



**Australian Government**

**Department of Resources, Energy and Tourism**

**REVIEW OF THE NATIONAL OFFSHORE PETROLEUM SAFETY  
AUTHORITY OPERATIONAL ACTIVITIES**

FEBRUARY–MARCH 2008

**Report of the  
Independent  
Review Team**

Mr Magne Ognedal

Dr Derek Griffiths

Mr Bruce Lake



Australian Government  
Department of Resources, Energy and Tourism

Resources Division

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Produced by the Department of Resources, Energy and Tourism

The Hon Martin Ferguson MP  
Minister for Resources and Energy  
Minister for Tourism  
Parliament House  
CANBERRA ACT 2600

Dear Minister

**Independent Review of the National Offshore Petroleum Safety  
Authority 2008**

We are pleased to present the appended report and attachments to constitute the independent review of NOPSA's operations in accordance with Terms of Reference approved by the Ministerial Council on Mineral and Petroleum Resources.

The report and attachments include:

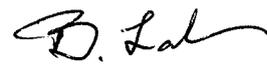
1. The Report and recommendations.
2. Copies of written submissions provided to the Review Team.

The Report is signed by all the members of the Review Team.

Yours sincerely

  
Mr Magne Ognedal

  
Dr Derek Griffiths

  
Mr Bruce Lake



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# 1 Executive Summary

## 1.1 Background

The Australian government established the National Offshore Petroleum Safety Authority (NOPSA) on 1 January 2005 to regulate offshore health and safety. NOPSA is an independent statutory authority under the *Petroleum (Submerged Lands) Act 1967* (PSLA), with operations fully funded by cost recovery under the *Financial Management and Accountability (FMA) Act 1997*. A review of the operational effectiveness of the Safety Authority is scheduled after three years as required under clause 150Z of the PSLA.

A Team of three independent safety experts were requested to conduct an independent evaluation of the operational effectiveness of NOPSA. The Team comprised: Mr Magne Ognedal, Director General, Norwegian Petroleum Safety Authority as Review Team leader, Dr Derek Griffiths, Australian major hazards consultant, and Mr Bruce Lake, Managing Director of Vermilion Oil and Gas Australia Pty Ltd.

The objective of the review set out in the Terms of Reference was to assess, without limiting the matters to be covered, the effectiveness of NOPSA in bringing about improvements in the occupational health and safety of persons engaged in offshore petroleum operations. The Review Team assessed whether the NOPSA is delivering on the relevant objectives and principles for the regulation of offshore safety in Australia set out by the MCMPR in 2001 (Appendix C); examined the progress in establishing and implementing NOPSA's functions and corporate governance framework; and made recommendations to improve the overall operation of NOPSA, the Board, and the safety performance of the Australian offshore petroleum industry.

## 1.2 Conclusions and Recommendations

The Review Team's main conclusion is that:

**NOPSA has made good progress in building a safety regulatory regime and authority of world class calibre, and, as expected there are still some aspects of the regime that can be improved on to achieve best practice regulation.**

NOPSA has addressed all aspects outlined by the Barrel Report for the common essential elements of Safety Case administrative systems. NOPSA has successfully established all of the key documents, processes and plans, which have been one of the principal activities in its first three years of operations.

The regulation of health and safety in the offshore petroleum industry has successfully been made less complicated by the establishment of the single regulator to ensure appropriate, effective and cost efficient regulation of the offshore petroleum industry.

The two main recommendations of the 2000 Review, that the current Australian Commonwealth Safety Case regime framework of legal documents is revised and

implementation of the Safety Case regime's regulatory system be restructured, have been implemented.

The principles laid down in the Ministerial Council for Minerals and Petroleum Resources (MCMPR) are to a large extent fulfilled, but compliance with principles 4, 6 and 9 can be improved upon to enhance the delivery of safety outcomes in accordance with principle 7 (Appendix C). The Review Team notes that a separate review will deal with NOPSA's cost recovery regime.

### **List of main improvement points followed by numbered recommendations**

The legislation and regulations are not sufficiently clear and interpretation is therefore difficult. Where guidelines do exist they are sometimes used by the regulator in a prescriptive manner without latitude.

1. *NOPSA should develop guidelines in consultation with stakeholders to provide clarity and consistency to the process which ultimately will result in better safety outcomes.*

The consequences of the disapplication of the Navigation Act 1912 for FPSO's and other associated offshore facilities are not fully understood by some stakeholders and it appears there are unintended consequences arising from the disapplication.

2. *The consequences of the disapplication of the Navigation Act should be analysed, the actual consequences identified and unintended consequences addressed.*

Stakeholders presented the current definition of "associated offshore facilities" and the consequences as a problem for vessels for a number of reasons.

3. *The regulations pertaining to vessels of opportunity or their interpretation should be changed to facilitate a risk based approach to regulation. This approach will be consistent with the approach taken in other jurisdictions.*

Current legal status or interpretation of the regulations makes the drilling contractor responsible for all aspects associated with drilling a well or performing well-related work. A significant problem is that the drilling contractor normally does not have contractual control over all factors that constitute an operation.

4. *The exploration/production operator making all major decisions related to petroleum activities (i.e. selection of rig, well design and selection of service companies) should be made responsible for demonstrating to the regulator that drilling operations can be conducted safely. Where the drilling contractor owns the rig and conducts the day-to-day management of safety on the rig, this duty can be described in a rig specific Safety Case that is owned by the drilling contractor. This rig specific Safety Case does not have to be submitted for every well/well operation.*

The definition of coverage for NOPSA's authority needs to relate to the safety of the relevant systems rather than current statutory boundaries. Stakeholders including industry,

NOPSA and State regulators supported the view that the legislated coverage of NOPSA should be extended to include the integrity of pipelines, subsea equipment and wells.

5. *Coverage of the regime should be increased to cover the complete hydrocarbons production system from wells through to custody transfer point or reasonable physical/technical system boundary. If NOPSA is also to be responsible for Carbon Capture and Storage it needs to be resourced to ensure that this does not detract from NOPSA's current responsibilities.*
6. *Because some issues related to emergency response are beyond any single operator and usually occur outside the title area, there is a need for the representatives of the offshore industry to work together with other governments, interested and involved parties to develop the strategies to be utilised and the emergency planning model that will satisfy the requirements of all parties.*

There is an issue of frustration among proponents with regard to what information should be in a Safety Case, which is further complicated by differing opinions from within the regulator. It is a key cause of difficult relations between Operators and the regulator. Of concern is its ability to frustrate and derail the Safety Case process with loss of focus on the primary outcomes.

There are many examples of lack of understanding of the Safety Case and correspondent responsibilities. This is reasonably broadly spread across all stakeholders including operators and regulator, and at all levels.

7. *Improved and agreed guidelines for Safety Case application and assessment, including suggested structure and content, would alleviate many current problems related to Safety Case processes.*

Concerns were expressed by some stakeholders that the assessment of a new facility Safety Case was solely by a desk top paper process and that inspections of new facilities would not take place until the assessment had been accepted and a period of operation of up to a year could have elapsed.

8. *The initial acceptance of a new facility Safety Case should be in conjunction with inspection of a facility upon commencement of operations.*

There is a lack of understanding of the Safety Case regime, the application of the Safety Case and the stakeholders' corresponding responsibilities. This is potentially an impediment to the development, implementation and maintenance of all the components of a Safety Case as well as its regulation.

There are a number of observations that can be made relating to matters that need to be addressed in an emergency response plan for a facility which defines what is to be done under a wide range of both defined events such as Major Accident Events (MAEs) and generic events such as cyclones.

9. *There is a need for industry in consultation with NOPSA to establish a priority programme of accredited education modules in the Safety Case regime targeting stakeholders in the regime at their respective levels to improve the understanding of the Safety Case and correspondent responsibilities.*

It is a general requirement that the operator under the Safety Case regime must ensure that all employees are trained and competent to do their assigned tasks. There is a particular concern related to new players coming into the industry without relevant background in the offshore petroleum industry.

10. *As professional competency is one of the key pillars of any Safety Case, commitment to training for current and future needs remains a fundamental requirement for achieving best practice outcomes in safety. Industry should be encouraged to build on its training commitment now being made to achieve a competent and fully accredited workforce over the next five years.*

At present the Key Performance Indicators (KPIs) used and quoted in NOPSA reports are very limited in scope, covering basically serious incidents and near misses, injuries and defined gas releases. There are also currently very few industry-wide indicators. There is a further need for NOPSA to review the approach to assessment and inspections to identify the most appropriate risk indicators to ensure that the high risks are adequately assessed, trended, reported and acted on.

11. *The current KPI measures used by the Regulator and industry need to be reassessed and the performance indicators need to be related to the risk profiles of the industry. The industry needs to develop the indicators, which need to be agreed and measured by the industry in discussion with other stakeholders. The KPI's selected should be published in comparison with the worldwide offshore industry and with other industries. NOPSA should continue discussions with Australian Safety and Compensation Council (ASCC) with a view to adopting their goals.*

Discussions with the stakeholders indicated that a number are starting to think about the issue of ageing facilities, but it has not yet been adequately addressed through a Safety Case. There is currently no agreed process extending the productive life of an offshore facility.

12. *The industry should develop in conjunction with the Regulator a process for addressing the need to maintain the risk profile of a facility moving into extended life operation at the same risk profile as when it was within design life.*

Lack of clarity as to what constitutes a valid Safety Case has resulted in operators varying their Safety Case as required by the assessor, rather than arguing their position, on the basis that it is easier to achieve acceptance by compliance. This 'compliance approach' may impact on confidence in NOPSA and the benefits of the whole Safety Case process.

13. *The industry should provide advice to NOPSA on where the regulations do not provide sufficient clarity and consider developing broad policy/process guidelines in consultation with the regulator to provide clarity and consistency. Regulators should not take personal views or preferences.*

Generally, stakeholders were all of the view that the implementation of NOPSA had resulted in improved consistency in regulation as was expected, but issues still existed with differing opinions and interpretations and applications across NOPSA teams. There are inconsistencies between all the teams, regardless of where they are located. NOPSA have a commendable training and competency program coupled with performance appraisal processes in place to iron out these challenges and are clearly aware of the challenge.

14. *NOPSA should complete the next revision of Safety Case guidelines in consultation and agreement with stakeholders and continue its program to achieve consistency with a firmer hand from the CEO and management.*

Concern was raised by Operators that NOPSA's approach is very legalistically driven with a view to potential enforcement by prosecution. The concern sometimes led to stakeholders taking a defensive position. However, other examples were given of the regulator working hard to encourage better outcomes by encouragement and consultation, and only using enforcement when all else failed. The Review Team accepts it is a challenge to find the right balance.

15. *NOPSA should use encouragement as the primary tool of enforcing compliance provided willingness to improve is exhibited by the players.*

The Board assisted NOPSA during the establishment period in a very positive manner and gave the CEO valuable advice. After NOPSA became operational the role of the Board became unclear to stakeholders. Some thought it was a governing board; some looked at it as an access door to Ministers. Some did not see the need for a Board.

16. *The role of the advisory Board, namely to give advice to Ministers and NOPSA when asked, should be made clear to Board members and all stakeholders. The Board and NOPSA should consider the need for a clear description of who does what based on the legislated responsibilities of the NOPSA CEO.*

Workforce involvement in developing the Safety Case, as well as in statutory regulation of the petroleum industry, was raised by all stakeholders, with varying opinions as to how it should be achieved or whether it could practically be achieved as required in the current regulations.

17. *The Safety Case proponent should be allowed some flexibility to involve appropriate experience matched with the proposed workforce competencies to enable the Safety Case to be developed with value adding processes. Subsequent to the hiring of the workforce and preferably before the commencement of operations a review of the Safety Case should take place with the new workforce to ensure they understand the accepted Safety Case, its risks and Safety Management Plan.*

Some stakeholders were concerned that Safety Case assessment for a facility new into Australia and with no record of Safety Case management is currently only a desk top paper exercise.

18. *NOPSA should consider an audit regime that targets Greenfields operations at commencement of operations.*

The Review Team understands that NOPSA has to work through other stakeholders to influence improve safety in the offshore industry, but there is currently no forum where representatives of the stakeholders meet as a small group to discuss and agree issues where improvement is needed and who should take on tasks.

19. *NOPSA should consider establishing a small forum for consultation consisting of representatives of relevant stakeholders. The representatives should have standing, with authority to participate in decision making and take on commitment on behalf of their stakeholder group.*

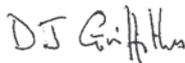
It is encouraging that APPEA strongly supports the concept that industry has a primary responsibility for Safety promotion. The Review Team notes that other extractive industries have taken on board this safety leadership challenge and achieved significant results with leadership from the top.

20. *As all stakeholders have responsibility for safe outcomes, decisions regarding target subjects for safety promotion need to have the support of all stakeholders including NOPSA and the workforce. Industry, which ultimately has the responsibility for managing risk as well as funding the promotion, should take a leadership role in implementation.*

Canberra, 5 March 2008



Mr Magne Ognedal



Dr Derek Griffiths



Mr Bruce Lake

Secretariat

Mr Odd Bjerre Finnestad

Ms Linda Tindall-Mather

## 2 Introduction

### 2.1 Background

Australia introduced legislation in the offshore petroleum industry for Safety Case and goal setting regulation in 1992 in response to the Piper Alpha disaster. The Safety Case regime administered by each State and the Northern Territory was fully operational in Australia from 1996. An independent review of the regulatory system for offshore health and safety in 2000 concluded that the Australian legal and administrative framework, and the day to day application of this framework for regulation of health, safety and environment in the offshore petroleum industry was complicated and inadequate to ensure appropriate, effective and cost efficient regulation of the offshore petroleum industry. The Review recommended that a single national regulatory authority be established to improve health and safety outcomes (Appendix B).

In response to the 2000 report, and in consultation with the State and Northern Territory governments, industry and the workforce, the Australian government established the National Offshore Petroleum Safety Authority (NOPSA) on 1 January 2005 to regulate offshore health and safety.

NOPSA is an independent statutory authority established under the *Petroleum (Submerged Lands) Act 1967* (PSLA), with operations fully funded by cost recovery under the *Financial Management and Accountability Act 1997* (FMA). NOPSA is also a jointly administered authority and is required to report to both the Australian Government and all State and Northern Territory Ministers with responsibility for the offshore petroleum industry and members of the Ministerial Council on Mineral and Petroleum Resources (MCMPR).

The role of NOPSA is to administer offshore petroleum safety legislation. Key objectives are to:

- Improve health and safety outcomes across the offshore petroleum industry.
- Ensure health and safety regulation of the offshore petroleum industry is provided to standards that are equal to the best in the world.
- Reduce the regulatory burden on the offshore petroleum industry, which operates across multiple jurisdictions, by delivering a consistent and comprehensive health and safety regime.
- Provide an organisation that promotes excellence through the professional and personal development of its staff and effective use of corporate support.

As required under clause 150Z of the *Petroleum (Submerged Lands) Act 1967* a review of the operational effectiveness of the Safety Authority is scheduled after three years.

## 2.2 Objective of the Review

The objective of the review set out in the Terms of Reference is to assess, without limiting the matters to be covered, the effectiveness of NOPSA in bringing about improvements in the occupational health and safety of persons engaged in offshore petroleum operations. The Review Team assessed whether the NOPSA business model is appropriate and delivering the nine objectives and principles for the regulation of offshore safety in Australia set out by the MCMPR in 2001 (Appendix C); Examined the progress in establishing and implementing NOPSA's functions and corporate governance framework; and made recommendations to improve the overall operation of NOPSA, the Board, and the safety performance of the Australian offshore petroleum industry.

The three year review provided a timely opportunity early in the life of the new regulator and regime to consider future directions. The review also examines the principles set out in the 2000 and 2003 independent reviews of the Australian offshore petroleum Safety Case regime, and of the Barrel Report (1996) (Appendix D).

## 2.3 Oversight

The Review Team will report to the Minister for Resources, Energy and Tourism. The Minister will consider the independent Review team's finding and recommendations and then the Government will develop preferred policy options in consultation with key stakeholders.

## 2.4 Methodology

The Terms of reference for the review and membership of the team of three independent safety experts to conduct the evaluation of the operational effectiveness of NOPSA were agreed to by the MCMPR in mid 2007.

The Team comprised:

Mr Magne Ognedal, Director General of the Petroleum Safety Authority, Norway, as the Review Team leader.

Dr Derek Griffiths, Australian major hazards consultant, and

Mr Bruce Lake, Managing Director of Vermilion Oil and Gas Australia Pty Ltd.

Mr Odd Bjerre Finnestad, Special Adviser of the Petroleum Safety Authority, Norway provided international offshore petroleum industry safety expertise and secretariat support.

The Review was managed and coordinated by the Environment, Safety and Security Section of Resources Division of the Department of Resources, Energy and Tourism. The review was conducted in three phases:

- Phase 1** Analysis of submissions by stakeholders.
- Phase 2** Evaluation of the regulatory regime, including stakeholder interviews, by the independent Review Team of safety experts, and
- Phase 3** Preparing and submission of an independent review report.

### **2.4.1 Phase 1: Analysis of submissions by stakeholders**

The Terms of Reference for the Review were announced at the Australian Petroleum Production and Exploration (APPEA) National Oil and Gas Safety Conference on 8 August 2007. Engagement was sought from a broad range of stakeholders, all of whom were given the opportunity to provide submissions and meet with the independent Review Team. The terms of Reference were made available on the then Department of Industry, Tourism and Resources website, the NOPSA website, in the NOPSA CEO newsletter and advertised in national newspapers – with a call for submissions from all interested stakeholders in September 2006.

The Review Team members were provided with copies of all the submissions and a summary paper that identified and analysed the key issues raised that impact on the operations of the regime and the health and safety outcomes for the offshore petroleum industry. Members were also provided data on the safety regime, corporate governance and procedural documents developed by NOPSA, and the safety performance of the Australian offshore petroleum industry.

### **2.4.2 Phase 2: Evaluation of the regime, including stakeholder interviews**

The Review Team conducted extensive interview sessions with all major stakeholder groups, including NOPSA's Perth and Melbourne office staff, the previous advisory Board, the Commonwealth, Designated Authorities, industry executive and line managers, representatives of the offshore workforce and Health and Safety representatives, and contractors and consultants who made themselves available. The stakeholder interviews were conducted over 10 days during which time interviews and group sessions were conducted with stakeholders. Meetings were held in:

Canberra 18-20 February:  
RET Briefing, meeting with the Hon Martin Ferguson AM MP, Minister for Resources and Energy, and interviews with stakeholders.

Western Australia 21- 27 February:  
Interviews with NOPSA and stakeholders.

Melbourne 28-29 February:  
Interviews with NOPSA and stakeholders.

At these meetings the stakeholders were given the opportunity to identify and include additional issues. Twelve submissions were received by the Department and are provided in Appendix F. The submissions formed the basis for discussions during the consultation meetings. The issues raised by all stakeholders are discussed in Chapter 4 of this report.

Submissions were received from:

NOPSA  
NOPSA Board  
Geoscience Australia  
Australian Petroleum Production & Exploration Association (APPEA)  
International Marine Contractors Association (IMCA)  
International Association of Drilling Contractors (IADC)  
Woodside Ltd  
The Australian Workers Union (AWU)  
The Maritime Union of Australia (MUA)  
Australian Institute of Marine and Power Engineers (AIMPE)  
Bass Strait Health and Safety Representatives  
TUCF

In addition to stakeholders who made submissions, interviews were held with Coogee Resources, Vanguard Solutions, Department of Primary Industries, Minerals and Petroleum Victoria, Department of Industry and Resources Western Australia, and the Australian Maritime Safety Authority (AMSA).

The Review Team spent quite a lot of their available time in assessing the NOPSA organisation and its journey. This is accounted for more in detail in Chapter 3 of this report.

### **2.4.3 Phase 3: Submission of independent review report**

The report was written up in Canberra on 1–5 March 2007, and the Review Team's main findings were presented in a meeting with the Hon Martin Ferguson AM MP on 4 March 2008. The Review Team was also asked to evaluate their finding in the context of international best practice and their own extensive knowledge and experience in generating their report. The Review Team's deliberations in this regard are presented in Chapter 5 of this report.

## 3 NOPSA DEVELOPMENT STATUS

### 3.1 Overview of regulatory process and documents examined

NOPSA provided to the Review Team a comprehensive range of documents created during the first three years of operations that gave an overview of the governance processes in place.

The Review Team examined NOPSA's safety management systems and its operational and regulatory activities, such as policies for inspections of facilities, investigations of accidents, reporting of dangerous occurrences and complaints and other incidents using a risk management approach. Since risk management is an integral part of good management practice to enable continuous improvement, the Review Team examined in particular NOPSA's processes of monitoring and reviewing the offshore activities.

NOPSA executive and inspectors presented the NOPSA journey and discussed the changes that have been made recently to the organisational structure to address succession planning concerns.

The Team found that NOPSA has developed a planning framework, plan development, and indicators for objectives identified in strategic planning activities. Tabled documents include the:

- 3 year corporate plan 2008–2011
- Business Improvement Plan
- Performance Management Framework, and
- Annual Operating Plan 2007–08 and draft 2008–09 and related Gantt charts.

Furthermore, NOPSA has developed policy and procedure documents, such as:

- Operational Risk Assessment and Management Plan, covering NOPSA's risk profile.
- Business continuity and Disaster Recovery.
- Quality Management Manual. Quality management is ensured through the QMS framework and audits by the Australian National Audit Office (ANAO). NOPSA also contracted SAI Global, a Division of Standards Australia International to carry out an external assessment against the Australian Business Excellence Framework, and NOPSA has achieved ISO certification 9001 to ensure all systems are compatible.
- Core processes for Safety Case assessment, inspections, enforcement, and investigations procedures, including a core process flow chart.

Industry performance is assessed by collecting and analysing data on long term injury rates, gas releases, overall incidents, inspection performance and inspectorate time. Performance indicators assessments are used for consideration of future directions.

In terms of financial stewardship, NOPSA provided the Review Team an overview of revenue and expenses since NOPSA was established, demonstrated the business and financial systems, and the fraud control plan.

Human resource management is ensured by workforce planning, a formal performance appraisal system linked to the development of a comprehensive inspector competency framework and associated training package.

The Team was also provided examples of good and bad Safety Case applications, assessment reports, notifications, and other operational documents.

### **3.2 The Review Team's appraisal of the NOPSA development**

The Review Team was impressed with progress since NOPSA was established on 1 January 2005. The NOPSA team had obviously exerted considerable effort and commitment to build the organisation and get in place core processes to ensure good corporate governance. Overall the core systems are in place, however some areas are not yet working as expected. The Team notes, however, that a number of the key issues raised by stakeholders are actually in the process of being addressed.

## 4 Issues raised in Submissions and Stakeholder Meetings

During the interviews, the Team heard of numerous issues related to the development of NOPSA, the amended Australian framework of legislation and regulations pertaining to it, and about the new regulatory regime. Some of the issues raised had almost full agreement among stakeholders, whilst others were flagged by only one or just a few stakeholders.

Meeting attendees frequently elaborated on their opinions by giving many examples and anecdotes to support their points.

This part of the report summarises issues, which the Review Team has found to confirm that Australia's work to build a new offshore safety regime is on the right track. However, it also highlights some issues remaining to be addressed to achieve best practice. These are discussed in Chapter 5 of this report.

### 4.1 Stakeholder's views on the creation of the new national regulatory safety regime

The Team heard from almost all stakeholders that the introduction of a new regulatory safety regime in 2005 had generally been a success. The stakeholders said they support the new national statutory authority NOPSA, many of its regulatory arrangements, processes and procedures, and the Safety Case approach to regulating the Australian offshore safety. The stakeholders thought this had led to improvements and already brought forth better consistency in many areas, and praised the commitment and competence of NOPSA's staff.

Stakeholders also expressed their appreciation of the difficulties inherent in changing from an established safety regime to a new one – and for the regulator, the industry and workforce to adjust to it must necessarily take some time. Many thought that at least 5 years were needed to get all the elements in place, so they were looking forward to year 2010.

Stakeholders indicated they were content that the earlier inconsistencies resulting from the former multi-regulatory regime now had been reduced by the introduction of a single regulator for all Commonwealth, State and Northern Territory waters.

### 4.2 Emerging issues

Nevertheless, stakeholders were also concerned about a number of issues that have emerged since NOPSA was created. These fall into 5 categories:

- The framework and coverage of legislation and regulations
- Issues related to Safety Case applications and processing
- NOPSA's organisation, policies, administrative and working processes

- The NOPSA Board, and
- The relationship between stakeholders.

#### 4.2.1 Framework and coverage of legislation and regulations

Stakeholders thought there were too few guidelines to assist in interpretation of the law. The few that had been developed were often applied as if they were compulsory requirements and not just guidance. These were not developed in consultation with stakeholders.

The 'disapplication' of the *Navigation Act 1912* for Australian registered vessels and FPSOs (when these are connected to the riser and working under the Safety Case regime) was identified as an issue by stakeholders. In particular, the Maritime Union's representatives opposed this arrangement. AMSA pointed out that in practice, the Navigation Act requirements must be maintained so that a vessel can safely disconnect and sail away. Much work had been undertaken to determine how the transition period should be managed, the change of command structure, and at what point the Master should take over command. Stakeholders thought the real consequences of disapplication had not been well understood, that clarity is required and unintended consequences should be identified and corrected. As the Review Team understands, this matter is currently being addressed.

Stakeholders were also concerned that owners of vessels of opportunity need to engage in a full Safety Case process and could not see the need for this. It imposes a 3 to 6 month delay, which does not fit with the short commercial timeframes and effectively limits competition in offshore petroleum operations. This creates an anti-competitive environment as those rig owners with an accepted Safety Case are more likely to be selected by oil companies whether they are more suitable or not, leading to a sub optimal situation that the stakeholders did not see as contributing to safety at all.

Drilling contractors were in particular concerned with the changes in the Australian regulatory regime in that they are now being defined by the legislation as 'Facility Operators'. In the past, the Safety Case was developed by the title holder operator. The main challenge, as presented by drilling companies, is that they are now regulated as an operator, but are often not in control of all risks because contractual arrangements for logistics infrastructure normally remain with the title holder. As a consequence drilling contractors may receive Improvement Notices for issues that are outside their control. Additionally, drilling contractors are not in control of well design or integrity (WOMPs). A Safety Case revision is required for every location change, which imposes a regulatory burden on the drilling company.

Drilling stakeholders thought transfer of well safety and integrity issues to NOPSA would be a good idea, but saw no place for shifting operating responsibility for wells (WOMPS) from the well owner to the rig owner.

Most stakeholders supported the view that NOPSA should also regulate the integrity of pipelines and sub sea equipment. In particular the DA's advised that they no longer retain the necessary technical competence to assess the issues involved. They thought the current

arrangement with both NOPSA and DA's having responsibility for integrity issues of parts of the petroleum offshore upstream industry made efficient regulation cumbersome to achieve.

On the subject of who should regulate the safety and integrity of wells (WOMPs), the majority of stakeholders supported NOPSA taking on this role. The Western Australian DA indicated they still had the expertise to assess the issues involved and was neutral on who should regulate the safety of wells. The Victorian DA indicated they no longer had the necessary expertise and supported the regulation of wells by NOPSA.

Stakeholders pointed at the fact that NOPSA are legislated to be responsible for both major accident events (MAEs) and occupational health and safety (OHS). They thought NOPSA perhaps had not achieved an acceptable balance in their handling of these two issues.

#### **4.2.2 Safety Case - application and processing**

Stakeholders said they find the regulations unclear with regard to what information should be in a Safety Case. They thought NOPSA seems to be expanding the scope of the case and focuses mostly on details in their Safety Case assessments and inspections. Furthermore, they thought NOPSA should have a risk based approach to Safety Case inspections rather than a calendar one. They found NOPSA's work processes to be rigid, and that it was difficult to communicate with NOPSA in Safety Case assessments. Equipment availability and short notice periods create time constraints for Safety Case development and acceptance, and sometimes results in poor equipment selection by the operator driven by whether the rig has an accepted Safety Case or not. This has unintended commercial and safety implications.

#### **4.2.3 NOPSA's organisation, policies, administrative and working processes**

Although stakeholders praised the professional competence of NOPSA's staff, most stakeholders complained that there was lack of consistency in NOPSA's work processes and in their dealing with the industry's duty holders. They also flagged that they found it difficult to get access to NOPSA to seek advice on regulatory issues.

All stakeholders said they would appreciate being involved and be consulted more often by NOPSA in matters dealing with offshore safety, but that NOPSA take a legalistic rather than a consultative approach, and currently do not have a involvement in the consultation processes in real terms.

They felt that NOPSA's daily activities and procedures are too strongly driven and directed by their personal interpretations of provisions of the legal framework. Many stakeholders said they had stopped challenging the views of NOPSA inspectors and had effectively developed a "compliance attitude" to achieve the outcome of acceptance of a Safety Case.

Stakeholders could see consistency differences between teams in Perth and between Perth and Melbourne. The Melbourne office is perceived as being more pragmatic in its dealings with industry.

#### **4.2.4 The Board of NOPSA**

Some stakeholders stated that they could not see the need for a Board. Most stakeholders did not understand the role of the advisory board.

#### **4.2.5 Relationship with/between stakeholders**

All stakeholders, including NOPSA inspectors, said they do not always have a clear understanding of their own roles and responsibilities and those of other stakeholders. Stakeholders, including APPEA, thought it is the responsibility of the industry to gather information, address developing trends and promote safety.

# 5 Findings, Observations and Recommendations

## 5.1 On NOPSA's Progress

### 5.1.1 Barrel report

The Review Team examined whether NOPSA has addressed all aspects outlined by the Barrel Report for the common essential elements of Safety Case administrative systems.

The conclusion is that NOPSA has successfully established the entire key documents, processes and plans. To get the regulatory system in place has been one of the principal activities in its first three years of operations.

Procedures have been established for annual internal review of performance against the previous years plan, the responsibilities and accountabilities of individual members of NOPSA have been defined, and a competency framework and a training plan have been established. Written internal procedures and standards for the scrutiny of Safety Cases, inspections, service standards, communications with operators and other stakeholders, and auditing arrangements against Safety Case objectives have been developed, along with policies on inspection, enforcement and ensuring probity. An accident/incident database has been established and systems for documenting storage, retrieval and control of permanent papers. Internal arrangements for auditing systems and performance are in place.

### 5.1.2 2000 review

The Review Team has found that the majority of the recommendations from the 2000 review have been implemented (Appendix B). However there are a few outstanding items that still need to be addressed and the implementation of some recommendations require further development.

The Australian legal and administrative framework, and the day to day application of this framework, for regulation of health and safety in the offshore petroleum industry has successfully been made less complicated to ensure appropriate, effective and cost efficient regulation of the offshore petroleum industry.

While the problems created by unclear boundary between Commonwealth, State and Territory jurisdictions have mostly been addressed, there remains a need to clearly define the regulatory boundary and coverage of the regime. The Review Team notes that work has already commenced on this matter and that consultation with key stakeholders is planned.

The two main recommendations, that the current Australian Commonwealth Safety Case regime framework of legal documents be revised and implementation of the Safety Case regime's regulatory system be restructured, have been implemented.

### **5.1.3 Scope and principles for regulation adopted by MCMPR in 2003**

The Scope for NOPSA agreed by the Commonwealth and State and Northern Territory Governments was for NOPSA to regulate safety and occupational health whereas the regulation of wells, pipelines and environment should not be transferred to the new authority for the time being. This decision contributed to ability to establish NOPSA and for NOPSA to successfully establish its core corporate governance arrangements. The principles laid down by the Ministerial Council for Minerals and Petroleum Resources (MCMPR) to a large extent are fulfilled, but compliance with principles 4, 6 and 9 can be improved upon to enhance the delivery of safety outcomes in accordance with principle 7 (Appendix C).

## **5.2 Emerging Issues**

### **5.2.1 Framework and coverage of legislation and regulations**

The Review Team has found that the regulations in many instances are not sufficiently clear and that interpretation is therefore difficult. Where guidelines do exist they are sometimes used by the regulator in a prescriptive manner without latitude. A new set of Safety Case guidelines have been in the pipeline for quite some time, but have not been made officially available to stakeholders for review and comment. Coupled with comments about lack of consistency across the regulator's staff it does not result in clarity for Safety Case preparations nor confidence in Safety Case assessment and implementation.

#### ***Recommendations***

*The regulations should be made clear.*

*NOPSA should develop guidelines in consultation with stakeholders to provide clarity and consistency to the process, which ultimately will result in better safety outcomes.*

### **5.2.2 Disapplication of the Navigation Act**

The consequences of the disapplication of the *Navigation Act 1912* for FPSO's and other associated offshore facilities are not fully understood by some stakeholders and it appears there are some unintended consequences arising from the disapplication. There are different opinions on what the consequences are and the effects.

#### ***Recommendation***

*The consequences of the disapplication of the Navigation Act should be analysed, the actual consequences identified and unintended consequences addressed. The result of the analysis must be communicated to all stakeholders.*

### 5.2.3 Vessels participating in offshore petroleum activities

Stakeholders have presented the current definition of so called associated offshore facilities and its consequences as a problem for vessels for a number of reasons:

- The entire vessel needs a Safety Case to be able to perform petroleum related work even though the vessel itself is under flag state maritime authorities' control.
- The definition has as a consequence the disapplication of the *Navigation Act 1912* for Australian flagged vessels, which in itself has consequences (see disapplication of the Navigation Act 5.2.2 above).

In a tight market with limited time to produce and assess a Safety Case, vessels with a Safety Case are the preferred option for operators even if it is not the best or safest vessel to do the required work. This has commercial implications and can have safety implications.

The Review Team's view is that from a pragmatic/rational point of view the vessel itself is under a maritime regime that should be accepted, and should therefore not need to be duplicated under the petroleum regulatory regime. The petroleum related work it is performing and associated risks (like collision risk etc) should be the concern of the petroleum regulator.

#### ***Recommendations***

*The Review Team is of the opinion that to resolve the issue the petroleum activities regulator should take a risk based approach to regulation. The question thereby becomes: What petroleum related functions conducted by vessels represent a risk to people, environment and asset integrity of the petroleum activities and should therefore be regulated by the coastal state?*

*The regulations or their interpretation should be altered to facilitate the recommendation. The outcome of this would be consistent with the approach to regulating offshore petroleum activities taken in other jurisdictions.*

The table below illustrates the view of the Team with regard to what the petroleum regulator (the coastal state authority) should be regulating concerning various vessels that participate in petroleum activities:

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<b>The safety of this type of vessels and their crew are always regulated by their Flag State Authorities (AMSA or foreign maritime authority):</b>	<b>This type of vessel carries out this particular function in the petroleum activities:</b>	<b>Since all other safety issues are covered by the flag state (maritime) authority, NOPSA needs only to regulate these issues:</b>	<b>Comments:</b>
<i>Lifting/heavy lifting barges or vessels</i>	Lifting operations	The crane and the lifting procedures.	When these facilities are close to an installation, NOPSA should also be regulating possible interaction and collision risks.
<i>Pipe laying barges or vessels</i>	Pipe laying operations	The design and production of the pipeline and the pipe laying activities/procedures	NOPSA should be responsible for pipeline integrity issues
<i>Multi support vessels, including diving</i>	Diving and other petroleum support functions, such as, pipeline or structures inspection and maintenance	Petroleum support activities and diving operations	In Australia, diving activities are already covered by the existing petroleum regulations
<i>Supply vessels</i>	Provide supplies of stocks (water, fuel, mud, food, etc.)	Interaction with installation/facility procedures when entering or being inside the 500 m zone	There should be a procedure for how to approach a petroleum installation in a safe manner
<i>Accommodation facilities/barges</i>	Provide accommodation for additional crew (during turn around, maintenance, modifications, etc.)	Interaction with installation or facility procedures	The Safety Cases should address the potential MAEs
<i>Anchor handling vessels</i>	Setting or shifting anchors of MODUs, vessels or barges	NA	Responsibility for the safe conduct of such operations is on the Master/OIM

**5.2.4 Drilling contractors as facility operators**

Current legal status or interpretation of the regulations makes the drilling contractor responsible for all aspects associated with drilling a well or performing well-related work.

The drilling contractor therefore has to submit a revised Safety Case for every new well that includes the drilling rig itself and the management of safety for the work on the rig. Drilling contractors pointed out that a significant problem is that the drilling contractor normally does not have contractual control over all factors that constitute an operation. The contractor also needs to describe the emergency and helicopter arrangements etc. that are usually defined and contracted by the exploration or production operator. It is therefore the title holder operator that contracts the rig to be used to perform the drilling or other well activities.

***Recommendations***

*The view of the Review Team is that the exploration/production operator making all major decisions related to petroleum activities (i.e. selection of rig, well design and selection of service companies) should be made responsible for demonstrating to the regulator that drilling operations will be conducted in a safe manner.*

*Where the drilling contractor owns the rig and is responsible for the day-to-day safe management of the rig, the duty to operate the rig safely can be described in a rig specific Safety Case that is owned by the drilling contractor. Once this rig specific Safety Case has been accepted by the regulator, there is little rationale requiring that a Safety Case must be submitted for each well or well operation that the rig will carry out on the Australian shelf.*

This conceptual thinking is in line with other petroleum provinces, where the same rigs may operate. The International Association of Drilling Contractors (IADC) has developed an international Health Safety and Environment case template that is widely used by drilling contractors and accepted by regulators in other regions of the world.

### **5.2.5 Coverage of the Regulatory Regime**

The definition of coverage for NOPSA needs to consider the relevant total petroleum systems rather than current statutory boundaries. Stakeholders including State regulators support the view that the legislated coverage of NOPSA should be extended to encompass the integrity of pipelines, subsea equipment and wells. These issues are currently covered under other arrangements such as Well Operations Management Plans (WOMPs) and Pipeline Management Plans, where regulatory responsibilities are shared by the DA's and NOPSA.

If the intent of the Safety Case is to include all risks impacting upon the integrity of the system, then inclusion of all hydrocarbons, carbon dioxide storage and other risks from the reservoir (well) through to the custody transfer point should be considered. In the example of WOMPs the interaction with operatorship of the drilling operations needs to be considered in parallel to ensure clarity.

The regulation of the safety aspects of carbon capture, transport and storage could feasibly fit into NOPSA's model and boundaries. There is however a concern that the additional workload/focus may detract from NOPSA's current responsibilities. Additionally, regulatory boundaries imposed by a system that may include onshore and offshore facilities may present regulatory coverage challenges.

#### ***Recommendations***

*Coverage of the regime should be increased to cover the complete hydrocarbons production system from wells through to the custody transfer point or reasonable physical/technical system boundary.*

*If NOPSA is to be responsible for Carbon Capture and Storage it needs to be resourced to ensure that it does not detract from NOPSA's current responsibilities.*

### **5.2.6 Emergency Response Preparedness**

There is a requirement under the Safety Case to ensure that there is an emergency response plan for the facility, which defines what is to be done under a wide range of both defined events such as MAEs and generic events such as cyclones. From discussions with the

stakeholders there are a number of observations that can be made relating to matters that need to be addressed:

- Emergency planning and the availability of the resources when the emergency is not related to just one facility but is wider spread. There could well be multiple demands on the limited resources actually available at the time of the emergency both from offshore and onshore users. In the event of a major event, resources under the control of the State or Commonwealth government may well be required. The mechanisms for this need to be addressed prior to an event.
- Boundaries/responsibility issues with offshore and onshore, for example when evacuating a facility during an emergency. Issues that should be addressed include:
  - Do the plans consider whether the place evacuated to is safe, can cope with the extra number of evacuees or is threatened by the same emergency?
  - Would moving people to the agreed location expose them to even higher risk than from the emergency situation, both during evacuation or on arrival?
  - Have alternative solution been identified and assessed?
- Medical resources available onshore may be limited and the responsibility for emergency response may be divided between the Government (State) and the operator.
- Whether the evacuation of a facility is the optimum solution is not always clear and evacuation may well result in exposure to higher risk than not evacuating. This has to be properly managed against the potential societal reactions which could be raised following a decision not to evacuate.
- It is not clear to the Team whether the Emergency Response Plan is a reference document or included as part of the Safety Case.
- It appears that NOPSA is involving itself at a very detailed level in assessment of the Safety Case Emergency Response Plan but not looking at the broader implications of each individual plan.

***Recommendation***

*The Review Team's view of the above observations is that, because some issues are beyond any single operator and usually occur outside the title area, there is a need for the representatives of the offshore industry to work together with other government, interested and involved parties to develop the strategies to be utilised and the emergency planning model that will satisfy the requirements of all parties.*

**5.3 Safety Case – Application and processing**

**5.3.1 Unclear what information should be in a Safety Case**

This was a key issue of frustration with proponents and was further complicated by differing opinions from within the regulator. It is a key cause of difficult relations between operators and the regulator. Of concern is its ability to frustrate and derail the Safety Case process with loss of focus on the primary outcomes.

***Recommendation***

*Improved and agreed Safety Case guidelines including suggested structure and content would alleviate this and other problems under this broad heading.*

**5.3.2 New Facility Safety Case Assessment**

Concerns were expressed by some stakeholders that the assessment of a new facility Safety Case was solely by a desk top paper process. The visit to the facility would not take place until the assessment had been accepted and a period of operation of up to a year could have elapsed. The concern was particularly targeted at facilities that were new into Australia and had no record of Safety Case management. The facility could have submitted an acceptable Safety Case but not be performing very well under the regime and this would not /could not be identified until the first inspection. This would leave the personnel potentially exposed to a high risk that was not adequately managed.

***Recommendation***

*The Review Team's view on this, and comparing the approach with other jurisdictions, is to suggest the initial acceptance of a new facility Safety Case is in conjunction with inspection of a facility upon commencement of operations.*

**5.3.3 Understanding of the Safety Case Regime**

The Review Team heard of and observed many examples of the lack of understanding of the Safety Case regime, the application of the Safety Case and corresponding responsibilities. The evidence suggests that such ignorance is broadly spread across all stakeholders and at all levels. This includes everyone from the Regulator, facility operators and right through to the workforce on the facility. Examples ranged from a lack of any understanding of the concept at all through to a clear understanding of the Safety Case process and responsibilities related to its application. This is potentially an impediment to the development, implementation and maintenance of all the components of a Safety Case as well as its regulation.

Under the Safety Case regime there is a robust requirement for all employees to be consulted about the development and implementation of the Safety Case they will be governed by. For this to be a meaningful process, it is necessary for employees at all levels in the organisation to have appropriate training in the Safety Case and all related processes, and to have an appropriate understanding of the Safety Case at their level. The consultation process would typically need to cover the following activities:

- Preparing or revising the Safety Case
- Identifying the MAEs and the MAE hazards
- Conducting and/or reviewing a safety assessment
- Identifying risk control measures and performance indicators for the measures
- Establishing and/or implementing the Safety Management System

- Developing the emergency response plan under the umbrella of the broader based plan discussed under Emergency Response Preparedness.

Without the appropriate accredited training the consultation process is irrelevant and the development, implementation and maintenance of the Safety Case unlikely to derive the best outcome. The knowledge needed is different for the different levels and for different positions in an organisation.

In a similar manner it is essential for the Regulator to have a clear understanding of the intent and application of the Safety Case regime that they are responsible for administering.

### ***Recommendations***

*There is a need for Industry to establish a priority programme of accredited education modules in the Safety Case regime targeting stakeholders in the regime at their respective levels. The role of NOPSA in this would be to be involved in some aspects and agreeing to the overall content but it is not NOPSA's role to provide the general industry education except with regard to their own employees.*

*To achieve the needed knowledge and competency, the facility operator would need to ensure appropriately targeted information, instruction and training to the different levels of employees covering:*

- *The intent, structure and application of the Safety Case Regime*
- *The type of MAEs that could occur at the facility*
- *All MAE hazards*
- *The identification and implementation of the risk control measures to manage the MAE hazards*
- *The content and operation of the Safety Management System*
- *How all OH&S issues are managed, and*
- *The Emergency Plan prepared for the facility.*

*As with all training there needs to be a measure of the competency of the trainees and a record kept of the training.*

### **5.3.4 Competencies**

It is a general requirement that the Operator under the Safety Case Regime must ensure that all employees are trained and competent to do their assigned tasks. In the section “Understanding of the Safety Case Regime” (5.3.3 above) the specific needs related to employees understanding the environment of the Safety Case that they are working under is addressed.

