



Australian Government
Department of Industry

Secretary

Ms Julia Morris
Committee Secretary
Standing Committee on the Environment
PO Box 6021
Parliament House
Canberra ACT 2600

By email to: environment.reps@aph.gov.au

Dear Ms Morris

INQUIRY INTO STREAMLINING ENVIRONMENTAL REGULATION

The Department of Industry (the department) welcomes the opportunity to make a submission to the inquiry into streamlining environmental regulation, 'green tape' and one stop shops.

The department, and the broader Industry portfolio, administers a wide range of regulation, including regulation related to building and construction, trade measurement and energy efficiency improvement.

Environmental policy and regulation have an impact on a wide range of industry sectors that fall within the department's policy responsibilities. These sectors include mining and resources; offshore petroleum exploration and production sector; and forest products and emerging biomass sectors.

The department monitors the impacts of environmental legislation on productivity and competitiveness in the sectors mentioned above to ensure that there is an appropriate balance between achieving environmental outcomes and allowing economic growth.

Should the Committee have any questions regarding this submission please refer them in the first instance to Sarah Clough, General Manager, Portfolio Regulation Reform Taskforce on _____ or email at _____

Yours sincerely

Glenys Beauchamp

8 May 2014

A Submission by the Department of Industry to the House of Representatives Standing Committee on the Environment

Inquiry into Streamlining Environmental Regulation, 'Green Tape', and One-Stop Shops

Section 1 – Introduction and Context

1-1. Introduction

The Department of Industry (the department) consolidates the Australian Government's efforts to drive economic growth, productivity and competitiveness by bringing together industry, energy, resources, science and skills within the one portfolio.

The department has an interest in environmental legislation where it impacts on productivity and competitiveness and monitors the sectors that are impacted to ensure there is an appropriate balance between achieving environmental outcomes and supporting economic growth.

Environmental policy and regulation have an impact on a wide range of industry sectors that fall within the department's policy responsibilities. These sectors include mining and resources ; offshore petroleum exploration and production sector; and forest products and emerging biomass sectors.

Additionally, the department, and the broader Industry portfolio, administers a wide range of regulation, including regulation related to building and construction, trade measurement and energy efficiency improvement. The latter is designed to deliver reduced energy costs for business and the broader community as well as environmental outcomes. There are a number of regulators in the Industry portfolio, some that operate from within the department and others which regulate from separate portfolio agencies.

The department has established an internal deregulation unit that will focus on removing unnecessary regulation and streamlining regulation and associated administrative processes while ensuring policy objectives are still met. This will enable the department to contribute towards the Government's goal to reduce red tape by at least \$1 billion per year.

The department also considers that once published, the Government's Regulator Audit Framework could be a valuable future tool to assess the performance of not only its regulators, but those across the Australian Government.

The department welcomes the opportunity to make a submission to the inquiry into streamlining environmental regulation, 'green tape' and one-stop shops. The submission focuses on the impact of environmental regulation in the minerals and petroleum industries. The submission discusses the importance of objective-based regulation, using an environmental legislation example and details an example of streamlining offshore petroleum environmental approvals. The submission also discusses some opportunities for future environmental regulation reform consistent with Government's regulatory reform agenda and covers a selection of energy efficiency legislation administered by the department.

1-2. Principles Underpinning Good Regulatory Practice

The Australian Government has established a new regulatory framework which is designed to deliver policy objectives in the most efficient manner. It is also committed to improving the administration of regulation and the performance of regulators.

Within this framework, the *Australian Government's Guide to Regulation* emphasises the Government's rigorous approach to policy making to ensure that regulation is not adopted as a default solution, but as the best policy option resulting in the greatest net benefit.

A key element of this approach to regulating is the need for comprehensive consultation with affected business, community organisations and individuals. Regulators should also consult with each other to avoid creating cumulative or overlapping regulatory burden. Additionally, the information upon which regulatory decisions are based should be published at the earliest opportunity. All regulations should be periodically reviewed to test their continuing relevance.

