and work instructions to guide assessment teams in conducting their assessment. NOPSEMA's internal Environment Plan Assessment procedure provides for assessments relating to matters protected under Part 3 of the EPBC Act, whereby consideration should be given to the Program commitments.
- In the Reviewer's opinion, NOPSEMA's detailed procedures and work instructions, and their application to the case studies reviewed, demonstrate genuine and appropriate consideration of the matters protected under Part 3 of the EPBC Act.

General and administrative arrangements

- The arrangements are detailed in the document 'Administrative Arrangements between DOE and NOPSEMA to implement the endorsed NOPSEMA Program'.
- The Administrative Arrangements in place are in general being met by all parties.
- Reporting, transfer of knowledge and capacity building between the parties to the Program has been evident throughout the Review period; however there were recognised opportunities for further collaboration between NOPSEMA and DOE.
- The Review highlighted the significant level of engagement undertaken with titleholders and stakeholders by NOPSEMA since commencement of the Program, to increase awareness of the environmental management authorisation process.

Although feedback from titleholders regarding the level of guidance provided by NOPSEMA is positive, there is potential to examine additional ways to inform third party stakeholders regarding the roles and responsibilities of the agencies as part of the Program.

Program commitments relating to matters protected under Part 3 of the EPBC Act

- The environmental management authorisation process implemented by NOPSEMA enables the assessment team to identify the potential interaction between the proposed activity and matters protected under Part 3 of the EPBC Act early in the environmental management authorisation process and plan for their consideration in their assessment.
- The case studies considered in the Review demonstrated that the Program commitments were met. Including to not accept an EP that proposes activities that will contravene a plan of management or propose unacceptable impacts to a matter protected under Part 3 of the EPBC Act.
- Some plans of management, while being considered in the environmental management authorisation process are not detailed sufficiently to make clear to titleholders and NOPSEMA the expectations for management.

Out-of-scope feedback for further consideration

Through the undertaking of interviews with various stakeholders, including titleholders and third party stakeholders, additional feedback, although out of the scope of the Review as not directly related to Program commitments, was recorded for future consideration. Themes identified to be common to the majority of interviews conducted, including potential for consideration as part of a continuous improvement process, comprised:

- Understanding of the environmental management authorisation process and supporting guidance – further clarity could be provided with regard to the definition as well as expectations and standards applicable to key aspects of the environmental management authorisation process such as ALARP and acceptability, and risk assessment.
- Understanding of the consultation process and supporting guidance – further clarity could be provided with regards to standards and expectations applicable to all parties involved for the various stages of consultation applicable to offshore petroleum activities.
- Transparency of regulatory agency and decision making process – further consideration could be given to the level of information communicated to all parties involved as part of the environmental management authorisation process to ensure that an increased level of trust and comfort in the regulator and decision making process is further established.

Review outcomes, recommendations, opportunities for improvement and observations

As the Reviewer determined that the Program commitments had been met during the term of the review period, formal recommendations for modification of management arrangements have not been proposed. However, there were a number of Opportunities for Improvement identified as refinements to the management arrangements as well as Observations (related to aspects outside of the scope of the Review) to further support meeting the Program commitments on an ongoing basis. These are presented in [Table 4.1](#) and [Annex B](#).

Table 4.1 Opportunities for Improvement and Observations of the Program Review

Commitment ID	Commitment Description	Performance against Program Commitment	Opportunities for Improvement (I)		Observation (O)	
Commitment 1.1	NOPSEMA will not accept an EP that involves the activity or part of the activity, other than arrangements for environmental monitoring or responding to an emergency, being undertaken in any part of a declared World Heritage Property within the meaning of the EPBC Act.	Commitment met	None identified.		O-1	Consider communicating more broadly the applicability of Commitment 1.1 and 1.2 to offshore petroleum activities to increase awareness and understanding amongst agency personnel, titleholders and stakeholders.
					O-2	Consider process (through liaison with titleholders or update of Guidance Note) to enable relevant DOE personnel to be available to titleholders to provide the relevant advice on matters protected under Part 3 of the EPBC Act and associated plans of management.
Commitment 1.2, 2.1, 3.1, 4.1, 4.2, 5.1, 6.1	NOPSEMA will not accept an EP that proposes activities that will contravene a plan of management for a matter protected under Part 3 of the EPBC Act or proposes unacceptable impacts to a matter protected under Part 3 of the EPBC Act.	Commitment met	I-1	NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.	O-1	Consider communicating more broadly the applicability of Commitment 1.1 and 1.2 to offshore petroleum activities to increase awareness and understanding amongst agency personnel, titleholders and stakeholders.
			I-2	The level of detail with regards to the application of specific plans of management related to matters protected under Part 3 of the EPBC Act as part of the assessment of impacts, and in the ALARP and acceptability justification contained in EPs is not recorded in RMS in a consistent manner for all case studies. NOPSEMA should consider setting expectations and standards within internal documentation referred to by the assessment teams to ensure that greater consistency in records is achieved.	O-3	Follow-up inspections should include focus areas, targeting key threats to matters protected under Part 3 of the EPBC Act (vessel movements, noise emissions near values and sensitivities deemed sensitive to noise etc.).
					O-4	It was recognised during interviews that, although communication and information exchanges between parties has occurred during the Review period, there is a need for closer relationships to be developed. The Reviewer noted that increased communication has been reported over the last quarter of the Review period, and it is anticipated that such communication lines would be fostered over time.
					O-5	Consider the benefit in providing additional detail publically regarding the progress of the environmental management authorisation process for submitted EPs.
					O-6	DOE to consider available mechanisms to enable more effective identification by titleholders, stakeholders and NOPSEMA assessment officers of the plans of management relevant to a particular petroleum activity, based on the specific characteristics of that activity (e.g. geography, type of activity, affected matters protected under Part 3 of the EPBC Act).
Commitment 1.3, 1.4, 1.5, 2.2, 2.3, 2.4, 3.2, 3.3, 4.3, 4.4, 4.5, 5.2, 5.3, 6.2, 6.3, 6.4, 6.5, 6.6	If there is no plan of management for a matter protected under Part 3 of the EPBC Act, then NOPSEMA will take all reasonable steps to ensure that any accepted EP is not inconsistent with the relevant management principles. NOPSEMA will have regard to any relevant documentation (e.g. conservation advice, bioregional plan) and not act inconsistently with these in deciding whether or not to accept an EP. In undertaking assessments, NOPSEMA will have regard to relevant policy documents, guidelines and plans of management on the Department of the Environment website.	Commitment met	I-2	The level of detail with regards to the application of specific plans of management related to matters protected under Part 3 of the EPBC Act as part of the assessment of impacts, and in the ALARP and acceptability justification contained in EPs, is not recorded in RMS in a consistent manner for all case studies. NOPSEMA should consider setting expectations and standards within internal documentation referred to by the assessment teams to ensure that greater consistency in records is achieved.	O-7	NOPSEMA, and by association, titleholders, rely on information that is available publically, and this information can be broad and difficult to interpret within the context of a specific activity. DOE may consider the issue of publically available advice on standards and best practice applicable to matters protected under Part 3 of the EPBC Act to guide titleholders and stakeholders with ALARP and acceptability criteria applicable to petroleum activities.

Commitment ID	Commitment Description	Performance against Program Commitment	Opportunities for Improvement (I)		Observation (O)	
			I-3	Provide a reference to the Australian Government Guidance relating to Australian Government agencies' roles and relevance under the OPGGS Act, within the Environment Plan Content Requirements Guidance Note, to increase awareness of titleholders of the availability of DOE to provide advice related to matters protected under Part 3 of the EPBC Act.	O-8	Further clarification on the applicability of the Transitional Management Arrangements for CMR would benefit titleholders and stakeholders in understanding the requirements applicable to the undertaking of oil and gas activities.
Commitment 1.4, 2.3, 3.3, 4.4, 5.2, 6.5	NOPSEMA will develop guidance (that will be updated from time to time) that titleholders should have regard to in the preparation of their EPs.	Commitment met	I-1	NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note, to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.	None identified.	
			I-3	Provide a reference to the Australian Government Guidance relating to Australian Government agencies' roles and relevance under the OPGGS Act, within the Environment Plan Content Requirements Guidance Note, to increase awareness of titleholders of the availability of DOE to provide advice related to matters protected under Part 3 of the EPBC Act.		
Commitment 7.1	Agree and enter into the administrative arrangements with the Department of the Environment for the transfer of relevant information regarding the administration of the Program.	Commitment met	None identified.		None identified.	
Commitment 7.2	Prepare amendments to NOPSEMA's existing advice documents to reflect consideration of matters protected under Part 3 of the EPBC Act.	Commitment met	I-1	NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.	None identified.	
Commitment 7.3	Develop specific advice document (s) that titleholders should consider in the preparation of their OPPs and EPs, to make reference to consideration of the matters protected under Part 3 of the EPBC Act. This advice should include references to relevant guidance documents to be considered by titleholders in preparing OPPs and EPs such as EPBC Act guidance documents.	Commitment met	I-1	NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.	O-6	DOE to consider available mechanisms to enable more effective identification by titleholders, stakeholders and NOPSEMA assessment officers of the plans of management relevant to a particular petroleum activity, based on the specific characteristics of that activity (e.g. geography, type of activity, affected matters protected under Part 3 of the EPBC Act).
			I-3	Provide a reference to the Australian Government Guidance relating to Australian Government agencies' roles and relevance under the OPGGS Act, within the Environment Plan Content Requirements Guidance Note, to increase awareness of titleholders of the availability of DOE to provide advice related to matters protected under Part 3 of the EPBC Act.	O-7	NOPSEMA, and by association, titleholders, rely on information that is available publically, and this information can be broad and difficult to interpret within the context of a specific activity. DOE may consider the issue of publically available advice on standards and best practice applicable to matters protected under Part 3 of the EPBC Act to guide titleholders and stakeholders with ALARP and acceptability criteria.
Commitment 8.1.1	NOPSEMA's role is to ensure and demonstrate to the Department of the Environment that the Program commitments relating to the protection of EPBC Act matters are met.	Commitment met	None identified.		None identified.	
Commitment 8.1.2	The Department of the Environment's role is to ensure compliance with the NOPSEMA Program and class of actions approval. The Department of the Environment's role is also to update relevant policies, plans and guidelines that support the Program.	Commitment partially met	None identified.		None identified.	
Commitment 8.2.1	The parties agree to maintain regular contact at an officer level to ensure the effective operation of the endorsed NOPSEMA Program through teleconferences and written dialogue.	Commitment met	I-4	Examine further opportunities to share resources and or information between NOPSEMA and DOE where relevant.	None identified.	
Commitment 8.3.1	The parties commit to resolve disputes at the lowest level possible. The nominated contact officers will undertake to resolve the issue.	Commitment not triggered	None identified.		None identified.	
Commitment 8.4.1	The parties agree to notify each other in a timely manner, about knowledge and information of potential relevance to the other	Commitment met	None identified.		None identified.	

Commitment ID	Commitment Description	Performance against Program Commitment	Opportunities for Improvement (I)		Observation (O)	
	agency's regulatory responsibilities.					
Commitment 8.4.2	The Department of the Environment will notify NOPSEMA of any expected changes to plans of management and other external publications.	Commitment met	None identified.		None identified.	
Commitment 8.4.3	The Department of the Environment will be available to provide specialist expertise as required.	Commitment met	None identified.		None identified.	
Commitment 8.4.4	The provision of expert advice from the Australian Antarctic Division (AAD) relating to cetaceans, marine mammals and acoustic disturbance will be provided on a fee-for-service arrangement as agreed in writing between NOPSEMA and the Chief Scientist of the AAD.	Commitment partially met	None identified.		None identified.	
Commitment 8.4.5	NOPSEMA will notify the Department of the Environment of any expected changes to legislation or regulations that may impact an ability to act in accordance with the NOPSEMA Program.	Commitment met	None identified.		None identified.	
Commitment 8.4.6	NOPSEMA will notify the Department of the Environment when an EP has been accepted by NOPSEMA covering seismic activities that have interacted with 'Critical Habitat', 'habitat critical to the survival of species' or 'Biologically Important Areas' for cetaceans, pinnipeds and marine turtles at biologically important time as identified in Recovery Plans, Marine Bioregional Plans (prepared under the EPBC Act) and the Conservation Values Atlas.	Commitment met	I-5	Review the search criteria applied for the EP submission and summaries search tool and consider functionalities to allow searches such as using radius/coordinates or environmental features (e.g. BIA, WHP, CMR) as references.	O-6	DOE to consider available mechanisms to enable more effective identification by titleholders, stakeholders and NOPSEMA assessment officers of the plans of management relevant to a particular petroleum activity, based on the specific characteristics of that activity (e.g. geography, type of activity, affected matters protected under Part 3 of the EPBC Act).
Commitment 8.4.7	The objective (of above notification) is to provide targeted projects for the Department to review through publically available EP summaries.	Commitment met	None identified.		O-9	As part of the review and acceptance process for EP summaries, NOPSEMA should ensure that sufficient content related to matters protected under Part 3 of the EPBC Act provided in the EP (e.g. plans of management used in the assessment of impacts and risks) is presented in the EP summaries prepared by titleholders, to provide both DOE and stakeholders with visibility and certainty that the assessed and accepted EP had appropriate consideration for matters protected under Part 3 of the EPBC Act.
					O-10	Examine whether the release of information on submission (rather than acceptance) on NOPSEMA's website meets the needs of DOE for stakeholder management purposes and international reporting obligations.
Commitment 8.4.8	NOPSEMA will notify the Director of National Parks (through the Department of the Environment) of any accepted EPs covering activities in proclaimed CMR	Commitment met	I-5	Review the search criteria applied for the EP submission and summaries search tool and consider functionalities to allow searches such as using radius/coordinates or environmental features (e.g. BIA, WHP, CMR) as references.	O-8	Further clarification on the applicability of the Transitional Management Arrangements for CMR would benefit titleholders and stakeholders in understanding the requirements applicable to the undertaking of oil and gas activities.
Commitment 8.4.9	Status of major investigations will be reported quarterly through NOPSEMA's Quarterly Ministers Report.	Commitment not triggered	None identified.		None identified.	
Commitment 8.4.10	NOPSEMA shall provide additional information on investigation upon request, in accordance with the NOPSEMA Information Sharing Policy.	Commitment met	None identified.		None identified.	
Commitment 8.5.1	Access to online data sources will be maintained by Department of the Environment - these include the Conservation Values Atlas, Protected Matters Search Tool, Species Profile and Threats Database and National Marine Mammal Database.	Commitment met	None identified.		None identified.	
Commitment 8.5.2	The Department of the Environment will continue to encourage industry to provide information to expand online references through its communications networks.	Commitment met	I-6	Examine ongoing opportunities for further data sharing between NOPSEMA, DOE, DOIS and titleholders.		
Commitment 8.5.3	NOPSEMA will encourage titleholders to provide environmental and activity data direct to the Department of the Environment to	Commitment met	None identified.		None identified.	

Commitment ID	Commitment Description	Performance against Program Commitment	Opportunities for Improvement (I)		Observation (O)	
	expand online data sources in its guidance and communications to industry.					
Commitment 8.6.1	The Department of the Environment will provide timely responses to information requests as required.	Commitment met	None identified.		None identified.	
Commitment 8.6.2	The Department of the Environment will endeavour to provide sufficient early notification of information requests requiring NOPSEMA input.	Commitment met	None identified.		None identified.	
Commitment 8.7.1	The Program also requires NOPSEMA to provide an annual report on the Program, highlighting: the decisions made under the Program, the findings of compliance inspections, environmental incidents reported by titleholders and any investigations underway for the previous year.	Commitment met	None identified.		None identified.	
Commitment 8.7.2	NOPSEMA to provide Quarterly Ministers Reports	Commitment met	None identified.		None identified.	
Commitment 8.8.1	Offshore petroleum activities are not permitted inside World Heritage Property.	Commitment met	None identified.		None identified.	
Commitment 8.8.2	Australia will report on major developments proposed adjacent to a World Heritage Property.	Commitment not triggered	I-7	NOPSEMA to consider notifying DOE when an EP is submitted to NOPSEMA for assessment that includes unplanned activities occurring within the boundaries of a WHP or proclaimed Marine Reserve, to support DOE in meeting their reporting obligations.	O-11	The review identified that the trigger for reporting to DOE on proposed major developments adjacent to a WHP is not clear to the agencies concerned, both in terms of what constitute 'major developments' and to what extent the proximity trigger is applicable. NOPSEMA could consider the requirement for reporting to DOE as part of the consultation requirements associated with proposed petroleum activities.
Commitment 8.8.3	NOPSEMA will advise the Department of the Environment the details of an OPP submission accepted for public exhibition at least two business days prior to publication under the Regulations, if planned activities from the proposal could impact on the Outstanding Universal Values of a World Heritage Property, to allow time for appropriate liaison by the Department of the Environment with the WHC and WH properties committees as appropriate.	Commitment not triggered	None identified.		None identified.	
Commitment 8.8.4	NOPSEMA will notify the Department of the Environment as soon as reasonably practicable of any changes or likely changes to the ecological character of a Ramsar wetland and will provide a summary of corrective action planned or taken.	Commitment not triggered	None identified.		None identified.	
Commitment 8.9.1	OPSEMA publishes an annual offshore performance report that includes regulatory data such as incidents, inspections and enforcement. Annual Offshore Performance Report is to be provided to the Ministers of the Environment, Industry and published on NOPSEMA's website. As well as to the Department of the Environment.	Commitment met	None identified.		None identified.	
Commitment 8.10.1	If NOPSEMA is notified of an environmental reportable incident that, in NOPSEMA's determination, could have potentially significant impacts on an EPBC Act matter covered by the Program, NOPSEMA will notify the Department of the Environment within 14 days of receiving the notification from the titleholder. NOPSEMA will keep Department of the Environment informed of updates and investigations related to these incidents until issue is resolved.	Commitment not triggered	None identified.		None identified.	
Commitment 8.10.2	The Program commits to an initial review following the first year of implementation and then five-yearly reviews of the operation of the Program.	Commitment met	None identified.		None identified.	