The competencies in this case relate to the training, education, skills and experience that people must have to carry out their day-to-day work. Discussions with stakeholders suggest that there are potentially serious issues because of the shortage of experienced and

skilled staff related to the very high demand generated by the rapid expansion of the industry. From the stakeholders it appears that there is:

- Significant poaching of staff to satisfy demand.
- Inadequate commitment to training and educating staff to required competencies.
- Promotion of employees above their competence.

There is a particular concern related to new players coming into the industry without relevant background in the offshore petroleum industry.

What does exist from work done over the years by APPEA and member companies is an accredited competency framework for Production Operations, Inductions, Emergency response amongst others (PMA 07) that enables Certificate 2, 3 and 4 Levels to be achieved.

In conjunction with the new Australian Centre for Energy and Process Training (ACEPT) training facility in Henderson Western Australia there are world class training facilities and teaching currently available. The facility was primarily funded by the WA Government with some industry support.

What appears to be a continuing problem is industry take up of these established training opportunities despite an ever increasing demand for appropriately skilled personnel. This is exacerbated by the loss of skilled workers through retirement of the aging workforce.

***Recommendations***

*As competency is one of the key pillars of any Safety Case, commitment to training for current and future needs remains a fundamental requirement for achieving best practice outcomes in safety let alone efficient and cost effective operations.*

*Responsibility for skills training is an industry responsibility although much of it can be done through and supported by Vocational Training provided by Government at a State level.*

*Industry should be encouraged to build on the training commitment now being made to achieve a competent and fully accredited workforce over the next five years.*

**5.3.5 Key Performance Indicators (KPIs)**

As the Review Team has mentioned before, the introduction of a single regulator (NOPSA) applying the Safety Case Regime to offshore petroleum operations has general stakeholder agreement that the regulatory processes have improved. However, at present the KPIs used and quoted in NOPSA reports are very limited in scope and focus on serious incidents/near misses, injuries and defined gas/oil releases. In reviewing the KPIs it is apparent that the targeted outcome of an improvement in safety has not occurred. For whatever reason the injuries have remained static and the incidents and defined releases have increased significantly. There is apparently, at present, no target for the reduction of these indicators although there is a programme for facility integrity to start addressing the releases.

NOPSA's current goals are difficult to measure in any tangible way and do not give a clear indication of the state of safety in the offshore petroleum industry. NOPSA does not presently subscribe to the Australian Safety and Compensation Council (ASCC) goals which, although not ideal by any means, are measurable and are national targets.

As industry owns and manages the Safety Case and the implied risk, it needs robust risk indicators to allow it to manage the residual risk 'As Low As Reasonably Practicable' (ALARP). Simultaneously, the regulator, by accepting the Safety Case, also needs robust risk indicators to assess whether the operator is meeting its commitment under its Safety Case and how the industry is performing.

There are currently very few industry-wide indicators. There is a need for the industry to develop/adopt more robust risk indicators (beyond injuries) to allow, by analysis and trending, the prediction of increasing risk profiles and help focus management attention where it is needed.

There is a further need for the Regulator to review the approach to assessment and inspections to identify the most appropriate risk indicators to ensure that the high risks are adequately assessed, trended, reported and acted on. The inspections would be focused on any undesirable changes in the risk indicators with appropriate actions implemented to correct the trend.

***Recommendations***

*The Review Team's assessment of the current measures, used by the Regulator and industry to report, is that they are in need of reassessing. The performance indicators need to be related to the risk profiles of the industry. The industry needs to develop the indicators, which need to be agreed and measured by the industry in discussion with other stakeholders, collected and trended so both individual trends and industry trends can be assessed and actioned where needed. They can also be used to determine if NOPSA's performance is achieving the required outcome of improving safety outcomes.*

*Any KPI selected should be recorded and where practicable, be published in comparison with the worldwide offshore industry. It should also be published in comparison with other industries to indicate where there are potential sources or opportunities for improvement/learning.*

*NOPSA should continue discussions with ASCC with a view to adopting their goals as at least a part of the NOPSA goals.*

**5.3.6 Aging Facilities**

The operating life of a facility is determined at the design phase by the decisions taken concerning the detail of the design, and is usually based on the anticipated life of the reservoir being tapped or the anticipated economic production flow life. Based on the required life, decisions are taken on materials, quality and equipment to provide for the

anticipated life. Providing for an extended design life at this point could well involve significant cost for, at the time, no discernable return.

Because of improved prices, new extraction technology and new techniques for determining the size of the resource the initial design life may well become a significant underestimate. This means the Operator of a facility that has been operating under a Safety Case has another issue to address i.e. the need to demonstrate that a facility designed for say 15 years can operate safely for another 5-20 years.

Discussions with the stakeholders have indicated that a number are starting to think about the issue but it has not yet been addressed through a Safety Case.

There is currently no international standard on extending the productive life of an offshore facility.

While it is implicit that this should be addressed in the Safety Case, it remains an issue of concern. The need to address this issue has been identified in NOPSA 2007–2008 strategies.

#### ***Recommendations***

*The Review Team recommend that the industry in conjunction with the Regulator, should develop a process for addressing the need to maintain the risk profile of a facility moving into extended life operation at the same risk profile as when it was within design life.*

*It is anticipated that the Safety Case will need to include information on how the operator will demonstrate that the facility can continue to be operated safely. This will need to be addressed in the Safety Case submission immediately prior to the move into the extended life or as a revision to the existing Safety Case. In keeping with the philosophy of the Safety Case process the demonstration will need to show that any MAE risk because of the extended life is ALARP.*

*The Regulator needs to develop a principle covering this matter in consultation with stakeholders and if necessary, incorporate the requirement into the regulations.*

## **5.4 NOPSA's organisation, policies, administrative and working processes**

### **5.4.1 Assessments of the Safety Case**

Lack of clarity and varying opinions as to what constitutes a valid Safety Case has resulted in proponents varying their Safety Case as required by the assessor rather than arguing their position, on the basis that it is easier to achieve acceptance by compliance. Operators indicated that where the assessor does not appear to understand the Safety Case and/or is unlikely to change their view, the process of convincing the assessor that the operator's position has merit leads to delays in the Safety Case acceptance. Where senior safety professionals in the industry feel strongly about their Safety Case, but make changes to achieve compliance, it has the potential to remove ownership of the Safety Case from the

proponent. There is also potential for a negative impact on confidence in NOPSA, and on the benefit of the whole Safety Case process.

***Recommendations***

*Development of guidelines by industry in consultation with the Regulator should be considered as a way to provide clarity and consistency, along with reviewing the regulations where they do not provide sufficient clarity.*

*Regulators should not have personal views or preferences.*

**5.4.2 Consistency across NOPSA**

As mentioned, stakeholders were all of the view that the implementation of NOPSA had resulted in improved consistency in regulation as was expected, but issues still existed with differing opinions, interpretations and applications across NOPSA teams. Concerns were raised by some operators who work with more than one team, commenting that they were not always getting consistent interpretations of regulations or assessment of issues. Combined with issues raised about interpretation and lack of guidance, consistency is an ongoing issue. Stakeholders did comment that NOPSA balance their teams during inspections and dealings with operators to ensure balanced outcomes and advice. However this did not occur in all cases with some strong opinion based directives being given verbally but not in writing. There are inconsistencies between all the teams, regardless of where they are located.

In the Teams view, NOPSA has a commendable training and competency program coupled with performance appraisal processes in place to iron out these challenges and is clearly aware of the challenge.

***Recommendation***

*NOPSA should complete the next revision of guidelines in consultation and agreement with stakeholders and continue its program to achieve consistency with a firmer hand from the CEO and management.*

**5.4.3 NOPSA driven by interpretation of legislation**

Concern was raised by operators that NOPSA's approach is very legalistic with a view to potential enforcement. The concern sometimes led to stakeholders taking a defensive position. Other examples were raised of the regulator working hard to encourage better outcomes with encouragement and consultation, only using enforcement when all else failed. It is a challenge to find the right balance.

NOPSA is in a challenging position when the implementation of the Safety Case regime is still incomplete and understanding remains less than perfect. Encouragement can be a difficult process when understanding remains a challenge.

***Recommendation***

*It is the Review Team's view that encouragement should be the tool of choice provided willingness to improve and comply is exhibited.*

**5.4.4 Frequency of meetings and reporting**

The frequency of meetings (monthly, quarterly) between operators and NOPSA represent a certain workload. It also brings NOPSA very close to the day to day activities of the companies.

***Recommendation***

*The Review Team suggest that meetings be evaluated based on the role of the operator and the role of NOPSA to see if the practice creates value and if it represents a risk to NOPSA.*

The operators feel it is necessary to report all incidents, operational issues, damaged or defective equipment and not only what is required in the legislation. The consequence is that NOPSA must use resources to handle all the information and decide if action is needed. It also brings NOPSA very close to and possibly involved with the operator's daily activities.

***Recommendation***

*The Review Team suggests that reporting be evaluated to determine if it creates value and if it represents a risk to NOPSA.*

**5.5 The Board and NOPSA**

The Board assisted NOPSA during the establishment period in a very positive manner and gave the CEO valuable advice. After NOPSA established itself and became operational the role of the Board became unclear to stakeholders. Some thought it was a governing board, some looked at it as an access door to Ministers, and some did not see the need for a Board.

The Board itself became more operational on a principal level engaging with stakeholders and maybe overlapped the responsibilities of the CEO of the independent NOPSA.

***Recommendations***

*The role of the advisory Board, namely to give advice to Ministers and NOPSA when asked, should be made clear to Board members and all stakeholders.*

*The Board and NOPSA should consider the need for a clear description of who does what based on the responsibilities of the NOPSA CEO.*

## 5.6 Relationship with/between stakeholders

### 5.6.1 Workforce Involvement

Workforce involvement was raised by all stakeholders with varying opinions as to how it should be achieved or whether it could practically be achieved as required in the current regulations. The Greenfields situation where the Safety Case is developed before the workforce is often hired makes it difficult for them to be involved in the process. Workforce often does not understand the Safety Case and the documentation is not always in a format that can be easily understood.

Some stakeholders were concerned that the assessment is a desk top exercise with no start up audit to check whether the workforce has been trained and informed as to the workings of the Safety Case and their involvement. There is a clash between the Regulations and the practical reality that needs resolution to ensure the expected safety outcomes from the process.

#### ***Recommendations***

*The Safety Case proponent should be allowed some flexibility to involve appropriate experience matched with the proposed workforce competencies to enable the Safety Case to be developed with value adding processes. Subsequent to the hiring of the workforce and preferably before the commencement of operations, a review of the Safety Case should take place with the new workforce to ensure they understand the accepted Safety Case, its risks and Safety Management Plan.*

*NOPSA should consider an audit regime that targets greenfields operations at commencement of operations. This would be aligned to the concept of risk based auditing.*

*NOPSA in consultation with stakeholders should review the current regulations and consider alternate arrangements to achieve the intent of the regulation with workable workforce arrangements.*

### 5.6.2 Working with stakeholders to improve safety outcomes

NOPSA has to work through other stakeholders to improve safety in the offshore industry. Today NOPSA does this by cooperating with individual stakeholders such as oil companies, the Australian Petroleum Production and Exploration Association (APPEA), the International Association of Drilling Contractors (IADC), the International Association of Marine Contractors (IMCA) unions and the workforce. There is no 'forum' where representatives of the stakeholders meet as a small group to discuss and agree issues where improvement is needed and who should take on tasks.

#### ***Recommendations***

*NOPSA should consider establishing a small group consisting of representatives of relevant stakeholders. The group should be chaired by the CEO of NOPSA and NOPSA should provide the secretariat. The representatives should have standing and*

*the authority to participate in decision making and take on commitment on behalf of their stakeholder group.*

*The group should:*

- Based on information/data, evaluate industry performance in relation to management of major risks and OHS, agree and prioritise improvement actions and decide who should take on the actions.*
- Be a driving force for activities and monitor the activities status and progress.*
- Be used as a consultative body to the CEO of NOPSA.*
- Be used to spread information to stakeholders.*

### **5.6.3 APPEA**

The Australian Petroleum, Production and Exploration Association (APPEA), the industry representative body and its Health, Safety and Operations (HSO) committee met with the Review Team. APPEA clearly identified promotion as the responsibility of industry and not NOPSA. This statement is in conflict with the Safety Authority's Functions under clause 150XE(c).

APPEA has undertaken several initiatives including the establishment of the CEO's Safety Leadership Forum as part of the 2007 National Safety Conference. At the Conference, it identified five key issues for the industry to address. As a result of this and other initiatives, APPEA committed to employing two dedicated safety professionals in its Perth office to help progress the outcomes of the National Safety Conference and the CEO's forum.

Individual members raised concerns about how NOPSA selected targets for promotion under the National Programmes initiative and there appeared to be mixed industry support for NOPSA's initiative. We were advised that discussions between industry and NOPSA had occurred regarding the National Program prior to implementation.

It is encouraging that APPEA strongly supports the concept that industry has a primary responsibility for Safety promotion. However, APPEA does not support the concept of NOPSA having a role as well. This may be driven by concerns about funding arrangements.

An observation regarding industry in safety promotion was that APPEA was still building commitment to the role of Safety Leadership. The recent CEO's forum appears to represent a change for the positive in this commitment but will need serious resourcing not only through APPEA but also directly from industry. The Review Team notes that other extractive industries have taken on board the safety leadership challenge and achieved significant results with leadership from the top.

#### ***Recommendations***

*As all stakeholders have responsibility for safe outcomes, decisions regarding target subjects for safety promotion need to have the support of all stakeholders including*

*NOPSA and the workforce. (This could be on the agenda of the proposed NOPSA CEO group.) Industry, which ultimately has the responsibility for managing risk as well as funding the promotion, will have a leadership role in implementation.*

*That APPEA liaise with other extractive industry bodies and seek out learning opportunities.*

## 6 APPENDIX

### 6.1 Appendix A - Terms Of Reference

#### Independent Review of the National Offshore Petroleum Safety Authority 2008

An independent review of the Australian offshore petroleum Safety Case regime in March 2000 concluded that the Australian legal and administrative framework, and the day to day application of this framework for regulation of health, safety and environment in the offshore petroleum industry was complicated and insufficient to ensure appropriate, effective and cost efficient regulation of the offshore petroleum industry.

The implementation activities to establish a national safety regulatory regime were subsequently reviewed in June 2003 to examine whether the principles endorsed by the Ministerial Council on Mineral and Petroleum Resources (MCMPR) in September 2002 were being met and whether the implementation project was on course.

The National Offshore Petroleum Safety Authority (NOPSA) was established on 1 January 2005 to deliver world class safety regulation for the Australian offshore petroleum industry, reduce regulatory burden and provide consistent and comprehensive services to achieve better safety outcomes.

A review of NOPSA operations over the three year period beginning on 1 January 2005 in relation to Safety Authority Waters is required under section 150Z of the Petroleum (Submerged Lands) Act 1967 (PSLA).

The review will give consideration to:

- Without limiting the matters to be covered, an assessment of the effectiveness of NOPSA in bringing about improvements in the occupational health and safety of persons engaged in offshore petroleum operations.
- Progress against the principles for the Regulation of Offshore Safety in Australia adopted by the MCMPR March 2002 Communiqué and assess whether the business model is appropriate and able to deliver the MCMPR objectives.
- Examine progress against the Safety Authorities functions set out under the PSLA:
- Safety Authority's functions clause 150XE.
- Corporate Plan clause 150YJ (4).
- Functions of the Board clause 150XM and Working with the Board clause 150XZ
- The outcomes, outputs and performance measures outlined in the portfolio Budget Statement 2004–05.
- Assess the operations of NOPSA against the findings of the 2003 review as to whether the principles are being met.
- Make recommendations to improve the overall operation of NOPSA and the NOPSA Board, and the safety performance of the Australian offshore petroleum industry.
- Prepare a review report to the Minister within six months of the review period.

## 6.2 Appendix B - Independent Review March 2000 – Recommendations

1. The Australian legal and administrative framework, and the day to day application of this framework, for regulation of health, safety and environment in the offshore petroleum industry is complicated and insufficient to ensure appropriate, effective and cost efficient regulation of the offshore petroleum industry.

Much would require improvement for the regime to deliver world-class safety practice.

2. The current Commonwealth safety case regime's framework of legal documents should be revised.
3. The current safety case regime's regulatory system should be restructured.

In particular, the review recommended that a national petroleum regulatory authority, similar to AMSA, should be developed to oversee the regulation of safety in Commonwealth offshore waters.

- There are too many Acts, Directions and Regulations regulating offshore petroleum activities;
- Their boundaries are unclear and application is inconsistent;
- Different sets of legal documents apply for each of the different States/NT;
- There are overlaps in legislation and the framework is incomplete in that fundamental terms are not properly defined;
- Provisions for graded sanctioning of non-compliance are absent;
- There is still much unnecessary prescription;
- The requirements of the framework of legal documents are open to inconsistent interpretation by regulators;
- There is inconsistency between the state regulators in the way in which they interact with companies;
- Guidelines are often applied as if they were compulsory regulations;
- States, by the Directions in the PSLA have been given the freedom to decide whether or not to apply their state law for important safety areas in Commonwealth waters, so long as these laws do not conflict with Commonwealth ones;
- The role of the regulator should be agreed and committed to paper and the processes employed should be as transparent as possible;
- It would be more cost effective and deliver a better, more risk reducing result, if all safety cases were assessed by a single group with the critical mass to do the assessment in house;

- Regulator dichotomy in development portfolios - The balance of evidence is that this issue is not currently a problem here, other than the competition for budget, but that perception could change very quickly after an accident;
- DISR should have real clarity on who is ‘carrying the can’, and should act accordingly;
- The DISR Safety Section unit should be strengthened and should take a firmer line;
- The regulators should keep a little distance between themselves and the companies as the industry in Australia matures;
- The use of consultants to assess safety cases can potentially cause a conflict of interest if they or other consultants have been involved in the safety case preparation. Also consultants have closer ties with the companies than with the regulators;
- With regard to a combined Health, Safety and Environment Safety Case regime, the Team felt that this was an issue of administrative efficiency with only a second order effect on safety;
- The complete Safety Case does not necessarily need to be living in terms of frequent updating;
- Performance standards are an important tool in verifying that the design assumptions (and the risk figures that flow from them) remain valid over time, but the Australian regime is not doing this well;
- The review team supports the objective of developing lead performance indicators and notes that this is an international objective. DISR is encouraged to progress this through the International Regulators Forum;
- As there is huge variability in the extent of workforce involvement, some cross fertilisation of the enthusiasm felt in some areas would significantly benefit others;
- There is no concrete evidence of serious reductions in safety as a result of cost pressures but the potential is there; and
- There has been a significant improvement in Safety Culture. However, because of the complexities of company cultures, it is not possible to attribute this to one specific factor (e.g. the implementation of the Safety Case regime) or factors.

### **6.3 Appendix C - Principles for the Regulation of Offshore Safety in Australia adopted by the MCMPR**

1. An enhanced and continuing improvement of safety outcomes in the Australian offshore petroleum industry is a priority for Governments, industry and the workforce.
2. A consistent national approach to offshore safety regulation in both Commonwealth and State/NT waters is essential for the most cost-effective delivery of safety outcomes in the offshore petroleum industry.
3. The Safety Case approach is the most appropriate form of regulation for the offshore petroleum industry to deliver world class safety by developing appropriate behaviour within the industry.
4. The legislative framework must be clear and enforceable to ensure safety regulation motivates operators to discharge their responsibilities for safety.
5. The regulator must demonstrate an independent approach in implementing its legislative responsibilities and in its dealings with industry. The structure and governance of the regulatory agency must promote independence, transparency and openness.
6. The regulator must employ competent and experienced personnel to guarantee effective regulation of the offshore petroleum industry's activities and operations.
7. The administration of the safety regulator must deliver effective safety outcomes at efficient cost to industry.
8. Under the Safety Case regime, the industry and its workforce must be empowered to identify and report potential hazards and to implement appropriate control measures.
9. Approval processes in safety, titles, environment and resource management must be streamlined and dovetailed to ensure no undue delay to project development in the offshore petroleum industry.

## **6.4 Appendix D - The Regulation of Health and Safety in the Australian Offshore Petroleum Industry Report by Dr Tony Barrell 1996**

### COMMON ESSENTIAL ADMINISTRATIVE REQUIREMENTS

- (i) An annual operating plan, specifically for safety, with key objectives and performance measures. The principal blocks of activity (eg. scrutiny and acceptance of Safety Cases, inspection of SMS and enforcement, preparation of guidance, etc.) to be nominated in staff days. It should also include resources available, staff by grade, and total budget.
- (ii) An annual internal review of performance against last years plan, explaining reasons for any difference from plan.
- (iii) A definition of the responsibilities and accountabilities of individual members of the NOPSA.
- (iv) A competency framework, and a training plan to fill the gaps.
- (v) Written internal procedures and standards covering the scrutiny of Safety Cases (include project management plans), inspection of installations, service standards, communications with operators and others, auditing arrangements against Safety Case objectives, etc.
- (vi) Policy and guidance on inspection and enforcement, and on ensuring probity.
- (vii) An accident/incident database to the agreed standard, and systems for documenting storage, retrieval and control of permanent papers.
- (viii) Internal arrangements for auditing systems and performance.

## 6.5 Appendix E - Glossary of Terms and Acronyms

### Legislation

PSLA	<i>Petroleum (Submerged Lands) Act 1967.</i> OHS functions are at Schedule 7
OPA	The <i>Offshore Petroleum Act 2006</i> (OPA) will shortly replace the <i>Petroleum (Submerged Lands) Act 1967</i>
Consolidation Report	The Department is currently reviewing the OPA and regulations to simplify the Act and reduce duplication.

### Government

MCMPR	Ministerial Council on Mineral and Petroleum Resources Council comprising Commonwealth and all state and territory government ministers with responsibility for resource industries. NOPSA is required to report to MCMPR under the PSLA.
AGS	Australian Government Solicitor
AMSA	Australian Maritime Safety Authority <i>Maritime Act Occupational Health and Safety (Maritime Industry) Act 1993</i> OHSMI <i>Occupational Health and Safety (Maritime Industry) Act 1993</i> Navigation Act (NavAct) <i>Navigation Act 1912</i>
Seacare	Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) <i>Occupational Health and Safety (Maritime Industry) Act 1993</i> (NOPSA has no involvement in compensation)
ASCC	Australian Safety and Compensation Council
Comcare	Comcare administers the Australian Government and self-insured private companies workers compensation under the <i>Safety, Rehabilitation and Compensation Act 1988</i> (SRC Act) and health and safety under the <i>Occupational Health and Safety Act 1991</i> (OHS Act). Each State has its own work cover authority with similar functions.
CASA	Civil Aviation Safety Authority
ATSB	Australian Transport Safety Bureau (ATSB)
RET	Department of Resources, Energy and Tourism (formerly DITR Industry, Tourism and Resources)
DA	Designated Authority – The State government Department responsible for offshore petroleum approvals under the PSLA.
MoU	Memorandum of Understanding – agreement with government agencies on the working relationship with NOPSA, covering meetings, sharing of information, joint inspections. A list is available on the NOPSA website.

### Industry Associations

APPEA	Australian Petroleum Production and Exploration Association
IADC	International Association of Drilling Contractors - Australian Chapter
IMCA	International Marine Contractors Association

### Unions

AWU	Australian Workers Union
MUA	Maritime Union of Australia
AIMPE	Australian Institute of Marine and Power Engineers

**Terms**

ALARP The residual risk shall be 'as low as reasonably practicable' for safety-critical and high-integrity systems.

WOMP Well Operations Management Plans (WOMPs)



## 6.6 Appendix F - Submissions

1. AIMPE
2. APPEA
3. AWU
4. Offshore HSR's
5. Geoscience Australia
6. IADC
7. IMCA
8. MUA
9. NOPSA Board
10. NOPSA
11. TUCF (Issues raised in this submission are being addressed through other processes)



## SUBMISSION TO DEPARTMENT OF INDUSTRY, TOURISM AND RESOURCES

### REVIEW OF THE NATIONAL OFFSHORE PETROLEUM SAFETY AUTHORITY (NOPSA)

#### Introduction.

The Australian Institute of Marine and Power Engineers (AIMPE or “The Institute”) is the professional and industrial organisation representing the interests of marine engineers across all sectors of the Australian maritime industry.

Significant numbers of marine engineers and electricians, members of the Institute, are engaged on vessels operating in the offshore oil and gas sector.

The range of vessels where AIMPE members are employed includes but is not limited to:

- Rig tenders (AHTS vessels)
- Platform supply vessels (PSVs)
- Seismic survey vessels
- Geotechnical drilling vessels
- Drill ships
- Semi-submersible drilling vessels
- FPSO Support vessel
- Dive support vessel
- Floating production, storage & offloading vessels (FPSOs)
- Floating storage & offloading vessels (FSOs)
- Pipe lay vessels
- Construction vessels
- Specialist vessels (e.g., well intervention)

AIMPE members also man and operate LNG tankers employed in the NWS project, shuttle tankers and harbour tugs which service vessels in the hydrocarbon industry.

Marine engineers (including electricians, trainee engineers and cadet engineers) are employed by a number of employers which man and operate the vessels listed above. AIMPE is a party to a range of union collective industrial agreements which determines the employment conditions of members on these vessels.

## **Issues.**

### Workforce consultation

The rights of organisations entitled to represent the views and interests of their members especially in relation to health, safety and welfare at the workplace must be sustained and fostered. Australian offshore oil and gas industry workers have had this fundamental right removed by the regulator, the previous government and industry bodies. The opportunity for trade unions to participate in meaningful dialogue with the regulator, employers and employer and industry peak bodies via a structured process such as NOGSAC offered must be restored.

AIMPE participated as a member of NOGSAC since its inception and was responsible, in concert with other NOGSAC members, for the instigation and ongoing implementation of the highly successful HSRs annual forum.

With the ideologically driven termination of NOGSAC and the apparent collusion of NOPSA and industry organisations in achieving that outcome, the responsibility for the 2007 HSR forum was handed to APPEA to the exclusion of any formal role for trade union involvement.

### Safety Case.

The safety case regime is seriously lacking in transparency and workforce involvement with it and understanding of it.

The safety case requires serious re-working so as to provide for the engagement of all workers affected by it and to remove the secrecy attached to it.

Sections of the maritime workforce in the offshore oil and gas sector have little or no understanding of the safety case regime.

### Dis-application of Navigation Act to certain vessels.

The removal of the application of the Navigation Act and maritime conventions to vessels which are labelled as “facilities” not only removes the protection of a number of IMO conventions but creates the potential for a human and environmental disaster.

When this ill-informed decision is coupled with the secrecy attached to the Safety Case Regime it raises the question of the genuineness of the industry’s safety attitude and its links to an economically advantageous outcome.

## **Conclusion**

AIMPE has briefly addressed three issues of major concern, however we note the comprehensive submissions by the MUA and the AWU and we substantially agree with and support the views expressed by them.





7<sup>th</sup> December 2007

Linda Tindall-Mather  
Assistant Manager, Environment Safety and Security Section  
Department of Tourism, Industry and Resources  
Industry House  
10 Binara Street  
Canberra ACT 2601

Dear Linda

**RE: INDEPENDENT REVIEW OF THE NATIONAL OFFSHORE PETROLEUM SAFETY AUTHORITY 2008**

Thank you for creating a mechanism by which APPEA Members are given the opportunity to provide input to the Independent Review of the National Offshore Petroleum Safety Authority. I also thank you for allowing an additional week past the deadline for the APPEA secretariat to review and compile individual member views.

APPEA members support NOPSA's role and activities to administer consistent Health and Safety regulation across the Australian offshore industry. Members are also pleased to see this review being conducted by a team comprised of both external and internal expertise in order to gain both a broad and deep perspective on past, current and future activities.

APPEA is aware that Woodside Energy has submitted its own recommendations directly to DITR. Whilst APPEA supports the items contained in the Woodside Energy submission these have not been incorporated into the APPEA submission. This submission should be viewed in addition to other submissions received and may be seen to incorporate the views of large and small operators together with operators with a small offshore component to their overall operations.

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Whilst APPEA members agree with the broad terms of reference they request that the review team should include consideration of the following focus areas in addition to the DITR proposed review criteria:

1. Without limiting the matters to be covered, an assessment of the effectiveness of NOPSA in bringing about improvements in the occupational health and safety of persons engaged in offshore petroleum operations. In particular:

Principle 1. An enhanced and continuing improvement of safety outcomes in the Australian offshore petroleum industry is a priority for Governments, industry and the workforce.

- a. Meeting the goal of conducting two inspections per year of every manned facility has presented difficulties for NOPSA with current manning.
- b. Inspection frequency does not seem to be in proportion to the risk on the facility.
- c. Inspection focus more on integrity issues rather than safety or facility MAEs.

Principle 4. Efficient and effective safety regulation

a) A legislative framework that is clear and enforceable and that requires operators to discharge their responsibilities for safety;

1. The legislation is not clear and requires interpretation in several areas (e.g. Associated Offshore Facility, Scope of Validation).
2. There seems to be a shift to a more prescriptive regime with more and more "Guidelines" issued with the expectation that these will become the minimum standard (e.g. Accommodation Guidelines) rather than industry working within the Regulations.
3. The guidelines tend to reflect the Inspectorate views of the Regulations (e.g. Scope of Validation) and can be different to the views of industry.

b) Competent and experienced personnel forming a critical mass of appropriate skills;

1. The ability to attract and retain experienced inspectors is questioned.

---

c) Structure and governance of the regulatory agency that demonstrates independence, transparency, openness and cost efficiency:

1. Independence:

- a. In order to maintain independence and prevent “Regulatory Capture” NOPSA is reluctant to have input and provide their view upfront before facilities are designed and built (e.g. participation in new facility HAZID and HAZOP reviews). This strategy is questioned.
- b. Involvement in this process would also enable the inspectorate to gain a better understanding of the Safety Case documentation when it is submitted.

2. Transparency and openness:

- a. General Reporting – Whilst the monthly CEO Newsletter is interesting it only provides statistics at the highest level and does not provide the detail for industry to learn from. NOPSA mostly reports lagging indicator (LTI etc.). To improve Safety NOPSA should focus on collecting and regularly reporting leading indicators and providing more information on industry incidents, high potential incidents and lessons learnt across all Operators and feed back the key areas of focus.

3. Cost Efficiency

- a. Total cost of safety case preparation, submission, answering safety case response notes (many of which require the education of the inspectorate), revision etc. has provided little “value add” to safety of the offshore workforce when compared to the opportunity cost of tying up considerable scarce safety resources that could otherwise be used for proactive activities.

- 
- b. Costs associated with NOPSA Operations are questioned (expenditure on overheads, consultant fees, conference attendance etc) and whether they are being kept in control.
  2. Principle 6 Approval processes in safety, titles, environment and resource management must be streamlined and coordinated to ensure no undue delay to project development in the offshore petroleum industry.
    - a. There are many examples where safety case acceptance takes longer than the designated period. This seems to occur for the following reasons:
      - i. Lack of coordination and collation of NOPSA Inspector comments.
      - ii. Requests for further information are frequently made past the midway point of the assessment timeframe which tends to extend the total time to acceptance by over 50%.
      - iii. Submissions that are made early in a project development phase (having float) are not begun on day 1 of 90 but are put on the "backburner" whilst "urgent last minute" approvals are processed.

Whilst the above items reflect the negative perceptions of APPEA Members there are also positive perceptions which include:

1. NOPSA Operator Forums are a very positive initiative and would encourage more forums to bring industry and Regulator together to discuss industry topics.
2. Very positive liaison and project update meetings.
3. NOPSA CEOs newsletter also provides useful perspective of issues on NOPSA's agenda.
4. We have a good relationship with NOPSA at a working level. They audit us twice per year and we see value in their audits. They recently asked if we would like less frequent auditing and we asked to keep the same frequency.
5. NOPSA performing audits provides the third party independent review to help us meet our auditing requirements.

- 
6. We find NOPSA to be pragmatic in relation to our reporting of significant incidents etc.

Once again, thank you for the opportunity to provide the independent review committee with these ideas for their review process. If any more information is required on any of the items described then please do not hesitate to contact Tim McGrath at the APPEA office in Perth.

We very much look forward to assisting the review committee with their review in early 2008 and will be happy to facilitate any interaction that they may request with APPEA Member representatives.

Yours sincerely

Colin Beckett

**CHAIRMAN**



# **STRONGER TOGETHER**

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30 November 2007

Ms Linda Tindall-Mather  
Assistant Manager  
Environment, Safety and Security Section  
Resources Division  
Department of Industry, Tourism and Resources  
GPO Box 9839  
CANBERRA ACT 2601

Dear Ms Tindall-Mather

**Re: AWU Submission to the NOPSA Review**

Please find enclosed The Australian Workers' Union (AWU) submission to the review of NOPSA.

I also wish to indicate the desire of the AWU to consult with the NOPSA review team, and would appreciate being advised of the composition and membership of the review team as soon as this is known.

I look forward on being advised on arrangements for the following:

- The status of submissions to the review;
- The composition and membership of the review team;
- The NOPSA review issues paper;
- A meeting date for consulting with the review team.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Paul Howes', written over a white background.

Paul Howes  
**NATIONAL SECRETARY**

(encl)



## **Australian Workers' Union**

**Submission to Department of Industry, Tourism and Resources**

**Review of the National Offshore Petroleum Safety Authority (NOPSA)**

**November 2007**

## Introduction

The Australian Workers' Union (AWU) continues to represent over 2000 workers in the Australian Offshore Petroleum Industry since the Industries commenced in the late 1960's. Our members include both principle employer employees and third party contracted employees within the industry. Our membership in the industry is diverse and includes classifications such as production technicians', facility maintenance, facility construction, various drilling personnel and caterstaff. The AWU has a high expectation in offshore health and safety due to the multitude of various risk factors which offshore workers are exposed to every day. The AWU has been at the forefront of various campaigns highlighting the critical importance of health and safety for the Industry.

The AWU in the submission development process engaged face to face with many of our members to gain an across the board perspective from both principle employer employees and third party contractor employees. Although the PSLA Schedule 7 defines all of these people as '*members of the offshore workforce*', this is clearly not the view of the third party contractor personnel which will be expanded on throughout this submission. The AWU request that the review team meet face to face with some of these concerned members to gain a greater understanding of the issues these workers face. This needs to also include third party contractor employees.

The following submission outlines key issues of concern to the AWU. This is followed by addressing the terms of reference. The AWU has discussed its submission with the Maritime Union of Australia (MUA) and ACTU and is in general agreement with position of the MUA in their submission to the inquiry notwithstanding differences in points of emphasis in our respective submissions.

The ongoing development in oil and gas extraction is a major area of focus for the AWU and MUA. The AWU is concerned to ensure that the lessons learned from the NOPSA review are applied to the Safety Case and regulatory oversight for OHS of the Northern Energy Arc, including inter alia, the Carnarvon Basin, Browse Basin and Bonaparte Basin. Best practice management of safety in older basins such as the Cooper Basin, Bass Basin, Gippsland Basin and Otway Basin should also be applied in a consistent manner to newer fields by NOPSA.

Lessons from this regulatory experience - both good and bad – provides an opportunity for Australia to enhance the regulatory framework to support world's best practice in the safe and sustainable extraction of our rich oil and gas resources.

It is critical that further harmonisation between jurisdictions be the subject of on-going considered and measured consultation by responsible Ministers, authorities and stakeholders.

The AWU urges the NOPSA review team to consider submissions including evidence from public hearings carefully.

## Key issues of concern to AWU

### 1) Stakeholder consultation processes and practice

A major issue of the AWU - also raised by MUA in their submission - concerns the operation of NOPSA. This is relevant to item 6 of the terms of reference. In particular the systematic dismantling of structured workforce consultation arrangements, and the conscious policy of the Board and Senior management, the industry and industry associations, and of the policy Department, to bypass and sideline the representative organisations of labour that operate in the Australian offshore oil and gas industry.

The result of this approach is that:

- There are now no structured channels through which the trade unions, who possess considerable policy, operational, industry and safety expertise, are able to enter a professional and well intentioned dialogue on the spectrum of policy and operational matters impacting on safety in the Australian offshore oil and gas industry;
- The Robens principles on which the OHS legislative structure for the offshore oil and gas industry is built (along with all other Australian industry) have been undermined and compromised – to such an extent that employer and corporate interests now have almost complete control for the way in which safety is managed in the offshore industry, and has effectively undermined the rationale which gave rise to the single national independent regulator model for offshore safety;
- The unions have lost confidence in the independence of NOPSA as the safety regulator; and
- Safety is being severely compromised.

The following examples highlight these concerns:

- The Howard Government, apparently at the urging of the key oil and gas operators, and support of NOPSA, abolished the only genuinely tripartite participatory body within the NOPSA structure – the National Oil and Gas Safety Advisory Committee (NOGSAC).
- The Department of Industry, Tourism and Resources undertook a process of reviewing the opportunities for consolidating regulation impacting on the offshore oil and gas industry over 2006/2007, including OHS regulation, without advising the workforce or its representatives and without any consultation with either the workforce directly, or with representatives of the workforce;
- The Departments report (Consolidation of Regulations under the *Petroleum (Submerged Lands) Act 1967*) makes reference to a DITR review of the PSLA provisions, apparently aimed at clarifying which offshore oil and gas industry vessels require safety cases. Again, we are unaware of any consultation with the workforce or

with the unions regarding this review, nor of the issues that may have been put to DITR that has led it to undertake a review.

- The Upstream Petroleum and Geothermal Subcommittee of the Ministerial Council on Mineral and Petroleum Resources (MCMPR) established an Integrity Working Group which was apparently tasked with reviewing safety legislation. This group was established without the knowledge of the workforce or its representatives, and has not consulted with representatives of the workforce. Its report has not yet been made public.

NOPSA appears to have handed to the Australian Petroleum, Production and Exploration Association (APPEA), which represents the oil and gas industry employers, operators and contractors, the full responsibility for Health and Safety Representative Annual forum which plays a crucial part in ongoing HSR development in the industry. HSRs have an important statutory role under the PSLA and are meant to perform their statutory functions, which includes skill, knowledge development, in an impartial and independent fashion.

## 2) Safety Case

A second set of issues relate to item 3 from the terms of reference regarding the functions of the Safety Authority set out under the PSLA and regulations. The DISR Safety Case Review Report stated: *The success of a Safety case will be largely dependent on workforce understanding of its fundamental philosophy and application of the relevant parts of its safety management system in the workplace. A Safety Case is considered “live” or “in force” if employees, contractors and managers are working within it and playing an important role in its development, implementation and improvement.*

***NOPSA’s acceptance of safety cases for facilities coming into Australia is currently deficient and leaves workers vulnerable to risks associated with the facility.***

Indeed NOPSA has acknowledged that “new and old rigs are looming over the horizon”.<sup>1</sup> This indicates that NOPSA is fully aware of the regulatory challenges posed by these trends.

### **Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities)**

**Regulations 1996** clause (15 (1) (a) requires that the *“The operator of a facility must demonstrate to the Safety Authority, to the reasonable satisfaction of the Safety Authority, that: in the development or revision of the Safety Case in relation to the facility, there has been effective consultation with, and participation of, members of the workforce”*. 15 (2) requires A demonstration for the purposes of sub regulation (1) must be supported by adequate documentation. 15 (3) defines **members of the workforce** includes members of the workforce who are (a) identifiable before the Safety Case is developed; and (b) working, or likely to be working, on the relevant facility.

Through increased levels of activity in the Industry operators receive Safety Case acceptance by NOPSA prior or on entering Australian waters and as a consequence are non compliant with clause 15. Operators argue they have no **members of the workforce** as prescribed so how can they comply with clause 15. Although this argument has some merit NOPSA has failed to limit safety case acceptance in accordance with clause 30 (5) which could allow

operators to continue to operate for a period of months while the safety case is reviewed by the established workforce and resubmitted before a set deadline.

### **Safety Case Acceptance**

31 (1) Once an operator has provided a safety case NOPSA has 90 days to accept. This is done by desk top analysis of the Safety Case by NOPSA. The absence of a robust analysis of any part of the accepted SMS leaves workers exposed to any deficiencies within the SMS. This in turn leads to Hazards not been clearly identified and mitigated against the exposure to workers.

Testing of safety case can be achieved by workforce representatives testing identified possible vulnerabilities in the safety case. The importance of the level of knowledge and understanding a HSR has to be an effective participant in this process is crucial.

### **Safety Case Review process**

The present 5 year review process needs to be maintained to allow for the continual improvement nature of the industry and capture new Technology as it is developed.

### **Safety Case Review process (significant change)**

A clear definition of '*significant change*' which triggers a review of the accepted safety case is required. The AWU accept that a variety of changes occur on a facility on a daily basis. These changes in isolation may not be regarded as significant however; at what point does the accumulation of multiple changes require a review of the safety case.

### **Aging Facilities**

The changing nature of aging facilities, which can increase both individual and accumulative risk, needs to be addressed. This could be achieved by adopting an increased inspection regime which would target identified deficiencies such as corrosion/erosion.

### **Helicopter Issues**

The jurisdictional issues with NOPSA vs CASA does not give clarity to offshore helicopter operations issues. The significant increased activity in the industry has seen a multitude of aircraft and operators seeking licence to operate.

NOPSA's jurisdiction over offshore helicopters relates to activities in the vicinity of an offshore facility. This would encompass such matters as the helideck, the helideck crew, (helicopter refuelling, (if fitted)), and emergency responses, eg if the helicopter crashed on the helideck or ditched into the sea, close to a facility. CASA are the appropriate authority for matters other than for those noted above.

The emergency response preparedness requirements throughout the industry are inconsistent. For example some facilities have full on duty helicopter emergency response teams while other facilities simply have a helicopter emergency crash kit. Considering helicopter travel is the number one MAE, the inconsistency of how to respond to a catastrophic event involving an aircraft needs to be rectified. Helicopter approach/take off places the greatest amount of mechanical stress on the aircraft and hence is likely to be an occasion when an event could occur. If the aircraft suffers a catastrophic failure on approach the likely outcome would be the aircraft bouncing off the heli-deck and possibly into the facility.

Aviation legislation requires the airworthiness of helicopters to be managed by the Registered Operators and maintained by CASA Approved Maintenance Organisations. Airworthiness and operational standards of the operators are subject to regular CASA audits. This separation in jurisdiction creates the situation where the number 1 MAE contributor for a Safety Case has very limited regulatory analysis by NOPSA.

### **3) Subordinate Legislation**

#### **Part 5 - Miscellaneous**

The lack of subordinate legislation has created inherent problems for industry to have realistic targets and HSR's to have clear prescribed guidance as to what is acceptable for workers in 2007. How does the level of scrutiny of safety cases by NOPSA include any depth of confirmation that the operator has adopted industry best practice and what is industry best practice?

#### **Codes of practice (COP's) and guidelines**

The application of COP's, which are prescribed through regulations, is welcome. These COP's need to be developed by NOPSA through stakeholder consultation processes in the same way COP's are developed by regulatory agencies around Australia. If the intent of the legislation was to never have application of COP's (refer section 43) then why does the regulations give them legal status.

A target of prioritizing COP's would assist in the development of the most crucial COP's for the industry. For instance a COP on Air Quality in living quarters could offer guidance to operators on the available filtration systems, for both air intakes and equipment, which have been in place on some facilities for some years now.

The process would need to be continuous with a review mechanism which would insure the COP's would be regulatory subjected to further development and take into account developing technologies. To develop a COP in the industry every quarter we believe would be attainable and assist HSR's in their measurement of what is expected as best practice in the industry.

NOPSA engaged a consultant to develop guidance material on accommodation standards for offshore facilities. The document was then circulated for public comment. Once again this approach differs from other regulatory agencies around Australia. The potential risks associated with poor living conditions from issues such as sleep deprivation requires a collective approach to the development of standards to mitigate these risks.

#### **NOPSA HSR Handbook**

This is the first time the Offshore Petroleum regulator has produced a booklet specifically targeted at HSR's in the industry. For that we applaud NOPSA. However, it's concerning that NOPSA sought the assistance of a Federal government body (Comcare) who has never had jurisdiction in the Industry. The booklet ads no clarity to COP's and creates confusion. On the one hand NOPSA explains the importance of COP's and then states NOPSA prefers to issue guidelines which are not legally binding to operators.

Regulatory agencies around Australia produce material such as the handbook and develop the content through consultation and cooperation with the industry stakeholders. This did not occur. Is simply circulating the document NOPSA's idea of stakeholder consultation? NOPSA require operators to engage HSR's in effective consultative processes however; this expectation does not appear to extend to NOPSA.

