

Acceptance of Minerva Decommissioning and Field Management Environment Plan

Document No: A1110810

Date: 18 October 2024

1. On 14 October 2024, I, [REDACTED], Director Decommissioning - Environment delegate of the Chief Executive Officer of NOPSEMA decided, pursuant to regulation 33 of the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023 (Environment Regulations)*, to accept the Minerva Decommissioning and Field Management Environment Plan (Document No: 1401801084, Revision 3) dated 6 September 2024 (EP).
2. The EP was submitted by Woodside Energy (Victoria) Pty Ltd (ACN 006 466 486) (titleholder), to enable the titleholder to undertake the petroleum activity described in the EP, which involves the decommissioning and removal of offshore infrastructure associated with the Minerva subsea development in Commonwealth waters.
3. The reasons for my decision are set out below. All references to a regulation (reg) are to the Environment Regulations unless otherwise stated.

Legislative framework

4. The legislation relevant to my decision is set out in **Appendix B**.

Background

5. On 25 March 2024, the titleholder submitted the EP (dated 20 March 2024) to NOPSEMA in accordance with the Environment Regulations.
6. On 2 April 2024, NOPSEMA provisionally decided in accordance with reg 27 that the EP included material addressing all of the provisions in Division 2 of the Environment Regulations and published the EP on NOPSEMA's website in accordance with reg 28(1).
7. On 2 May 2024, NOPSEMA made a request for further information, pursuant to reg 32. The request identified that further information on a number of the criteria in reg 34 was required. In response to this request to provide further written information, the titleholder resubmitted the EP in accordance with regulation 32(3) on 7 June 2024 (Document No: 1401801084, Revision 1).
8. On 5 July 2024, NOPSEMA made a further request for further information from the titleholder. The request identified that further information in relation to the criteria in reg 34(a), (b), (d) and (g) was required. In response to this request, the titleholder resubmitted the EP on 16 August 2024 (Document No: 1401801084, Revision 2) incorporating additional information pursuant to reg 32(3) and modifications pursuant to reg 33.
9. On 3 September 2024, NOPSEMA made a further request for further information from the titleholder. The request identified that further information in relation to the criteria in reg 34(a)-(c) was required. In response to this request, the titleholder resubmitted the EP on 13 September 2024 (Document No: 3) incorporating additional information pursuant to reg 32(3) and modifications pursuant to reg 33.

10. For the purposes of assessing the EP, I was assisted by an assessment team comprised of an assessment director, lead assessor and decommissioning specialist. On 14 October 2024, I decided to accept the EP. I was reasonably satisfied that the EP met the criteria in reg 34. I explain my reasons in further detail below.

Materials

11. The materials considered in making this decision are set out in **Appendix C** and are referenced where relevant in the reasons below.

Decision Overview

12. The issue before me was whether the EP should be accepted pursuant to reg 33. This required that I be reasonably satisfied that the EP meets the 'acceptance criteria' in reg 34.
13. Prior to considering whether I was reasonably satisfied that the EP met the criteria in reg 34, I considered whether the EP complied with Division 2 of the Environment Regulations, which sets out the matters which must be included in an EP.
14. I was satisfied that the EP contained the matters required by Division 2. My reasons for this part of my decision are set out at [17] – [42] below.
15. Further, in accordance with regs 16 and 34, I must not accept an EP unless I am reasonably satisfied that the titleholder is compliant with subsection 571(2) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGGS Act)* in relation to the petroleum activity, and the compliance is in a form that is acceptable to me. On review of the titleholder's financial assurance declaration and confirmation forms, I was reasonably satisfied that the titleholder was compliant with s 571(2), and the financial assurance declaration and confirmation forms were acceptable. I therefore considered that the precondition in reg 16 was met.
16. I then considered the criteria in reg 34 and was reasonably satisfied that the EP met those criteria. I therefore accepted the EP. My reasons for this part of my decision are set out at [46] – [145] below.

Findings

Does the Environment Plan comply with Division 2

17. Regulation 20 in Division 2 of the Environment Regulations requires that an environment plan must include the matters set out in regs 21, 22, 23 and 24. As I was satisfied that the EP met regs 21, 22, 23 and 24 (for the reasons set out individually below), I was satisfied that reg 20 was met and the EP complied with Division 2.

Environmental assessment: regulation 21

Regulation 21(1) - Description of the petroleum activity

18. Regulation 21(1) requires the EP to contain a comprehensive description of the activity including details of each activity and stage, general details and layout of the facilities, operational details, and proposed timetables.
19. I found that the EP addressed each of these matters in Section 3 of the EP ('Description of Activity'), relevantly including the following:
 - (a) The description of the activity, which is for the management (inspection, maintenance and repair), removal and recovery of subsea infrastructure comprised of a 10" rigid pipeline, chemical injection flowlines, umbilical, clamps, 2" & 8" spools, electrical flying leads (**EFLs**), hydraulic flying leads (**HFLs**),

umbilical termination assemblies (**UTAs**), pipeline end manifold (**PLEM**) and protective structures as per Table 3-9. I noted that the Minerva-2A subsea wellhead and permanent guide base removal and recovery activity may be executed under this EP if NOPSEMA accepts the well as plugged and abandoned. If NOPSEMA does not accept the well as plugged and abandoned, I noted that the Minerva-2A wellhead and guide base will be removed with all other wellheads and permanent guide bases under a different EP (being the Minerva Plug and Abandonment EP), which relates to plugging and abandoning wells in VIC/L22.

- (b) The location of the activity, which is within Production Licences VIC/L22 and VIC/PL33, in Commonwealth waters. In this regard, the EP stated that:
- (i) The Operational Area is located in the Otway Basin, approximately 7 km from Port Campbell in water depths of approximately 55-59 m. Location coordinates of the 10" pipeline and wells are provided in Table 3-2 of the EP and outlined in Figure 3-5; and
 - (ii) An 'Operational Area' has been defined as 1,000 m (1 km) radius around subsea infrastructure, wellheads, and the gas production pipeline within Commonwealth waters (Section 3.3);
- (c) The EP clearly described the scope and bounds of the activity, in particular:
- (i) The EP is planned to be the final EP for the decommissioning of the Minerva field and will remain in force until such time as:
 - all decommissioning activities are completed;
 - the requirements of the General Direction 831 are met; and
 - the requirements in section 270 of the OPGGS Act are satisfied;
- (d) I noted that other activities relevant to the decommissioning of the Minerva Field are covered in different regulatory documents. In particular, the:
- Minerva Plug and Abandonment Environment Plan, which relates to plugging and abandoning wells in VIC/L22, in Commonwealth Waters and under assessment by NOSPEMA; and
 - Minerva State Decommissioning and Field Management Environment Plan, which relates to the decommissioning of the pipeline in Victorian State waters assessed by the Victorian Department of Energy, Environment and Climate Action (DEECA), under the *Offshore Petroleum and Greenhouse Gas Storage Act 2010*
- (e) I also noted that the Victorian State water component of the pipeline removal (mentioned under (c)(ii) above) was referred by the titleholder under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). A delegate found the petroleum activity to 'not [be] a controlled action if taken in a particular manner' (2024/09879).
- (f) Information considered relevant for the consideration of environmental impacts and risks of the petroleum activity. Key aspects of the description included:
- (i) Timing and duration of the petroleum activity, including a description of the stages of the activity, which will occur between Q4 2024 – Q2 2025. The estimated duration of removal activities is stated as 45-60 days and may be undertaken 24 hours per day, seven days per week;
 - (ii) General details and operations of project vessels, remotely operated vehicles (ROVs) and helicopters, which are provided in Sections 3.9.1-4;
 - (iii) The background and current status of equipment to be removed, including cessation of production operations, subsea inspection and area sampling results;

- (iv) Planned emissions and discharges from the petroleum activity, including underwater noise, lighting, atmospheric emissions, vessel and subsea discharges as well as the physical presence of vessels and seabed disturbance (Section 7); and
- (v) An evaluation of unplanned spills of chemicals and hydrocarbons, loss of solid waste, marine fauna interaction, introduction of invasive marine species, as well as emergency events such as a marine diesel spill as a result of a fuel tank rupture following a vessel collision (Section 8).

20. Based on the findings above, I found that the EP contained a comprehensive description of the petroleum activity that met the requirements of reg 21(1).

Regulation 21(2) and (3) - Description of the environment that may be affected

- 21. Regulation 21(2) and (3) requires, in effect, that an environment plan describe the existing environment that may be affected (**EMBA**) by the activity, including the particular relevant values and sensitivities (if any) of that environment.
- 22. The EP addressed each of these matters in Section 4 and Appendix D. In particular, the EP described and included the following information:
 - (a) A thorough description of the physical and biological environment, and details of relevant values and sensitivities, that may be affected by the petroleum activity, including under emergency conditions;
 - (b) A description of the environment which encompasses the operational area and broader EMBA (Figure 4-1), which has been defined by the maximum extent of possible contact with hydrocarbons at low concentrations (Table 4-1), based on stochastic modelling of the worst-case spill scenario;
 - (c) That the activity or any part of the activity will not be undertaken in any part of a declared World Heritage Property, National Heritage Place, nor a declared Wetland of International Importance (Ramsar wetland) within the meaning of the EPBC Act, as described in Section 4.5 of the EP;
 - (d) Whilst the activity would not be undertaken in any of the places described in sup-para (c) above, there were values and sensitivities within the EMBA, which the EP identified and described, including:
 - (i) the values of National Heritage Places located within the EMBA, including the Great Ocean Road and Scenic Environs (Section 4.5.3, Appendix D);
 - (ii) While there are no Wetlands of International Importance (Ramsar wetland) located within the EMBA (Section 4.5.4), there are 3 Nationally Important Wetlands within the EMBA being the:
 - Princetown Wetlands (16 km from the operational area);
 - Lower Aire River Wetlands (44 km from the operational area);
 - Aire River (44 km from the operational area);
 - (iii) the values and sensitivities of the Australian Marine Park (**AMP**) Apollo within the EMBA (Section 4.5.6, Appendix D);
 - (iv) the values and sensitivities of State Protected Areas within the EMBA, including Twelve Apostles Marine National Park, the Arches Marine Sanctuary, Port Campbell National Park, Bay of Islands Coastal Park, Great Otway National Park and Marengo Reefs Marine Sanctuary (Section 4.5.6, Appendix D);

- (v) Threatened Ecological Communities (**TECs**) within the EMBA, including Giant Kelp Forests of South East Australia, Subtropical and Temperate Coastal Saltmarsh, Assemblages of Species Associated with Open-Coast Salt-Wedge Estuaries of Western and Central Victoria Ecological Community (Section 4.5.5, Appendix D);
- (vi) that the Operational Area and EMBA do not overlap with any Key Ecological Features (**KEFs**) (Section 4.5.1);
- (vii) 38 listed threatened and 37 listed migratory species or their habitat which occur, may occur or are likely to occur, in the Operational Area (Section 4.4.2), and 47 listed threatened and 45 listed migratory species or their habitat which occur, may occur or are likely to occur, in the EMBA (Section 4.4.2);
- (viii) the biologically important areas (**BIAs**) for species in the Operational Area (Section 4.4.3, Table 4-5). In particular, the Operational Area overlaps with the distribution range BIA for white sharks, the distribution range and foraging BIA (annual high use area) for blue whales, migration BIA for southern right whales and foraging BIA for several seabirds, including Wedge-tailed shearwater, Wandering albatross, Antipodean albatross, Common Diving petrel, Bullers albatross, Shy albatross, Campbell albatross, Indian Yellow-nosed albatross and Black-browed albatross;
- (ix) in addition to the BIAs overlapping the Operational Area, the EMBA overlaps with the reproduction BIA for southern right whales, foraging BIA for blue whale, and foraging BIAs for seabirds, Short-tailed shearwater and White-faced Storm petrel;
- (e) The social, economic and cultural features of the EMBA have been identified and described relating to cultural features and heritage values, commercial fisheries, tourism and recreation, commercial shipping, oil and gas activities, and defence activities, specifically:
 - (i) A description of the Commonwealth managed fisheries with management areas that overlap with the EMBA. The Bass Strait Central Zone Scallop, Southern and Eastern Scalefish and Shark Fishery (**SESSF**), Commonwealth Trawl Sector (**CTS**), Shark Gillnet and Shark Hook Sectors, Southern Squid Jig were identified as having a potential interaction with the activity, based on current distribution of target species and fishing effort (Section 4.6.2);
 - (ii) A description of the state-managed fisheries with management areas that overlap with the EMBA. The Victorian Rock Lobster Fishery, Victorian Giant Crab Fishery, Abalone Fishery, Wrasse Fishery, Octopus Fishery and Multi-species Ocean Fishery were identified as having a potential interaction with the activity, based on current distribution of target species and fishing effort (Section 4.6.2);
 - (iii) Tourism and recreation activities within the EMBA (Section 4.6.3);
 - (iv) Commercial shipping and local vessel present in the EMBA (Section 4.6.4);
 - (v) Oil and gas facilities are located within the EMBA and proposed petroleum activities in the vicinity of the operational area (Section 4.6.5);
 - (vi) Defence activities within the EMBA (Section 4.6.6); and
 - (vii) Offshore Renewable Energy with the EMBA (Section 4.6.7).
- (f) A description of currently recognised Native Title, Sea Country and Heritage Values that fall within the EMBA, by summarising information contained in existing and recognised Aboriginal cultural heritage and sea country literature, government commissioned reports and Marine Park

Management Plans, along with specific input received through the consultation process (Section 4.6.1); and

- (g) Section 4.6.1, which presents details of onshore native title claims, determinations and Indigenous Land Use Agreements (**ILUAs**) made under the *Native Title Act 1993*, cultural values related information published in State and Commonwealth Marine Park Management Plans, information on the cultural features of marine ecosystems including the broader concept of "sea country", and information on Indigenous archaeology in the offshore marine environment.

23. Based on the information contained in Section 4 and Appendix D of the EP (some of which is summarised above), I found that the EP met the requirements of reg 21(2) and (3).

Regulation 21(4) – Requirements

24. Regulation 21(4) requires an environment plan to describe the requirements, including legislative requirements, that apply to the activity and are relevant to the environmental management of the activity, and to demonstrate how those requirements will be met.