The Government tasked the Productivity Commission (PC) to develop a framework for auditing regulators. The PC report *Regulator Audit Framework*, March 2014, states the following best practice principles for regulators:

- Clear and effective communication and consultation with stakeholders.
- Objective-based or risk-based approach to regulations, and proportionate actions to regulatory administration. Business size, industry and compliance history must be considered.
- Consistency in decision making and the application of rules, and engagement with stakeholders.
- Effective information management, and transparency and accountability in reporting.
- A commitment to continuous improvement, including acting on findings with regards to the need for and effectiveness of the regulation.

While the Regulator Audit Framework is currently under review and awaiting a response from Government, the Framework is designed to deliver more responsive and efficient regulation.

(a) Objective-based regulation

As highlighted above, objective-based regulation is a key best practice principle. This applies to all regulatory regimes, including environmental regulatory regimes.

Under objective-based regulatory regimes, project developers must consider and identify the acceptable outcomes for all environmental matters, including matters of national environmental significance. The activity approved must also include a clear demonstration of how those outcomes will be delivered. This is in contrast to requirements under a prescriptive regulatory regime, where the project developers only consider those matters specifically identified by the regulation and meets the minimum standard of protection the regulator prescribes.

The outcome of an objective-based regime is that project developers consider the costs and implications to the environment as part of their investment decisions. In this regard, objective-based regulation encourages continuous improvement and streamlined processes to achieve appropriate environmental outcomes and ecologically sustainable development. It ensures flexibility in operational matters to meet the unique nature of different projects, and avoids a 'one size fits all' approach to regulation, allowing industry to determine the most effective and efficient way to operate.

Environmental management of the offshore oil and gas industry under the the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act) and the associated environment regulations is an objective-based regulatory regime. It places the onus and duty of care for environmental protection on project developers seeking to undertake an offshore petroleum activity. The project developers must demonstrate to the regulator (the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) in relation to petroleum activities; the responsible Australian Government Minister in relation to greenhouse gas activities) – and the regulator must assess and accept or not accept – that it has reduced the risks of an impact to as low as reasonably practicable. These environmental impacts and risks must also be of an acceptable level.

The NOPSEMA Strategic Assessment and approval of a class of actions was an important first step to streamline environmental approvals for offshore petroleum and greenhouse gas activities.

(b) Open Access to Information

Improved access to information can increase economic efficiency through reduced costs to business and government, faster approvals, improved environmental outcomes and increased transparency and accountability.

Systems already exist for sharing of information. For example, the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act) has provisions for the collection and dissemination of exploration data. The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) also provides for sharing and publication of information in relation to project approvals.

The Productivity Commission has identified open access to information as being important to streamlining the development application process for business.^[1] The Independent Review of the *Environment Protection and Biodiversity Conservation Act 1999* (the Hawke Review) also highlighted opportunities to increase public participation and transparency in relation to the EPBC Act. They include: publication of information where it is used in making a decision under the Act; to share information to improve environment regulation efficiency outcomes subject to privacy and confidentiality safeguards; and to facilitate the establishment of a national environmental information system.

As part of the Australian Government's development of a one-stop shop for environmental approvals process, the Australian Government, through the Department of the Environment, is discussing with state and territory jurisdictions about ways to enhance information sharing and

^[1] Productivity Commission, *Major Project Development Assessment Processes*, 10 December 2013.

access. For example, by sharing and making environmental data publicly available in relation to studies undertaken as part of environmental approval processes, other companies could avoid duplication of studies and reduce costs by re-using the shared information. This could also provide the foundation for information to be combined with other studies to create a baseline information platform which can support improved environmental decisions and future developments.

Section 2 – Environmental Regulation and the Minerals and Petroleum Industries

2-1. The Minerals and Petroleum Industries: Key Facts

Environmental policy and regulation impact a wide range of industry sectors that fall within the department's policy responsibilities. These sectors include the mining and resources, petroleum, oil and gas sectors. One of the sectors the department looks after is the minerals and petroleum industries, a key sector for the Australian economy.