Commitment ID	Commitment Description	Performance against Program Commitment	Opportunities for Improvement (I)	Observation (O)	
Commitment 8.11.1	8.11.1 The Department of the Environment will share internal and external guidance with NOPSEMA to support the commitment under the Program to have regard to relevant policy documents, guidelines, Statements of Outstanding Values, Ramsar information sheets, Ecological Character descriptions, gazettal instruments, and plans of management the Department of the Environment holds.	Commitment met	None identified.	None identified.	
Commitment 8.11.2	NOPSEMA will consider relevant policy documents, guidelines, plans of management and other online data sources available on the Department of the Environment website or provided directly by the Department of the Environment when preparing guidance material.	Commitment met	None identified.	None identified.	
Commitment 8.11.3	Where assessments relate to plans of management for CMR, NOPSEMA will have regard to the representative values of the reserves.	Commitment met	None identified.	O-8	Further clarification on the applicability of the Transitional Management Arrangements for CMR would benefit titleholders and stakeholders in understanding the requirements applicable to the undertaking of oil and gas activities.
Commitment 8.11.4	When preparing external guidance, NOPSEMA will prepare EPBC Act relevant content in consultation with the Department of the Environment.	Commitment met	None identified.	None identified.	
Commitment 8.12.1-8.12-4	The Department of the Environment will maintain an ongoing dialogue with NOPSEMA, and vice versa to identify and progress further streamlining. Future opportunities for further streamlining can be explored and both parties agree to keep each other informed. NOPSEMA will continue to administer its legislative obligations under current arrangements.	Commitment met	None identified.	O-12	There may be further opportunities to examine the streamlining of conditions set for projects accepted prior to 28 February 2014.

Annex A

Terms of Reference



Australian Government
Department of the Environment



Terms of Reference for the initial Program review of the
National Offshore Petroleum Safety and Environmental
Management Authority Program¹ endorsed under part 10 of
the *Environment Protection and Biodiversity Conservation Act*
1999

¹ The strategic assessment (under part 10 of the *Environment Protection and Biodiversity Conservation Act 1999*) of the environmental management authorisation process for petroleum and greenhouse gas activities administered by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act), which was endorsed by the Australian Minister for the Environment on 7 February 2014.



Preamble

Program and Program Review

A strategic assessment under Part 10 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) was undertaken of the environmental management authorisation process for petroleum and greenhouse gas activities administered by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).

NOPSEMA's environmental management authorisation process for offshore petroleum and greenhouse gas activities in accordance with the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGs Act), Act and *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* was endorsed by the Australian Minister for the Environment as a Program that meets the requirements of Part 10, section 146(2)(f) of the EPBC Act. The Minister for the Environment subsequently approved the taking of actions under the Program, under section 146(B) on 27 February 2014.

The Program requires an initial Program review following the first year of implementation and then five-yearly reviews of the operation of the Program thereafter. The final report on the initial Program review and NOPSEMA's response is to be completed within 18 months of Program endorsement (i.e. by 7 August 2015).

The purpose of the initial Program review is to assess the performance of the Program against the Program objectives including ensuring that impacts on matters protected under Part 3 of the EPBC Act are not unacceptable.

NOPSEMA has a statutory requirement under section 695 of the OPGGS Act to be subject to independent operational reviews of its performance. The next operational review is due to commence in early 2015. The first Program review will be independent of this operational review. After the first Program review, the five-yearly Program reviews will be incorporated into future operational reviews, the next scheduled to be undertaken in 2020.

For the purpose of these Terms of Reference for the initial Program review, the parties are NOPSEMA and the Australian Department of the Environment (DOE).

The Terms of Reference may be varied at any time by written agreement between the parties and in consultation with the Australian Department of Industry and Science (DOIS).

Nominated reviewer

The Review will be conducted by an independent reviewer selected by NOPSEMA and endorsed by the DOE and DOIS in accordance with Australian Government procurement rules.

The desirable skill set of the independent reviewer to undertake the Review is: environmental background and knowledge of regulatory regimes (the OPGGS Act and EPBC Act); offshore petroleum industry experience; and auditing.



The Review will be conducted impartially to the views of parties to the Program and will establish and present information on a factual basis within the boundaries established in these Terms of Reference.

Resourcing

The independent reviewer endorsed by DOE and DOIS will be engaged by NOPSEMA.

Project officers are to be funded by their employers.

Schedule

The parties will endeavor to finalise the Terms of Reference by 31 January 2015.

The engagement of the independent reviewer will be finalised by end February 2015 to allow commencement of review by start of March 2015.

A draft report is to be prepared by 1 May 2015 with the final report prepared by 30 July 2015.

The schedule for the Review is at Attachment A.

Review report

The reviewer will prepare and issue a draft review report to NOPSEMA that NOPSEMA will provide to the DOE and the DOIS within two working days for consideration against the Terms of Reference and respond to NOPSEMA within 20 working days.

NOPSEMA will provide consolidated comments to the reviewer and a final review report will be provided to NOPSEMA.

The DOE and DOIS will aim to provide responses to any requests for comments in a timely manner to NOPSEMA, and no later than 20 business days after receipt of a request.

Response to the Review

NOPSEMA will prepare a draft response to the Review and seek input from the DOE and DOIS.

NOPSEMA will provide the final review report and final NOPSEMA response to the Minister for the Environment and the Minister for Industry and Science for consideration and endorsement.

Publication

Following endorsement by the Minister for the Environment and the Minister for Industry and Science, NOPSEMA will publish the final review report and the final response to the review on NOPSEMA's website.



Key elements of Program Review

Purpose of the review

The purpose of the Review is to:

- assess the performance of the Program against Program objectives, outcomes and commitments outlined in the Program Report with particular reference to Appendix A of the Program Report;
- ensure the impacts from actions authorised under the Program, on matters protected under Part 3 of the EPBC Act, are not unacceptable;
- assess NOPSEMA's compliance with the Program commitments outlined in the Program Report (as shown in Attachment B of this Terms of Reference); and
- enable NOPSEMA to determine if refinements to management arrangements and standards are required to ensure the Program's commitments and objectives for EPBC protected matters are being delivered by the Program.

Scope of the review

The Review is an evaluation of the authorisation processes under the Program for environment plans and offshore project proposals subject to the endorsed program and submitted on or after 28 February 2014.

The Review will not include:

- consideration of authorisations prior to 28 February 2014;
- a review of findings in relation to specific individual authorisation decisions;
- assess the effectiveness of NOPSEMA with regard to environmental regulation outside of the authorisation process; and
- a review of NOPSEMA's inspection, enforcement and investigation activities except where they relate to the Program commitments.

Method of the review

Case studies

As an input to the first Program review, a sample of all decisions made by NOPSEMA will be subject to a detailed evaluation to ensure appropriate consideration of matters protected under Part 3 of the EPBC Act. Case studies will be identified by the independent reviewer in consultation with the parties taken from the list of environment plans and offshore project proposals accepted between 28 February 2014 and 28 February 2015.

The set of case studies must cover a broad spectrum of decisions including the range of: EPBC protected matters; environmental features and sensitivities; and offshore petroleum and greenhouse gas activities covered under the Program.



Interviews

The reviewer is expected to conduct internal and external interviews to assist in meeting the Terms of Reference. These interviews should include (but not be limited to):

- NOPSEMA environment personnel nominated by the NOPSEMA representative;
- a minimum of two active titleholders (in consultation with the parties);
- a minimum of two relevant persons that may include fishing bodies, individuals or other stakeholders (in consultation with the parties);
- DOIS personnel nominated by the DOIS representative; and
- DOE personnel nominated by the DOE representative.

The reviewer, in consultation with NOPSEMA, DOE and DOIS, will agree to the case studies to be reviewed and the stakeholders to be interviewed.

Review plan

The reviewer will prepare a review plan for endorsement by the parties to this agreement within three weeks of commissioning. The review plan will outline:

- a review outline as framed by these Terms of Reference;
- case studies to be considered from the list of accepted environment plans and offshore project proposals accepted since 28 February 2014; and
- interviews to be conducted with titleholders and other stakeholders.

Attachments

- A. Indicative schedule for review
- B. Program commitments from the Program report



Attachment A – Indicative schedule for review

Key action	Timing	Lead responsibility
Final Terms of Reference endorsed by DOE	End January 2015	DOE
NOPSEMA procurement activity for independent reviewer to contract award, including consultation with DOE on proposed reviewer.	February 2015	NOPSEMA
Reviewer Endorsed	end February 2015	DOE and DOIS
Review commences	1 April 2015	Reviewer
Review plan issued to NOPSEMA	14 April 2015	Reviewer
Draft review report issued to NOPSEMA	21 May 2015	Reviewer
Draft review report provided to DOE and DOIS	within 2 days after receipt of draft review report	NOPSEMA
Consolidated comments sent to reviewer	15 June 2015	NOPSEMA
Second draft review report issued to NOPSEMA	6 July 2015	Reviewer
Parties final comment to NOPSEMA for consolidation	17 July 2015	DOE, NOPSEMA, DOIS
Reviewer issue final report	3 August 2015	Reviewer
NOPSEMA response to the review and Review report to Minister for the Environment	7 August 2015	NOPSEMA
Publication of report post Minister endorsement	After endorsement by the Minister for the Environment	NOPSEMA



Australian Government
Department of the Environment



Attachment B – Program commitments (excerpt taken from the Program Report)

The Program will ensure that activities carried out do not have unacceptable impacts on the following matters protected under Part 3 of the EPBC Act:

- the World heritage values of a declared World Heritage property
- National heritage values of a declared National Heritage place
- the ecological character of a declared Ramsar wetland
- listed threatened species and ecological communities
- a listed migratory species
- the environment in a Commonwealth marine area
- the environment on Commonwealth land

The specific Program commitments that ensure this undertaking is met are provided below.



PART 3 MATTER	VALUES	PROGRAM COMMITMENT
World heritage properties	The outstanding universal value of world heritage properties will be identified, protected, conserved and transmitted to future generations.	<ul style="list-style-type: none"> NOPSEMA will not accept an Environment Plan that involves the activity or part of the activity, other than arrangements for environmental monitoring or for responding to an emergency, being conducted in any part of a declared World Heritage property within the meaning of the EPBC Act. NOPSEMA will not accept an Environment Plan that proposes activities that will contravene a plan of management for a World Heritage property or proposes unacceptable impacts to the world heritage values of a World Heritage property. If there is no plan of management for a World Heritage property, then NOPSEMA will take all reasonable steps to ensure that any accepted Environment Plan that refers to the property is not inconsistent with the Australian World Heritage management principles. NOPSEMA will develop guidance (that will be updated from time to time) that titleholders should have regard to in the preparation of their Environment Plans. The guidance will: <ul style="list-style-type: none"> make reference to consideration of the protection of the values of World Heritage properties include references to relevant guidance documents to be considered by titleholders in preparing Environment Plans such as Statements of Outstanding Universal Value, plans of management and EPBC Act guidance documents. In undertaking assessments, NOPSEMA will have regard to relevant policy documents, guidelines, Statements of Outstanding Universal Value and plans of management on the DOE website.



PART 3 MATTER	VALUES	PROGRAM COMMITMENT
National heritage places	The outstanding value to the nation of national heritage places will be protected, conserved and transmitted to future generations of Australians.	<ul style="list-style-type: none"> NOPSEMA will not accept an Environment Plan that proposes activities that will contravene a plan of management for a National Heritage place or proposes unacceptable impacts to the National heritage values of a National Heritage place. If there is no plan of management for a National Heritage place, then NOPSEMA will take all reasonable steps to ensure that any accepted Environment Plan that refers to the place is not inconsistent with the National Heritage management principles. NOPSEMA will develop guidance (that will be updated from time to time) that titleholders should have regard to in the preparation of their Environment Plans. The guidance will: <ul style="list-style-type: none"> make reference to consideration of the protection of the values of National Heritage places include references to relevant guidance documents to be considered by titleholders in preparing Environment Plans such as gazettal instruments and EPBC Act guidance documents. In undertaking assessments, NOPSEMA will have regard to relevant policy documents, guidelines, gazettal instruments and plans of management on the DOE website.



PART 3 MATTER	VALUES	PROGRAM COMMITMENT
Wetlands of international importance	The ecological character of each Ramsar wetland will be maintained, and the conservation use of each wetland is promoted for the benefit of humanity in a way that is compatible with maintenance of the natural properties of the ecosystem.	<ul style="list-style-type: none"> NOPSEMA will not accept an Environment Plan that proposes activities that will contravene a plan of management for a Ramsar wetland or proposes unacceptable impacts to the ecological character of a Ramsar wetland. If there is no plan of management for a Ramsar wetland, then NOPSEMA will take all reasonable steps to ensure that any accepted Environment Plan that refers to the wetland is not inconsistent with the Australian Ramsar management principles. NOPSEMA will develop guidance (that will be updated from time to time) that titleholders should have regard to in the preparation of their Environment Plans. The guidance will: <ul style="list-style-type: none"> make reference to consideration of the protection of the ecological character of the Ramsar wetland include references to relevant guidance documents to be considered by titleholders in preparing Environment Plans such as Ramsar Information Sheets, Ecological Character Descriptions and EPBC Act guidance documents. In undertaking assessments, NOPSEMA will have regard to relevant policy documents, guidelines, Ramsar Information Sheets, Ecological Character Descriptions and plans of management on the DOE website.



PART 3 MATTER	VALUES	PROGRAM COMMITMENT
Listed threatened species and ecological communities	The survival and conservation status of listed threatened species and ecological communities will be promoted and enhanced, including through the conservation of critical habitat and other measures contained in any recovery plans, threat abatement plans or conservation advices	<ul style="list-style-type: none"> NOPSEMA will not accept an Environment Plan that proposes activities that will result in unacceptable impacts to a listed threatened species or ecological community. NOPSEMA will not accept an Environment Plan that is inconsistent with a recovery plan or threat abatement plan for a listed threatened species or ecological community. NOPSEMA will have regard to any approved conservation advice in relation to a threatened species or ecological community before accepting an Environment Plan. NOPSEMA will develop guidance (that will be updated from time to time) that titleholders should have regard to in the preparation of their Environment Plans. The guidance will: <ul style="list-style-type: none"> make reference to consideration of the listing category and protection of the listed threatened species or ecological community include references to relevant guidance documents to be considered by titleholders in preparing Environment Plans such as recovery plans, threat abatement plans, conservation advice and EPBC Act guidance documents. In undertaking assessments, NOPSEMA will have regard to relevant policy documents, recovery plans, threat abatement plans, conservation advice and guidelines on the DOE website.



Australian Government
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PART 3 MATTER	VALUES	PROGRAM COMMITMENT
Listed migratory species	The survival and conservation status of listed migratory species and their critical habitat will be promoted and enhanced.	<ul style="list-style-type: none"> NOPSEMA will not accept an Environment Plan that proposes activities that will result in unacceptable impacts to a migratory species or an area of important habitat for a migratory species. NOPSEMA will develop guidance (that will be updated from time to time) that titleholders should have regard to in the preparation of their Environment Plans. The guidance will: <ul style="list-style-type: none"> make reference to consideration and protection of the listed migratory species include references to relevant guidance documents to be considered by titleholders in preparing Environment Plans such as wildlife conservation plans, and EPBC Act guidance documents. In undertaking assessments, NOPSEMA will have regard to relevant policy documents, wildlife conservation plans and guidelines on the DOE website.