Did Comcare provide legislative interpretation as part of the assisting role? To expand on this and state the operator is not obliged to provide transport to the facility, or accommodation at the facility is not acceptable. The AWU do not have a Helicopter nor do they hold an Air Operators Certificate issued by CASA. The effect of this statement by NOPSA completely negates the legislative ability for a HSR to have assistance.

#### **4) Schedule 7**

##### **Part 1 Preliminary Clause 3 (2) (f)**

###### ***General Workforce Training***

The Review team in 2002 recommended

“ it is important that the workforce is trained to a general level of understanding of the overall safety case risks, with additional; specific training tailored to their work. Weekly safety meetings do not provide sufficient involvement or a continuous focus on safety” (p31).

A Regulatory Perspective (DNRE Vitoria) stated: an acceptable Safety case must demonstrate the operator's strong commitment to the effective involvement and consultation of employees in the preparation, implementation, and ongoing maintenance stages. The present 5 day accredited training should be condensed into a 2-3 day training package so all members of the offshore workforce gain a basic understanding of the importance of the safety case and how it applies to both their work and the facility where they live.

##### **Part 1 Clause 3 (2) (i)**

###### ***Duty of operators***

Clause 3 (2 i) requires that *'the operator develop in consultation with members of the workforce, a policy relating to Occupational Health and Safety. That will enable the operator and members of a workforce to co-operate effectively in promoting and developing measures to insure the health and safety of persons at the facility'*.

The policy referred to in 2 (i) is intended for the parties to have an effective consultation and OH&S issue resolution process for the various members of the offshore workplace. When the majority of the offshore workforce is non-principle employees this is more difficult to achieve. Non-principle workforce representatives aren't able to effectively consult directly in a structured and formalised process with the operator of the facility in a resolution of OH&S issues. Many non-principle workforce representatives have not been given the opportunity to develop an effective process for this to occur.

Generally non-principle workforce representatives attempt to resolve the issue through processes which exist with the company they work for. In some instances there may be over 10 various non-principle workforce representatives on a facility at a given time which creates confusion and lack of understanding on how they can effectively resolve OH&S issues related to that facility through an effective issue resolution process. In some instances two issue resolution processes are required. One for issues directly controlled by the third party

(example; supply of PPE), and a second for issues directly related to the facility and under the control of the operator of the facility. The issue resolution process which deals with direct facility related issues which the operator of the facility has control over needs to be accessible to all offshore workforce HSR's. Some facility operators have an electronic issue resolution process however, this is only accessible to principle employer HSR's.

Some operators with multiple facilities keep the principle employee HSR's and third party HSR's separated through OHS committee structures even though the issues discussed related to all members of the offshore workforce. The AWU support developing a structure where all HSR's, both third party and principle employer, who represent members of the offshore workforce on multiple facilities operated by the same company being given the opportunity to meet on a quarterly basis to discuss facility related OHS issues.

### **Part 3 Division 1 Clause 15**

#### ***HSR Training***

The existing once off 5 day HSR training course does not cater for the ever evolving role in the offshore industry especially when it come to one understanding the significance of HSR's contribution in relation to Safety Cases development/review processes.

Although the 5 day training give the HSR a basic understanding of the legislative frame work it needs to be supplemented on a annual basis for the HSR to gain a greater level of knowledge in their role, and ability to contribute in the development of an effective Safety Case.

This could be achieved by NOPSA recognising the HSR forum as accredited training in accordance with Schedule 7 clause 15 (1). The forum could be utilised to continually workshop safety case issues which HSR's would be able to take back to their facility for their assessment against their facility safety case.

### **Part 3 Division 1 Clause 16 (3) & (4)**

#### ***Powers of HSR's***

#### **Consultants to the HSR**

The importance of the HSR role under safety case regime has been affirmed on many occasions by multiple stakeholders. HSR's at the facility frequently require assistance by OH&S consultants. This is not reflected in the Schedule 7 provisions. The provisions where HSR's can seek assistance of a consultant are so restrictive that they do not reflect the legislative approach throughout Australia in 2007. A model based on current practice in Australia should be developed by stakeholders. This would assist HSR's in the continuing development of their skill and knowledge level in relation to the facility Safety Case and industry best practice. Any outcomes from facility visits by consultants should be directly communicated to the NOPSA Board

### **Part 3 Division 1 Clause 17**

#### ***Provisional Improvement Notices***

Under the current provisions a HSR is unable to issue a PIN against a non conformance with the safety case. The Safety Case describes the control measures which an operator will adopt to mitigate risk however, if there is a failure to instigate or adopt the mitigation measures by the operator the HSR is unable to issue a PIN. The absence of subordinate

legislation contributes significantly to this issue. A PIN which can only link the issue to a breach in the general provisions of PSLA Schedule 7 can always be easily challenged.

#### **Part 4 Division 1 Clause 37 (2)**

##### ***Provisional Improvement Notices (PIN) Appeal***

The appeal process for HSR's who have issued a PIN and that PIN has been cancelled by a NOPSA inspector is flawed. The appeal process in 37 (2) prescribes a HSR can appeal against a decision by notice in writing to the reviewing authority which is defined in Schedule 7 as the Australian Industrial Relations Commission (AIRC). The AIRC does not have an intricate understanding of the Offshore Regulatory Regime and generally will rely on evidence or opinions by so called *expert witnesses*. These witnesses to be called on include the very Authority to which the appeal is against.

#### **NOPSA Board**

The AWU support the NOPSA board composition which includes persons with both workforce and industry experience. The current board has served its duration and a new board will be selected by the Minister in the coming weeks. The AWU support having a mixture of various industry exposures as board members and see this mix of experience as crucial for the board to contribute to the ongoing learning's for NOPSA. With 70 % of the complaints to the NOPSA board being made anonymous the AWU believe this composition gives the workforce confidence in complaints been dealt with equitably knowing a shop floor opinion will be part of that process.

#### **NOPSA Audits**

The AWU being a major stakeholder in the industry put forward the proposal that upon request by a member of the offshore workforce that an AWU OHS consultant accompany the NOPSA team when conducting a facility audit. This would be predominantly an observational role with any identified improvements to be reported directly to the NOPSA board.

Currently NOPSA request facility operators to arrange for a HSR to be present on the facility while the audit is being conducted. This practice should be maintained however, the inclusion of third party contractor HSR's need to be provided this opportunity to improve there understanding of the regulatory processes.

#### **National Oil and Gas Safety Advisory Committee (NOGSAC)**

NOGSAC was established in 1996 as a tripartite body to advise the Minister on safety issues relating to Australia's oil and gas industry. NOGSAC has been responsible for identifying, and resolving, any number of significant HSE issues in the oil and gas sector. NOGSAC was the only genuine tripartite body within the Offshore Oil Industry and its abolishment through industry pressure along with regulatory and industry bodies' endorsement to the current federal government will not harbour the collaborative approach required to achieve best HSE practice in the industry. The AWU recommend and support the re-establishment of NOGSAC.

### **5) OHS compliance management**

Differences in approach to compliance run the risk of opening up a “safety gap” that will threaten the welfare of workers and their families all across Australia. There is also a risk of a safety gap between Comcare and NOPSA. This is discussed in more detail below.

When it comes to safety laws there is very little difference between the States and the Commonwealth. Indeed this was one of the major goals of NOPSA when it was established. Yet how far have we come when assessing the efficacy of regulatory arrangements and goals?

The States have been working with the Commonwealth to get more uniformity in these laws so that regardless of where they are in Australia, employers and workers have the same rights and obligations to work safely. Most recently, Western Australia has been integrating its regulatory arrangements under NOPSA

The big difference between the previous State schemes and the Commonwealth is in workplace safety compliance. This is where the safety gap becomes apparent and can have an impact

For example, maintaining a strong safety inspectorate role has been vital in Victoria. Commitment to maintaining 230 safety inspectors on the ground has played an integral role in driving down the number of injuries and deaths in Victorian workplaces.<sup>2</sup>

Effective - on the ground and visible - compliance is not only measured by reductions in deaths and injuries, but in greater measure by suffering and risk.

The greater effect is in suffering and risk and that - not the other - is the daily experience of workers.

NOPSA is requested to keep this in mind when assessing the effectiveness of the current adopted enforcement management model.

## **6) Addressing the terms of reference**

### **1. The effectiveness of NOPSA in bringing about improvements in the OHS of persons engaged in offshore petroleum operations**

Addressing the terms of reference (1) is that it is impossible to determine, from the publicly available material, as to whether OHS is improving in the offshore oil and gas industry. NOPSA appears to publish only 2 outcomes measures of OHS performance:

- Lost time injuries per million hours worked; and
- Total recordable cases per million hours worked.

There are deficiencies in the way they are reported:

- There are no definitions provided;
- There are no averages provided for the reporting period.

- The actual figures are impossible to discern from the way the data is presented, at least in the 2006-07 Annual Report; and
- There is no periodic trend data provided – which is particularly important now that NOPSA has been reporting for a 2 ½ year period and trends should be available.

In its 2005-06 Annual Report, NOPSA commenced reporting on international benchmarking data obtained through the International Regulator Forum's international health and safety performance measurement system. However, the main weaknesses are that:

- There are no definitions or explanations of the data provided; and
- The data is reported on a calendar year basis, unlike the national data which is based on a July-June financial year; and
- Year on year trend data is not published, so that performance improvement or otherwise cannot be assessed.

Despite Lost Time Injury Rate, per million hours worked, is not showing any discernable trend at this stage, the 2006-07 rate is higher than both previous reporting periods, and that is of concern.

The MUA has also measured how Australia's LTI rate in the offshore oil and gas industry compares with the LTI rate in the combined offshore and onshore oil and gas industry and with the global offshore and onshore oil and gas industry. Against both benchmarks the Australian offshore oil and gas industry is not performing well and further the trend is in the wrong direction.

Based on the available OHS outcomes data available it appears that NOPSA has not yet become fully effective in bringing about improvements in the OHS of persons engaged in offshore petroleum operations.

More importantly, NOPSA has not yet reached agreement with industry stakeholders on what measures of performance will be used to assess its effectiveness.

This will need to be a priority in future strategic planning for NOPSA, along with a need for greater clarity and transparency in what is reported in relation to OHS performance.

## **2. Progress against the principles for the Regulation of Offshore Safety in Australia adopted by the MCMPR March 2002 Communiqué and assess whether the business model is appropriate and able to deliver the MCMPR objectives.**

The AWU strongly supports the essential features of the business model that has been adopted for the regulation of offshore safety in the Australian offshore oil and gas industry. With some refinement and some deliberate changes in the operating arrangements, the essential business model of a single national independent regulator is appropriate, and is best placed to bring about improvements in safety, particularly OHS, in the offshore sector.

We acknowledge the enormous effort that has been committed by the industry, the staff of NOPSA, the industry associations, the workforce and the ACTU/trade unions in establishing a new national safety regulator. While we believe improvement is required, we believe this can be achieved, with goodwill, within the current business model.

The two most important changes that we believe require integration into the current business model are:

- A recognition (and formalisation) of IMO and ILO Conventions and standards as the principal guidance for the maritime elements of safety regulation as applied to offshore facilities which would otherwise be ships; and
- Stronger linkage of the business model with Australia's OHS standard setting and regulatory directions being developed under the auspices of the Australian Safety and Compensation Council.

We have addressed the first issue in some detail in Section 3.1.

In relation to the second issue, we note that NOPSA already appears to have already recognised, in part at least, the value of becoming part of the ASCC process. We note that there is an ongoing dialogue between the NOPSA Board and NOPSA officials and ASCC Board/staff and that NOPSA is increasingly drawing on ASCC national OHS standards as the guidance for standards on key aspects of safety.

It is our view however, that NOPSA needs to go much further, in particular by adopting appropriate ASCC national OHS standards into regulations pursuant to Schedule 7 of the PSLA. Unless this path is followed, workers in the Australian offshore oil and gas industry may well be working to lower, or more variable standards that their counterparts under other Commonwealth OHS Acts, such as those administered by the Seacare Authority and Comcare, and by the State and NT OHS regulators. We can see no justification for either lower standards to apply, or inconsistency in standards within one industry, when the national policy objective is greater national consistency.

In relation to each of the 6 Principles for the regulation of offshore safety in Australia, adopted by the MCMR on 4 March 2002, we make the following brief observation:

**Principle 1:** We believe the structure and broad legislative framework is in place but that there are a range of improvements that are required within that framework for the stakeholders to be satisfied that safety is in fact improving in the offshore oil and gas industry.

**Principle 2:** Provided NOPSA is prepared to become more closely integrated into the ASCC framework, maintain its independence through improved corporate governance/transparency and by resisting notions such as self regulation, and not allow ill informed policy operatives to weaken the statutory/regulatory environment, we are satisfied that NOPSA will conform with Principle 2.

**Principle 3:** We are prepared to continue to support the safety case approach as the most appropriate form of regulation of offshore safety, provided the deficiencies we have outlined in this submission are addressed.

However, we believe the safety case approach will need to be closely monitored, and industry will need to demonstrate that its OHS performance is actually improving over time (against agreed industry performance indicators). Industry complaints about so called regulatory burden, and consequential calls for a weakening of regulation, and complaints about regulatory cost, when industry profitability is at record highs, do not create a climate of confidence.

**Principle 4:** We believe that the 6 elements of Principal 4 remain central to conformance with all Principals. As our submission indicates, we think there is a considerable way to go in terms of achieving efficient and effective regulation, and that this Principal should be revisited with more rigour in a further 3 years.

**Principle 5:** We believe that the deliberate exclusion of trade union participation in OHS arrangements in the offshore oil and gas industry has in fact led to a disempowerment of the workforce, and that this will need to be addressed if this Principal is to be realised over time.

**Principle 6:** No comment.

**3. Examine progress against the Safety Authority's functions set out under the PSLA: (a) Safety Authority's functions clause 150XE, and (b) Corporate Plan clause 150YJ (4)**

**3.1 Authority's functions**

We believe that NOPSA has made progress against all its functions set out in Section 150XE of the PSLA, with varying degrees of success.

However, we believe the Board has failed to provide clear advice to the CEO in relation to the setting of OHS performance objectives and measures, and consequential reporting of OHS performance outcomes pursuant to the Authority's function at Section 150XE)g)(i).

**3.2 Corporate Plan**

We also note that while the Corporate Plan identifies industry trade unions as Tier 2 stakeholders, the AWU as one of the industry unions, has apparently been excluded from stakeholder consultation.

We believe that the Board of NOPSA has a responsibility to ensure that the Safety Authority conforms with central elements of its Corporate Plan.

**4. Functions of the Board clause 150XM and Working with the Board clause 150XZ**

We believe that the apparent dysfunction in the relationship between the Board and the CEO requires resolution.

We believe that if the Board requires the CEO to consult with stakeholders, the Board should have sufficient confidence in its decisions and the capacity of the CEO to

communicate those decisions or considerations, so as to enable a frank and open dialogue on key issues. There is a considerable difference between the CEO conveying Board thinking or Board decisions, as opposed to making a judgement on Board decisions.

#### **5. The outcomes, outputs and performance measures outlined in the Portfolio Budget Statement 2004–05.**

NOPSA should adopt and be subject to Australia's National OHS Strategy 2002 to 2012, which requires regulatory agencies or OHS schemes to commit to nationally agreed performance improvement targets. Unlike Comcare's PBS in relation to its OHS responsibilities, NOPSA sets no performance improvement targets, let alone those nationally agreed by Workplace Relations Ministers Council.

To illustrate, Comcare's PBS includes the following:

#### **Comcare OHS Act Regulation – PBS 2007-08 – Performance Indicators**

- Incidence of workplace injuries
  - Target: 40% reduction over the 10 years to 30 June 2012
- Incidence of work related fatalities
  - Target: 0 for the 10 years to 30 June 2012

In contrast, NOPSA's are vague and non specific, as follows:

#### **NOPSA – PBS 2007-08 - Performance indicators**

An Australian oil and gas industry that properly controls the health and safety risks to the workforce at its offshore petroleum operations.

Favourable benchmarking of the occupational health and safety of Australian operations with comparable operations in other countries.

The frequency rate of accidents and dangerous occurrences is reduced or maintained.

This has led to and fails to address the safety gap between the requirements under Comcare and relevant stated based regulation with NOPSA's vague goals.

This is counterproductive to better safety outcomes regarding risk reduction which has been highlighted by NOPSA as a key objective in 2007.<sup>3</sup> Better OHS outcomes are also measurable and comparable with other industries within Australia in addition to practices within a particular industry worldwide. This helps to ensure that domestic progress with OHS across industry is reflected within the oil and gas sector in addition to international best practice within the sector internationally.

The Australian standard should not merely be benchmarked against comparable to operations in other countries which can be defined very broadly but with the leaders in international best practice.

We also believe that the NOPSA Performance indicators for Output 1, *Regulatory oversight of operators' safety cases, safety management systems and operational practices coupled with effective monitoring, investigation and enforcement*, should be enhanced with a requirement to report so it reads *Regulatory oversight of operators' safety cases, safety management systems and operational practices coupled with effective monitoring, investigation, enforcement and reporting*.

We also believe that the quality elements of the NOPSA performance indicators for Output 1 are not measurable, and at this stage there appears no agreed definitions as to how such indicators would be measured, or indeed if systems are in place to enable measurement. We include the measures below:

- Safety cases, pipeline management plans and diving safety management systems assessed to a consistent standard within regulatory timescales – we ask how that standard is defined?
- Satisfactory stakeholder understanding regarding Authority's role and responsibilities, and interfaces with other government agencies – we ask, what is a satisfactory stakeholder understanding, and how will this be measured. Is it intended that there will be an annual survey?
- Satisfactory stakeholder feedback on efficiency and effectiveness of NOPSA's activities – we ask, which NOPSA activities, and how is efficiency and effectiveness defined?
- Enforcement undertaken in a consistent and timely manner – we ask, are there agreed benchmarks?
- Every permanently attended facility inspected each year – we suggest that such a process measure is quite meaningless when it contains no quality features
- All accidents, dangerous occurrences and complaints investigated to agreed standards and timescales – we ask, agreed with whom?

**6. Assess the operations of NOPSA against the findings of the 2004 review as to whether the principles are being met.**

See our comments in 6.2 above.

**7. Make recommendations to improve the overall operation of NOPSA and the NOPSA Board, and the safety performance of the Australian offshore petroleum industry.**

The AWU wishes to reserve its right to make a further submission in response to the Issues Paper which we understand that DITR will produce as a result on stakeholder input to the preliminary stage of the review.

It is our intention to propose a number of specific changes to improve the overall operation of NOPSA and the NOPSA Board, and the safety performance of the Australian offshore petroleum industry at that stage.

There is one important issue that we believe the review must take into consideration in the review, and that is the emerging labour shortage in some occupations and demand in the offshore oil and gas industry.

It is our submission that there is a correlation between the practices being used to address labour shortages and the safety of facilities and the workforce, and that the issue should not be avoided by the review.

We note and agree with comments made by the CEO of NOPSA in a Monthly CEO Newsletter:

*“There is much anecdotal evidence that personnel shortages and related competency issues are becoming more severe in the Australian offshore oil & gas sector. The availability of experienced personnel for both offshore and onshore support is already a crucial issue for most companies. NOPSA is concerned that these pressures will have adverse safety impacts on operations, and reminds Operators of the requirement to have sufficient number of experienced personnel to manage operations both in normal and emergency situations.”*

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## Endnotes

<sup>1</sup> NOPSA Perspectives and Objectives.

<sup>2</sup> AWU Submission to Senate Employment, Workplace Relations and Education Legislation Committee **Inquiry into the provisions of the OHS and SRC Legislation Amendment Bill 2005**

<sup>3</sup> As above.

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RE - Independent review of the National Offshore Petroleum Safety Authority.  
Esso Aust Ltd Offshore Workforce Submission.

In putting together a submission for this Independent review of the National Offshore Petroleum Safety Authority the Offshore OH&S representatives met and in discussions felt that the integrity of the Safety Case regime has several vulnerabilities. We developed a list of these vulnerabilities, (V), that we have seen throughout the last 3 year period in which NOPSA have operated. We then noted some enhancements, (E), for these vulnerabilities and recommendations from the workforce. Below is a summary of these discussions.

(V) The Safety Case (SC) is developed by the Operator and when completed submits it to NOPSA for acceptance. NOPSA has 90 days to evaluate the SC. The evaluation is a desk top exercise and as a validation of the implementation of the SC, NOPSA undertakes an inspection of the facility within a timeframe of 12 months (NOPSA's target). The inspection only looks at a thin vertical slice of the SC.

The vulnerabilities of this process are

- the effectiveness of the SC assessment
- the lack of transparency of the assessment to the workforce
- the time frame for the validation inspection
- the lack of pre SC development training for the workforce.

*(E) Enhance the SC regulations and guidelines to achieve the following:*

- *a more rigorous and transparent SC evaluation process*
- *NOPSA to conduct SC validation inspections much sooner after SC acceptance.*
- *Require Operators train workforce representatives in the process of Safety Case development and revision.*

(V). The operator is required to consult with the workforce and their representatives in the development of the SC (Management of Safety on Offshore Facilities Regulations 1996, Part 3, Safety Cases, Division 1, Contents of Safety cases, Reg 15), but there is no requirement for the workforce or their representatives to be trained or educated in the aspects of SC development.

The HSR's often are required to participate in Safety Case reviews and have had no formal training in Safety Case development. Therefore SC's are nearly always based on the Operators agenda. The workforce and their representatives need an expansive understanding of possibilities under the SC regs and guidelines.

*(E), Workforce representatives should be fully trained in the process of Safety Case development and revision.*

*The consultation requirements within the Management of Safety on Offshore Facilities Regulations 1996, Part 3, Safety Cases, Division 1, Contents of Safety*

*Cases, Reg 15, need strengthening to enforce the requirements for HSR's to be dutifully trained in the Safety Case.*

(V). Safety Cases are being accepted without thorough physical testing and without HSR participation. This has been the case on our Bass Strait unmanned mono towers where drills have been performed with only company representatives and NOPSA.

*(E). There needs to be better physical testing and verification of a Safety Case before the acceptance of the documentation. There should never be just a "paper" acceptance and HSR's should be involved in the Safety Case reviews.*

(V). Ageing facilities require more frequent and stringent inspections. The current base inspections focus on one or two areas and seem to miss some common sense items which need highlighting as deficiencies.

Under the current inspection there is 12 months between inspection fault reports and the follow up on compliance repairs.

*(E). We believe that the current inspection regime NOPSA undertake is insufficient and that NOPSA need to develop an increased inspection regime for ageing facilities that are more stringent and varied. A better follow up on repair compliance needs to be implemented.*

(V). It has been highlighted in previous reviews and has been prevalent in the last period of operation that there is a lack of understanding and application of appropriate standards in the Offshore arena. There are no subordinate regulations for such things as electrical standards encased in legislation in the offshore arena resulting in a very large discrepancy between the standards that are applied onshore to those offshore. The offshore workforce believe this is very much to the detriment of the offshore workforce as they are exposed to electrical standards that could very seriously compromise Safety in the workplace. A lack of action by the Operators is often stated as "the standards don't apply offshore"

This has caused indifference and confusion between the workforce and the Operator . To satisfy the safety expectations of the workforce they need to know if existing relevant onshore standards and codes of practice are applicable offshore.

*(E). The Safety Case regulations need to be crystal clear as to what the expectations are in relation to standards offshore and they need to be enforced. This especially applies to electrical wiring and hazardous wiring standards but equally should apply to all other aspects of managing health and safety at the offshore work sites.*

(V). As well as the above lack of follow up on the understanding of what regulations are applicable there was several other suggestions that seem to have also not been followed up.

*(E). We recommend that NOPSAs need follow up issues highlighted in previous reviews and provide a feedback loop from the reviews.*

The HSR's also have a concern which requires clarification to assist in the understanding of the Safety Case.

When does accumulated change to the workplace trigger a Safety Case revision?

The Safety Case should have a definition of "Significant Change" in relation to the requirements that trigger a Safety Case revision.

Some additional enhancements that the HSR's suggest could improve health and safety in the offshore arena

1. To ensure adequate consultation and communication with the stakeholders we see the need to maintain people with workforce and industry experience on the NOPSAs board.
2. With the continued development of the HSR forum it was felt that NOPSAs should ratify this event as accredited training under the provisions of the Act to ensure fuller participation.

In closing this submission the Esso Offshore Health and Safety Representatives request a meeting with the review panel at a date prior to them issuing the review paper.

Yours Sincerely,  
Esso Offshore Health and Safety Representatives



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Dear

### **Independent Review of the National Offshore Petroleum Safety Authority**

Thank you for your letter of 13 September 2007 seeking submissions to the Independent Review of the National Offshore Petroleum Safety Authority (NOPSA).

Geoscience Australia has not been directly involved in offshore petroleum safety issues but does examine technical risks relating to health, safety and environment when assessing field development plans. In addition, some of our technical advice staff have relevant previous experiences as an OH&S inspector, drilling engineer and facility engineer. Comments based on their experience are given in Appendices 2-4.

In relation to the Terms of Reference (Appendix-1) we make the following points.

#### Item 2

Based on general observations and experience of other stakeholders, Geoscience Australia believes that, since its creation in January 2005, NOPSA has made good progress against the principles for regulation of offshore safety in Australia adopted by the Ministerial Council on Mineral and Petroleum Resources (MCMPR) March 2002 Communiqué. It has established consistent national regulation of offshore safety based on a safety case framework and focuses on continuous improvement.

#### Item 3

NOPSA has worked effectively with the offshore petroleum industry, government bodies, industry associations and other stakeholders to perform the functions stated in clause 150XE of the *Petroleum (Submerged Lands) Act 1967* (PSLA) and its Corporate plan adequately meets the requirements of clause 150YJ(4) of the same Act. Geoscience Australia has made some suggestions for continuous improvement in these areas for consideration by the independent review. These form Appendix 2 to this letter.

#### Items 4 and 5

Geoscience Australia has no direct comments to make about Functions of the Board (clause 150XM), working with the Board (clause 150XZ), and the outcomes, outputs and performance measures outlined in the Portfolio Budget Statement 2004-05.

## Item 7

Geoscience Australia makes suggestions to improve the overall operation of NOPSA and the safety performance of the Australian offshore petroleum industry.

The independent review may wish to consider:

- Should design safety cases be incorporated into the NOPSA regulatory regime? Is the design envelope adequately defined, recorded, verified and translated to operating practices in the current framework?
- Currently a safety case for a manned facility describes arrangements to avoid loss of containment, so protecting both the workforce and the environment. Should NOPSA play a role, through Health, Safety & Environment (HSE) cases, to regulate this common objective, in conjunction with the environmental regulator? If so, NOPSA skills to regulate surface plant could also be efficiently deployed to regulate remotely controlled sub sea plant.
- Does NOPSA have adequate access to specialist technical advice? Examples are advice on marine design/certification, crane design/operation and geotechnical advice, including seabed conditions for jack-ups and potential shallow gas hazards.
- How can well operations be better regulated and stakeholder duties better defined so that a major well control incident can be avoided? (Appendix 3)
- Can the Safety Case Guidelines be improved? (Appendix 4)

Geoscience Australia notes the recent survey of NOPSA's clients and stakeholders on its performance against legislative obligations and corporate plans conducted by independent consultants from May to June 2007. The survey indicated the areas where NOPSA performed well and the areas where the improvement was required. These findings will enable the review team to identify major issues and propose appropriate solutions and we make the following observations:

- In offshore petroleum operations, long working hours, shift work and the first shift after extended travel, are potential sources of risk. In order to reduce this risk, NOPSA should monitor working hours and shift arrangements to seek best practice.
- Measures as stated in the client's survey could be taken to ensure consistent and uniform application of the safety case regime. This could include rotation of inspectors between teams and facilities, confidential sharing of successful inspector response to 'weak signals' about organisational capability and case studies of compliance problems. Another suggestion is that inspectors are trained in accordance with the Australian competency framework. These measures might require more resources such as a training specialist.
- Education and coaching of the offshore petroleum industry in safe work practices is important. One suggestion is to prepare training objectives/outlines to address critical issues and emerging trends such as work planning, materials handling and work team hazard management of non routine operations.
- Communication with clients and stakeholders could be improved. Statistical information and data, that at present is only available in historic Annual Reports, could be made available on the NOPSA website and updated on a quarterly basis. We do not propose additional statistics.

If you wish to clarify aspects of this submission please contact Jim Groombridge, Senior Petroleum Engineer, Petroleum Engineering and Identified Resources ([james.groombridge@ga.gov.au](mailto:james.groombridge@ga.gov.au) or 02 6124 5844).

Thank you for providing this opportunity for Geoscience Australia to contribute.

Yours sincerely

Dr Clinton Foster  
Chief  
Petroleum and Marine Division  
Geoscience Australia

21 January 2008

## Appendix-1 Terms of Reference

### Independent Review of the National Offshore Petroleum Safety Authority 2008



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#### Terms of Reference

##### Independent Review of the National Offshore Petroleum Safety Authority 2008

An independent review of the Australian offshore petroleum safety case regime in March 2000 concluded that the Australian legal and administrative framework, and the day to day application of this framework for regulation of health, safety and environment in the offshore petroleum industry was complicated and insufficient to ensure appropriate, effective and cost efficient regulation of the offshore petroleum industry.

The implementation activities to establish a national safety regulatory regime were subsequently reviewed in June 2003 to examine whether the principles endorsed by the Ministerial Council on Mineral and Petroleum Resources (MCMPR) in September 2002 were being met and whether the implementation project was on course.

The National Offshore Petroleum Safety Authority (NOPSA) was established on 1 January 2005 to deliver world class safety regulation for the Australian offshore petroleum industry, reduce regulatory burden and provide consistent and comprehensive services to achieve better safety outcomes.

A review of NOPSA operations over the three year period beginning on 1 January 2005 in relation to Safety Authority Waters is required under section 150Z of the *Petroleum (Submerged Lands) Act 1967* (PSLA).

The review will give consideration to:

1. Without limiting the matters to be covered, an assessment of the effectiveness of NOPSA in bringing about improvements in the occupational health and safety of persons engaged in offshore petroleum operations.
2. Progress against the principles for the Regulation of Offshore Safety in Australia adopted by the MCMPR March 2002 Communiqué and assess whether the business model is appropriate and able to deliver the MCMPR objectives.
3. Examine progress against the Safety Authorities functions set out under the PSLA:
  - a. Safety Authority's functions clause 150XE.
  - b. Corporate Plan clause 150YJ (4)
4. Functions of the Board clause 150XM and Working with the Board clause 150XZ
5. The outcomes, outputs and performance measures outlined in the portfolio Budget Statement 2004–05.
6. Assess the operations of NOPSA against the findings of the 2004 review as to whether the principles are being met.
7. Make recommendations to improve the overall operation of NOPSA and the NOPSA Board, and the safety performance of the Australian offshore petroleum industry.
8. Prepare a review report to the Minister within six months of the review period.

## **Appendix 2 - NOPSA Review - Progress against Functions and Corporate Plans**

### **Objective**

As part of the contribution to the NOPSA review the objective is to comment on item 3 of the proposed review. This is to examine progress against NOPSA's functions defined in the following P(SL)A clauses:

- Section 150XE Safety Authority's functions
- Section 150YJ (4) Corporate plans

### **NOPSA Functions**

#### Develop and implement effective monitoring and enforcement strategies

NOPSA adequately monitors OH&S arrangements and performance by means of operator reporting of incidents and by inspections.

The NOPSA compliance and enforcement strategy is well thought out and transparent. It is documented in 'Compliance and Enforcement Policy' (PL67), 'Guideline, OHS Inspector Enforcement Decision Appeals' (GL69) and 'Procedure, Enforcement Management Model' (PC147).

#### Review of Inspector Decisions

Co-regulation is referred to in the Forward to the 1994 DPIE Safety Case Guidelines and this has advantages in terms of communication between regulator and industry.

NOPSA has to establish an appropriate balance between the extremes of co-regulation that may achieve objectives through advice and the alternative of just seeking strict compliance to statutory instruments.

In some jurisdictions prior to the establishment of NOPSA there were instances of regulatory capture that can be the down side of co-regulation. As a result offshore inspectors, who were doing their job properly, may not have been adequately supported by their management. Some operators exploited this weakness. When an Inspector initiated preliminary steps in graded enforcement, the response of some operators was to complain about the Inspector to his management and approaches might have been made at a ministerial level.

It is important that NOPSA protects its staff from this type of approach and at the same time has a process to review Inspector decisions prior to an Appeal to the Australian Industrial Relations Commission.

Enforcement should have its own appropriate continuous improvement loop and this is not adequately provided for in the 'Compliance and Enforcement Policy' (PL67), 'Guideline, OHS Inspector Enforcement Decision Appeals' (GL69) and 'Procedure, Enforcement Management Model' (PC147).

The objective should primarily be to support the Inspector and NOPSA. At the same time NOPSA should recognise that sometimes mistakes, some resulting from communication problems, might be made and these could be rectified before an Appeal.

Consideration should be given to a complaints process in which the first step is for the complainant to communicate with the Inspector's Team Leader. On the basis that graded enforcement will only have been initiated after discussion with the Team Leader, it is likely that the complaint will go no further.

It is noted that PL67 does not explicitly state that the Team Leader has to approve enforcement actions, or what levels of enforcement action he has to approve.

The final step is for the complainant to communicate with the NOPSA CEO. The NOPSA CEO should not consider any complaint that has not first been through the Team Leader.

Questions to reviewers:

- In correspondence do inspectors always identify their Team Leader?
- Do inspectors carry name tags when making inspections?
- Should the name tag state 'reporting to... '?
- Are documents PL67 and PC147 too complicated? Can they be simplified?

#### Investigate Accidents and Report

Questions to reviewers:

- Does NOPSA have an investigation procedure?
- What is the trigger for an independent investigation by NOPSA? Is the trigger appropriate?
- Does NOPSA have an **adequate** investigation procedure? Attached is the 2002 Northern Territory Investigation Procedure that could be used as a reference. This was built around a continuous improvement loop.
- Should the investigation procedure be published? A disadvantage of this is that if the procedure is not exactly followed, which is likely due to operational reality, NOPSA could be criticised.
- Should elements of the investigation procedure be published?
- Does NOPSA have a procedure for response to a NOPSA investigation report including prosecution?

If a serious accident occurs:

- What does the operator do in addition to meeting reporting requirements to secure the site prior to any instruction by NOPSA?
- What can the operator do in preparation for the arrival of a NOPSA investigator?
- The operator will start his investigation, but what formal statements can he take from witnesses?
- What should the operator do in the event of a fatality on the facility, or a serious injury that might result in a fatality during evacuation or immediate hospitalisation?

There is no current information on the NOPSA website about this.

#### Actions in Event of Fatality

It is recommended that operators are given specific information on the NOPSA website about what to do if there is a fatality. The police and a coroner will lead this investigation and the specific information should be published on the website under the authority of each State/Territory police.

The item in the last bullet point above will be difficult since the facility person-in-charge has to make a judgement about the injured person's chance of survival.

We were unable to find applicable legislation or guidance about disturbance to the site of the accident following a fatality, or an accident that is expected to lead to a fatality. It is believed that this was covered in the NT by the NT Petroleum (Occupational Health and Safety) Regulations until these were withdrawn. If this is correct, this is a serious matter that should be considered by the review team.

In the event of a fatality NOPSA will have to liaise with Police, the Coroner and most likely a crown prosecutor. The Police will be in charge of the investigation:

- Have protocols in the event of a fatality, including contact details with Police and Coroner, already been established?
- Have protocols in the event of a fatality been established for each State/Territory?

### Coronial Inquest and Review

The coroner may assess the effectiveness of the NOPSA regulatory regime in the event of a fatality or multiple fatalities.

In this respect the review team should consider lessons from the past in this respect from:

- Piper Alpha 1988
- *Ocean Odyssey* 1988
- Moura No 2 1994
- Longford 1998

Specifically a Mining Inquiry in to the death of 11 miners at Moura No 2 mine on 7 August 1994 was conducted in Gladstone according to section 74 of the *Queensland Coal Mining Act 1925*. This was before the Mining Warden, Mr F Windridge and four persons having practical knowledge and skills in the mining industry who were not connected with the coal mine where the accident occurred.

In conjunction with the Mining Inquiry, a Coronial Inquest was conducted by the Mining Warden in his capacity as Coroner. Mr F Windridge determined that the ultimate cause of the incident was management neglect. After considering all of the available and duly collected evidence, he was not satisfied that this evidence disclosed wilful reckless negligence.

At the same time he expressed concern over the quality of the investigation process and the fact that Witness Statements were not electronically recorded and collected in such a manner that it would not be possible to rely on them for prosecution purposes.

He recommended that if the Department of Minerals and Energy inspectorate was to continue its investigative role then further training was urgently required and that in the future the Police should take a more active role in the investigation of fatal accidents, at least to the stage that they were satisfied that there was insufficient evidence to support a criminal charge.

Specifically during the *Ocean Odyssey* Fatal Accident Inquiry in Aberdeen in 1990, the Procurator Fiscal did not have the support of a technical panel in the same way that Mr F Windridge did. The conclusions and recommendations that resulted from the Inquiry were, as a result, ineffective.

- Are NOPSA inspectors adequately trained in the investigation procedure?
- Are they adequately trained to collect Witness Statements in the event of a fatality?

- Should legislation under the P(SL)A be in place for each State/Territory Coroner to have the power to convene a technical panel to support him in his/her Inquest?

**NOPSA Corporate Plans**

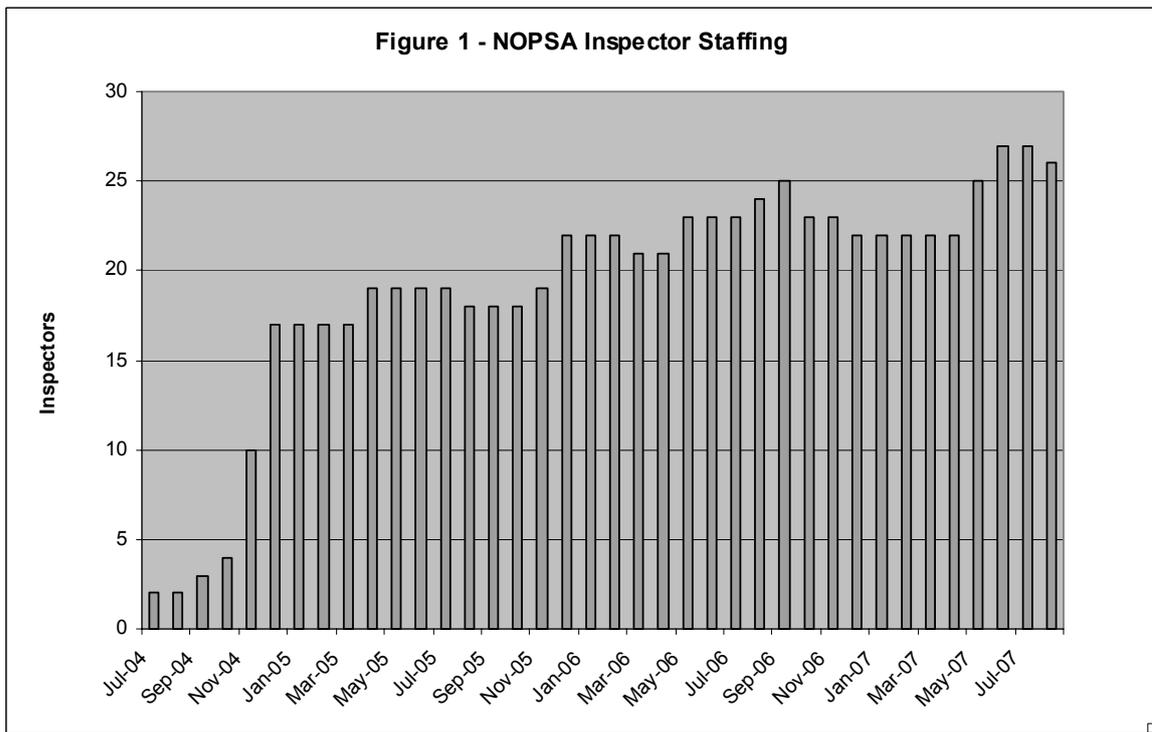
NOPSA’s Corporate Plans have been briefly reviewed. It is considered that they are in accordance with Section 150YJ(4) of the P(SL)A.

There has been a problem recruiting the complement of Inspectors. This is discussed in the NOPSA Annual Reports. Figure 1 shows the build-up of NOPSA inspector staffing.

1. Assuming that 24 was the target complement, staffing was only 17 at start-up in January 2005. Staffing did not reach 24 until September 2006.
2. From November 2006 to May 2007 it was at 22 to 23. By this time the target complement had been increased to 26.

Over a three year period 8 inspectors resigned.

NOPSA should be commended for performing their statutory tasks despite this key resource constraint.



Source: NOPSA monthly reports.

## Appendix 3 - NOPSA Review – Well Operations

### Objective

As part of the contribution to the NOPSA review the objective is to make suggestions for improvement in the way well operations are regulated at present.

The key element in the *Petroleum (Submerged Lands)(Management of Well Operations) Regulations 2004* is the Well Operations Management Plan (WOMP). This shows how the risks of the well will be managed by design, construction, operation and management. These aspects of risk in the WOMP are accepted by the Designated Authority (DA). NOPSA is not formally involved in the assessment of this risk but is responsible for all safety aspects of well operations. Consequently an element of well design and construction might be accepted by the DA, that may not be considered safe by NOPSA.

### Problems with Management of Well Operations Regulations (MWO Regs)

The important parts of these regulations are that the **title holder** has to show that he has **identified well activity risks and shown how these will be managed**. This is demonstrated in a well operations management plan (WOMP) submitted to the DA 30 days prior to the proposed start of the well activity.

The critical regulations are:

6. Contents of WOMP,
8. Decisions on WOMP, stating how the DA **accepts** the WOMP,
10. Request for variation of accepted WOMP.

It should be noted in Regulation 17 that the DA must also **approve** certain well activities separately from the acceptance of the WOMP.

Other regulations are generally administrative.

Well activities are usually carried out by a contractor on behalf of the titleholder. This contractor, or facility operator, is the primary OH&S duty holder who manages the well activity risk. Thus from an operational point of view the titleholder has to:

- Employ a facility operator that has plant, systems of work and competent staff to manage the risks according to good oilfield practice. This titleholder duty is not defined in the existing OH&S legislation.
- Tell the operator what the risks are,
- Recommend and provide advice to the operator on how risks are to be managed. The operator has operational duty of care and facility command defined by Regulation 12 of P(SL)(MOSOF) Regs. The titleholder cannot instruct the facility Person-in-Charge (PIC).

As the well is drilled the titleholder collects data to learn about any developing threat. At the same time the operator monitors the mud volume in the hole to detect any influx from the formation or kick.

Section 97A of the PSLA requires that the titleholder has insurance cover for liabilities resulting from the work he carries out.

Issues with regard to the MWO Regulations are -

- Regulation 3 states that the object of the Regulations is to ensure that ‘risks are identified and managed’. In the succeeding regulations the duty to identify these risks is only indirectly stated by the statement that ‘a well operations

management plan must show that the risks identified by the titleholder in relation to the well activity will be managed in accordance with sound engineering principles, standards, specifications and good oilfield practice.’ This might preclude a process of ‘identify – assess – control – mitigate’ specific to the well. The duty to manage the risks is translated to ‘how the titleholder will deal with a well integrity hazard’.

- They do not recognise ongoing titleholder responsibility to communicate with the facility PIC about developing well activity risks and threats. An example of what can happen if this ongoing responsibility is not met is the 1988 blowout of well 22/30b-3 in the UK North Sea. The titleholder, Arco, failed to communicate effectively with the *Ocean Odyssey* PIC, who only learnt that there was the threat of a blowout when he saw the drilling crew rushing to the lifeboats. Regulation 6 (f) requires the titleholder to notify the DA about significant increases in existing risks - but not the facility operator who has to manage these risks.
- The titleholder duty to contract a facility operator that has plant, systems of work and competent staff to manage the risks is not defined in the existing OH&S legislation.
- The responsibility of NOPSAs to approve all safety aspects of well operations is only stated in the Reader’s Guide.

Regulation 3 defines downhole activity objectives as:

- Designed to accord with good oilfield practice.
- Carried out to accord with a WOMP that has been accepted by the DA.
- Risks are identified and managed to accord with sound engineering principles and good oilfield practice.

Regulation 6 (2) requires:

- Explanation of the philosophy of, and criteria for, the design, construction, operational activity and management of the well.
- Performance objectives against which the performance of the well activity is to be measured.
- Measurement criteria that define the performance objectives.
- Explanation of how the titleholder will deal with a well integrity hazard.

