

# Environment Plan decision making

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## Abbreviations, Acronyms and Definitions

Activity	A petroleum activity or a greenhouse gas activity
ALARP	As low as reasonably practicable
Control measure	A control measure is a system, an item of equipment, a person or a procedure that is used as a basis for managing environmental impacts and risks.
Cumulative impact	In the context of offshore petroleum activities, cumulative environmental impacts are successive, additive or synergistic impacts of collectively significant activities or projects with material impacts on the environment that have the potential to accumulate over temporal and spatial scales.
DCCEEW	Department of Climate Change, Energy, the Environment and Water
Declared World Heritage Property	A declared World Heritage property is an area that had been included in the World Heritage List or declared by the Minister to be a World Heritage property.
ecosystem (as defined in the EPBC Act)	A dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.
Environment (as defined under r 5)	<p>a) ecosystems and their constituent parts, including people and communities; and</p> <p>b) natural and physical resources; and</p> <p>c) the qualities and characteristics of locations, places and areas; and</p> <p>d) the heritage value of places; and includes</p> <p>e) the social, economic and cultural features of the matters mentioned in paragraphs (a), (b), (c) and (d).</p>
Environmental impact	Refers to any change to the environment, whether adverse or beneficial, that wholly or partially results from an activity
Environment Regulations	Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EP	Environment Plan
EPO	Environment Performance Outcome refers to a measurable level of performance required for the management of the environmental aspects

	of an activity to ensure that environmental impacts and risks will be of an acceptable level.
Environmental Performance Standard (EPS)	A statement of the performance required of a control measure
ESD	Ecologically sustainable development
Hearing rule	A person affected by a decision has a right to be heard before an adverse decision is made.
Heritage value (as defined in the EPBC Act)	of a place includes the place's natural and cultural environment having aesthetic, historic, scientific or social significance, or other significance, for current and future generations of Australians
NOPSEMA	National Offshore Petroleum Safety and Environmental Management Authority
NOPSEMA decision maker	The person within NOPSEMA with the delegation to make a particular decision
Objection or claim	<ul style="list-style-type: none"> <li>• To express opposition, protest, concern or complaint about the proposed activities</li> <li>• A request or demand that certain action be taken by the titleholder to address adverse impacts</li> <li>• An assertion that there will be an adverse impact</li> <li>• An allegation to cast doubt about the manner in which the activities will be managed.</li> </ul>
OPGGs Act	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i>
OPP	Offshore project proposal
Place (as defined in the EPBC Act)	<p>includes:</p> <p>(a) a location, area or region or a number of locations, areas or regions; and</p> <p>(b) a building or other structure, or group of buildings or other structures (which may include equipment, furniture, fittings and articles associated or connected with the building or structure, or group of buildings or structures); and</p>

	(c) in relation to the protection, maintenance, preservation or improvement of a place—the immediate surroundings of a thing in paragraph (a) or (b).
Program	The environmental management authorisation process for petroleum and greenhouse gas storage activities administered by NOPSEMA under the Environment Regulations endorsed by the Minister for Environment under section 146 of the EPBC Act <sup>1</sup> .
Petroleum Activity	Operations or works in an offshore area undertaken for the purpose of: <ul style="list-style-type: none"> <li>• exercising a right conferred on a petroleum titleholder under the Act by a petroleum title; or</li> <li>• discharging an obligation imposed on a petroleum titleholder by the Act or a legislative instrument</li> </ul>
Relevant person	As defined in r 25 of the Environment Regulations
Sensitive information	As defined in r 5 of the Environment Regulations
Titleholder	As defined in r 5 of the Environment Regulations

<sup>1</sup> [Strategic assessment of the environment management authorisation process for offshore petroleum and greenhouse gas storage activities under the Offshore Petroleum and Greenhouse Gas Storage Act 2006](#)

## General Principles

### 1. Introduction

The Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023 (Environment Regulations) require submission of, and NOPSEMA's assessment and acceptance of, an EP prior to the commencement of any offshore petroleum or greenhouse gas activity. An EP is a document that contains information on environmental assessment, implementation of environmental management, details of the titleholder and other information specified in Division 5 of the Environment Regulations.

Where an offshore petroleum or greenhouse gas activity is part of an offshore project, an offshore project proposal (OPP) must already have been submitted to NOPSEMA and accepted before an EP can be submitted. A NOPSEMA decision to accept an OPP is a form of project-level approval that gives proponents the opportunity to continue with more detailed environmental planning and assessment.

The intent of the EP process, and the object of the Environment Regulations, is to ensure that any petroleum activity or greenhouse gas activity carried out in an offshore area is:

- carried out in a manner consistent with the principles of ecologically sustainable development set out in section 3A of the EPBC Act; and
- carried out in a manner by which the environmental impacts and risks of the activity will be reduced to as low as reasonably practicable (ALARP); and
- carried out in a manner by which the environmental impacts and risks of the activity will be of an acceptable level.

Offshore petroleum and some greenhouse gas activities also have access to the EPBC Act (Part 10) class of actions approval under the endorsed NOPSEMA EPBC Act Program<sup>2</sup> (refer to s3.3 of this Guideline).

### 2. Purpose

The purpose of this guideline is to set out NOPSEMA's considerations in making decisions in accordance with the legislated criteria relevant to EPs. This guideline:

- Communicates the key factors that influence NOPSEMA's decision making in relation to decision making criteria for acceptance criteria for EPs (r 34).
- Includes interpretation arising from the Federal Court appeal decision *Santos NA Barossa Pty Ltd v Tipakalippa* [2022] FCAFC 193 as it relates to NOPSEMA's decision making under r 34.
- Provides information for proponents and stakeholders to understand NOPSEMA's regulatory decision-making.
- Imparts transparency on the way in which NOPSEMA's EP regulatory decisions are made.

This guideline should be read in conjunction with the Environment Regulations, NOPSEMA's published policies, NOPSEMA's Consultation with relevant persons in an environment plan guideline (GL2086) and NOPSEMA's EP content requirements guidance note (GN1344). Guidance on how the decision making criteria (r 34) interacts with the content requirements (r 21-24) is provided in Appendix C.

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<sup>2</sup> [Streamlining Offshore Petroleum Environmental Approvals - Program report](#)

In preparing an EP, proponents are encouraged to discuss the content of this guideline with NOPSEMA where there are concerns or where matters are not clear. This guideline can also be used by proponents to 'self-check' EPs prior to submission. This may contribute to making the assessment process more efficient and timely.