The minerals and petroleum industries accounted for around 10% of Australia's gross domestic product in 2012–13. Additionally there are contributions from downstream mining related activities in industries such as manufacturing, construction, transport and storage, property and business services as well as electricity and gas.

Australia's exports of resource commodities were estimated to be \$176 billion in 2012–13 and are forecast to increase to \$284 billion in 2018-19. In 2012–13, resource commodity exports (at current prices) accounted for: 82% of Australia's total commodity exports (including agriculture); 71% of Australia's merchandise exports; and 58% of Australia's total exports of goods and services.

In 2012–13, the resources sector employed approximately 266,000 (2.3% of the national workforce) including in minerals and petroleum exploration, extraction and associated services. A further 256,000 people (2.2% nationally) were employed in manufacturing associated with minerals and petroleum in the areas of metal products, non-metallic mineral products, petroleum, coal and chemical products.

In 2012–13, private new capital expenditure in the resources sector was valued at \$95 billion, an increase of 16% from 2011–12. In October 2013, there were 63 committed projects (projects that have received a positive final investment decision) at a value of \$240 billion. These 63 committed projects included:

- 30 energy projects at an estimated value of \$207 billion;
- 18 minerals, mining and processing projects at an estimated value of \$20 billion; and
- 11 infrastructure projects at an estimated value of \$12 billion.

Australia is now seeing a transition from the investment phase of the resources boom to the production phase as newly developed projects commence commercial production. The number and value of committed projects in October 2013 decreased from 73 projects with a combined value of \$268 billion in April 2013. These declines in both the number and value of projects were the result of

more projects being completed than new projects receiving approval to start construction, particularly high value 'mega projects'. In the six months to October 2013, 18 projects were completed with a record high value of \$30 billion. In the same period, only five projects with a combined value of \$1.7 billion were approved. This is both the lowest number and lowest value of project approvals in a six month period in over a decade.

2-2. Current Environmental Regulation in the Minerals and Petroleum Industries

Environmental regulation in Australia is complex with an array of international laws, national laws, state or territory laws and the common law (including native title) applying in each state and territory in Australia. There are over 500 local governments in Australia which have been created and operate under state or territory laws. They provide an important subset of plans and laws applying within their areas.

In Queensland for example, McGrath (2011) identified 69 major pieces of international (9), Commonwealth (24), State (26) law together with common law that make up Queensland's environmental legal system.¹ This is administered principally by the Commonwealth, the State Government, local governments (including regional councils, shires, and city councils) and the courts.²

Managing the regulation matrix effectively to maintain environment standards, sustain national prosperity through economic development and support society is a key challenge for governments, the business sector and the community. The complexity increases for companies that do business in more than one jurisdiction.

(a) Onshore State and Territory Jurisdiction Regulation

The regulation associated with onshore minerals and petroleum exploitation is the responsibility of the state and Northern Territory governments. There are three basic stages to development for onshore petroleum and mining activities:

- initial exploration
- further detailed exploration and assessment (possibly under a retention licence)
- development, production, closure and rehabilitation of a mine.

Environmental approval is a critical part of the broader minerals and petroleum approvals process and concurrent with each of the above stages. The state and territory governments are the main authorities for environmental management within their respective jurisdictions. Environmental

¹ Dr C McGrath (2011), Synopsis of Queensland Environmental Legal System, 5th Ed, ISBN 978-0-9775464-1-1, Figure 1
Web link <http://www.envlaw.com.au/sqels5.pdf>

² McVeigh Ed. (2013), The Queensland Law Handbook, Chapter 24 Laws affecting the Environment (McGath C and Lucas N), p447

management in Australia is based on the integration of all phases of resource planning and development, from assessment, through construction, operation and closure to rehabilitation.

Approvals processes involve identifying environmental impacts and determining ways to manage those impacts. Processes vary among the states and territories, but there are some common features. The main steps are:

- proposal, notice of intention, environmental management plan or initial advice statement
- government assessment
- government approvals.