The term ‘good oilfield practice’ needs further definition. In the UK it was accepted as meeting an API or IP standard or recommended practice ([www.energyinst.org.uk/offshorecatalogue](http://www.energyinst.org.uk/offshorecatalogue)).

The terms ‘performance objective’ and ‘measurement criteria’ are not appropriate to define the immediate and threatened risk and the practical drilling and well control plant, system of work and competencies to manage this risk.

The title holder usually does not ‘deal’ with a well integrity hazard. He designs the well and then communicates with, and provides advice to, the facility operator about how to manage developing hazards.

## Conclusions and Recommendations

1. NOPSAs should be responsible for all aspects of well safety.

2. The OH&S regulatory framework must state the duty of the titleholder to identify well operations hazards, to design the well accordingly and to communicate the hazards and well design to the drilling facility operator, NOPSA and the DA.
3. This duty shall include continuous communication, with the facility operator on-site PIC, about hazards and threats that develop as the well is drilled. This could, however, be part of a safety case bridging document.
4. The regulatory framework should state that the titleholder should not start well activities to drill, production test, suspend or abandon a well without approval by the DA or a similar authority.
5. Titleholder duty to contract a facility operator that has adequate plant, adequate systems of work and competent staff to manage the risks should be defined in OH&S legislation and regulated by NOPSA.
6. Once (1), (2), (3), (4) and (5) have been achieved the requirement for a WOMP can be withdrawn.
7. Integrated guidelines for well operations should be developed that explain OH&S, environmental and resource management needs, including data collected for potential development by the titleholder and data collected as scientific knowledge for future exploration by third parties.
8. The industry should be told that adherence to API, IP and appropriate ANZ standards are part of the criteria to assess good oilfield practice.

## Appendix 4 - Suggested Improvements to NOPSA Safety Case Guidelines

### Objective

As part of the contribution to the NOPSA review the objective is to formulate suggested improvements to the Safety Case Guidelines issued in 2004.

### 2004 Safety Case Guidelines

The 2004 NOPSA Safety Case Guidelines were a considerable improvement to the 1994 DPIE Guidelines. It better describes how the Hazard Management Process (HMP), to identify, assess, control hazards, should be the key part of the Formal Safety Assessment (FSA); however it is weak on applying this to day-to-day safety.

The Safety Management Section of the 2004 document is commended for being built around 22 Safety Management System (SMS) principles that require operators to think issues through for themselves.

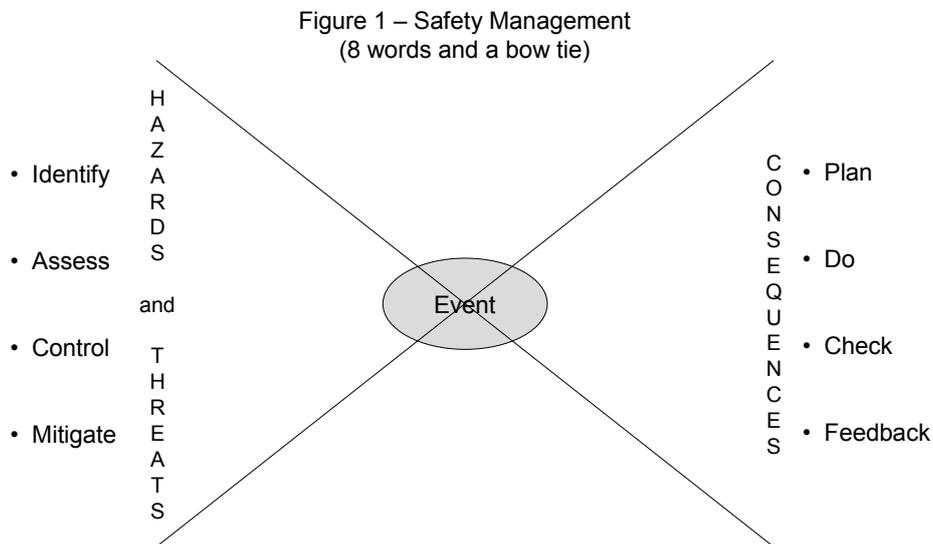
### Suggested Improvements

It is noted that amongst the trends revealed by NOPSA's regulatory activities, and reported in the 2006-2007 Annual Report, are industry failure to adequately carry out risk assessment, plan work and provide appropriate levels of supervision.

#### Hazard Management Process

The HMP (identify hazard – assess risk – control – mitigate) together with a simple bow tie diagram should be introduced and explained before the Safety Management System in current section 4. Outputs from the HMP are controls.

Figure 1 is a simple image that could be added after explanation of the Continuous Improvement Cycle (CIC).



The objective is for all staff to have this process in the back of their minds so that it applies to all activities concerning the facility including design and work planning, throughout the life cycle of the facility from concept to abandonment.

At this stage of reading the safety case the emphasis should be to apply the HMP to both OH&S matters and Major Accident Event (MAE). It should be kept simple for all levels. Risk assessment might be expressed as 'What could go wrong?' or 'How might a person be injured?'

Additional principles could be -

- ‘The HMP shall be applied at all levels, by all staff and at all stages of the planning cycle to work that is critical to the safety of the facility.’
- ‘The HMP shall be embedded as a fundamental component of the SMS’.

The discussion should then show how the HMP and CIC are embedded so that whenever anyone plans a job or starts to work as an individual or as a work group leader or as a work group member they think/talk things through while applying both principles. Examples where it should be applied are the permit to work system, the integrity management system, any work planning and emergency response drills.

An example for a job is Woodside’s ‘Step back 5 x 5’.

The more formal role that HMP plays to minimise the risk of Major Accident Events in the current section 5 would remain the same but the prior simple explanation of the HMP should make the FSA section more understandable to the workforce.

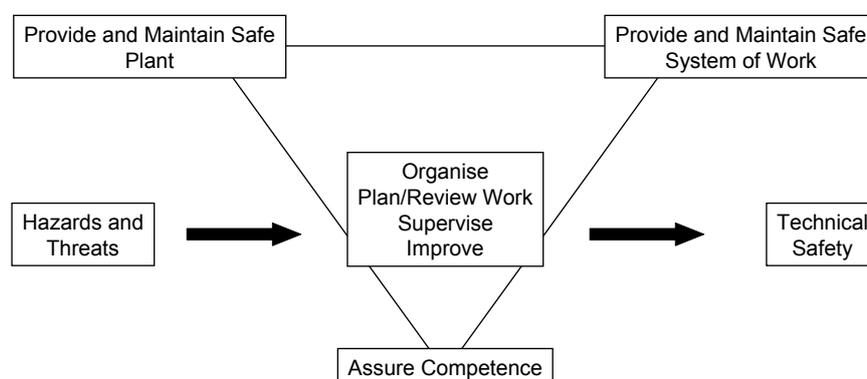
### Controls

Controls are hardware (process, protective, safeguarding, mitigative) and business (in the context that ‘safety is our business’). It is useful to distinguish the following business controls

- Policy
- Organisation
- Procedures
- Plan/Review Work
- Supervision and Assurance
- Plant Integrity Assurance
- Competence Assurance
- Independent Audit

Figure 2 illustrates how these fit with the principles of objective based OH&S legislation.

Figure 2 – Objective Based Regulation and Business Controls



The current guidelines are built around the plan/review/improve cycle, or CIC, to the detriment of requiring explanation of organisation, supervision and assurance in the safety case. The CIC is not the only element of a management system.

A suggested SMS principle is that ‘Every control identified in a bow tie diagram, including system of work controls, shall be verified and this verification task shall be assigned to a position holder’.

How the SMS framework that is formulated in the guidelines can be improved by better application of business controls is described in the following sections.

In particular, while adequate supervision is a duty defined in OH&S legislation, there is value in trying to define what good supervision is and incorporating it into a model SMS.

An attempt to do this is made in following sections below:

- Supervision and System of Work Assurance (SOWA)
- Supervision and Competence Assurance (CA)
- Supervision and the Operating Envelope (OE)

In the current guidelines the subject of work planning is not properly addressed. There is confusion between the improvement cycle and practical work planning.

Perhaps as a result of the existing guidelines another failing in some safety cases is that the FSA only identifies controls for major accident events and not for day-to-day safety. This has led to a gap in the hazard management of day-to-day work plans. It is not suggested that FSA should apply to non routine events that might lead to a serious injury or single fatality. It is suggested that the work planner and the work team independently apply the hazard management process of ‘identify – assess - control – mitigate’ to such potentially hazardous situations.

In addition, often a FSA may identify a control but nobody is assigned to implement and maintain it. An improvement to *Petroleum (Submerged Lands)(Management of Safety on Offshore Facilities) Regulations 1996* Regulation 9 could be (4)(dd):

- (4) The safety management system for a facility must:
- (dd) provide and maintain the non-hardware control measures that are identified by the formal safety assessment

Example of this are plant start-up, operating and shut-down procedures, a procedure to load oil from a FPSO to a trading tanker and generic plant isolation procedures.

Specific examples where controls identified by a FSA were not implemented can be provided from major hazard regulation outside NOPSA’s jurisdiction.

#### Plant Integrity and Competence Assurance (CA)

Plant verification/assurance is achieved by an integrity management system and operator checks/reporting. NOPSA report that there is a need for better facility integrity and maintenance however they have adequate powers to do this in the OH&S legislation and by applying the existing SMS Principle 12 to safety case assessment.

It is reported that inspection/maintenance schedules are not being met. This highlights the problem that the schedule itself may not be adequate. See below a suggested change to SMS Principle 12.

NOPSA is now focussing on topsides process pipe work and vessel integrity. Most process plant (and associated process and safeguarding controls) is one-off compared to drilling plant and cranes. Schedule 7 (PSLA) manufacturer/supplier duties cannot be easily defined and enforced.

Suggested changes to principles and new principles are:

- SMS Principle 12 is extended to include ‘for safety critical controls arrangements shall respond to history of plant failure’.
- Process plant design intent, assumptions, calculations, limitations and verification shall be formally documented and stored. This shall apply to new facilities and any changes to existing facilities. An output is the ‘design envelope’. There is a case for searching old documents to define the ‘design envelope’ of existing facilities.
- Design intent and limitations shall be formally translated into operating procedures.
- SMS Principle 9 that requires a system of CA is extended to include ‘Actions specific to the process plant on the facility and its operating procedures’.
- CA shall apply to onshore based staff providing technical and planning support to the facility, and specifically with regard to implementing the changes described in SMS Principle 15.
- CA shall apply to staff who provide and assure safe systems of work.

#### Supervision and System of Work Assurance

Compared to plant integrity and CA there is not generally an equivalent formal processes to assure safe systems of work. The safe system of work is not just the safe operating procedures (SOP). It includes other business controls to create it.

Examples are:

- Prepare and improve a SOP applying the HMP, recognising that an empowered workforce is the best owner of this.
- Carry out a formal FSA, in response to a plant change, and translate the findings into providing and maintaining actual controls (plant, system of work and competency).

Someone has to verify that these processes are done and done adequately. This is a component of supervision that needs to be recognised.

SMS Principle 7 recognises that these processes are best structured in a quality framework.

A suggested principle is that ‘Supervision shall include tasks to assure that system of work controls are implemented, adequate in practice and improved’.

Note that the alternative attempt, or model, to monitor controls by performance indicators used in Victorian major hazard facilities guidance is prescriptive and difficult to understand.

Note that independent audit should be used as a verification task in this context. The reason for this is that audit is normally an infrequent sampling process that cannot assure all safety critical tasks and these tasks are part of the responsibility of line management for safety as stated in the above suggested principle.

#### Supervision and CA

The supervisor also has a role in CA.

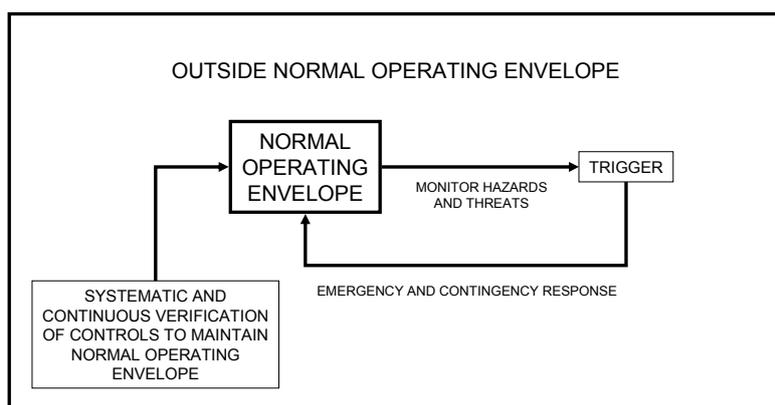
A suggested principle is – ‘The supervisor shall assess the ongoing competency of his staff, identify their training needs and help provide that by on-the-job training and informing management of additional needs’.

This may be relatively simple for a plant operator but gets more complex for onshore based staff providing technical and planning support.

### Supervision and the Operating Envelope (OE)

The section on Facility Description and SMS Principle 4 uses the term ‘design envelope’ and ‘operating envelope’. The difference between the two is the safety margin. The OE is a useful concept that can be applied to an automatically controlled plant, external threats and systems of work. Figure 3 illustrates this together with the supervision role of control verification.

Figure 3 – Supervision Loop and Operating Envelope



Situations might arise when facility controls might be compromised and at the same time the situation does not warrant declaring an emergency, however contingency action is required.

These include:

- Less than adequate staff numbers, operating competencies and emergency competencies. Assessment of this type of threat requires judgement by the Person-in-Charge (PIC).
- A critical process or safeguarding control is not functioning due to failure or maintenance.
- Interaction between simultaneous operations is such that safety could be compromised.
- Threatening environmental conditions.
- A business control has not been implemented or is not effective. (An example is receipt of an improvement notice from a regulator identifying a less than adequate work procedure.)

One contingent action could be to provide additional adequate resources.

One solution is to prepare a Manual of Permitted Operations (MOPO); however when imminent threats might breach the operating envelope the judgement of the PIC to take contingency action should also be supported within the safety case. This applies particularly to controls that are barriers to the development of Major Accident Events.

The suggested principle in the previous section is now amended in this synthesis to ‘Supervision shall include tasks to monitor the integrity of the operating envelope.

When the operating envelope is threatened the supervisor shall take contingent action.’

## Organisation

The above describes many safety-critical tasks each of which should be assigned at some stage to a post holder.

A suggested new principle is that safety critical tasks are assigned to post holders as job descriptions and the post holder competence to perform these tasks is assured. SMS Principle 9 applies this for emergency roles. It could be extended to ‘tasks that are necessary to provide, maintain and verify safety critical controls’.

Note that building up job descriptions from the bottom up like this could define the organisation. One position holder can only do so much. Working safely in a tightly controlled offshore environment precludes management by exception and large numbers of people reporting to a single position holder.

A final step is that annual staff appraisal is tied in part to performance against a safety critical job description.

A suggested principle is that ‘All safety critical tasks to verify that system of work controls are implemented, adequate and improved shall be identified. Verification tasks shall be listed in safety critical job descriptions provided to staff in the line of command’.

## Plan/Review Work

This section is concerned with work and project planning.

A deficiency of the 2004 document is that the discussion on Continuous Improvement Cycle (CIC) does not fully develop the business control of work planning. It detracts from the importance of work planning as a business control of safety.

The guideline discussion refers to planning with reference to a standard and seeks performance indicators, when work planning is simply to structure and deploy scarce resources safely to get the job done. The normal benchmarks are the schedule, good two way communication with the workforce, the budget and safe outcomes. The worker asks himself – ‘Have I done the job safely? What lessons have we learnt?’

A further criticism is that many documents refer to management review to seek improvement. In practice this is rarely done for safety and less frequently formally recorded as a component of a quality system. The important feed-back is from the actual practitioners; the workforce.

A better approach is for the actual practitioners to maintain records of ‘lessons learnt’ that relate to day-to-day tasks.

There is no doubt that application of good work planning combined with HMP leads to improved safety. ‘Safety is our business’ and the project plan is the safety plan.

It may be useful to have separate definitions for work planning and the CIC. Note how they are separated on Figure 2. Similarly the CIC should not be separately described as CIC and ‘management system loop’.

The concept that a management system is organised into three levels ‘policy – guidelines (one for each element) – procedures’ is not helpful. It does not recognise the interactions between business controls that Figures 1 and 2 attempt to illustrate.

A good point is made in the guidelines where it is stated that the CIC applies to each element of the SMS. It also applies to each individual business control.

A suggested principle is that 'Processes to plan and apply the HMP on a daily basis to each job, and for the facility as a whole on a daily and weekly 'look-ahead' basis shall be formalised to an extent that is appropriate. Longer term plans shall be formally documented and the HMP applied'

#### Improved Safety Case Models

A more complex model to create a safety case was formulated by Shell following the Piper Alpha Cullen Report and the UKOOA 1990 submission 'Procedure on Formal Safety Assessment' that describes a safety case. The language of the UKOOA document is repeated in the 1994 DPIE Guidelines.

The Shell approach was based on a two stage process of :

- Hazard analysis based on fault/event trees with controls documented in a hazard register. This was the FSA, with QRA as an add-on to this.
- Activity analysis based on the plan/review cycle and business controls outlined above with the objective of putting controls in a quality framework as safety management system integrated with business management and engineering management systems.

Outputs were:

- Improvement plans to implement identified controls and the management system.
- Collation of safety critical tasks in job descriptions so providing a basis for competence assurance.

Attached is a paper (Ref.1) about a project to apply this process in 1996 to develop a coal mine safety case following the Moura No 2 mine disaster. One objective of the project was to establish generic (root cause) management system failures and relate them to Tripod general failure types.

#### Reference

Groombridge, J.C., 2001, 'A coal-mine 'safety case': suggestions from the petroleum industry following the Piper Alpha disaster', *Transactions of the Institution of Mining and Metallurgy. Section A, Mining Technology*, vol.110, January-April 2001, pp. A18-A26.

## Suggested Changes to Safety Management System Principles

Section	Principle	Principle
HMP	New	The HMP shall be applied at all levels, by all staff and at all stages of the planning cycle to safety critical work.
	New	The HMP shall be embedded as a fundamental component of the SMS.
Controls		Every control identified in a bow tie diagram, including system of work controls, shall be verified and this verification task shall be assigned to a position holder.
Plant Integrity and CA	SMS - 12	Extend to include 'for safety critical controls, arrangements shall respond to history of plant failure'.
	New	Process plant design intent, assumptions, calculations, limitations and verification shall be formally documented and stored. This shall apply to new facilities and any changes to existing facilities.
	New	Design intent and limitations shall be formally translated into operating procedures.
	SMS - 09	Reference to a system of CA is extended to include 'Actions specific to the process plant on the facility and its operating procedures'.
	New	CA shall apply to onshore based staff providing technical and planning support to the facility, and specifically with regard to implementing the changes described in SMS Principle 15.
	New	CA shall apply to staff who provide and assure safe systems of work
Supervision and SOW Assurance	New	Supervision shall include tasks to assure that system of work controls are implemented, adequate in practice and improved.
Supervision and CA	New	The supervisor shall assess the ongoing competency of his staff, identify their training needs and help provide that by on-the-job training and informing management of additional needs.
Supervision and OE	New	Supervision shall include tasks to monitor the integrity of the operating envelope. When the operating envelope is threatened the supervisor shall take contingent action.
Organisation	New	All safety critical tasks to verify that system of work controls are implemented, adequate and improved shall be identified. These verification tasks shall be listed in safety critical job descriptions provided to staff in the line of command.
Work Planning	New	Processes to plan and apply the HMP on a daily basis to each job, and for the facility as a whole on a daily and weekly 'look-ahead' basis' shall be formalised to an extent that is appropriate. Longer term plans shall be formally documented and the HMP applied.



*Operational Review of  
NOPSA (2008)*

**Submission by  
IADC-AC**

**November 2007**

## Document Control Page

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## Executive Summary

The International Association of Drilling Contractors, through its Australasian Chapter (IADC-AC), has been invited by the Department of Industry, Tourism and Resources (DITR) to provide a submission on issues for consideration by a review team set up to conduct an independent review of the operations of the National Offshore Petroleum Safety Authority (NOPSA). This review is scheduled to take place during 2008.

The IADC-AC held a forum on 12 October 2007 to discuss experience with, and interaction between drilling contractors and NOPSA during the first three years of operations. This forum was facilitated by consultants from RPS Energy

and was attended by 14 participants representing six IADC-AC member companies. Subsequent written submissions and telephone interviews supplemented the data gathered during the forum. In total, eight member companies were represented throughout process and all IADC-AC members were provided with the opportunity to review and comment on the submission document.

Areas of discussion at this forum centred on: a) the bureaucratic workload imposed by NOPSA, and b) the effectiveness of NOPSA's application of the Management of Safety on Offshore Facilities (MoSOF) Regulations with regard to improved health and safety performance by the Australian offshore oil and gas industry.

The IADC-AC requests that the Review Team challenge NOPSA on the following points:

*NOPSA's justification for making drilling contractors the 'operator' for well drilling operations, and holding them responsible for critical areas of well operations which are largely outside their control.*

*NOPSA's justification for the introduction of the well by well Safety Case revision process, a process which does not appear to be supported by the MoSOF Regulations.*

*NOPSA's justification for limiting requests for clarification in regards to the assessment of Safety Cases.*

*NOPSA's justification for its evolving interpretation of the MoSOF Regulations and inconsistent application of the NOPSA Safety Case Guidelines.*

*Is NOPSA able to demonstrate any correlation between the increased Safety Case administration requirements since its inception and health and safety performance in the Australian offshore oil and gas industry (positive or negative)?*

Perhaps the key proposition in this submission is that drilling contractors would like to see less time and effort applied to the development and assessment of Safety Case documentation and more time and effort focused on improving the health and safety of personnel working in the industry. They would also like to see better communications and an improved working relationship between NOPSA and the drilling contractors - as a means of better supporting continuous improvement in safety performance within the Australian offshore oil and gas industry.



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## Abbreviations

CASA	Civil Aviation Safety Authority
DISR	Department of Industry, Science and Resources
DITR	Department of Industry, Tourism and Resources
H&S	Health and Safety
H2S	Hydrogen Sulphide
HSE	Health, Safety and Environment
HSR	Health and Safety Representative
IADC-AC	International Association of Drilling Contractors – Australasian Chapter
MAE	Major Accident Event
MODU	Mobile Offshore Drilling Unit
MoSOF	Management of Safety on Offshore Facilities
NOPSA	National Offshore Petroleum Safety Authority
OHS	Occupational Health and Safety
ROV	Remotely Operated Vehicle
SBM	Synthetic Based Mud
UK HSE	United Kingdom Health and Safety Executive

*Note 1: The term ‘oil & gas company’ (or oil & gas companies) is used to distinguish between the drilling contractor and the organisation (typically the Title Holder) that has contracted the rig (either directly or indirectly) to carry out the drilling program. Although the name for this entity changes from time to time (they used to be called ‘the Operator’ and are now sometimes referred to as ‘the client’); and it is recognised that in some instances this term may be incorrect or misleading. However, for the purpose of ease of reading this collective term has been used in this submission..*

## 1.0 INTRODUCTION

### 1.1 *Background*

A review of the operations of the National Offshore Petroleum Safety Authority (NOPSA) as required by Section 150Z of the *Petroleum (Submerged Lands) Act 1967* (PSLA) is scheduled to commence on 18 February 2008. The review will examine progress in bringing about improvements in the occupational health and safety of the offshore oil and gas industry since NOPSA commenced operations on 1 January 2005 and will report within six months.

The Department of Industry, Tourism and Resources (DITR) has sought written submissions from various stakeholders in order to bring key issues to the attention of the Review Team which is scheduled to commence the review phase during February 2008.

DITR is also seeking an indication from stakeholders of their interest in meeting the Review Team to discuss the Operational Review.

#### **Operational Review Timeline**

21 August 2007	Invite a submissions from IADC-AC.
November 30 2007	Submission due.
December 2007 – February 2008	Issues paper for the independent review team.
February 18 2008 – March 7 2008	Public consultation in Perth, Melbourne and Canberra.
Within 6 months	Report to the MCMPR and release the report.

*Further information on this process is available from the DITR website:*

<http://www.industry.gov.au/content/itrinternet/cmscontent.cfm?objectID=45588390-65BF-4956-BC4372FFC10BCEC2>

### 1.2 *IADC and IADC-AC*

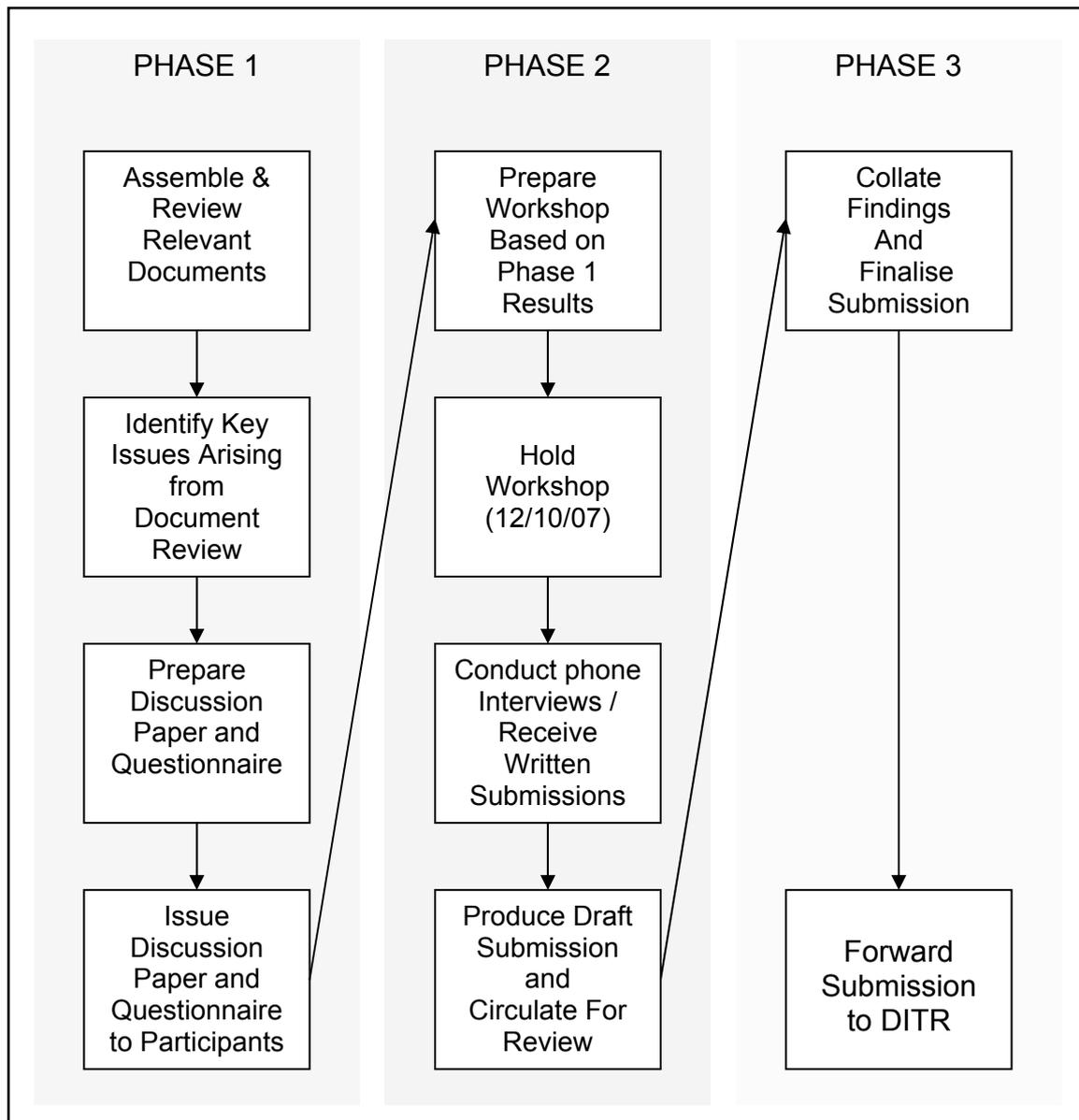
The International Association of Drilling Contractors (IADC) has exclusively represented the worldwide oil and gas contract drilling industry since 1940. In 2007 the IADC has 380 contractor member companies who own and operate in excess of 4,000 land and offshore drilling rigs in all parts of the world This total includes some 564 mobile offshore drilling units (MODUs).

The IADC membership is represented by 19 Chapters across the globe, and our region is titled the Australasian Chapter (IADC-AC) which covers rig operations in Australia, New Zealand and PNG. The IADC-AC currently has 10 offshore member companies who have 16 MODUs working in the region with several more scheduled to commence operations during the first half of 2008.

### 1.3 IADC-AC Submission

An IADC-AC forum was organised to solicit and discuss drilling contractor input into the NOPSA review process. The purpose of the forum was to identify common areas of concern and to develop consensus on a joint submission to the DITR. The intent of this process was not to detail criticism of NOPSA, but to investigate areas where the current regulatory framework and implementation methods are considered to be less than optimal, and to formulate agreed recommendations on ways the regulator / operator relationship could be improved as a means of fostering improved health and safety performance in the Australian offshore drilling industry.

### 1.4 METHODOLOGY



**Figure 1: NOPSA Review Project Workflow & Timeline**

## 1.5 **SCOPE**

The scope of the IADC-AC NOPSAs Review Forum, as well the scope of this submission, is specifically related to the Terms of Reference as set out by the DITR (*Independent Review of the National Offshore Petroleum Safety Authority 2008*). It should be noted that this scope does not include the issue of Safety Case levies which will be the subject of a separate review.

## 2.0 Summary of Major Findings

### 2.1 *Drilling Contractors as the ‘Operator’*

Many of the issues raised by the drilling contractors at the IADC-AC forum stem from NOPSA’s interpretation of Section 42 of the MoSOF Regulations, that the drilling contractor is the ‘Operator’ for MODU well operations. This is a radical departure from the pre-2005 interpretation that the oil & gas company (as the Title Holder) was the Operator.

The main area of concern is not that drilling contractors are held responsible for day to day safety on the MODU. This is something that they do accept. What they do not accept is being held responsible for aspects of drilling operations which are largely (or fully) outside of their control (see *Figure 2*).

While the MoSOF Regulations appear to recognise only one ‘Operator’ who is to be held responsible for health and safety, in practice these responsibilities are shared among a number of key stakeholders, principally the drilling contractor, the oil & gas company and its contractors. This can also include key logistics services such as helicopter and support vessel operators which are contracted directly by the oil & gas company.

The drilling contractors believe that formal recognition of these individual and mutual responsibilities would, through clarification of roles and responsibilities, allow for the development of better and more meaningful Safety Case documentation, as well as an improved application of resources, ultimately contributing to improved safety performance.

### 2.2 *Communications between NOPSA and Drilling Contractors (as ‘Operators’)*

While drilling contractors have been assigned the central role of ‘Operator’ under NOPSA’s interpretation of the MoSOF Regulations, all of the drilling contractors reported shortcomings in communications between themselves and NOPSA. NOPSA’s continued insistence on, and ongoing justification of, providing vague answers to specific questions are considered to be directly counter-productive to the aim of working together to improve safety performance. NOPSA’s apparent predilection to limit drilling contractor requests for clarification while operating under a non-prescriptive ‘guidance’ regime is open to individual interpretation as well as continual re-interpretation. This is perhaps the most extreme example of NOPSA’s failure to approach communications with drilling contractors with consistency and transparency.

### 2.3 *Safety Case Revision Process*

The Safety Case revision process is the drilling contractor’s uppermost area of concern with NOPSA’s application of the MoSOF Regulations, and that which is considered to distract them most from their efforts to improve safety performance. Key concerns include:

- The disproportionate number of Safety Case revisions that drilling contractors are required to submit, as compared to other facility operators.

- The significant allocation of resources required to comply with NOPSA's Safety Case revision requirements, which deflect key resources from the principal task of managing the safety of offshore operations.
- NOPSA's ever increasing demand for Safety Case related documentation, which appears to have little impact on the improvement of safety performance
- NOPSA's insistence that drilling contractors as the 'Operator' take responsibility for key areas over which they have little or no control (eg helicopters, support vessels, well locations, seismic interpretation, drilling programs, well testing operations); despite the concern that drilling contractors may lack the expertise to competently assess and assert operational control over critical areas of operations such as the fundamental well design and the resulting drilling or well testing programme.

## 2.4 **Validation Issues**

Prior to the establishment of NOPSA in 2005, validation as applied to MODUs simply referred to their certification and classification. NOPSA has chosen to redefine this approach, despite little support from the MoSOF Regulations to do so, creating an enormous burden of proof for the drilling contractors to demonstrate validity – with little apparent link to improving health and safety performance.

Drilling contractors believe that MODU validation should generally be linked to the MODU Code and Class Certification.

## 2.5 **Inconsistent Application of Regulations and Guidelines**

Inconsistent application of regulations and guidelines is an ongoing issue with drilling contractors. Many prescriptive aspects of applicable legislation were withdrawn with the introduction of NOPSA in 2005. However, this resulted in an objective based regulatory regime utilising guidelines, subject to differing interpretation by both the user and the regulator, which may also be interpreted differently by different inspectors - and often more problematic, open to ongoing re-interpretation by NOPSA. Collectively this variability in application can manifest in a range of complaints, including:

- Capriciousness
- Favouritism
- Inconsistency in both setting ultimate goals and in decisions making
- Bullying and retaliation
- An appearance that NOPSA are 'making things up as they go along'.

## 2.6 **NOPSA's Expanding Role**

Concern was expressed on a number of fronts in regards to NOPSA's ever expanding role and jurisdiction. This includes:

- Expansion in size (from 19 in 2005 to 48 planned for 2008)
- Expansion in application (from MAE's to all aspects of health and safety)
- Ad-hoc introduction of ever more standards and codes of practice (eg *Offshore Accommodation Standards* and the *National Standard for Manual Tasks*)
- Expansion in reporting requirements (for more and more minor incidents)

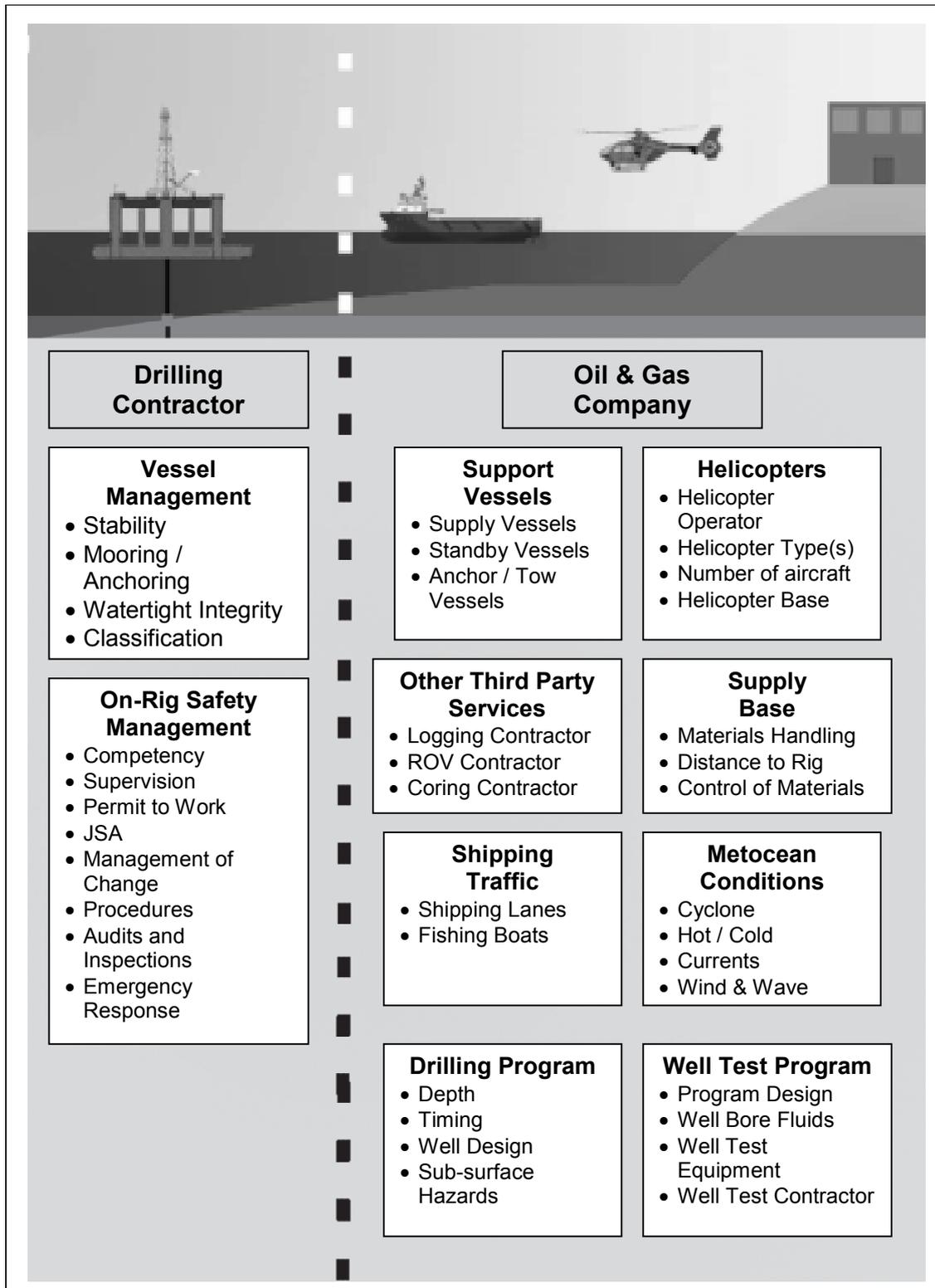
- Expansion in jurisdiction (from drilling activities in Australian waters to construction and contracting of rigs while overseas (eg *Inspection of Offshore Facilities before Arrival in Australian Waters*)).

## **2.7 Reporting and Notification Requirements**

NOPSA's reporting and notification requirements, while clearly tied to the Regulations, have changed dramatically since pre-2005 where reports and notifications were made on an infrequent basis and only in the case of serious (or potentially serious) incidents. By design or just through insidious 'scope creep', reporting and notification to NOPSA has become a common task for drilling contractors (almost daily for some). This degree of required (or expected) reporting is thought to be out of line with what similar regulators require, and is an example of NOPSA's incessant demand for documentation, as well as its gradual move towards micromanagement of health and safety in the offshore drilling industry.

## **2.8 NOPSA's Relationship with HSRs**

Discussion about NOPSA's evolving 'special relationship' with HSRs caused the strongest complaints from the drilling contractors. In particular NOPSA's efforts are seen to circumvent and undermine the drilling contractors' own mechanisms for health and safety consultation and issue resolution. In particular encouragement for employees to report safety issues directly to NOPSA and the practice of NOPSA Inspectors holding closed door meetings with HSRs were considered both unnecessarily provocative and ultimately counter-productive to the drilling contractors' own efforts to establish an effective HSE consultative process with employees to improve health and safety performance.



**Figure 2: Drilling Contractors / Oil & Gas Companies: Key Areas of Health and Safety Control (typical)**

### 3.0 RECOMMENDATIONS

- 1) Revisit the decision to make Drilling Contractors the 'Operator' for drilling operations and, in particular, determine how responsibilities for well operations can be better determined and more fairly assessed.
- 2) Improve communications between NOPSAs and drilling contractors. For example: whenever possible, NOPSAs Inspectors should provide straightforward answers to direct requests for clarification, rather than making vague references to the guidelines or regulations.
- 3) Appoint a representative from the drilling contractors to the NOPSAs Board as a means of giving drilling contractors (as 'Operators') more representation in the Safety Case process.
- 4) NOPSAs should clarify interpretations of the Regulations and Guidelines and then only revise them in response to identified concerns and after consultation with the industry. They can then be applied consistently across the industry.
- 5) In as many cases as possible, interpretations of the Regulations and Guidelines which are considered to be applicable to all MODU operations should be deemed to be 'prescribed', so that the intention is clear and the application may be consistently applied is fair to all operations.
- 6) The Safety Case revision process applicable to well and location specific hazards must be overhauled. NOPSAs should develop a straightforward form or template that can be completed where the rig is moving from one well to another or from one oil & gas company to another. This form or template could be completed by the drilling contractor as the Operator, with supporting documentation provided by the oil & gas company.
- 7) As with preparation of bridging documents to define responsibility for operational activities, responsibilities for validation should be placed with those best able to effect control. For example, validation for most aspects of MODUs should be accepted as satisfied by MODU code and classification society certification, whereas responsibility for validation of much well control equipment and any third party equipment should rest with the oil & gas company. Even if this makes enforcement of the Regulations more difficult for NOPSAs, this would provide a better result and help to promote improved safety performance.
- 8) Application of regulations and guidelines must become more consistent. Whenever possible, standard interpretations that apply to all operators should be formalised and communicated by NOPSAs. The practice of allowing inspectors to individually interpret the Regulations and Guidelines should be actively discouraged by NOPSAs. Changing the interpretation of Regulations and Guidelines by NOPSAs on a day to day basis should end. NOPSAs's requirements for Operators should remain consistent for at least 12 months, at which time a list of amendments can be published.
- 9) The Safety Case Guidelines (and hence Safety Cases) should be limited to the management of hazards relating to Major Accident Events. Non-MAE's should be covered by the operator's day to day health and safety

management system, which should not be subject to NOPSA scrutiny (unless specifically warranted).

- 10) Adoption of codes and standards must be carried out in a more consistent manner:
  - In order to better understand issues and frame potential solutions a process should be developed for consultation with key stakeholders before offering discussion papers for consultation with the general public.
  - Review of discussion papers should be made by key stakeholders and not be open to the general public
  - Review of discussion papers applicable to all MODU operations should include all Operators (and not just some operators)
  - Consideration for adoption of codes and standards should include the provision of impact statements by key stakeholders (including oil & gas companies)
- 11) NOPSA should move away from a document based compliance format towards a focus on HSE performance improvement.
- 12) NOPSA should stop trying to micromanage the offshore drilling industry.
- 13) NOPSA should rationalise their reporting and notification requirements to be in line with similar government bodies (eg Worksafe).
- 14) NOPSA should dispel the impression that they are fostering a 'special relationship' with HSRs, including:
  - Direct line reporting from HSRs to NOPSA
  - Closed door meetings between NOPSA inspectors and HSRs.
- 15) NOPSA should avoid taking on an adversarial role in working with drilling contractors. Working together as partners should be considered the optimal working relationship for achieving regulatory compliance and improved safety performance.

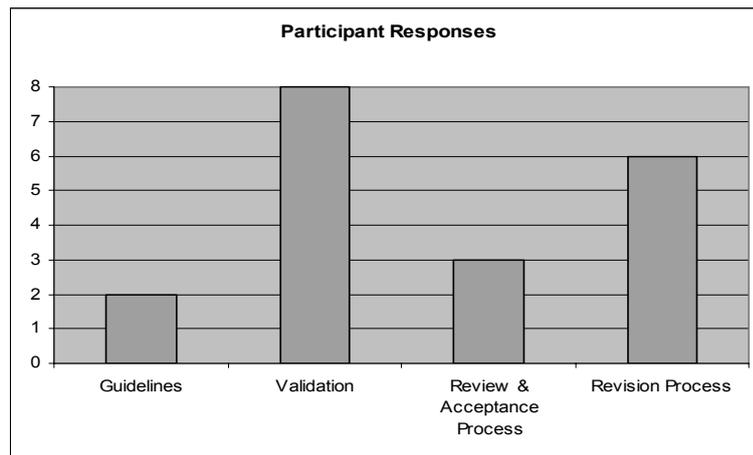
## 4.0 DETAILED RESULTS

### 4.1 Safety Case Requirements

#### Validation

Validation remains an ongoing issue between drilling contractors (as Operators) and NOPSA. While the existing regulations (MoSOF section 13) are specific to the design and construction of new facilities, NOPSA has extended the application of this requirement to encompass a much wider 'scope of validation'.

Drilling contractors have long argued that MODUs are adequately validated by the existing MODU certification process (i.e. MODU Code and Class Certification). Requirements for additional validation may be considered unnecessary, and inappropriately applied to MODUs.



Furthermore, the way in which NOPSA applies this regulation is considered to be unclear, poorly specified and inconsistent.

The problem of validation is exaggerated in the case of well test and other third party equipment which are specified, contracted and provided by the oil & gas company. This is a continuing area of contention with drilling contractors.