PART 3 MATTER	VALUES	PROGRAM COMMITMENT
Commonwealth marine area	The environment of Commonwealth marine areas will be maintained and protected in conformity with relevant marine bioregional plans and plans of management for relevant Commonwealth reserves.	<ul style="list-style-type: none"> • NOPSEMA will not accept an Environment Plan that proposes activities that will result in unacceptable impacts to the environment of a Commonwealth marine area. • NOPSEMA will have regard to any relevant bioregional plan and not act inconsistently with a plan of management for a Commonwealth reserve or a Commonwealth Heritage place in deciding whether or not to accept an Environment Plan. • If there is no plan of management for a Commonwealth reserve, then NOPSEMA will ensure that acceptance of an Environment Plan is not inconsistent with the IUCN reserve management principles. • If there is no plan of management for a Commonwealth Heritage place, then NOPSEMA will take all reasonable steps to ensure that any accepted Environment Plan that refers to the place is not inconsistent with the Commonwealth Heritage management principles. • NOPSEMA will develop guidance (that will be updated from time to time) that titleholders should have regard to in the preparation of their Environment Plans. The guidance will: <ul style="list-style-type: none"> – make reference to consideration of the environment of the Commonwealth marine area – include references to relevant guidance documents to be considered by titleholders in preparing Environment Plans such as gazettal instruments, bioregional plans, wildlife conservation plans, plans of management and EPBC Act guidance documents. • In undertaking assessments, NOPSEMA will have regard to relevant policy documents, gazettal instruments, bioregional plans, wildlife conservation plans, plans of management and EPBC Act guidance documents on the DOE website.



PART 3 MATTER	VALUES	PROGRAM COMMITMENT
Commonwealth land	The environment on Commonwealth land will be maintained and protected in conformity with relevant plans of management.	<ul style="list-style-type: none"> • NOPSEMA will not accept an Environment Plan that proposes activities that will result in unacceptable impacts to the environment on Commonwealth land. • NOPSEMA will have regard to any bioregional plan and not act inconsistently with a plan of management for a Commonwealth reserve or a Commonwealth Heritage place in deciding whether or not to accept an Environment Plan. • If there is no plan of management for a Commonwealth Heritage place, then NOPSEMA will take all reasonable steps to ensure that any accepted Environment Plan is not inconsistent with the Commonwealth Heritage management principles. • If there is no plan of management for a Commonwealth reserve, then NOPSEMA will ensure that acceptance of an Environment Plan is not inconsistent with the IUCN reserve management principles. • NOPSEMA will develop guidance (that will be updated from time to time) that titleholders should have regard to in the preparation of their Environment Plans. The guidance will: <ul style="list-style-type: none"> – make reference to consideration of the environment of the Commonwealth land – include references to relevant guidance documents to be considered by titleholders in preparing Environment Plans such as gazettal instruments, bioregional plans, plans of management and EPBC Act guidance documents. • In undertaking assessments, NOPSEMA will have regard to relevant policy documents, gazettal instruments, bioregional plans, plans of management and guidance documents on the DOE website.



In addition, the following commitments are made to ensure that the implementation and administration of the Program deliver on the commitment to ensure that activities carried out under the Program do not have unacceptable impacts on protected matters under Part 3 of the EPBC Act.

PROGRAM COMMITMENT	BY WHOM	WHEN
Agree and enter into administrative arrangements with DOE for the transfer of relevant information regarding the administration of the Program.	NOPSEMA DOE	Within 6 months of Program endorsement
Prepare amendments to NOPSEMA's existing advice documents to reflect consideration of matters protected under Part 3 of the EPBC Act.	NOPSEMA	Following Program endorsement, for implementation when approval of classes of actions is in place
Develop specific advice document(s) that titleholders should consider in the preparation of their Offshore Project Proposals and Environment Plans, to make reference to consideration of the protected matters under Part 3 of the EPBC Act. This advice should include references to relevant guidance documents to be considered by titleholders in preparing Offshore Project Proposals and Environment Plans such as EPBC Act guidance documents.	NOPSEMA DOE	Within 6 months of Program endorsement

Annex B

Commitments, Review
Questions and Evaluation
Mechanisms to Evaluate
Performance and Compliance
with the EPBC Program

ANNEX B – COMMITMENTS, REVIEW QUESTIONS AND EVALUATION MECHANISMS TO EVALUATE PERFORMANCE AND COMPLIANCE WITH THE PROGRAM

Theme	Commitment Reference	Commitment Overview *	Review questions / clarifications	Evaluation Mechanism				Outcomes of Review	
				Review of NOPSEMA Internal Documentation	Review of NOPSEMA & DOE Public Guidance Material	Interviews	Review of Case Studies Documentation	Comments	Opportunity for Improvement (I) / Observation (O)
World Heritage Properties	1.1	NOPSEMA will not accept an Environment Plan that involves the activity or part of the activity, other than arrangements for environmental monitoring or responding to an emergency, being undertaken in any part of a declared World Heritage property within the meaning of the EPBC Act.	<p>1. <i>What activities have been proposed to take place in World Heritage Properties?</i></p> <p>2. <i>Were any of these EPs refused, or amended during the process of acceptance?</i></p> <p>3. <i>If applicable, what was communicated to titleholders as the basis for refusal/amendment?</i></p> <p>4. <i>Is there a process that NOPSEMA use to capture EP changes related to World Heritage Properties?</i></p>	<p>NOPSEMA's internal Environment Plan Assessment procedure provides a step by step approach to the assessment, which includes a Critical Deficiencies assessment, tailored to identify whether the proposed EP does not have significant content omissions and is not proposed to be undertaken in a WHP.</p> <p>If the activity or any part of the activity (other than arrangements for environmental monitoring or for responding to an emergency) is proposed to occur in any part of a declared WHP, the assessment is aborted and the titleholder notified.</p> <p>All records of assessment are saved in RMS.</p> <p>An additional process of monthly 'consistency checks' is implemented by NOPSEMA within and across assessment teams and the wider division to ensure that specific aspects of activities are presented and assessed consistently by titleholders in EPs and such information communicated. This enables knowledge sharing and on-the-job training amongst assessors. Outcomes of these checks are recorded as internal file notes, which potentially provide background for updates to internal technical notes or public guidance notes as required.</p> <p>The Review found that the environmental management authorisation process is appropriate to ensure the Program commitments are met.</p>	<p>Program commitments are provided in the Regulatory Streamlining Information Paper (N-04750-IP1382) available on NOPSEMA's website.</p> <p>EP contents requirements are detailed in the EP Contents Requirements Guidance Note (N04750-GN1344) available on NOPSEMA's website.</p>	<p>Interviews with a Decision Maker and Lead Assessor confirmed that this commitment and the application of the relevant assessment procedure are well understood.</p> <p>Although the consistency check process does not form part of the formal assessment procedure implemented by NOPSEMA, it is well understood across all levels of assessment within NOPSEMA.</p> <p>A reference was made from NOPSEMA to a titleholder in response to a submission (via a Request for further written information) that "NOPSEMA cannot accept an EP if any planned part of the activity is undertaken in a WHP". This was discussed through interviews with NOPSEMA and it was identified there was ongoing uncertainty as to what NOPSEMA would consider to be an activity.</p> <p>This particular case study was further discussed through interviews with NOPSEMA, which identified there was ongoing uncertainty as to what NOPSEMA consider an 'activity' under Commitment 1.1. Clarity could be improved by increasing alignment between language used in the EPBC Act and the Regulations; or through provision of additional guidance that expands on the interfaces between these regimes.</p> <p>The EPBC Act addresses environmental management around the concept of impact (specifically around the concept of significant impact), whereas the Regulations treat all impacts and environmental risks consistently, and instead address environmental management around the concept of an activity type.</p>	<p>For a proposed large scale seismic activity, RMS assessment notes recorded that NOPSEMA carried out an assessment on whether or not the activity or part of the activity is to be carried out in a WHP. The assessment findings reported that through further communication with the titleholder it was confirmed that the activity was not located in a WHP and identified that the closest WHP is onshore, at considerable distance from the activity.</p> <p>In this case study it is demonstrated that NOPSEMA has not accepted an EP where the activity is proposed to occur within a WHP.</p> <p>For a construction activity, RMS assessment notes found that NOPSEMA carried out assessment on whether or not the activity or part of the activity is to be carried out in a WHP. During the general scope assessment NOPSEMA determined that the activities were not going to be undertaken in a WHP.</p> <p>In this case study it is demonstrated that NOPSEMA has not accepted an EP where the activity is proposed to occur within a WHP.</p> <p>In consideration of the case studies selected for the Review, there was one reference made from NOPSEMA to a titleholder in response to a submission (via a Request for further written information) that "NOPSEMA cannot accept an EP if any planned part of the activity is undertaken in a WHP".</p> <p>This comment was made in relation to an activity which included a component of potential "interaction" with WHP boundaries, rather than the physical undertaking of an activity within WHP boundaries. Further information was sought by NOPSEMA by providing the titleholder with an opportunity to modify and resubmit their EP.</p>	Commitment met.	<p>O-1: Consider communicating more broadly the applicability of Commitment 1.1 and 1.2 to offshore petroleum activities to increase awareness and understanding amongst agency personnel, titleholders and stakeholders.</p> <p>O-2: Consider process (through liaison with titleholders or update of Guidance Note) to enable relevant DOE personnel to be available to titleholders to provide the relevant advice on matters protected under Part 3 of the EPBC Act and associated plans of management.</p>

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				Review of NOPSEMA Internal Documentation	Review of NOPSEMA & DOE Public Guidance Material	Interviews	Review of Case Studies Documentation	Comments	Opportunity for Improvement (I) / Observation (O)
- World Heritage Properties - National Heritage Places - Wetlands of International Importance (RAMSAR Wetlands) - Listed Threatened Species and Ecological Communities - Listed Migratory Species - Common-wealth Marine Areas	1.2 2.1 3.1 4.1, 4.2 5.1 6.1	NOPSEMA will not accept an Environment Plan that proposes activities that will contravene a plan of management for a matter protected under Part 3 of the EPBC Act or proposes unacceptable impacts to a matter protected under Part 3 of the EPBC Act.	<i>1. Are NOPSEMA familiar with the requirements of plans of management for matters protected under Part 3 of the EPBC Act?</i> <i>2. How are the key points of a plan of management for matters protected under Part 3 of the EPBC Act communicated to NOPSEMA?</i> <i>3. Is there a process for NOPSEMA to be kept up to date with proposed changes to plans of management for matters protected under Part 3 of the EPBC Act?</i> <i>4. Is there a process that NOPSEMA use to capture EP changes related to matters protected under Part 3 of the EPBC Act?</i>	<p>NOPSEMA's familiarity with the requirements relating to matters protected under Part 3 of the EPBC Act is attributed to several mechanisms:</p> <ul style="list-style-type: none">- A robust recruitment process, following government processes, of suitably experienced personnel in both the offshore petroleum industry and the offshore marine environment of Australia.- Well-defined assessment roles, with specific responsibilities for assessing and endorsing findings related to the evaluation of an EP, namely:<ul style="list-style-type: none">- Decision Maker- Lead Assessor- Technical Assessor- Detailed procedures and work instructions to guide assessment teams in conducting their assessment. NOPSEMA's internal Environment Plan Assessment procedure provides for assessments relating to matters protected under the EPBC Act, whereby consideration should be given to the Program commitments provided in the Regulatory Streamlining Information Paper (N- 04750-IP1382).- A structured competency assessment process, allowing the identification and management of any training/accreditation requirements for assessment team members. Training is provided to assessors through formal internal and external training, mentoring and coaching and attendance at conferences.- The Environment Division (ED) is organised into four different teams to allow the building of assessment teams with the relevant combination of competencies and specialist skills:<ul style="list-style-type: none">- Seismic & Production Operations- Drilling and Developments- Spill Risk- Environmental Effects.- This organisational approach enables NOPSEMA to form assessment teams with the appropriate combination of competencies and specialist skills tailored to the specificity of each assessment, including specialist knowledge of matters protected under Part 3 of the EPBC Act. Email communications were sighted demonstrating, that, where required to conduct an	<p>Program commitments are provided in the Regulatory Streamlining Information Paper (N-04750-IP1382) available on NOPSEMA's website.</p> <p>Requirements to evaluate impacts and risks to ALARP and acceptable levels, including those impacts and risks to matters protected under Part 3 of the EPBC Act are clearly outlined in the EP Contents Requirements Guidance Note (N04750-GN1344) available on NOPSEMA's website.</p> <p>EPs submitted, accepted, refused or withdrawn are followed by a notification on NOPSEMA's website.</p> <p>The environmental management authorisation process, documented in Policy N-04750-PL0050, and implemented by NOPSEMA, enables the assessment team to identify the potential interaction between the proposed activity and matters protected under Part 3 of the EPBC Act.</p> <p>Concurrently, the required description of matters protected under Part 3 of the EPBC Act and the associated impact and risk assessment are reviewed as part of both the General Assessment and the Topics Assessment processes.</p> <p>EP summaries for all eight case studies conducted for this review were published on NOPSEMA's website and available at the time of the Review. The Reviewer reviewed the contents of all these EP summaries and found evidence of consideration of matters protected under Part 3 of the EPBC Act that have the potential to be affected by the proposed activity.</p> <p>The use of other material including online databases (e.g. SPRAT, Conservation Values Atlas, IUCN databases) and marine bioregional plans was noted consistently in these documents.</p> <p>The inclusion of such information in EP summaries demonstrates that titleholders first, and subsequently NOPSEMA, have given consideration to this information during preparation and assessment of the EP.</p> <p>Subsequent EP acceptance, supporting evidence and associated communications sighted, indicates that information provided in the EP was sufficient for NOPSEMA to be reasonably satisfied that proposed activities do not contravene plan(s) of management for, or do not propose</p>	<p>Interviews with all levels of assessment (Decision Maker, Lead Assessor and Technical Assessor) confirmed that this procedure is well understood.</p> <p>Interview with a Decision Maker determined the high level of confidence amongst the assessment teams in assessing unacceptable impacts to matters protected under Part 3 of the EPBC Act.</p> <p>There is evident consideration and a clear understanding for the requirement to evaluate ALARP and acceptability levels related to impacts and risks to values and sensitivities of the relevant matters protected under Part 3 of the EPBC Act.</p> <p>NOPSEMA personnel identified the review of information publically available as a key step to the assessment process, including relevant information provided on DOE website.</p> <p>Interviews with both titleholders and NOPSEMA representatives indicated that it is well understood that the consideration of key plans of management for relevant matters protected under Part 3 of the EPBC Act is a critical part of the EP preparation and assessment process; particularly with more mature titleholder organisations with long term experience in managing offshore petroleum activities in Commonwealth waters.</p> <p>Interviews with NOPSEMA have identified that the majority of EP assessments conducted during the Review period have been completed by three-person teams (one Representative of NOPSEMA, one Lead Assessor, and one Technical Assessor). Where external specialist knowledge or expertise is required for a particular assessment, NOPSEMA consulted with appropriate specialists.</p> <p>Through interviews, it was identified that several workshops and forums have been organised during the Review period, to increase awareness amongst all parties (NOPSEMA, DOE, DOIS, titleholders, stakeholders). These included:</p> <ul style="list-style-type: none">- Titleholder feedback sessions (topics included seismic surveys and consultation with relevant persons) held in Perth and Melbourne.- Briefings to fishing and community stakeholders, held in Perth, Kangaroo Island and Newcastle.	<p>It was evident from the review of case studies that a detailed review of the assessment presented in the EPs for selected case studies on impacts and risks to matters protected under Part 3 of the EPBC Act is undertaken by the assessor to ensure that ALARP (as low as reasonably practicable) and acceptability criteria have been met, taking into consideration the relevant values and sensitivities of each of the matters of interest.</p> <p>The majority of EPs submitted during the review period, including all eight case studies selected for the Review, were subject to one of the two mechanisms available to NOPSEMA to request that the titleholder reviews and provides further information relating to their proposed activity:</p> <ul style="list-style-type: none">- Request for Further Written Information (RFFWI)- Opportunity to Modify and Resubmit (OMR) <p>The majority of requests for further information related to ALARP and acceptability levels of impacts and risks described in the EPs.</p> <p>In the review of the assessment notes for one case study, the Reviewer found it was noted by NOPSEMA that several aspects of the environment, including the values and sensitivities of a WHP were not described sufficiently to allow appropriate and supported evaluation of impacts. Given this, it was determined that the evaluation of impacts from the activity was not appropriately detailed or supported, and the titleholder was required to provide additional information in a revised submission before acceptance.</p> <p>This can be considered as demonstration that NOPSEMA did not accept an EP that did not adequately describe and evaluate the details of a WHP to inform the assessment of impacts and risks to a sufficient level.</p> <p>In one review of assessment notes, the Reviewer found that the EP identified potential a WHP, as result of a spill of marine diesel. The titleholder,</p>	Commitment met.	<p>I-1: NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.</p> <p>I-2: The level of detail with regards to the application of specific plans of management related to matters protected under Part 3 of the EPBC Act as part of the assessment of impacts, and in the ALARP and acceptability justification contained in EPs, is not recorded in RMS in a consistent manner for all case studies. NOPSEMA should consider setting expectations and standards within internal documentation referred to by the assessment teams to ensure that greater consistency in records is achieved.</p> <p>O-1: Consider communicating more broadly the applicability of Commitment 1.1 and 1.2 to offshore petroleum activities to increase awareness and understanding amongst agency personnel, titleholders and stakeholders.</p> <p>O-3: Follow-up inspections should include focus areas, targeting key threats to matters protected under Part 3 of the EPBC Act (vessel movements, noise emissions near values and sensitivities deemed sensitive to noise etc.).</p> <p>O-4: It was recognised during interviews that, although communication and information exchanges between parties has occurred during the Review period, there is a recognised need for closer relationships to be</p>