In addition to state and territory requirements, the Australian Government is involved through the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act). The EPBC Act provides a legal framework to protect and manage matters of national environmental significance. When an activity is referred to the Australian Government Department of the Environment, details of the proposal are assessed and the Australian Government Minister for the Environment then decides whether it is a controlled action.

Under the relevant legislation, state, territory and local government approvals can cover matters separate from those protected by national environment law. This can result in situations where an activity may need approval from all three levels of government. The Department of the Environment works with its state and territory counterparts to ensure information is shared and to align assessment processes where possible.

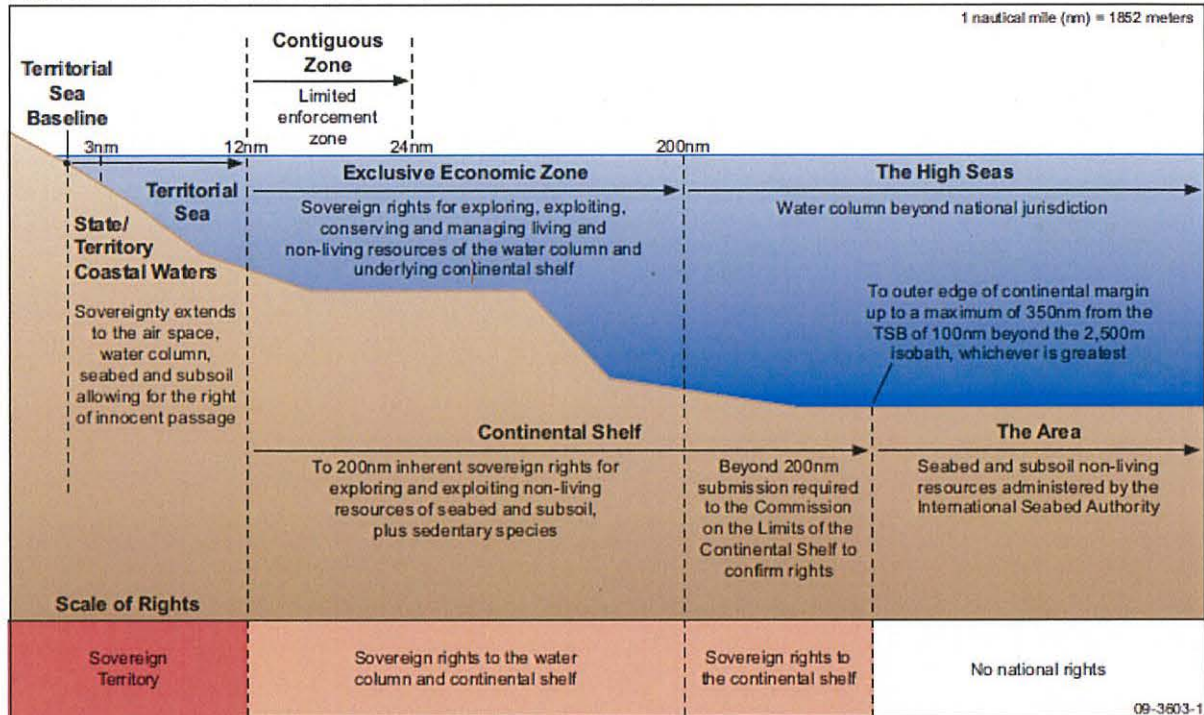
In order to increase economic efficiency as well as maintain high environmental standards, the Australian Government is now working with state and territory jurisdictions to create a one-stop shop for environmental approvals (refer discussion below).

(b) Offshore Commonwealth Environmental Regulation

i. Petroleum (Oil and Gas)

In Australia, offshore petroleum operations beyond designated state and territory coastal waters (from three nautical miles seaward of the coastal baseline) are governed by the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGSA Act) and related regulations. (Figure 2 refers).

Figure 1: Offshore extent of the maritime zones recognised under international law



Extracted from the *United States Coast Pilot* (44th ed, U.S Department of Commerce, National Oceanic and Atmospheric Administration and National Ocean Service, 2014), available at <http://www.nauticalcharts.noaa.gov/nsd/cpdownload.htm>. Current at 27 April 2014.