#### Safety Case Revisions

Because the Safety Case revision process is such a major area of concern for drilling contractors, it is useful to consider the regulatory basis for this submission.

#### Regulatory Provisions

Part 3, Division 1, of the MoSOF Regulations, Section 10 (Revision of a Safety Case) sets out five reasons a revision may be required. These are:

- When development of technical knowledge make it appropriate to do so
- Due to a significant cumulative increase in risk due to a series of modifications
- Due to modifications with the potential to significantly influence the level of risk
- When the operator proposes to make a major change
- When the operator proposes to dismantle, decommission or remove the facility.

Section 10 (3) also requires a revision to be submitted:

- At the end of 5 year period from Safety Case acceptance (*the 5-year revision*)
- If the Designated Authority requests one.

Section 3.3.1 of the NOPSA Safety Case Guidelines goes on to state that, for a MODU, the facility safety case may be generic ‘...to the normal range of (*drilling*) activities...’, and that a separate document can then be submitted that addresses issues “...specific to the drilling program and site”, and that this document is often referred to as a ‘Bridging Document’.

Under the previous (year 2000) DISR (now the DITR) MODU Safety Case Guidelines [set out under the same MoSOF regulations that are in place today] the MODU Safety Case was made up of two parts, the **Vessel Safety Case**, prepared by the drilling contractor and covering all generic drilling related hazards, and the **Bridging Document**, prepared by the oil & gas company (then the ‘operator’), covering well and location specific hazards. The year 2000 version of the guidelines also included detailed specifications for completing and submitting Bridging Documents.

Under the current (2004) NOPSA Safety Case Guidelines, fixed facility operators typically only submit Safety Case revisions once every 5 years, while MODU operators are submitting revisions not only for every well, but for every well test. This can mean that a single MODU operation may be required to submit numerous revisions in any given year. This process was cited by the MODU operators as becoming the primary focus of their HSE efforts, thereby limiting their ability to contribute to managing health and safety on the rig (some drilling contractors now refer to their HSE staff as ‘NOPSA compliance officers’).

### **Justification for (MODU) Safety Case Revisions**

The requirement for continually preparing and submitting Safety Case revisions does not appear to be supported by either the particulars nor the intent of the MoSOF regulations; as the justification for these revisions can only be related back to the non-specific and open ended requirement that Safety Case revisions may be required ‘at the request of the Designated Authority’. This clause appears to relate to special circumstances rather than normal drilling operations.

### **‘Operators’ Responsibility for (MODU) Safety Case Revisions**

The preparation of a ‘Bridging Document’ addressing ‘drilling program or site specific issues’ was previously the responsibility of the oil & gas company (formerly the Title Holder and Operator – and now just the Title Holder). The shift in responsibility for the preparation of this document (now referred to as a Safety Case Revision, and now the responsibility of the Drilling Contractor as the ‘Operator’) is considered to be inappropriate as it is the oil & gas company who introduce the well and site specific risks, and who exerts the most control over how these risks are managed. This includes:

- Remoteness of the drilling operations from support facilities (including emergency support facilities)
- Potential for well related hazards, such as increased risk of blow out or risks from H<sub>2</sub>S
- Proximity to hazardous facilities such as pipelines or other oil and gas facilities
- Proximity to shipping lanes or other conditions that may increase the risk of vessel collision
- All aspects of helicopter travel (including distances travelled, provision of helicopters, and helicopter support services)
- Location specific Metocean risks (such as drilling in cyclone prone areas during the cyclone season)

- Provision of key support services such as standby vessels.

The oil & gas company's drilling program requirements may also contribute significantly to an increased risk from dropped objects (due to requirements for loading, back loading or heavy lifts), health hazards (e.g. use of SBM and drilling chemicals), fatigue (due to extended crew change travel time), as well as a wide range of occupational hazards (noise, manual handling, tank cleaning, etc).

Furthermore, the methods for control and minimisation of these risks rest almost exclusively with the oil & gas company, including:

- Selection and provision of the helicopter contractor
- Selection and provision of drilling support services (including support vessel)
- Selection and provision of the ROV contractor
- Selection and provision of the Coring contractor
- Selection and provision of the Logging Contractor
- Selection and provision of other third party contractors and third party equipment
- Planning of the drilling program (including location, well design, depth and timing)
- Planning and provision of logistics

Of particular concern to drilling contractors is not just that the oil & gas company maintains control of almost all well and location specific risks, but that the oil & gas company, either directly or via its sub-contractors, maintains the expert knowledge needed to assess and manage these risks. It is the oil & gas companies, either directly or indirectly, and not the drilling contractors, who employ:

- Drilling Engineers
- Geologists
- Reservoir Engineers
- Geophysicists
- Well Test technicians
- Coring specialists
- Logging specialists

For all of these reasons it should be considered that assigning responsibility for identifying, assessing and managing these risks to the drilling contractor (via the Safety Case revision process) is a less than adequate way to achieve a high level of confidence that operations are planned and managed so as to minimise the risk to 'as low as reasonably practicable' (ALARP).

Furthermore, the technical limit approach imposed by some oil and gas companies, with a predominate focus on reducing the time it takes to complete drilling related activities, appears at times to be contrary to drilling contractor's own efforts to ensure that activities are completed in the safest possible manner.

### **Timing of MODU Safety Case Revisions**

While the MoSOF Regulations specify the manner in which Safety Cases are to be submitted, they do not specify submission timeframes for either Safety Cases or Safety Case revisions.

The NOPSA Safety Case Guidelines, in section 4.3.3, specify that that NOPSA has 90 days to accept or not accept a Safety Case; and that the corresponding time frame for a Safety Case revision is 30 days. This timeframe is supported by a June 2007 notice from NOPSA (*'Safety Case Assessment Administration'*) recommending that new Safety Cases be submitted 90 days prior to start up; and 30 days for a Safety Case revisions.

NOPSA's submission requirements for Safety Case revisions present a number of significant problems for drilling contractors as the MODU 'operator':

While most Safety Case revisions for MODUs relate to drilling program and site specific hazards, specific information regarding the drilling program, well location, third party services, third party equipment, third party personnel and so forth can only be ascertained from the oil & gas company. In these circumstances the drilling contractor is essentially acting as an un-empowered middleman between the oil & gas company and NOPSA; and is almost completely dependent on information and advice received from the oil & gas company to meets its own regulatory obligations.

Experience has shown that this problem is exacerbated in the case of well test Safety Case revisions, where meeting NOPSA's requirement for not just specification of plans and procedures; but also for validation of the well test equipment and well test contractor competency, makes the obligation upon the drilling contractor unreasonable and in many cases the timeframe impractical.

### **Limited NOPSA Response**

In March 2007 NOPSA introduced a new policy *'Safety Case Assessment Process – Requests for Further Information and Re-Submission following Rejection'*. This is an extraordinary policy which limits discussion between NOPSA and Operators in what could be considered to be an extreme fashion by placing an arbitrary limit of 'two' written comments from NOPSA in regards to new safety cases, and 'one' written comment on Safety Case revisions.

Despite having some cause to implement these limitations in order to improve the submission, review and acceptance process from NOPSA's point of view – they are considered to be entirely inappropriate under a non-prescriptive, objective based regulatory framework where OHS requirements are set out as 'guidelines' that are open to interpretation by individual inspectors.

In practice this policy is often circumvented by phoning NOPSA or holding meetings (while stopping short of putting anything in writing). The resulting process would appear to be counterproductive to NOPSA's stated role of "working with the industry" to improve health and safety performance.

*See also section 4.3 regarding NOPSA's role in giving guidance to industry.*

### **Inconsistencies in the Safety Case Revision Process**

Members of the IADC-AC expressed concern about inconsistencies in the Safety Case Revision Process, including:

- Inconsistencies in assessments by different inspectors
- Inconsistencies in the way Safety Case revisions are assessed for different rigs / Operators.

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## **Ineffective use of Drilling Contractor's Resources**

In general, the Safety Case process, and in particular the Safety Case revisions are considered to be enormously time and resource intensive, while at the same time they are not perceived to add meaningful value to the drilling contractor's HSE efforts.

## **Safety Case Review and Acceptance Process**

Concern was raised about an inspector's insistence that amended classification standards be applied retrospectively to a new build rig, as this is would have potential for significant cost implications and possible delay in delivery of the rig. Of particular concern was where this requirement had come from and why it was not being applied to other MODUs operating in Australia. (See also section 4.7)

*"How come we only get one shot at the Safety Case revisions?"*

*"We don't have the capability to assess these hazards"*

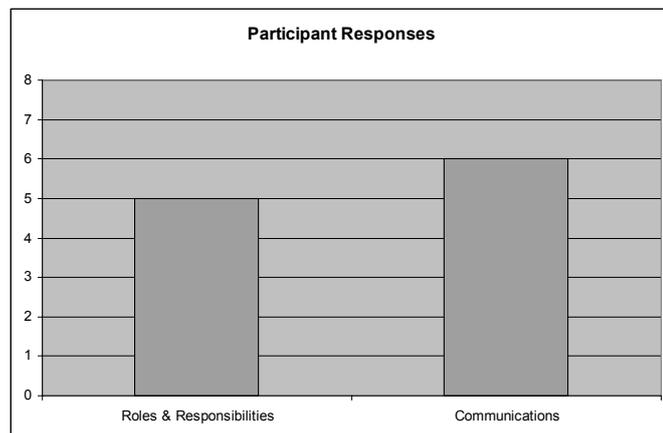
*"We can't be expected to submit a Safety Case revision just because of a change in water depth"*

## 4.2 OPERATOR ISSUES

### Roles & Responsibilities

The MoSOF Regulations (Part 5, Section 42) set out specifications for the ‘Operator’. Prior to 2005 the oil & gas company (i.e. the Title Holder) was considered to be the ‘Operator’. In a fundamental change in the implementation of the MoSOF Regulations, NOPSA has interpreted the Operator to be the Drilling Contractor.

While there are pluses and minuses in having either the oil & gas company or the drilling contractor as the Operator – in practice there are many areas where responsibilities for health and safety are shared. Unfortunately this dual or shared responsibility that occurs in practice does not appear to be recognised by the regulations. (See also 4.1)



### Communications

While some IADC-AC members made positive comments about communications between themselves and NOPSA, or between themselves and individual NOPSA inspectors, short-comings in communications between NOPSA and drilling contractors are an area of common complaint.

Of particular concern to the drilling contractors were vague answers given by NOPSA to not just general inquires, but to very specific questions about the meaning, interpretation or implementation of the regulations and guidelines.

*“Sometimes vague on issues, refers to documents that can be construed as ambiguous, instead of giving direct examples to clarify.”*

*“Its alien to what I understand”*

*“They sat us down and lectured us like school children”*

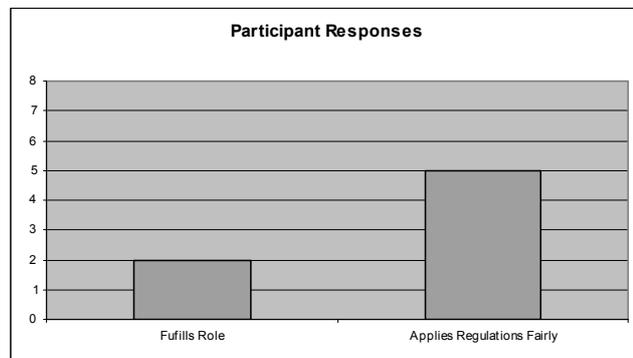
### 4.3 NOPSAs Role & Jurisdiction

#### NOPSA's Role

IADC-AC members raised a number of issues relating to the role NOPSA has taken on since commencing in 2005. These include:

##### Micromanagement

NOPSA's role in 'micromanaging' safety on offshore facilities appears to be applied at a much lower / more detailed level than that applied by similar government agencies which regulate health & safety. Many examples of this were given, including those relating to reporting and notification requirements. (See section 4.5)



In this area, NOPSA appears to have fallen into a number of traps common to government enforcement agencies. The first is starting out with a limited mandate defined by a discrete scope of focus (in NOPSA's case, the control of Major Accident Events) and then gradually extending this scope to include all areas of health and safety.

The other time honoured trap that NOPSA appears to have fallen into is, as the regulator, they have become convinced that they know best how to manage the work they are overseeing – when in fact almost the opposite is true. Expertise for managing and improving safety within the practical confines of the real world exists primarily by those currently employed within industry as rig managers, operations managers, HSE managers, project managers, risk engineers and so forth.

##### Inadequate Provision of Guidance

NOPSA's view of itself as an implementation and enforcement agency contrasts sharply to the role played by similar regulatory agencies, such as Worksafe, DITR, CASA and the UK HSE - which all provide a wealth of guidance to organisations wanting to improve their safety performance. NOPSA's decision to limit advice to operators in relation to their Safety Case submissions as well as the oft mentioned 'vagueness of their responses' (see sections 4.1 & 4.2) works to highlight the unique path NOPSA has taken in regards to a providing advice and guidance to the industry.

##### Scope Creep

Since its inception in 2005, NOPSA has not only grown dramatically, but they have exponentially increased the application of regulations, particularly in terms of:

- Size (from 19 regulatory personnel in 2005 to 48 planned for 2008)
- Focus (from MAEs to all health and safety matters)
- Reporting (from a 'serious incidents' to all incidents)
- Jurisdiction (from Australian waters to issues relating to rigs before they come to Australia or under construction overseas).

## Competency

Concerns were also raised about NOPSA's lack of:

- Drilling experience
- Sub-sea experience.

## **Inconsistent application of legislation**

Most of the comments concerned the inconsistency with which NOPSA implements regulations and guidelines. This was due in part to the way individual inspectors interpreted the guidelines. Inconsistency of application included:

- The appearance that NOPSA 'inconsistently' treats different Operators
- Application of guidelines being influenced by an Operator's relationship with the individual inspectors
- NOPSA continually changing their focus according to the 'issue of the day'
- NOPSA changing their interpretation of Regulations and Guidelines, sometimes giving the impression they are 'inventing requirements' or 'making things up as they go along'.

*“Why are we asked to comment on codes and standards? Isn't that NOPSA's job?”*

*“NOPSA have way too much discretionary control.”*

*“Is this the only place in the world where it's managed like this?”*

*“While incidents are increasing, we are asked to focus more and more on NOPSA compliance.”*

*“How does NOPSA measure its own performance?”*

*“What happened to the lifting gear guidelines?”*

*“How can we challenge NOPSA's rulings?”*

*“It's hard for us as an Operator and an industry – they way they keep moving the goal posts”*

*“Individual Inspectors have way too much scope”*

*“The Regulators themselves don't understand the difference between goal setting and prescriptive based legislation”*

## 4.4 Inspections & Audits

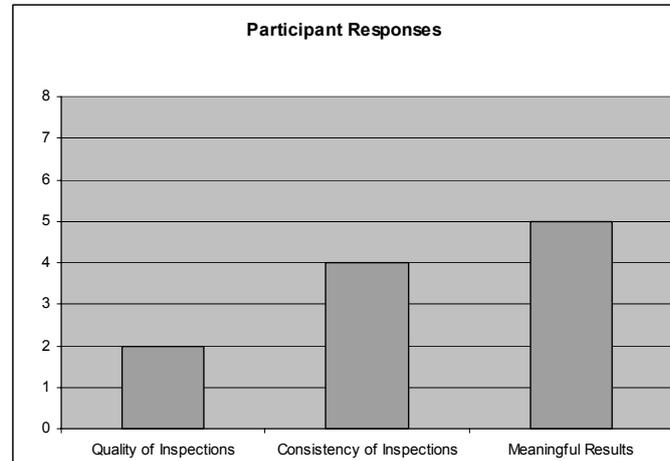
### Quality of Inspections

Some discussion was held on the quality of NOPSA inspections, including whether NOPSA should audit the drilling contractors against their own audit / inspection / action lists – or whether NOPSA should develop their own independent checklist.

A number of drilling contractors also commented on NOPSA's use of vague answers to questions or requests for clarification of inspection results (See *section 4.2*)

Concerns were also raised as to:

- Competency of inspectors
- How meaningful NOPSA audits are
- Apparent inconsistency of inspections.



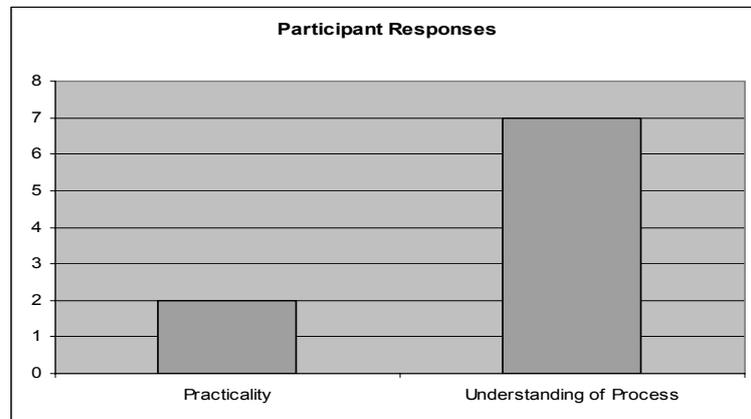
*“The NOPSA Inspectors went around checking our fire extinguishers. That’s not their job. They should be checking the system and how we manage it.”*

## 4.5 Reporting and Notification

### Reporting and Notification Requirements

Reporting of incidents is one the areas where scope creep by NOPSAs appears most evident. According to the relevant regulations (PSLA Schedule 7 – section 41) the following types of incidents and dangerous occurrences must be reported to the regulator:

- An accident that causes death or serious injury
- An accident which causes an employee to be incapacitated from performing work for a 'prescribed period'
- A dangerous occurrence
- The time frame and manner of reporting may be prescribed.



In the Accident / Incident Investigation Policy Framework, NOPSAs sets out 'notification triggers' in terms of incident type (and seriousness) and reporting time frames (summary details of incident to be provided to NOPSAs within 2 hours).

A 2005 Explanatory Note from NOPSAs increased the reporting scope for Operators to include incidents that occur 'near a facility'.

A determination made by NOPSAs in 2005 defines the term 'dangerous occurrences' and provides other determinations in regard to timing and contents of reports.

In 2007 NOPSAs issued a Guideline with an expanded list of 'notification triggers' and revised timeframe for initial reporting (changed from 2 hours to 'as soon as practicable').

Despite the amount of guidance material available on-line, the wording and interpretation of phrases such as 'serious injury' or 'dangerous occurrence' are still problematic for Operators. As a result, most drilling contractors have adopted a tactic of reporting all incidents, regardless of how minor, as a means of ensuring they are not caught out.

This level of reporting differs greatly when compared with similar government OHS agencies, such as:

- **Worksafe WA** (requires the reporting of deaths, major fractures, amputations, loss of sight, or an injury likely to keep an employee off of work for 10 days or longer).
- The **Department of Industry and Resources (WA)** requires reports of serious injuries to be made, defining serious injuries as those where an employee may be off work for 2 weeks or more. (*Note: NOPSAs uses a period of 3 days off work as their 'notification trigger'*).

**Practicality**

The amount of detail (some 15 points) required to be covered in the initial (2-hour) notification is considered to be both excessive and impractical – during a time period when arguably the main focus of attention should be the provision of medical assistance to the injured party.

**Understanding of process**

Despite the amount of guidance material available, drilling contractors still reported confusion about how to comply with NOPSAs reporting and notification requirements.

**Other**

At least two NOPSAs inspectors have insisted that the OIM report incidents directly to NOPSAs. This goes against the drilling contractor's internal requirements which provide for the rig's Operations Manager to make this report.

*“Again a bit ambiguous in areas, they expect your understanding in areas that are grey, not black and white”.*

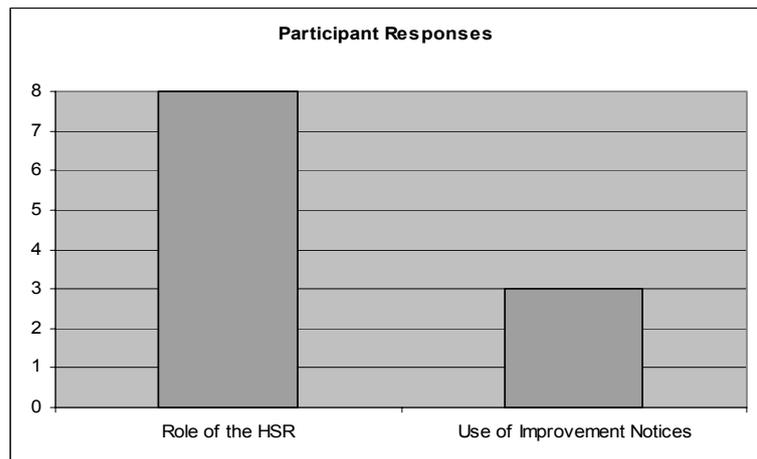
*“Why are we required to do a full investigation and actions to prevent report for a medical medivac? Example: Medivac of a person with indications of potential heart complications. Upon reaching hospital, it was discovered that his gall bladder had ruptured. NOPSAs have asked for a full investigation with root cause analysis and actions to prevent reoccurrence of incident.”*

*“Do we really have to call NOPSAs when 1 of 4 fire pumps is down? Or when a lifeboat is being taken out for service for planned maintenance?”*

## 4.6 Role of HSR

While drilling contractors support the election (or appointment) of HSRs and the establishment of Safety Committees, NOPSAs role in the process was widely criticised as being counter-productive to the drilling contractor's efforts to effectively engage in consultation with their employees, in order to better manage safety on their facilities. Most complaints related to NOPSAs ongoing efforts to develop a special relationship, including a direct reporting relationship, with the HSRs. This was exemplified by:

- NOPSAs direct support and participation in HSR forums
- NOPSAs providing HSRs with a direct telephone reporting line
- NOPSAs inspectors holding closed door meetings with HSRs during their offshore visits to MODUs (this was a strong point of contention for the drilling contractors).



NOPSAs efforts in developing a special relationship with HSRs is seen by the drilling contractors as circumventing their own HSE reporting and resolution processes, and reducing the effectiveness of these processes by:

- Fostering mistrust between employees and employees
- Promoting an 'us and them' culture
- Creating a culture of 'ratting' on your employers.

*“Use of Improvement Notices is not well enough defined or understood”.*

*“NOPSAs should not report hearsay, just facts. Opinions without justification are meaningless.”*

*“What does ‘adequate consultation’ mean?”*

*“We were told we are responsible for training the third party HSR.”*

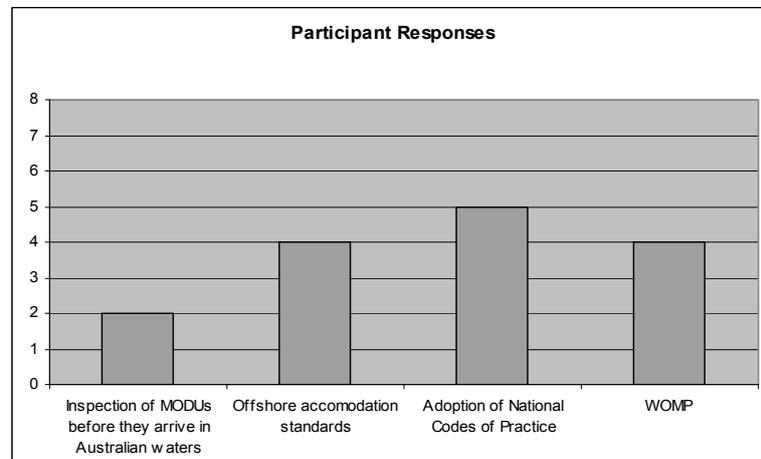
*“We were called into a meeting with NOPSAs concerning allegations of bullying. When we queried the incidents NOPSAs comment was ‘I can’t tell you that.’ How are you supposed to investigate allegations without some facts?”*

## 4.7 Developing NOPSA Issues

Other areas of concern related by the drilling contractors (some overlapping with previously discussed issues) include:

### Inconsistency of Application

Inconsistency with the application of regulations due to new (or changed) interpretation of the existing Regulations and Guidelines, as well as new additions to the Regulators area of focus (including the 'issue of the day / flavour of the month' approach). (See section 4.3)



### Expanding Jurisdiction

The expansion of NOPSA's jurisdiction to become involved in the construction and inspection of MODUs prior to arrival in Australian waters.

### Scope Creep

The introduction of inconsistent and largely unspecified requirements for offshore accommodation standards.

*“We need a better explanation of the apparently random adoption of standards, guidelines and codes of practice”.*

*“We are concerned that NOPSA's jurisdiction with expand to cover the WOMP” (the Well Operations Management Plan).*

*“Why are NOPSA changing the rules on new build post contract expectations?”*

*“What is behind the growth in NOPSA?”*

*“Do we need a better balance between prescriptive and non-prescriptive?”*

## 5.0 Reference Sources

### KEY DOCUMENTS

Date	Title	Key Contents
2007	DITR Website: NOPSA	Sets out Operational Review process
2007	Terms of Reference for Independent Review of NOPSA 2008	Points to be considered.
2007	Stakeholder Survey	Summary Findings Recommendations Detailed Results
2004	NOPSA Safety Case Guidelines	Guide to legislation Management of Safety Cases Safety Case Administration Process Guide to Safety Case Contents Definitions
2003	Report of the independent review team	Summary of pre-NOPSA stakeholder survey.
2000	Report of the independent review team	Summary of pre-NOPSA stakeholder recommendations
1996	Management of Safety on Offshore Facilities (MoSOF)	Sets out regulatory requirements, including safety case provisions
1993	PSLA Occupational Health and Safety Regulations 1993	Misc. OHS Requirements Election of H&S Reps
1967	PSLA / Schedule 7	Duty of Care Provisions HSE Reps and Safety Committees

### NOPSA POLICIES

Date	Title	Key Contents
2007	Inspections of Facilities Before or On Arrival in Australian Territorial Waters	NOPSA Jurisdiction Pre-Arrival Inspection Inspection on arrival in Australian Waters
2007	Compliance and Enforcement Policy	Describes NOPSA's Policy
2007	Safety Case Assessment Policy - Requests for Further Information and Re-Submission Following Rejection	Describes procedure to follow
2006	Exemptions	Explains NOPSA's exemption policy
2006	Planned Inspections and Audits	Explains NOPSA's approach to compliance monitoring
2005	Safety Case Assessment	Safety Case Assessment Principles
2005	Relationship Management: Liaison with Operators	Safety Case Meetings

### NOPSA GUIDELINES

Date	Title	Key Contents
2007	Review of Acceptance Decisions by NOPSA	Process to review decision by NOPSA to not-accept or withdraw a Safety Case.
2006	Safety Case and PSMP Levies	Schedule
2006	Notifying and Reporting of	Sets out NOPSA's Requirements

	Accidents and Dangerous Occurrences	
2006	Operator Register: Criteria for Registration and Deregistration	Explains NOPSA's Decision Making Criteria
2006	Asbestos Management	Aims to eliminate exposure to asbestos
2006	Notifying and Reporting of Dangerous Occurrences	Describes NOPSA's requirements
2005	Submission of Documents to NOPSA	Delivery and format requirements
2005	Accidents and Dangerous Occurrences: Monthly Summary Reporting	Sets out NOPSA's requirements
2005	Validation	Explains legislative requirements and provides guidance on scope of validation.
2005	OHS: Noise Exposure Standard	Aligns to National Standards

## NOPSA PROCEDURES

Date	Title	Key Contents
2005	Enforcement Management Model	NOPSA's Enforcement Process
2007	Planned Inspection	Establishes a consistent process for planned inspections by NOPSA inspectors

## NOPSA DISCUSSION PAPERS

Date	Title	Key Contents
2007	Level of Detail Expected for Offshore Safety Cases	Gives guidance based on MoSOF Regulations and Safety Case Guidelines
2007	Offshore Accommodation Standards	Related to OH&S, Well Being and Fitness for Work Include 'Recommended Guidelines Table'
2003	Accident / Incident Investigation Policy Framework	Discussion Paper

## NOPSA - OTHER

Date	Title	Key Contents
2007	Auditing Audits Checklist	Checklist for Auditing Audits
2007	Safety Case Workshop (PPT)	Safety Case Submission Process
2007	Facility Integrity National Program (PPT)	Hydrocarbon Release Reports
2007	Guidance on Completing a Provisional Improvement	Guidance for HSE Reps.
2007	Boot Room Gossip	Newsletter for HSE Reps / Offshore Workers
2006	Safety Case Levies	Flow Chart Remittal Process
2005	A Review of the Safety Case Validation Requirements (PPT)	Regulatory Requirements & References from the Safety Case Guidelines Practical Examples
nd	Review of Safety Case Validation Requirements	Explanation from NOPSA

nd	Examples of Operator Issues	Definition of Operator
nd	Explanation Note: Changes to Certification of Crane Drivers in the Offshore Petroleum Industry in Australia	Legislative Requirements & Offshore Crane Driver Competency System

## Websites

NOPSA	<a href="http://www.nopsa.gov.au/">http://www.nopsa.gov.au/</a>
DITR	<a href="http://www.industry.gov.au/content/itrinternet/cmscontent.cfm?objectID=45588390-65BF-4956-BC4372FFC10BCEC2">http://www.industry.gov.au/content/itrinternet/cmscontent.cfm?objectID=45588390-65BF-4956-BC4372FFC10BCEC2</a>

NOPSA CEO NEWSLETTERS (2005-2007)

NOPSA ALERTS (2005-2007)

## IADC

2006	Health, Safety and Environmental Case Guideline for Mobile Offshore Drilling Units (Issue 3.2)
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ABO.749.dmck

10 December 2007

Department of Industry, Tourism and Resources  
Level 10, 10 Binara St  
Canberra City  
ACT 2601

For the attention of: Linda Tindall-Mather, Assistant Manager, Environment, Safety and Security

**Re: Independent Review of the National Offshore Petroleum Safety Authority 2008**

Dear Linda

IMCA members support NOPSA's role and activities to administer consistent Health and Safety regulation across the Australian offshore industry. Members are also pleased to see this review being conducted by a team comprised of both external and internal expertise in order to gain both a broad and deep perspective on past, current and future activities.

IMCA is aware that APPEA has submitted its own recommendations directly to DITR. This submission should be viewed in addition to other submissions received and may be seen to incorporate the views of IMCA members.

Whilst IMCA members agree with the broad terms of reference they request that the review team should include consideration of the following focus areas in addition to the DITR proposed review criteria:

**A. NOPSA PRINCIPLES**

Without limiting the matters to be covered, an assessment of the effectiveness of NOPSA in bringing about improvements in the occupational health and safety of persons engaged in offshore petroleum operations. In particular:

**Principle 1.** *An enhanced and continuing improvement of safety outcomes in the Australian offshore petroleum industry is a priority for Governments, industry and the workforce.*

- a. Meeting the goal of conducting two inspections per year of every manned facility on consistent basis on all facilities operated by IMCA members, has presented difficulties for NOPSA with current manning. IMCA recommends one inspection per year would be more realistic target due to most facilities being "mobile" and projects being of short term duration. Mobile facilities often have limited bed space to accommodate overnight visitors.
- b. Inspection frequency does not seem to be in proportion to the risk on the facility. Most IMCA Member facilities do not pose a significant threat in terms exposure to employees due to the lack of presence of hydrocarbons on most mobile facilities.

**Principle 2.** *A consistent national approach to offshore safety regulation in both Commonwealth and State/NT waters is essential for the most cost-effective delivery of safety outcomes in the offshore petroleum industry.*

No Comment.

**Principle 3.** *The safety case approach is the most appropriate form of regulation for the offshore petroleum Industry to deliver world class safety by developing appropriate behaviour within the industry.*

IMCA members believe that the current application for the safety case regime is fundamentally flawed for operators (IMCA members) defined mobile facilities. IMCA acknowledge the requirements of the Safety Case, however most of these mobile facilities already have internationally recognised regulatory controls in place such as Class, IMO and Flag State requirements.

IMCA members believe that NOPSA's stated objectives would be more efficiently met by auditing existing processes and systems which will already meet the objectives of the Safety Case rather than repeating the exercise of the creation of another document ie. Safety Case.

It is the view of IMCA members the Safety Case regime and its current application adds little value to improving safety outcomes for the majority of mobile facilities.

**Principle 4.** *Efficient and effective safety regulation requires:*

- a. *A legislative framework that is clear and enforceable and that requires operators to discharge their responsibilities for safety;*
  1. The legislation is not clear and requires consistent interpretation in several areas (e.g. Associated Offshore Facility, Scope of Validation).
  2. The Inspectorate views and interpretation of the Regulations (e.g. Scope of Validation) can differ to those of a facility operator and thus the application can vary between operators.
- b. *Competent and experienced personnel forming a critical mass of appropriate skills;*
  1. Past experience of IMCA members has been that NOPSA inspectors focus is limited by the inspector's skills and knowledge which does not add value to the overall process.
- c. *Structure and governance of the regulatory agency that demonstrates independence, transparency, openness and cost efficiency:*
  1. *Independence:*
    - a. In order to maintain independence and prevent "Regulatory Capture" NOPSA is reluctant to have input and provide their view

upfront during the project planning stages undertaken by members. (e.g. participation in project HAZID / SIMOP studies and reviews). This strategy is questioned.

2. *Transparency and openness:*

- a. General Reporting – Whilst the monthly CEO Newsletter is interesting it only provides statistics at the highest level and does not provide the detail for industry to learn from. NOPSA mostly reports lagging indicators (LTI etc.). To improve Safety, NOPSA should focus on collecting and regularly reporting leading indicators and providing more information on industry incidents, high potential incidents and lessons learnt across all Operators and feed back the key area of focus.
- b. Reporting of the above does not differentiate between those operators of the various facility types (i.e. fixed & mobile)
- c. Experience of members with NOPSA through the members willingness to be open and honest in discussions has at times had negative results and created a working arrangement with the regulator where the operator has become reluctant to further communicate at this level.

3. *Cost Efficiency*

- a. Total cost of safety case preparation, submission, answering safety case response notes (many of which require the education of the inspectorate), revision etc. has provided little “value add” to safety of the offshore workforce when compared to the opportunity cost of tying up considerable scarce safety and operational resources that could otherwise be used for proactive activities.
- d. *An independent approach in implementing legislative responsibilities and in dealings with industry*

No comment

e. *Agreed performance criteria*

- 1. IMCA challenges the performance criteria in terms of the appropriateness to typical IMCA member facilities (i.e. mobile).

**Principle 5.** *The industry and its workforce must be empowered to identify and report potential hazards and to ensure that appropriate control measures are implemented.*

IMCA fully endorses the sentiments embodied in this principle; however the application in terms of the expectations (e.g. Health and Safety representatives) is not practically aligned with typical scopes of works performed by mobile facilities.

**Principle 6.** *Approval processes in safety, titles, environment and resource management must be streamlined and coordinated to ensure no undue delay to project development in the offshore petroleum industry.*

- a. There are many examples where IMCA members are required to use vessels of opportunity which may be only secured after project award and the time required to prepare, submit, review and accept the Safety Case is not sufficient to meet the project timeline. This process could be deemed as anti-competitive within the industry.
- b. IMCA members suggest that the review period for a new Safety Case should be no longer than 45 days for an existing vessel / barge to enter the regime.

## **B. OTHER AREAS OF CONCERN**

### 1. Marine Vessels defined as Facilities

IMCA members recently met with NOPSA to workshop a NOPSA generated matrix of vessel and related tasks which are considered to be either in or out of the Safety Case regime.

IMCA has not received any formal acknowledgment of the workshop outcomes and as such IMCA are under the assumption that their comments may not be considered in future amendments to legislation.

IMCA can submit these comments in separate correspondence to the DITR if required.

### 2. Safety Case Guidelines

An IMCA workgroup met with a NOPSA consultant to review and suggest improvements to the Safety Case guidelines largely to address their application to mobile facilities. This workshop was concluded in 2006 and to date there has been no visible outcomes.

### 3. Safety Case Levies

IMCA members consider that the Offshore Petroleum Safety Levies Act and Regulations are overly complex and difficult for operators of mobile facilities to have a clear understanding of these and therefore be able to maintain compliance. In particular the remittal process is unclear and requires formalisation.

IMCA has concerned with regards to the application and allocation of the facility rating for mobile facilities (e.g. typically a pipelay barge / vessel). If the overriding principle for determining the facility rating is "the exposure of people to risk due to the presence of hydrocarbons" then IMCA contends that a majority of member's pipe laying vessels should be considered as less than a "facility rating of 5" and perhaps be more aligned with a monopod facility which attracts a "facility rating of 1".

#### 4. Consultation & Communication

Since the inception of the Safety Case regime, IMCA has been consulted on a regular basis on a number of issues however the time frames allocated for the gathering and collating members comments and views has been unrealistic and unachievable (e.g. Stakeholders Survey, Offshore Accommodation Standards).

NOPSA's methodology of releasing information to stakeholders, including IMCA members, is not consistent and that use of NOPSA internet site as the formal way of notifying stakeholders of pertinent information and documents for discussion is not appropriate as there is no specific notification of addition to the website or availability of the information.

#### **C. POSITIVE PERCEPTIONS**

Whilst the above items reflect the negative perception of IMCA Members there are also positive perceptions which include:

1. NOPSA CEOs newsletter also provides useful perspective of issues in NOPSA's agenda and as it is emailed to a wide audience serves as a good prompt for any new issues.
2. IMCA members have reported the development of good relationships with NOPSA representatives at a working level.
3. IMCA members find NOPSA to be pragmatic in relation to our reporting of significant incidents etc.

Once again, thank you for the opportunity to provide the independent review committee with these ideas for their review process. If any more information is required on any of the items described then please do not hesitate to contact Andy Bolton, IMCA Asia-Pacific sector Chairman.

We very much look forward to assisting the review committee with their review early 2008 and will be happy to facilitate any interaction that they may request with IMCA representatives.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andy Bolton', with a horizontal line underneath.

**Andy Bolton**  
Chairman - Asia Pacific

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**MARITIME UNION OF AUSTRALIA (MUA)**

**SUBMISSION TO DEPARTMENT OF INDUSTRY,  
TOURISM AND RESOURCES (DITR)**

**REVIEW OF THE NATIONAL OFFSHORE  
PETROLEUM SAFETY AUTHORITY (NOPSA)**

**NOVEMBER 2007**

# **MARITIME UNION OF AUSTRALIA (MUA)**

## **SUBMISSION TO DEPARTMENT OF INDUSTRY, TOURISM AND RESOURCES (DITR)**

### **REVIEW OF THE NATIONAL OFFSHORE PETROLEUM SAFETY AUTHORITY (NOPSA)**

**NOVEMBER 2007**

#### **1. Introduction**

- 1.1 The MUA represents workers engaged as seafarers, divers, lines operators and stevedores in various aspects of the Australian offshore oil and gas industry.
- 1.2 MUA seafaring members are engaged in the exploration stages of projects on vessels such as seismic vessels and drilling rigs, in the construction phase of projects on a range of vessels, particularly support vessels and in the production stages on vessels such as FPSOs and FSOs (and in some cases on the oil shuttle tankers). In the case of gas, MUA seafarer members crew a number of the LNG tankers operating on the NWS LNG project. The MUA and AWU, which have a close working relationship in the offshore hydrocarbons industry, have industrial coverage through all stages from exploration to transportation of final output.
- 1.3 In addition, MUA members operate tugs in towage operations and crew the support and supply vessels that service all phases of oil and gas projects. MUA members are also divers and lines operators. MUA stevedores service rigs tenders and other vessels.
- 1.4 The MUA is a party to a range of Awards and enterprise agreements covering these workers in the offshore oil and gas industry.
- 1.5 The MUA has played a vital role in workforce development in the offshore oil and gas industry, being an integral part of its transition from an industry heavily reliant on foreign labour when the skill sets were not available locally to the stage reached in recent years where Australians have the capability to perform at the highest international standards right across the industry.
- 1.6 The MUA has in the past worked, and will continue to work, closely with employers, Governments, regulatory bodies and training institutions in relation to safety, including occupational health and safety, labour supply and demand issues; workforce training, skilling and qualifications; maritime security; and industry development.

#### **2. MUA assessment of NOPSA safety performance**

- 2.1 The MUA and the workforce we represent have established a professional working relationship with NOPSA, and have followed closely its evolution as the new safety regulator in the Australian offshore oil and gas industry over the first 3 years of its operations.

- 2.2 We are committed to ensuring that NOPSA continues to evolve in performing the crucial role of regulating safety in a complex industry, where operations are remote, risks are high, and are influenced by environmental conditions not experienced onshore and where the commercial participants often wield enormous resources and power.
- 2.3 Our assessment of NOPSA's performance after the first 3 years of its operations is that it has failed to live up to expectations. We lack confidence in NOPSA as a high quality, independent regulator of safety, particularly human safety.
- 2.4 We make the point however, that NOPSA has had to operate under difficult political circumstances, where ideology has driven policy to the detriment of safety performance. Notwithstanding the difficult political environment, there is no legitimate reason for an organisation that has been given robust statutory powers, which provides sufficient independence for it to act with authority and a firm but impartial hand, for it to become so captured by commercial interests as to severely compromise the safety of the workforce.
- 2.5 We have three principal concerns about NOPSA:
- It has breached its duty to the workforce by failing to ensure that International Maritime Organisation (IMO) and International Labour Organisation (ILO) standards are applied to ships when defined as facilities and falling within its jurisdiction and regulatory scope;
  - It has only partially embraced the Australian OHS regulatory regime (ASCC Standards and the objects of the National OHS Strategy 2002-2012), and in particular has been slow to respond to ensuring offshore oil and gas workers experience the regulatory standards applying under all other jurisdictions and to most of the Australian workforce; and
  - Its consultative processes with the labour force and with organisations representing the labour force are inadequate and exclusionary.
- 2.6 We submit that these factors have undermined safety performance in the Australian offshore oil and gas industry. No review of NOPSA can have a satisfactory outcome unless each of these deficiencies is satisfactorily resolved in a consultative and cooperative manner.
- 2.7 We address each of these sets of issues, as well as the specific terms of reference, in the submission that follows.

### **3. Substantive MUA issues**

#### **3.1 Disapplication of the maritime legislation removes the application of IMO Conventions and standards to the maritime workforce in the Australian offshore oil and gas industry**

- 3.1.1 The major concern the MUA has with the current arrangements for the regulation of safety in the Australian offshore oil and gas industry is that since commencement of *Petroleum (Submerged Lands) Amendment Act 2003*,

which disapplied the *Navigation Act 1912* (Navigation Act) in relation to ships which are defined as “facilities”, the maritime workforce in the offshore oil and gas industry has been denied the protections and standards of various International Maritime Organisation (IMO) Conventions which Australia has ratified.

- 3.1.2 This has occurred because the Navigation Act, and Regulations and Marine Orders made under the Navigation Act, are the vehicles through which Australia has given legislative effect to the requirements of various IMO Conventions. Neither the *Petroleum (Submerged Lands) Act 1967* as amended (PSLA), nor any Regulations made under that Act, provide for the application of requirements under IMO Conventions.
- 3.1.3 The effect is that the maritime workforce engaged on “facilities” as defined (we define the maritime workforce as workers employed in occupations that require training and qualifications as set out in Australian Maritime Safety Authority (AMSA) Marine Orders Part 3: Marine Qualifications) have no safety nor legal and other protections that have universal application throughout the global maritime industry that they would normally expect when engaged on such ships, were they not defined as a “facility”.
- 3.1.4 In effect, the disapplication of the Navigation Act has disapplied the application of IMO Convention provisions, to a segment of the Australian maritime workforce. There are no comparable replacement provisions in Schedule 7 of the PSLA or in Regulations made under the PSLA.
- 3.1.5 A consequential effect is that in our view, Australia is in breach of its IMO Treaty obligations.
- 3.1.6 It is the view of the MUA that the following IMO and ILO Conventions have effectively been disapplied:
  - The International Convention for the Safety of Life at Sea, 1974 (SOLAS):
    - In particular, the International Safety Management (ISM) Code which became mandatory with the adoption of SOLAS, Chapter IX, Management for the Safe Operation of Ships, by a decision of the IMO in November 1993 (Assembly resolution A.741(18)). The objectives of the ISM Code are to ensure safety at sea, prevention of human injury or loss of life, and avoidance of damage to the environment, in particular, to the marine environment, and to property. The ISM Code requires companies to establish safety objectives as described in section 1.2. In addition companies must develop, implement and maintain a Safety Management System (SMS) which includes functional requirements as listed in section 1.4 of the ISM Code. The IMO has provided amplifying guidance on implementation of the requirements of SOLAS, Chapter IX, and the ISM Code in resolution A.788(19), "Guidelines on the Implementation of the International Safety Management (ISM) Code by Administrations. In summary the ISM Code establishes safety management objectives which:
      - ❖ provide for safe practices in ship operation and a safe working environment;

- ❖ establish safeguards against all identified risks; and
  - ❖ continuously improve safety management skills of personnel, including preparing for emergencies.
- While we accept that Safety Cases may be conforming with, or even exceeding, the standards of the ISM Code, without their specification as a minimum, the opportunity for standards that do not conform is available to operators in the Australian offshore oil and gas industry.
  - We note that SOLAS provides at Chapter V, Safety of Navigation at Regulation 13, Manning, whereby the Contracting Governments undertake, each for its national ships, to maintain, or, if it is necessary, to adopt, measures for the purpose of ensuring that, from the point of view of safety of life at sea, all ships shall be sufficiently and efficiently manned.
    - ❖ It is the submission of the MUA that the absence of the application of accepted international standards in relation to safe manning has been, and continues to be, exploited by the offshore operators in Australia, and that NOPSA has been complicit in allowing the operators to reduce and restructure manning in ways that would be unacceptable for a ship (but is apparently acceptable on the same structure, when defined as a facility).
- The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW);
  - The Medical Examination (Seafarers) Convention 1946 adopted by the General Conference of the International Labour Organisation on 29 June 1946.
    - These IMO Conventions, collectively, provide internationally accepted standards and requirements in relation to such matters as:
      - ❖ Survey and safety certificates required for ships;
      - ❖ Life-saving appliances and fire protection;
      - ❖ Radio equipment;
      - ❖ Musters, drills and checks and tests of machinery and equipment;
      - ❖ Ships carrying or using oil;
      - ❖ Sewage pollution;
      - ❖ Minimum training and qualifications;
      - ❖ Fitness for duty.