25. Section 2 and Appendix C of the EP identified the Commonwealth and State/Territory legislative requirements that apply to the activity, as well as the relevant industry standards and guidelines, and international agreements and conventions. The evaluation of environmental impacts and risks in Sections 7 and 8 of the EP provided a description of the legislative requirements that apply to the activity and are relevant to the environmental management of the activity, as well as a demonstration of how the requirements will be met. I considered that the EP included sufficient information on the legislative and environmental requirements that apply to the activity and demonstrated how the titleholder proposed they will be met throughout the life of the activity.

26. I considered that the EP met the requirements of reg 21(4).

Regulation 21(5) and (6) - Evaluation of environmental impacts and risks

27. Regulation 21 (5) and (6) requires that an environment plan include details of the environmental impacts and risks for the activity, an evaluation of all the impacts and risks appropriate to the nature and scale of each impact or risk, and details of the control measures that will be used to reduce the impacts and risks of the activity to as low as reasonably practicable (**ALARP**) and an acceptable level. The evaluation must evaluate all of the environmental impacts and risks arising directly or indirectly from all operations of the activity, and potential emergency conditions, whether resulting from an accident or other reasons.

28. Details of the environmental impacts and risks, including those arising from potential emergency conditions whether resulting from an accident or any other reason, are provided in Sections 7 and 8 of the EP. The environmental impacts and risks associated with the petroleum activity are identified in the EP, and included the environmental impacts and risks associated with the following receptors:

- (a) Marine mammals;
- (b) Marine reptiles;
- (c) Fish;
- (d) Seabirds/shorebirds;
- (e) Seabed/benthic habitat;
- (f) Water quality;
- (g) Air quality;
- (h) Marine protected areas;
- (i) Key ecological features;

- (j) Commercial fisheries;
 - (k) Shipping activities;
 - (l) Cultural features and heritage values;
 - (m) Tourism/recreation; and
 - (n) Onshore receptors (indirect impacts).
29. An evaluation of all the impacts and risks, whether arising directly or indirectly, and including those arising from potential emergency conditions whether resulting from accident or any other reason, appropriate to the nature and scale of each impact or risk is presented in detail in Sections 7 and 8 of the EP. These comprised:
- (a) Planned aspects:
 - (i) Physical presence (Section 7.1);
 - (ii) Seabed disturbance (Section 7.2);
 - (iii) Light emissions (Section 7.3);
 - (iv) Noise emissions (Section 7.4);
 - (v) Atmospheric emissions (Section 7.5);
 - (vi) Vessel and subsea discharges (Section 7.6); and
 - (vii) Solid waste generation and management (Section 7.7);
 - (b) Unplanned aspects:
 - (i) Hydrocarbon release – vessel collision (Section 8.2);
 - (ii) Unplanned spills of chemicals and hydrocarbons (Section 8.3);
 - (iii) Loss of solid waste (incl. dropped objects) (Section 8.4);
 - (iv) Marine fauna interaction (Section 8.5); and
 - (v) Introduction of invasive marine species (Section 8.6).
30. The EP includes details of the control measures that will be used to reduce the impacts and risks of the activity to ALARP and an acceptable level (Sections 7 and 8 of the EP). Control measures have been justified through evaluation and via the application of a hierarchy of controls.
31. Based on the matters summarised above, I concluded that the EP met the requirements of reg 21(5) and (6).

Regulation 21(7) - Environmental Performance Outcomes and Standards

32. Regulation 21(7) requires that an environment plan set environmental performance standards for the control measures identified in reg 21(5)(c), set out environmental performance outcomes and include measurement criteria to determine whether each performance outcome is being met.
33. I considered the Environmental Performance Outcomes (**EPO**), Environmental Performance Standards (**EPS**) and measurement criteria provided in Sections 7 and 8 of the EP and found that:
- (a) EPOs have been set which define performance for the management of the environmental aspects of the petroleum activity to ensure that environmental impacts and risk will be of an acceptable level. For example, EPO's adopted include:
 - (i) no unplanned interactions between the project vessels and other marine users.
 - (ii) no impacts to benthic habitats greater than a severity level of 2 within the Operational Area during the petroleum activity.

- (iii) avoid, or where not possible, minimise impacts to cultural features.
 - (iv) light emissions managed to limit impacts to marine fauna to short-term behavioural impacts only (severity level ≤ 2)
 - (v) noise emissions managed to limit impacts to marine fauna to short-term behavioural impacts only (severity level ≤ 2)
 - (vi) undertake the petroleum activity in a manner that does not cause acoustic injuries to, or prevent biologically important behaviours of, pygmy blue whales and southern right whales.
 - (vii) atmospheric emissions comply with Marine Order requirements.
 - (viii) routine vessel discharges comply with Marine Order requirements.
 - (ix) impacts from subsea discharges associated with decommissioning activities limited to localised, temporary changes in water and sediment quality in the vicinity of the discharge location.
 - (x) waste generated is segregated and disposed of onshore in accordance with relevant legislation.
 - (xi) no release of hydrocarbons to the marine environment due to a vessel collision during the petroleum activity.
 - (xii) no unplanned release of hazardous chemicals or hydrocarbon to the marine environment greater than a severity level 2 during the petroleum activity.
 - (xiii) no unplanned release of solid waste or objects to the marine environment greater than a consequence Level 1 during the petroleum activity.
 - (xiv) no vessel strikes with protected marine fauna during the petroleum activity.
 - (xv) no introduction and establishment of invasive marine species into the operational area as a result of the petroleum activity.
34. The EPSs have been set for control measures identified as being necessary to reduce the environmental impacts and risks of the activity to ALARP and acceptable levels.
35. Measurement criteria are provided that will allow the titleholder to determine whether each EPO and EPS is being met for the duration of the activity.
36. Based on the matters set out above, I found that the EP met the requirements of reg 21(7).

Implementation strategy for the EP: regulation 22

37. The EP includes content addressing the requirements of reg 22, including the following elements of the implementation strategy:
- (a) the timing for when the titleholder will report to NOPSEMA in relation to the titleholder's environmental performance for the activity, with the interval between reports not being more than one year. Section 9.10 outlines the routine reporting obligations to NOPSEMA, including annual environmental performance reporting (reg 22(7));
 - (b) A description of the environmental management system that will be used to ensure that impacts and risks continue to be identified and that controls measures are effective in reducing environmental impacts and risks to ALARP and acceptable levels so that the EPOs and EPSs continue to be met (Sections 1.5, 7 and 9.1)(reg 22(2));

- (c) Establishment of a clear chain of command, setting out the roles and responsibilities of personnel in relation to the implementation, management, and review of the EP, including during emergencies or potential emergencies. Section 9.2 of the EP outlines the organisational structure for the petroleum activity and the roles and responsibilities of key project team members. The chain of command and roles and responsibilities of key personnel involved in spill preparation and response are defined in Section 9.11.5.2 of the EP and is consistent with the Oil Pollution Emergency Plan (Appendix E)(reg 22(3));
- (d) Measures to ensure that each employee or contractor working on, or in connection with, the activity is aware of their responsibilities in relation to the EP, including during emergencies or potential emergencies, and has the appropriate competencies and training. Sections 9.6.1 and 9.6.3 outline the measures that are in place for ensuring employee and contractor competency, including the necessary awareness, training, and induction requirements to fulfil their duties. Section 9.11.5.2 of the EP defines the emergency response training, competency, and exercise requirements to ensure the emergency response personnel are aware of their roles and responsibilities (reg 22(4));
- (e) Provision for sufficient monitoring, recording, audit, management of non-conformance and review of the titleholder's environmental performance and the implementation strategy to ensure that the EPOs and EPSs in the EP are being met. In particular, Section 9.7 outlines the process for performance monitoring, assurance actions (inspections and audits), and management of non-conformances (reg 22(5));
- (f) Sufficient monitoring of, and maintaining a quantitative record of, emissions and discharges, such that the record can be used to assess whether the EPOs and EPSs in the EP are being met. Section 9.7 outlines the approach to monitoring and record keeping for emissions and discharges (reg 22(6));
- (g) An OPEP (Appendix C) with the provision for updating of the plan (reg 22(8));
- (h) the OPEP outlines appropriate arrangements for responding to and monitoring oil pollution and includes (22(9)):
 - i. the control measures necessary for timely response to an emergency that results or may result in oil pollution such as source control from a vessel spill, shore protection and deflection, oiled wildlife response, shoreline clean-up, waste management and scientific monitoring.
 - ii. the arrangements and capability that will be in place for the duration of the activity to ensure timely implementation of the control measures, including arrangements of ongoing maintenance of response capability. For example, Australian Marine Oil Spill Centre (AMOSOC) participating membership, Oil Spill Response Limited (OSRL) membership, environmental service providers, labour hire and vessel provider agreements.
 - iii. the arrangements and capability that will be in place for monitoring the effectiveness of the control measures and ensuring that the EPSs for the control measures are met.
 - iv. the arrangements and capability in place for monitoring oil pollution to inform responses, such as operational and scientific monitoring, satellite imagery contracts, tracking buoys, trained aerial surveillance and emergency response personnel.
- (i) arrangements for testing the response arrangements in the OPEP that are appropriate to the response arrangements and to the nature and scale of the risk of oil pollution for the activity (Section 9.11.12 and Section 9.11.13 of the EP);

- (j) the arrangements for testing the response arrangements, including a description of the objectives of testing, a proposed schedule of tests mechanisms to examine the effectiveness of response arrangements against the objectives of testing, and mechanisms to address recommendations arising from tests (Section 9.11.12, Section 9.11.13 and Section 9.11.14 of the EP);
 - (k) the arrangements in the OPEP are consistent with the national system for oil pollution preparedness and response (reg 22(11))
 - (l) provision for appropriate ongoing consultation during the implementation of the petroleum activity with relevant authorities of the Commonwealth, a State or Territory and other relevant interested persons or organisations. Section 9.9 outlines the arrangements for ongoing consultation, ranging from notifications to further consultation engagements (reg 22(15)); and
 - (m) the implementation strategy complies with the Act, the regulations and any other environmental legislation applying to the activity (reg 22(16)).
38. Based on the matters set out above, I concluded that the EP met the requirements of reg 22.

Details of titleholder and liaison person: regulation 23

39. Details for the titleholder were included in Section 1.8 of the EP, including the name, contact details and Australian Company Number (**ACN**) (within the meaning of the *Corporations Act 2001*) as well as the contact details of the titleholder's nominated liaison person.
40. Section 1.8 of the EP also contained appropriate arrangements for notifying NOPSEMA of a change in the titleholder, the nominated liaison person, or of a change in the contact details of either.
41. Based on these matters, I considered that the EP met the requirements of reg 23.

Other information in the EP: regulation 24

42. I considered that the EP met reg 24 as it contains:
- a. The titleholder's 'Environment and Biodiversity' environmental policy (Appendix B);
 - b. The information required under reg 24(b), specifically a report on all consultations under reg 25 with any relevant person by the titleholder in Section 4, Appendix F and the sensitive information part of the EP, which includes:
 - i. a summary of each response made by a relevant person;
 - ii. an assessment of the merits of any objection or claim raised during relevant persons consultation. The titleholder has identified claims and objections raised by relevant persons and assessed the merit of each objection or claim about the adverse impact of the activity described in the EP;
 - iii. a statement of the titleholder's response, or proposed response, if any, to each objection or claim. Where there has been a claim or objection identified, the titleholder has provided a response or proposed response to each objection or claim that has been raised;
 - iv. a copy of the full text of any response by a relevant person in the Sensitive Information Report;
 - v. details of any reportable incidents in relation to the proposed activity in Section 9.10.2 of the EP.

Should the Environment Plan be accepted?

43. Under the Environment Regulations, in order to accept the EP, I had to be reasonably satisfied that the criteria in reg 34 were met.

44. Regulation 33 requires that, when making my decision as to whether the EP should be accepted, refused or accepted in part or with conditions, I was required to consider the further information that the titleholders provided pursuant to the requests made by NOPSEMA (here, the requests made on 2 May 2024, 5 July 2024 and 3 September 2024). The information the titleholders provided in response to those requests was contained in the re-submitted versions of the EP (as set out at [5] to [9]) which resulted in the final version of the EP (Revision 3).
45. Against this background (and having considered the materials in Appendix C), I made the following findings against each criterion for acceptance of the EP in reg 34.