### **3. Environment Plan Decision Making**

The decision to 'accept' an EP includes a number of conditions which also require consideration. These are set out in 3.1 and 3.2 below.

#### **3.1. Financial Assurance**

Regulation 16 of the Environment Regulations specifies the condition of demonstration of financial assurance prior to the acceptance of an EP. NOPSEMA cannot accept an EP unless it is reasonably satisfied that the titleholder is compliant with the financial assurance obligations specified in the OPGGS Act (s 571(2)). However, if the EP is submitted by an applicant for a title (not yet a titleholder) then the EP can be accepted without providing evidence of compliance with financial assurance, noting that the applicant will have to ensure financial assurance is in place when they become a titleholder.

NOPSEMA has the Financial Assurance for Petroleum Titles Policy (N-04730-PL1780) and Financial Assurance for Petroleum Titles Guideline (N-04730-GL1381) for further information.

#### **3.2. Submission of Environment Plan for Offshore Project**

A titleholder may only submit an EP for an activity that is, or is part of, an offshore project if the project has obtained the appropriate acceptance or approval from either NOPSEMA (r 9(3)(a)) or the Environment Minister under the EPBC Act (r 9(3)(b)). If there is no acceptance or approval as stated above, NOPSEMA will not recognise submission of the EP. This does not apply to exploration activities such as seismic surveys and exploratory drilling.

#### **3.3. EPBC Act and NOPSEMA's Program responsibilities**

##### **3.3.1. EPBC Act requirements**

NOPSEMA's environmental authorisation processes (OPP and EP) together, as the Program, ensure that equivalent environmental protection outcomes to those achieved under the EPBC Act processes continue to be achieved without the need for separate referral and decision under the EPBC Act.

NOPSEMA applies and complies with EPBC Act protection responsibilities under the environmental management authorisations Program endorsed by the Minister for Environment under section 146 of the EPBC Act (the Program) by implementing Program commitments in Table 2 and mechanisms set out in Table 6 of the Program report<sup>3</sup>.

Program responsibilities and commitments have origins across several sections of the EPBC Act relating to decision making on approvals and requirements placed on the Commonwealth or a Commonwealth agency. To illustrate this, examples of EPBC Act requirements that are reflected in the Program commitments and impose requirements directly on Commonwealth agencies are summarised below and include:

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<sup>3</sup> Streamlining Offshore Petroleum Environmental Approvals - Program report

- Commonwealth compliance with plans for World Heritage properties (s 318 EPBC Act). This section requires that the Commonwealth or a Commonwealth agency must not contravene a plan for a listed World Heritage property made under s 316 and, if there is not plan in force under s 316, take all reasonable steps to ensure that its acts relating to the property are not inconsistent with the Australian World Heritage management principles.
- Compliance with plans by the Commonwealth and Commonwealth agencies in relation to a National Heritage place (s 324U EPBC Act). The Commonwealth, and each Commonwealth agency, must not: (a) contravene a plan made under s 324S; or (b) authorise another person to do, or omit to do, anything that, if it were done or omitted to be done by the Commonwealth or the Commonwealth agency (as appropriate), would contravene such a plan. If there is no s 324S plan, a Commonwealth agency must take all reasonable steps to ensure that acts relating to the property are not inconsistent with the National Heritage management principles.
- Commonwealth and Commonwealth agency compliance with management plan for a Commonwealth reserve (s 362 EPBC Act)- The Commonwealth or a Commonwealth agency must not perform its functions or exercise its powers in relation to a Commonwealth reserve inconsistently with a management plan that is in operation for the reserve.
- Commonwealth responsibilities in relation to a wetland that is a declared Ramsar wetland (s 334 EPBC Act). The Commonwealth and each Commonwealth agency must take all reasonable steps to ensure it exercises its powers and performs its functions in relation to a wetland that is a declared Ramsar wetland in a way that is not inconsistent with (a) the Ramsar Convention; (b) the Australian Ramsar management principles; and (c) any plan of management prepared for a wetland (as described in s 333 EPBC Act).

### 3.3.2. Program requirements

In implementing the Program, NOPSEMA conducts assessments of EPs against the requirements of the Program, including the acceptance criteria and content requirements under the Environment Regulations. NOPSEMA takes into account all relevant considerations in exercising its decision-making power. Specific program commitments are outlined in Table 2 of the Program report<sup>4</sup> and must be applied during decision making on offshore projects and activities.

The Program endorsed under s 146 of the EPBC Act outlines the environmental management authorisation process of offshore petroleum and greenhouse gas activities administered by NOPSEMA and requires NOPSEMA to comply with Program responsibilities<sup>5</sup> and commitments. Some examples of how NOPSEMA applies the program requirements include:

- **World Heritage properties**
  - NOPSEMA will not accept an EP 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 EP that refers to the property is not inconsistent with the Australian World Heritage management principles.

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<sup>4</sup> Streamlining Offshore Petroleum Environmental Approvals - Program report

<sup>5</sup> Streamlining Offshore Petroleum Environmental Approvals – Program report



- Decisions made by NOPSEMA must be consistent with World Heritage management obligations, principles, and management plans and that these must be taken into account when determining the acceptability of an EP where impacts to the values of World Heritage properties may arise.
- **National Heritage places**
  - NOPSEMA will not accept an EP 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 EP that refers to the place is not inconsistent with the National Heritage management principles.
  - Decisions made by NOPSEMA must be consistent with National Heritage management obligations, principles and management plans, and that these must be taken into account when determining the acceptability of an EP where impacts to the values of National Heritage places may arise.
- **Wetlands of international importance (Ramsar wetlands)**
  - NOPSEMA will not accept an EP 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 EP that refers to the wetland is not inconsistent with the Australian Ramsar management principles.
  - Decisions made by NOPSEMA must not be inconsistent with Ramsar management obligations, principles and management plans and that these must be taken into account when determining the acceptability of an EP where impacts to Ramsar wetlands may arise.
- **Listed threatened species and ecological communities.**
  - NOPSEMA will not accept an EP that is inconsistent with a recovery plan or threat abatement plan for a listed threatened species or ecological community.
  - NOPSEMA will ensure that assessment policies and procedures are updated to make it explicit that decisions made by NOPSEMA must not be inconsistent with relevant recovery plans, threat abatement plans and wildlife conservation plans.
  - Decisions made by NOPSEMA must not be inconsistent with relevant recovery plans, threat abatement plans and wildlife conservation plans, and that these must be taken into account when determining the acceptability of an EP where impacts to listed threatened species and ecological communities may arise.

