

Our reference: A799146

By mail: economics.sen@aph.gov.au

RE: INQUIRY INTO AUSTRALIA'S OIL AND GAS RESERVES - QUESTIONS ON NOTICE

On 30 August 2021, NOPSEMA was emailed the proof Hansard transcript for the Economics References Committee hearing on the Inquiry into Australia's Oil and Gas Reserves, held on 20 August 2021. NOPSEMA was advised the questions NOPSEMA agreed to take on notice were contained within the Hansard transcript and must be addressed by NOPSEMA **by 24 September 2021**.

On 14 September 2021, NOPSEMA received an email from the office of the Senate Standing Committee on Economics on additional questions on notice raised by Senator Rex Patrick. Some of these questions duplicate those referred to in the Hansard transcript, other questions are new. NOPSEMA is required to address these questions **by 1 October 2021**.

NOPSEMA responses are provided in this document and indicate the source of the request.

Yours sincerely



Stuart Smith
Chief Executive Officer

17 September 2021

1. DEFINITIONS

Hansard: Page 8: Where do I find definition of the words 'significant risk' and 'significant adverse impact'?

Email 14 September 2021: Question 1. The OPGGS Act includes the terms 'significant risk' and a 'significant adverse impact', can NOPSEMA clarify what is meant by these terms and examples of each:

- a) A 'significant risk'
- b) A 'significant adverse impact'

NOPSEMA response:

Significant risk is defined in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act). It has a meaning affected by section 25, 26, 27, 27A, 28, 28A and 29. It predominantly relates to significant adverse impacts associated with greenhouse gas operations and not offshore petroleum operations.

OPGGS Safety Regulation 2.28 places an obligation on NOPSEMA to not give consent to work to be performed in a manner different from the safety case unless NOPSEMA is satisfied that there not be an occurrence of a 'significant new risk' to health and safety.

The terms '*significant risk*' and '*significant adverse impact*' are not defined in the OPGGS Act or the subsidiary Regulations covering environment, safety and well integrity.

NOPSEMA administers an outcomes-based regime that requires duty holders to identify and evaluate risks in permissioning documents submitted to NOPSEMA for assessment. NOPSEMA has issued guidance to set out expectations for duty holders to apply risk management methods that are consistent with international standards. International standards on risk management (eg: ISO 31:000:2018) do not define significance but require organisations to define risk criteria with relevance to the context and circumstances. In this regard, NOPSEMA cannot point to a single definition of "significant risk" but instead considers the risk methods and risk criteria presented by duty holders in the context and circumstances relevant to the proposed operations.

Further detail on NOPSEMA's expectations for risk management are published on NOPSEMA's website:

- <https://www.nopsema.gov.au/sites/default/files/documents/2021-03/A122420.pdf>
 - Risk assessment guidance note (safety) Risk assessment.
- <https://www.nopsema.gov.au/sites/default/files/documents/2021-03/A339814.pdf>
 - Environment Plan content requirements guidance note.

On matters related to the environment, NOPSEMA's environmental assessment process involves administering the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The terms 'risk' and 'significant impact' feature frequently in the EPBC Act and its associated regulations. These terms are similarly not defined under the EPBC Act.

Duty holders, in preparing their risk assessments that accompany permissioning documents, refer to risks and impacts, as identified by the duty holder.

2. NOPSEMA OHS INSPECTIONS

Email 14 September 2021: Question 2. Can NOPSEMA provide a list of Safety Inspection Reports in the last three years where "Conclusions" have been made and where no "Recommendations" have been given?

NOPSEMA response:

OHS inspections, undertaken in accordance with Clause 80 to Schedule 3 of the Act, result in a report that must include the inspector's conclusions and the reasons for those conclusions. If the inspector wishes to make recommendations, these will also be recorded in the inspection report. It is noted that the making of recommendations is at the discretion of the inspector, whereas the reporting of conclusions and the reason for conclusions is an obligation on the inspector.

In the period 1 August 2018 to 1 August 2021 (3-year period), NOPSEMA carried out 323 OHS inspections. A total of 131 inspection reports did not include recommendations:

Fifty-five inspections were follow-up inspections that examined the duty holder's actions resulting from previous inspections and assurance on the satisfactory closure of these actions. Based on each of these inspection's findings, the inspector did not see a need to make recommendations in the report.

Thirty-one inspections covered COVID-19 follow-up engagements with the duty holder to check-in on how the duty holder was managing its workforce during the pandemic. NOPSEMA was reasonably satisfied that duty holders had committed to controls to reduce risks of COVID-19 on the facility. Based on each of these inspection's findings, the inspector did not see a need to make recommendations in the report.