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				<p>assessment, specific skills are sought out within the pool of NOPSEMA assessment officers.</p> <p>The internal Environment Plan Assessment procedure provides for a minimum of two ED staff members (one Representative of NOPSEMA, one Lead Assessor) to be assigned to any assessment.</p> <p>An additional process of monthly 'consistency checks' is implemented by NOPSEMA within and across assessment teams and the wider division to ensure that specific aspects of activities are presented and assessed consistently by titleholders in EPs and such information communicated. This enables knowledge sharing and on-the-job training amongst assessors. Outcomes of these checks are recorded as internal file notes which potentially provide background for updates to internal technical notes or public guidance notes as required.</p> <p>Access to technical expertise outside of NOPSEMA is sought (e.g. Australian Antarctic Division (AAD)) as required.</p> <p>Although out of scope for this Review, the Reviewer sighted evidence that follow-up inspections are undertaken, with a focus on specific aspects of an activity identified during the environmental management authorisation process, which although out of the scope of Review, enables NOPSEMA to confirm compliance with management measures detailed in the EP to ensure that impacts to matters protected under Part 3 of the EPBC Act are not unacceptable.</p> <p>The review of internal NOPSEMA procedures did not identify a documented process for NOPSEMA assessment officers to identify which plans of management are relevant to a specific activity and should be taken into consideration during assessment.</p> <p>All records of assessment are saved in RMS.</p>	<p>unacceptable impacts to, matters protected under Part 3 of the EPBC Act.</p> <p>The Reviewer is also aware that NOPSEMA has developed a Petroleum Environmental Inspections Policy (N-02200-PL0973 Petroleum environmental inspections Policy), and has implemented monitoring and enforcement strategies to ensure compliance with the OPGGS Act and associated regulations, based on a risk- based methodology.</p>	<p>- Internal workshops with DOE and DOIS to further the understanding of roles and responsibilities of each agency as part of the Program.</p> <p>Interviews also identified close liaison between officer levels (as defined in the Program Report), and some liaison at branch/division levels at DOE to share lessons learned and further understand specific aspects of the Program, in particular the management of CMRs under transitional arrangements.</p> <p>Interviews with DOE personnel also identified some misunderstanding regarding the assessment process applied by NOPSEMA to matters protected under Part 3 of the EPBC Act, in particular with regards to impacts and risks to matters protected under Part 3 of the EPBC Act beyond Commonwealth waters boundaries. The review of case studies demonstrates that the assessment conducted by NOPSEMA is not limited to Commonwealth waters, but rather assesses impacts and risks to the values of sensitivities related to a particular matter protected under Part 3 of the EPBC Act (e.g. Ningaloo Marine Park (State Waters)).</p> <p>Interviews with stakeholders identified that there is limited visibility, unless engaged in a proactive consultation process with titleholders, on the progress of the environmental management authorisation process for submitted petroleum activities.</p> <p>Stakeholders also claimed they would benefit from NOPSEMA providing additional details on the environmental management authorisation process publically. OPGGS Act and associated regulations do not appear to have provisions for publishing additional information in regards to the environmental management authorisation process, however the provisions made under the OPP process do allow for additional notifications and consultation.</p>	<p>in NOPSEMA's opinion, did not at first demonstrate adequate arrangements to monitor these environments in the event of a spill, proportional to the nature and scale of impacts to the WHP.</p> <p>As such, NOPSEMA did not accept the EP and informed the titleholder that more information was required, through a request for further written information letter. The titleholder responded in a resubmission with further details of a scientific monitoring plan, applicable to the WHP to address this deficiency.</p> <p>This demonstrates that NOPSEMA did not accept an EP for an activity with the potential to impact on the values of a WHP until it demonstrated a clear implementation strategy which ensures that the risks and impacts from activities on a WHP are reduced to ALARP and are acceptable.</p> <p>In one case study which formed part of the Review, it was found during the NOPSEMA assessment that there were insufficient controls proposed to be in place to minimise the impact of emissions and discharges to features of a WHP and as such the titleholder was provided with the opportunity to modify and resubmit the EP to address these aspects.</p> <p>The titleholder responded by implementing additional controls which resulted in the EP being assessed and accepted.</p> <p>In this case study it is demonstrated that NOPSEMA did not accept an EP until it was clearly demonstrated that the risks and impacts from activities on a WHP are acceptable and reduced to ALARP.</p> <p>In one case study it was noted that a number of listed marine species, for which there are relevant management plans, could occur in the area potentially affected by the activity in question. NOPSEMA, in their assessment findings, considered the content of relevant plans, and made a determination that the majority of the relevant recovery plans'</p>		<p>developed. The Reviewer noted that increased communication has been reported over the last quarter of the Review period, and it is anticipated that such communication lines would be fostered over time.</p> <p>O-5: Consider the benefit in providing additional detail publically regarding the progress of the environmental management authorisation process for submitted EPs.</p> <p>O-6: DOE to consider available mechanisms to enable more effective identification by titleholders, stakeholders and NOPSEMA assessment officers of the plans of management relevant to a particular petroleum activity, based on the specific characteristics of that activity (e.g. geography, type of activity, affected matters protected under Part 3 of the EPBC Act)</p>

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							<p>objectives were supported by the management measures proposed by the titleholder in the EP.</p> <p>It was noted by NOPSEMA that the activity may not be consistent with specific components of a recovery plan. As such, NOPSEMA sought clarification from the titleholder as to the relevant controls and for performance criteria provided in the EP relevant to the particular objectives of the recovery plan in question. In response, the titleholder clarified a commitment to controls, which resulted in the EP being assessed and accepted.</p> <p>In this case study it is demonstrated that NOPSEMA did not accept an EP until it was clearly demonstrated that the risks and impacts from activities on threatened species are acceptable and reduced to ALARP.</p> <p>In one study, which demonstrates management of impacts to listed threatened ecological communities, the Review considered one case study, for which the titleholder had identified potential risk to adjacent sensitive environmental receptors including a listed threatened ecological community.</p> <p>While the EP identified this area for potential impact, it was not clear that it was considered in the operational Net Environmental Benefit Assessment (NEBA) during spill response and monitored in the event of a spill. As such, this contributed to the decision by NOPSEMA that more information was required, and the titleholder was informed in a request for further written information letter. The titleholder responded in a resubmission with further details of a scientific monitoring plan applicable to the threatened ecological community.</p> <p>This demonstrates NOPSEMA not accepting an EP until a clear implementation strategy was demonstrated ensuring risks and impacts from activities on a threatened ecological community are acceptable and reduced to ALARP.</p>		

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							Through the review of the case studies, it was demonstrated that NOPSEMA has not accepted EPs for activities that contravene a plan of management for a matter protected under Part 3 of the EPBC Act or result in unacceptable impacts to a matter protected under Part 3 of the EPBC Act.		
<div>- World Heritage Properties</div> <div>- National Heritage Places</div> <div>- Wetlands of International Importance (RAMSAR Wetlands)</div> <div>- Listed Threatened Species and Ecological Communities</div> <div>- Listed Migratory Species</div> <div>- Commonwealth Marine Area</div>	<div>1.3, 1.5</div> <div>2.2, 2.4</div> <div>3.2</div> <div>4.3, 4.5</div> <div>5.3</div> <div>6.2, 6.3, 6.4, 6.6</div>	<div>If there is no plan of management for a matter protected under Part 3 of the EPBC Act, then NOPSEMA will take all reasonable steps to ensure that any accepted Environment Plan is not inconsistent with the relevant management principles.</div> <div>NOPSEMA will have regard to any relevant documentation (e.g. conservation advice, bioregional plan) and not act inconsistently with these in deciding whether or not to accept an Environment Plan.</div> <div>In undertaking assessments, NOPSEMA will have regard to relevant policy documents, guidelines and plans of management on the DOE website.</div>	<div>1. What are the relevant Management Principles and how are these considered in the assessment by NOPSEMA?</div> <div>2. Are NOPSEMA familiar with the requirements of relevant documentation for the management of matters protected under Part 3 of the EPBC Act (e.g. recovery or threat abatement plans for listed species or ecological communities)?</div> <div>3. How are the key points of plans communicated to NOPSEMA?</div> <div>4. Is there a process for NOPSEMA to be kept up to date with proposed changes to plans of management?</div> <div>5. What is the mechanism to be provided advice, in relation to a matter protected under Part 3 of the EPBC Act before accepting an EP?</div> <div>6. Have there been any instances where such advice was provided? And was it regarded?</div> <div>7. How do NOPSEMA keep across DOE policies, etc.?</div> <div>8. How do DOE provide notice/update to NOPSEMA of changes?</div>	<div>NOPSEMA's familiarity with the requirements relating to matters protected under Part 3 of the EPBC Act is attributed to several mechanisms:</div> <div>- A robust recruitment process, following government processes, of hiring suitably experienced personnel in both the offshore petroleum industry and the offshore marine environment of Australia.</div> <div>- A structured competency assessment process, allowing the identification and management of any training/accreditation requirements for assessment team members. Training is provided to assessors through formal internal and external training, mentoring and coaching and attendance at conferences.</div> <div>- Access to technical expertise outside of NOPSEMA as required.</div> <div>An additional process is implemented by NOPSEMA within and across assessment teams and the wider division to ensure that specific aspects of activities are presented and assessed consistently by titleholders in EPs and such information communicated. This enables knowledge sharing and on-the-job training amongst assessors and potentially provides background for updates to internal work instructions or standard operating procedures.</div> <div>NOPSEMA's internal Environment Plan Assessment procedure provide for assessments relating to matters protected under the EPBC Act, whereby consideration should be given to the Program commitments provided in the Regulatory Streamlining Information Paper (N-04750-IP1382), available on NOPSEMA's website.</div> <div>In all cases, NOPSEMA will undertake an assessment of the whole submission to determine whether the relevant content requirements and the criteria for acceptance under the Environment Regulations have been met.</div>	<div>Program commitments, including reporting and transfer of knowledge requirements, are provided in the Regulatory Streamlining Information Paper (N- 04750-IP1382).</div> <div>The Regulatory Streamlining Information Paper (N- 04750-IP1382) provides a list of all relevant documentation to support NOPSEMA's assessment of EPs.</div> <div>The Review has identified different pathways for NOPSEMA, but also titleholders, to capture relevant information for evaluation of impacts and risks to matters protected under Part 3 of the EPBC Act. Consultation requirements are captured and specified in the following guidelines, available publicly:</div> <div>- Consultation requirements under the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 Information Paper (N- 04750-IP1411), available on NOPSEMA's website.</div> <div>- Australian Government Guidance - Australian Government agencies' roles and relevance under the OPGGS Act, published on DOE's website.</div>	<div>The Reviewer found NOPSEMA personnel interviewed to be familiar with the documentation published on DOE's website relevant to matters listed under Part 3 of the EPBC Act.</div> <div>The Review found that the key mechanism for notification of information that might be relevant during an assessment was via the publicly available information on DOE's website.</div> <div>The Review identified concerns related to the perceived discrepancy in the acceptance of EPs inconsistent with relevant management principles. A specific example was provided related to management principles applicable to CMR categorised under IUCN guidelines, which appeared not to be taken into consideration. When this example was further discussed with NOPSEMA, it was clarified that, where an assessment related to the particular aspect of the management framework for CMRs, discussions were held between DOE and NOPSEMA regarding clarification on specific management applicable under the current Transitional Arrangements (whereby a General Approval was in place from the Director of National Parks for activities to take place within the CMR).</div> <div>During the Review it was determined that in some instances, there may be material that is relevant to NOPSEMA's regulatory responsibilities that is not publicly available. This included the example of the Blue Whale Recovery Plan, which had been previously released for comment, but had not been updated and issued in the 12 month period. As such, the requirements that are outlined in this plan are not visible to both NOPSEMA and titleholders, and may not be considered in the management of the activity.</div> <div>Interviews with the Commonwealth Marine Reserves Branch has highlighted that liaison between DOE and NOPSEMA is ongoing with regards to accepted activities affected by future management</div>	<div>The Review identified that NOPSEMA implemented their environmental management authorisation process to meet the Program commitments, however in some instances the consideration of all the relevant plans for management were not documented in either the accepted EPs or the corresponding NOPSEMA assessment notes.</div> <div>Consideration of management plan contents and requirements by both the titleholder and Regulator should be more visible and consistently recorded in assessment documentation.</div> <div>Several EPs submitted during the review period were subject to one of the two mechanisms available to NOPSEMA to request that the titleholder reviews and provides further consideration to the relevant plans or principles of management relating to matters protected under Part 3 of the EPBC Act:</div> <div>- Request for Further Written Information (RFFWI)</div> <div>Opportunity to Modify and Resubmit (OMR)</div> <div>One EP relating to a case study considered in the Review identified the potential for shoreline impacts from a spill of hydrocarbons to a Ramsar wetland. These sensitivities were reported to be impacted by various exposure levels of surface, entrained and dissolved hydrocarbons.</div> <div>The OSMF provided with the EP and OPEP described in detail the long term monitoring programs for the Ramsar values, and as such demonstrated that the implementation strategy is acting towards ensuring that impacts and risks will be of an acceptable level and ALARP.</div> <div>In this case study NOPSEMA</div>	<div>Commitment met</div>	<div>I-2: The level of detail with regards to the application of specific plans of management related to matters protected under Part 3 of the EPBC Act as part of the assessment of impacts, and in the ALARP and acceptability justification contained in EPs, is not recorded in RMS in a consistent manner for all case studies. NOPSEMA should consider setting expectations and standards within internal documentation referred to by the assessment teams to ensure that greater consistency in records is achieved.</div> <div>I-3: Provide a reference to the Australian Government Guidance relating to Australian Government agencies' roles and relevance under the OPGGS Act, within the Environment Plan Content Requirements Guidance Note, to increase awareness of titleholders of the availability of DOE to provide advice related to matters protected under Part 3 of the EPBC Act.</div> <div>O-7: NOPSEMA, and by association, titleholders, rely on information that is available publicly, and this information can be broad and difficult to interpret within the context of a specific activity. DOE may consider the issue of publicly available advice on standards and best practice applicable to matters protected under Part 3 of the EPBC Act to guide titleholders and stakeholders with ALARP and acceptability</div>