The EP is appropriate to the nature and scale of the activity: regulation 34(a)

46. I noted that Section 3 of the EP included a description of the scope and bounds of the activity. In particular, the EP provided details of the proposed location, spatial extent, timeframe, and duration of the decommissioning activities (see above at [19]). The EP also described the types and specifications of equipment and property that will be brought into the title areas and used to undertake the activity, as well as the description and where relevant, the composition of property to be removed from the title areas.
47. The EP contained a thorough description of the activity components with the greatest potential to generate impacts and risks to the environment throughout the activity duration, and, appropriately, provides more detail on activity components with the greatest potential to generate impacts and risks to the environment.
48. I considered that Section 4 and Appendix D of the EP contained a thorough description of the environment, and appropriately addressed relevant values and sensitivities (including matters protected under Part 3 of the EPBC Act) (see above at [22]). I noted the description of the EMBA includes areas that may be affected by potential emergency conditions in the event of an oil pollution incident which is conservatively defined through stochastic modelling of the worst-case spill scenario (an accidental vessel collision resulting in breach of project vessel fuel tanks).
49. I considered the level of detail included in the EP to be appropriately scaled to the nature of the impacts and risks. A greater level of detail is included in the EP on the EMBA by planned operations (OA), compared with the broader environment that may be exposed to low levels of hydrocarbon (in the unlikely event of a worst-case hydrocarbon release). Specifically, the EP includes:
- (a) A logical process that is applied to identify and describe the matters protected under Part 3 of the EPBC Act that may be present within the Operational Area and EMBA. The EP utilises relevant information to adequately inform and support the descriptions, such as information available on the Department of Climate Change, Energy, Environment and Water (DCCEEW) website such as plans of management, threat abatement plans, threatened species recovery plans and marine bioregional plans (Section 4 and Appendix D);
 - (b) A description of the key physical, biological, social, economic, and cultural features, values and sensitivities of the environment of the Commonwealth marine area. In particular, the EP appropriately identifies and describes the key physical, biological, social, economic, and cultural features, values and sensitivities of the environment that overlap with the EMBA. I considered that the EP utilises relevant references and information sources to adequately inform and support the descriptions, such as contemporary peer-reviewed scientific literature and other authoritative sources (Section 4 and Appendix D);
 - (c) A description of First Nations cultural features and heritage values of the EMBA (Section 4.6.1). In particular, the EP describes:

- (i) that decommissioning activities will occur in water depths of between approximately 55-60m, hence parts of the EMBA are in close proximity to coastal and island shorelines and a seabed environment that is, and was previously, occupied by First Nations people;
- (ii) consideration of both tangible and intangible aspects was given and was supported by multiple sources of relevant and suitable information. For example, the EP (Section 4.6, Table 4-8) includes details of onshore native title claims, determinations and ILUAs made under the *Native Title Act 1993*, cultural values related information published in State and Commonwealth Marine Park, and considerations pertaining to the *Underwater Cultural Heritage Act 2018 (UCH Act)*;
- (iii) Management Plans, information on the cultural features of marine ecosystems including the broader concept of “sea country”, and information on Indigenous archaeology in the offshore marine environment as relevant to the EMBA. The EP also provided opportunities through relevant persons consultation to inform the description of the potential for First Nations cultural features within the EMBA (which I discuss further below);
- (iv) the desktop assessment of sea country values (Section 4.6.1) undertaken by the titleholder where it reviewed publicly available literature for any records of previously identified sea country values or cultural features that may occur within the operational area or EMBA. A summary of sea country values or cultural features identified through the desktop assessment, and related to relevant First Nation groups, is presented in Table 4-9;
- (v) consultation with relevant persons has built on the knowledge of cultural features of the environment available through published research in the area. A summary of the values raised by First Nations relevant persons during consultation for this activity are presented in Table 4-9. Based on the desktop assessment and information obtained from First Nations relevant persons, the titleholder identified a number of cultural features and heritage values including, but not limited to:
 - songlines;
 - creation/ dreaming sites, sacred sites and ancestral beings;
 - cultural obligations to care for country;
 - knowledge of country/ customary law and transfer of knowledge;
 - connection to country, access to country;
 - kinship systems and totemic species, resource collection; and
 - marine ecosystems and marine species.

50. I also noted that a sufficiently robust method, consistent with internationally recognised standard ISO 31000:2018 Risk Management - Guidelines, was applied in the EP for the identification and evaluation of the environmental impacts and risks of the petroleum activity (Section 6). I considered that the detail and rigour applied to the impact and risk assessments (Sections 7 and 8) is commensurate to the magnitude of the impacts and risks related to the petroleum activity, and that the level of analysis and evaluation is proportionate to the nature and scale of the environmental impacts and risks generated by the petroleum activity. Further, I was satisfied that information provided during relevant persons consultation had been appropriately considered, evaluated, and incorporated into the EP where it was relevant.

51. I considered that there was a clear demonstration in the EP that the evaluation of impacts and risks informed the selection of suitable control measures appropriate for the nature and scale of the activity to either reduce the consequence/severity or likelihood of environmental impacts and risks. In this regard, the EP included sufficient information on the legislative requirements that are relevant to the activity (Section 2 and Appendix C).

52. In light of the above, I was reasonably satisfied that the EP met the requirements of reg 34(a)

The EP demonstrates that the environmental impacts and risks of the activity will be reduced to as low as reasonably practicable: regulation 34(b)

53. In determining whether the EP demonstrated that the environmental impacts and risks of the activity will be reduced to ALARP, I considered, and found, as follows:

Section 6 of the EP describes the process applied to evaluate whether impacts and risks are reduced to ALARP. A clear, systematic, and reproducible process for the evaluation of all impacts and risks is outlined, which details the control measures to be implemented, including an evaluation of additional potential control measures, and justifies why control measures are either adopted or rejected (with well-reasoned and supported conclusions) to demonstrate that the environmental impacts and risks of the activity will be reduced to ALARP. I noted that the evaluation of the adoption of control measures is based on environmental benefits and the consideration of the feasibility and cost/sacrifice of implementation;

- (b) The titleholder applied the environmental risk assessment process (described in Section 6) appropriately for planned and unplanned aspects of the activity, in particular for higher order hazards associated with the activity, such as subsea/vessel discharges, light emissions, underwater noise emissions, invasive marine species, marine fauna interaction and emergency events (such as a hydrocarbon release from vessel collision). I accepted that the exploration of alternative, additional or improved control measures had been evidenced, and that the control measures adopted demonstrate that environmental impacts will be reduced to ALARP;
- (c) The evaluation of impacts and risks has informed the selection of suitable control measures to either reduce the consequence/severity or likelihood of impacts and risks. The control measures outlined in Sections 7 and 8 of the EP are sufficiently detailed to demonstrate they will be effective in reducing the impacts and risks for the duration of the activity. The level of detail in the ALARP assessment is matched to the nature and scale of the potential impacts and risks. The EP provided a reasonable demonstration, which I agreed with, that there are no other practical control measures that could reasonably be taken to reduce impacts and risks any further;
- (d) The EP considers, evaluates and incorporates information gathered from the consultation process (Appendix F, Table 2) when demonstrating impacts and risks are or will be reduced to ALARP. For example, feedback from the Australia Maritime Safety Authority (**AMSA**) Marine Safety has been incorporated through adoption for suitable reporting and notification performance standards (e.g., EPS 1.3 and 1.4);
- (e) Available information obtained on the cultural features of the environment was adequately considered (Section 4.6.1, Table 4-9). Impacts and risk evaluated in Sections 7 and 8 of the EP, consider potential impacts to cultural features and heritage values (Sections 7.1, 7.2, 7.3, 7.4, 8.2.3), and address the range of matters raised by relevant persons, including First Nations cultural features and heritage values, where applicable;
- (f) The EP also evaluates and includes EPSs (EPS 3.1, 3.2 and 3.3) and control measures (C.3.1, 3.2 and 3.3) that address impacts and risks of proposed activities on underwater cultural heritage, along with implementation of an 'unexpected finds' procedure (Section 9.4). These performance standards and control measures also took into account feedback received from DCCEEW's Underwater Cultural Heritage team as part of the consultation process (Appendix F);
- (g) I was satisfied that impacts and risks described in the EP will be reduced to ALARP based on that evaluation and those control measures that will be implemented;

- (h) In some instances, the titleholder adopted additional control measures or improved existing control measures in response to information obtained from relevant persons during consultation. For example, the titleholder adopted an additional control measure (C 3.4 and EPS 3.4) for project inductions to be completed by relevant marine crew, prior to the individual commencing the activity, will include information on cultural features and heritage values, including tangible and intangible cultural heritage;
- (i) The potential impacts from the activity to threatened and migratory marine mammals, bird and reptile species (Matters of National Environmental Significance (**MNES**)) was considered during the EP assessment process;
- (j) The EP adequately identifies and evaluates the potential impacts and risks from the activity to cetaceans and other marine fauna, by being informed by the likelihood of species presence, distribution and behaviour within the area that may be affected by underwater noise or light emissions and supported with peer-reviewed literature. In particular:
 - (i) the evaluation of impacts and risks to threatened and migratory cetaceans and other marine fauna were informed by applying suitable control measures, including those set out within the Environment Protection and Biodiversity Conservation Regulations 2000 (**EPBC Regulations 2000**) – ‘Part 8 Division 8.1 Interacting with cetaceans’, and implementation of further monitoring and adaptive management controls;
 - (ii) the evaluation of impacts and risks to threatened and migratory bird species were informed by applying suitable control measure such as the ‘Frontline Offshore Seabird Management Plan’ to reduce potential interactions with nocturnal seabirds by managing external lighting; and
 - (iii) the EP considered, evaluated, and detailed all reasonable control measures that could reduce impacts to threatened and migratory whales, birds and turtles to ALARP;
- (k) The EP provided reasons that were supported by evidence for why the adopted controls for threatened and migratory whales, other marine fauna and migratory birds, reduce the potential impacts to the point that any additional or alternative control measures are either not feasible, or their cost would be grossly disproportionate to the benefit that would be achieved. Control measures adopted include:
 - (i) Limiting external lighting to that required for navigational and safety requirements, except for emergencies (C 4.1);
 - (ii) Implementing a ‘Frontline Offshore Seabird Management Plan’ to reduce the likelihood and consequence of interactions with nocturnal seabird species (C 4.2);
 - (iii) Not undertaking activities during peak southern right whale migration and calving period (C 6.1);
 - (iv) Prohibiting the timing of other petroleum activities overlapping with this petroleum activity (C 6.2);
 - (v) Implementing an adaptive management procedure for vessel dynamic position activities, which includes having dedicated Marine Fauna Observers (**MFOs**) available to detect marine fauna (C 6.3);
 - (vi) Ensuring all vessels comply with ‘EPBC Regulations 2000 – Part 8 Division 8.1 interacting with cetaceans’ in relation to distances to marine fauna (C 5.1);
 - (vii) Ensuring planned maintenance is undertaken for the construction vessel power generation systems (C 5.2); and

- (viii) Implementing speed restrictions (6 knots or less) in the operational area, excluding emergencies (C 5.3); and
- (ix) The analysis of impacts to threatened and migratory whales and other marine fauna, includes consideration of the objections and claims raised by relevant persons in relation to the management of impacts to these species to reduce these to ALARP (Section 7.4.3).

54. Based on the findings above and those outlined below at [53] (a) – (k), I was reasonably satisfied that the EP met the requirements of reg 34(b).

The EP demonstrates that the environmental impacts and risks of the activity will be of an acceptable level: regulation 34(c)

55. I also considered that the EP demonstrated that the environmental impacts and risks of the activity will be of an acceptable level. Specifically, I found that:

- (a) Sections 7 and 8 of the EP apply a clear, systematic, and reproducible process for demonstrating how environmental risks will be of an acceptable level and the statements and conclusions drawn by the titleholder in the EP have been sufficiently supported with scientific literature. The process is commensurate with the nature and scale of the activity and the severity of its impacts and risks with more effort and rigour applied to evaluations where there is a higher degree of scientific uncertainty in predictions of impacts and risks and/or severity of potential consequence of impacts and risks;
- (b) Section 6 of the EP describes the process undertaken by the titleholder to determine acceptable levels of impact and risk for the petroleum activity. This involved consideration of internal and external policy settings, feedback received by the titleholder during relevant persons consultation, relevant legislative requirements, applicable plans of management, recovery plans, conservation advice and other guidance for matters protected under the EPBC Act, and the principles of ecologically sustainable development as defined under the EPBC Act;
- (c) The EP demonstrates that the petroleum activity is not likely to have a significant impact on MNES protected under the EPBC Act, including World Heritage properties, National Heritage properties, Ramsar wetlands, listed threatened species and communities, listed migratory species and commonwealth marine areas;
- (d) The EP has had regard to relevant policy documents, guidance, bioregional plans, wildlife conservation plans, management plans, instruments under the EPBC Act, conservation advice, marine bioregional plans, and other information on the DCCEEW website. In particular, an assessment of the activity against the relevant objectives and action areas in these plans is provided in Sections 4.4.4, 7 and 8;
- (e) The EP demonstrates that the activity is not inconsistent with a recovery plan or a threat abatement plan for a listed threatened species or ecological community, a management plan or IUCN Reserve Management Principles in operation for an Australian Marine Park or a management plan for a Commonwealth Heritage Place. For example, the titleholder has evaluated and concluded that marine fauna interactions from the petroleum activity will be managed in a manner that is not inconsistent with the Conservation Management Plan for the Blue Whale 2015-2025 and the National Recovery Plan for the Southern Right Whale 2024; and
- (f) The titleholder has identified and addressed areas of uncertainty in the impact and risk evaluations (Sections 7 and 8). Predictions of environmental impact and risk are suitably conservative and supported by appropriate modelling where applicable.

56. In relation to planned aspects of the activity, predictions have been made regarding impacts and risks to the environment that are considered suitably conservative and result in the inclusion of appropriate

controls given the nature of the activity. For example, the environmental assessment in Section 7 includes consideration of aspects typical for equipment removal activities, such as physical presence, lighting, noise, seabed disturbance, vessel and activity discharges, atmospheric and greenhouse gas emissions and waste management.

57. In relation to unplanned aspects of the activity (Section 8), the EP gives appropriate consideration to risks, such as unplanned spills of chemicals and hydrocarbons, introduction of invasive marine species, loss of solid waste, marine fauna interactions and emergency events (vessel collision). Uncertainty has been addressed in the evaluation of oil pollution incidents through the application of what I accepted were appropriately conservative stochastic modelling and appropriate recognition of assumptions made. The evaluation of risks posed by spill scenarios includes consideration of potential impacts to the receptors outlined in the description of the environment (Section 4) and informs the selection of appropriate spill response options.
58. In relation to impacts and risks to cultural features of the environment, I considered that the EP (Sections 7 and 8) demonstrated that this will be of an acceptable level because:
- (a) the EP (Section 4.6.1) adequately identifies and evaluates First Nations cultural features and heritage values.
 - (b) the evaluation of impacts and risks to cultural features utilised multiple sources of relevant and suitable information, ranging from Native Title claims, determinations and ILUAs, IPAs, State/Territory and Commonwealth Marine Park Management Plans, publicly available databases on cultural heritage sites, published literature and supported through independent expert opinion and consultation with First Nations relevant persons. This includes those matters presented in EP Section 4.6.1 and listed above under paragraph [49(p)].
 - (c) the evaluation also addresses additional matters raised by First Nations relevant persons in relation to the identification of cultural features and heritage values that may be present in the EMBA and could be directly or indirectly affected by the activity. For example, feedback provided from First Nations relevant persons regarding cultural sensitivities has been incorporated under Sections 7.2.3 (seabed disturbance), while the risk of noise emissions impacting culturally important whales species and short-finned eels is evaluated under Section 7.4.3.1.
 - (d) I was satisfied that the outcomes of consultation with First Nations relevant persons informed the control measures the titleholder implemented for reducing impacts and risks to acceptable levels;
 - (e) The impact and risk evaluation (Sections 7 and 8) outlines, and I accept, that:
 - impacts to cultural features linked to a specific place are not anticipated from planned or unplanned activities and were considered in the assessment for physical environment/habitat, threatened ecological communities and protected areas. This includes for example, impacts arising from seabed disturbance (Section 7.2) or in the highly unlikely event of a hydrocarbon release from the activity vessel (S.8.2);
 - appropriate control measures have been adopted to ensure that any impacts to First Nations cultural features will be managed to an acceptable level. For example, controls to manage the risk of seabed disturbance impacting culturally important are evaluated and adopted under Section 7.2 (C 3.1, C 3.2 C 3.3 and C 3.4); and
 - the activity will be managed to the defined acceptable level of impact for cultural heritage features and values, such that there are no impacts to cultural heritage features and no significant impacts to cultural heritage values; with the implementation of the proposed management

measures (as outlined in Sections 7 and 8), impacts and risks to cultural features of the environment will be managed to acceptable levels.