Forty-five inspections were incident investigations, conducted at short notice. (Inspections and investigations are taken to mean the same thing under the legislation.) The outcomes of these investigations normally inform other NOPSEMA action, such as enforcements or guidance to industry (such as safety alerts). The nature of the investigation process and reporting does not lead to a need for the inspector to consider or make recommendations in the report.

Email 14 September 2021: Question 3. How does NOPSEMA track the follow up of its Inspection reports, does it track on the basis of "Conclusions", "Recommendations", or both?

NOPSEMA response:

All NOPSEMA inspection reports are used to inform NOPSEMA's compliance monitoring approach, enforcement, future assessments and inspections and the development of guidance to industry. Each inspection is informed by the findings, conclusions and recommendations from

prior inspections, as well as other information that can guide the next inspection. Duty holders are required to respond to NOPSEMA inspection reports in the form of actions, often (but not always) in response to recommendations. Duty holder actions are followed up post inspection. Reports with conclusions inform other NOPSEMA activities such as the planning of new inspections, reviewing key compliance focus areas and emerging trends and to serve as regulatory intelligence in the development of guidance and advice to industry.

Email 14 September 2021: Question 4. If NOPSEMA only tracks "Recommendations" for follow up, then how does NOPSEMA follow up those Reports which only have "Conclusions"

NOPSEMA response:

See response to Question 3 above.

Email 14 September 2021: Question 5. Please provide a copy of internal procedures, practices, etc. which describe the system for following up on inspection reports."

Question 6. Please provide an indicative sample of the follow up reporting system information, ie. Status reports, screenshots, etc

NOPSEMA response:

On a request for production of documents by the Economics References Committee, NOPSEMA's inspection procedure documents and samples of reporting system information could be provided.

3. LLOYDS REVIEW

Hansard: Page 8. Did you prepare and issue inspection reports for the other three – Montara Venture, Pyrenees Venture, Nganhurra?

Page 9. Did any of those findings go to the other vessels at all? Were they related to the other vessels?

NOPSEMA response:

The Lloyds Review covered four ship type facilities; the Montara Venture, the Pyrenees Venture, the Nganhurra and the Northern Endeavour. The Review was conducted from May – September 2019. One report was prepared.

While NOPSEMA did not prepare individual reports for the Montara Venture, the Pyrenees Venture and the Nganhurra, significant correspondence about these vessels and Lloyds was developed and this information was provided to the Senate Economics References Committee on 20 July 2021 in response to the Committee's request.

On 27 September 2019, the Lloyds Review report was finalised and provided by email to Lloyds, UPS (the operator of the Northern Endeavour) and KPMG as the administrators for NOGA (the titleholder).

The Lloyds Review report made findings that were common to all ship type facilities, they include findings about the planned survey programme and the Lloyds Register Class Direct System. Other findings in the report were specifically related to the Northern Endeavour.

The report was not issued to the duty holders of the Montara Venture, the Pyrenees Venture and the Nganhurra, as the report documented specific findings on the Northern Endeavour.

The common findings across all ship type facilities were raised with duty holders during NOPSEMA OHS inspections, specifically inspection ID No's 1900, 1818 referenced on the next page.

Email 14 September 2021: Question 7. Given the nature of the findings and conclusions, on what basis did the Inspector decide to not include the "Recommendations" in the inspection report that was then issued to the Operator, UPS for rectification, and for future follow up by NOPSEMA noting UPS are responsible for the Safety Case and responsible for their chosen third-party service provider, Lloyd's Register International's performance?

NOPSEMA response:

NOPSEMA has previously advised the Senate Economics References Committee at Senate Estimates hearings, that the report prepared for the Lloyds Review, was not a report prepared as an OHS inspection report under Clause 80 of Schedule 3 to the OPGGS Act. The report summarized NOPSEMA's findings associated with NOPSEMA's contact with Lloyds Register, a third party, not regulated under the OPGGS Act. NOPSEMA obtained information from Lloyds by serving Lloyds with a monitoring warrant. The report documents the findings associated with the monitoring warrant. The format of such a report and its contents are not prescribed under the OPGGS Act.

Hansard: Page 8. Can you advise the committee on the date of those reports being issued and to whom they were issued?

Email 14 September 2021: Question 8 – For the three assets Montara Venture, Nganhurra and Pyrenees venture, please provide the Report Numbers and the dates of issue to the assets' respective operators, namely PTTEP, Woodside and BHP Billiton. Please provide copies of these reports.

NOPSEMA response:

NOPSEMA conducted OHS inspections in accordance with clause 80 of Schedule 3 to the OPGGS Act on the above-mentioned ship type facilities during and following the Lloyds Review. Outcomes of the Lloyds Review were followed up with Lloyds during NOPSEMA OHS inspections. NOPSEMA OHS inspections covered a range of safety issues and the focus area on the use of Class related issues as a means of demonstrating the control of risk was carried through in relevant circumstances. A summary of inspections carried out during the Lloyds Review and into early 2021, is summarised on the next page.