In undertaking assessments, NOPSEMA will have regard to relevant policy documents, gazettal instruments, bioregional plans, plans of management and guidance documents on the DCCEE website. NOPSEMA's Program commitments relating to the EPBC Act Part 3 protected matters are provided in Appendix D.

### **3.4. Criteria for acceptance of Environment Plans**

The criteria for acceptance of an EP are stipulated in r 34. These are further described in sections 6-13 of this guideline.

The Environment Regulations (r 33) allow the NOPSEMA decision maker (from now on referred to as NOPSEMA) to 'accept' an EP, provide the titleholder with an opportunity to modify and resubmit the plan, 'refuse' to accept the EP, accept the plan in part or accept the plan subject to limitations or conditions.

Where an EP does not meet the criteria set out in r 34, the titleholder is given an opportunity to modify and resubmit the EP. If the EP still does not meet all the acceptance criteria then NOPSEMA may refuse to accept the plan.

### **3.5. Principles of Ecologically Sustainable Development**

The first object of the Environment Regulations is to ensure that any petroleum activity or greenhouse gas activity carried out in an offshore area is carried out in a manner consistent with the principles of ecologically sustainable development (ESD) set out in section 3A of the EPBC Act.

NOPSEMA takes into account the principles of ecological sustainable development (ESD) as set out in Part 3A of the EPBC Act (see Appendix B). Appendix B lists the factors that may be considered, noting that the particular factors that are relevant will, in all cases, be specific to the activity, its environmental setting, the predicted environmental impacts and risks, and the mitigation, monitoring and management measures proposed by the titleholder.

## **4. Decision Making Process**

NOPSEMA applies the principles of administrative decision making when making decisions under r 34. These have been derived from the Administrative Review Council Decision Making Best Practice Guides (2007). These principles are provided in Appendix A to this Guideline.

The Environment Regulations stipulate that if NOPSEMA is 'reasonably satisfied' that the EP meets the criteria set out in r 34, then NOPSEMA *must* accept the plan. In addition, NOPSEMA may refuse to accept an EP if it is not 'reasonably satisfied' that the criteria have been met.

To accept an environment plan under r 33, NOPSEMA must be reasonably satisfied that the environment plan demonstrates that the acceptance criteria including any duty imposed on the titleholder under r 34 have been met. The word "reasonably" emphasises that there must be a clear justification for the decision, which is to be determined objectively, based on the facts and evidence.

In assessing an EP, a team of NOPSEMA assessors exercise professional judgement over the facts, evidence and reasoning presented in the EP, to make findings against the relevant requirements and acceptance criteria for the EP. In accordance with the relevant NOPSEMA assessment policy and procedures, these findings inform the decision maker when deliberating on whether they are or are not reasonably satisfied that relevant decision criteria are met.

The process NOPSEMA adopts when assessing EPs and the steps involved are described in more detail in the Environment Plan Assessment – Policy (PL1347). In conjunction with its assessment of the Environment Regulation acceptance criteria (r 34), the NOPSEMA decision maker will also have regard to the objects of the Regulations (r 4) and the specific content requirements for an EP (rr 21-24). This guideline should be read in conjunction with NOPSEMA's Environment Plan Content Requirements Guidance Note (GN1344).

## 5. NOPSEMA expectations

Ultimately the responsibility for the content of the EP and implementation of environmental management requirements of the activity rests with the titleholder. If commitments are made in the EP then it is the responsibility of the titleholder to ensure that systems, methods and resources are available to meet these commitments. NOPSEMA has both compliance monitoring and enforcement functions and implements a range of strategies to ensure that a titleholder is meeting their obligations under the OPGGS Act and its regulations.

Only activities that are described in the EP are assessed and provided for. If an activity or component of an activity is not described in an EP, then it is not part of the EP acceptance.

NOPSEMA expects titleholders to continually reassess the impacts and risks of their activity and strive towards continual improvement to ensure these continue to be reduced to ALARP and acceptable levels. This process is usually included in the Implementation Strategy. Advances in knowledge, releases of new relevant scientific studies, information gathered during incidents and compliance activities will drive the need for continual improvement. Previous NOPSEMA acceptance of a certain method or system does not necessarily imply that it will be accepted again. The onus is on the titleholder to evaluate and review the particular activity, environmental setting, and management of environmental impacts and risks as part of demonstrating that sufficient measures are in place to ensure that impacts and risks continue to be ALARP and of an acceptable level.

Appendix E provides a summary of the factors that are considered and influence decision making under each acceptance criteria.

## Criteria for Acceptance of Environment Plan

### 6. Criterion 34(a) – EP is appropriate for the nature and scale of the activity

#### 6.1. Outline

This criterion relates to the overall approach to developing the EP. As nature and scale is not defined in the Regulations, NOPSEMA will determine that an EP is appropriate for the nature and scale of the activity if the level of rigour, effort, content and detail provided in the EP is sufficient to demonstrate a full understanding of the activity being proposed in the environment and the associated environmental impacts, risks and control measures necessary to reduce impacts and risks.

#### 6.2. Intent and content

The intent of this criterion is to ensure that the level of rigour and effort applied to EP content, including supporting predictions, analysis and conclusions in relation to the activities' environmental impacts and risks, is proportional to the level of impact and risk predicted for the activity.

#### 6.3. Factors that influence decision making

When making a decision regarding whether an EP is appropriate for the nature and scale of the activity, NOPSEMA will consider the following:

- A suitable **description of the activity** and how it may affect the environment including:
  - The scope and bounds of the activity.
  - A thorough description of the activity components with greatest potential to generate impacts and risks to the environment; and
  - A comprehensive list of all equipment and property brought onto title for the activity.
- Whether the EP contains a thorough **description of the environment**<sup>6</sup>, that may be affected by the activity including:
  - Key values and sensitivities of the social, economic and cultural features of ecosystems<sup>7</sup> and their constituent parts, the physical resources, qualities and characteristics of locations, places<sup>8</sup> and areas and the heritage values<sup>9</sup> of places. This should be described using relevant references and information sources.
  - Matters protected under Part 3 of the EPBC Act are adequately described utilising relevant information, including information available on the DCCEEW website such as plans of management, threat abatement plans, threatened species recovery plans and marine bioregional plans.
- Whether the detail and rigour applied to **the impact and risk assessments** are commensurate to the magnitude of impacts and risks arising from the activity.