59. Specifically, in relation to MNES, which were the focus of a topic assessment, I considered that the EP demonstrated that the specific impact to threatened and migratory whales (such as injury or significant behavioural disturbance) will be of an acceptable level because:
- (a) Whilst the Operational Area overlaps a number of BIAs for threatened, protected or migratory marine fauna (Table 4-5), the timing and duration of the activity, along with implementation of suitable controls to reduce potential impacts described in the EP demonstrated that the activity would not be inconsistent with Commonwealth Conservation Management Plan for the Blue Whale 2015–2025, Guidance on Key Terms within the Blue Whale Conservation Management Plan (2021), Blue Whale Conservation Management Plan – FAQs published by NOPSEMA, National Recovery Plan for the Southern Right Whale 2024 and National Light Pollution Guidelines for Wildlife;
 - (b) The noise emission evaluation presented in (Section 7.4) has been informed by contemporary peer-reviewed literature and internationally accepted impact evaluation thresholds, specifically established for the proposed activities;
 - (c) The evaluation also considers petroleum activities by other titleholders that may be conducted in the Otway Basin within the timeframe of the project, and the potential for cumulative underwater noise impacts from these, and the equipment removal activities described in the EP;
 - (d) The acceptable level of impact for underwater noise impacts on whales is compared to the predicted level of impact, which is derived from comparing noise modelling studies with published studies on the distribution patterns of whales, to demonstrate that the environmental impacts of the activity will be managed to an acceptable level. In particular, the EP (Sections 7.4 and 8.5) considered recent research on blue whale and southern right whale distribution patterns published in peer-reviewed literature that indicated the possibility of presence of those species in and around the operational area;
 - (e) The EP evaluates the potential for permanent threshold shift (**PTS**) and temporary threshold shift (**TTS**) in hearing and behavioural disturbance to marine mammals, due to underwater noise exposure from the activity (Table 7-8);
 - (f) The EP addresses impacts and risks from underwater noise to marine fauna, and in particular pygmy blue whales and southern right whales. It details sound transmission loss modelling which predicts how far PTS (0.03km) and TTS (0.67km) extends from the construction vessel during equipment removal activities (Table 7-10). It also predicts behavioural response thresholds for cetaceans (2.4km), which also informs the observation area required for the cetacean adaptive management;
 - (g) The EP evaluates whether the activity could have an unacceptable level of impact on blue whale foraging and/or southern right whale migration or reproduction activities, considering the location and timing of the operational area in relation to the BIA's, a review of scientific literature pertaining to the behaviour of those species, and controls in place to manage the risk (Section 7.4.3.1);
 - (h) The EP describes a range of control measures to reduce underwater noise impacts to threatened and migratory cetaceans and other marine fauna to an acceptable level, including, but not limited to:
 - (i) implementing 'EPBC Regulations 2000 – Part 8 Division 8.1 Interacting with cetacean' (C 5.1), specifically an adaptive management process requiring maintenance of a caution zones distance, speed restrictions and management response (PS 5.1, Section 9.6.8);
 - (ii) implementation of adaptive management controls prior to commencing any dynamic position (**DP**) operations, with monitoring undertaken inside of the 2.4 km observation zone by a

designated Marine Fauna Observer (**MFO**) assigned to the construction vessel (C 6.3, PS 6.3.1, Section 9.6.8). The process identifies mandatory observation periods (30 minutes for daytime DP start, 60 minutes at sunset prior to night time DP start), DP commencement hold, notification and documentation requirements;

- (iii) avoiding activities during peak southern right whale migration and calving periods (C 6.1);
- (iv) prohibiting timing of other proposed overlapping petroleum activities (C.6.2); and
- (v) implementing speed restrictions (6 knots or less) in the operational area, excluding emergencies (C 5.3).

60. I found the EP demonstrated that with the implementation of the proposed management measures, the petroleum activity is not expected to injure or result in biologically significant behavioural disturbance to blue whales and southern right whales, and therefore will be managed to an acceptable level.
61. I also found the EP provided an appropriate evaluation of impacts and risks specific for the nature and location of the activity and relevant environmental receptors. I considered that the evaluation is commensurate to the level of impact or risk presented and provides justifiable conclusions that impacts and risks will be managed to an acceptable level (Sections 7 and 8). The impact and risk evaluations demonstrate that the acceptable level will be met, and that the EPO will be achieved.
62. I considered that information provided during relevant persons consultation had been appropriately considered, evaluated, and incorporated into the EP where it was relevant. The titleholder has considered information gathered from the consultation process when demonstrating impacts and risks will be managed to an acceptable level. For example, several of the planned and unplanned activities environment impact assessments are informed by information received through the consultation process (e.g., Section 7.2 'Seabed Disturbance', Section 7.4 'Noise Emissions' and Section 8.2 'Hydrocarbon Release'), as well the addition of notification requirements identified in the ongoing consultation engagement table (Table 9-4) and reporting requirements (Table 9-5).
63. In light of the above, I was satisfied that the EP met the requirements of reg 34(c).

The EP provides for appropriate environmental performance outcomes, environmental performance standards, and measurement criteria: regulation 34(d)

64. Sections 7 and 8 of the EP contain EPOs, EPSs and measurement criteria for impacts and risks of the petroleum activity (and I refer to [46]-[62] above for more detail on these).
65. The EP provided appropriate EPOs, which I considered:
- (a) were relevant and addressed all the identified environmental impacts and risks for the activity;
 - (b) when read in conjunction with associated EPSs, established measurable levels for management of environmental aspects of the activity;
 - (c) when read in conjunction with the relevant environmental impact/risk evaluation and adopted management measures, demonstrated that the environmental impacts and risks will be managed to an acceptable level and as low as reasonably practicable; and
 - (d) are consistent with the principles of ESD and relevant requirements (such as plans of management, recovery plans, conservation advice and other guidance for matters protected under the EPBC Act), considering items (a) and (c) above).
66. I also noted that the EP provided appropriate EPSs that:

- (a) contain clear and unambiguous statements of environmental performance. The statements of environmental performance describe how each of the adopted control measures will function and perform to effectively reduce environmental impacts and risks to ALARP and to an acceptable level; and
- (b) have clear measurement criteria that link to the EPSs and will provide a record that the EPSs have been met. The measurement criteria are suitable for verifying that the defined levels of environmental performance are being met, and for the purpose of monitoring compliance.

67. I considered that the EPOs, EPSs and measurement criteria are clearly linked and complementary of one another, as presented in the 'Environmental Performance Outcomes, Performance Standards and Measurement Criteria' tables presented for each of the impacts evaluated under Sections 7 and 8.

68. Based on the matters summarised above, I was reasonably satisfied that the EP met the requirements of reg 34(d).

The EP includes an appropriate implementation strategy and monitoring, recording and reporting arrangements: regulation 34(e)

69. Regulation 34(e) requires that I be satisfied that the implementation strategy, and the monitoring, recording and reporting arrangements were appropriate.
70. The implementation strategy contains a description of the environmental management system (**EMS**) for the activity, consistent with the requirements of reg 22(2). I noted that the implementation strategy outlined in Section 9 provides a range of systems, practices and processes (outlined in further detail below) which I was satisfied provided for all impacts and risks to continue to be managed to ALARP and acceptable levels for the duration of the activity.
71. I was satisfied that the management of change (**MOC**) process were adequately described in Section 9.8.4 and appropriate because the process describes that:
- (a) changes will be assessed as per the environmental risk management methodology (Section 6), to determine the significance of any potential new environmental impacts or risks not provided for in the EP;
 - (b) risk assessment outcomes will be reviewed for compliance with regulation 39(2);
 - (c) minor changes that do not trigger a requirement for a formal revision under reg 39(2), will be considered a 'minor revision' and tracked;
 - (d) sections 9.8.1, 9.8.2, and 9.8.3 provide a reasonable description of the titleholders' learning and knowledge sharing processes as well as review of impacts, risk and controls across the life of the EP.
72. I was satisfied that the implementation strategy included measures to ensure that each employee or contractor working on, or in connection with, the activity is aware of their responsibilities in relation to the EP, including during emergencies or potential emergencies, and has the appropriate competencies and training, consistent with the requirements of reg 22(4). The key roles and responsibilities of personnel involved in the implementation, management and review of the EP are appropriately outlined in Section 9.2 and the roles and responsibilities for personnel involved in oil spill preparation and response are outlined in Section 9.11.5.2 of the EP (and in the OPEP).
73. An appropriate OPEP has been provided that includes arrangements that are suitable, given the spill scenarios presented. Specifically, the OPEP:

- (a) Details the oil pollution response control measures that will be used to reduce the impacts and risks of the activity to ALARP and an acceptable level, the arrangements for responding to and monitoring oil pollution to inform response activities, the arrangements for updating and testing the oil pollution response arrangements and control measures, and provides for the monitoring of impacts to the environment from oil pollution and response activities; and
 - (b) Contains immediate (first strike plan) response measures that provides the oil pollution arrangements and control measures in an operational deployment context.
74. I found that the monitoring, recording and reporting arrangements were adequately described in Sections 9.7 and 9.10 and included routine internal and external reporting requirements and incident reporting arrangements. I considered that these arrangements were appropriate as these Sections detailed that the information collected will:
- (a) be based on the EPOs, controls, standards and measurement criteria in the EP; and
 - (b) include environmental discharges reports that record volumes of planned and unplanned discharges to marine environment and atmosphere.
75. The EP also provides for appropriate auditing, review and management of non-conformances of the titleholder's environmental performance and the implementation strategy in Sections 9.7 and 9.10. Non-conformances are entered into an incident management system and assigned corrective and preventative actions that are monitored and tracked to close out. I considered such processes would ensure prompt action and appropriate corrective measures were taken.
76. The EP provides for the implementation of ongoing consultation arrangements in Sections 5.7 and 9.9 with planned notifications to relevant persons outlined in Section 9.10. I considered the ongoing consultation arrangements described in the EP, as required by reg 22(14), are appropriate. In particular, I noted that the titleholder has committed to:
- (a) where requested:
 - i. provide Start and End of activity notifications to relevant government departments, the Australian Hydrology Office (**AHO**), relevant fishing bodies, commercial licence holders and Aboriginal corporations;
 - ii. share environmental monitoring and survey data;
 - iii. provide resourcing to support the progress of consultation plan and/or provision of independent technical/scientific advice;
 - iv. consult in the event of an emergency;
 - (b) Implement Management of Knowledge and Management of change processes to acknowledge any feedback received from persons or organisations during the life of the EP; and
 - (c) Routine external reporting requirements.
77. Based on the matters identified above, I was reasonably satisfied that the EP met the requirements of reg 34(e).

The EP does not involve the activity, or part of the activity, other than arrangement for environmental monitoring or for responding to an emergency, being undertaken in any part of a declared World Heritage Property within the meaning of the EPBC Act: regulation 34(f)

78. As stated above at [19] and [46], I was satisfied that the EP clearly described the boundaries of the petroleum activity (Sections 3.3), which demonstrates that no part of the activity will be undertaken in any part of a World Heritage Property within the meaning of the EPBC Act.
79. In those circumstances, I was reasonably satisfied that the EP met the requirements of reg 34(f).

The EP demonstrates that the titleholder has carried out the consultations required by Division 3, and the measures (if any) that are adopted because of the consultations are appropriate: regulation 34(g)

80. Regulation 34(g) has two components which the EP must demonstrate:
- First, that consultation has occurred as per the requirements in reg 25. This requires that the titleholder consults with each 'relevant person' as defined in reg 25(1), and imposes certain requirements for how that consultation is to occur (as specified in reg 25(2)-(4)); and
 - Second, that the titleholder adopted, or proposed to adopt, appropriate measures in light of those consultations.
81. Overall, I must be reasonably satisfied that consultation undertaken was appropriate and adapted to the nature of the relevant persons.
82. I noted that the titleholder's consultation methodology (Section 5), Appendix F, Appendix G and the sensitive information part of the EP were particularly relevant to this criterion.
83. I found that Section 5 of the EP provides descriptions of the consultation process (as per figures 5-1 and 5-2) and the rationale used to determine who and how to consult with relevant persons, including the approach to provision of sufficient information to allow the relevant person to make an informed assessment of the possible consequences of the activity on the functions, interests or activities of the relevant person, and to allow the relevant person a reasonable period of time to engage in the consultation process.
84. I found that the EP describes a clear process for the identification, and in particular for the broad capture of relevant persons, in accordance with reg 25(1). This is because:
- The process (Sections 5.3 to 5.7) provides for the identification of relevant persons within all the categories of relevant persons defined by reg 25(1)(a), (b), (c) and (d). The relevant person identification methodology for a suitable range of categories is presented in Tables 5-1 and 5-2. These included:
 - Under reg 25(1)(a), (b) and (c):
 - Government departments / agencies (marine, environment and industry)
 - Under reg 25(1)(d):
 - Commercial fisheries and peak representative bodies
 - Recreational marine users and peak representative bodies
 - Titleholders and operators
 - Peak industry representative bodies
 - Traditional Custodians (individuals and/or groups/entity)
 - Traditional Custodians nominated representative corporations
 - Native Title Representative Bodies