- The ILO Consolidated Maritime Labour Convention (MLC), adopted by the ILO Maritime Labour Conference in February 2006:
  - The MLC has been tabled in the Australian Parliament as a step towards Australian ratification of the Convention. We understand that the Convention will be given effect through the Navigation Act. Once again, the disapplication of that Act to ships defined as facilities in the offshore oil and gas industry will deny seafarers on “facilities” the rights, benefits and protections that the Convention confers, unless of course the PSLA is also amended.

3.1.7 While we note that NOPSA has issued a policy (Safety Case Assessment – Marine Organisation and Manning on Disconnectable FPSOs) which states that

*“NOPSA will, in conjunction with the Australian Maritime Safety Authority, ensure the following processes are part of the Safety Case assessment:*

*(i) a clear organisation structure for connected mode, planned disconnect, unplanned disconnect, coastal voyage and international voyage is demonstrated;*

*(ii) the proposed organisation structure is to take into account the IMO's International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 1978, as amended, regarding qualifications.*

*(iii) the proposed organisation structure is in accordance with the requirements of the International Convention on the Safety of Life at Sea as required by Marine Orders, Part 60 Floating Offshore facilities;*

*(iv) Organisational arrangements to deliver these safe outcomes are verified, including testing that staff / positions under discussion have the authority such that they can effectively discharge their roles / responsibilities*

*(v) to verify the ongoing practice via planned inspections; and*

*(vi) manning arrangements are in accordance with IMO Resolution A890 (21) Principles of Safe Manning.”*

we put the view that such a policy allows for both operator interpretation and regulator interpretation, and therefore provides scope for wide variation in application and in standards. The MUA submits that the publication of a policy is no substitute for statutory implementation of IMO and ILO standards, which is a requirement of Nation States who ratify International Treaties.

3.1.8 The NOPSA arrangements in our view constitute a severe dumbing down of the statutory requirements that apply to ships under the Navigation Act, and in our view is compromising safety in the offshore oil and gas industry.

- 3.1.9 We also query the basis on which AMSA is apparently involved in working with NOPSA in ensuring that the policy as stated will be given effect in assessing Safety Cases, in circumstances where AMSA, by virtue of the disapplication of the Navigation Act, is statutorily excluded from the formal processes for establishing safety standards in relation to facilities.
- 3.1.10 Under these circumstances we query the status of AMSA advice that may be given to NOPSA in its Safety Case assessment process, notwithstanding the Memorandum of Understanding between NOPSA and AMSA. Further, we query the transparency of the advisory process, given that we are unaware of the publication of any such AMSA advice.
- 3.1.11 If NOPSA has found it necessary to rely on AMSA advice, and to adopt policies which reference both IMO Conventions and AMSA Marine Orders (which give effect to Australia's IMO Convention obligations), while nevertheless such processes and documents have no formal recognition in the NOPSA regulatory framework, this suggests to the MUA that either AMSAs role in the NOPSA process, or AMSAs regulatory provisions, need to have formal recognition in the NOPSA regulatory process.
- 3.1.12 Furthermore, we note that the NOPSA Safety Case Guidelines are quite general and non specific in provision of guidance on how an operator might ensure conformity with the Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996, particularly Regulation 12, Command Structure. Even where there are internationally accepted standards, these are not indicated in the PSLA, or Regulations or Guidelines issued under the PSLA.
- 3.1.13 There appears to the MUA to be a major disconnect between the NOPSA legislative framework (including the guidelines for applying the legislation) and the policy (Safety Case Assessment – Marine Organisation and Manning on Disconnectable FPSOs) which refers at Clause 4 (iii), to AMSA Marine Orders Part 60: Floating Offshore Facilities. This Marine Order, which when not disapplied, has statutory force, calls up IMO Resolution A.890(21) Principles of Safe Manning (adopted at the IMO Assembly's 21st session in November 1999) which has been further amended by IMO Resolution A.955(23) Amendments to the principles of safe manning (Resolution A.890(21)) in December 2003, aimed at ensuring that manning requirements take account of the International Ship and Port Facility Security (ISPS) Code addressing the additional demands on marine crew arising from the new maritime security regime.
- 3.1.14 The IMO resolutions note that safe manning is a function of the number of qualified and experienced seafarers necessary for the safety of the ship, crew, cargo and property, and for the protection of the marine environment and that the ability of seafarers to maintain observance of the requirements is also dependent upon conditions relating to training, hours of work and rest, occupational safety, health and hygiene and the proper provision of food.
- 3.1.15 In this regard, we also note that there is no specification in the NOPSA suite of legislation, regulation and guidance that addresses the requirements of the ISPS Code which is given effect in Australia through the *Maritime Transport and Offshore Facilities Security Act 2003*.

3.1.16 The concerns raised in this section are also of concern to the IMO itself. At the 83<sup>rd</sup> Session of the IMO Maritime Safety Committee held on 30 July 2007, the Committee agreed to an International Transport Workers Federation proposal that the applicability of IMO Conventions to FPSOs and FSUs be further considered. The Committee noted that the IMO Marine Environment Protection Committee had confirmed that FPSOs and FSUs fall within the definition of ship in Article 2 of MARPOL:

- *Article 2 of MARPOL defines a "ship" to mean a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air cushion vehicles, submersibles, floating craft and fixed or floating platforms.*

3.1.17 The IMO's MSC came to the view that any FPSO or FSU, capable and required to operate as a ship, and defined as a ship under MARPOL Article 2, should be in compliance with the requirements of the ISM Code and the STCW Convention. The MSC has been asked to further consider the issue.

3.1.18 The MUA submits that the quarantining of the NOPSA regulatory framework from the decisions of the IMO, which are in effect assisting ratifying nations to conform with their IMO Treaty obligations, is a major anomaly that requires urgent statutory and operational rectification.

3.1.19 The MUA notes the report, findings and recommendations of Australian Transport Safety Bureau (ATSB) Report No 226 *Hawser Failure and Manoeuvring Difficulties On Board the Dampier Spirit During Cyclone Herbert*, of January 2007. We believe the ATSB findings represent evidence of a failure of the Safety Case system in relation to this incident, and that the Safety Case failed because of NOPSA failure to recognise IMO standards in relation to ship certification, which, had they been applied to the standards applicable under the Navigation Act would not have permitted engine de-rating and unacceptable hull growth to occur.

3.1.20 The MUA also notes the significant variation and weakening of the standard in relation to the application of Regulation 12, Command Structure, under the Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996, that has apparently been permitted by NOPSA, in relation to FPSOs and FSUs operating in the Australian offshore oil and gas industry.

3.1.21 The MUA is disappointed that the MUA proposal put to the CEO of NOPSA at a meeting on 30 May 2007, that a mandatory standard which properly recognises the requirements for a minimum marine crew to be incorporated into the command structure, has not been developed or apparently even considered. We consider this to be further evidence of the weakening of safety standards in relation to ships that are under certain circumstances, defined as facilities.

### **3.2 The need to embrace the Australian OHS regulatory regime (ASCC Standards and the objects of the National OHS Strategy 2002-2012)**

3.2.1 The MUA submits that NOPSA should embrace the National OHS Strategy 2002-2012 and as part of that process embrace the ASCC OHS Standards where the international standard is lower. At present, NOPSA, and the

workforce that falls under its regulatory jurisdiction are the only group of Australian workers outside the scope of the National OHS Strategy and who do not have the protection of OHS Standards which have emerged from tri-partite consultative processes under the guidance of the former National Occupational Health and Safety Commission (NOHSC) and now the ASCC.

- 3.2.2 We say there is no incompatibility whatsoever in the adoption of a Safety Case regime and adoption of recognised OHS Standards. It simply means that where there is a recognised and agreed national OHS Standard that is applicable to the offshore oil, and gas industry workforce, that that standard be the minimum that must be incorporated into the Safety Case, and would form the basis for compliance and enforcement. It would still remain the responsibility of the facility operator to specify in the Safety Case how that standard should be achieved and complied with.
- 3.2.3 We note also that the absence of regulations under Schedule 7 of the PSLA, which is the vehicle through which to give effect to nationally agreed OHS standards means that HSRs lack power to utilise one of the most important sanctions in the HSR toolkit, the Provisional Improvement Notice (PIN). This arises because a PIN can only be applied against a contravention of the Act or Regulations, not against a contravention of an aspect of the Safety Case. This requires urgent rectification.
- 3.2.4 The second aspect of the National OHS Strategy that in our view should apply to the workforce covered under NOPSA's jurisdiction is the performance improvement targets that apply to all other sections of the Australian workforce. We can see no reason why those responsible for offshore oil and gas industry safety should not be obliged to commit to the same OHS performance improvement targets as every other section of Australian industry.
- 3.2.5 The MUA notes the conclusions of a November 2007 report by the Offshore Division of the UK Health and Safety Executive (HSE's) Hazardous Installations Directorate, Key Programme 3 - Asset Integrity Programme, which showed that among a range of safety deficiencies, the performance of management systems showed wide variations across the UK offshore oil and gas industry. We believe that the NOPSA arrangements, which seem to sit outside the main OHS policy framework in Australia, could well mean that a similar conclusion could be reached in relation to the Australian offshore safety regime.

### **3.3 Workforce consultation processes and practice**

- 3.3.1 A second major concern regarding the operation of NOPSA is the systematic dismantling of structured workforce consultation arrangements, and the apparent policy of senior management of NOPSA, the industry and industry associations, and of the policy Department (DITR), to bypass and sideline the representative organisations of labour that operate in the Australian offshore oil and gas industry.
- 3.3.2 The result of this ideologically driven policy is that:

- There are now no structured channels through which the trade unions, who possess considerable policy, operational, industry and safety expertise, are able to enter a professional and well intentioned dialogue on the spectrum of policy, strategic and operational matters impacting on safety in the Australian offshore oil and gas industry;
- The Robens principles on which the OHS legislative structure for the offshore oil and gas industry (and all Australian industry) is built have been undermined and compromised – to such an extent that employer and corporate interests now have almost complete control over the way in which safety is managed in the offshore industry, and has effectively undermined the rationale which gave rise to the single national independent regulator model for offshore safety;
- The maritime unions have lost confidence in the independence of NOPSA as the safety regulator;
- Offshore safety does not appear from the available data, to be improving; and
- Safety is being severely compromised.

3.3.3 We cite the following examples as evidence to support the assertions we make:

- The Howard Government, apparently at the urging of the key oil and gas operators, and we are advised, with the support of (or at least with the tacit agreement of) the senior management of NOPSA, abolished the only genuinely tripartite participatory body within the NOPSA structure – the National Oil and Gas Safety Advisory Committee (NOGSAC). This is despite the fact that the PSLA provides, at Section 150XJ, for there to be an advisory body called NOGSAC or some replacement to which NOPSA can refer matters to for advice. NOGSAC had added importance in that it was originally established by, and as an advisory body to, the Ministerial Council on Mineral and Petroleum Resources;
- The Department of Industry, Tourism and Resources undertook a process of reviewing the opportunities for consolidating Regulations impacting on the offshore oil and gas industry over 2006/2007, including OHS regulation, without advising the workforce or its representatives and without any consultation with either the workforce directly, or with representatives of the workforce;
- The Department's report (Consolidation of Regulations under the *Petroleum (Submerged Lands) Act 1967*) makes reference to a DITR review of the PSLA provisions, apparently aimed at clarifying which offshore oil and gas industry vessels require Safety Cases. Again, we are unaware of any consultation with the workforce or with the unions regarding this review, nor of the issues that may have been put to DITR that has led it to undertake such a review.
- That same Review Report advised that the Environment, Safety and Security Section of the Department is investigating the requirements established under the Australian Diver Accreditation Scheme (ADAS) without the knowledge of the Board members of ADAS or of the offshore diving workforce;

- The Upstream Petroleum and Geothermal Subcommittee of the Ministerial Council on Mineral and Petroleum Resources (MCMPR) established an Integrity Working Group which was apparently tasked with reviewing safety legislation. This group was established without the knowledge of the workforce or its representatives, and has not consulted with representatives of the workforce. Its report has not yet been made public;
- It was not until May 2007, that senior executives of NOPSA initiated a communication with the National Office of the MUA, some 2½ years after NOPSA became operational. We understand, on the other hand, that the CEO and senior management of NOPSA are in regular communication with the employers, oil and gas operators and contractors;
- There has not been a single direct communication between the Board and a National Official of the MUA over the near 3 years of operation of NOPSA, though we note that the NOPSA Board has periodically met with the ACTU. We understand, on the other hand, that the Board members are in regular communication with the employers, oil and gas operators and contractors;
- NOPSA appears to have ceded the responsibility for running the annual HSR Forum to the Australian Petroleum, Production and Exploration Association (APPEA), which represents the oil and gas industry employers, operators and contractors. While we welcome the commitment and support which APPEA provides to the HSR Forum, and fully accept its important role in seeing a strong system of HSRs, we note that such a Forum was originally an initiative of NOGSAC, a tri-partite body, which gave the Forum a non partisan basis. APPEA's sole management of the Forum has minimised the role of NOPSA and the unions as representatives of the workforce, and in so doing has potentially altered the impartiality of the system of HSR support, so vital under the Safety Case regime. We see the current direction as representing a move from a regulatory model to a self regulatory model, which is an unacceptable direction. HSRs have an important statutory role under the PSLA and are meant to perform their statutory functions in an impartial and independent fashion. In our view, NOPSA's ceding of its responsibility to employers in relation to the role, performance and quality assurance of HSRs under the PSLA has undermined, collectively, the independence of HSRs, and has potentially compromised their capacity to perform their statutory functions, such as those listed below, in an impartial manner:
  - Inspect workplaces that had accidents or dangerous occurrences or the immediate threat of such an event;
  - Inspect a workplace if reasonable notice has been given to the operator;
  - Request an OHS inspector to carry out an inspection;
  - Accompany an OHS inspector during inspections;
  - Represent workgroups on OHS matters;
  - Examine records of health and safety committees;
  - Be present at interviews by an OHS inspector or the operator;
  - Obtain access to OHS information; and
  - Issue Provisional Improvement Notices; and

- NOPSA apparently does not recognise HSR attendance at the HSR Forum as a training opportunity, and therefore workers are not entitled to paid training leave for this purpose.

### **3.4 Diving**

- 3.4.1 The MUA is concerned about the proposal put forward at Section 8.6 in the DITR *Report on the Consolidation of Regulations under the Petroleum (Submerged Lands) Act 1967* that seeks to undermine the standing and function of the Australian Diver Accreditation Scheme (ADAS) in the offshore regulatory arrangements. The proposal to weaken the current standards for diving, recognising that it is one of the most dangerous and onerous of all occupations, is totally unacceptable to the MUA, and to all unions in the offshore oil and gas industry.
- 3.4.2 The MUA identified its concerns in a letter to DITR dated 24 October 2007 in response to the above mentioned report. We reserve the right to make further submissions on this issue once we better understand the basis for the direction being proposed. We have attached the MUA letter to DITR on this issue, and request that the Review team consider that letter as part of the MUA submission.
- 3.4.3 We ask that the review team note that the MUA fully supports the ADAS submission in response to the DITR *Report on the Consolidation of Regulations under the Petroleum (Submerged lands) Act 1967*, given that the Assistant National Secretary of the MUA is an ADAS Board member.

## **4. Addressing the terms of reference**

### **4.1 The effectiveness of NOPSA in bringing about improvements in the OHS of persons engaged in offshore petroleum operations**

- 4.1.1 The principal submission of the MUA on term of reference 1 is that it is impossible to determine, from the publicly available material, as to whether OHS is improving in the offshore oil and gas industry. However, on the available material, we submit that safety performance is not improving. NOPSA appears to publish only 2 outcomes measures of OHS performance:

- Lost time injuries per million hours worked; and
- Total recordable cases per million hours worked.

- 4.1.2 We have no difficulties with these measures per se, but we note the following deficiencies in the way they are reported:

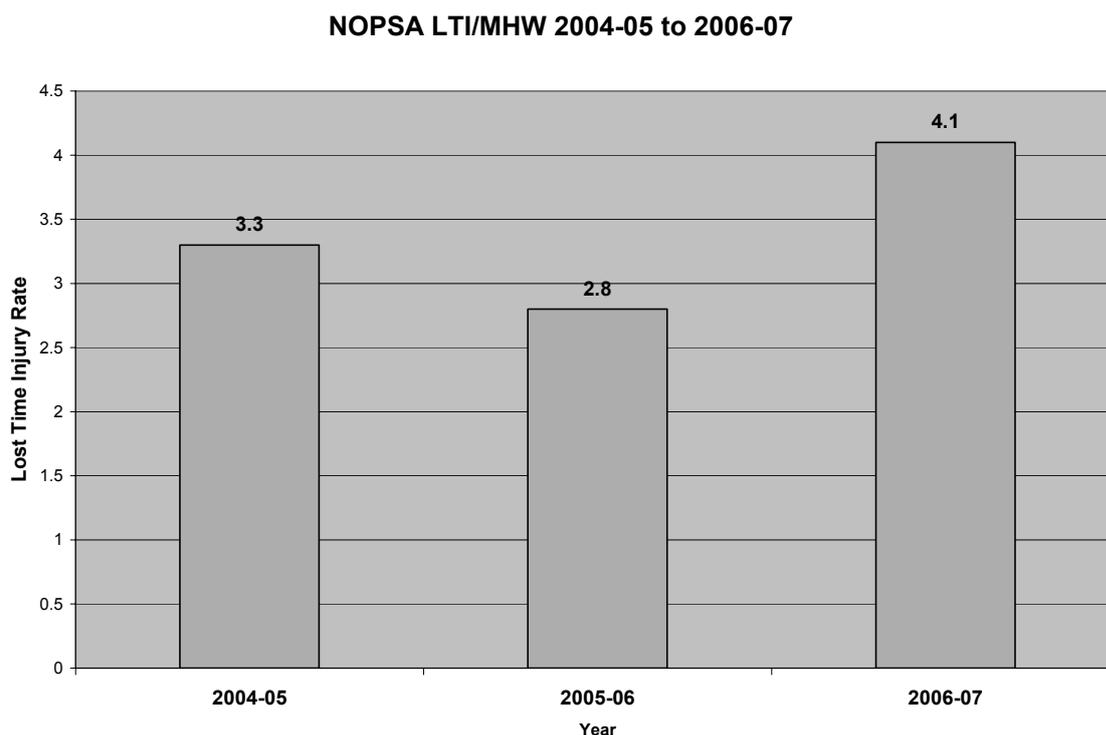
- There are no definitions provided;
- There are no averages provided for the reporting period;
- The actual figures are impossible to discern from the way the data is presented, at least in the 2006-07 Annual Report; and
- There is no periodic trend data provided – which is particularly important now that NOPSA has been reporting for a 2 ½ year period and trend data should be available.

4.1.3 In its 2005-06 Annual Report, NOPSA commenced reporting on international benchmarking data obtained through the International Regulator Forum's international health and safety performance measurement system. We welcome the publication of this international benchmarking data, but again note some deficiencies in the way the data is reported, particularly in the 2006-07 Annual Report, given that NOPSA has now had international comparative data available for 2 years. The main deficiencies are that:

- There are no definitions or explanations of the data provided; and
- The data is reported on a calendar year basis, unlike the national data which is based on a July-June financial year; and
- Year on year trend data is not published, so that performance improvement or otherwise, over time, cannot be assessed.

4.1.4 Despite these deficiencies, the MUA has drawn from the NOPSA Annual Report data to produce two comparative graphs to assess trend OHS performance. The data in Figure 1 shows that the Lost Time Injury Rate, per million hours worked, does not show any discernable trend at this stage. However, the 2006-07 rate is higher than both previous reporting periods, and that is of concern.

**Figure 1: NOPSA Lost Time Injury Rate 2004-05 to 2006-07**

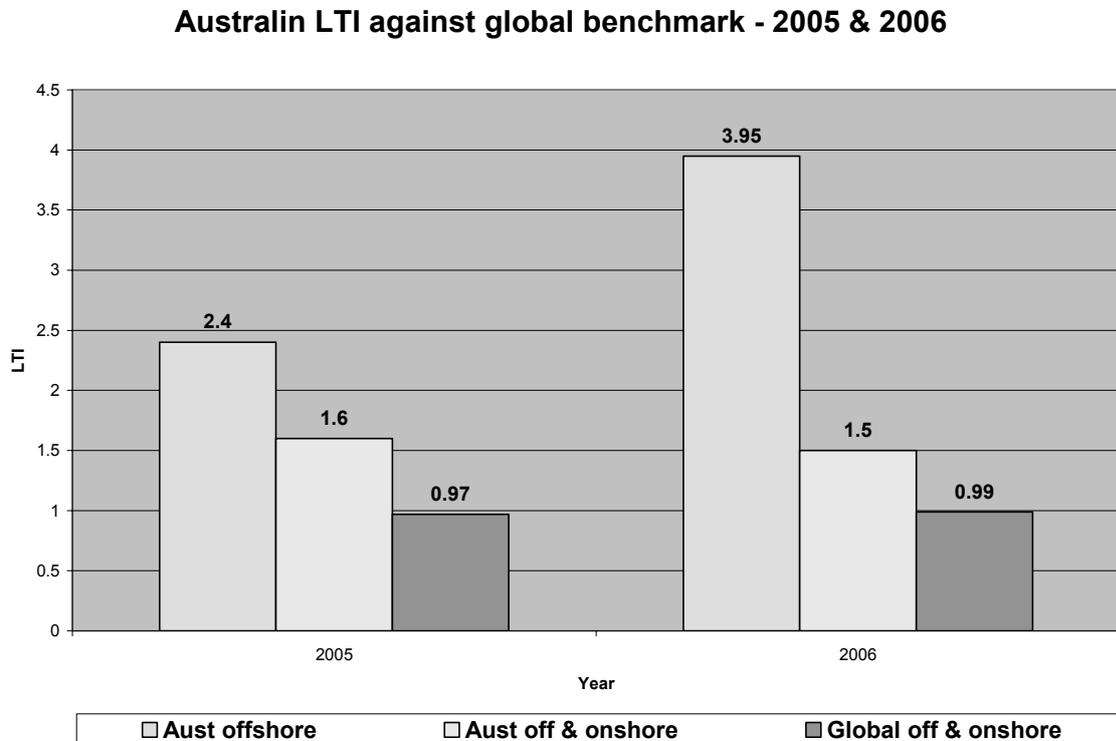


**Source:** MUA, drawing on best available data from NOPSA Annual Reports 2004-05 to 2006-07 (Note that data for 2004-05 only covers the period January to June 2005 – NOPSA commenced on 1 January 2005)

4.1.5 Figure 2 shows how Australia's LTI rate in the offshore oil and gas industry compares with the LTI rate in the combined Australian offshore and onshore oil and gas industry and with the global offshore and onshore oil and gas industry. The data shows that Australian LTI performance was some 2 ½ times worse than the international LTI performance in 2005 and some 4 times

worse in 2006. Against both benchmarks the Australian offshore oil and gas industry is not performing well, and further, the trend is in the wrong direction.

**Figure 2: Australian offshore oil and gas LTI performance compared to Australian and global combined offshore and onshore LTI – 2005 and 2006**



**Source:** MUA, drawing on best available data from NOPSA Annual Reports 2004-05 to 2006-07

- 4.1.6 Based on the available OHS outcomes data it appears that NOPSA has not yet become fully effective in bringing about improvements in the OHS of persons engaged in offshore petroleum operations.
- 4.1.7 More importantly, NOPSA has not yet reached agreement with industry stakeholders on what measures of performance will be used to assess its effectiveness. The MUA believes it, and all key unions, should be participants in stakeholder consultations, and particularly from an MUA perspective, given the long term Board experience of the MUA in the Seacare scheme of OHS.
- 4.1.8 The MUA submits that establishment of agreed performance indicators will need to be a priority in future strategic planning for NOPSA, along with a need for greater clarity and transparency in what is reported in relation to OHS performance. Furthermore, we say there is no legitimate reason why NOPSA OHS data should not be reported into the ASCC data system. The fact that a number of the employers self insure under various workers' compensation schemes is not a basis for not reporting under performance indicators based on workers' compensation claims data. All other schemes have self insurers and there are protocols for including data from self insurers in the reporting framework under the ASCC model.

#### **4.2 Progress against the principles for the Regulation of Offshore Safety in Australia adopted by the MCMPR March 2002 Communiqué and assess whether the business model is appropriate and able to deliver the MCMPR objectives.**

4.2.1 The MUA strongly supports the essential features of the business model that has been adopted for the regulation of offshore safety in the Australian offshore oil and gas industry. We believe that with some refinement and some deliberate changes in the operating arrangements, the essential business model of a single national independent regulator is appropriate, and is best placed to bring about improvements in safety, particularly OHS, in the offshore sector.

4.2.2 We acknowledge the enormous effort that has been committed by the industry, the staff of NOPSA, the industry associations, the workforce and the ACTU/trade unions in establishing a new national safety regulator. Whilst we have identified in this submission a range of areas as where we believe improvement is required, we believe this can be achieved, with goodwill, within the current business model.

4.2.3 The two most important changes that we believe require integration into the current business model are:

- a recognition (and formalisation) of IMO and ILO Conventions and standards as the principal guidance for the maritime elements of safety regulation as applied to offshore facilities which would otherwise be ships; and
- stronger linkage of the business model with Australia's OHS standard setting and regulatory directions being developed under the auspices of the Australian Safety and Compensation Council (ASCC).

4.2.4 We have addressed the first issue in some detail in Section 3.1.

4.2.5 In relation to the second issue (addressed in Section 3.2), we note that NOPSA appears to have already recognised, in part at least, the value of becoming part of the ASCC process. We note that there is an ongoing dialogue between the NOPSA Board and NOPSA officials and ASCC Board/staff and that NOPSA is increasingly drawing on ASCC national OHS standards as the guidance for standards on key aspects of safety.

4.2.6 It is our view however, that NOPSA needs to go much further, in particular by adopting appropriate ASCC national OHS standards into regulations under Schedule 7 of the PSLA. Unless this path is followed, workers in the Australian offshore oil and gas industry may well be working to lower, or more variable OHS standards than their counterparts under other Commonwealth OHS Acts, such as those administered by the Seacare Authority and Comcare, and by the State and NT OHS regulators. We can see no justification for either lower standards to apply, or inconsistency in standards in one industry sector, when the national bi-partisan policy objective is greater national consistency.

4.2.7 In relation to each of the 6 Principles for the regulation of offshore safety in Australia, adopted by the MCMR on 4 March 2002, we make the following brief observation:

**Principle 1:** We believe the structure and broad legislative framework is in place but that there are a range of improvements that are required within that framework for the stakeholders to be satisfied that safety is in fact improving in the offshore oil and gas industry.

**Principle 2:** Provided NOPSA is prepared to: (i) become more closely integrated into the ASCC framework; (ii) maintain its independence through improved corporate governance/transparency; and (iii) by resisting notions such as self regulation, and not allow ill informed policy operatives to weaken the statutory/regulatory environment, we are satisfied that NOPSA will conform with Principle 2.

**Principle 3:** We are prepared to continue to support the Safety Case approach as the most appropriate form of regulation of offshore safety, provided the deficiencies we have outlined in this submission are addressed.

However, we believe the Safety Case approach will need to be closely monitored, and industry will need to demonstrate that its OHS performance is actually improving over time (against agreed industry performance indicators). Industry complaints about so called regulatory burden, and consequential calls for a weakening of regulation, and complaints about regulatory cost, when industry profitability is at record highs, do not create a climate of confidence.

**Principle 4:** We believe that the 6 elements of Principle 4 remain central to conformance with all Principles. As our submission indicates, we think there is a considerable way to go in terms of achieving efficient and effective regulation, and that this Principle should be revisited with more rigour in a further 3 years.

**Principle 5:** We believe that the deliberate exclusion of trade union participation in OHS arrangements in the offshore oil and gas industry has in fact led to a disempowerment of the workforce, and that this will need to be addressed if this Principle is to be realised over time.

**Principle 6:** No comment.

#### **4.3 Examine progress against the Safety Authority's functions set out under the PSLA: (a) Safety Authority's functions clause 150XE, and (b) Corporate Plan clause 150YJ (4)**

##### **Authority's functions**

4.3.1 We believe that NOPSA has made progress against all its functions set out in Section 150XE of the PSLA, with varying degrees of success.

4.3.2 However, we believe the Board has failed to provide clear advice to the CEO in relation to the setting of OHS performance objectives and measures, and consequential reporting of OHS performance outcomes pursuant to the Authority's function at Section 150XE(g)(i).

## **Corporate Plan**

4.3.3 The MUA provided advice to the CEO of NOPSA on a serious omission from the Corporate Plan in a letter dated 7 November 2005. The issue related to the failure of the Corporate Plan to recognise the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) as a tier 2 stakeholder. We note that this omission has not been rectified.

4.3.4 We also note that while the Corporate Plan identifies industry trade unions as Tier 2 stakeholders, the MUA, as one of the industry unions, has apparently been excluded from stakeholder consultation. In fact, all the maritime unions have been excluded from proper and genuine consultation.

4.3.5 We believe that the Board of NOPSA has a responsibility to ensure that the Safety Authority conforms with central elements of its Corporate Plan.

### **4.4 Functions of the Board clause 150XM and Working with the Board clause 150XZ**

4.4.1 We believe that the apparent dysfunction in the relationship between the Board and the CEO, established by the structure of the PSLA, requires resolution.

4.4.2 We believe that if the Board expects, or even requires, the CEO to consult with stakeholders, the Board should have sufficient confidence in its decisions, and confidence in the capacity of the CEO to fairly communicate those decisions or considerations (even though not a Board member), so as to enable a frank and open dialogue with stakeholders on key issues, particularly on matters of policy or strategy. There is a considerable difference between the CEO conveying Board thinking or Board decisions, as opposed to making a judgement on Board decisions.

### **4.5 The outcomes, outputs and performance measures outlined in the Portfolio Budget Statement (PBS) 2004–05.**

4.5.1 First, we submit that it is entirely inappropriate to include as a term of reference a consideration of the PBS of 2004-05, which became redundant on 30 June 2005, and has since been replaced with more substantive Outcomes, Outputs and Performance Measures in the current PBS Statement, applying to the current financial year.

4.5.2 In any case, it is our view that the framing of the Outcomes, Outputs and Performance Measures in NOPSAs PBS is entirely inadequate.

4.5.3 Second, as we have submitted in Section 2.5 above, we believe NOPSA should adopt, and be subject to, Australia's National OHS Strategy 2002 to 2012, which requires regulatory agencies or OHS schemes to commit to nationally agreed performance improvement targets. Unlike say Comcare's PBS in relation to its OHS responsibilities, NOPSA sets no performance improvement targets, let alone those nationally agreed by Workplace Relations Ministers' Council.

4.5.4 To illustrate, Comcare's PBS includes the following:

## Comcare OHS Act Regulation – PBS 2007-08 – Performance Indicators

- Incidence of workplace injuries:
  - Target: 40% reduction over the 10 years to 30 June 2012
- Incidence of work related fatalities:
  - Target: 0 for the 10 years to 30 June 2012

4.5.5 In contrast, NOPSAs performance indicators are vague and non specific, as follows:

### NOPSA – PBS 2007-08 - Performance Indicators

An Australian oil and gas industry that properly controls the health and safety risks to the workforce at its offshore petroleum operations.

- Favourable benchmarking of the occupational health and safety of Australian operations with comparable operations in other countries.
- The frequency rate of accidents and dangerous occurrences is reduced or maintained.

4.5.6 Third, we believe that the NOPSA Performance Indicators for Output 1, *Regulatory oversight of operators' Safety Cases, safety management systems and operational practices coupled with effective monitoring, investigation and enforcement*, should be enhanced with a requirement to also report so it reads *Regulatory oversight of operators' Safety Cases, safety management systems and operational practices coupled with effective monitoring, investigation, enforcement and reporting*.

4.5.7 Fourth, we submit that the quality elements of the NOPSA Performance Indicators for Output 1 are not measurable, and at this stage there appears no agreed definitions as to how such indicators would be measured, or indeed if systems are in place to enable measurement. We include the measures below:

- *Safety Cases, pipeline management plans and diving safety management systems assessed to a consistent standard within regulatory timescales – we ask - how is the standard defined?*
- *Satisfactory stakeholder understanding regarding Authority's role and responsibilities, and interfaces with other government agencies – we ask, what is a satisfactory stakeholder understanding, and how will this be measured. Is it intended that there will be an annual survey?*
- *Satisfactory stakeholder feedback on efficiency and effectiveness of NOPSA's activities – we ask, which NOPSA activities might this indicator be referring to, and how is efficiency and effectiveness defined?*

- *Enforcement undertaken in a consistent and timely manner* – we ask, are there agreed benchmarks?
- *Every permanently attended facility inspected each year* – we suggest that such a process measure is quite meaningless when it contains no quality features
- *All accidents, dangerous occurrences and complaints investigated to agreed standards and timescales* – we ask, agreed with whom, and to what standards?

#### **4.6 Assess the operations of NOPSA against the findings of the 2004 review as to whether the principles are being met.**

4.6.1 See our comments in 4.2 above.

#### **4.7 Make recommendations to improve the overall operation of NOPSA and the NOPSA Board, and the safety performance of the Australian offshore petroleum industry.**

4.7.1 The MUA wishes to reserve its right to make a further submission in response to the Issues Paper which we understand that DITR will produce as a result of stakeholder input to the preliminary stage of the review.

4.7.2 It is our intention to propose a number of specific changes to improve the overall operation of NOPSA and the NOPSA Board, and the safety performance of the Australian offshore petroleum industry in a follow up submission.

4.7.3 There is one important issue that we believe the review must take into consideration in the review, and that is the emerging labour shortage in some occupations in demand in the offshore oil and gas industry.

4.7.4 It is our submission that there is a correlation between the practices being used to address labour shortages and the safety of facilities and the workforce, and that the issue should not be avoided by the review.

4.7.5 We note and agree with comments made by the CEO of NOPSA in a Monthly CEO Newsletter:

*“There is much anecdotal evidence that personnel shortages and related competency issues are becoming more severe in the Australian offshore oil & gas sector. The availability of experienced personnel for both offshore and onshore support is already a crucial issue for most companies. NOPSA is concerned that these pressures will have adverse safety impacts on operations, and reminds Operators of the requirement to have sufficient number of experienced personnel to manage operations both in normal and emergency situations.”*

## **Submission to the Independent Review of the National Offshore Petroleum Safety Authority by the Board of the National Offshore Petroleum Safety Authority.**

### **Purpose.**

1. The Board's submission to the "Independent Review" is to assist consideration of issues number 2, 4 and 7 of the Terms of Reference by providing comment on how the Board has interpreted and executed its responsibilities.

### **Primary Responsibilities. 150XL**

2. The Board has three primary responsibilities:

1. To give advice, and make recommendations, to the CEO about the operational policies and strategies to be followed by the Safety Authority in the performance of its functions;
2. To give advice, and make recommendations, to Ministers and the Ministerial Council about policy or strategic matters relating to the occupational health and safety of persons engaged in offshore petroleum operations; and
3. To give advice and make recommendations to Ministers and the Ministerial Council on the performance by the Safety Authority of its functions.

3. While the Board is charged with the execution of "such other functions (if any) as are specified in a written notice given by the Commonwealth Minister to the Chair of the Board", no such written notice has been given to date.

4. In order to execute its responsibilities effectively and efficiently the Board recognised that it must:

- Have a clear understanding of how its responsibilities differ from the responsibilities of the Safety Authority;
- Ensure that it is well informed and that its advice and recommendations to the CEO and to Ministers and the Ministerial Council are well informed, relevant, appropriate and timely; and
- Develop and apply efficient and effective processes for the conduct of Board business.

### **How the Board Has Interpreted and Executed Its Responsibilities.**

5. The responsibilities and functions of the Board explicitly are to provide advice and recommendations to the CEO and to Ministers. However, the Board recognises that while the compass of its policy and strategic advising to Ministers is wider than those matters directly pertaining to the operations of the Safety Authority, the Board has no mandate to directly involve itself in the promotion of occupational health and safety.

6. In order to carry out its responsibilities to provide advice and recommendations to the CEO and/or to Ministers that are both well informed and timely, the Board must have access to sufficient relevant information that is both robust and timely to enable it to decide whether advice and/or recommendations from the Board are warranted, and whether such recommendations and/or advice should be directed to the CEO, to Ministers, or to both. In this context the Board recognised that it needs to be proactive in identifying its information needs and in securing relevant information, and be responsive to the operational needs of the CEO of the Safety Authority.

7. While government officials and Ministers have been the primary source of information on government matters such as outstanding legislation, the bulk of the Board's information needs has been met by the Safety Authority, supplemented by information obtained from industry and workforce organizations and representatives.

8. Over the first six or so months of its operations the Board:

1. Developed and documented the processes to facilitate the efficient conduct of Board business including:
    - Procedures related to the preparation for and conduct of Board meetings, including the scope of “standing” reports the Board requested the CEO provide.
    - Ensuring that agreed actions are captured and acted on, post meeting reports to Ministers, and procedures for intersession communication between the Chair/Board/CEO.
    - A Board “Business Plan” and “Stakeholder Communication Strategy and Plan”, and
    - Meeting Secretariat support and Board data management and storage.
  2. Examined and provided advice to the CEO on:
    - Corporate governance arrangements and core process
    - Reporting of incidents and root causes
    - Industry and Safety Authority benchmarking.
  3. Undertook limited and highly selective engagement with stakeholders.
9. Essentially the Board has executed its responsibilities through the prism of risk:
- Risk in terms of the health and safety of those engaged in the offshore petroleum industry
  - Risk in terms of the integrity of the Safety Authority’s operations and reputation
  - Risk in terms of external strategic, policy and political factors.
10. During the first 12 months “Build Phase” the Board carefully examined the Safety Authority’s draft regulatory and business core processes. While the regulatory core processes are based on those used in UK North Sea, the Board decided that it would not be appropriate to accept the draft core processes at face value. The Board evaluated each core process to satisfy itself that no major deficiencies were evident in the context of the Australian offshore petroleum industry environment. The Board made a number of recommendations to the CEO and these were accepted and implemented. In the Board’s judgement consideration of the core processes was an essential risk management undertaking; risk in terms of the reputation of the Safety Authority and the workforce.
11. In an early report to Ministers (2004-05 Annual Report) the Board commended the progress that had been made by the Safety Authority, but identified what it considered to be the immediate risks faced by the Safety Authority at that time. In brief these were:
- Whether the Safety Authority had management and regulatory skills and processes adequate to effectively administer the regulatory regime and address “incidents”
  - Cultural and operational difficulties on the part of the Safety Authority, industry or State Agencies given the vast differences between the former and new regulatory regime and that not all “mirror” legislation was in place, and
  - A shortage of personnel in the event of a major incident or a plethora of less major incidents.
12. While brief “Board Members” only sessions to cover highly sensitive or personal matters are held at the commencement of most Board meetings, the CEO, or Deputy, is present for the duration of all Board meetings and although attends as an observer is invited to contribute to discussion. At each meeting the CEO provides written operational and corporate reports containing information of a kind and at a depth requested by the Board. The purpose of these reports is to inform the Board to enable it to consider whether the incidents, trends and issues arising warrant policy or strategic advice and recommendations from the Board to the CEO and/or to Ministers. From time to time the Board requests the CEO to provide issue or matter specific reports.
13. With the bedding down of its approach to the execution of its responsibilities and the experience gained, while the Board continued to examine and provide advice to the CEO on the core processes and guidelines developed by the Safety Authority, it intensified its dialogue with stakeholders and gave greater attention to broader policy and strategic matters. Arising from such consideration the Board

identified six longer-term potential risks to occupational health and safety in Australia's offshore petroleum industry that in its view warranted examination. These were the subject of reports to Ministers in July 2006 and subsequently and have been raised with various stakeholders. The six strategic areas are:

- Industry leadership in terms of furthering good/best practice industry wide initiatives.
- Effective engagement with the workforce, especially of health and safety representatives
- Whether, given workforce migration, there are workforce skills and experience deficiencies
- Whether the implications arising from ageing infrastructure is sufficiently understood
- Possible expansion of the Safety Authority's role, and
- Emergency response preparedness for a major event.

There have been a number of recent developments that have advanced most of these issues.

14. From the outset the Board recognised the importance of engaging stakeholders in dialogue as a vehicle for identifying potential concerns of a policy or strategic nature. To this end the Board developed and published a Board "Communications Strategy", which has been revised to maintain contemporary relevance, and maintains a Communications Plan/ Activity spreadsheet. At times, and where appropriate, the Board has taken the opportunity at such meetings to generate better understanding of issues on the part of the stakeholder group with the objective of improving health and safety outcomes through co-operation, in addition to ensuring that any subsequent advice to the CEO or Ministers is robust and well founded. Literally speaking such activity may fall outside of the Board's remit.

15. Over the last twelve months the Board has continued with its more intensive stakeholder engagement, with its examination of matters it judges to be of policy or strategic importance, and has conducted an internal review of its own operations with the objective of improving its efficiency and effectiveness. The Board has reviewed and amended the structure for meetings and information requests, and agreed improvements with the CEO. Key matters considered by the Board over this period include the Safety Authority's approach to risk management (which, as agreed between the CEO and the Chair, is a matter that could profit from further consideration by the Board), issues associated with whether the Safety Authority's business model provides/will continue to provide the capacity necessary for it to effectively carry out all of its responsibilities, and the parameters of the Board's remit.

16. In the Board's view the Safety Authority's performance has been sound throughout the period to date. In this period the Safety Authority has had to recruit appropriately skilled staff, build its systems and carry out its regulatory responsibilities in an environment of rapidly increasing industry activity. The Board believes that it has been able to make a constructive contribution to the set up of the Safety Authority's core processes and more broadly, but recognises that continued improvements to the Board's operational practices will generate further effectiveness and efficiency improvements.

17. To compliment the above commentary the following five attachments are included.

- **Attachment 1**. Board Information Flows.
- **Attachment 2**. Platform for Board Assessment of the Safety Authority's Performance
- **Attachment 3**. Board Procedures.
- **Attachment 4**. Board Communications Strategy.
- **Attachment 5**. Board Business Plan for 1 July 2007 to 30 June 2008

18. The Board would be pleased to meet with the Review Team should the members of the Review Team judge that such a meeting would be helpful.