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<sup>6</sup> As defined under r 5 and the EPBC Act. See Abbreviations, Acronyms and Definitions

<sup>7</sup> As defined under the EPBC Act. See Abbreviations, Acronyms and Definitions

<sup>8</sup> As defined under the EPBC Act. See Abbreviations, Acronyms and Definitions

<sup>9</sup> As defined under the EPBC Act. See Abbreviations, Acronyms and Definitions

- How the information provided during **relevant persons consultation** is incorporated, considered and evaluated in the relevant sections of the EP.
- Whether there is a clear demonstration that the evaluation of impacts and risks has informed the selection of **suitable control measures** to either reduce the consequence/severity or likelihood.
- Whether the EP includes sufficient information on the **legislative requirements** that are relevant to the activity and a demonstration of how they will be met throughout the life of the activity.
- Whether the level of **analysis and evaluation presented in the EP** is commensurate with the nature and scale of the activity and the severity of individual impacts and risks.

## 7. Criterion 34(b) – EP demonstrates that the environmental impacts and risks of the activity will be reduced to ALARP

### 7.1. Outline

This criterion relates to the demonstration in the EP that the environmental impacts and risks of the activity will be reduced to as low as reasonably practicable (ALARP). Reducing impacts and risks to ALARP is based on the concept of reasonable practicability; the weighing up of the magnitude of impact or risk reduction against the cost of that reduction. The 'cost' in this context means the sacrifice associated with implementing a control measure which includes an evaluation of the benefits versus the impost such as money, time and/or effort required to implement a particular control measure. The titleholder must adopt additional control measures or increase effectiveness of existing control measures if the cost of doing so is not grossly disproportionate to the environmental benefit gained.

An EP needs to demonstrate, through reasoned and supported arguments, that there are no other practical measures that could reasonably be taken to reduce impacts and risks any further.

### 7.2. Intent and content

The intent of this criterion is to ensure that all impacts and risks associated with the activity have been reduced to ALARP. It needs to be clear from the information provided in the EP that the costs of implementing any further control measures to reduce risks would be grossly disproportionate to the benefits to the environment that could be gained. Once this point is reached all impacts and risks are considered ALARP.

The effort given to exploring further mitigation measures must be commensurate with the level of impact and risk predicted. As such, higher order impacts and risks will require a level of evaluation that is higher than what would be expected for lower order impacts and risks where the titleholder is following industry standards.

### 7.3. Factors that influence decision making

When making a decision regarding whether an EP demonstrates that the environmental impacts and risks of the activity will be reduced to ALARP, NOPSEMA will consider the following:

- Whether **all control measures that could reasonably be considered are evaluated**, particularly for higher order impacts and risks. For higher order impacts and risks the exploration of alternative, additional, or improved control measures should be evident.

- Whether the **evaluation of impacts and risks** has informed the selection of suitable control measures to either reduce the consequence/severity or likelihood of impacts and risks.
- Whether **enough detail of the control measure** is provided to demonstrate that the control measure will be effective in reducing impacts and/or risks for the duration of the EP. The control measure should be evaluated for its functionality, availability, reliability, survivability, independence and compatibility with other control measures.
- **The method of evaluating whether or not a control measure** is adopted is based on environmental benefit versus costs of implementing that control measure.
- **The method of evaluation is systematic, applied thoroughly, defensible and reproducible.**
- That information provided during **relevant person consultation** is incorporated, considered and evaluated where applicable.

## 8. Criterion 34(c) – EP demonstrates that the environmental impacts and risks will be of an acceptable level

### 8.1. Outline

This criterion relates to the demonstration in the EP that the environmental impacts and risks of the activity will be managed to an acceptable level. Acceptable levels will be informed by consideration of Australian Government policies, relevant documentation on the DCCEEW website relevant to matters protected under Part 3 of the EPBC Act, relevant guidelines and standards for environmental management and consultation with relevant persons.

### 8.2. Intent and content

The intent of this criterion is to ensure that all impacts and risks associated with the activity are managed to defined acceptable levels. The defined acceptable levels need to be well informed and the evaluation in the EP needs to demonstrate that these levels can and will be met. Establishing what an acceptable level is needs to be informed by Australian Government policies, relevant documentation on the DCCEEW website relevant to matters protected under Part 3 of the EPBC Act<sup>10</sup>, guidelines for environmental management (e.g. ANZECC water quality guidelines<sup>11</sup>) and by consultation with relevant persons. Consideration also needs to be given to each value and sensitivity (or environmental feature) given the different levels of sensitivity or resilience to change.

### 8.3. Factors that influence decision making

When making a decision regarding whether an EP has demonstrated that the environmental impacts and risks of the activity will be of an acceptable level NOPSEMA will scrutinize the titleholders' case made in the submission and consider whether the following is evident in the EP:

- **Acceptable levels are defined** and based on reasonable internal and external context, legislative and industry standards. Acceptable levels of environmental impact and risk must be appropriate and

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<sup>10</sup> Relevant publications and information on the DCCEEW website: policy documents, recovery plans, threat abatement plans, conservation advices, guidelines, Ramsar Information Sheets, Ramsar Ecological Character Descriptions, plans of management; gazettal instruments, bioregional plans, wildlife conservation plans, and EPBC Act guidance documents and World Heritage area Statements of Outstanding Universal Value.

<sup>11</sup> ANZG 2018. Australian and New Zealand Guidelines for Fresh and Marine Water Quality. Australian and New Zealand Governments and Australian state and territory governments, Canberra ACT, Australia. Available at [www.waterquality.gov.au/anz-guidelines](http://www.waterquality.gov.au/anz-guidelines)

relevant to the environment that may be affected by the project including activities that are part of the project.