- Heritage groups or organisations
 - Local government and recognised local community reference/liaison groups or organisations
 - Other non-government groups or organisations
 - Research institutes and local conservation groups or organisations
- (iii) Under reg 25(1)(e):
- Any other person or organisation that the titleholder considers relevant
- (b) The titleholder considered both the operational area and the broader EMBA in undertaking consultation (Section 5.2). The broadest extent of the EMBA has been determined by reference to the event of a hydrocarbon release resulting from the petroleum activity (see Section 4). The EMBA used for this evaluation was in fact conservative, as the titleholder uses the loss of well control EMBA applicable to the Minerva Plug and Abandonment EP (referred to under paragraph 15(a)) to inform the identification of relevant persons rather than an EMBA linked to the significantly smaller vessel spill scenario applicable to this activity (Section 4.1, Figure 4-1);
- (c) The process provides for the terms, “functions,” “interests” and “activities” for the purpose of identifying relevant persons under reg 25(1)(d) to be interpreted and applied broadly by the titleholder in a manner consistent with the interpretation of those terms in NOPSEMA’s ‘Consultation in the course of preparing an environment plan guideline’ (N-04750-GL2086). A description of the functions, interests or activities of those persons or organisations identified as relevant persons under reg 25(1)(d) is provided in Table 5-2 and used to inform the Assessment of Relevance provided in Appendix F, Table 1;
- (d) The process includes reference to multiple sources of information, such as publicly available materials (including management plans for Commonwealth and State Marine Parks), review of databases and registers, such as the Australian Fisheries Management Authority (**AFMA**) and Victorian Fisheries Authority fishery catch and effort data.
- (e) The process also considered published guidance, such as the West Australian Fishing Industry Council (**WAFIC**) consultation guidance, recognising there is not specific Victorian consultation guidance available for fisheries), as well as previous history and advice from authorities and other relevant persons (such as the Director of National Parks);
- (f) The process (Section 5.4) includes details and evidence of the steps taken by the titleholder to create awareness of the petroleum activity and the consultation process, to encourage potentially relevant persons that the titleholder may not be aware of, to make themselves known to the titleholder. For example, advertising in national, state and relevant local newspapers and participating in community information sessions;
- (g) The process (Sections 5.3) includes details of how the titleholder makes an assessment to determine whether an individual or organisation who has self-identified as a relevant person, is or is not, considered to be a relevant person for the purposes of regulation 25. For example, Friends of the Earth Australia and Maritime Union of Australia self-identified and were then assessed as relevant persons under regulation 25(1)(d), as per Table 5-3 and Appendix F (Table 1); and
85. I found that the nature of the activity, description of the environment and the possible impacts and risks of the activity have been taken into account for the purpose of the titleholder determining relevant Commonwealth or State agencies or authorities, or determining whose functions, interests and activities may be affected. Notably:

- (a) The titleholder has considered all the known environmental values and sensitivities within the full extent of the environment that may be affected by the planned and unplanned impacts and risks of the activity (Sections 7 and 8) when determining relevant persons; and
- (b) The titleholder has considered the nature and scale of the activity and all the possible impacts and risks of the activity when determining relevant persons (Sections 3, 4 and 5.3).

86. I found that effective consultation has taken place with relevant persons in accordance with reg 25. This is because the titleholder:

- (a) Consulted with each person or organisation identified as a relevant person in the EP, including those who self-identified and that the title holder recognised as relevant (Tables 5-2, Appendix F, Table 2).
- (b) Also provided a record of consultation undertaken with other persons or organisations that the titleholder did not deem to be 'relevant persons,' but had chosen to contact (as per the process described in EP Section 5.3.7), or that had self-identified but that the title holder assessed as being not relevant (Appendix F, Tables 3);
- (c) Advised relevant persons of the requirement to undertake consultation. This included providing relevant persons with a copy of NOPSEMA's Consultation on offshore environment plans Brochure, after its publication in May 2023. This is evidenced in the records of material provided as included in Appendix F ('Records of Consultation');
- (d) Provided relevant persons with sufficient information to allow the relevant person to make an informed assessment of the possible consequences of the activity on their functions, interests or activities, in accordance with reg 25(2). Specifically:
 - (i) The EP (Section 5.4.1) includes a description of the approach for provision of sufficient information that takes into account the functions, interests or activities of relevant persons and the impacts and risks that may affect them;
 - (ii) The titleholder tailored the information to suit the needs of the different types of relevant persons and provided information in a form that is readily understood and appropriate for the relevant person being consulted. For example, a consultation to the Department of Defence included a 'defence zone map', sent as an attachment (Appendix F, ref 1.15.1), and emails sent to various First Nation Groups contained a summary information sheet for the activity (Appendix F, refs 1.39-1.44);
 - (iii) The titleholder used different materials to support the provision of information that was suited to the relevant person being consulted, such as pictorials, graphics, verbal briefings and presentations (Section 5.4.1, Appendix F and sensitive information report);
 - (iv) The titleholder considered relevant persons' views of what constitutes sufficient information and has considered requests for additional information by relevant person and other persons the titleholder chose to contact;
 - (v) The titleholder responded to requests made, including through provision of additional information in relation to impacts and risks of the activity. For example, additional information was provided to the MUA, Tuna Australia, South East Trawl Fishing Industry Association (**SETFIA**), specific fishers from the Rock Lobster Fishery and a number of relevant First Nations groups; and
 - (vi) The consultation material provided sufficient information about the environment and impacts on the environment to allow relevant persons to make an informed assessment of the possible consequences of the activity on their functions, interests or activities. For example, detailed consultation information sheets, bespoke (plain English) summary consultation information

sheet, activity emails, newspaper advertisements and custom PowerPoint presentations for meetings.

- (e) Allowed relevant persons a reasonable period for the consultation, in accordance with reg 25(3). Specifically:
- (i) Records provided in Appendix F indicate that the titleholder published advertisements in a national, state and relevant local newspapers on 17 May 2023 advising of the proposed activities and requesting feedback. More targeted consultation commenced in late May 2023 and early June 2023, and continued until around January 2024, with the titleholder directly engaging with identified relevant persons, and engaging with them thereafter. I considered the timeframe of, at minimum 7 months and at most 15 months to engage in consultation was reasonable;
 - (ii) The EP (Section 5.4.2) describes the approach taken to determining a reasonable period for consultation, which was based on consideration of the relevant person's particular circumstances and includes consideration of the nature, scale and complexity of the activity, as well as the extent and severity of potential impacts and risks on each relevant person's functions, interests or activities; and
 - (iii) The process for relevant persons consultation provides for the titleholder to take into account any availability and accessibility issues of relevant persons. For example, representatives of the titleholder travelled to Victoria on 17 February 2024 to attend a consultation session organised by Gunditj Mirring Traditional Owners Aboriginal Corporation (**GMTOAC**) specific for the purpose of progressing industry consultation matters (Appendix F, Table 2);
- (f) Considered relevant persons' views of what constitutes a reasonable period for consultation and has considered requests for additional time by relevant persons. For example, additional time was provided where reasonable requests were made to meet with GMTOAC beyond initially proposed timeframes, flexibility was provided to meet on specific dates identified by the group and regular enquiries were made regarding the status of the consultation plan.
- (g) Identified and addressed all correspondence and claims received from relevant persons at the date of the final EP submission to NOPSEMA. The manner in which the titleholder addressed responses is summarised in the EP (Table 2, Appendix F), for each relevant person. This for the most part involved the titleholder preparing and sending written correspondences (letters or email) to the relevant persons addressing their response(s). In some cases, records were provided indicating that a phone call had been returned or a meeting organised and held. Records of any written responses were also included in the sensitive information report; and
- (h) Informed relevant persons that they may request that particular information provided during consultation not be published and information subject to such a request was not published, in accordance with reg 25(4). The titleholder had consistently provided these notifications through the information sheets, in specific written correspondence and at meetings.
87. I found that information gathered through the consultation process was incorporated into the EP and effectively informed the identification of environmental values and sensitivities, to ensure impacts and risks are reduced to ALARP and acceptable levels. In particular, it was evident that information from relevant persons:
- (a) reinforced the identification of environmental values and sensitivities (Section 4);
 - (b) has been considered in the evaluation of environmental impacts and risks, and in the titleholder's processes for demonstrating that the environmental impacts and risks of the activity will be reduced to ALARP and acceptable levels. For example, among others, potential impacts identified by a number

of Registered Aboriginal Parties and Seafood Industry Victoria (**SIV**) are included in the EP (see examples provided under [53] and [54]); and

- (c) has been considered in the titleholder's processes for demonstrating that the environmental impacts and risks of the activity will be reduced to ALARP and acceptable levels.

88. I considered that the titleholder's assessment of merit, and all responses to objections and claims were reasonable and supported, and the measures adopted because of the consultation were appropriate. In this regard:

- (a) The titleholder has resolved objections and claims raised by relevant persons as far as reasonably practicable, and has demonstrated that the additional control measures adopted because of the consultations are appropriate, through the processes described under paragraph [86(f)] above and evaluation of additional control measures and changes made to the EP as part of the 'inclusion in Environment Plan' section of the consultation summary report presented under Appendix F, Table 2. For example, as a result of consultation undertaken with the Bunurong Land Council Aboriginal Corporation, the title holder has evaluated and adopted the use of marine fauna observers for the duration of the activity (Section 7.4.6) and updated the EP to capture the requirement of providing planned operational updates to BLCAC (Section 9.10.2) and to capture the potential for BLCAC to engage in ongoing consultation regarding gender specific (Section 9.9) information.
- (b) This consultation summary report (Table 2, Appendix F), provides a clear listing of all objections and claims, catalogued against the evaluation and response provided by the titleholder;
- (c) In some cases, the titleholder's assessment of the merits of objections and claims resulted in the adoption of additional control measures to demonstrate that impacts and risks will be reduced to ALARP and acceptable levels. For example, control measures identified through consultation with Commonwealth and Victorian licensed fishers and the Department of Defence, and AHO have been included in the EP (e.g., C 1.3, C 1.5 and C 1.7, Section 7.1);
- (d) In other cases, the titleholder's assessment of the merits of objections and claims did not result in additional control measures being adopted, as they were not practicable and/or necessary for the EP to demonstrate that impacts and risks will be reduced to ALARP and acceptable levels. However, where control measures were not adopted, on some occasions the titleholder made a commitment to the relevant person. This, for example, includes the commitment for the titleholder to provide decommissioning environmental survey data to interested groups, which relates to maintaining ongoing engagement, rather than a reduction in impacts and risks (adopted under S.9.9, Table 9-4).

89. I found that the EP complies with reg 24(b), in that:

- (a) The EP (Appendix F, Table 2) contains a summary of each response made by a relevant person. The summary adequately reflects the responses received from relevant persons, such that relevant claims or objections can be adequately identified. The assessment team reviewed the full text records to verify the accuracy of the summary of the consultation;
- (b) The EP (Section F, Table 1) contains an assessment of the merits of any objection or claim raised during relevant persons consultation. The titleholder has identified claims and objections raised by relevant persons and assessed the merit of each objection or claim about the adverse impact of the activity described in the EP. The assessment of merit has subsequently informed the titleholder's response or proposed response to the relevant person's objection or claim. The report contains a statement of the titleholder's response, or proposed response, if any, to each objection or claim. Where there has been a claim or objection identified, the titleholder has provided a response or proposed response which was considered adequate to each objection or claim that has been raised;
- (c) A copy of the full text of any response by a relevant person was included in the sensitive information attachment part of the EP; and

- (d) Where claims or objections regarding the adverse impact of the activity were raised, relevant to the activity to which the EP relates, the titleholder has considered the claims against the content of the EP to ensure relevant management measures have been included. The consultation has progressed to resolve objections and claims made by relevant persons as far as reasonably practicable. I considered that the titleholder's assessment of claims and its responses to objections and claims were reasonable and supported, with cross-referencing to records where applicable. This is evident through review of Appendix F, Table 2.

Relevant Persons under Regulation 25(1)(a)-(c)

90. Relevant persons under reg 25(1)(a)-(c) are each Commonwealth, State or Northern Territory Department or agency to whom the activity in the EP may be relevant, in addition to the Department of each responsible State Minister or Northern Territory Minister.
91. Section 5.3.2 of the EP of the EP outlines the process for the identification of Commonwealth and State and Territory Departments and/or agencies in the marine, environment and industry fields, which I considered to be appropriate. Appendix F, Table 1 in the EP provides the titleholder's assessment of the 21 Commonwealth and State and Departments and agencies that are considered to be a relevant person under reg 25(1)(a)-(c)
92. I noted that consultation with the relevant persons under reg 25(1)(a)-(c) occurred, in accordance with GL1887 – Consultation with Commonwealth agencies with responsibilities in the marine area – January 2023, predominately via email, unless otherwise requested.
93. I considered that sufficient information was provided to allow the relevant persons under reg 25(1)(a)-(c) to make an informed assessment of the possible consequences of the activity on the functions, interests or activities. In particular, the titleholder provided a link to the titleholder's website that contained online materials and information relevant to the functions, interests or activities of these relevant persons.
94. The titleholder initially contacted and commenced consultation with relevant persons under reg 25(1)(a)-(c) between May 2023 and January 2024. Relevant persons were initially provided with 30 days to respond, and consultations continued with relevant persons where requested. I considered that relevant persons under reg 25(1)(a)-(c) were provided with a reasonable period for the consultation.
95. I noted the consultation records in the EP show that the titleholder provided information to relevant persons under reg 25(1)(a)-(c) regarding the titleholder's consultation obligations and that under reg 25(4) that relevant persons may request that particular information the relevant person provides in the consultation not be published. I also noted that no such requests were made by relevant persons under reg 25(1)(a)-(c).
96. For reasons set out in [80] – [89] and [90] – [99] above, I was, accordingly, reasonably satisfied that reg 34A(g)(i) was met.
97. I also noted that most relevant persons under reg 25(1)(a)-(c) that responded to the consultation did not make any objections or claims relating to adverse effects of the activity in response to the consultation requests. Where there were objections or claims raised by a relevant person under reg 25(1)(a)-(c), the EP demonstrates that the titleholder assessed the merit of each objection or claim, and determined whether or not additional measures were required in response.
98. Finally, I noted that some relevant persons under reg 25(1)(a)-(c) provided feedback during consultation which was not related to an adverse impact of the activity, and found that in any case, the titleholder identified the feedback and indicated what changes were made to the EP in response. For example, a large part of the feedback was that certain bodies should be provided with certain notifications from the

titleholder (e.g., activity commencement and duration notifications), all of which have been included as commitments in the EP (e.g., refer to Table 9-5).

99. For reasons set out in [97] – [98] above, I considered that these measures were appropriate, and therefore reg 34(g)(ii) was met.