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				<p>NOPSEMA conducts a further assessment of how one or more key topic areas addresses the corresponding requirements of the Environment Regulations. Topic areas will generally be focused on the components of the project or activity that pose the greatest levels of environmental impact or risk based on factors such as (but not limited to) levels of risk, uncertainty, use of innovative technology, and the timing and geographical location of the activities proposed.</p> <p>The assessment process include a review of all relevant information publically available to NOPSEMA assessors, including information pertaining to matters protected under Part 3 of the EPBC Act published on DOE's website, such as management plans and management principles embedded in the EPBC Regulations.</p> <p>An additional process is implemented by NOPSEMA within and across assessment teams and the wider division to ensure that specific aspects of activities are presented and assessed consistently by titleholders in EPs and such information communicated. This enables knowledge sharing and on-the-job training amongst assessors and potentially provides background for updates to internal work instructions or standard operating procedures.</p> <p>During the environmental management authorisation process, at least two ED staff members are required to undertake the EP assessment.</p> <p>Several endorsements are required as part of the assessment (general requirements, detailed assessment brief, acceptance criteria), to ensure matters protected under Part 3 of the EPBC Act are included.</p> <p>Another process for NOPSEMA to be provided advice is through consultation specific to EP submissions, either provided by the titleholder through consultation with relevant persons and provided as part of EP submissions, or through the receipt of third party correspondence, that if assessed to be relevant, is collated as part of the assessment file in NOPSEMA's data management system.</p> <p>There is a clear requirement for NOPSEMA to consider external advice as part of their internal procedures (Management of external correspondence on environment matters Procedure (N-06900-SOP1543)). Although any information received by NOPSEMA</p>		<p>plans to be implemented for the CMR Network.</p> <p>The Reviewer sighted the quarterly report to NOPSEMA, prepared by the designated DOE Program officers which provides an update on:</p> <ul style="list-style-type: none">- Status of current offshore petroleum activities under assessment under the EPBC Act- Branch specific updates on upcoming changes related to policy documents, conservation advices, plans of management.	<p>accepted the EP, as it demonstrated a clear implementation strategy which ensured that the risks and impacts from activities on a Ramsar wetland are acceptable and reduced to ALARP.</p> <p>Another case study considered in the Review identified potential risks to adjacent sensitive environments, including a Ramsar wetland. While the EP identified these areas for potential impact, it was not clear that they were to be considered in the operational Net Environmental Benefit Analysis (NEBA) during spill response and monitored in the event of a spill.</p> <p>As such, this contributed to the decision by NOPSEMA that more information was required, and the titleholder was informed in a request for further written information letter. The titleholder responded in a resubmission with further details of a scientific monitoring plan, applicable to the wetland.</p> <p>While examples were identified in the case studies of NOPSEMA implementing their environmental management authorisation process to meet the Program commitments, in some instances the consideration of all the relevant plans for management were not documented in either the accepted EP summaries or the corresponding NOPSEMA assessment notes contained in RMS and responses to titleholders.</p> <p>For example, one accepted EP related to a case study identified the potential for shoreline impacts from a spill of hydrocarbons to a Ramsar wetland. One of the management plans relating to this wetland was referenced in the EP, but there was no evidence whether the titleholder or NOPSEMA, in determining acceptability, considered this (and other) management plans. The Reviewer notes however, that the values of the wetland, and the particular requirements of the related management plans were captured in the assessment and proposed management of the activity</p>		<p>criteria applicable to petroleum activities.</p> <p>O-8: Further clarification on the applicability of the Transitional Management Arrangements for CMR would benefit titleholders and stakeholders in understanding the requirements applicable to the undertaking of oil and gas activities.</p>

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				is assessed as relevant / not relevant information prior to being considered by the assessment team, so that the assessment is not influenced beyond the scope of the EP assessment. All records are managed through RMS.			contained in the EP, even though there was no visible written reference made to these documents in the related assessment documentation.		
- World Heritage Properties	1.4	NOPSEMA will develop guidance (that will be updated from time to time) that titleholders should have regard to in the preparation of their Environment Plans.	1. <i>Has NOPSEMA developed (updated) guidance to provide this information?</i>	The Performance Report for EPBC Streamlining reported that NOPSEMA developed guidance in consultation with DOE to ensure that this commitment was met. The following documents were published between February and June 2014:	Program commitments are provided in the Regulatory Streamlining Information Paper (N- 04750-IP1382).	It was confirmed during interviews with titleholder, that they are familiar, to varying degrees, of the various guidance documents related to the environmental management authorisation process under the Regulations. Familiarity and experience with the environmental management authorisation process varied based on the maturity of the titleholder and the level of environmental management knowledge available to the titleholder, with only limited influence provided by the guidance available publically.	EPs provided as part of the selected case studies were reviewed. The Reviewer was able to determine that titleholders refer to the relevant DOE guidance material, as part of the description of values and sensitivities of the environment presented in the EP.	Commitment met.	I-1: NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.
- National Heritage Places	2.3		2. <i>Are all relevant references referred to in the guidance material?</i>	- NOPSEMA Assessment Policy (N-04750-PL0050)	The Regulatory Streamlining Information Paper (N- 04750-IP1382) provides a list of all relevant documentation to support NOPSEMA's assessment of EPs.				
- Wetlands of International Importance (RAMSAR Wetlands)	3.3	The guidance will:	3. <i>Are titleholders and other stakeholders familiar/understand the guidance and aware of their requirements?</i>	- Streamlining Environmental regulation of Petroleum Activities in Commonwealth Waters Information Paper (N- 04750-IP1382)	Consultation requirements are captured and specified in the following guidelines, available publically:	For those titleholders with less experience with the environmental management authorisation process, it was evident that the information contained in Information Paper N- 04750-IP1382, although related to matters protected under Part 3 of the EPBC Act, was not immediately recognised as a source of information to be considered during the preparation of EPs.			
- Listed Threatened Species and Ecological Communities	4.4	- Make reference to consideration of the protection of the values relevant to matters protected under Part 3 of the EPBC Act.	4. <i>Do DOE provide regular updates to NOPSEMA on management plans etc. and does this get captured in revisions of the NOPSEMA guidance?</i>	- Offshore Project Proposal Content Requirements Guidance Note (N-04750-GN1346)	- Consultation requirements under the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 Information Paper (N- 04750-IP1411), available on NOPSEMA's website.				
- Listed Migratory Species	5.2	- Include reference to relevant guidance documents to be considered by the titleholders in preparing Environment Plans.	5. <i>What is the revision schedule of the NOPSEMA guidance and how does this get communicated to Titleholders?</i>	- Environment Plan Content Requirements Guidance Note (N04750-GN1344)					
- Common-wealth Marine Area	6.5		6. <i>What happens to accepted activities that could be affected by change to plans of management etc.?</i>	- Environment Plan Summaries Guidance Note (GN1348)	- Australian Government Guidance - Australian Government agencies' roles and relevance under the <i>OPGGS Act</i> , published on DOE's website.	During the Review it was determined that in some instances, there may be material that is relevant to NOPSEMA's regulatory responsibilities that is not publically available. This included the example of the Blue Whale Recovery Plan, which had been previously released for comment, but had not been updated and issued in the 12 month period. As such, the requirements that are outlined in this plan are not visible to both NOPSEMA and titleholders, and may not be considered in the management of the activity. The Reviewer sighted the quarterly report to NOPSEMA, prepared by the designated DOE Program officers, which provides an update on Branch specific updates on upcoming changes related to policy documents, conservation advices and plans of management. Interviews with the Commonwealth Marine Reserves Branch has highlighted that liaison between DOE and NOPSEMA is ongoing with regards to accepted activities affected by future management plans to be implemented for the CMR Network.			I-3: Provide a reference to the Australian Government Guidance relating to Australian Government agencies' roles and relevance under the <i>OPGGS Act 2006</i> , within the Environment Plan Content Requirements Guidance Note, to increase awareness of titleholders regarding the availability of DOE to provide advice related to matters protected under Part 3 of the EPBC Act.

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						<p>During interview with DOIS, it was highlighted that feedback received by DOIS from titleholders has generally been positive, especially regarding the initial schedule of workshops and forums to increase awareness of the Program and understanding of the commitments.</p> <p>Overall, there was a general need identified during interviews to further educate and increase awareness of stakeholders and personnel amongst agencies regarding roles and responsibilities.</p>			
General - Administrative	7.1	Agree and enter into the administrative arrangements with DOE for the transfer of relevant information regarding the administration of the Program.	General	<p>These arrangements are detailed in the document 'Administrative Arrangements between DOE and NOPSEMA to implement the endorsed NOPSEMA Program' which was provided to the Reviewer during the Review.</p> <p>Administrative arrangements between DOE and NOPSEMA were finalised and agreed to in July 2014.</p>	Performance Report for EPBC Streamlining was presented to the Minister for the Environment Hon Greg Hunt MP for the period 28 February 2014 - 30 June 2014. In this report NOPSEMA reported on the compliance with the commitments specified in the Program Report. This report informs that the Administrative arrangements between DoE and NOPSEMA were finalised and agreed to in July 2014.	<p>During interviews at the Program officer level in both organisations, it was confirmed that there is a high degree of familiarity with the commitments made under the Administrative Arrangements relating to the transfer of information between DOE and NOPSEMA. It was also noted that there is evidence of continuous improvement to further facilitate communication and knowledge sharing, beyond the specific commitments made in the Administrative Arrangements.</p> <p>This is seen in the development of the online submission search tool (outside of the Review period), which enables immediate exchange of information relevant to several reporting commitments made by NOPSEMA, whereby DOE does not solely rely on the issue of the Quarterly Ministers Report to obtain this information.</p>		Commitment met.	N/A
General - Administrative	7.2	Prepare amendments to NOPSEMA's existing advice documents to reflect consideration of matters protected under Part 3 of the EPBC Act.	1. Have NOPSEMA's advice documents been amended to reflect the consideration of matters under Part 3 of the EPBC Act?		<p>Performance Report for EPBC Streamlining was presented to the Minister for the Environment Hon Greg Hunt MP for the period 28 February 2014 - 30 June 2014. In this report NOPSEMA reported on the compliance with the commitments specified in the Program Report. The Report detailed that existing NOPSEMA advice material was reviewed and updated to incorporate consideration of matters protected under part 3 of the EPBC Act. This included updates to the:</p> <ul style="list-style-type: none">- NOPSEMA Assessment Policy (N-04750-PL0050);- Environment Plan Content Requirements Guidance Note (N04750-GN1344). <p>The NOPSEMA Assessment Policy and the Environment Plan Content Requirements Guidance Note were both updated on 28 February 2014. These contain specific details around the inclusion of assessment of matters protected under Part 3 of the EPBC Act.</p>	<p>During interviews, it was noted that NOPSEMA has prepared an internal background paper on consideration of impacts to matters protected under Part 3 of the EPBC Act.</p> <p>During the Review it was raised by a number of titleholders, that the specific details around inclusion of assessment of matters protected under Part 3 of the EPBC Act are not easily accessible via NOPSEMA's advice documents. This information is provided in the Information Paper N- 04750-IP1382 Streamlining environmental regulation of petroleum activities in Commonwealth waters Rev 0 February 2014, which does not appear to be routinely utilised by titleholders, and as such the links are not easily obtainable.</p>		Commitment met.	I-1: NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.

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General - Administrative	7.3	Develop specific advice document (s) that titleholders should consider in the preparation of their Offshore Project Proposals and Environment Plans, to make reference to consideration of the matters protected under Part 3 of the EPBC Act. This advice should include references to relevant guidance documents to be considered by titleholders in preparing Offshore Project Proposals and Environment Plans such as EPBC Act guidance documents.	1. <i>What advice documents have been developed?</i>		<p>The Performance Report for EPBC Streamlining (28 February 2014 to 30 June 2014) sighted by the Reviewer reported that NOPSEMA developed guidance in consultation with DOE to ensure that this commitment was met.</p> <p>The following documents were published between February and June 2014:</p> <ul style="list-style-type: none">- NOPSEMA Assessment Policy (N-04750-PL0050)- Streamlining Environmental regulation of Petroleum Activities in Commonwealth Waters Information Paper (N- 04750-IP1382)- Offshore Project Proposal Content Requirements Guidance Note (N-04750-GN1346)- Environment Plan Content Requirements Guidance Note (N04750- GN1344) Environment Plan Summaries Guidance Note (GN1348) <p>The Streamlining Paper links to DOE Guidance documents, rather than the EP Content Requirements Guidance Note, and as such may not be obvious to titleholders.</p> <p>The pathway to these documents is not direct and may not be obvious to some titleholders. Some of these guidance documents are very broad and advice and expectations for management are not always clear.</p>	During interviews, it was noted that (although outside of the scope of the Review) some of the EPBC Act guidance documents are very broad and the advice and expectations for management may not be obvious for titleholders.		Commitment met.	<p>I-1: NOPSEMA to update advice documents to provide a more direct pathway from the EP Content Requirement Guidance Note to the reference list of EPBC Act information to consider during the preparation of submissions that include activities that may impact matters protected under Part 3 of the EPBC Act.</p> <p>I-3: Provide a reference to the Australian Government Guidance relating to Australian Government agencies' roles and relevance under the <i>OPGGs Act</i> within the Environment Plan Content Requirements Guidance Note, to increase awareness of titleholders of the availability of DOE to provide advice related to matters protected under Part 3 of the EPBC Act</p> <p>O-6: DOE to consider available mechanisms to enable more effective identification by titleholders, stakeholders and NOPSEMA assessment officers of the plans of management relevant to a particular petroleum activity, based on the specific characteristics of that activity (e.g. geography, type of activity, affected matters protected under Part 3 of the EPBC Act)</p> <p>O-7: NOPSEMA, and by association, titleholders, rely on information that is available publically, and this information can be broad and difficult to interpret within the context of a specific activity. DOE may consider the issue of publically available advice on standards and best practice applicable to matters protected under Part 3 of the EPBC Act to guide titleholders and stakeholders with ALARP and acceptability criteria.</p>

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Role of the Parties to the Administrative Arrangements	8.1.1	NOPSEMA's role is to ensure and demonstrate to the DOE that the Program commitments relating to the protection of EPBC Act matters are met.	<i>1. Above questions help to determine that commitments are met, but how does NOPSEMA demonstrate this to DOE?</i>	<p>The Program requires an initial Program review (this Review) following the first year of implementation and then 5 yearly review. This review is to assess the compliance of NOPSEMA with the Program commitments as outlined in the Program report which relate to the protection of matters under Part 3 of the EBPC Act.</p> <p>Compliance information is also reported to DOE through the Quarterly Ministers Report.</p>	In addition to the EP summary publication on NOPSEMA's website, which highlights the proposed activity, the level of consultation conducted, the impacts and risks associated with undertaking the activity and the associated management and mitigation in place to reduce these to ALARP and acceptable levels, NOPSEMA conducts inspections of activities on a scheduled basis.		The Reviewer sighted two inspection briefings issued to titleholders. These focused on selected aspects of management of the activity. For example, one of the inspections focused on confirming that pre-activity commencement and ongoing consultation processes have been implemented as described in the EP.	Commitment met.	
Role of the Parties to the Administrative Arrangements	8.1.2	The DOE's role is to ensure compliance with the NOPSEMA Program and class of actions approval. The DOE's role is also to update relevant policies, plans and guidelines that support the Program.	<i>1. Clarify this role with DOE/NOPSEMA</i> <i>2. What policies, plans and guidelines are relevant to supporting the Program?</i>	<p>The Review has highlighted that the sole mechanism for DOE to formally monitor compliance with the Program is through the undertaking, completion and endorsement by the Minister of the Environment of the Review. As the Review will only be complete once endorsement has been achieved, it is not possible for the Reviewer to determine at this stage whether part of this commitment has been met. However, DOE has access to other indirect mechanisms to monitor compliance during implementation of the Program, through the review of information published on the NOPSEMA website (both guidance and EP submission updates), Quarterly Ministers Report and Annual Report provided by NOPSEMA to DOE.</p> <p>The Reviewer noted that DOE information updates which contained information such as details of new listed species, or the release of updated plans such as the Grey Nurse Recovery Plan were provided regularly to NOPSEMA. These were internally circulated to NOPSEMA assessment officers for their information and future consideration.</p>		<p>DOE provide regular written and verbal updates to NOPSEMA.</p> <p>Correspondence was sighted during the review between a NOPSEMA manager and a DOE Director which provided an update of DOE policies, plans etc including status of CMRs. There is a good level of communication at the higher levels of DOE and NOPSEMA, with regular interactions at the Manager/Director level and formal updates provided. There was less interaction reported at the lower levels (branches, line areas). There were no reports of updates being provided to the lower levels of NOPSEMA, and that communication of updates to plans, policies etc, relies on internal dissemination of information and reliance on public communications, which NOPSEMA officers reported as sufficient.</p> <p>During interviews, the Reviewer noted several examples of well-developed communication channels at Program officer levels of DOE and NOPSEMA, with regular interactions reporting as required under the Program through a range of mechanisms, including formal updates, workshops and information sharing sessions as well as informal discussions on a monthly basis.</p>		Commitment partially met.	N/A
Objectives of the Administrative Arrangements	8.2.1	The parties agree to maintain regular contact at an officer level to ensure the effective operation of the endorsed NOPSEMA Program through teleconferences and written dialogue.	<i>1. What engagement has there been over the last 12 months to ensure effective operation?</i>	Examples of engagement between DOE and NOPSEMA were identified in the Review, with NOPSEMA undertaking frequent visits to Canberra over this time. The majority of engagements were at the higher managerial officer levels. Some formal workshops were undertaken including two occasions where the NOPSEMA environmental management authorisation process was discussed and presented to DOE personnel.		<p>From information gathered during The Review it appears that there is a good level of communication at the higher levels of DOE and NOPSEMA, with regular interactions at the officer level and formal updates provided. There was less interaction reported at the lower levels (branches and line areas), with a lack of awareness identified during interviews.</p> <p>Further opportunities to share resources and knowledge would be welcomed by all parties.</p> <p>During interviews with NOPSEMA and DOE, it was identified that</p>		Commitment met.	I-4: Examine further opportunities to share resources and or information between NOPSEMA and DOE where relevant (e.g. application of management principles, changes to CMR Network).