On 1 January 2012, the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) acquired regulatory responsibility for occupational health and safety, structural integrity, environmental management and day-to-day operations for the offshore petroleum industry.

Environmental approvals for offshore petroleum and greenhouse gas activities in Commonwealth waters are governed by the provisions of the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (Environment Regulations) and the *Environment Protection and Biodiversity Act 1999* (EPBC Act). On 28 February 2014, the Government implemented streamlined arrangements making NOPSEMA the sole designated assessor for petroleum activities in Commonwealth waters, including approvals under the EPBC Act, provided the assessment is undertaken in accordance with the processes established under the Environment Regulations as amended in 2014.

The objects of the Environment Regulations and EPBC Act are mutually consistent, and include that activities are carried out in a manner that is consistent with the principles of ecologically sustainable development. This framework ensures optimal environmental protection while allowing development of an internationally competitive and sustainable industry.

Under the Environment Regulations, titleholders who want to conduct a petroleum or greenhouse gas activity are required to prepare and implement an environment plan for the period of the activity. The regulator (NOPSEMA in relation to petroleum activities; the responsible Australian Government Minister in relation to greenhouse gas activities) must assess the environment plan and decide whether to accept it. Furthermore, an offshore project proposal is also required for activities which involve the production and development of hydrocarbons, and must undergo at least four weeks public consultation before NOPSEMA makes a decision as to whether the project will be acceptable.

ii. Offshore: Mining

The term 'offshore mining' relates to the exploration for, and mining of, minerals (other than petroleum) offshore, that is, beyond the coastal baseline, in the sea and the seabed. Under the 1979 Offshore Constitutional Settlement, the Commonwealth and the states and Northern Territory agreed to introduce a common mining code to apply from the territorial sea baseline (generally the low water mark) out to the edge of Australia's continental shelf. It was also agreed that this common mining code would be governed by complementary Commonwealth and state offshore minerals legislation.

The *Offshore Minerals Act 1994* establishes a regulatory regime for the exploration (and production) of minerals in Commonwealth waters that adheres to the principles of the Offshore Constitutional Settlement. Under the *Offshore Minerals Act 1994*, exploration and recovery of resources found within the coastal waters of a state (that is, the first three nautical miles of the Australian territorial sea beyond the low water mark) are administered by the state or Northern Territory. Responsibility for minerals operations in Australia's offshore areas beyond three nautical miles from the coastal baseline rests with the Australian Government.

The *EPBC Act* applies to matters of national environment significance (refer discussion above).

The department, in partnership with the states and the Northern Territory, advises the Joint Authority (the relevant state and Commonwealth Ministers) in relation to the award of exploration permits and other titles under the *Offshore Minerals Act 1994*. It also works with the states and the Northern Territory to regulate industry activities. Following discovery of a mineral resource, the successful explorer maintains the right, subject to development approvals, to ensure appropriate regard to safety, the environment and good practice, and to construct infrastructure to exploit the resource.

2-3. Recent Developments in Environmental Approvals in the Minerals and Petroleum Industries

(a) Streamlining offshore petroleum environmental approvals

On 28 February 2014, the Minister for the Environment and the Minister for Industry announced a new streamlined approach for environmental approvals for offshore petroleum activities, which makes the NOPSEMA the sole designated assessor for these activities in Commonwealth waters.

Prior to 28 February 2014, petroleum activities in Commonwealth waters that were likely to impact on matters of national environmental significance, as defined in the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) were subject to regulation under both the OPGGS Act and the EPBC Act. This dual assessment, monitoring and enforcement imposed an unnecessary burden on business without additional environment protection benefits.

The streamlined approach for offshore environment approvals removed unnecessary duplication and inconsistency, while maintaining high levels of environmental protection. The reform will contribute \$120 million in annual savings towards the Government's deregulation target of \$1 billion.

(b) One-Stop Shop

The Australian Government is delivering a 'one-stop shop' for environmental approvals that will accredit state planning systems under national environmental law, to create a single environmental assessment and approval process for nationally protected matters.