Yours faithfully

Robert R. Alderson  
Chairman  
7 November 2007

**Attachment 1**

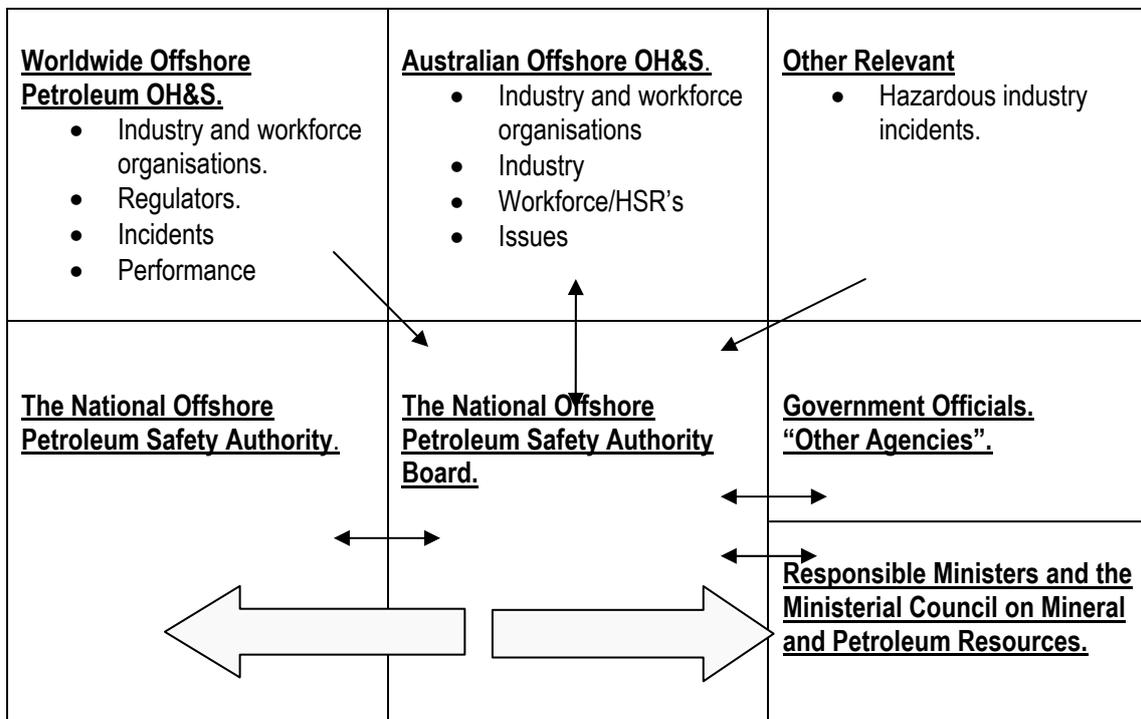
**BOARD INFORMATION FLOWS**

BOARD RESPONSIBILITIES. 150XL

To provide advice and recommendations to:

1. The CEO of the Safety Authority on operational policies and strategies.
2. Ministers and the Ministerial Council on:
  - Policy and strategic matters relating to offshore petroleum OH&S
  - The performance of the Safety Authority.
  - Such other functions (if any) specified in writing by the Commonwealth Minister. (No such functions have been specified to-date).

INFORMATION FLOWS



**Attachment 2**

**PLATFORM FOR BOARD ASSESSMENT OF THE PERFORMANCE OF THE SAFETY AUTHORITY.**

**150XE. NOPSA FUNCTIONS**

Promotion  
Monitoring  
Enforcement  
Investigation  
Reporting  
Advice  
Cooperation

**ENABLERS**

Core Regulatory Processes  
Safety Case Assessment  
Planned Inspections  
Incident Investigation  
Enforcement  
Promotion  
Registration  
Core Business Processes  
Risk HSE  
Finance HR  
IT Planning  
Governance  
Capabilities  
Resources Skills  
Competence Leadership



**OUTPUTS**

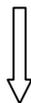
**RESULTS**

Performance Measures  
Trends  
Root Cause Analysis  
Benchmarking  
National Programs  
Enforcement Actions  
Performance Against Plan  
Industry Performance  
Advice and Reports

**STAKEHOLDERS**

Operators  
Industry Organisations  
Workforce  
Employee Organisations  
Contractors  
Ministers  
Government Agencies  
Stakeholder Surveys  
Staff Surveys

**ADVICE TO CEO** ← **BOARD REVIEW**



**ADVICE TO MINISTERS**

## **BOARD PROCEDURES**

### **Preamble**

In June/July 2007 the Board decided that with the “build” phase of the National Offshore Petroleum Safety Authority (the Safety Authority) being largely achieved it is both possible and appropriate that the Board devote greater attention to the identification and management of other potential risks and matters of strategic relevance to occupational health and safety. The Board reviewed its procedures to accommodate this and to generate more effective and efficient Board practices. This necessitated some revision to the Board’s procedures.

### **Member Selection.**

Members were selected on the basis of their skills and experience. They do not represent other interests such as those of their companies or affiliated organizations. Members agreed that this principle is to be applied without exception when engaged on Board business.

### **Functions of the Board**

The Board is required to provide advice to the Chief Executive Officer (CEO) concerning the operational policies and strategies to be followed by the Safety Authority in the performance of its functions, and the CEO must have regard to that advice.

- The Board thus will require from the CEO, as standing Agenda items for Board meetings, Operational and Corporate reports and (where appropriate) issue specific briefing reports. These reports are to include the identification of events and developments posing or potentially posing operational and/or reputation risks to the operation of the Safety Authority or to occupational health and safety more generally.

The Board is required to provide advice and recommendations to Ministers on policy or strategic matters relating to the occupational health and safety of persons engaged in offshore petroleum operations.

- The Board recognises that this responsibility is not confined to the operations of the Safety Authority, but will require input from the Safety Authority from time to time and from elsewhere.

The Board is required to provide advice and recommendations to Ministers on the performance by the Safety Authority of its functions.

- The Board has developed a transparent methodology to facilitate this process.

The Board may be charged with other functions as are specified by the Commonwealth Minister to the Chair of the Board in writing.

- The Board will address the procedural requirements arising with regard to such functions if and when other functions are so delegated to the Board.

### **Procedures for Convening Board Meetings**

The Board should meet at least quarterly, but additionally if the Minister, or the Chair plus two members, consider that additional meetings are warranted.

Board meetings are to be held in Perth, but may be held elsewhere when consistent with optimising opportunities for stakeholder communication, including in association with the Australian Petroleum Production and Exploration Association Annual Conferences, and having regard to the business at hand and to costs.

Board meetings may be held in venues other than Perth, including in Melbourne, Darwin and Canberra, if circumstances warrant such a location.

The Agenda for meetings will be developed by the Chair in consultation with other members of the Board, the Executive Officer to the Board and the CEO having regard to the Board's Business Plan, matters arising from previous meetings, issues raised by Ministers and/or the CEO, and urgent unforeseen developments requiring attention.

The Board will divide its formal meeting agenda into two sections. One to consider matters related to the operation of the Safety Authority. The other to deal with policy and strategic matters of potential policy or strategic importance to Ministers but not directly related to the Safety Authority.

Board members only sessions will be held as required by the Chair or Board members.

### **Disclosure of Interests**

Any Board member who has an interest in the offshore petroleum industry, or a company or a project that is relevant to the subject of proposed discussion, or to a discussion as it unfolds, ought to declare that interest to the Chair as soon as that interest is perceived.

Where the Chair determines that "the interest" is peripheral to the discussion and to decisions that might result from the discussion, the Chair may determine that the Board member can continue to participate in the discussion and whether he/she can or cannot vote on the issue.

Where the "interest" is more direct, but not fundamental, the Chair may decide that the member may be present and participate in discussion, but not vote in respect of any decisions made. A Board member may absent himself or herself from the discussion.

Where the "interest" is fundamental, the Board member must not be privy to the discussion or decisions relating to that matter.

In the event of a highly sensitive matter that the CEO believes may be problematic for one or more Board members the CEO will discuss the matter with the Chair to decide how it should be handled.

Following receipt of the appropriate forms from the Executive Officer to the Board, members will declare their direct share holdings and self managed funds in companies with which NOPSAs may have dealings. The Chair is to note the declarations annually, annotate that they have been seen and present to the Executive Officer to the Board in a sealed envelope for secure storage.

There will be a standing Agenda item for meetings at which Board members will declare any changes to their pecuniary interests.

### **Quorum**

The Board has seven members, a Chair plus six. Should circumstances warrant, the legislation empowers the Minister to appoint an acting Chair and acting Board members. It is, therefore, agreed that a quorum be the Chair, or the person deputising as the Chair, plus four. In unavoidable circumstances participation may be by way of electronic medium.

As a fundamental principle the Board should strive for consensus on all issues.

On "safety policy" issues, if an impasse cannot be broken following exhaustive debate the Chair's report to the Minister(s) must contain a minority report that identifies the Board members that hold the minority view.

On non-"safety policy" issues, a vote of five out of seven (or in the absence of one or two members four out of five or six) will determine the outcome.

### *Board Records*

Records of each meeting must be prepared by the Executive Officer (EO), cleared by the Chair, and be subject to formal endorsement by the Board. These records comprise “minutes” and “actions arising”.

From the commencement of the 2007-08 year Board decisions requiring action by, or the attention of, the CEO are to be provided by the Chair in writing to the CEO.

The Chief Executive Officer (CEO) of NOPSA will provide the Executive Officer to the Board from within NOPSA staff.

The Executive Officer is to be responsible for all arrangements associated with meetings and will undertake research as required by the Board Chairman.

The CEO agreed that the Executive Officer must recognise that while performing functions for the Board, she or he is responsible to the Board and not to the CEO of the Safety Authority.

The Executive Officer must not disclose Board business to any member of staff of the Safety Authority, including the CEO, unless so authorised by the Chair of the Board.

Unless authorised by the Chair, Board material is to be protected from other than Board members and the Executive Officer unless access is authorised by the Chairman as per the Agreement signed by the CEO and Board Chair.

The CEO of the Safety Authority agreed to provide secure operational and storage facilities.

An agreement with respect to electronic and hard copy document management and storage consistent with Australian National Audit Office (ANO) requirements on confidentiality is to be agreed and signed by the Chair and CEO and submitted to the ANO for confirmation as to its acceptability.

Members may obtain access to Board records generated during the term of their appointment for up to seven years after the termination of their appointment.

### **Reporting to Minister and Public.**

After each meeting the Chair will submit a report on any key issues and outcomes to the Minister or, where appropriate, to relevant Ministers.

When key issues of safety or of a policy nature arise the Chair must immediately alert relevant Minister(s) to the issue.

Within the Board, only the Chair ought to be authorised to make public comment on issues associated with offshore safety. If the issue has the potential to be politically sensitive the Chair must alert the relevant Minister(s) beforehand whenever possible.

On public matters close consultation between the Chair and the CEO must be maintained.

In the event of a major incident or significant media issue, the CEO is to notify all Board members and copy them any related media release at the time of occurrence.

## **Confidentiality**

All stakeholder consultations/communications with the Board are to be considered as confidential.

At all times the Board will ensure that information provided to the Board by a stakeholder that is lawful and considered by the stakeholder to be confidential is not inadvertently, incorrectly or prematurely revealed to a third party. To this end, where such information is provided to the Board or representatives from the Board, the Board/Board representative will seek the express permission of the stakeholder to reveal such information to a specified third party where there is good reason to do so consistent with the Board's responsibilities and before it does so.

## **Deputy Chair**

The Board recognises that legislation does not provide for the formal position of Deputy Chair. However, for practical reasons, in the event that the Chair is absent from a Board meeting due to unforeseen and unavoidable circumstances, the Board agreed to elect one of its members to deputise for the Chair if such an eventuality were to occur. It was agreed that the elected person would serve in such a capacity for the three-year term of appointment.

Revision of October 2007

## **BOARD COMMUNICATIONS STRATEGY**

### **Purpose**

The Communication Strategy is designed to serve the Board's need to effectively discharge its responsibilities and assist, rather than replace or duplicate, appropriate communication between the Safety Authority and stakeholders.

### **Role of the Board**

The primary role of the Board as set out in the Petroleum (Submerged Lands) Amendment Act 2003 (PSLAA) is to provide:

- Advice to the CEO of the Safety Authority about operational policies and strategies to be followed by the Safety Authority
- Advice and recommendations to responsible Ministers and the Ministerial Council on Mineral and Petroleum Resources (MCMMPR) on policy and strategic matters related to occupational health and safety: and
- Advice and recommendations to responsible Ministers and the MCMMPR about the performance by the Safety Authority of its functions.
- Other functions (if any) as specified by the Commonwealth Minister. (To-date no other such functions have been specified).

### **Objectives**

The objectives of the Communications Strategy are to ensure that; the Board is well informed on issues of importance to key stakeholders; the Board informs non- Ministerial stakeholders of matters of importance in a transparent manner; and in respect of the CEO of the Safety Authority and Ministers, that the advice given and recommendations made are informed, appropriate, cogent and timely.

### **Stakeholders**

To address these objectives efficiently and effectively the Board concluded that an appropriate strategic grouping of stakeholders would be:

- Tier 1. Highly proactive approach. The Safety Authority CEO and Ministers/Parliamentary Secretaries with primary responsibility for Safety Authority/ offshore petroleum occupational health and safety related issues.
- Tier 2. Moderate proactive approach. Industry (management, workforce, employee organisations and Associations) and Senior Officials of Government Departments and Agencies with responsibilities related to the Safety Authority.
- Tier 3. Responsive only. The wider community.

However, with respect to all stakeholders, the Board will be highly responsive to all issues and/or concerns raised by stakeholders with the Board, either directly or via the CEO of the Safety Authority.

### **Key messages**

Key underlying messages at this time are:

- The offshore petroleum industry is of major importance to Australia
- While by world standards the Australian industry has a good occupational health and safety record, there is room for improvement to reach world-class performance levels.
- The Commonwealth, State and the Northern Territory Governments, together with management and the workforce within the Australian offshore petroleum industry all supported

fundamental change to Australia's offshore occupational health and safety regime to drive improved outcomes.

- The Safety Authority and the Board are committed to achieving world's best occupational health and safety outcomes.
- The Board's role is to provide policy and strategic advice to the CEO of the Safety Authority and to relevant State/NT and Commonwealth Ministers, and the Ministerial Council on Mineral and Petroleum Resources
- The CEO of the Safety Authority is available for direct consultation with stakeholders on specific issues
- The Board places strong emphasis on the need for effective workforce engagement in the Safety Case regime and strong industry leadership on initiatives to improve occupational health and safety outcomes..
- In the Board's view the Safety Authority has performed creditably to-date.
- While the Board has no responsibility for establishing levies, which is a responsibility of the Commonwealth DITR, the Board would be concerned if the Safety Authority was under funded, or if the levy structure adversely impacted industry's attitude to the Safety Authority's administration

### Strategic Approach

#### Tier 1 Stakeholders.

Under the provisions of the Petroleum (Submerged Lands) Amendment Act 2003 the Board is required to provide advice and recommendations as detailed under the heading "Role of the Board" above, and the Chair is required to prepare an Annual Report on the Boards operations to responsible Ministers and the Ministerial Council on Mineral and Petroleum Resources. The Report is a public document.

All formal advice and recommendations to Ministers, the Ministerial Council and the CEO of the Safety Authority will be in writing from the Chair.

The Chair will alert relevant Ministers immediately by telephone/email if a major or highly sensitive issue arises.

The Board/ a delegation from the Board, will seek to meet with responsible Commonwealth and Northern Territory/State Ministers (and their staff) at least once a year at appropriate times to provide them with briefing on key matters and to obtain any feedback that they wish to provide.

In respect of the Safety Authority, informal dialogue between the Board and individual members of the Board and the CEO for the purpose of improving two way understanding and "testing ideas" will be ongoing, with Board members fully alert to the respective responsibilities of the Board and CEO. However, all formal requests for advice and responses to such requests will be in writing.

In the event that either the CEO urgently requests advice from the Board out of session, or the Board wishes to provide advice to the CEO out of session, the Board will undertake inter-session deliberation and if required, the Chair will respond orally or by email and confirm by letter.

#### Tier 2 Stakeholders.

To ensure that the Board is well informed on issues of concern to industry and to Senior Officials responsible for Safety Authority related matters, the Board/ a delegation from the Board, will seek to meet with the APPEA Council, IMCA and IADC an appropriate delegation from the ACTU and relevant State representatives, and with Senior Officials responsible for offshore petroleum activity at least once a year. If warranted by the need to address issues that arise, additional meetings may be sought. Further, dialogue between Board representatives and relevant Senior Management and workforce

representatives from individual companies may be sought as deemed appropriate in the light of issues raised.

The purposes of such meetings are: to dialogue on matters of interest or concern to either or both parties to ensure that there is a mutual understanding of the background, facts and concerns; to impart or receive information likely to be of interest; and, to foster the “no surprises” approach the Board intends to adopt as an integral part of its culture.

The Board will respond in a timely fashion to any issues driven requests or proposals that it may receive from time to time.

### Tier 3. Stakeholders.

The Board holds the view that the bulk of proactive communication with the public at large concerning occupational health and safety in Australia’s offshore petroleum industry at government/agency level, should derive from the CEO of the Safety Authority and responsible Commonwealth, State and the Northern Territory Ministers. The Board, through the Chair, will however, having regard to the responsibilities of the Board, respond to reports in, or letters to, the media where such a response is desirable to correct or establish the facts and where the Board is clearly best placed to provide such comment.

The Board may also, from time to time, seek to communicate with the relevant Statutory Authorities and international bodies.

### Review of Strategy

The Board recognises that its communications strategy may need to change in the light of experience or changing events. It will review its communications strategy annually.

12 April 2005

First revision 5 July 2006

Second revision October 2007

**BOARD BUSINESS PLAN 1 JULY 2007 –30 JUNE 2008.**

This Business Plan sets out the “Headline” activities that the Board plans to undertake during the 2007-08 year. The time path set for each phase of the Board’s work program is geared to the Board’s meeting dates scheduled for the year. This provides a framework for inter-meeting action and the timing of Board decisions. With respect to Safety Authority business in particular the Board will continue to take a “risk” based approach.

<b>25-26 July 2007 (Perth)</b>
Consider the CEO’s Operational and Corporate Reports.
Refine documentation of the “two contexts” of Board responsibilities.
Document the agreed changes in reporting required from the CEO as a consequence of the stronger risk/risk management focus adopted by the Board.
Stage 1 of the evaluation of the Board’s performance
Review, and if needed, revise the Board Communication Strategy.
Action the residual items agreed at 8 June 2007 meeting with workforce organisations.
Agree any revision to Board Business Plan for 2007-08
Consider the CEO’s response to the Board’s request for a detailed briefing on the state of readiness and operational capacity of the Safety Authority.
<b>23 October 2007 (Perth)</b>
Consider the CEO’s Operational and Corporate Reports.
Conclude consideration of the state of readiness and operational capacity of the Safety Authority.
Complete the internal; evaluation of the Board’s performance.
Confirm the top key strategic issues identified, evaluate developments and decide on further appropriate action.
Confirm that all actions required in respect of fully securing Board record management and storage have been completed as per National Archives Guidelines
Consider input to Independent Review of Safety Authority.
Decide on content of document kit prepared to assist backgrounding of “new” Board members.
<b>30 January 2008 (Perth)</b>
CEO briefing for “new” Board members.
Consider the CEO’s Operational and Corporate Reports.
Consider which, if any, issues are likely to be of longer term strategic significance
Evaluate any “live” proposals to add additional responsibilities and functions to the Safety Authority and determine the likely implications for the Safety Authority.
In conjunction with the CEO, commence evaluation of the risk matrix developed by the Safety Authority to test its completeness and integrity.
<b>8-9 April 2008? Perth (APPEA Conference)</b>
Consider the CEO’s Operational and Corporate Reports.
Take stock of developments and decide on appropriate action in respect of “strategic policy” issues.

Consider Board and Safety related issues regarding the three-year independent review of the Safety Authority and decide on action in the light of issues arising.
Board preliminary assessment of performance of the Safety Authority for 2007-08
Review Board performance to-date against 2007-08 Business Plan and finalise Board Business Plan for 2008-09
Review performance of Board in terms of its three core responsibilities and practices and procedures.
Finalise evaluation of the Safety Authority's risk matrix.
Identify key issues for inclusion in Board 2007-08 Annual Report

#### ACTUAL AND SCHEDULED DATES OF BOARD MEETINGS.

NOTE. Meeting dates include time allocated for consultations with stakeholders and attendance at the APPEA Annual Conference

#### **2005-06**

10-11 February 2005	Perth
11-13 April 2005	Perth
15 June 2005	Melbourne
7-8 September 2005	Perth
23-24 November 2005	Perth
1-2 March 2006	Perth
11-12 May 2006	Gold Coast

#### **2006-07**

5-6 July 2006	Perth
13-14 September 2006	Darwin
22-23 November 2006	Melbourne
31 Jan. - 1 Feb. 2007	Perth
19-20 April 2007	Adelaide
7-8 June 2007	Melbourne (Strategic meeting)

#### **2007-08**

25-26 July	Perth
23 October 2007	Perth
30 January 2008	Perth (Planned)
8-9 April 2008	Perth (Dates subject to APPEA Annual Conference)
July 2008? (To be determined).	



**Submission to the 2008 Independent Review  
of the  
National Offshore Petroleum Safety Authority**



**November 2007**

# **NOPSA Submission to the 3-Year Independent Review of the National Offshore Petroleum Safety Authority**

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## **Executive Summary**

This submission to the 3-year independent review of the National Offshore Petroleum Safety Authority addresses the terms of reference provided by the Department of Industry, Tourism and Resources for the review of NOPSA operations over the three year period beginning on 1 January 2005. The review is required under section 150Z of the *Petroleum (Submerged Lands) Act 1967* (PSLA).

The submission provides consideration of 6 listed items from the terms of reference, relevant to NOPSA's operations, and includes:

- 1 Improvement in Occupational Health and Safety
- 2 Progress against MCMPR Communiqué No. 1 – 6 Principles
- 3 Progress against the Safety Authority Functions / Corporate Plan
- 4 Working with the Board
- 5 Portfolio Budget Statement
- 6 Assessment against the findings of the 2004 Review

## **Emerging Issues**

The Safety Authority is facing internally a range of emerging issues, including:

- 'Facility' definition – which impacts on the regime's inclusion or exclusion of certain vessels (e.g. construction vessels, anchor handlers).
- Application of safety levies – to certain vessels not currently allowed for within the levies regulations.
- Pipeline integrity, well operations and Carbon capture and storage – consideration of potential expansion of NOPSA's role.
- Physical boundaries of the regime (e.g. onshore facilities controlling subsea developments and pipelines).

The Safety Authority, along with industry, is also facing the following issues:

- Safety leadership and safety culture;
- Aging infrastructure;
- People and skills shortages; and
- Further contractorisation of the workforce.

1. Without limiting the matters to be covered, an assessment of the effectiveness of NOPSA in bringing about improvements in the occupational health and safety of persons engaged in offshore petroleum operations.

### **Accidents, Dangerous Occurrences and Complaints**

- 1.1 NOPSA conducts investigations into accidents and dangerous occurrences, which under the legislation must be reported to NOPSA by facility Operators, and also into any complaints made by any party about offshore health and safety. The number of accidents and dangerous occurrences reported during the 2006-07 financial year (191) showed a small increase over 2005-06 (189). In addition, there was a notable increase in gas releases during the same period. However, it is considered that industry's increased awareness of the reporting requirements may have had some influence on this increase. There was a significant reduction in the number of complaints reported to NOPSA in the 2006-07 financial year (21) compared to the previous period (44).
- 1.2 The rate of Lost Time Injuries (LTI) relative to working hours showed a small increase through the 2006-07 financial year. For further information refer to Section 1.32 below on the Ministerial KPI report. Increased awareness of the requirement to report LTIs is also thought to have contributed to this result.

### **Benchmarking**

- 1.3 During the year, NOPSA continued to work with seven other countries through the International Regulators Forum (IRF), to input data to the established international health and safety performance measurement system. Australian data from January 2005 to December 2006 have been submitted. The resulting information assists NOPSA to identify areas of potential improvement, and will in future be used to influence industry. Note that for comparison with IRF, NOPSA uses both 1 day and 3 day LTI injury rates.

Injury Rates Comparison NOPSAs / IRF Countries 2004 - 2006

	2004	2005	2006	% Change 2004-05	% Change 2005-06	Units
<b>(ADI + LTI) 1 day + Major</b>						
NOPSA		4.94	6.94		+ 40.5	Rate / million hours
IRF "Average"	3.28	3.39		+ 3.4		Rate / million hours
IRF "Best"	2.93	2.23		- 23.9		Rate / million hours
<b>(ADI + LTI) &gt;3 days+ Major</b>						
NOPSA		2.82	5.02		+ 77.7	Rate / million hours
IRF "Average"	3.14	4.00		+ 27.4		Rate / million hours
IRF "Best"	1.79	1.91		+ 6.7		Rate / million hours

**Definitions:**

ADI: Alternative Duties Injury  
LTI: Lost Time Injuries

1 day / 3 days: minimum absence from work  
Major: Major injury

## **Inspections**

- 1.4 NOPSA undertakes inspections and audits to monitor and verify the health and safety performance of Operators who, in creating risk by the conduct of their operations, must also actively manage that risk. The overall inspection programme for a given facility progressively draws on the Safety Case in force and considers the major accident events to ensure verification of the risk controls for the risk profile for the stage in the life of the facility.
- 1.5 Inspections also include an occupational health and safety issue such as noise or fatigue and the national programmes (refer to Sections 1.12 to 1.18). Inspections and audits were undertaken using a documented core process in which all OHS inspectors undertake regular training. Inspections are undertaken by two or more inspectors.
- 1.6 The planned inspection core process requires inspectors to prepare an inspection brief, conduct onshore interviews, complete a facility inspection (including liaison with Health and Safety Representatives (HSR) and workforce representatives where applicable) and prepare an inspection report on completion. During the 2006-07 financial year NOPSA undertook 68 planned inspections of a total of 59 'attended' and 34 'not normally attended' facilities and associated business premises.

<b>Inspections 2006-07</b>	Facility Type		Total
	Attended	Not Normally Attended	
Numbers of Facilities	59	34	93
Distinct Facilities Inspected	47	3	50
Repeat Inspections	15	1	16
Total Inspections Conducted	62	6	68

Note that the quantities of facilities shown here differ from those in listed in Table 1.1 of the NOPSA Annual Report 2006-07 where only leviable facilities are counted. The quantity of inspections has increased slightly due to recent updates to our records.

- 1.7 The number of inspections undertaken is risk-based with a target minimum of one inspection per manned facility per year. 'Not normally attended' facilities are inspected on an opportunity basis. It should be noted that a number of the 'attended' facilities are mobile facilities and therefore move in and out of the regime, sometimes for relatively short work campaigns. This can impact on the ability of NOPSA to inspect such facilities.
- 1.8 Written inspection reports were produced which summarised findings and made recommendations to strengthen the Operators' risk control measures.

1.9 Common areas, identified during inspections, for improvement were:

- permit to work systems;
- workplace risk assessment;
- supervision;
- competency – education and training;
- mechanical handling and lifting operations;
- Operators' auditing and monitoring of their facilities; and
- maintenance of ageing facilities.

1.10 It is expected that ongoing verification of risk control measures in place will improve industry safety performance in the long-term. This verification drew attention to the need for Operators not only to improve implementation of their own audit systems, but to better close out actions arising from these audits and recommendations from NOPSA inspections.

1.11 NOPSA was also proactive in undertaking visits to facilities prior to their entry into Commonwealth waters, including Mobile Offshore Drilling Unit (MODU's) under refit in Singapore and Shanghai. These visits are not 'inspections' as NOPSA has no jurisdiction.

### ***National Programmes***

1.12 NOPSA's national programmes provide a focus for industry to improve health and safety outcomes and reduce the likelihood and consequences of major accident events. There are 2 national programmes: facility integrity and lifting operations. The scope of NOPSA's facility integrity national programme is to facilitate the Operator's inspection, testing and maintenance arrangements to prevent loss of containment of petroleum fluids that may arise from failure of offshore production topside structures, process equipment, piping and systems.

1.13 The lifting operations program inspects Operators' lifting procedures, and arrangements for inspections, maintenance and testing of lifting equipment. The scope of this program covers loads freely suspended from a crane or winch – including personnel and man-riding. The lifting operations national programme is a joint programme with the International Regulator's Forum (IRF).

1.14 The national programmes are informed by data from prompt sheets completed during NOPSA planned inspections and Accident and Dangerous Occurrence reporting. The material in the prompt sheets reflects NOPSA's expectation of 'good practice' in each of the topic areas. The national programmes have been included in the planned inspection core process and the sheets are available to industry via the NOPSA website.

1.15 During 2006, Operators reported that the prompt sheets were useful guides in the development and revision of their management systems and related maintenance systems.

- 1.16 Operators report accidents and dangerous occurrences to NOPSA. In the period January 2005 to June 2007, there have been 676 incidents reported to NOPSA with approximately 21% related to facility integrity matters and 12% actual hydrocarbon process releases. The main root causes were defective equipment or parts (24%), inadequate preventative maintenance (22%) and procedures not followed or inadequate (13%).
- 1.17 Initial results from planned inspections and incident analyses have been presented to industry and are available on the NOPSA website. In relation to facility integrity, the main findings were:
- 16% of facility integrity systems do not meet facility integrity good practice expectations, with the balance split between partially (43%) and fully (41%) meeting facility integrity good practice expectations.
  - Audit and review elements are major weaknesses in facility integrity systems.
- 1.18 For the lifting operations, early indications suggest that lifting personnel competency, and the management of lifting and crane operations are the main areas of concern.

## **Promotion**

### *Guidelines and Alerts*

- 1.19 During the year, eight guidelines and six safety alerts were published on the NOPSA website. These documents provided guidance to Operators in relation to Facility Definitions, Safety Case and Pipeline Safety Management Plan Levies, Asbestos Management, procedures for submission of documents, and monthly reporting of accidents and dangerous occurrences. Alerts included issues such as failure to follow safe systems of work, potential man-overboard hazards, lifeboat equipment failure and fast rescue craft launching. An increased level of industry awareness associated with the publication of guidelines and safety alerts is expected to contribute to an improvement in industry health and safety performance. Some safety alerts were adopted internationally by regulators and industry associations.

### *Website*

- 1.20 NOPSA continues to utilise this important communication channel as a means of promoting health and safety issues and findings from industry activities. The website is used to share information on policy, legislative framework and guidance on core regulatory processes. Recent examples include a guideline on documentary submission processes; a research report on the review of offshore helicopter operations; and NOPSA's annual operating plan.

## *CEO Newsletter*

1.21 NOPSA issues on a monthly basis a concise newsletter that covers up to date industry matters, stakeholder issues, safety information and statistics on regulatory activities, including incident data and lessons learned from planned inspections and Safety Case assessments. The newsletter is distributed to approximately 400 recipients across the industry and internationally, and it is more generally available on the NOPSA website.

## *Conferences and Exhibitions*

1.22 NOPSA targets both national and international safety conferences for opportunities to make presentations, operate information stands and learn from the proceedings. NOPSA has participated in the organising committee for both the recent Health and Safety Representatives (HSR) Forum and the International Regulators Forum (IRF) conference. NOPSA is also a regular presenter at the HSR Forum and the APPEA National Oil and Gas Safety Conference.

## **Assessment**

1.23 A total of 119 assessments were performed during the 2006-07 financial year. Of these 86 revised safety cases were assessed, 11 were new safety cases, eight were Field Development Plans, seven were Diving Project Plans, six were Pipeline Safety Management Plans, and one was a Diving Safety Management System.

## **Enforcement**

1.24 NOPSA's enforcement activities are conducted against the principles outlined in its Compliance and Enforcement Policy. NOPSA uses a documented process known as the Enforcement Management Model (EMM) as a decision making tool when considering potential breaches. This model is based on the model used by the UK HSE. The EMM comprises a set of comparative tests which are applied to an incident or breach and its consequences, both actual and potential, to generate an enforcement 'recommendation'. By applying this model, enforcement decisions are defensible and consistent, having regard to the severity of the incident and the potential failures exposed.

1.25 The EMM allows a graduated enforcement response, varying from no action through formal letters of advice, notices, up to prosecution or withdrawal of Safety Case acceptance. During the 2006-07 financial year NOPSA clarified elements of the EMM, drawing on its operational use and made presentations to Operators and industry associations on its application. Using the EMM, NOPSA issued 14 Improvement Notices and one Prohibition Notice during 2006-07. A number of formal letters were also issued to duty holders and NOPSA undertook three investigations with a view to prosecution. In addition, NOPSA initiated the withdrawal of a previously accepted Safety Case where there was a general failure to implement effectively the safety management system

(SMS). The initiation of this process prompted significant improvement in the implementation of the operator's SMS and therefore NOPSA subsequently decided not to proceed with the withdrawal of acceptance.

- 1.26 NOPSA prepared two prosecution briefs for the Commonwealth Director of Public Prosecutions during the 2006-07 financial year. These related to a fall from height in a tank of an FPSO and a major gas release during wire-line operations. The 'fall from height' prosecution resulted in a guilty plea.

### ***Consultation with HSRs and workforce representatives***

- 1.27 The NOPSA core process for planned inspections requires HSRs (if at the facility) and members of the workforce to be consulted at every inspection. NOPSA is committed to keeping HSRs informed of initiatives through the CEO's Newsletter, by providing a report on the status of the national programmes and by regularly providing presentations at each HSR Forum, such as the presentation on NOPSA's planned inspection findings at the HSR Forum in August 2007.
- 1.28 There is a strong system of HSRs in the offshore petroleum workforce. Around 100 people have been selected or elected members of their work group as HSRs – to be their representatives in Occupational Health and Safety consultations with the facility Operators, managers and supervisors. This represents more than one HSR for every 100 members of the offshore workforce.
- 1.29 NOPSA has worked to close-out actions that were raised by HSRs at their 2006 Forum, and contributed to the organisation of the 2007 HSR Forum.
- 1.30 NOPSA encouraged and funded the development of an online forum for HSRs which provides internet accessible discussions on topics of interest in the offshore petroleum workplace. The forum is operated by health and safety representatives from the offshore petroleum operations workforce.
- 1.31 NOPSA put in place a new three day training course for HSRs based on a curriculum prepared by the National Oil and Gas Safety Advisory Committee (NOGSAC). The course is currently given by six separate training providers accredited by NOPSA and their courses are accredited annually by NOPSA.

## Ministerial KPI Report

1.32 NOPSA collects data on a range of health and safety indicators, and provides quarterly reports to the Minister. A summary follows of the performance of the industry, based on these indicators.

	Measure				Trend		Reference
	Basis	2005	2006	2007 (Expected)	Calendar Year 2005 to 2006	Calendar Year 2006 to 2007 (expected)	
<b>All reported incidents</b>	Qty	138	191	250	Increasing + 38%	Steady - 1%	S 2.3.2
<b>Major incidents</b>	Qty	38	43	43	No discernible trend	No discernible trend	S 2.3.5
<b>Lost Time Injury Frequency (LTI) absences of 1 day or more</b>	Rate	3.26	4.57	3.15	Increasing. + 40%	Decreasing - 31%	S 1.1.1
<b>LTI + Alternative Duties Injury Frequency (ADI) absences of 3 days or more</b>	Rate	2.82	5.02	5.27	Increasing + 78%	Steady + 5%	IRF Performance Measurement S 1.1.1
<b>Total Recordable Cases LTI + ADI + Medical Treatment Injury (MTI)</b>	Rate	14.31	13.41	15.46	Steady - 6%	Increasing + 15%	S 1.1.1
<b>Lifting Operations Incidents</b>	Qty	73	70	72	No discernible trend	No discernible trend	S 1.2.2
<b>Gas Releases Major + Significant</b>	Qty	12	19	26	Increasing +58%	Increasing +37%	S 1.2.3

The period of monitoring is from January 2005 to September 2007. Trend for 2007 is estimated from the January to September data. References are to sections of the quarterly Ministerial report unless otherwise noted. Injury rates are per million hours worked.

## Stakeholder Survey

1.33 NOPSA is committed to listening to its stakeholders, and responding to comment in a constructive manner. In line with this commitment, in 2007 NOPSA commissioned a survey of its Key Stakeholders. The following provides a summary of some of the survey outcomes relating to safety improvement.

<i>The ability to implement industry good practice has been assisted by NOPSA</i>	Two-thirds (66%) of respondents agreed or strongly agreed that NOPSA has assisted the implementation of industry good practice.
<i>The ability of industry to meet its safety targets has been assisted by NOPSA programs</i>	55% Agree or Strongly Agree
<i>How satisfied are you that the safety case regime is adding value to offshore OH&amp;S?</i>	55% are Satisfied or Very Satisfied

## Cultural Change

1.34 There has been appreciable cultural change in the industry with several initiatives contributing to the delivery of improved health and safety outcomes for the industry. The Australian Petroleum Production and Exploration Association held the National Oil & Gas Safety Conference on the 8th and 9th of August 2007 in Perth. The conference was a key forum that addressed Health and Safety issues confronting all sectors of the petroleum, exploration and production industry in Australia. The 2007 Conference Programme was developed by the Steering Committee which was drawn from HSRs, APPEA members, NOPSA, the Australian Government Department of Industry, Tourism and Resources and the International Association of Drilling Contractors Australasian Chapter.

1.35 A national forum for petroleum industry Health and Safety Representatives (HSR) has been held at intervals of 18 to 24 months since the late 1990s. The main objective of these events is to provide an opportunity for offshore workplace HSRs from all jurisdictions to meet, exchange information and develop possible strategies to assist in the management of offshore safety issues from a workplace point of view. NOPSA has been involved in the organisation of these events since its commencement of operations in 2005. Each forum involved presentations from NOPSA and workforce representatives. NOPSA facilitated workshops on the role of HSRs and the challenges they face, which produced actions for implementation in the following year.

1.36 Chief executives of upstream oil and gas companies and contracting businesses have used APPEA's first Safety Leadership Forum to pledge that the industry will pursue a strong improvement in safety performance. Meeting in Perth during APPEA's 2007 National Safety Conference, 30 CEOs agreed that their target for the industry will be to improve safety outcomes in the near term by 25 percent year-on-year.

- 1.37 CEOs made personal and corporate commitments to improve collaboration on safety issues in the industry, to foster cultural understanding and to develop a caring culture, to further develop workforce competency, and to develop and advance senior leadership safety commitment. The CEOs agreed to meet again in April and August 2008 to review safety progress and to renew their commitment. They have also established 5 working groups.
- 1.38 It is also noted that APPEA further demonstrated their commitment to improvements in health and safety with the appointment of one Health and Safety Advisor, with a further appointment planned.
- 1.39 APPEA included a strategy for improving health and safety in their first ever strategic leaders report 'Platform for Prosperity'.

**2. Progress against the principles for the Regulation of Offshore Safety in Australia adopted by the MCMPR March 2002 Communiqué and assess whether the business model is appropriate and able to deliver the MCMPR objectives.**

- 2.1 In a March 2002 Communiqué, the MCMPR adopted 6 principles for the Regulation of Offshore Safety in Australia, as detailed below:

***An enhanced and continuing improvement of safety outcomes in the Australian offshore petroleum industry is a priority for Governments, industry and the workforce.***

- 2.2 Improvement in health and safety outcomes is addressed in Section 1 above.

***A consistent national approach to offshore safety regulation in both Commonwealth and State/NT waters is essential for the most cost-effective delivery of safety outcomes in the offshore petroleum industry.***

- 2.3 Part 3 of the PSLA provides for a single national authority to administer Commonwealth, State and Northern Territory offshore health and safety legislation. At the year end, three states and the Northern Territory had fully 'mirrored' the necessary Commonwealth legislation to enable NOPSA to regulate in designated coastal waters. NOPSA assisted the Western Australian Designated Authority – the Department of Industry and Resources (DoIR) – to draft the necessary legislation in their coastal waters. The amended Western Australian PSLA 1982 and associated Regulations for Diving Safety, Occupational Safety and Health, Pipelines and the Management of Safety on Offshore Facilities, came into force in March 2007. Similar regulations are currently under development in Tasmania and Queensland.

***The safety case approach is the most appropriate form of regulation for the offshore petroleum industry to deliver world class safety by developing appropriate behaviour within the industry.***

- 2.4 The *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 1996* (MoSOF) introduced a requirement for the operator of an offshore petroleum facility to develop a Safety Case in consultation with its workforce. These regulations require each facility to be managed in accordance with a Safety Case that has been submitted by the Operator and accepted by NOPSA.
- 2.5 NOPSA has implemented a safety case assessment policy and standard operating procedures to ensure that safety cases are assessed in accordance with the criteria laid out in the MoSOF Regulations. NOPSA has also published Safety Case Guidelines which assist industry with the preparation of the documentary submission. NOPSA is currently reviewing these guidelines as part of continuous improvement to assist the industry to deliver world class health and safety.
- 2.6 The Stakeholder Survey reported that the Safety Case approach was accepted by the industry. In relation to the question about how satisfied stakeholders were that the safety case regime is adding value to offshore OH&S, 55% of all respondents were either satisfied or very satisfied.

***Efficient and effective safety regulation requires:***

- a) ***a legislative framework that is clear and enforceable and that requires operators to discharge their responsibilities for safety;***
- 2.7 The MoSOF Regulations require each facility to have a registered operator who has clearly defined duties under Schedule 7 to the PSLA. Operators are required to discharge their responsibilities for health and safety under these defined duties and under the requirements of the associated regulations. Schedule 7 also provides for both OHS inspectors and the Safety Authority to enforce requirements of the Schedule and the health and safety regulations made under the Act. Similar arrangements apply under the Diving Safety Regulations and the Pipelines Regulations.
- 2.8 With the legislation that created NOPSA, the occupational health and safety regime became broader in scope, covering pipe-lay, construction and accommodation vessels. The regime also makes explicit the occupational health and safety requirements associated with pipelines through the requirement for a Pipeline Safety Management Plan. Specific regulations also have been introduced which address occupational health and safety associated with diving activities.
- 2.9 A range of enforcement powers have been provided to OHS inspectors and NOPSA including issuing of improvement and prohibition notices which affect specific equipment or activities of an offshore operation, and the withdrawal of acceptance of a safety case, which would require the immediate and complete cessation of the operations at a facility. Schedule 7 also provides OHS inspectors and NOPSA with the power to initiate prosecution action.

2.10 The 2007 Stakeholder Survey identified that the legislative regime was accepted and understood by the industry and workforce. The following provides a summary of the survey outcomes relating to the legislative regime.

<i>NOPSA has assisted the industry to increase their awareness of, and compliance with, relevant industry laws</i>	Over two-thirds (71%) of respondents agreed or strongly agreed that NOPSA has assisted the industry to increase awareness of and compliance with relevant industry laws
<i>Awareness of NOPSA's functions</i>	Nearly all respondents (97% or more) were aware of three of NOPSA's functions involving investigation of accidents, health and safety compliance and health and safety promotion for offshore petroleum operations. One quarter (24%) reported being unsure or unaware that NOPSA is to provide advice on health and safety matters
<i>The establishment of NOPSA has resulted in a simpler and more effective regulatory framework for the industry.</i>	While the majority (57%) agree overall that NOPSA has resulted in a simpler and more effective regulatory framework, nearly half (48%) disagree

**b) *competent and experienced personnel forming a critical mass of appropriate skills;***

2.11 The current staffing level within NOPSA is 41. NOPSA expects an average staffing level to increase to around 48 at the end of the 2007-2008 financial year. The majority of staff are located in NOPSA's Western Australian Head Office. The Melbourne office currently has five staff.

2.12 NOPSA's human resource objective is to have competent, skilled and experienced staff to deliver world-class performance to stakeholders. This means that NOPSA's OHS inspectors need to be as knowledgeable and skilled as those they regulate. To achieve this, NOPSA's strategy is to attract and retain appropriately qualified and competent Inspectors from both within Australia and internationally, through competitive compensation, benefits and work conditions.

2.13 NOPSA will also ensure that Inspectors maintain the required competencies and keep current with developments in new technologies, risks, processes and procedures by developing a world-class competency.

2.14 In 2006-2007, NOPSA undertook design and development of an in-house Inspector Competency Programme which all inspectors must undertake and pass. The programme is designed to raise the core competencies of Inspectors to a consistent high standard. An extension to the programme has been developed through a Memorandum of Understanding with the University of Ballarat. Under the Memorandum, content of the inspector competency programme is recognised as the major contributor to a nationally recognised academic qualification.

2.15 NOPSA has actively targeted employees with specialised skills as future Inspectors. This has led to a demographic profile weighted towards more senior and experienced employees. NOPSA is exploring, with some success, a range of flexible working options to attract new Inspectors and retain those it has currently.