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						<p>NOPSEMA is currently considering accessing third party specialist advice (AAD acoustic experts) and were meeting with DOE and AAD at the time of the Review period to address related procurement matters.</p> <p>Interviews identified an instance where a required notification from NOPSEMA to DOE did not occur within the expected timeframe. This related specifically to the notification of a seismic activity within a 'Biologically Important Area'. This particular issue was discussed and resolved at officer levels at the time, to ensure that future notification and liaison between NOPSEMA and DOE occurs in a timely manner.</p> <p>It was found through interviews with both DOE and NOPSEMA representatives that further opportunities to share resources and knowledge would be welcomed by all parties.</p>			
Dispute resolution	8.3.1	The parties commit to resolve disputes at the lowest level possible...the nominated contact officers will undertake to resolve the issue.	<p>1. <i>What disputes have been encountered and how were these identified, documented and managed?</i></p> <p>2. <i>How have matters of dispute been resolved?</i></p>	The review of all documentation conducted as part of the Review did not identify any evidence of disputes between the relevant parties under the Program.		In interviews with both DOE and NOPSEMA, the Reviewer asked whether there had been any occasions during the 12 month Review period where disputes arose. Interviewed personnel did not report any dispute between NOPSEMA and DOE requiring dispute resolution over the Review period.		Commitment not triggered	N/A
Transfer of information, knowledge and expertise	8.4.1	The parties agree to notify each other in a timely manner, about knowledge and information of potential relevance to the other agency's regulatory responsibilities.	<p>1. <i>What instances of knowledge sharing have occurred between DOE and NOPSEMA in the last 12 months?</i></p> <p>2. <i>What mechanisms were used to share knowledge?</i></p>	<p>As a part of post decision processes, the SOP required that If an EP is accepted for an activity that is planned to take place either wholly or partly within a CMR, NOPSEMA must notify the Director of National Parks.</p> <p>The Review sighted evidence that information relevant to either NOPSEMA or DOE's regulatory responsibilities was shared with the relevant party. Different mechanisms were identified, including inclusion of relevant information in the Quarterly Ministers Report, and/or email notification related to the implementation of new, or updates to existing, management documentation. In addition, although outside of the Review period, it is worth highlighting the implementation of the new EP submission search tool on NOPSEMA's website, allowing timely and consistent reporting of information relevant to DOE's regulatory responsibilities, such as international reporting obligations.</p> <p>With respect to post decision notifications, NOPSEMA's internal procedures were found to include</p>		<p>Some formal workshops undertaken, including several occasions where the NOPSEMA assessment process and regulatory responsibilities were presented in detail to DOE personnel.</p> <p>During interviews with NOPSEMA personnel, it was evident that the key mechanism for assessment teams to access information that might be relevant during NOPSEMA's assessment was via searches of the publically available information on DOE's website. However interviews also noted some occurrences of discussions between NOPSEMA and DOE personnel aimed at clarifying information of relevance to assessments of specific EPs (i.e. Transitional Arrangements for CMR).</p> <p>Interviews also determined that in some instances, there may be material that is relevant to NOPSEMA's regulatory responsibilities that is not publically available, and as such may not be given consideration in their assessment of an activity.</p> <p>This included the example of the</p>		Commitment met.	N/A

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				notification requirements to DOE for particular issues, including the notification of activities proposed to occur in CMR.		<p>Blue Whale Recovery Plan, which had been previously released for comment, but had not been updated and issued in the 12 month period. As such, the requirements that are outlined in this plan are not visible to both NOPSEMA and titleholders, and may not be considered in the management of the activity.</p> <p>However the timing of release of more detailed information about the assessment was reported to be not ideal to manage external queries regarding consideration of targeted projects. For example, it was reported that the EP submission page (and more recently, the EP submission search tool) does not provide a sufficient level of detail to DOE to manage queries from third parties with regards to potential impacts to WHP or CMR, including unplanned events, such as hydrocarbon spills that may extend into the boundaries of a designated conservation area. It was noted that, although outside of the scope of the Review, NOPSEMA has implemented the requirement to submit additional information on submission of an EP for petroleum activities, including maps and description of activity. This information is yet to be tested to confirm whether it provides a sufficient level of detail to support DOE with its reporting obligations.</p>			
Transfer of information, knowledge and expertise	8.4.2	The DOE will notify NOPSEMA of any expected changes to plans of management and other external publications.	1. <i>What examples are there of providing notifications to NOPSEMA?</i>	The Review team found that DOE provide regular written and verbal updates to NOPSEMA. Correspondence was sighted during the review between a NOPSEMA manager and a DOE Director which provided an update of DOE policies, plans etc. including status of Marine Reserves.		<p>It appears that there is a good level of communication at the higher levels of DOE and NOPSEMA, with regular interactions at the officer level and formal updates provided. There was less interaction reported at the lower levels (branches and line areas), with a lack of awareness identified during interviews.</p> <p>Interviews identified that there were no reports of updates being provided to the lower levels of NOPSEMA, and that communication of updates to plans, policies etc, relies on internal dissemination of information and reliance on public communications.</p> <p>Information relating to the status of plans, policies etc is made available to NOPSEMA through internal reporting requirements and via public communication channels</p>		Commitment met.	N/A

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Transfer of information, knowledge and expertise	8.4.3	The DOE will be available to provide specialist expertise as required.	<i>1. Have there been any instances of a request for, or provision of specialist expertise to NOPSEMA in relation to the Program implementation.</i>		DOE was consulted during investigation by NOPSEMA into whale strandings. Although initially identified through interviews with DOE and NOPSEMA personnel, the Reviewer further examined the content of the Australian Government Guidance - Australian Government agencies' roles and relevance under the <i>OPGGS Act</i> , issued by DOE and available on their website, highlighting the roles and responsibilities of DOE in the provision of specialist advice related to matters protected under Part 3 of the EPBC Act for consideration in the preparation of EP.	Interviews identified that NOPSEMA has been accessing throughout the Review period the expertise of the AAD to provide targeted advice with regards to matters protected under Part 3 of the EPBC Act. Through interviews, the Review also found that in the 12 month Review period, NOPSEMA have made requests to DOE for specialist expertise and DOE have provided advice. This includes a request for and provision of advice from DOE in relation to whale strandings that occurred during the Review period.		Commitment met.	N/A
Transfer of information, knowledge and expertise	8.4.4	The provision of expert advice from the Australian Antarctic Division (ADD) relating to cetaceans, marine mammals and acoustic disturbance will be provided on a fee-for-service arrangement as agreed in writing between NOPSEMA and the Chief Scientist of the AAD.	<i>1. Is there an agreement in place? 2. Have NOPSEMA sought advice from the AAD? And how was this advice used?</i>			Through interviews with NOPSEMA and DOE representatives, it was evident that the AAD has been used to provide expert advice relating to cetaceans and acoustic disturbance on ad-hoc basis during the Review period. Although the Review confirmed that no formal fee-for-service arrangement had been made over the course of the Review period, the Review established that NOPSEMA and DOE were currently in the process of setting up formal arrangements to access third party (AAD acoustic experts) advice.		Commitment partially met.	N/A
Transfer of information, knowledge and expertise	8.4.5	NOPSEMA will notify the DOE of any expected changes to legislation or regulations that may impact on ability to act in accordance with the NOPSEMA Program.	<i>1. What legislation changes have been effected in the last 12 month? Do these impact on the ability to act in accordance with the NOPSEMA Program.</i>		During the Review period, legislation changes occurred including the commencement of financial assurance requirements. The Offshore Petroleum and Greenhouse Gas Storage (Environment) Amendment (Financial Assurance) Regulation 2014 were published on the NOPSEMA website, ComLaw website and stakeholders were informed via the NOPSEMA newsletter "The Regulator" Issue 6. DOE were notified of changes to NOPSEMA legislation including the financial assurance requirements. No changes to legislation occurred that could have impacted on the ability to act in accordance with the Program.			Commitment met.	N/A
Transfer of information, knowledge and expertise	8.4.6	NOPSEMA will notify the DOE when an EP has been accepted by NOPSEMA covering seismic activities that have interacted with 'Critical Habitat', 'habitat critical to the survival of species' or 'Biologically Important Areas' for cetaceans, pinnipeds and marine turtles at biologically important times as identified in		As a part of post decision processes, standard operating procedures require that, if an EP is accepted for an activity that is planned to take place either wholly or partly within a CMR, NOPSEMA must notify the Director of National Parks. This is achieved by the lead assessor notifying the Environment Manager (Assessment & Inspection – Drilling and Developments) within one business day of acceptance of		It was identified during interviews that DOE receives information regarding activities occurring in 'Critical Habitat', 'habitat critical to the survival of species' or 'Biologically Important Areas' for cetaceans, pinnipeds and/or marine turtles as part of the Quarterly Ministers Report. Although the first instance of 'acceptance of an EP with potential for interaction' was reported during interviews to be missing from the	The review of the selected case studies showed that during the Review period, at least two EPs for seismic activities have been accepted for activities that overlap with 'Biologically Important Areas'. The Review highlighted that notification by NOPSEMA to DOE since implementation of the Program as per a number of Program commitments, including Commitment 8.4.6,	Commitment met.	I-5: Review the search criteria applied for the EP submission and summaries search tool and consider functionalities to allow searches such as using radius/coordinates or environmental features (e.g. BIA, WHP, CMR) as references. O-6: DOE to consider available mechanisms to

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		Recovery Plans, Marine Bioregional Plans (prepared under the EPBC Act) and the Conservation Values Atlas.		<p>the EP. This notification must be via email and include the following:</p> <ul style="list-style-type: none">- The name of the activity- The name of the titleholder- The name of the relevant CMR(s)- The RMS identification number for the assessment <p>The email is saved in the Objective folder for the assessment.</p> <p>The Reviewer could not identify any particular reference to reporting seismic activities occurring in 'Critical Habitat', 'habitat critical to the survival of species' or 'Biologically Important Areas' in standard operating procedures used by NOPSEMA.</p> <p>The Review found no evidence of this commitment being addressed in standard operating procedures used by NOPSEMA. The Review identified that NOPSEMA do not have a formal process to identify which plans of management should be considered for an assessment. However, reviews of documentation related to the selected case studies, including RMS findings, EPs and EP summaries, indicate that relevant plans of management are taken into consideration as part of the EP preparation and assessment processes.</p> <p>Other than the reported delay in notification relevant to the first instance of 'acceptance of an EP with potential for interaction', the Reviewer is aware that notification between NOPSEMA and DOE regarding interactions of petroleum activities with matters protected under Part 3 of the EPBC Act occur as part of various mechanisms (e.g. Quarterly Ministers Report, EP submission list). Although it is outside of the Review period, it is worth noting that DOE has collaborated with NOPSEMA to develop the current online submission search tool to enhance the capacity for DOE to be notified of any specific interactions.</p>		<p>relevant report to DOE, it was confirmed that discussions between the two agencies resulted in the report template being updated to reflect such occurrences.</p> <p>Interviews with NOPSEMA personnel confirmed that, although no formal processes are available within NOPSEMA's internal operating procedures describing the procedure to follow to identify the relevant plans of management when assessing an EP, NOPSEMA assessment officers are suitably qualified and experienced to rely on their own experience and knowledge of the matters protected under Part 3 of the EPBC Act and associated plans of management potentially affected by the activity under assessment.</p>	has been undertaken through the EP summary webpage (and since the Review period ending, through the EP submission search tool), as well as through the Quarterly Ministers Report.		enable more effective identification by titleholders, stakeholders and NOPSEMA assessment officers of the plans of management relevant to a particular petroleum activity, based on the specific characteristics of that activity (e.g. geography, type of activity, affected matters protected under Part 3 of the EPBC Act)

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Transfer of information, knowledge and expertise	8.4.7	The objective (of above notification) is to provide targeted projects for the Department to review through publically available EP summaries.	<i>1. Do EP summaries provide enough information for DOE to use to support preparation of recovery plans?</i>	<p>EP summaries provided on the NOPSEMA website can provide a level of information that can be used to support DOE in obtaining information required to fulfil their duties.</p> <p>Although outside of the Review period, NOPSEMA has modified the timing of release of information so that an overview of a proposed petroleum activity is published on NOPSEMA's website at submission of the EP, rather than when the EP is accepted (as it used to be during the Review period).</p>	The Review found there to be no reported occurrences of where this notification triggered further review of the activity EP summaries.	<p>Interviews highlighted that DOE does not use the information contained in the EP summary to support the preparation of policy documents.</p> <p>Some feedback received that the timing of release of more detailed information about the assessment is not ideal to manage external queries (e.g. from international community related to WHPs) for consideration of targeted projects. There were comments that either earlier release of information or more detailed information would be beneficial to allow management of stakeholder concerns.</p> <p>It was reported in interviews that the level of detail in the EP summaries was not sufficient to inform targeted projects or plans, and in some instances was not sufficient for DOE to respond to external queries.</p> <p>NOPSEMA have updated the publishing of EPs under assessment and summaries through a search/subscription tool. This is useful to provide updates to interested parties on activities, locations etc.</p> <p>Although the search tool was deemed a useful and quick way to access information, it was suggested during interviews that the search criteria do not allow easy access to records directly relevant to specific branches within DOE (e.g. WHPs, CMRs) to obtain the information required to fulfil their duties.</p>		Commitment met.	<p>O-9: As part of the review and acceptance process for EP summaries, NOPSEMA should ensure that sufficient content related to matters protected under Part 3 of the EPBC Act provided in the EP (e.g. plans of management used in the assessment of impacts and risks) is presented in the EP summaries prepared by titleholders, to provide both DOE and stakeholders with visibility and certainty that the assessed and accepted EP had appropriate consideration for matters protected under Part 3 of the EPBC Act.</p> <p>O-10: Examine whether the release of information on submission (rather than acceptance) on NOPSEMA's website meets the needs of DOE for stakeholder management purposes and international reporting obligations.</p>
Transfer of information, knowledge and expertise	8.4.8	NOPSEMA will notify the Director of National Parks (through the DOE) of any accepted EPs covering activities in proclaimed Commonwealth Marine Reserves.	<i>1. Where are the proclaimed CMRs?</i> <i>2. What EPs have activities occurring in CMRs?</i> <i>3. Was the Director notified of activities?</i> <i>4. What was the outcome of notification? Was further information required?</i>	This requirement is clearly specified in the SOP.		<p>The Review found that the Commonwealth Marine Branch is aware of the online submission search tool developed by NOPSEMA</p> <p>There were notifications provided by NOPSEMA and by the titleholder directly with respect to CMR and specifically the transitional arrangements.</p> <p>Earlier in the period for Review some notifications were not initially made. This was apparently a result of confusion as to expectations for CMRs with transitional arrangements in place.</p> <p>However it has been reported that the Transitional Management Arrangements for marine reserves published on DOE's website are resulting in misinterpretation by titleholders and other stakeholders regarding the type of activities allowed to occur within designated CMRs.</p>		Commitment met.	<p>I-5: Review the search criteria applied for the EP submission and summaries search tool and consider functionalities to allow searches such as using radius/coordinates or environmental features (e.g. BIA, WHP, CMR) as references.</p> <p>O-8: Further clarification on the applicability of the Transitional Management Arrangements for CMRs would benefit titleholders and stakeholders in understanding the requirements applicable to the undertaking of oil and gas activities.</p>

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						There are further discussions underway with NOPSEMA with regards to specific search criteria related to CMR, such that DOE can be notified immediately on acceptance of an EP which triggers this commitment.			
Transfer of information, knowledge and expertise	8.4.9	Status of major investigations will be reported quarterly through NOPSEMA's Quarterly Ministers Report	<i>1. What major investigations have been undertaken in last 12 months?</i> <i>2. Have status reports been included in the quarterly reports to the Minister?</i>	Quarterly Ministers Reports were sighted during the review. It was not established however whether this report contained any status reports of major investigations for the last 12 months, other than safety investigations.		The Review found through interview with DOE that Quarterly Ministers Reports were being provided to DOE. It was established however that no major investigations occurred in the last 12 months. Although reportable incidents were reported to NOPSEMA during the Review period, as indicated by statistics published on their website, NOPSEMA has procedures in place to determine which reportable environmental incidents may result in a major investigation being initiated. Further discussions with NOPSEMA and DOE regarding this topic indicated that reporting requirements to DOE related to future major investigations will be further discussed between NOPSEMA and DOE and will be addressed through amendments to the Administrative Arrangements. Interviews highlighted that NOPSEMA and DOE have worked collaboratively on the investigation of whale strandings. Both parties have provided information on request in relation to the investigation.		Commitment not triggered	N/A
Transfer of information, knowledge and expertise	8.4.10	NOPSEMA shall provide additional information on investigation upon request, in accordance with the NOPSEMA Information Sharing Policy.	<i>1. Have there been any requests for additional information?</i>			From the review it appears that NOPSEMA and DOE have worked collaboratively on the investigation of whale strandings. Both parties have provided information on request in relation to the investigation.		Commitment met.	N/A
Access to online data sources	8.5.1	Access to online data sources maintained by DOE - these include the Conservation Values Atlas, Protected Matters Search Tool, Species Profile and Threats Database and National Marine Mammal Database.	<i>1. What is the process for DOE to maintain these databases?</i>		DOE maintain sources of online data including the Protected Matters Search Tool, various lists, recovery plans etc.	The Review found that DOE maintain sources of online data including the Protected Matters Search Tool, various lists, recovery plans etc. The Conservation Values Atlas was reported to have been updated within the Review period. It was reported by various titleholders in interviews, and evident from the EP submissions, that these data sources are accessed routinely for use in the assessment of offshore petroleum activities.		Commitment met.	N/A