Montara Venture

- May 2019, inspection no 1818, report issued to duty holder in July 2019
- November 2019, inspection no 1900, report issued to duty holder in December 2019

For the above two inspections, previous OHS recommendations no's 1703-4 and 1703-3, were linked to the Lloyds Review finding covering planned survey programme. NOPSEMA followed up these recommendations with the duty holder in relation to this finding and the duty holder undertook activities to complete remediation activities by April 2020.

- October 2020, inspection no 2315, report issued to duty holder in February 2021 that reaffirmed that the remediation activities were completed.

Pyrenees Venture

In September 2018, the Pyrenees Venture had completed its dry dock activities and had been subject to Class review (to have covered its planned survey programme). Class issues for the Pyrenees Venture were raised directly with AMSA, in particular compliance with the requirements to the Enhance Survey Program (ESP) Code. Within this in mind, NOPSEMA OHS inspections undertaken over this period then focussed on other key compliance areas. Details are provided below.

- May 2019, inspection no 1906, report issued to duty holder in June 2019
- October 2019, inspection no 1935, report issued to duty holder in November 2019
- April 2020, inspection no 2194, report issued to duty holder in April 2020
- April 2020, inspection no 2214, report issued to duty holder in April 2020
- November 2020, inspection no 2078, report issued to duty holder in January 2021

Nganhurra

- August 2019, inspection no. 2041, report issued to duty holder on 5 November 2019. The Lloyds Review report was not finalised when NOPSEMA was carrying out this inspection and the FPSO had already permanently left the regime. This inspection predominantly related to the riser turret mooring issues. In the previous year, in 2018, Class related issues were raised which led to NOPSEMA enforcement action against Woodside for the Nganhurra.

On a request for production of documents by the Economics References Committee, NOPSEMA OHS inspection reports for the Montara Venture, Pyrenees Venture and the Nganhurra, could be provided.

4. AUSTRALIAN MARITIME SAFETY AUTHORITY (AMSA)

Hansard: Page 9. Was there any information in relation to those reports—that is, findings, recommendations and conclusions—that was passed to AMSA. Perhaps some details of those discussions that you had, the nature of those discussions.

Email 14 September 2021 – Question 9: For the Nganhurra and Pyrenees Venture assets can NOPSEMA please provide the date in which they advised the Australian Maritime Safety Authority (AMSA) of the major non-conformances (findings, conclusions & recommendations) as documented in the File Note.

On 30 May 2019, NOPSEMA's CEO wrote to AMSA's CEO to advise that NOPSEMA had obtained a monitoring warrant to request information from Lloyds. NOPSEMA's CEO provided background on the Lloyds issues and advised that the information obtained under this warrant may be relevant to AMSA in relation to AMSA's functions of compliance monitoring.

NOPSEMA's CEO advised that under section 695X(2) of the OPPGS Act, that NOPSEMA is authorised to share that information with AMSA and would engage with AMSA on these matters. NOPSEMA specialists were involved in sharing information and raising queries with AMSA over the period June to August 2019.

On 10 June 2019, NOPSEMA specialists shared preliminary findings and information obtained from Lloyds with AMSA and put questions to AMSA on these findings and on Lloyds' documentation. In particular identified anomalies and potential non-conformances related to the Nganhurra, and Pyrenees Venture were outlined in an email to AMSA on 10 June 2019.

On 5 August 2019, NOPSEMA specialists sought another opportunity to speak with AMSA on the issues raised in June 2019 and sought a response to NOPSEMA's questions.

On 6 August 2019, NOPSEMA was advised by AMSA that AMSA has limited powers of disclosure under their laws to share information with NOPSEMA and did not provide responses to NOPSEMA's queries.

On 26 August 2019, NOPSEMA's CEO met with AMSA's CEO in Canberra and discussed the following matters:

- During inspections of FPSO facilities NOPSEMA identified a number of examples where Classification Societies have issued certification (Class certificates, extensions to the same and/or fitness for purpose certificates) that appear to contradict their own rules and/or standards.
- Many facilities where NOPSEMA observed this issue share the same Classification Society, Lloyds Register.
- The Lloyds Review identified a number of issues including:
 - Lack of Planned Survey Programme Documents
 - Reliance on third party service providers with limited LR surveyor attendance to undertake close-up visual inspections of tanks

- Validity of some Special Survey extensions
- Treatment of excessive corrosion (Criticality assessments, steel renewal)
- Basis for Class suspensions
- NOPSEMA would instigate inspections of facilities and their operators to address issues under the OPGGS Act and consider enforcement actions where appropriate.