- The acceptable levels are **compared to predicted levels** of impact and risk to demonstrate that acceptable levels will be achievable.
- Appropriate considerations of the **principles of ESD** (see Appendix B).
- The EP content demonstrates that the proposed activity is **not inconsistent**<sup>12</sup> with:
  - a recovery plan or threat abatement plan for a listed threatened species or ecological community
  - a management plan in operation for a Commonwealth reserve (e.g. an Australian Marine Park), or if there is no management plan in operation, the Australian IUCN Reserve Management Principles including a demonstration that an activity will not have unacceptable impacts on the values of an Australian marine park, to the extent these are relevant to the activity and the nature of its impacts and risks
  - a management plan for a Commonwealth Heritage Place.
- The EP content demonstrates that the proposed activity **does not contravene**<sup>13</sup>:
  - a plan of management for a World Heritage property
  - a plan of management for a National heritage place; or
  - a plan of management for a Ramsar wetland.
- If a relevant plan of management is not in place, then the EP content should demonstrate that **all reasonable steps have been taken**<sup>14</sup> to ensure that the activity is not inconsistent with the:
  - Australian World Heritage Management principles
  - National Heritage management principles
  - Australia Ramsar management principles; and
  - Commonwealth Heritage management principles.
- **The EP shows regard**<sup>15</sup> to relevant policy documents, guidance, bioregional plans, wildlife conservation plans, management plans, gazettal instruments under the EPBC Act, conservation advices, marine bioregional plans and other information on the DCCEE website including spatial data (e.g. National Conservation Values Atlas).
- Areas of uncertainty in predictions of impact and risk are identified, acknowledged and addressed.
- Evidence that all impacts and risks (in particular to protected matters) will be managed to acceptable levels.

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<sup>12</sup> See examples in Section 3.3 and Appendix D

<sup>13</sup> See examples in Section 3.3 and Appendix D

<sup>14</sup> See examples in Section 3.3 and Appendix D

<sup>15</sup> See examples in Section 3.3 and Appendix D

- The method for comparing predicted impacts and risks to acceptable levels of impacts and risks is **systematic, applied thoroughly, defensible and reproducible**.
- That information provided during **relevant person consultation** is incorporated appropriately.

## 9. Criterion 34(d) – EP provides for appropriate environmental performance outcomes, environmental performance standards and measurement criteria

### 9.1. Outline

This criterion relates to the inclusion in the EP of appropriate environmental performance outcomes (EPOs), environmental performance standards (EPSs) and measurement criteria to ensure that they function as the conditions that deliver ALARP and acceptable levels of environmental impacts and environmental risks.

### 9.2. Intent and content

The intent of this criterion is to ensure that EPs contain the framework for monitoring and measuring environmental performance of the activity. This framework then demonstrates that the principles of ESD are considered and that the defined acceptable levels of impact and risk can be met.

The EPOs, when considered in combination with the evaluation of impacts and risks, need to provide confidence that the activity is able to be managed to ensure that all impacts and risks are managed to acceptable levels. EPSs provide statements of performance of the control measures while the measurement criteria provide the means by which to monitor performance.

### 9.3. Factors that influence decision making

When making a decision regarding whether an EP provides for appropriate EPOs, EPSs and measurement criteria NOPSEMA will consider whether the following is evident in the EP:

- Clear, unambiguous **EPOs that are linked to acceptable levels** noting that one EPO may relate to multiple impacts and risks.
- The suite of **EPOs address all of the identified impacts and risks**, including the combinations of all environmental aspects, the cumulative impacts on all values and sensitivities that may be affected by the activity.
- **EPOs reflect levels of environmental performance** for management that are achievable and reflect the relevant Program requirements.
- **EPSs that are directly linked to control measures and contain clear and unambiguous** statements of performance.
- **EPSs** with clear measurement criteria that demonstrate that the desired environmental performance is being met. The desired environmental performance relates to all impacts and risks being acceptable and ALARP.
- EPOs and EPSs that can be **easily monitored for compliance**.



- EPOs, EPSs and measurement criteria that are all **linked and complementary** to ensure the predicted level of impact and risk will not exceed the defined acceptable level of impact and risk.

## 10. Criterion 34(e) – EP includes an appropriate implementation strategy and monitoring, recording and reporting arrangements

### 10.1. Outline

This criterion requires that an EP contains an appropriate implementation strategy, monitoring, recording assurance and reporting arrangements. The implementation strategy needs to demonstrate that adopted control measures continue to reduce the environmental impacts and risks to ALARP and to an acceptable level throughout the activity and that there will be appropriate monitoring, assurance, recording and reporting arrangements in place. The implementation strategy will include an oil pollution emergency plan that will be commensurate with the nature and scale of the proposed activity (corresponding to the information submitted in compliance with the 'nature and scale' requirements at r34(a)).

### 10.2. Intent and content

The intent of this criterion is to demonstrate that the titleholder has in place a systematic approach to ensure that EPOs and EPSs of the plan are met and are monitored on an ongoing basis. The implementation strategy describes the environmental management system for the activity that will ensure that impacts and risks will be continuously identified and reduced to ALARP and acceptable levels. It provides a means of demonstrating, identifying and addressing problems and issues before they become critical to the environmental management of the activity.

### 10.3. Factors that influence decision making

When making a decision regarding whether an EP includes an appropriate implementation strategy and monitoring, recording, assurance and reporting arrangements, NOPSEMA will consider whether the following is evident in the EP:

- Content requirements under r 22 are evident and appropriate for the nature and scale of the activity.
- That the EP describes adequate and effective processes and systems in place to ensure that **all impacts and risks continue to be identified and reduced to ALARP and acceptable**.
- A demonstration of a management of knowledge process, management of learning process and a **management of change process**.
- That the EP contains a description of the titleholder's environmental management system (EMS), including specific measures that will ensure:
  - that **control measures in the EP continue to be effective** in reducing impacts and risk to ALARP and acceptable
  - that monitoring **arrangements are in place** to determine whether, and ensure that, EPOs and EPSs are being met.
- That there is in place **appropriate training** to ensure that all employees and contractors have the appropriate competencies.

- That the EP contains an **oil pollution emergency plan** that is appropriate for the nature and scale of the activity and consistent with the content requirements set out in r 22(8) with sufficient arrangements in place to monitor pollution in the event of an oil spill.
- That **monitoring, recording and reporting arrangements are adequate** for the potential impacts and risks associated with the activity.
- That there are appropriate assurance mechanisms in place including **audit, review and management of non-conformance** processes.
- That **arrangements for testing the response arrangements** are evident and commensurate with the potential impacts and risks associated with a potential oil spill.
- **Ongoing consultation**, as required by r 22(15) includes relevant authorities of the Commonwealth, a State or Territory and other relevant interested persons or organisations.