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Access to online data sources	8.5.2	The DOE will continue to encourage industry to provide information to expand online references through its communications networks.	1. <i>What initiatives have DOE come up with and implemented to achieve this in the last 12 months.</i>		Encouragement to report marine mammal sightings to the Australian Marine Mammal Database.	Encouragement to report marine mammal sightings to the Australian Marine Mammal Database (AMMD) has been maintained as a commitment in EPs. If a titleholder had information that would be of broader use, DOE may encourage publication. There were no reported cases of where this happened. Further discussions with DOE also indicated that the National Environmental Research Programme (NERP), in place since 1989 through former initiatives, supports data sharing and facilitates closer liaison amongst government agencies to support the management of matters protected under Part 3 of the EPBC Act.		Commitment met.	I-6: Examine ongoing opportunities for further data sharing between NOPSEMA, DOE, DOIS and titleholders.
Access to online data sources	8.5.3	NOPSEMA will encourage titleholders to provide environmental and activity data direct to the DOE to expand online data sources in its guidance and communications to industry.	1. <i>What examples of encouragement to titleholders can be demonstrated?</i>			Encouragement to report marine mammal sightings to the AMMD has been maintained, reported by titleholders and DOE personnel.	Accepted EPs sighted have included a commitment to report marine mammal sightings within the AMMD.	Commitment met.	
Other ad hoc information transfers	8.6.1	The DOE will provide timely responses to information requests as required.	1. <i>What do DOE and NOPSEMA consider to be "timely"</i>			There were no reported instances of requested information being provided in an untimely manner.		Commitment met.	N/A
Other ad hoc information transfers	8.6.2	The DOE will endeavour to provide sufficient early notification of information requests requiring NOPSEMA input.	1. <i>What examples are there of information requests that required NOPSEMA input?</i>			The Australian Government Guidance - Australian Government agencies' roles and relevance under the <i>OPGGS Act</i> , published on DOE's website, was a joint effort between NOPSEMA and DOE. The Review found that there were no reported instances of requested information being provided in an untimely manner.		Commitment met.	N/A
Reporting - General	8.7.1	The Program also requires NOPSEMA to provide an annual report on the Program, highlighting: the decisions made under the Program, the findings of compliance inspections, environmental incidents reported by titleholders and any investigations underway for the previous year.	1. <i>What is the timing and status of this report?</i>		The Review found that NOPSEMA provides an annual report on the Program, highlighting the decisions made under the Program, the findings of compliance inspections, environmental incidents reported by titleholders and any investigations underway for the previous year. Report is available on NOPSEMA website for the period 28 February 2014 to 30 June 2014.			Commitment met.	N/A

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Reporting - General	8.7.2	NOPSEMA to provide Quarterly Ministers Reports	1. <i>Are these reports being provided?</i>			<p>The Review found through interview with DOE that Quarterly Ministers Reports were being provided to DOE. There was some initial feedback provided by DOE on the format of the first report and it was updated accordingly.</p> <p>Contents of the report have been discussed and it was deemed that other channels made available by NOPSEMA (e.g. search / subscription tool) allow for a more flexible and timely reporting of information.</p>		Commitment met.	N/A
Reporting - International Obligations	8.8.1	Offshore petroleum activities are not permitted inside world heritage properties	1. <i>Have there been any instance of activities taking place in World Heritage Properties?</i>			NOPSEMA reported a number of occasions where activities were proposed that appeared would be undertaken in WHPs. In all instances, the activities were redefined and EPs modified or withdrawn such that this did not occur.	No activities submitted and accepted during the Review period have been proposed to be taken in WHPs.	Commitment met.	N/A
Reporting - International Obligations	8.8.2	Australia will report on major developments proposed adjacent to a World Heritage Property.	<p>1. <i>Have there been any proposed major developments adjacent to a WHP?</i></p> <p>2. <i>What is NOPSEMA/DOE understanding of a "major development" and "adjacent"?</i></p>			Interviews did not report any major developments in the 12 month period that would trigger this requirement.	No major developments (triggering OPP process) have occurred in the 12 month Review period.	Commitment not triggered.	<p>I-7: NOPSEMA to consider notifying DOE when an EP is submitted to NOPSEMA for assessment that includes unplanned activities occurring within the boundaries of a WHP or proclaimed Marine Reserve, to support DOE in meeting their reporting obligations.</p> <p>O-11: The review identified that the trigger for reporting to DOE on proposed major developments adjacent to a WHP is not clear to the agencies concerned, both in terms of what constitute 'major developments' and to what extent the proximity trigger is applicable. NOPSEMA could consider the requirement for reporting to DOE as part of the consultation requirements associated with proposed petroleum activities.</p>

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Reporting - International Obligations	8.8.3	NOPSEMA will advise the DOE the details of an OPP submission accepted for public exhibition at least two business days prior to publication under the OPGGS (Environment) Regulations, if planned activities from the proposal could impact on the Outstanding Universal Values of a world heritage property, to allow time for appropriate liaison by the DOE with the WHC and WH properties committees as appropriate.	1. <i>Have there been any planned activities that could impact on the Outstanding Universal Values?</i>	There is a clear requirement to consider the values of WHP as part of OPPs submitted by titleholders (N-04750-GN1346).		Interviews did not report any major development in the 12 month period that would trigger this requirement.	No major developments (triggering OPP process) have occurred in the 12 month Review period.	Commitment not triggered.	N/A
Reporting - International Obligations	8.8.4	NOPSEMA will notify the DOE as soon as reasonably practicable of any changes or likely changes to the ecological character of a Ramsar wetland and will provide a summary of corrective action planned or taken. Notification by NOPSEMA will be sent to RamsarEPBCadvice@environment.gov.au	1. <i>Have there been any instances of potential changes to Ramsar wetlands from an activity, and have these been notified to DOE?</i>				There have been no instances of any changes or likely changes to a Ramsar wetland as a result of accepted activities.	Commitment not triggered.	N/A
NOPSEMA Reporting	8.9.1	NOPSEMA publishes an annual offshore performance report that includes regulatory data such as incidents, inspections and enforcement. Annual Offshore Performance Report is to be provided to the Ministers of the Environment, Industry and published on NOPSEMA's website as well as to the Department of the Environment.	1. <i>Has this report been released?</i>	The Quarterly Ministers Report also provides compliance information not typically released publically.	NOPSEMA's Annual offshore performance report includes data and regulatory information collected by NOPSEMA on injuries and fatalities, incidents, inspections, assessments, investigations and enforcements from offshore petroleum operations in the authority's jurisdiction to 31 December. Last report was released in May 2015 and is available on NOPSEMA's website.			Commitment met.	N/A
Incident Reporting	8.10.1	If NOPSEMA is notified of an environmental reportable incident that, in NOPSEMA's determination, could have potentially significant impacts on an EPBC Act matter covered by the Program, NOPSEMA will notify the DOE within 14 days of receiving the notification from the titleholder. NOPSEMA will keep DOE informed of updates and investigations related to these incidents until issue is resolved.	1. <i>How do NOPSEMA determine whether incident has potential for impact?</i> 2. <i>Have there been any incidents reported that required subsequent notification of DOE?</i>	In accordance with NOPSEMA's internal standard operating procedures, not all reportable environmental incidents require further investigation. NOPSEMA has procedures in place to determine which reportable environmental incidents may result in a major investigation being initiated.		Interviews have not reported any instances of this occurring during the 12 month Review period. The Review found there was no instance of an environmental reportable incident that, in NOPSEMA's determination, could have potentially significant impacts on a matter protected under Part 3 of the EPBC Act covered by the Program, occurring in the Review period. The Reviewer noted that reportable incidents are made publically available in NOPSEMA's annual offshore performance report, available on their website.		Commitment not triggered.	N/A

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Review	8.10.2	The Program commits to an initial review following the first year of implementation and then five-yearly reviews of the operation of the Program.		The Program requires an initial Program review following the first year of implementation (this Review) and then 5 yearly review. This review is to assess the compliance of NOPSEMA with the Program commitments as outlined in the Program report which relate to protection of matters under Part 3 of the EPBC Act.				Commitment met.	N/A
Guidance	8.11.1	The DOE will share internal and external guidance with NOPSEMA to support the commitment under the Program to have regard to relevant policy documents, guidelines, Statements of Outstanding Values, Ramsar information sheets, Ecological Character descriptions, gazettal instruments, and plans of management the DOE hold.	<div>1. How is this working arrangement implemented?</div> <div>2. What guidance has been shared in the last 12months?</div> <div>3. How are NOPSEMA kept informed of guidance which is in development or proposed for development?</div>		<div>The Regulatory Streamlining Information Paper (N- 04750-IP1382) provides a list of all relevant DOE documentation to support NOPSEMA's assessment of EPs. This information links to a range of information available on DOE's website.</div> <div>DOE make available all relevant information on DOE website.</div> <div>Evidence was also sighted of email communications between DOE and NOPSEMA regarding the implementation of new, or updates of existing, plans of management (as described in previous sections).</div>			Commitment met.	N/A
Guidance	8.11.2	<div>NOPSEMA will consider relevant policy documents, guidelines, plans of management and other online data sources available on the DOE website or provided directly by the DOE when preparing guidance material.</div> <div>Genuine consideration must be demonstrable through NOPSEMA's assessment process.</div>	<div>1. How does NOPSEMA cover this in their SOP?</div> <div>2. What information has been provided directly to NOPSEMA in the last 12 months? How is this information disseminated to NOPSEMA assessment officers?</div>	<div>Detailed procedures and work instructions exist to guide assessment teams in conducting their assessment. NOPSEMA's internal Environment Plan Assessment procedure provides for assessments relating to matters protected under Part 3 of the EPBC Act, whereby consideration should be given to the Program commitments provided in the Regulatory Streamlining Information Paper (N- 04750-IP1382).</div> <div>NOPSEMA's detailed procedures and work instructions demonstrate genuine consideration of the matters protected under Part 3 of the EPBC Act.</div>				Commitment met.	N/A

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Guidance	8.11.3	Where assessment relates to plans of management for Commonwealth Marine Reserves, NOPSEMA will have regard to the representative values of the reserves.	<i>1. What assessments relate to the plans of management of Cwth marine reserves?</i> <i>2. Where is it made clear the representative values of the reserves?</i> <i>3. Is it demonstrated that NOPSEMA have regarded these representative values?</i>	<p>The requirement to take the contents of Regulatory Streamlining Information Paper (N- 04750-IP1382) into consideration is understood by NOPSEMA and reflected in internal operating procedures.</p> <p>NOPSEMA's internal Environment Plan Assessment procedure provides for assessments relating to matters protected under the EPBC Act, whereby consideration should be given to the Program commitments provided in the Regulatory Streamlining Information Paper (N- 04750-IP1382), available on NOPSEMA's website.</p> <p>Several endorsements required as part of assessment (general requirements, detailed assessment brief, acceptance criteria) to ensure matters under Part 3 of the EPBC Act are included.</p>	<p>Program commitments are provided in the Regulatory Streamlining Information Paper (N- 04750-IP1382).</p> <p>This paper provides a list of all relevant documentation to support NOPSEMA's assessment of EPs.</p>	<p>It has been reported during interviews that the Transitional Management Arrangements for marine reserves published on DOE's website have resulted in misinterpretation by titleholders and other stakeholders regarding the type of activities allowed to occur within designated CMRs.</p> <p>Interviews with representatives from NOPSEMA and DOE confirmed that discussions had been held to clarify requirements under the Transitional Arrangements so that the environmental management authorisation process is not affected.</p> <p>Interviews with titleholders and DOE personnel also recorded some instances whereby titleholders contacted the Commonwealth Marine Reserves Branch to seek clarification on the applicability of the CMR Framework specific to a proposed activity.</p>	<p>Although informal mechanisms appear to be in place to account for the appropriate management considerations for CMRs, further clarification is deemed to be necessary to ensure that information is disseminated to titleholders and stakeholders to ensure expectations for management are clearly communicated.</p> <p>In a case study considered in the Review, it was found that vessels associated with the activity may potentially intersect a CMR. The EP proposed management controls to minimise the risk to the conservation values of the CMR, including those specified under EPBC Policy Statement 2.1.</p> <p>However, in their assessment and subsequent request for further written information correspondence to the titleholder, NOPSEMA sought confirmation that additional controls would be implemented including to shut down the activity, while in the CMR, and to provide further detail to demonstrate impacts and risks to the sensitivities of the CMR were reduced to ALARP.</p> <p>Additionally, in consideration of the specific values of the CMR, NOPSEMA requested further controls be considered around the discharge of liquid wastes while in the CMR. It was acknowledged in the NOPSEMA assessment that discharge is allowable while within the CMR in accordance with MARPOL 73/78, but did not consider that this was ALARP and requested additional reasoning to support the ALARP argument.</p> <p>Similarly their assessment found that not accounting for the potential for vessel refuelling while in the CMR was deemed not ALARP and sought reconsideration prior to accepting the EP.</p> <p>In response to these matters, the titleholder responded with additional controls with demonstration of ALARP and acceptability which enabled (in part) final acceptance of the EP by NOPSEMA.</p> <p>In this case study it is demonstrated that NOPSEMA did not accept an EP until it</p>	Commitment met.	O-8: Further clarification on the applicability of the Transitional Management Arrangements for CMRs would benefit titleholders and stakeholders in understanding the requirements applicable to the undertaking of oil and gas activities.

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							was clearly demonstrated that the risks and impacts from activities on the conservation values of CMR are acceptable and reduced to ALARP.		
Guidance	8.11.4	When preparing external guidance, NOPSEMA will prepare EPBC Act relevant content in consultation with the DOE.	<i>1. What external guidance has been prepared in last 12 months?</i> <i>2. Did this guidance contain EPBC Act relevant content?</i> <i>3. Was the guidance prepared in consultation with DOE?</i>		The Review found that the NOPSEMA Guidance Notes, originally published prior to the streamlining initiative were updated on 28 February 2014 and contain some high level references to the assessment of matters protected under Part 3 of the EPBC Act. In addition, more detailed notes regarding the streamlining process were prepared based on the outcomes of the Strategic Assessment led by the multi-agency task force. This is presented in the publication N-04750-IP1382 Streamlining environmental regulation of petroleum activities in Commonwealth waters.	As part of this Review no feedback was provided as to whether DOE were consulted on the content of the external guidance material, including the EP Content Requirements Guidance Note and Regulatory Streamlining Information Paper (N- 04750-IP1382) Interviews with NOPSEMA and DOE representatives identified a Consultation Guidance note, prepared by DOE in collaboration with NOPSEMA, which details the expectations with regard to seeking advice from DOE during development of an EP.		Commitment met.	N/A
Cross-jurisdictional projects	8.12.1 – 8.12.4	The DOE will maintain an ongoing dialogue with NOPSEMA, and vice versa to identify and progress further streamlining. Future opportunities for further streamlining can be explored and both parties agree to keep each other informed. NOSPEMA will continue to administer its legislative obligations under current arrangements.	<i>1. What is the ongoing plan to maintain dialogue and to continue to look for opportunities to streamline?</i>		The Review found that NOPSEMA, DOE and DOIS as well as state and territory representatives maintain ongoing consultation around the streamlining process. Further opportunities for streamlining the regulatory arrangements for petroleum activities are currently being investigated, this includes working with officials from states and territories to further streamline offshore petroleum approval processes in their coastal waters. The streamlining process will involve: - Making amendments to relevant state/territory legislation that applies to coastal waters to ensure the laws substantially correspond to the provisions under the OPGGS Act, and to confer the powers and functions on NOPSEMA for offshore petroleum operations in designated coastal waters. - Undertake a strategic assessment in accordance with the provisions of Part 10 of the EPBC Act for each conferring jurisdiction's coastal waters.	NOPSEMA, DOE and DOIS as well as state and territory representatives maintain ongoing consultation around the streamlining process. DOE have had discussions with NOPSEMA about further streamlining of conditions set for offshore petroleum activities under the EPBC Act (noting that these particular activities were referred under the EPBC Act prior to Program implementation), and for petroleum activities governed by prior EPBC Act approvals and associated conditions.		Commitment met.	O-12: There may be further opportunities to examine the streamlining of conditions set for projects accepted prior to 28 February 2014.