Memoranda of Understanding to implement a one-stop shop have been signed with all states and territory governments to develop a one-stop shop for environmental assessments and approvals by September 2014. States and territories will need to meet EPBC Act standards as part of the accreditation of their assessment and approval processes. An assurance framework is being developed to ensure effective implementation of approval bilateral agreements and to provide transparency and accountability.

The one-stop shop policy aims to simplify the approvals process and lead to swifter decisions, while maintaining environmental standards. This will support economic efficiency, social development and environmental outcomes. For Industry, this is intended to support and improve productivity and international competitiveness; increase certainty for stakeholders (particularly project developers, investors and communities); and support leading practices based on objective outcomes in proportion to risk.

(c) Coal Seam Gas

The department works closely with state and territory governments, which have primary responsibility for regulating the Coal Seam Gas (CSG) industry. The eastern Australian gas market is undergoing a period of substantial transformation, with the development of CSG and the associated development of an east coast Liquefied Natural Gas (LNG) export industry. The Queensland LNG export projects are expected to commence production in 2014-2015, which will increase demand for gas in the eastern market from about 700 petajoules (PJ) in 2012-13 to 2,300 PJ by 2016.

CSG is naturally occurring methane gas in coal seams. Australia's estimated identified CSG reserves have grown rapidly in recent years to economic demonstrated resources (EDR) of 35,905 PJ and sub-economic demonstrated resources of 65,529 PJ. These reserves predominately occur in the eastern states, with the greatest activity to date being in Queensland.

The use of CSG as an energy source is long-standing and already accounts for around 35 per cent of domestic gas production in the eastern states. Its use both as a domestic energy source and for export will increase in the foreseeable future.

The Australian Government does not regulate mining and exploration activities and regimes for CSG vary across jurisdictions. Currently, CSG development in New South Wales is restricted, with the state government recently announcing that no new applications for CSG exploration licenses will be processed until September 2014, pending a review of the state's regulatory framework. Duplication and uncertainty of mining and exploration regulations is discouraging exploration by increasing compliance costs, extending approval times and increasing regulatory uncertainty (Mineral and Energy Resource Exploration - Productivity Commission Inquiry Report 5 March 2014). In Victoria, there is currently a moratorium on hydraulic fracturing for the CSG industry until environmental impacts of such processes are independently verified.

Section 3 – Opportunities for Future Streamlining for Minerals and Petroleum Industries

3-1 Opportunities for Future Streamlining of Environmental Regulation

There is scope to streamline other areas of environmental regulation affecting minerals and petroleum industries as outlined below.

(a) Opportunities for Conferral of State and Territory Powers for Petroleum Related Environmental Regulation of Coastal Inshore Waters to NOPSEMA

Responsibility for onshore petroleum operations and as far as three nautical miles seaward of the baseline (referred to as 'coastal waters'), is the responsibility of the state and Northern Territory governments. The OPGGS Act contains provisions for state and territories to confer NOPSEMA with regulatory functions in relation to designated coastal waters.

Offshore petroleum activities across both Commonwealth and state or territory jurisdiction requires assessment and approval by:

- NOPSEMA (for occupational health and safety, integrity and environmental management)
- The relevant state or territory legislation (for occupational health and safety, integrity and environmental management, including matters under the EPBC Act)
- By the Australian Government Minister for the Environment under the EPBC Act, for activities in state or territory coastal waters that are likely to impact of matters of national environment significance.

In practice, this means that a single offshore petroleum project could be subject to three separate approvals processes. One option to reduce this regulatory overlap is through:

- conferral of state and territory powers for occupational health and safety, integrity and environmental management to NOPSEMA; and

- impact assessment of activities on matters of national environment significance in and near coastal waters that may be impacted by oil and gas activities to enable the Australian Government Minister for the Environment to approve a class of actions in coastal waters of a state or territory.

This would establish NOPSEMA as the single regulator for environmental management for all offshore oil and gas activities in Commonwealth and coastal waters. In practice, this would mean that for any offshore petroleum activity, a company would only be required to seek one approval for the individual activities.