Relevant Persons under Regulation 25(1)(d)

100. Relevant persons under reg 25A(1)(d) are considered to be ‘a person or organisation whose functions, interests or activities may be affected by the activities to be carried out under the EP, or the revision of the environment plan.’
101. I noted that Section 5.3.3 of the EP includes appropriate definitions for the terms of “functions”, “interests” and “activities” that are consistent with the definitions provided for those terms in NOPSEMA’s ‘Consultation in the course of preparing an environment plan guideline’. I considered the interpretation and application of the terms to appropriately promote the objects of the Regulations, including that offshore petroleum and greenhouse gas activities are carried out in a manner consistent with the principles of ESD.
102. Section 5.3.4 of the EP outlines the process for the identification of persons and organisations whose functions, interests or activities may be affected by the activities to be carried out under the EP, which I considered to be appropriate, as per my reasons above in [80] – [89].
103. Appendix F, Table 1 in the EP provides the titleholder’s assessment of the persons or organisations that are considered to be a relevant person under reg 25(1)(d), within the broad categories of “commercial fisheries and representative bodies” (27), “recreational marine users, tourism and representative bodies” (7), “titleholder and operators” (3), “peak industry representative bodies” (1), “Traditional Custodians and Nominated Representative Corporations” (5), “native title representative bodies” (1), “local government and community representative groups or organisations” (14), “other non-government groups or organisations” (5) and “research institutes and local conservation groups or organisations” (5).
104. I found that Appendix F, Table 1 provides a comprehensive overview of who has been identified as a relevant person for the purposes of reg 25(1)(d), includes details of the rationale the titleholder has used to determine who they consider fall within that definition and broadly describes the functions, interests or activities of those persons or organisations.
105. I noted that the consultation records in the EP show that the titleholder provided information to relevant persons under reg 25(1)(d) regarding the titleholder’s consultation obligations and relevant persons rights in line with reg 25(4). Only one such requests was made by relevant persons under reg 25(1)(d), a fisheries relevant person, and this was recorded in the Sensitive Information report, under Section 2, ‘Summary of stakeholder requests for information to remain confidential to NOPSEMA’.
106. I was reasonably satisfied that the consultation process provided for broad capture of ascertainable persons and organisations who may have their functions, interests or activities affected by the proposed activity for the purposes of reg 25(1)(d). This was because, as I have outlined previously in [80] – [89] and [100] – [105] above, the EP describes a clear process for the identification and broad capture of relevant persons in accordance with reg 25(1), of which has provided for the identification of relevant persons as defined by regs 25A(1)(d)).
107. I will first explain my conclusions on the titleholder’s consultations with Commercial Fisheries relevant persons (i.e., those defined in the EP under the category of “commercial fisheries and representative bodies”), then First Nations relevant persons (i.e., those defined in the EP under the categories of “traditional custodians and nominated representative corporations” and “native title representative

bodies”), and then my conclusions on other relevant persons categories under reg 25(1)(d) identified above under [103].

Commercial Fisheries ‘relevant persons’

108. In reviewing the consultation records, I found that effective consultation had taken place with commercial fisheries and peak representative bodies. Such bodies were identified following the methodology described under Section 5.3 (Table 5-2), which was informed by an evaluation of the EMBA (Section 4.6.2, ‘Commercial Fisheries’). I considered this an appropriate manner in which to identify any relevant bodies.
109. Records of consultation provided in Appendix F indicate that the titleholder had identified 27 relevant persons who fit within the ‘commercial fisheries and representative bodies’ description. I noted that one of these persons was the Australian Fisheries Management Authority (**AFMA**), who provided the titleholder with a list of bodies which should be consulted. In the case where specific industry bodies disseminate the information to their licence holders, this is identified by the titleholder in the EP.
110. First contact was made with most of these bodies (being 23 of them) between June and July 2023, and a follow up occurred in January 2024. Consultation with 3 of these bodies commenced in January 2024. The titleholder received no feedback, objections or claims from 22 of these bodies.
111. Available consultation records (Appendix F, Table 2 and the Sensitive Information Report) indicate that the following commercial fishers or relevant organisations were provided with consultation information and returned with some feedback, objection or claim, which Woodside responded to:
- (a) Department of Agriculture, Fisheries and Forestry (**DAFF**) - Consulted with between May 2023 and January 2024. No feedback, objections or claims remained outstanding;
 - (b) Seafood Industry Victoria (**SIV**) - Consulted with since May 2023 – SIV distributed material provided by Woodside to several fisheries licence holders. Woodside signed a service agreement in February 2024 for the distribution of all future consultation materials - No feedback, objections or claims remain outstanding;
 - (c) Recreational Marine Users and Representative Bodies (including recreational fishing clubs) - Consulted with between July 2023 and January 2024 - One specific group member provided feedback, which the title holder addressed - No feedback, objections or claims remain outstanding; and
 - (d) Rock Lobster Fishery - Consulted with between July 2023 and January 2024 - Specific fishers provided feedback, which the title holder addressed - No feedback, objections or claims remained outstanding.
112. I was satisfied that the titleholder had engaged in appropriate consultation with the 27 bodies, having sought to engage with them in a manner appropriate to their circumstances and with sufficient information, and providing a period of 15 months to provide any feedback in most circumstances. Where a shorter 8-month period was provided, I was nevertheless satisfied that this was reasonable. Accordingly, I was satisfied that, consistent with AFMA advice, the approach of the titleholder was such that through the relevant fishing industry associations, all Commonwealth fishers who have entitlements to fish within operational area were consulted and that consultation was carried out in accordance with reg 25.
113. For reasons set out in [80] – [89] and [108] – [112] above, I was, accordingly, reasonably satisfied that reg 34A(g)(i) was met.
114. Furthermore, in reviewing consultation records pertaining to fishers, I also noted that where objections or claims raised by a relevant person had been identified (as in paragraph [112], above), the titleholder assessed the merit of each objection or claim and determined whether or not additional measures were required in response. I also considered that:

- (a) The EP contains a commitment for the titleholder to provide notifications to relevant parties prior to commencement and upon completion of activities, as referenced under PS 1.5. This includes:
 - i. Government departments (AFMA, DAFF, VFA);
 - ii. Industry representative bodies (CFA, SIV);
 - iii. Commonwealth licenced fishers that have the potential to be impacted by activities in the Operational Area (e.g., the Southern and Eastern Scalefish and Shark Fishery, CTS and Shark Gillnet, and Southern Squid Jig Fishery); and
 - iv. Victorian licenced fishers that have requested notifications during consultation facilitated by SIV.
- (b) Upon removal of infrastructure as proposed in this EP, the potential for the property to impact on fishing activities in the area will also be removed.

115. For reasons set out in [114] above, for the purposes of reg 34 (1)(g)(ii), I accepted this criterion was met insofar as it related to commercial fisheries and peak representative bodies.

First Nations 'relevant persons'

116. I noted that the titleholder has tailored their approach to First Nations consultation to assess the possible consequence of the proposed activity on their functions, interests, or activities. My evaluation of the titleholders' application of this approach is presented below:

- (a) The EP describes a clear process for the identification and broad capture of First Nations relevant persons in accordance with reg 25(1)(d), by identifying and consulting with all relevant groups who were coastally adjacent to the EMBA as relevant persons as defined by existing systems of recognition provided under native title or cultural heritage legislation, marine park management plans or identification by other First Nations groups or entities (Section 5.3);
- (b) The process recognises that traditional Custodians are First Nations Australians who hold cultural rights and interests or who perform cultural activities over particular lands and waters and that connection to sea country may constitute an interest for the purposes of reg 25(1)(d), and provides for them to be identified and consulted as a relevant person;
- (c) Section 5.5 specifically addresses consultation with First Nations people, noting the method has been customised for the region (Victoria) noting the relevance of Registered Aboriginal Parties (**RAPs**), under the *Aboriginal Heritage Act 2006* (Vic);
- (d) The process for identification of relevant persons under reg 25(1)(d) (Tables 5-1 and 5-2) identifies how First Nations groups, such as Native Title Representative Bodies (**NTRBs**) and Prescribed Body Corporates (**PBCs**), or a Traditional Owner Corporation (**TOC**) will automatically be appointed a RAP under the *Aboriginal Heritage Act 2006* (Vic).
- (e) The methodology includes specific information pertaining to consultation with First Nations, under Section 5.5. The process identifies that nominated representative corporations are the point of contact with First Nations people, and guidance is to be sought from these groups in conducting consultation;
- (f) The EP's consultation records present evidence that relevant representative corporations were requested to forward consultation information to their members and to advise of other Traditional Custodian groups or individuals with whom the titleholder should consult (Appendix F, Table 2);
- (g) Under Section 4.6.1.5 the titleholder notes it is required to consult on cultural values of Sea Country where Traditional Custodians or representative institutions are identified, or self-identify, as relevant persons (S.4.6.1.5);

- (h) Where a First Nations person, group or entity self-identifies and/or asserts cultural rights, interests, functions, or activities they are included in the definition of "Traditional Custodian" for the purpose of the EP (Table 5-1); and
 - (i) In Table 5-3, the titleholder notes that it advertises widely so as to invite self-identification and consultation by First Nations groups and/or individuals. Consultation material and records provided in the EP indicate that this has included developing and distributing consultation summary sheets, maintaining website listings, sending out emails, making phone-calls, publishing notices in national and local newspapers, engaging in direct peak body or representative body contact, holding meetings (virtually and in person), developing and delivering presentation packs, and attending community engagement opportunities.
 - (j) I found that these methods applied to consultation with the First Nations groups and/or individuals were appropriate and reasonably adapted to the nature of the interests of these relevant persons.
117. In applying the methodology described above under paragraph [116], the following five (5) groups representing First Nations people were identified as relevant persons for the purpose of the activity described in the EP, and consulted with in the course of preparing the EP (Table 5-3):
- (a) The Bunurong Land Council Aboriginal Corporation (**BLCAC**) was consulted with between May 2023 and May 2024, including a meeting held on 8 December 2023 and virtual meeting held 13 March 2024. At the time of the EP submission, I noted that the titleholder had recognised and resolved objections and claims raised by BLCAC, noting:
 - i. The EP recognises the BLCAC's feedback regarding environmental and cultural sensitives in Section 4.6.1.5, and has assessed potential impacts to these in Sections 7 and 8;
 - ii. The EP recognises the BLCAC's request to partake in a local spill response/ranger training program and this will form part of ongoing consultation, along with other notification and ongoing consultation requirements described in Sections 9.9 and 9.10;
 - iii. The BLCAC advised that the project is significantly removed from their area of interest;
 - iv. The titleholder has also taken the BLCAC's advice of contacting the Flinders Island Aboriginal Association (FIAA); and
 - v. The BLCAC have informed that it will schedule a workshop at a suitable date, and the title holder has advised BLCAC that this workshop will be treated as ongoing consultation, and consultation records show that the titleholder has sought updates on planning for the meeting, but that a response has not yet been received at the time of the EP being submitted.
 - (b) The Eastern Maar Aboriginal Corporation (**EMAC**) was consulted with between May 2023 and May 2024, including a meeting held on 15 February 2024. At the time of the EP submission, I noted that the titleholder had recognised and resolved objections and claims raised by relevant persons, noting:
 - vi. The EP recognises the EMAC's feedback regarding environmental and cultural sensitives in Section 4.6.1.5 ('Sea Country Values), and has assessed potential impacts to these in Sections 7 and 8 where applicable;
 - vii. The titleholder provided the EMAC with information on noise level monitoring, mitigation measures including rig positioning to reduce impact, and training and qualifications of marine mammal observers;
 - viii. The titleholder responded to the EMAC's questions regarding specific environmental management aspects (e.g., noise management and modelling, leak monitoring), interest in participating in incident response, and request for funding to undertake independent environmental assessments; and

- (iv) The titleholder clearly advised the EMAC that funding is available to support an independent assessment and committed to continue to engage with EMAC as part of ongoing consultation (Section 9.9).
- (c) The Wadawurrung Traditional Owners Aboriginal Corporation (**WTOAC**) was consulted with between May 2023 and February 2024, including a meeting held on 13 July 2023. At the time of the EP submission, I noted that the titleholder had recognised and resolved objections and claims raised by relevant persons, noting:
- (v) The EP recognises the WTOAC's feedback regarding environmental and cultural sensitives in Section 4.6.1.5, and has reviewed whether existing controls in Sections 7 and 8 are sufficient (potential interest in aquaculture activities and coastline values);
- (vi) The titleholder has provided the WTOAC confirmation that the EP (and OPEP) includes requirements to notify relevant cultural authorities whose interests may be affected in the event of a hydrocarbon release; and
- (vii) The WTOAC informed the titleholder that it did not require further consultation and informed the activities are unlikely to impact Wadawurrung country, but that the titleholder should consult with Eastern Maar people.
- (d) The Gunaikurnai Land and Waters Aboriginal Corporation (**GLAWAC**) was consulted with between May 2023 and February 2024. At the time of the EP submission, I noted that the titleholder had recognised and resolved objections and claims raised by relevant persons, noting:
- (i) The GLAWAC informed the titleholder that it does not have a cultural interest in the area impacted by the activity and that the titleholder should consult with the EMAC; and
- (ii) The titleholder confirmed that the EP (and OPEP) includes requirements to notify relevant cultural authorities whose interests may be affected in the event of a hydrocarbon release.
- (e) The Gunditj Mirring Traditional Owners Aboriginal Corporation (**GMTOAC**) was consulted with between May 2023 and July 2024, including a number of exchanged correspondence (letters and emails), a virtual meeting with a GMTOAC representative on 29 June 2023 and participation in an in-person consultation day on 17 February 2024. I acknowledge that the titleholder considered that it had 'completed' consultation when the EP was first submitted, however the Sensitive Information Report contained exchanges between GMTOAC/EJA and the titleholder up to 9 September 2024, and that the EP had been updated accordingly (e.g., Appendix F, 'Consultation Activities Section' and Table 2).
- (f) As a result of this consultation process, I noted that:
- (iii) The EP recognises information about Sea Country values of the Gunditjmarra people (see Section 4.6.1.5) and a recognition of intangible cultural heritage values (see Section 4.6.1.6), as summarised in Tables 4-9 and 4-10. The information provided is based on a review of available literature, information directly provided by GMTOAC and its members, including the information contained in a letter by GMTOAC to the titleholder dated 5 February 2024 (sent out 14 February 2024) and information available in the recently published '2023-2033 Gunditjmarra Nyamat Mirring Plan'. These include, for example:
- The surrounding waters are significant breeding grounds and habitats for culturally significant species to the Gunditjmarra people and also hold intangible heritage as well as submerged tangible heritage for the community;
 - The cultural, spiritual and resource importance of animal species such as Kooyang (short-finned eel), Karntubul (whales) and Koorn Moorn (seals);