## 11. Criterion 34(f) – The EP does not involve the activity or part of the activity being undertaken in any part of a declared World Heritage Property

### 11.1. Outline

Subregulation 34(f) stipulates that the activity or part of the activity described in the EP is not to be undertaken in any part of a declared World Heritage Property, other than arrangements for environmental monitoring or responding to an event or emergency<sup>16</sup>.

As such, NOPSEMA must not accept an EP for a petroleum activity and any other operations or works in a declared World Heritage Property.

### 11.2. Intent and content

The intent of this criterion is to ensure that no petroleum activities take place within a declared World Heritage property.

An EP should clearly demonstrate that the activity will not take place within a declared World Heritage property.

### 11.3. Factors that influence decision making

When making a decision regarding whether an EP involves any activity or any part of an activity in any part of a declared World Heritage property, NOPSEMA considers:

- Content of the EP that describes the **location of the activity/activities** in the context of the boundaries of declared World Heritage properties.

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<sup>16</sup> Environmental monitoring activities or responses to environmental emergencies associated with project activities located inside the boundaries of a declared World Heritage property are excluded from this criterion, given their purpose in mitigating risk and understanding environmental effects.

- The clarity and consistency of the information presented in the EP, including maps and figures, that describe the location of the activity and associated activities in the context of any part of a declared World Heritage property.
- **No part of the petroleum activity takes place within a World Heritage Property.**

## 12. Criterion 34(g) – EP demonstrates that the titleholder has carried out the consultations required and that measures (if any) are appropriate

### 12.1. Outline

NOPSEMA will require evidence in the EP that demonstrates that the titleholder has carried out the consultation required by Division 3 of the Environment Regulations and that the measures (if any) that the titleholder has adopted, or proposes to adopt, because of the consultation are appropriate.

Effective consultation should enable relevant authorities, persons and organisations whose functions, interests or activities may be affected to put forward their views and to contribute to titleholders' understanding of the environment in which the activity is set to take place and any associated impacts and risks.

### 12.2. Intent and content

The overall intent of this criterion is to ensure that the titleholder has gathered information through the consultation process that gives important context to accurately plan activities to avoid and/or minimise impacts and risks on others and the environment.

### 12.3. Factors that influence decision making

When making a decision regarding whether an EP demonstrates that (i) the titleholder has carried out the consultations required by Division 3; and (ii) the measures (if any) that the titleholder has adopted, or proposes to adopt, because of the consultations are appropriate, NOPSEMA will consider its N-04750-GL2086 - Consultation in the course of preparing an environment plan guideline and whether the following is evident in the EP:

- The **process for relevant persons identification is clearly described and provides for the broad capture of relevant persons** such that each relevant person who can be ascertained is identified.
- Whether the **nature of the activity, description of the environment and the possible impacts and risks of the activity have been taken into account** when determining whether the activity may be relevant to authorities, or determining whose functions, interests and activities may be affected.
- **Effective consultation has taken place** with relevant persons demonstrating a reasonable opportunity has been provided to relevant persons to provide input, a genuine two-way dialogue has occurred to further understand the environment in which the activity will take place and that the measures adopted (if any) because of the consultation are appropriate. Effective consultation includes:
  - relevant persons have been provided sufficient information; and
  - relevant persons have been provided a reasonable period to consider information and make an informed response

- **Information gathered through the consultation process has been incorporated** into the rest of the EP and effectively informed the identification of environmental values and sensitivities to ensure impacts and risks are reduced to ALARP and acceptable.
- The titleholder's **assessment of merit and all responses to objections and claims are reasonable and supported, and inform the measures adopted because of the consultation.**
- The **report on consultation** must include the prescriptive elements outlined in regulation 24(b) and a sufficient description of the consultation process, for NOPSEMA to objectively determine that the titleholder's duty to identify and consult with each relevant person has been discharged.

## 13. Criterion 34(h) – EP complies with the Act and Regulations

### 13.1. Outline

NOPSEMA will consider whether the titleholder has complied with the requirements of the OPGGS Act and Regulations. It is the titleholder's responsibility to provide evidence of how they comply with this criterion as it relates to the activity proposed.

### 13.2. Intent and content

The intent of this criterion is to ensure that the titleholder has developed a comprehensive written EP submission that complies with the OPGGS Act and Environment Regulations.

### 13.3. Factors that influence decision making

NOPSEMA will consider any part of the Act and the Environment Regulations under this criterion in the context of the specific circumstances of the activity. In general, when making a decision regarding whether an EP complies with the Act and the Regulations NOPSEMA will, at a minimum, consider whether the following is evident in the EP:

- That the EP is consistent with the 'Objects' of the Environment Regulations including the **principles of ESD.**
- Sufficient information to address each of the **content requirements** of rr 21-24 with enough clarity, consistency and detail commensurate to the nature and scale of the activity.
- The EP acknowledges and commits to the requirements of the OPGGS Act (including but not limited to the requirements under **section 572**) to maintain equipment and property brought into the title area and to remove it when neither used, nor to be used, in connection with operations. Any proposals to deviate from these requirements must be clearly described and evaluated. Further information on meeting the requirement of section 572 is provided in NOPSEMA's Section 572 maintenance and removal regulatory policy (PL1903).
- The EP acknowledges and commits to the requirements of the Environment Regulations (including but not limited to the requirements under rr 47 and 54) to notifying reportable incidents and start and end of an activity.

## Appendix A: Principles of administrative decision making

NOPSEMA applies the following principles of administrative decision making in making decisions under r 34. They relate to the grounds for judicial review under the *Administrative Decisions (Judicial Review) Act 1977* and have been derived from the Administrative Review Council Decision Making best practice guides (2007).