**c) *structure and governance of the regulatory agency that demonstrates independence, transparency, openness and cost efficiency;***

2.16 NOPSA is a single agency covering Commonwealth, Northern Territory and State designated coastal waters (where legislation has been progressively 'mirrored' to confer powers to NOPSA). It was established under Division 2 of Schedule 1 to the *Petroleum (Submerged Lands) Amendment Act 2003*. The authority is accountable to Commonwealth, State and NT Ministers, however the CEO is required to accept direction from the Commonwealth Minister and from relevant State and Northern Territory Ministers by request through the Commonwealth Minister. The operation of NOPSA is independent from the operation of the Commonwealth Department of Industry, Tourism and Resources.

2.17 The NOPSA Board was established to give advice and make recommendations on policy, strategy and performance of NOPSA to these Ministers as well as MCMPR. It operates as an advisory, not an executive Board and the CEO attends as an observer. The CEO must have regard to the advice given by the NOPSA Board. The Board has met six times during the year.

2.18 To ensure transparency and openness in relation to its operations, NOPSA regularly publishes information relating to its planning, performance and compliance. NOPSA's annual operating plan and corporate plan are published on the website ([www.nopsa.gov.au](http://www.nopsa.gov.au)), as are the annual reports since NOPSA's operations commenced.

2.19 NOPSA also issues a monthly newsletter which covers up to date industry matters, stakeholder issues, safety information and statistics on regulatory activities, which is distributed to around 400 recipients across the industry and internationally.

- 2.20 As required under the *Offshore Petroleum (Safety Levies) Regulations 2004*, an annual Cost Effectiveness Report is issued to NOPSA stakeholders and a meeting held to present its findings and enable feedback. Meetings in 2005 and 2006 resulted in predominantly positive and constructive comment from stakeholders.
- 2.21 NOPSA continues to receive feedback on its efficiency and effectiveness. After a recent visit, a foreign regulator advised that that they planned to model their own authority on NOPSA as it was the most appropriate model they had found. Feedback from a union representative indicated the union's experience with NOPSA is very positive and they consider the NOPSA model as a sound model for a regulator, and one which has been examined for the mining sector. Additional feedback can be found in Section 2.3.3 of the 2006-07 Annual Report.
- 2.22 In February 2006 SAI Global published their external assessment of NOPSA's compliance with the Australian Business Excellence Framework. The report indicated that the overall score (394/1000) should be seen as a good performance for a new organisation, as new organisations that have been assessed typically score between 160 and 300. While the report identified considerable room for improvement in some areas, it commended the senior leadership team for having developed a new organisation with rigour, commitment and energy within a limited time frame.
- 2.23 NOPSA business and regulatory core processes have been designed and developed to meet ISO 9001 standards.
- 2.24 NOPSA receives no appropriation from the Government and operates on a full cost recovery basis generating sufficient revenue to recover its annual operating expenses. A range of regulatory and business processes have been developed and implemented to ensure not only consistency, but cost efficient operation.
- d) *an independent approach in implementing legislative responsibilities and in dealings with industry; and***
- 2.25 This is addressed in (c) above.
- e) *agreed performance criteria.***
- 2.26 NOPSA's Corporate Plan identifies four objectives which are based on outcomes and performance measures that are established by agreement with the Commonwealth Minister in the annual Portfolio Budget Statement. Performance against these measures is detailed in the Annual Reports.
- 2.27 In response to a Whole-of-Government review of Ministerial oversight of agencies, a formal Statement of Intent was given by NOPSA to the Commonwealth Minister setting out detailed Key Performance Indicators (KPIs) that inform on progress toward the Corporate Plan's Objectives.

NOPSA provides the Minister with a Quarterly Report against this set of indicators, by which the Authority's performance is measured.

***The industry and its workforce must be empowered to identify and report potential hazards and to ensure that appropriate control measures are implemented.***

- 2.28 Current best practice in offshore safety regulation requires the Operator of an offshore facility to prepare a plan in conjunction with the workforce, for managing occupational health and safety at that facility. This plan, known as a Safety Case, describes the facility, the safety management system and includes a detailed description of the formal safety assessment.
- 2.29 Similarly, a Pipeline Safety Management Plan is prepared for a pipeline and Diving Safety Management Systems and Diving Project Plans are prepared for diving operations.
- 2.30 The legislation provides for a general duties regime and introduces the requirement to consult with the workforce in relation to development of occupational health and safety policy and identification and control of hazards (which contribute to the development of the safety case). The regime introduces a clear definition of, and allocation of responsibilities to, an operator.
- 2.31 The role of Health and Safety Representative is formally defined in the PSLA, and provision is made for fair election of HSRs. HSRs are granted the power to issue Provisional Improvement Notices and take limited action in emergency situations. Refer also to sections 1.31 and 3.6 on the training of HSRs, and sections 1.27 to 1.31 and 1.35 on consultation with HSRs.

***Approval processes in safety, titles, environment and resource management must be streamlined and coordinated to ensure no undue delay to project development in the offshore petroleum industry.***

- 2.32 NOPSA has developed a series of core regulatory and business processes to ensure that approval processes are coordinated and streamlined, and do not result in undue delay to project development. Core regulatory processes include operator registration, inspection and audit, investigation and complaints, assessment (including assessment processes for Safety Cases, Pipeline Safety Management Plans and Diving Safety Management Systems), and enforcement.
- 2.33 For fixed or mobile facilities, there are only 2 approval processes: Operator nomination acceptance and Safety Case acceptance. The safety legislation no longer includes various consents e.g. consent to construct.

2.34 New and revised safety cases and Pipeline Safety Management Plans must each be assessed by NOPSA within time periods defined in the PSLA. In 2006-07 financial year, 119 assessments were conducted by NOPSA. Of the 11 new safety cases assessed only two took more than the statutory assessment period of 90 days. Of the 86 Safety Case Revisions assessed during the year, approximately half of them exceeded the statutory assessment period of 30 days. All of the six Pipeline Safety Management Plan Assessments conducted during the period took longer than the statutory 21 day assessment period. An analysis of all these assessments indicate that the extended assessment periods were due to either changes in scope made by the Operator or NOPSA requesting further written information or improvements to documentary submissions.

2.35 During the project to develop NOPSA and the drafting of the PSLA it was agreed between the governments that NOPSA's role would be focussed on the health and safety of offshore operations. Consequently, no functions relating to the environment, security or resource management were attached to the legislation.

**3. Examine progress against the Safety Authorities functions set out under the PSLA:**

**a) Safety Authority's functions clause 150XE.**

***150XE (c): To promote the occupational health and safety of persons engaged in offshore petroleum operations.***

3.1 A total of 249 presentations have been given since January 2005. Many of these were given at workshops and forums attended by the offshore petroleum industry and workforce.

***Workshops***

3.2 NOPSA has organised and conducted several workshops and presentations for the offshore petroleum industry. Subjects have included:

- Preparation of a Safety Case;
- The NOPSA Enforcement Management Model;
- Safety Case Validation Requirements; and
- National Programmes on Lifting Operations and Facility Integrity.

A further workshop on NOPSA's National Programmes is planned for February 2008. There is also a workshop planned for May 2008 which will cover workforce training and competencies, and noise management.

### ***Presentations to Industry and other Agencies***

- 3.3 NOPSA has attended and given presentations at forums organised by industry groups and government agencies. These include:
- APPEA: Annual conference and exhibition, Health, Safety and Operations Committee meetings
  - IMCA: Local and South-East Asia regional meetings
  - IADC: launch of revised safety case guidelines, Drillsafe conferences
  - Australian Maritime Safety Authority: Maritime Industry Workshop
  - Seacare Authority Workshop
  - WA DoIR: Draft regulations

### ***Operator Forums***

- 3.4 NOPSA has organised a series of operator forums aimed at sharing experience and improving safety performance. The first operator forum, held in July 2006, gave participants the opportunity to discuss health and safety issues of their choice. The next forum in February 2007 focussed on the theme of Job Safety Analysis (JSA), where operators shared their approach and experiences to raise awareness in relation to JSA. The most recent forum in July 2007 focussed on the topic of 'Changing Workforce' where discussion related to challenges facing the industry. These included the aging workforce, attraction and retention, competency and training, including strengths and limitations of operators' current approach.

### ***HSR Forums***

- 3.5 NOPSA has participated in two annual forums for workforce Health and Safety Representatives. Refer to sections 1.29 to 1.30 and 1.35 of this submission for further details.

### ***HSR Training***

- 3.6 NOPSA attends a majority of HSR training courses and presents to trainees on the Australian offshore OH&S legislative framework. During the 2006-07 financial year NOPSAs accredited a further course of training for HSRs, making a total of six courses currently accredited.

### ***Guidance***

- 3.7 Guidance is provided to the industry on topics relevant to offshore petroleum OH&S. These have included:
- Occupational health matters such as Asbestos Management and Noise Exposure
  - Safety Levies
  - Application of the legislation to construction and pipeline related activities

3.8 Discussion papers have been published on:

- Accommodation Standards
- Helicopter Operations

A paper on Emergency Response Measures is in development.

**Website**

3.9 The corporate website is regularly updated with:

- news
- safety alerts
- corporate publications
- regulatory policy and operating procedures

The 2007 Stakeholder Survey identified that the NOPSA website is an important resource for the industry and other stakeholders. A summary of survey outcomes is given below.

<i>How often would you visit the NOPSA website in a month?</i>	The NOPSA website is clearly a useful communication tool for stakeholders with 79% visiting it 1-5 times per month
<i>How well does NOPSA perform as an industry information sharing and learning resource?</i>	Sixty percent (60%) of respondents felt that NOPSA performed well or very well as an information sharing and learning resource for the industry.
<i>How would you rate your satisfaction with the following NOPSA communication tools as a means of providing you with important safety management information?</i>	The NOPSA website proved to be the communication tool that satisfied the most stakeholders overall (80%).
<i>How would you rate your satisfaction with the NOPSA website as a means of providing you with important safety management information?</i>	The majority of NOPSA stakeholders (66%) are satisfied or very satisfied with the NOPSA website for providing important safety management information.

**CEO Newsletter**

3.10 The monthly CEO's Newsletter published by NOPSA contains news about:

- Industry events
- Publication of regulatory policies and procedures
- Emerging OH&S issues
- Incident occurrence and regulatory activity

There are currently around 400 readers of the newsletter and the list continues to grow steadily. The 2007 Stakeholder Survey revealed that the newsletter was an important source of information for the industry, governments and the workforce.

<p><i>How would you rate your satisfaction with the following NOPSA communication tools as a means of providing you with important safety management information?</i></p>	<p>The CEO's Newsletter was the third most preferred means of communication, with approval by 59% of stakeholders.</p>
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### ***Boot Room Gossip***

- 3.11 A brief news leaflet is being produced and distributed to the offshore petroleum workforce. The leaflet provides contact information, references to safety resources and brief overviews of health and safety topics. Enquiries have been received from the workforce about the purchase of safety glasses, one of the topics covered recently.

### ***International Regulators Forum (IRF)***

- 3.12 Through membership of the IRF, a group of nine national offshore safety regulators, NOPSA has introduced international benchmark comparisons to the assessment of health and safety performance. The IRF working groups have also enabled NOPSA to adopt better practice in inspection and safety case assessment methods from the participating countries.

### ***Other Countries***

- 3.13 The development and commencement of NOPSA has come to the attention of a number of foreign governments which have been evaluating and designing their own offshore petroleum regulatory regimes.
- 3.14 NOPSA has hosted delegations from Malaysia, Qatar and Thailand that have learnt about the regulatory framework and practices employed in Australian offshore petroleum operations.

### ***Safety Alerts***

- 3.15 Alert notices are sent by email to the industry and workforce when an incident occurs or an issue of concern is identified. Each alert describes what went wrong, and the lessons that can be learnt and applied. Topics have included:
- Safe systems of work
  - Care and protection of safety critical equipment
  - Fatigue
  - Control of ignition sources

3.16 The NOPSA safety alerts were highlighted in the 2007 Stakeholder Survey results:

<i>How would you rate your satisfaction with the following NOPSA communication tools as a means of providing you with important safety management information?</i>	65% of stakeholders were satisfied or very satisfied with the NOPSA safety alerts.
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### ***Employment of External Affairs Officer***

3.17 A position of External Affairs Officer has recently been created. The position's duties will include:

- Promoting OH&S to people in offshore petroleum operations
- Developing a major accident event communication plan
- Coordinating promotional events
- Regular communication with industry associations and representatives

***150XE (d): To develop and implement effective monitoring and enforcement strategies to secure compliance by persons with their occupational health and safety obligations***

### ***Progress on Planned Inspections***

3.18 NOPSA has achieved about 90% of its target of inspecting each fixed normally attended facility at least once per year (all but 2 facilities have been inspected). For further information on planned inspections, refer to Sections 1.4 to 1.11 above.

### ***Investigations***

3.19 All accidents and complaints recorded during 2006-07 were investigated by NOPSA. For minor accidents or dangerous occurrences, the investigation may simply consist of correspondence between NOPSA and the parties involved, however for more significant incidents, NOPSA responded with on site investigations.

3.20 Most complaints received during the year were about the standard of accommodation and other amenities, work environment – such as noise, exposure to fumes, etc and unsafe work practices and work assignments.

### ***National Programmes***

3.21 NOPSA's progress in relation to National Programmes is discussed in Sections 1.12 to 1.18 above.

### ***Enforcement Management Model (EMM)***

3.22 NOPSA's approach to enforcement is discussed in Sections 1.24 to 1.26 above.

### ***Safety Case Decision Making***

- 3.23 Decision making in relation to Safety Case assessment is governed by acceptance criteria detailed in the MoSOF Regulations. Supporting this, NOPSA has developed Policy and Standard Operating Procedures relating to the Safety Case assessment process. All OHS inspectors have been given training in the assessment process to ensure consistency in the evaluation of acceptance criteria. In addition, decision making on the acceptability of a Safety Case is made by the Team Leader following review of a standard assessment report developed by the assessment team.
- 3.24 NOPSA continues to work on continuous improvement of the Safety Case Guidelines to provide operators a useful tool to use when developing Safety Cases. NOPSA has also developed a discussion paper to clarify the level of detail expected in Safety Case submissions. The discussion paper has been published on NOPSA's website and NOPSA is seeking comment on the paper before considering whether to incorporate additional guidance into the next revision of the Safety Case Guidelines.

***150XE (e): To investigate accidents, occurrences and circumstances that affect, or have the potential to affect, the occupational health and safety of persons engaged in offshore petroleum operations in Commonwealth waters, and to report, as appropriate, to the Commonwealth Minister, and to each responsible State or Northern Territory Minister, on those investigations.***

- 3.25 NOPSA's Investigation Core Process has gone through several significant improvements since NOPSA commenced operations. The most recent improvement incorporates the requirements of the Australian Government Investigation Standards, and is designed for accreditation to ISO 9001. These improvements have provided for a more consistent and accountable regulatory function.
- 3.26 The suite of Investigation documents includes Policy, Standard Operating Procedures and Work Instructions. See Sections 3.19 and 3.20 above for further details on NOPSA's approach to investigation.
- 3.27 NOPSA regularly reports to the relevant Ministers on issues relating to occupational health and safety of persons engaged in offshore petroleum operations. As part of this process NOPSA provides reports on investigations of significant accidents, dangerous occurrences and complaints that have the potential to impact on occupational health and safety.

**150XE (f): To advise persons, either on its own initiative or on request, on occupational health and safety matters relating to offshore petroleum operations**

3.28 Refer to Sections 1.19 to 1.22 above on NOPSA's provision of advice.

**150XE (g): To make reports, including recommendations, to the Commonwealth Minister and each responsible State or Northern Territory Minister on issues relating the occupational health and safety of persons engaged in offshore petroleum operations**

#### ***Ministerials***

3.29 Briefings are prepared proactively for the Minister (or Parliamentary Secretary) on a range of issues including changes in executive appointments, significant health and safety incidents, significant publications such as the Stakeholder Survey, and major industry events such as conferences. Three Ministerial enquiries have been received, and 23 Ministerial briefings have been originated by NOPSA.

#### ***Quarterly KPI Reports***

3.30 As agreed with the Minister in 2006, a regular report of NOPSA and industry performance is submitted each quarter. A formal Statement of Intent by NOPSA sets out the performance measures which are incorporated in the KPI Report. The report's sections correspond to the four key objectives identified in NOPSA's Corporate Plan 2005 – 2008. A trend is indicated for each objective and explanatory text is provided. An extensive collection of statistical performance measures is drawn on to create the KPI Reports.

**150XE (h): To cooperate with other Commonwealth agencies having functions relating to offshore petroleum operations; and State or Territory agencies having functions relating to offshore petroleum operations; and the Designated Authorities of the States and the Northern Territory**

#### ***Memoranda of Understanding***

3.31 NOPSA has established Memoranda of Understanding (MoU) to deal with operational interfaces with 19 State, Northern Territory and Commonwealth agencies and one on developing inspector competencies with the University of Ballarat. Where relevant, NOPSA has reflected the cooperative arrangements set out in these MoUs within its internal processes.

3.32 The MoUs continue to be the basis for effective agency cooperation. A review of the MoU with the Western Australian Department of Industry and Resources undertaken mid-year revealed opportunities to streamline notification and reporting between the parties. A revised MoU was then agreed and it is intended to propose such simplified arrangements in the MoUs with other Designated Authorities.

### ***Joint visits with AMSA***

- 3.33 NOPSA has conducted 3 joint inspections of FPSO's with Australian Maritime Safety Authority Surveyors. These inspections are an opportunity to share experience and to learn from each other whilst presenting a common regulatory front to those inspected. This approach received favourable comment from those Operators who were inspected in this manner and NOPSA will continue to develop this approach where appropriate. Particular issues covered included marine manning levels, maintenance of marine equipment and preparedness for sailing away. These are issues which have caused particular concern to the maritime unions. It is proposed to undertake joint visits with the Civil Aviation Safety Authority (CASA).

### ***Legislative Development Support for DOIR***

- 3.34 During 2006-07, NOPSA assisted the Western Australian Department of Industry and Resources to draft new regulations consistent with the Commonwealth MoSOF, Pipelines, Diving Safety and Occupational Health and Safety Regulations. Comments and advice were also provided in relation to proposed new and amended legislation relating to onshore island hubs for the processing of petroleum. The proposed new and amended legislation is intended to closely mirror the offshore legislation in relation to issues such as duties of care and the requirement to develop a Safety Case. Occupational health and safety on the Thevenard, Varanus and Airlie Island operations is currently overseen by NOPSA under a services contract with WA DoIR.

### ***Operational policy support to DITR***

- 3.35 NOPSA continues to provide policy support to the DITR in relation to the functioning and potential areas for improvement of the occupational health and safety regime for offshore petroleum operations. NOPSA continues to pay particular attention to issues around vessels and structures drawn into the OHS regulatory regime, safety levies and pipeline integrity.
- 3.36 NOPSA provided detailed operational experience and advice which resulted in amendments to the *Offshore Petroleum (Safety Levies) Regulations 2004*. These amendments improved the coverage of different types of mobile facilities under the Safety Case levy. The amendments also introduced a design for the pipeline safety management plan levy better aligned with the level of regulatory effort expended on pipelines.
- 3.37 NOPSA also shared with DITR the lessons for the Commonwealth regulations arising from the drafting of the Western Australian regulations.

### ***State Occupational Health and Safety Agencies***

- 3.38 NOPSA maintained ongoing liaison with the states and the Northern Territory government departments delegated by their respective Ministers to perform the functions of the DA under the *Petroleum (Submerged Lands) Act 1967*. MoUs have been established with all DAs except NSW.
- 3.39 NOPSA liaises with the state and Northern Territory agencies responsible for onshore occupational health and safety, dangerous goods, gas/electricity safety, radiation safety and environmental health regulation. It has MoUs with a number of these agencies. This liaison includes exchange of information about accidents and dangerous occurrences, Safety Cases and inspections related to Operators and employers of mutual interest. Three meetings were held between NOPSA and these agencies throughout the year in which valuable lessons were shared from incidents and in relation to the management of hazardous substances.
- 3.40 NOPSA is an observer at meetings of the Major Hazard Facility Working Group, which is an informal grouping of the regulators of onshore major hazard facilities. NOPSA has extended its membership of the UK Fire and Blast Information Group to include the agencies responsible for onshore major hazards and has shared with these agencies relevant information gained through NOPSA's attendance of various international conferences.
- 3.41 Advice and support was given by NOPSA to the Primary Industries and Resources Department of the Government of South Australia (PIRSA), in the development and promotion of a capability-maturity model for onshore drilling operations. The model provides a framework for self assessment which offshore petroleum operators may find useful.

### ***Participate in WA Regional Director Network***

- 3.42 NOPSA has representation on the Commonwealth Regional Directors Network in Western Australia. This network is designed to enhance co-operation between Commonwealth Agencies in the region.

### ***International Regulators Forum (IRF)***

- 3.43 NOPSA is a member of the IRF. The IRF is a group of nine regulators of health and safety in the offshore petroleum industry. It exists to drive forward improvements in health and safety in the sector through collaboration in joint programmes and through pooling of knowledge. The group meets informally once a year and runs a biennial international conference.

3.44 The objectives of the IRF are:

- to promote best sustainable safety performance globally and the concept that it is inseparable from and interdependent with best sustainable economic performance to enable an exchange of information among regulators on:
  - offshore health and safety trends;
  - industry health and safety performance;
  - lessons from incidents;
  - industry best practice;
  - regulatory practice; and
  - measuring the effectiveness of regulatory activities.
- to provide a network of offshore petroleum health and safety regulators for mutual support and advice when required.

### ***Other Countries***

3.45 NOPSA also hosted visits from delegations from the offshore petroleum regulators of other countries, including Thailand, Qatar and Malaysia. These regulators are considering implementing a regulatory model similar to the NOPSA model.

### **b) Corporate Plan clause 150YJ (4)**

3.46 NOPSA has developed a 3 year corporate plan (2005-08) including details of the Safety Authority's operational environment (refer to pages 24-32), the corporate and communications strategies (pages 10-14, 18), performance indicators (pages 11-15), and an analysis of the risk factors likely to affect industry (pages 21-22). Human resource and industrial relations strategies are inbuilt into the objective performance measures and the communication strategies, respectively.

## **4. Functions of the Board clause 150XM and Working with the Board clause 150XZ:**

- 4.1 NOPSA has no comment to make regarding the functions of the Board under clause 150XM.
- 4.2 In relation to working with the Board (clause 150XZ), the CEO attends as an observer but also provides, as standing Agenda items for Board meetings, operational and corporate reports and (where appropriate) issue specific briefing reports. These reports include the identification of events and developments posing or potentially posing operational and/or reputation risks to the operation of the Safety Authority or to occupational health and safety more generally. The CEO also provides reports, documents and information in relation to those operations as the Chair of the Board requires.

- 4.3 In addition, the CEO presents to the Board, and seeks advice, on a range of strategically important matters impacting the Safety Authority's operational and corporate functions. This has resulted in advice from the Board with respect to refinement of core processes, especially in connection with mobile offshore drilling facilities, risk management, including with respect to securing and maintaining adequate capability, health and safety promotion and "sponsorship", and factors to be considered when assessing the implications of any additional responsibilities that may be proposed to be administered by the Safety Authority.

**5. The outcomes, outputs and performance measures outlined in the Portfolio Budget Statement (PBS) for 2004–05.**

With the approval of the Minister, in the PBS for 2006-07 amendments were made to the Outcome and performance measures for NOPSA. Responses are provided in this submission to both the original and amended criteria.

***Outcomes***

The PBS 2004-05 defines a single Outcome:

***Safe offshore petroleum operations in Australian waters and the occupational health and safety of the offshore oil and gas industry workforce.***

The PBS 2006-07 amended this Outcome to:

**An Australian oil and gas industry that properly controls the health and safety risks to the workforce at its offshore petroleum operations.**

- 5.1 For both versions, please refer to Section 1 above relating to improved safety outcomes.

***Outputs***

The PBS identifies a single Output:

***Regulatory oversight of operators' safety cases, safety management systems and operational practices coupled with effective monitoring, investigation and enforcement.***

- 5.2 Refer to Sections 1 and 3.18 to 3.27 of this submission for information on NOPSA's regulatory operations.

### Performance Measures

5.3 The PBS 2004-05 identifies the following indicators of performance. A revised set of indicators replaced these in the 2006-07 financial year.

<b>Outcome Indicators</b>	<b>Measure</b>	<b>Comments</b>
Safe offshore petroleum operations in Australian waters	Benchmarking of the occupational health and safety of Australian operations with comparable operations in other countries	A comparison of indicators with those of other national jurisdictions is shown in section 1.3 of this submission.
Ongoing financial viability and cost effective operations	Achievement of budget targets	A budget surplus has been achieved in each year of operation. This has been primarily due to revenue exceeding forecasts because of increased industry activity resulting in an increased frequency of assessments, which are the trigger for levies. Expenditure has also been lower than forecast due to delays in recruiting additional staff. Annual audit findings have been without qualification.

<b>Output Indicators</b>	<b>Measure</b>	<b>Comments</b>
Regulatory oversight of operators' safety cases, safety management systems and operational practices coupled with effective monitoring, investigation and enforcement	Industry and workforce satisfaction with services - measured through survey and Ministerial and stakeholder feedback	In the recent Stakeholder Survey 56% of respondents were satisfied or very satisfied that the outcomes delivered by NOPSA represent value for money.  Ninety five percent (95%) of stakeholders felt that staff at NOPSA were available when they needed them.  The majority (73%) of respondents agreed or strongly agreed that NOPSA is fair in the way it deals with different clients.  Almost three quarters (73%) of respondents found it easy or very easy to communicate and deal with NOPSA.

	<p>Number of regulatory days spent on assessing and monitoring safety cases</p>	<p>During the 2006-07 financial year, 4 453 equivalent days were applied to regulatory activities. The composition was:</p> <table border="1"> <thead> <tr> <th>Activity</th> <th>Hours</th> </tr> </thead> <tbody> <tr> <td>Advice</td> <td>1867.08</td> </tr> <tr> <td>Assessment</td> <td>9916.43</td> </tr> <tr> <td>Enforcement</td> <td>1064.04</td> </tr> <tr> <td>Industry Relations</td> <td>2713.23</td> </tr> <tr> <td>Inspection and Audit</td> <td>11858.65</td> </tr> <tr> <td>Investigation</td> <td>3702.69</td> </tr> <tr> <td>Legislative Framework</td> <td>787.3</td> </tr> <tr> <td>National Programmes</td> <td>1169.68</td> </tr> <tr> <td>Operator Nomination</td> <td>319.15</td> </tr> <tr> <td><b>Total</b></td> <td><b>33398.25</b></td> </tr> </tbody> </table>	Activity	Hours	Advice	1867.08	Assessment	9916.43	Enforcement	1064.04	Industry Relations	2713.23	Inspection and Audit	11858.65	Investigation	3702.69	Legislative Framework	787.3	National Programmes	1169.68	Operator Nomination	319.15	<b>Total</b>	<b>33398.25</b>
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<b>Total</b>	<b>33398.25</b>																							
	<p>Number of facilities monitored</p>	<p>At the end of 2006-07 NOPSA was monitoring activity at 143 facilities, compared with 44 at the end of 2004-05. The increase has mainly been due to progressive inclusion of facilities previously outside NOPSA's jurisdiction and growth of the industry.</p>																						
	<p>Number of major investigations performed</p>	<p>NOPSA has performed three investigations which led to preparation of a prosecution brief.</p>																						
	<p>Price of output for 2007-08 \$9m</p>	<p>Refer to comments above on achievement of budget targets, and the financial statements in the 2006-07 NOPSA Annual Report for further detail.</p>																						

The following tables address the amended requirements of the 2006-07 PBS.

<b>Outcome Indicators</b>	<b>Measure</b>	<b>Comments</b>
An Australian oil and gas industry that properly controls the health and safety risks to the workforce at its offshore petroleum operations	Favourable benchmarking of the occupational health and safety of Australian operations with comparable operations in other countries	As for 2004-05 PBS
	The frequency rate of accidents and dangerous occurrences is reduced or maintained	Refer to section 1.32 of this submission.
Ongoing financial viability and cost effective operations	Achievement of budget targets	As for 2004-05 PBS

<b>Output Indicators</b>	<b>Measure</b>	<b>Comments</b>
Regulatory oversight of operators' safety cases, safety management systems and operational practices coupled with effective monitoring, investigation and enforcement	Safety cases, pipeline management plans and diving safety management systems assessed to a consistent standard within regulatory timescales.	As mentioned earlier, NOPSA has developed Policies and Standard Operating Procedures (SOP) relating to all of its core regulatory processes including Assessment. These SOP ensure that Safety cases etc are assessed to consistent standards and within regulatory time scales. Refer to Sections 2.32 and 2.35 of this submission for further information.

	<p>Satisfactory stakeholder understanding regarding Authority's role and responsibilities, and interfaces with other government agencies.</p>	<p>In the recent Stakeholder Survey the majority (70%) of respondents were satisfied that NOPSA systems and processes were transparent. Also, 72% of respondents were satisfied with their understanding of the application of NOPSA assessment, inspection, investigation and enforcement standards.</p> <p>The majority (57%) of respondents agree that the establishment of NOPSA has resulted in a simpler and more effective regulatory framework for industry. For more detailed survey outcomes, refer to the NOPSA Stakeholder Survey.</p>
	<p>Satisfactory stakeholder feedback on efficiency and effectiveness of NOPSA's activities</p>	<p>Just over 80% of the stakeholders surveyed agreed that NOPSA was effectively managing the regulation of the offshore petroleum industry occupational health and safety. For more detailed survey outcomes, refer to the NOPSA Stakeholder Survey.</p>
	<p>Enforcement undertaken in a consistent and timely manner.</p>	<p>The Enforcement Management Model (EMM) continued to be used as the primary means by which NOPSA ensured a consistent approach to any enforcement action arising from investigations. Refer to Sections 1.24 to 1.26 (see previous EMM/KPI).</p>
	<p>Every permanently attended facility inspected each year</p>	<p>During 2006-07 NOPSA undertook 66 planned inspections of a total of 59 'attended' and 34 'not normally attended' facilities. Refer to the 2006-07 Annual Report for further details. (KPI)</p>

	<p>All accidents, dangerous occurrences and complaints investigated to agreed standards and timescales.</p>	<p>All accidents and complaints recorded during 2006-07 were investigated by NOPSA. For minor accidents or dangerous occurrences, the investigation may simply consist of correspondence between NOPSA and the parties involved, however for more significant incidents, NOPSA responded with on site investigations.</p> <p>Most complaints received during the year were about the standard of accommodation and other amenities, work environment – such as noise, exposure to fumes, etc and unsafe work practices and work assignments.</p>
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**6. Assess the operations of NOPSA against the findings of the 2004 review as to whether the principles are being met.**

Comments relating to those findings of the 2004 review relevant to NOPSA's activities feature below.

**Finding:** *The team project to create NOPSA will fulfil the intentions of the original IRT recommendations and will honour the principles laid down in the Ministerial Council for Minerals and Petroleum Resources.*

6.1 Refer to Section 2 above relating to the MCMPR principles.

**Finding:** *The States/NT displaying a positive attitude towards the project and doing their utmost to contribute to achieving the goal.*

6.2 The Northern Territory and the majority of the States have now developed 'mirror' legislation to confer powers on to NOPSA to regulate occupational health and safety of offshore petroleum facilities.

**Finding:** *Industry and the workforce concern about public perception of NOPSA not being an independent regulator, because of cost-recovery.*

6.3 See comments on independence and transparency in Section 3.

**Finding:** *According to Principle 9 of the MCMPR, approval processes in safety, titles, environment and resource management must not cause undue delay to project development.*

6.4 Refer to Section 2 above.

**Finding:** *Emergency response (environment/safety/rescue) is not included in project plans and other documents.*

6.5 NOPSA does not undertake an emergency response role, however it does consult with the offshore petroleum industry in order to encourage improvements in emergency response. For example, NOPSA recently worked with APPEA to encourage a number of Operators to put in place a coordinated emergency response exercise in the Exmouth Basin, which will take place in the coming year. Given the small number of helicopters available, large scale cyclone response requires considerable logistical coordination between operators and helicopter providers, in order to complete the necessary response in a safe and timely manner.

6.6 In addition, NOPSA periodically attends meetings of the State Emergency Management Committee (SEMC) to provide information in relation to the response by operators to cyclones.

**Finding:** *The Joint Petroleum Development Area (JPDA), of the Timor Sea will be outside NOPSA's scope of work.*

6.7 The JPDA is outside NOPSA's jurisdiction, however NOPSA has provided assistance/advice when requested.

**Subject: PSL (Diving Safety) Regulations 2002 - Regulations 26, 30 and 31**

Dear Linda,

Further to discussions with Mr Peter Hill from this office, we would like to provide a late submission to the review of the PSL (Diving Safety) Regulations 2002. In particular, we would like to provide comment on regulations;

- 26(2)(c)
- 30(3), (4) and (8)
- 31(2)(c)(iii)

The Australian Diver Accreditation Scheme (ADAS) is mentioned in these specific regulations. It is our view that the inclusion of ADAS in these regulations is neither positive or negative. We do feel however that recent comment may have provided a view that over emphasised the importance of ADAS which should, at the very least, receive a balancing perspective.

We do not feel that diving safety would be adversely affected by the removal of references to ADAS in the regulations. We also feel that there are other effective organisations and institutions (SA, ATQF, JAS-ANZ, IMCA) which provide a frame work to ensure the quality and competency of the training and certification of Australian divers. The work ADAS has done in the past has been instrumental in improving the quality and safety of divers. However, other mechanisms are now in place which can serve and enhance this purpose rather than sole reliance on ADAS.

TUCF requests a review of the regulations on the basis that:

1. We feel the referencing to ADAS is too specific and could be broadened to reflect a truly self-regulating (objective) legislative regime.
2. There are other effective organisations and institutions that can safely deliver qualified divers to industry.

As an example of our points above, regulation 30(3) could be re-written as follows:

"30(3) A diving contractor for a diving operation must not allow a person to dive in the diving operation if the person does not have a current diving qualification to carry out any activity that is reasonably likely to be necessary while the person is taking part in the operation".

The contractor's DSMS can define what constitutes a "current diving qualification". IMCA, ADAS, AS/NZS2299, and an RTO under the ATQF can all be consulted to assist the Contractor to determine what constitutes "a current diving qualification". Naturally the Guidance Notes supporting the regulations can be used to assist contractors to determine what constitutes "a current diving qualification". Other regulations can be re-written in a similar manner.

Further, with reference to point 2 above, AS/NZS2299.1:2007 Occupational Diving Operations - Standard Operational Practice, Section 2, "Personnel, Training and Records", explains how non-ADAS organisations can train, qualify and provide accredited divers to industry. We draw your attention to the following paragraphs in the standard:

- a) 2.1.2 Qualification and training of dive supervisors, sub-paragraph (b)(iii); and
- b) 2.2 Diver, sub-paragraph (a)(iii).

ADAS is mentioned in the same context and on an equivalent standing as an RTO (recognised training organisation under ATQF). RTO's are not mentioned in the PSLA (Diving Safety) Regulations and this could also be an alternative strategy. This also provides choice and competition.

TUCF is committed to diver safety. We have worked closely with government in drafting guidelines for the 2002 regulations, assisted with the review of contractor DSMS' and facilitated the drafting of four current contractor DSMS'. We accept that the inclusion of ADAS in regulations has been useful in the past, but note that the removal would not adversely affect diver safety in the future as other institutions now can more adequately fill that role. In other words, contrary to views expressed by others, the sky will not fall in if references to ADAS are removed from the regulations!

Should the review team feel that TUCF, as an industry stakeholder, can provide a contribution to the review process, we would be happy to meet with them when they come to Perth in late February. Please advise a suitable meeting time.

Regards,

Ian A. Milliner  
Managing Director

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Our reference: MEA-001

28 November 2007

Attn: Linda Tindall-Mather, Assistant Manager, Environment Safety and Security Section  
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**Department of Tourism, Industry and Resources**

Industry House  
10 Binara Street  
Canberra ACT 2601

Dear Linda

**INDEPENDENT REVIEW OF THE NATIONAL OFFSHORE PETROLEUM SAFETY AUTHORITY  
2008**

Thank you for allowing Woodside the opportunity to provide a submission as input to the Independent Review of the National Offshore Petroleum Safety Authority 2008. Woodside are pleased to participate in the review process through this submission.

In general, Woodside supports the formation of NOPSA and the activities undertaken by NOPSA. In particular we support the introduction of a national safety regulatory regime and the rationalisation of the Health and Safety regulation in the offshore petroleum industry.

Woodside has recently participated in the Commonwealth Government P(SL)A Regulations Consolidation Review and fully supports the intent to eliminate duplication and simplify the structure of the regulations. Several of the recommendations made in the regulations consolidation report are related to NOPSA's activities and accountabilities under the P(SL)A. We have not re-addressed these issues in this submission, however if you require further comment from Woodside please give me a call.

Woodside have a number of comments relating to our dealings with NOPSA and the national safety regulatory regime which should be considered by the review panel. These are outlined in the paragraphs below.

***Legislation and Guidelines***

The current legislation is reasonably robust and supports the implementation of successful health and safety, however the supporting documentation is insufficient to achieve the goal setting regime NOPSA are aiming for. There is a strong requirement for the provision of supporting authoritative requirements and guidelines to the P(SL)A to ensure success across the industry and to improve the efficiency and effectiveness of NOPSA. It is important that there is a distinction between authoritative requirements and guidelines to ensure Operators are aware of mandatory requirements. This has been highlighted in the regulations consolidation report. Key examples of where supporting documents are required include:

- Preparation and revision of Safety Cases – a consultation process was held in late 2006 on the structure and content of Safety Case guidelines, however these have yet to be finalised. Key requirements in these guidelines should include how Operators can achieve the balance between generic vs activity specific controls and what is required to be submitted to NOPSA for

acceptance without imposing additional load on NOPSA with several Safety Case re-submissions.

- Definition of Associated Offshore Facilities and their relationship with AMSA - there has been confusion among the industry on who has regulatory control over associated offshore facilities.
- Offshore Accommodation standards – NOPSA issued a recent discussion paper on this topic which was of poor quality. Any further authoritative documents in this area need to be clear on mandatory requirements, how to demonstrate ALARP for welfare type issues, how standards are to be implemented for existing facilities, etc.
- Scope of Validation - the validation process within the P(SL)(Management of Safety) Regulations requires further review and guidance to industry including clear guidelines on who is “independent” and the timing for agreeing scope of validation.
- Terminology for reporting of failures – Woodside has some concerns with the definition of “damage to safety critical equipment” in terms of failure and the reporting expectation to NOPSA. It is recognised that different “Operators” (as seen through participation in Joint Ventures) interpret this differently and there is a lack of clear understanding of this definition across industry.

Introduction of supporting authoritative requirements and guidelines will limit the potential for the regulations being open to interpretation by industry and NOPSA Case Managers. Woodside has had several experiences of different approaches being adopted by different Case Managers which has been exacerbated by organisational changes in NOPSA.

Any supporting requirements and guidelines should be formally issued such that they become key industry reference documents.

The timing of issue of such supporting documentation is critical as it would be extremely unfortunate if it takes a major incident to drive getting these complete as has been seen in other industries and other parts of the world. The review panel should consider the adequacy of NOPSA resources to deliver this documentation and how the industry can assist in the process.

Within the legislation itself there are some areas which have resulted in significant issues on definition and interpretation and there is a strong requirement to provide further information in these areas. Specific examples include:

- Definition of “Operator” and the accountabilities of “Licence Holder” – there is significant confusion within some areas of the industry on the application of regulations and who is accountable eg drilling, subsea, construction. The guidance on Operator in day to day control has failed to keep up to date with industry contracting strategies eg lease of FPSOs. Clear definitions and accountabilities should be issued to reinforce the distinction between “Operator” and “Licence Holder”.
- The requirement to have a Safety Case to cover all activities has caused some confusion in conjunction with the definition of operator. The main area of confusion has been in the requirements for submission and acceptance of Design, Construction and Operations Safety Cases and who is accountable. Further clarity is required in this area.
- The mechanism within the legislation for engagement of NOPSA is through the Scope of Validation process. This does not allow for engagement of NOPSA early in the project realisation process when significant decisions are made which affect the health and safety of personnel. This has led to confusion and often difference in interpretation between NOPSA and Woodside on key design issues and content of Field Development Plans. Further clarity in this area is required.
- While there is requirement in the P(SL)A to undertake Health Risk Assessment there is no mechanism for this to be submitted to NOPSA. Woodside has chosen to prepare Health and Safety Cases which include a formal health assessment for major health hazards. We have found this to be beneficial internally to the Company, however have often found it has been the main area of assessment in safety case response notes. Woodside believe that as health is a key part of the regulations there should be a mechanism for NOPSA to review Operator’s demonstration of good health management and this should be consistent across the industry.

- Legislation around Health and Safety Rep (HSR) elections is overly complex and further work is required in supporting HSRs. This has been commenced through APPEA, however NOPSA need to play a key role.

### **Consistency**

Woodside has experienced some difficulties with NOPSA in terms of inconsistency of approach to Safety Case requirements and responses. As above, this may be exacerbated by limited supporting documentation to Case Managers however it is something which needs to be addressed. As a major oil and gas company, Woodside has several assets and are working towards a common approach across all these assets and would appreciate support from the regulator in this area. Key areas where Woodside have experienced changing requirements are in the submission of Construction Safety Cases and the level and format of Safety Case response notes.

Consistency of responses for a specific Safety Case is also important both from Woodside and NOPSA. There have been several examples where NOPSA Case Managers have changed their approach during project realisation eg Woodside has experienced changes in expectations after Scope of Validation has been agreed, Woodside has agreed timing and content of Safety Cases with NOPSA early in a project to later find a change in these requirements being requested by NOPSA. Woodside appreciate that we work in a changing environment, however such changes can cause significant impact on a project schedule and often lead to resource constraints. Improvements in this area need to be thought through and discussed with Operators.

The timing of acceptance of Safety Cases is often inconsistent across NOPSA and not necessarily in line with the P(SL)A. While Woodside has experienced some early Safety Case acceptances we have an example of a 9 month delay in acceptance for 5 year Safety Case submission. This is not acceptable for industry and can lead to confusion among the workforce.

It is often seen that the NOPSA Case Managers are outcome focussed eg “don’t like the solution”, rather than process focussed as they should be given the legislation. Again increasing focus on the process of demonstrating good health and safety may be achieved through the delivery of supporting requirements and guidelines.

While there has been some significant improvement over the past 3 years on the relationships between NOPSA and Designated Authorities, there are still some areas of conflict. This has been raised in the regulations consolidation report and should be further reviewed as part of the NOPSA independent review. Examples of conflict areas include pipelines (Pipeline Management Plans), field development planning, drilling and completions (WOMP).

### **Inspections**

Inspections, in general, have been conducted well by NOPSA through using Major Accident Events as the guidance for such inspections. There is also good evidence that NOPSA have a strong planning process for inspections. However, Inspectors are tied by the legal requirement to document everything seen and it is difficult to get a concise priority of key issues to address.

### **Incident Investigations**

Woodside welcome NOPSA in their role to be part of incident investigations, however Woodside believe NOPSA should not participate in Operator’s Investigation teams, rather they should conduct their own investigations independently to ensure robustness in the process especially if there is potential for prosecution. Clear guidance should be provided on NOPSA’s responsibilities in this area and all incident investigations should have a terms of reference provided to the Operator.

### **General**

Unlike the UK there is no dedicated offshore industry body (similar to UKOOA) to support NOPSA. It is recognised that APPEA does contribute to this role, however APPEA is not dedicated to the offshore industry. Given the volume of work in preparing supporting requirements to the regulations and the limited resources in NOPSA it is recommended that the Industry considers the formation of a dedicated offshore industry body.

Woodside appreciate the need to educate and familiarise NOPSA personnel with our operations and facilities and are willing to assist NOPSA in this area. However, there needs to be a clear distinction between education/familiarisation visits and formal NOPSA visits. Achieving this distinction would allow for a more collaborative and open approach between NOPSA and industry.

NOPSA has clearly shown an ability to respond to industry concerns since its introduction eg the enforcement procedure has been updated to reflect Woodside concern of engagement in the process.

Once again we wish to thank you for the opportunity to provide a submission to the NOPSA independent review. Woodside would welcome an opportunity to meet with the review panel and/or yourself to discuss our submission in more detail.

Should you have any questions with regard to the points made above then do not hesitate to give me a call.

Yours sincerely

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**Mhairi Angus**  
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