- The Bonney Upwelling is a dominant ecological feature of Gunditjmara Sea Country; and
 - Deen Maar Island and its surrounds hold deep spiritual significance to Gunditjmara people.
- (iv) The EP also presents an evaluation of impacts on the cultural heritage values identified, and adoption of suitable controls where applicable, in the planned and unplanned environment impact assessment Sections 7 and 8, as noted above under paragraphs [49], [53] & [58]
- (v) The EP presents evidence that the titleholder recorded and addressed specific claims made by GMTOAC regarding operational aspects of the project throughout the consultation process. This included, for example, providing adequate follow-up responses and additional detail addressing specific questions or claims raised during the 17 February workshop, covering topics such as:
- project specifics such as the hours of operation, use of concrete and steel plates in decommissioning activities, pipeline length and weight and vessel type;
 - environmental controls potentially applicable to manage impacts to whale migration;
 - oil spill response planning; and
 - the potential of cumulative impact of activities in the Otway Basin.
- (vi) Records provided in Appendix F indicate that responses to questions asked by GMTOAC were thorough, in accessible format and provided in a timely manner. For example, answers to questions that were taken on notice at the 17 February 2024 meeting were provided in writing on the 26 February 2024;
- (vii) The EP also demonstrates that matters raised by GMTOAC were taken into consideration. For example, the EP considered cumulative impacts from the petroleum activities in the Otway Basin, such as impact to important fauna species under Sections 7.1.3.6 (Physical Presence), 7.3.3.6 (Light Emissions) and particularly 7.4.3.3 (Noise Emissions);
- (viii) The nature of consultation undertaken with the GMTOAC has been clearly presented in the EP, as summarised in Appendix F, particularly through:
- A 'Consultation Activities' summary report, with a section specifically summarising consultation undertaken with GMTOAC and Environmental Justice Australia (EJA), and a timeline of consultation and communication undertaken;
 - The 'Consultation Report' (Table 2) for GMTOAC, which cross references claims, responses and the titleholder's evaluation of consultation outcomes in line with the methodology presented in Section 5;
 - 'Record of consultation', which presents communication material, correspondence, and records of presentations delivered to GMTOAC.
- (ix) When considered in their entirety, the records provided in the EP satisfy me that the consultation efforts initially undertaken with GMTOAC between May 2023 and February 2024:
- were undertaken by way of a genuine, two-way exchange of information in good-faith and following reasonable communication protocols;
 - were sufficient in nature for GMTOAC to make an informed assessment of the possible consequences of the activity on their functions, interests or activities, and were consistent with the level of information provided to other groups and individuals;
 - allowed for a reasonable period of time to consult;
 - sought to engage additional groups or individuals of the Gunditjmara native title group by going through the corporation, in line with the methodology presented in Section 5.

- (x) From February 2024, GMTOAC initially, and subsequently their legal representatives EJA, put forward a position that they were not satisfied with the manner in which consultation had been undertaken. These objections and claims were raised by GMTOAC and EJA and communicated to the titleholder in a number of letters dated 5 February 2024 (GMTOAC), 21 March 2024 (EJA), 19 April 2024 (EJA), 29 May 2024 (EJA) and the 7 June 2024 (EJA) (Appendix F, Table 2 & Sensitive Information Report). On 7 October 2024, NOPSEMA were also forwarded further correspondence sent from the EJA to the titleholder dated 3 October 2024.
- (xi) Specifically, the objections raised by GMTOAC initially, and through EJA subsequently, were in summary that:
- GMTOAC operates on a full-participation model of representation, whereby all members are given notice of, and the opportunity to participate in, decision making including consultation with project proponents;
 - GMTOAC is concerned that it has not received sufficient information or been provided with adequate time to participate in consultation with the titleholder;
 - GMTOAC does not view the interactions that have taken place to date between GMTOAC and the titleholder to constitute consultation in relation to a number of environment plans, including this EP;
 - Consultation for the purposes of GMTOAC's membership requires more than emails and a single meeting between the titleholder and GMTOAC's staff members or officers who do not have authority to participate in consultation on behalf of the group on consequential matters;
 - Information provided at the information session (17 February 2024) only represents a limited, partial, introduction to the nature, risks and impacts of relevant activities of interest to the group and GMTOAC's members require further consultation;
 - GMTOAC's members need to take appropriate, independent technical and technical legal advice on the impact of proposed activities on Gunitjmarra Sea Country, individually and cumulatively; and
 - GMTOAC is developing a consultation protocol ('Consultation Plan'), which will inform GMTOAC's position on consultation with proponents and provide a better opportunity and time for all members to participate in a co-designed consultation process, and supporting capacity building to deal with their current environment plan consultation workload in the Otway basin.
- (xii) EJA subsequently also communicated these objections and claims with NOPSEMA through a number of copied and direct correspondence (Appendix F, Table 2 & Sensitive Information Report).
- (xiii) The titleholder responded to the claims raised through written correspondences (emails and/or letters) to GMTOAC and EJA dated 26 February 2024, 7 May 2024, 17 June 2024 and 9 July 2024, noting correspondence dated 7 October was received following submission of this EP, while also noting that this last correspondence does not raise any new objections or claim pertaining to the scope and potential impacts of the activity that have not already been raised, or addressed by the titleholder as outlined below in [119].

118. I was reasonably satisfied that the titleholder had carried out consultation with BLCAC, EMAC, WTOAC and GLAWAC, as for those groups the EP demonstrates that the titleholder had given these relevant persons sufficient information to allow them to make an informed assessment of the possible consequences of the activity on their functions, interests or activities, and allowed the relevant person a reasonable period of time to respond with their concerns.

119. In relation to these specific claims raised by GMTOAC and EJA (see [117(f)(xi)] above) between February and June 2024, while I acknowledge that those claims are genuinely held and GMTOAC considers consultation has not been undertaken in accordance with the Environment regulations, having regard to the information before me, I was reasonably satisfied that consultation had occurred. In this regard, I considered that:

- (a) The titleholder first contacted GMTOAC in relation to the EP and relevant person consultation process approximately 16 months prior to the submission of the final EP for assessment (i.e., the initial contact occurred in May 2023). The titleholder had engaged in consistent communication with GMTOAC, since that time with willingness to engage and discuss the activity;
- (b) The EP consultation records (as summarised in Appendix F, Table 2) present evidence that during that time a two-way exchange of information has occurred during early engagements and that the titleholder made multiple offers to consult between 19 May 2023 and July 2024. This includes:
 - (i) An email sent to initiate the consultation process with the provision of an information sheet which was sent out 19 May 2023, with follow-up from GMTOAC on 21 June 2023, expressing interest in consultation;
 - (ii) Subsequently, 4 emails were exchanged during June 2023, to organise a first meeting with a GMTOAC representative. This includes emails sent by the titleholder dated 7 June 2023 and subsequently 18 July 2023, seeking GMTOAC's direction as to the manner of consultation and seeking which members or other individuals should be consulted;
 - (iii) Following the initial meeting between a GMTOAC board member and the titleholder, 18 emails and 2 phone calls were exchanged between the titleholder and GMTOAC to provide updates and organise a joint industry consultation meeting on the 17 February 2024;
 - (iv) The date for the joint industry consultation meeting was set on 7 December 2023 (via email) and the titleholder was advised that they would be able to speak with GMTOAC and the Gunditjmarra community. GMTOAC advertised the meeting on the 'Gunditj Mirring' Facebook page on 16 January 2024, 6 February 2024 and 13 February 2024, specifically inviting members to 'be a part of the conversation'. Such further promotion by GMTOAC offered another mechanism for individual members of the group to identify and attend, and was consistent with the titleholders encouragement to 'forward other correspondence to your members or any other Traditional Custodian groups or individuals you believe should receive this information and should be consulted'. I also noted that allowances and accommodation were offered for members to participate;
 - (v) The titleholder provided GMTOAC with an updated summary information sheet for the Minerva decommissioning activities on the 22 January 2024;
 - (vi) The titleholder presented to GMTOAC on 17 February 2024 as part of the industry consultation session, during which project information was shared with attendees (through a power point presentation) and further consultation offered. Representatives from EJA, who later confirmed they were acting for GMTOAC were present at the meeting on 17 February 2024;
 - (vii) The titleholder followed-up on this meeting with some additional responses to questions taken on notice during the joint industry consultation meeting, in correspondence dated 26 February 2024 (see [117(f)(v)-(vii)] above for examples);
- (c) The titleholder had prepared adapted communication material (e.g., power points presentations with images, photos, maps and diagrams) to facilitate the conversations at the meetings held on 29 June 2023 and 17 February 2024; and

- (d) Additional correspondence (emails and letters) were exchanged between 17 February 2024 and 9 September 2024 between the titleholder and GMTOAC, including a response to all of the GMTOAC and EJA letters, which providing the titleholder's responses to the claims and objections summarised in paragraphs 117(f)(xi), above.
 - (e) Records provided in Appendix F and the Sensitive information report indicate that the titleholder advised GMTOAC on a number of occasions that funding is available to support an independent technical assessment of the project. The EP also includes evidence that demonstrates the titleholder acknowledged GMTOAC's request to develop a consultation plan, sought updates on the process and offered to provide reasonable financial or other resources to support the process (e.g., correspondence dated 10 April 2024, 7 May 2024 and 9 July 2024). As at the time of this final submission of the EP (revision 3), GMTOAC did not appear to have further progressed taking the titleholder up on those offers.
120. While I acknowledged the concerns and claims raised by GMTOAC (and EJA), having considered the engagements and interactions summarised above, I was reasonably satisfied that GMTOAC had been provided with a reasonable opportunity to identify how their functions, interests and activities may be affected, had been able to engage in an appropriate and adapted two-way exchange of information in relation to the activity, and had been given the necessary information (including additional information that was requested) to make an informed assessment of the possible consequences of the activity, and contribute to the EP. I was reasonably satisfied that consultation had been carried out with GMTOAC in accordance with reg 25.
121. In being so satisfied, I accept that GMTOAC has not obtained the independent technical assessment it identified, or implemented the consultation plan it foreshadowed. However, I did not consider that these matters indicated that consultation had not been carried out as required by reg 25. I was satisfied that such matters would be completed as part of the ongoing consultation that would be undertaken by the titleholder and was cognisant that the titleholder was obliged to submit any revision of the EP under reg 39(2) should, assuming GMTOAC take up the offer of the independent technical assessment, and an assessment identified new or increased impacts or risks.
122. In addition to the above-listed consultation, the titleholder also offered the following opportunities for First Nations people to self-identify in response to public facing notices and implemented consultation processes through which relevant individuals with First Nations Sea Country interests (including Gunditjmara interests) could engage with the process. This was achieved through:
- (a) Publication of activity adverts in 5 national, state and local newspapers;
 - (b) Publication of the activity consultation information sheet and a toll-free contact number and email on the titleholder's website;
 - (c) Preparation of an additional summary consultation information sheet, which the titleholder advised had been prepared for First Nations groups with input from specialist resources, to be distributed to their members;
 - (d) Numerous requests to GMTOAC actively seeking advice on the best manner to engage (initially, in email correspondence dated 19 May 2023, then in content of power point presentation delivered 29 June 2023, and further in correspondence, for example on 18 July 2024 and again 22 January 2024). Subsequently, the titleholder followed-up with GMTOAC to undertake consultation with their representative community members based on the preferred method of engagement (i.e., shared meeting with other proponents), as initially suggested by GMTOAC. I noted that the GMTOAC advertised the planned 17 February 2024 consultation session to its members via three posts on social media (Facebook); and

- (e) Numerous email requests and presentation material clearly asking GMTOAC to identify whether there are any other individuals, groups or organisations that should be contacted about the project(s) and potential impact to values, interests and activities (for example, in a power point presentation delivered 29 June 2024, and further correspondence, for example on 18 July 2023 and again 22 January 2024).
123. I noted that the titleholder consulted the EMAC, which also represents the Gunditjmara people whom GMTOAC represent, providing another avenue for relevant individuals to self-identify [see 117(b)].
124. I considered that where contact details of specific Gunditjmara people was not readily ascertainable, the titleholder had employed a methodology of identifying relevant persons and, which enabled the broad identification of First Nations relevant persons, and that all First Nations relevant persons who could be ascertained were identified, or could have self-identified, and were consulted by the titleholder.
125. The EP also provides records indicating government and other organisations were consulted with regards First Nations cultural heritage matters in the course of preparing the EP. For instance:
- (a) The First Nations Legal and Research Services (**FNLRS**), defined in the EP as a 'Native Title Representative Body', was consulted with in May-June 2023. FNLRS emailed the titleholder confirming they had no feedback or questions in relation to the proposed activity.
 - (b) The Department of the Premier and Cabinet (**DPC**), First Nations State Relations, was consulted with in May-June 2023. The titleholder held a meeting with the DPC, during which it raised some questions about pipeline removal activities, methodology used to gain understanding of cultural impacts (specifically impacts of activities on sea country), the status of consultation with GMTOAC and provided information on its role and services. The titleholder provided responses to the matters raised, with no feedback, objections or claims remaining outstanding.
126. Having reviewed the consultation summary report (Appendix F) and records provided in the sensitive information report relating to consultation with First Nation relevant persons, some of which are summarised above under paragraphs [117] – [125], I was reasonably satisfied that the EP demonstrates that:
- (a) The titleholder carried out consultation with First Nations relevant persons in an effective manner, providing sufficient information to allow the relevant person to make an informed assessment of the possible consequences of the activity on the functions, interests or activities of the relevant person and a reasonable period for the consultation;
 - (b) Consultation for the activity has been underway for a substantial time period, allowing multiple opportunities and sufficient time for relevant persons to engage. I considered that, consultation having commenced, at its latest, in July 2023 and continued until, at the earliest, March 2024 (being a period of at least 9 months) was a reasonable period of time in light of the ongoing two-way communication that had been occurring over that period;
 - (c) First Nations relevant persons or groups consulted for this activity were specifically requested to help identify other First Nations relevant persons who hold communal cultural interests that may be affected by the activity, or to provide advice on the appropriate means to identify and consult with these individuals and/or groups (as evidenced in Appendix F records);
 - (d) Reasonable requests for resources and material to support effective consultation had been met by the titleholder;
 - (e) Communication and notification commitments, as well as inclusion of other were measures adopted as a direct result of consultation with First Nations relevant persons were identified;