Principle	Description in context of EP decision-making
<b>The decision is within power</b>	A decision under r 33 will be made by a representative of NOPSEMA appointed under a valid instrument of delegation made by the NOPSEMA CEO under the <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> (OPGGGS Act). The decision maker will apply the correct legal tests under the OPGGS Act and associated regulations and the decision will not be otherwise contrary to law.
<b>The decision is fair</b>	The decision will be impartial and provide parties affected with sufficient opportunity to give their views and have them considered. The consultation required by Division 3 and 4 of the Environment Regulations is the primary means of applying the hearing rule ensuring that the decision is fair.
<b>Relevant information is considered</b>	<p>All relevant matters and considerations, including matters of fact or of opinion, have been taken into account in making the decision. The EP submitted by the titleholder is the central document considered in the decision. Information from NOPSEMA guidance, published material (including published scientific literature and material published by DCCEE), stakeholder consultation, and offshore petroleum literature (i.e. published by a peak industry body or regulators in other jurisdictions) are some examples of other sources of relevant information.</p> <p>Irrelevant matters and considerations must not be taken into account in making the decision. It is incumbent on the decision maker to determine what considerations are relevant and irrelevant. Economic factors such as titleholder work program commitments and encumbrance costs may be considered irrelevant considerations.</p>
<b>The decision is reasonable</b>	The decision will be objective and just, in light of all the circumstances such that a 'reasonable decision maker' would be of the same belief. In this context, a reasonable decision maker is likely to be one who is supported by advice from environmental management professionals with knowledge of environmental impacts and risks from offshore petroleum projects. A reasonable decision is one that has a path of logic which can be followed and understood, and which contains no important omission or inexplicable step.
<b>The decision is well-founded</b>	A decision will be well-founded, having a proper basis in the assessment of evidence and the application of policy, with regard to the merits of the case that relevant criteria have been met. A well-founded decision must be based on evidence that justifies the making of the decision that is underpinned by reasoned and supported arguments and is credible and relevant.

Principle	Description in context of EP decision-making
<b>The decision is clear</b>	<p>Decisions will be clearly explained by reference to applicable statutory criteria, relevant evidence, findings of fact, reasoning and conclusions.</p> <p>If the EP is in relation to a seismic or exploratory drilling activity then NOPSEMA must issue 'a statement as to how the Regulator took the [public] comments into account in making the decision' (r 35(4)(c)). A Key Matters Report will be available on the NOPSEMA website.</p>

## Appendix B: Principles of Ecologically Sustainable Development

To the extent relevant to the particular activity, factors such as the following may be contemplated in relation to each principle.

ESD Principle	Examples of factors that NOPSEMA may have regard to
<p><b>'Integration Principle'</b></p> <p><b>Decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations.</b></p>	<p>The titleholder's consideration and response to public comments, consultation with relevant persons and the evaluation of the socio-economic, cultural and ecological features of the environment that may be affected by the activity, in demonstrating that environmental impacts and risks will be ALARP and acceptable.</p>
<p><b>'Precautionary principle'</b></p> <p><b>If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.</b></p>	<p>The titleholder's evaluation of environmental impacts and risks; reasons and evidence in support of how the impacts and risks will be of an acceptable level; the level of scientific uncertainty associated with predictions of environmental impacts and risks and the anticipated effectiveness of management measures in controlling impacts and risks; the titleholder's commitments to apply measures designed to manage residual scientific uncertainty; and the predicted severity, and persistence (including recovery potential) of environmental impacts and risks.</p>
<p><b>'Intergenerational principle'</b></p> <p><b>That the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the 'intergenerational principle').</b></p>	<p>Measures the titleholder commits to apply to avoid and minimise environmental impacts and risks such that they will be managed to be an acceptable level and ALARP for the duration of the environmental impact(s) generated by the activity. There must be a case made in the EP that environmental impacts and risks of the activity will not forego the health, diversity and productivity of the environment for future generations.</p>
<p><b>'Biodiversity principle'</b></p> <p><b>The conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making.</b></p>	<p>The titleholder's evaluation of environmental impacts to the biodiversity and ecological values of the environment affected, including matters of National Environmental Significance; and the levels of performance for management.</p>
<p><b>'Valuation principle'</b></p> <p><b>Improved valuation, pricing and incentive mechanisms should be promoted (the 'valuation principle').</b></p>	<p>Whether the EP includes provision for the titleholder to bear the cost of environmental management for the activity to ensure that the environmental impacts and risks are managed to ALARP and to an acceptable level.</p>

## Appendix C: Content Requirements and Acceptance Criteria

In general, there are linkages between the content requirements (rrs 21-24) and the acceptance criteria (r 34). The table below demonstrates which content requirement generally (but not limited to) are considered under each acceptance criteria.

	21(1)	21(2) & 21(3)	21(4)	21(5) & 21(6)	21(7)	22	23	24
<b>(34(a)) Nature and Scale</b>	✓	✓	✓	✓	✓	✓		✓
<b>(34(b)) ALARP</b>			✓	✓				
<b>(34(c)) Acceptable</b>		✓	✓	✓				
<b>(34(d)) EPOs EPSs MC</b>					✓			
<b>(34(e)) Implementation strategy</b>						✓		
<b>(34(f)) WHA</b>	✓	✓	✓					
<b>(34(g)) Consultation</b>	✓	✓		✓				✓*
<b>(34(h)) Complies with the Act</b>			✓			✓	✓	✓

✓\* Also relevant is Regulation 25



## Appendix D: Program commitments relating to EPBC Act Part 3 Protected Matters

Part 3 Matter	Values	Program Commitment <sup>17</sup>
<b>World heritage properties</b>	The outstanding universal value of world heritage properties will be identified, protected, conserved and transmitted to future generations.	<ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> <li>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"> <li>- make reference to consideration of the protection of the values of World Heritage properties</li> <li>- 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.</li> </ul> </li> <li>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.</li> </ul>
<b>National heritage places</b>	The outstanding value to the national	<ul style="list-style-type: none"> <li>NOPSEMA will not accept an Environment Plan that proposes activities that will contravene a plan of</li> </ul>

<sup>17</sup> [Source: Program report - Table 2: Program implementation measures ensuring EPBC Act Part 3 matters protection](#)

Part 3 Matter	Values	Program Commitment <sup>17</sup>
	<p>heritage places will be protected, conserved and transmitted to future generations of Australians.</p>	<p>management for a National Heritage place or proposes unacceptable impacts to the National heritage values of a National Heritage place.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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"> <li>- make reference to consideration of the protection of the values of National Heritage places</li> <li>- include references to relevant guidance documents to be considered by titleholders in preparing Environment Plans such as gazettal instruments and EPBC Act guidance documents.</li> </ul> </li> <li>• In undertaking assessments, NOPSEMA will have regard to relevant policy documents, guidelines, gazettal instruments and plans of management on the DoE website.</li> </ul>
<p><b>Wetlands of international importance</b></p>	<p>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.</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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:</li> </ul>