On 1 May 2014 at the inaugural meeting of the COAG Energy Council, Ministers noted opportunities to further streamline regulatory arrangements for petroleum activities, including the potential to reduce the regulatory burden on the offshore petroleum industry through the conferral of powers and functions on NOPSEMA for occupational health and safety, integrity (including well integrity) and environmental management in designated coastal waters. The Northern Territory and South Australia agreed to commence discussions with NOPSEMA regarding potential conferral. Without prejudice to other jurisdictions' positions, it was agreed that discussions will continue between officials of those jurisdictions and the Commonwealth and NOPSEMA on the potential impacts for industry, regulators and government and timeframes for further streamlining of regulatory approvals for offshore petroleum projects extending into coastal waters. Western Australia and Tasmania maintain their position to continue oversight of their own waters.

Conferral of state and territory regulatory functions to NOPSEMA has been recommended several inquiries. In 2009, the Productivity Commission *Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector* found that complex interface issues between Commonwealth and coastal waters added risk to poor regulation and recommended that the 'states and territories should consider conferring powers on the National Offshore Petroleum Safety Authority (NOPSA)³ to regulate occupational health and safety matters for all state and territory waters seawards of the low tide mark'. This recommendation was subsequently supported in the *Report of the Montara Commission of Inquiry* in June 2010.

In June 2009, the *Offshore Petroleum Safety Regulation – Varanus Island Incident Investigation* identified significant confusion as to the regulatory boundaries within and between Commonwealth and coastal waters, recommending:

- Western Australia ensure, as a matter of urgency, that all of its legislation and regulation mirrors Commonwealth offshore legislation and regulation; and
- Western Australia confer powers to enable NOPSA to regulate all offshore safety and integrity including all facilities and pipelines in the water and the WA islands (including Varanus Island) which export gas by pipeline, to the nearest valve.

³ NOPSA was the occupational health and safety regulator for the Australian offshore petroleum industry between 2005 and 2011. The role of regulator has been transferred to NOPSEMA from the first of January 2012.

Benefits would include reduced regulatory burden on industry and assurance to the community regarding consistent regulatory outcomes for offshore petroleum activities regardless of their location. This would support petroleum industry competitiveness, future investment and improved occupational health and safety, integrity and environmental outcomes through a single regulator for offshore activities, and a nationally consistent objective-based regulatory framework.

(b) Coal Seam Gas Regulation Opportunities

The department notes that there is potential for states to streamline environmental regulations for the CSG industry which can deliver savings for both regulators and the industry, without weakening environmental regulatory requirements. However, it is important this streamlining does not undermine community confidence in the CSG industry and regulatory processes. A robust and well communicated evidence-based regulatory approach is necessary.

The Queensland government is undertaking a 'red tape' reduction initiative and is currently undertaking significant legislative reform to streamline environmental approval processes as well as approval timeframes. The reform focuses on outcomes, not processes. To date, the total number of conditions required for environmental approval has reduced from 442 to 232 by developing outcome-based conditions and as a result duplication in regulatory requirements has been reduced. Another area of reform is to increase focus on compliance and enforcement, rather than additional regulations which overlap with existing ones.

From May 2013 to January 2014, 37 approvals for CSG industry were granted in Queensland with an average assessment timeframe of seven business days.

The Queensland Competition Authority (QCA) has also recently completed an investigation into CSG regulation in the state, including options for regulatory reform and cost recovery for the industry. The final report, published on 31 January 2014, contained 39 recommendations that included the following of direct relevance to regulatory reform:

- reducing overlap in water regulation between the Queensland Government Department of Environment and Heritage Protection and the Queensland Government Department of Energy and Water Supply;
- developing Standard Conditions (e.g. 'off the shelf' conditions) for CSG production activities that are outcome-focused and updated periodically; and,
- removing excessive reporting requirements through the implementation of electronic waste tracking systems.

These recommendations are aimed at reducing duplication, eliminating unnecessary prescriptive regulation and simplifying overlapping responsibilities of government agencies.

