

To: Esso Australia Resources Pty Ltd  
BHP Billiton Petroleum (Bass Strait) Pty Ltd

**Issue of Direction/s - Section 574 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth)***

Attached is a written notice of direction/s made under s 574 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth)*.

Please provide written acknowledgement of receipt of this direction.

Please refer to the information regarding s 575 in the attached *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth)* explanatory statement for notification of direction requirements.

A person commits an offence if:

- (a) the person is subject to a direction under s 574; and
- (b) the person engages in conduct; and
- (c) the person's conduct breaches the direction.<sup>1</sup>

Please provide this office with documented evidence of your compliance with the notice of direction/s.

If you have any questions relating to the content of the instrument, please contact Derrick O'Keeffe, Head of Division – Safety and Integrity.

Yours sincerely

**Signed:**



Derrick O'Keeffe

**Head of Division – Safety and Integrity**

**Dated:** 6 October 2021

NOTES: (Please see explanatory statement)

---

<sup>1</sup> Section 576 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth)*

Direction number NOPSEMA 780

I, Derrick O’Keeffe, of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), make this direction under section 574 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the Act) pursuant to a delegation dated 14 May 2021.



Derrick O’Keeffe

**Head of Division – Safety and Integrity**

National Offshore Petroleum Safety and Environmental Management Authority

**Dated:** 6 October 2021

## **DIRECTION**

### **1. Commencement**

This direction takes effect on the date of the signature.

### **2. Application**

This General Direction applies to Esso Australia Resources Pty Ltd (ACN091 829 819) and BHP Billiton Petroleum (Bass Strait) Pty Ltd (ACN 004 228 004), the registered holders of the titles listed in Schedule 2.

### **3. Extended Application**

Pursuant to subsection 574(3)(a)(ii) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, this instrument also applies to specified classes of persons, being persons performing work or services, whether directly or indirectly for the registered holders (including the operator of the facilities associated with the titles listed in Schedule 2; Esso Australia Pty Ltd (ACN 000 018 566) and UGL Operations and Maintenance Pty Ltd (ACN 114 888 201).

### **4. Direction**

- (1) The titleholders are given the directions contained in Schedule 1.
- (2) Each direction in Schedule 1 is a separate direction.

## Schedule 1 - Directions

### Direction 1

- a. Undertake a review of the effectiveness of arrangements in place between Esso Australia Pty Ltd and UGL Operations and Maintenance Pty Ltd for carrying out work in a safe manner on the applicable facilities listed in Schedule 2.
- b. Provide to NOPSEMA the terms of reference of the review as required in Direction 1(a) prior to undertaking the review.
- c. Submit a report to NOPSEMA within 120 days from the date this Direction is signed, detailing the outcomes of this review required in Direction 1(a) and recommended measures.
- d. Implement reasonable and practicable measures based on the review required in Direction 1(a) and recommendations arising from the report in Direction 1(c).
- e. Provide a written report to NOPSEMA at six months and twelve months after the date of the report in Direction 1(c) on the effectiveness of the measures implemented in Direction 1(d).

### Direction 2

- a. Commission an independent and suitably qualified body to complete a review of the factors affecting the willingness and ability of members of the workforce to raise safety concerns such that they can be addressed in a timely manner. The terms of reference of the review should include (but not be limited to): barriers to effective communication and the addressing of safety concerns, and the role of contractual arrangements, incentive systems, supervision, management, HSRs, other members of the workforce, whistle blower policies, and the use of anonymous feedback as practiced in other industries, such as the aviation industry.
- b. Provide to NOPSEMA the terms of reference of this review as required in Direction 2(a) prior to undertaking the review.
- c. Submit a report to NOPSEMA within 270 days from the date this Direction is signed, detailing the outcomes of this review required in Direction 2(a) and recommended measures.
- d. Implement reasonable and practicable measures based on the review required in Direction 2(a) and recommendations arising from the report in Direction 2(c).
- e. Provide a written report to NOPSEMA at six months and twelve months after the date of the report in Direction 2(c) on the effectiveness of the measures implemented in Direction 2(d).

### Direction 3

- a. On or before 31<sup>st</sup> October 2022, for breaking containment activities on all closed and open piles on producing facilities, complete the development of platform specific or pile configuration specific procedures to ensure that work can be completed safely.
- b. On or before 31<sup>st</sup> October 2023, for breaking containment activities on all closed and open piles on non-producing facilities, complete the development of platform specific or pile configuration specific procedures to ensure that work can be completed safely.
- c. No breaking containment activities on closed and open piles are to take place prior to completion of platform specific or pile configuration specific procedures, per Direction 3a and Direction 3b.