Part 3 Matter	Values	Program Commitment <sup>17</sup>
		<ul style="list-style-type: none"> <li>- make reference to consideration of the protection of the ecological character of the Ramsar wetland</li> <li>- 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.</li> <li>• 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.</li> </ul>
<p><b>Listed threatened species and ecological communities</b></p>	<p>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.</p>	<ul style="list-style-type: none"> <li>• NOPSEMA will not accept an Environment Plan that proposes activities that will result in unacceptable impacts to a listed threatened species or ecological community.</li> <li>• 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.</li> <li>• NOPSEMA will have regard to any approved conservation advice in relation to a threatened species or ecological community before accepting an Environment Plan.</li> <li>• 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"> <li>- make reference to consideration of the listing category and protection of the listed threatened species or ecological community</li> <li>- 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.</li> </ul> </li> <li>• In undertaking assessments, NOPSEMA will have regard to relevant policy documents, recovery plans,</li> </ul>

Part 3 Matter	Values	Program Commitment <sup>17</sup>
		<p>threat abatement plans, conservation advice and guidelines on the DoE website.</p>
<p><b>Listed migratory species</b></p>	<p>The survival and conservation status of listed migratory species and their critical habitat will be promoted and enhanced.</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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"> <li>- make reference to consideration and protection of the listed migratory species</li> <li>- 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.</li> </ul> </li> <li>• In undertaking assessments, NOPSEMA will have regard to relevant policy documents, wildlife conservation plans and guidelines on the DoE website.</li> </ul>
<p><b>Commonwealth marine area</b></p>	<p>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.</p>	<ul style="list-style-type: none"> <li>• NOPSEMA will not accept an Environment Plan that proposes activities that will result in unacceptable impacts to the environment of a Commonwealth marine area.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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</li> </ul>

Part 3 Matter	Values	Program Commitment <sup>17</sup>
		<p>inconsistent with the Commonwealth Heritage management principles.</p> <ul style="list-style-type: none"> <li>• 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"> <li>- make reference to consideration of the environment of the Commonwealth marine area</li> <li>- 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.</li> </ul> </li> <li>• 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.</li> </ul>
<p><b>Commonwealth land</b></p>	<p>The environment on Commonwealth land will be maintained and protected in conformity with relevant plans of management.</p>	<ul style="list-style-type: none"> <li>• NOPSEMA will not accept an Environment Plan that proposes activities that will result in unacceptable impacts to the environment on Commonwealth land.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• NOPSEMA will develop guidance (that will be updated from time to time) that titleholders should</li> </ul>

Part 3 Matter	Values	Program Commitment <sup>17</sup>
		<p>have regard to in the preparation of their Environment Plans. The guidance will:</p> <ul style="list-style-type: none"> <li>- make reference to consideration of the environment of the Commonwealth land</li> <li>- 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.</li> </ul> <ul style="list-style-type: none"> <li>• 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.</li> </ul>

## Appendix E: Summary of factors that influence decision making

SUMMARY OF FACTORS THAT INFLUENCE DECISIONS	
<b>Nature and Scale</b>	<ul style="list-style-type: none"> <li>• Thorough description of the environment</li> <li>• Suitable description of the activity</li> <li>• Impact and risk assessment is commensurate to magnitude of impacts and risks</li> <li>• Relevant person consultation has been incorporated</li> <li>• Suitable control measures included</li> <li>• Legislative requirements are included</li> <li>• Level of analysis and evaluation is based on nature and scale of the activity</li> </ul>
<b>ALARP</b>	<ul style="list-style-type: none"> <li>• All reasonable control measures considered and evaluated</li> <li>• Evaluation of impacts and risks has informed suitable control measures</li> <li>• Enough detail of the control measures</li> <li>• Evaluation of adoption of control measures based on environmental benefit and is systematic, applied thoroughly, defensible and reproducible</li> <li>• Relevant person consultation has been incorporated</li> </ul>
<b>Acceptable levels</b>	<ul style="list-style-type: none"> <li>• Acceptable levels defined and compared to predicted levels</li> <li>• EP considers principles of ESD</li> <li>• EP is not inconsistent with key documents</li> <li>• Areas of uncertainty identified and addressed</li> <li>• All impacts and risks managed to acceptable levels</li> <li>• Comparison is systematic, applied thoroughly, defensible and reproducible</li> <li>• Relevant person consultation has been incorporated</li> </ul>
<b>Environmental performance</b>	<ul style="list-style-type: none"> <li>• EPOs linked to acceptable levels</li> <li>• EPOs address all identified impacts and risks</li> <li>• EPOs reflect levels of environmental performance</li> <li>• EPSs linked to control measures</li> <li>• EPSs with clear measurement criteria that can easily be monitored for compliance</li> <li>• EPOs, EPSs and MC that are linked and complementary</li> </ul>

<p><b>Implementation strategy</b></p>	<ul style="list-style-type: none"> <li>• Content requirements Regulation 22 is included</li> <li>• Evidence that all impacts and risks will be reduced to ALARP and acceptable</li> <li>• Management of change, knowledge and learning processes is included</li> <li>• The titleholder's environmental management system is effective</li> <li>• Appropriate training and competencies</li> <li>• Appropriate Oil Pollution Emergency Plan</li> <li>• Monitoring, recording and reporting arrangements are adequate</li> <li>• Audit, review and non-conformance management is included</li> <li>• Testing of response arrangements evident</li> <li>• Ongoing consultation arrangements are in place</li> </ul>
<p><b>World Heritage Properties</b></p>	<ul style="list-style-type: none"> <li>• No activity will occur in a World Heritage Property</li> </ul>
<p><b>Consultation</b></p>	<ul style="list-style-type: none"> <li>• Process for relevant persons identification is clearly described and provides for the broad capture of relevant persons</li> <li>• Nature of the activity, description of the environment and the possible impacts and risks of the activity have been taken into account</li> <li>• Effective consultation has taken place</li> <li>• Information gathered through consultation has been incorporated</li> <li>• The assessment of merit and all responses to objections and claims is reasonable and supported, and informs the measures adopted because of the consultation</li> <li>• Report on consultation is included</li> </ul>
<p><b>Complies with the Act</b></p>	<ul style="list-style-type: none"> <li>• Consistent with principles of ESD</li> <li>• Content requirements of rr 21-24 included</li> <li>• Commitments of OPGGS Act and Environment Regulations</li> </ul>