Annex C

Communications Log

ANNEX C – COMMUNICATIONS LOG

Date	Time	Communication Type	Contact Organisation/Affiliation	Representative	Content of Communication
20 March 15	12:00 pm	Meeting	NOPSEMA	<ul style="list-style-type: none"> Manager - Assessment & Inspection, Drilling and Development Environment Specialist - Assessment and Inspection 	Kick off meeting for the NOPSEMA Program review
26 March 15	11:46 am	Phone Call	International Fund for Animal Welfare (IFAW)	<ul style="list-style-type: none"> Marine Campaigner Marine Campaigner 	Requested an update regarding progress of the Project.
30 March 15	-	Email	Chevron Australia Pty Ltd	<ul style="list-style-type: none"> Government Affairs Advisor - Policy, Government and Public Affairs 	Requested listing as the central contact at Chevron for the Review, and would like to be added to the distribution list for information relating to the EPBC Act Streamlining Review.
31 March 15	11:30 am	Meeting	NOPSEMA	<ul style="list-style-type: none"> Manager - Assessment & Inspection, Drilling and Development Environment Specialist - Assessment and Inspection 	Program Review start up meeting
			DOE	<ul style="list-style-type: none"> Director - Audit and Assurance, Compliance and Enforcement Branch, Environment Assessment and Compliance Division A/g Assistant Director - Outcomes Based Approaches Project, Compliance and Enforcement Branch, Environment Assessment and Compliance Division 	
			DOIS	<ul style="list-style-type: none"> Manager - Environment, Safety and Security Section Senior Policy Officer, Environment, Safety and Security Section 	
31 March 15	1:34 pm	Phone Call	International Fund for Animal Welfare (IFAW)	<ul style="list-style-type: none"> Marine Campaigner 	Requested an update regarding progress of the Project.
1 April 15	-	Email	International Fund for Animal Welfare (IFAW)	<ul style="list-style-type: none"> Marine Campaigner 	Requested an update regarding progress of the Project.
17 April 15	3:00 pm	Meeting	NOPSEMA	<ul style="list-style-type: none"> Environment Specialist - Assessment and Inspection Information Manager 	<p>Meeting to progress accessing NOPSEMA information, including:</p> <ul style="list-style-type: none"> induction on objective connect from information team RMS layout identify initial documents to form part of Review
30 April 15	-	Email	International Fund for Animal Welfare (IFAW)	<ul style="list-style-type: none"> Marine Campaigner 	Requested an update regarding progress of the Project.

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29 April 15	-	Email	DOE	<ul style="list-style-type: none"> Director - Audit and Assurance, Compliance and Enforcement Branch, Environment Assessment and Compliance Division A/g Assistant Director - Outcomes Based Approaches Project, Compliance and Enforcement Branch, Environment Assessment and Compliance Division Director - Migratory Species Section, Wildlife, Heritage and Marine Division Director - International Heritage Section, Wildlife Heritage Marine Division 	Initial contact and definition of interview scope
			DOIS	<ul style="list-style-type: none"> Manager - Environment, Safety and Security Section 	
29 April 15	-	Email	NOPSEMA	<ul style="list-style-type: none"> Environment Specialist - Assessment and Inspection 	Initial contact and definition of interview scope
1 May 15	10:00 am	Meeting	NOPSEMA	<ul style="list-style-type: none"> Manager - Assessment & Inspection, Drilling and Development Environment Specialist Assessment and Inspection 	Interview with ERM to provide general overview of NOPSEMA Program including: <ul style="list-style-type: none"> How legislative changes incorporate EPBC matters Process changes (RMS, Procedures, external communications/information etc) to support implementation/administration
1 May 15	10:30 am	Meeting	NOPSEMA	<ul style="list-style-type: none"> Manager - Assessment & Inspection, Drilling and Development 	Interview with ERM to evaluate performance against commitments under the Program
4 May 15	9:30 am	Meeting	NOPSEMA	<ul style="list-style-type: none"> Head of Division 	Interview with ERM to evaluate performance against commitments under the Program
4 May 15	3:00 pm	Meeting	NOPSEMA	<ul style="list-style-type: none"> Environment Specialist - Assessment & Inspection - Seismic and Production Operations 	Interview with ERM to evaluate performance against commitments under the Program
5 May 15	11:00 am	Meeting	NOPSEMA	<ul style="list-style-type: none"> Manager - Assessment & Inspection, Seismic and Production Operations 	Interview with ERM to evaluate performance against commitments under the Program
5 May 15	2:30 pm	Meeting	NOPSEMA	<ul style="list-style-type: none"> Environment Specialist - Assessment & Inspection - Drilling and Development 	Interview with ERM to evaluate performance against commitments under the Program
6 May 15	12:30 pm	Meeting	DOE	<ul style="list-style-type: none"> Director - Migratory Species Section, Wildlife, Heritage and Marine Division Assistant Director - Migratory Species Section, Wildlife, Heritage and Marine Division Assistant Director - Migratory Species Section, Wildlife, Heritage and Marine Division 	Interview with ERM to evaluate performance against commitments under the Program

Date	Time	Communication Type	Contact Organisation/Affiliation	Representative	Content of Communication
6 May 15	2:00 pm	Meeting	DOE	<ul style="list-style-type: none"> Director - Audit and Assurance, Compliance and Enforcement Branch, Environment Assessment and Compliance Division A/g Assistant Director - Outcomes Based Approaches Project, Compliance and Enforcement Branch, Environment Assessment and Compliance Division 	Interview with ERM to evaluate performance against commitments under the Program
6 May 15	-	Email	DOE	<ul style="list-style-type: none"> A/g Assistant Director - Outcomes Based Approaches Project, Compliance and Enforcement Branch, Environment Assessment and Compliance Division 	Provision of supporting documentation following interview
7 May 15	10:00 am	Meeting	DOIS	<ul style="list-style-type: none"> Manager - Environment, Safety and Security Section Senior Policy Officer - Environment, Safety and Security Section Senior Policy Officer - Regulatory Streamlining Section 	Interview with ERM to evaluate performance against commitments under the Program
11 May 15	-	Email	NOPSEMA	<ul style="list-style-type: none"> Environment Specialist - Assessment and Inspection 	Provision of supporting documentation following interview
11 May 15	-	Email	NOPSEMA	<ul style="list-style-type: none"> Environment Specialist - Assessment and Inspection 	Provision of supporting documentation following interview
11 May 15	-	Email	NOPSEMA	<ul style="list-style-type: none"> Manager - Assessment & Inspection, Drilling and Development Environment Specialist - Assessment and Inspection 	Follow up questions to evaluate performance against commitments under the Program
12 May 15	8:00 am	Meeting	NOPSEMA	<ul style="list-style-type: none"> Manager - Assessment & Inspection, Drilling and Development 	Follow up questions to evaluate performance against commitments under the Program
1 April	-	Email	IFAW	<ul style="list-style-type: none"> Marine Campaigner 	Initial contact, introduction of Streamlining Review
5 May	-	Email	IFAW	<ul style="list-style-type: none"> Marine Campaigner 	Follow up and definition of interview scope
12 May 15	10:00 am	Meeting	IFAW	<ul style="list-style-type: none"> Marine Campaigner 	Interview with ERM to evaluate performance against commitments under the Program
12 May 15	-	Email	IFAW	<ul style="list-style-type: none"> Marine Campaigner 	Provision of supporting documentation following interview
12 May 15	1:00 pm	Meeting	DOE	<ul style="list-style-type: none"> Director - Natural Heritage Section, Wildlife, Heritage and Marine Division Senior Heritage Officer - Natural Heritage Section, Wildlife, Heritage and Marine Division Policy Officer - International Heritage Section, Wildlife, Heritage and Marine Division 	Interview with ERM to evaluate performance against commitments under the Program

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13 May 15	9:00 am	Meeting	DOE	<ul style="list-style-type: none"> Acting Assistant Secretary - Commonwealth Marine Reserves, Parks Australia Acting Assistant Secretary - Policies and Program Coordination, Parks Australia Policies and Program Coordinator - Parks Australia 	Interview with ERM to evaluate performance against commitments under the Program
26 May 15	-	Email	CGG Services (Australia) Pty Ltd	<ul style="list-style-type: none"> Technical Operations Manager - Multiclient and New Ventures 	Initial contact, introduction of Streamlining Review and definition of interview scope
27 May 15	-	Email	WAFIC	<ul style="list-style-type: none"> Chief Executive Officer 	Initial contact, introduction of Streamlining Review and definition of interview scope
28 May 15	-	Email	<ul style="list-style-type: none"> Tasmanian Scallop Fisherman's Association 	<ul style="list-style-type: none"> Chief Executive 	Initial contact, introduction of Streamlining Review and definition of interview scope
			<ul style="list-style-type: none"> WA Department of Fisheries (WA) 	<ul style="list-style-type: none"> EIA Officer 	
			<ul style="list-style-type: none"> APPEA 	<ul style="list-style-type: none"> Environment Director 	
			<ul style="list-style-type: none"> Victorian Scallop Fisherman's Association 	<ul style="list-style-type: none"> Chief Executive Officer 	
			<ul style="list-style-type: none"> Australian Southern Bluefin Tuna Industry Association 	<ul style="list-style-type: none"> Chief Executive Officer 	
			<ul style="list-style-type: none"> Western Rock Lobster Council 	<ul style="list-style-type: none"> Chief Executive Officer 	
			<ul style="list-style-type: none"> Esso Australia Resources Pty Ltd 	<ul style="list-style-type: none"> Environmental, Regulatory and Risk Group Supervisor Environmental & Regulatory Advisor 	
			<ul style="list-style-type: none"> 3D Oil T49P Pty Ltd 	<ul style="list-style-type: none"> Senior Geophysicist Environmental Advisor 	
			<ul style="list-style-type: none"> Apache Julimar Pty Ltd 	<ul style="list-style-type: none"> Environmental Advisor 	
27 May 15	-	Email	Murphy Australia WA-481-P Oil Pty Ltd	<ul style="list-style-type: none"> HSE Manager 	Written submission issued to ERM in lieu of interview
29 May 15	-	Email	Wild Migration	<ul style="list-style-type: none"> Director Director 	Initial contact, introduction of Streamlining Review and definition of interview scope
2 June 15	11.00 am	Meeting	Esso Australia Resources Pty Ltd	<ul style="list-style-type: none"> Environmental, Regulatory and Risk Group Supervisor Environmental & Regulatory Advisor 	Interview with stakeholder to get feedback on the Program

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2 June 15	1.30pm	Meeting	Wild Migration	<ul style="list-style-type: none"> Director Director 	Interview with stakeholder to get feedback on the Program
3 June 15	-	Email	Western Rock Lobster Council	<ul style="list-style-type: none"> Chief Executive Officer 	Confirmed that WAFIC submission will represent their views
3 June 15	11.30am	Meeting	3D Oil T49P Pty Ltd	<ul style="list-style-type: none"> Senior Geophysicist Environmental Advisor 	Interview with stakeholder to get feedback on the Program
3 June 15	-	Email	<ul style="list-style-type: none"> BP Australia Pty Ltd 	<ul style="list-style-type: none"> External Affairs Manager 	Initial contact, introduction of Streamlining Review and definition of interview scope
			<ul style="list-style-type: none"> Cape Conservation Group 	<ul style="list-style-type: none"> Secretary 	
			<ul style="list-style-type: none"> Kangaroo Island Council 	<ul style="list-style-type: none"> Chief Executive Officer 	
			<ul style="list-style-type: none"> Pearls Producers Association 	<ul style="list-style-type: none"> Chief Executive Officer 	
4 June 15	2.00pm	Meeting	Tasmanian Scallop Fisherman's Association	<ul style="list-style-type: none"> Chief Executive 	Interview with stakeholder to get feedback on the Program
5 June 15	-	Email	Commonwealth Fisheries Association	<ul style="list-style-type: none"> Chief Executive Officer 	Initial contact, introduction of Streamlining Review and definition of interview scope
5 June 15	1.00 pm	Meeting	WA Department of Fisheries (WA)	<ul style="list-style-type: none"> EIA Officer 	Interview with stakeholder to get feedback on the Program
8 June 15	-	Email	Woodside Energy Ltd	<ul style="list-style-type: none"> Principal Environmental Advisor 	Written submission issued to ERM in lieu of interview
8 June 15	1.30 pm	Meeting	BP Australia Pty Ltd	<ul style="list-style-type: none"> External Affairs Manager Environmental Advisor 	Interview with stakeholder to get feedback on the Program
11 June 15	9.30am	Meeting	APPEA	<ul style="list-style-type: none"> Environment Director 	Interview with stakeholder to get feedback on the Program
11 June 15	3.30pm	Meeting	Apache Julimar Pty Ltd	<ul style="list-style-type: none"> Environmental Advisor Environmental Advisor 	Interview with stakeholder to get feedback on the Program
12 June 15	11.30am	Meeting	Cape Conservation Group	<ul style="list-style-type: none"> Secretary 	Interview with stakeholder to get feedback on the Program
15 June 15	8.00am	Meeting	Victorian Scallop Fisherman's Association	<ul style="list-style-type: none"> Chief Executive Officer 	Interview with stakeholder to get feedback on the Program

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15 June 15	10.30am	Meeting	Pearls Producers Association	<ul style="list-style-type: none"> Chief Executive Officer 	Interview with stakeholder to get feedback on the Program
15 June 15	11.30am	Meeting	Australian Southern Bluefin Tuna Industry Association	<ul style="list-style-type: none"> Chief Executive Officer 	Interview with stakeholder to get feedback on the Program
15 June 15	-	Email	Chevron Australia Pty Ltd	<ul style="list-style-type: none"> Government Affairs Advisor - Policy, Government and Public Affairs 	Initial contact, introduction of Streamlining Review and definition of interview scope
15 June 15	-	Email	The Wilderness Society	<ul style="list-style-type: none"> Marine Campaign Director 	Initial contact, introduction of Streamlining Review and definition of interview scope
16 June 15	-	Email	WAFIC	<ul style="list-style-type: none"> Communications and Programs Officer 	Written submission issued to ERM in lieu of interview
16 June 15	-	Email	Kangaroo Island Council	<ul style="list-style-type: none"> Mayor 	Written submission issued to ERM in lieu of interview
17 June 15	-	Email	Commonwealth Fisheries Association	<ul style="list-style-type: none"> Chief Executive Officer 	Written submission issued to ERM in lieu of interview
17 June 15	-	Email	The Wilderness Society	<ul style="list-style-type: none"> Marine Campaign Director 	Written submission issued to ERM in lieu of interview
24 June 15	9.00am	Meeting	CGG Services (Australia) Pty Ltd	<ul style="list-style-type: none"> Technical Operations Manager - Multiclient and New Ventures, CGG 	Interview with stakeholder to get feedback on the Program
1 July 2015 13 July 15	11.00am 11.45am	Meeting	Chevron Australia Pty Ltd	<ul style="list-style-type: none"> Environmental Advisor - Drilling and completions Senior Environmental Advisor – Approvals, Policy, Government and Public Affairs (Gorgon) Environmental Approvals Coordinator - Policy, Government and Public Affairs (Gorgon) Health, Environment and Safety Specialist - Environmental Approvals (Australian Business Unit) Government Affairs Advisor - Policy, Government and Public Affairs 	Interview with stakeholder to get feedback on the Program

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3 July 15	9:30 am	Meeting	NOPSEMA	<ul style="list-style-type: none"> A/g Manager Assessment & Inspection - Drilling and Development Environment Specialist - Assessment and Inspection 	Program Review findings and interview follow-up meeting
			DOE	<ul style="list-style-type: none"> Assistant Secretary - Compliance and Enforcement Branch, Environment Assessment and Compliance Division A/g Assistant Director - Outcomes Based Approaches Project, Compliance and Enforcement Branch, Environment Assessment and Compliance Division Assistant Director - EPBC Assurance, Compliance and Enforcement Branch, Environment Assessment and Compliance Division Policy Officers - Migratory Species Section, Wildlife, Heritage and Marine Division 	
			DOIS	<ul style="list-style-type: none"> Manager - Environment, Safety and Security Section Senior Policy Officer - Environment, Safety and Security Section Senior Policy Officer - Regulatory Streamlining Section 	