Section 4 – Legislation with Environmental Impact Administered by the Department

4-1. Energy Efficiency: Commercial Buildings and Equipment

The department is responsible for legislation and programs that deliver reduced energy costs for businesses and individuals, as well as a range of other benefits, including environmental outcomes.

(a) Commercial Building Disclosure Program

The Commercial Building Disclosure (CBD) Program requires energy efficiency information to be provided via Building Energy Efficiency Certificates (BEEC) in most cases when commercial office space of 2000 square metres or more is offered for sale or lease. The aim is to improve the energy efficiency of Australia's large office buildings by ensuring prospective buyers and tenants are informed of the energy efficiency of their prospective purchase and, therefore, the ongoing energy costs of operating the building without remediation. The program also addresses an information gap whereby prospective buyers and tenants were unable to compare energy efficiency buildings on a "like for like" basis. The CBD Program is an initiative of the Council of Australian Governments (COAG). It was established by the *Building Energy Efficiency Disclosure Act 2010* and is managed by the department.

BEECs are valid for up to 12 months and include:

- the building's National Australian Built Environment Rating System (NABERS) Energy star rating
 - NABERS is a national rating system that measures the environmental performance of Australian buildings, tenancies and homes.
- a tenancy lighting assessment of the relevant area of the building
 - Tenancy lighting assessment measures the power density of the installed general lighting system of a building, informing prospective buyers and tenants about the building's lighting efficiency.
- general energy efficiency guidance with information on how building owners might improve a building's energy efficiency.

(b) The Greenhouse and Energy Minimum Standards Act 2012 (GEMS Act)

The *Greenhouse and Energy Minimum Standards Act 2012* (GEMS Act) promotes the development and adoption of products that use less energy, reduce energy costs to consumers and produce fewer greenhouse gases by setting mandatory minimum efficiency standards and nationally-consistent labelling requirements for products. The GEMS Act is administered through the *GEMS Regulator* which also sits within the department. The GEMS Act commenced in 2012 and replaced seven state-based approaches.

Under the GEMS Act, improved energy efficiency standards can be set for equipment that uses electricity, gas or other energy sources, or affects energy use by other products. There are currently 22 products regulated for energy efficiency. Examples of products regulated for energy efficiency include hot water heaters, air conditioners, washing machines, refrigerators, lights, electric motors and transformers. It can also regulate 'non-energy' using products such as windows and insulation, which affect the energy use of heating and cooling systems.

The GEMS Act enables the Equipment Energy Efficiency (E3) Program. The E3 Program is a joint Australian and New Zealand's energy efficiency standards and labelling program for appliances. The program harmonises state and territory government regulations under national legislation.

The E3 Program is administered by the Australian Government through the department, in partnership with the states and territories under the Intergovernmental Agreement for the Greenhouse and Energy Minimum Standards Legislative Scheme. New Zealand is also a partner in the Program, under the Australia-New Zealand Policy Framework and Funding Agreement for the E3 Program. Decisions on the work program and budget are taken jointly by the Australian Government, states and territories and New Zealand (through the Energy Efficiency Conservation Authority).

Section 5 – Conclusion

The submission focused on the impact of environmental regulation in the minerals and petroleum industries. The submission outlined recent developments in environmental regulation reform, particularly where that reform impacted on the minerals and petroleum industries, including a discussion of the effectiveness of the new streamlined approach for environmental approvals for offshore petroleum and greenhouse gas activities through NOPSEMA.

The submission highlighted the importance of objective-based regulation that encourages continuous improvement and streamlined processes to achieve appropriate environmental outcomes and ecologically sustainable development. The potential and benefits to confer further state and territory powers to NOPSEMA to become the single regulator for occupational health and safety and other issues for all offshore oil and gas activities were discussed. The importance of improving information sharing was noted along with the potential to streamline environmental regulations for the CSG industry.

The submission also discussed energy efficiency legislation administered by the department. The submission did not address environmental legislation currently the subject of other reviews, such as the legislation relating to the renewable energy target.