**Schedule 2 – Gippsland Basin Facilities and associated titles**

Title ID #	Facility
VIC/L2	Barracouta, Whiting
VIC/L3	Marlin A, Marlin B
VIC/L4	West Tuna
VIC/L5	Halibut, Cobia, Mackerel, Fortescue
VIC/L7	Kingfish B, Kingfish A, West Kingfish
VIC/L9	Tuna
VIC/L10	Snapper
VIC/L11	Flounder
VIC/L13	Bream A
VIC/L14	Bream B
VIC/L15	Dolphin
VIC/L16	Perch

## Explanatory Statement

*Offshore Petroleum and Greenhouse Gas Storage Act 2006*

**Background**

On April 26, 2021, at 10.20am a flash fire occurred after breaking containment on the Closed Drain Skimmer Pile (KBV-680) on the Kingfish B offshore platform. The closed pile had been opened as part of a maintenance activity to replace the pile pump. A team of UGL employees were removing the closed pile pump string from the caisson when the vapour inside the closed pile ignited, resulting in a fire that lasted for about three seconds at the top of the closed pile. The fire caused a worker to suffer burns the back of one hand and an arm.

An EAPL investigation was conducted by a team comprised representatives of both EAPL and UGL and included an HSR selected by the appropriate work group. The EAPL investigation report concluded that key causal factors of the incident included:

- A lack of sufficient recognition of hazard, or controls in place, to mitigate the risk associated with the presence hydrocarbon and/or iron sulphide.
- Inadequate isolation, hydrocarbon freeing and ineffective gas testing prior to breaking containment.
- Pile surfaces were not kept damp and oxygen ingress was not managed after breaking containment.

However, the EAPL investigation also highlighted several major areas of concern regarding the work preparation conducted which contributed to the likelihood of an incident occurring, including issues related to work supervision, awareness and implementation of management systems (standards, policies, procedures, admin controls), lack of reference to existing safety case critical controls specifically related to fire/explosion from skimmer pile during pump changeout, and iron sulphide handling.

Following EAPL's internal investigation into the KFB flash fire, Esso have advised that they are conducting a "Cold Eyes Safety Leadership Review" by EAPL senior management with the stated objective to "to assess the offshore safety culture and to provide recommendations to the leadership team focused at increasing leadership safety culture and preventing potential reoccurrences of similar incidents to KFB flash fire".

A NOPSEMA investigation concluded that a series of failures to take reasonably practicable steps to address various safety risks led to the injury sustained by a maintenance worker on 26th April 2021. In particular, NOPSEMA identified failures in the planning, execution of the activity and the effectiveness of arrangements in place between Esso Australia Pty Ltd and UGL Operations and Maintenance Pty Ltd for carrying out work in a safe manner.

NOPSEMA's investigation thus far has found that members of the workforce felt unable to convey their concerns about the work and were concerned that their ongoing employment would be at risk if they did so. As a consequence, NOPSEMA requires a separate and external independent review to be undertaken into the factors affecting the willingness and ability of members of the workforce to raise safety concerns such that they can be addressed in a timely manner.

Also, the working procedure for changing the closed drain skimmer pile pump was found to be generic in nature and did not address the specific requirements of the task as it needed to be performed on the Kingfish B facility to ensure risk to personnel was reduced to low as reasonably practicable. NOPSEMA requires completion of the platform specific or pile configuration specific procedures prior to any breaking containment work on piles to ensure that work can be conducted safely.

**Legislation**

Part 6.9 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) (the Act) provides that NOPSEMA has functions in relation to the occupational health and safety of persons engaged in offshore petroleum operations or offshore greenhouse gas storage operations; the structural integrity of facilities, wells and well-related equipment; and environmental management.

Under subsection 574(2) of the Act, NOPSEMA may issue a direction about any matter in relation to which regulations may be made.

Section 666(2) of the Act gives the CEO of NOPSEMA the power to issue a direction under section 574 of the Act. The power may be delegated by the CEO under section 675 of the Act.

Under sub section 576(1) of the Act, if a person is subject to a direction under section 574 and the person engages in conduct that breaches that direction, the person commits an offence:

- **Fault-based offence** – 5 years imprisonment or 2,000 penalty units, or both (10,000 penalty units for a body corporate).
- **Strict liability offence** – 100 penalty units (500 penalty units for a body corporate).
- **Civil penalty provision** – 525 penalty units (2,625 penalty units for a body corporate).
- **Continuing offences** – a person who commits a fault-based or strict liability offence commits a separate offence in respect for each day during which the offence continues. The maximum penalty for each day that the offence continues is 10% of the maximum penalty that can be imposed in respect to that offence.
- **Continuing contraventions of civil penalty provisions** – a person who contravenes the civil penalty provision commits a separate contravention in respect for each day during which the contravention continues. The maximum civil penalty for each day that the contravention continues is 10% of the maximum civil penalty that can be imposed in respect to that contravention.

**Note:** the value of one penalty unit is \$210 pursuant to section 4AA(1) of the *Crimes Act 1914* (current as of 6 September 2017).

**Notification of a direction that has an extended application**

Pursuant to section 575:

(1) If a direction under section 574 applies to:

(a) a registered holder; and

(b) a person referred to in paragraph 574(3)(a);

**the registered holder must cause a copy of the notice by which the direction was given to be:**

(c) given to that other person; or

(d) displayed at a prominent position at a place in the offshore area frequented by that other person.