- (f) An iterative, targeted, repeated, and reasonable effort was made to engage with specific persons or groups of relevant persons in order to elicit a response and engage with the process;
 - (g) No other/additional First Nations groups or individuals made themselves known to the titleholder and/or self-identified as a relevant person, throughout the process from May 2023, until such time as the final version of the EP was submitted in September 2024;
 - (h) The titleholder resolved objections and claims raised by relevant persons regarding the proposed activity (as far as reasonably practicable) and measures adopted because of consultation were considered appropriate; and
 - (i) The titleholder has identified commitments of ongoing engagement with First Nations groups, based on input received through the consultation process (Section 9.9), and as required under reg 22(15), to ensure that any future feedback, objections, or claims which may arise from such persons would be assessed and reported. The measures identified would support capacity for ongoing engagement and consultation on environment plans. The EP also establishes that relevant new information, claims or objections received as part of ongoing consultation will be assessed under the titleholder's Management of Knowledge (Section 9.8.1) and Management of Change (Section 9.8.4) protocols, where required. I considered that the measures presented were appropriate.
127. For the reasons set out above, I found that for First Nations relevant persons under reg 25(1)(d), I could be reasonably satisfied that the consultations required by Division 3 of the Environment Regulations had been carried out and that therefore reg 34(g)(i) was met, and appropriate measures adopted as a result of the consultation, in accordance with reg 34(g)(ii) was also met.
128. I acknowledge that others may have a different view. Whether or not a relevant person agrees that they have been adequately consulted is not determinative of whether I was satisfied that reg 25 is met. Rather, I must consider all of the facts and circumstances presented in the information that is before me, as presented above under [116] – [127]. Having done so, I was reasonably satisfied that consultation with the identified First Nations relevant persons has been carried out in accordance with reg 25.

Other 'relevant persons' under Regulation 25(1)(d)

129. In addition to the matters discussed above specifically regarding commercial fisheries under [108]-[115] and First Nations under [116] – [128], I also considered how the titleholder had carried out consultation with the other relevant persons and groups identified under reg 25(1)(d). These included, "titleholder and operators" (3), "peak industry representative bodies" (1), "local government and community representative groups or organisations" (14), "other non-government groups or organisations" (5) and "research institutes and local conservation groups or organisations" (5).
130. For reasons set out in [101] – [106] above, I was, accordingly, reasonably satisfied that reg 34(g)(i) was met for those other relevant groups.
131. I noted that these other relevant persons under reg 25(1)(d) that responded to the consultation did not make any objections or claims relating to adverse effects of the activity in response to the consultation requests. Where there were objections or claims raised by a relevant person under reg 25(1)(d), the EP demonstrates that the titleholder assessed the merit of each objection or claim, and determined whether or not additional measures were required in response.
132. Finally, I noted that some relevant persons under reg 25(1)(d) provided feedback during consultation which was not related to an adverse impact of the activity, and found that in any case, the titleholder identified the feedback and indicated what changes were made to the EP in response (in Appendix F, Table 2).
133. I considered that these measures were appropriate, and therefore reg 34(g)(ii) was met.

Relevant Persons under Regulation 25(1)(e)

134. Reg 25(1)(e) states that a titleholder must consult with 'any other person or organisation that the titleholder considers relevant'.
135. Section 5.5.6 and 5.3.7 of the EP outlines the process for the identification of any other person or organisation that the titleholder considers relevant, which I considered to be appropriate given this category is at the discretion of the titleholder.
136. I considered that sufficient information and a reasonable period was provided to allow the relevant persons under reg 25A(1)(e) to make an informed assessment of the possible consequences of the activity on the functions, interests or activities. The EP records indicate the titleholder provided sufficient information and a reasonable period in a similar way to my findings at [80] – [89] above, and responded reasonably to requests for information or other feedback received (for example, in engaging with Tuna Australia and the Australian Institute of Marine Science).
137. I noted that no objections or concerns were outstanding and that it was not necessary for the titleholder to adopt any measures for the purposes of reg 34(g)(ii), and I accepted this criterion was met insofar as it related to relevant persons under reg 25(1)(e).
138. I noted the consultation records in the EP show that the titleholder provided information to relevant persons under reg 25(1)(e) regarding the titleholder's consultation obligations and relevant persons rights in line with reg 25(4). I also noted that no such requests were made by relevant persons under reg 25(1)(e).
139. For reasons set out in [134] – [138] above, I was, accordingly, reasonably satisfied that reg 34(g)(i) was met.

Conclusion

140. Based on the above findings set out above in paragraphs [80-139], I was reasonably satisfied that the EP met the requirements of reg 34(g).

The EP complies with the Act and Regulations: regulation 34(h)

141. In determining whether the EP demonstrated that the requirements of reg 34(h) were met, I was satisfied that the EP:
- (a) is consistent with the 'Objects' of the Environment Regulations, including the principles of ESD.
 - (b) includes an environment plan summary report (Section 1.6) as required by reg 35(7).
 - (c) is consistent with section 572 of OPGGS Act and General Direction 831, provides for the inspection, maintenance, monitoring and removal of all property within the title areas before 30 June 2025
142. I also noted that the EP is the final EP for the titles and will remain open until such time that the titleholder has completed all commitments in the EP in addressing the requirements of General Direction 831, and sections 270 and 572 of the OPGGS Act. In particular:
- (a) Plugging or closing off, to the satisfaction of NOPSEMA, all wells made in the title areas by any person engaged or concerned in those operations authorised by each title as soon as practicable and no later than 30 June 2025 (activity covered under the Minerva Plug and Abandonment Environment Plan);
 - (b) Removing, or causing to be removed, to the satisfaction of NOPSEMA, from the title areas all property brought into those areas by any person engaged or concerned in the operations authorised by each title as soon as practicable and no later than 30 June 2025;

- (c) Until such time as directions 1 and 2 are satisfied, maintaining all property on the titles to NOPSEMA's satisfaction, to ensure removal of the property is not precluded;
 - (d) Providing, to the satisfaction of NOPSEMA, for the conservation and protection of the natural resources in the title areas within 12 months after property referred to in direction 2 is removed;
 - (e) Making good, to the satisfaction of NOPSEMA, any damage to the seabed or subsoil in the title areas caused by any person engaged or concerned in those operations authorised by the titles within 12 months after property referred to in direction 2 is removed;
 - (f) Submitting to NOPSEMA on an annual basis, until all directions have been met, a progress report detailing planning towards and progress with undertaking actions required by General Direction 831.
143. I accepted that consultation with relevant persons has informed the titleholder in its obligations under section 280 of the OPGGS Act which require that the proposed petroleum activity will not interfere with navigation, fishing, conservation of resources of the sea and seabed, other offshore electricity infrastructure and petroleum activities, and the enjoyment of native title rights and interests (within the meaning of the *Native Title Act 1993*) to a greater extent than is necessary for the reasonable exercise of the titleholder's rights and obligations.
144. For the reasons set out above (at [18] – [42]), I was satisfied that the EP addressed the content requirements of regs 21 to 24 with enough clarity, consistency and detail commensurate to the nature and scale of the activity. Specifically:
- (a) the titleholder has submitted the EP in writing as required by reg 26(6); and
 - (b) the EP commits to complying with the requirements in regs 47, 48, 49, 50, 51, 52, 53 and 54 regarding various notifications and reporting to NOPSEMA.
145. Based on the above, I was reasonably satisfied that the EP met the requirements of regulation 34(h).

Other considerations

Correspondence received directly by NOPSEMA

146. I note NOPSEMA received a number of direct communications from third parties raising issues and/or expressing concerns with and objections to the EP in the course of the assessment. Information received directly from third parties was forwarded to the titleholder for consideration in the preparation of the EP.
147. The following external correspondence was directly received by NOPSEMA:
- a. GMTOAC wrote directly to NOPSEMA in a letter dated 5 February 2024, in which they made reference to multiple title holders and proposed activities in the Otway basin, including the activities covered in this EP. The letter provides information on cultural heritage values in the area and raises concerns about the consultation approach undertaken.
 - b. EJA (representing GMTOAC) also subsequently wrote directly to NOPSEMA on 4 April 2024, 25 June 2024 and 7 October 2024 to further raise concerns regarding the consultation process undertaken to date regarding this (and other) proposed activities in the Otway basin, and request access to the EP under assessment.
148. The correspondence was processed in accordance with NOPSEMA's third party correspondence process and where it was found that there was a concern or issue raised in correspondence regarding the EP, relevant considerations were taken into account by the assessment team.

In reviewing this correspondence, I found that matters raised were either consistent with matters previously raised in the course of the consultation process, and/or been adequately addressed in the EP, as considered above under [80]-[139].

The Program: protected matters under Part 3 of the EPBC Act

149. The Program endorsed under section 146 of the EPBC Act outlines the environmental management authorisation process for offshore petroleum and greenhouse gas activities administered by NOPSEMA, and requires NOPSEMA to comply with Program responsibilities and commitments.
150. In implementing the Program, NOPSEMA conducts assessments of environment plans against the requirements of the Program, which includes meeting the acceptance criteria and content requirements under the Environment Regulations. Specific Program commitments relating to protected matters under Part 3 of the EPBC Act are outlined in Table 2 of the Program report and must be applied during decision making with respect to offshore projects and activities.
151. I considered matters protected under Part 3 of the EPBC Act, including listed threatened and migratory species and the Commonwealth marine area, and was reasonably satisfied that the activity under the EP met the requirements of the Program on the basis that:
- (a) The activity will not result in unacceptable impacts on listed threatened species and is not inconsistent with relevant recovery plans and threat abatement plans for listed threatened species. For example, I found the activity is not inconsistent with the Conservation Management Plan for the Blue Whale 2015-2025 (Commonwealth of Australia, 2015) and National Recovery Plan for the Southern Right Whale *Eubalaena australis* (Commonwealth of Australia, 2024). I considered these documents when determining the acceptability of the EP where impacts to listed threatened species may arise. See my reasons above (under [46]-[68]);
 - (b) There are control measures in place to ensure that impacts to the Commonwealth marine area will be of an acceptable level, having regard to relevant policy documents, gazettal instruments, bioregional plans, wildlife conservation plans, plans of management and EPBC Act guidance documents on the DCCEEW website. For example, I found the titleholder had regard to the 'Assessing and Managing Impacts to Underwater Cultural Heritage in Australian Waters (Commonwealth of Australia, 2024) guideline', when evaluating impacts and adopting controls (e.g., C 3.3.) for the activity, and in the 'unexpected finds procedure described in Section 9.4. See my reasons above (under [46]-[68]); and
 - (c) There are control measures in place to ensure that the petroleum activity will not result in unacceptable impacts to a migratory species or an area of important habitat for a migratory species, having regard to relevant policy documents, wildlife conservation plans and guidelines on the DCCEEW website. For example, I found the EP requires for all project vessels to comply with the 'EPBC Regulations 2000 – Part 8 Division 8.1 interacting with cetaceans' in relation to distances to cetaceans'. See my reasons above (under [56]-[68]).

The Program: Cumulative environmental impacts

152. In the context of the Program, cumulative impacts refers to the direct and indirect impacts of a number of different petroleum activity actions that may influence the natural environment or other users within a locality or region which, when considered together, have a greater impact on the offshore marine environment than each action or influence considered individually.
153. In the context of NOSPEMA's Decision Making Guidelines for offshore petroleum activities, cumulative environmental impacts are successive, additive, or synergistic impacts of collectively significant activities or

projects with material impacts on the environment that have the potential to accumulate over temporal and spatial scales.

154. I considered the potential for cumulative environmental impacts to the Commonwealth marine area as required by the Program, noting the titleholder had specifically evaluated cumulative impacts in relevant parts of the EP. For example, I noted Sections 7.1.3.6 (Physical Presence), 7.3.3.6 (Light Emissions), and particularly 7.4.3.3 (Noise Emissions) where the EP evaluates other petroleum activities that are either underway, or proposed to commence, in the Otway Basin within the project timeframe, and identify controls to reduce the risk of noise emissions having an impact on cetaceans (e.g., C 6.2).
155. After considering the information presented in the EP, I was reasonably satisfied that, due to the localised nature and scale of the activity (including its timing and short duration), the potential cumulative impact factors, the receptors at risk, the relative distance to other oil and gas activities and adopted controls, cumulative impacts were of an acceptable level.

Conclusion

156. For the reasons set out above, I was reasonably satisfied that the EP met the criteria set out in reg 34. Being satisfied that the titleholder was compliant with s 571(1) (and met reg 16), I accepted the EP.

SIGNED



Director Decommissioning - Environment

18 October 2024

Appendix A: Relevant Terms

157. In this statement, the words and phrases have the following meaning:

- (a) The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* is referred to as the OPGGS Act.
- (b) The National Offshore Petroleum Safety and Environmental Management Authority is referred to as NOPSEMA.
- (c) The *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023* are referred to as the Environment Regulations.
- (d) The Minerva Decommissioning and Field Management Environment Plan (Document number 1401801084, Rev 3, dated 6 September 2024) means the Environment Plan (EP).
- (e) The *Environment Protection and Biodiversity Conservation Act 1999* is referred to as the EPBC Act.
- (f) The titleholder means 'Woodside Energy (Victoria) Pty Ltd.'
- (g) The term 'petroleum activity' means in this case the removal of property associated with the Minerva field petroleum development.
- (h) The term 'environment' means:
 - (i) ecosystems and their constituent parts, including people and communities and
 - (ii) natural and physical resources and
 - (iii) the qualities and characteristics of locations, places, and areas and
 - (iv) the heritage value of places and includes
 - (v) the social, economic, and cultural features of the matters mentioned in paragraphs (i), (ii), (iii) and (iv).
- (i) The term 'environmental impact' means any change to the environment, whether adverse or beneficial, that wholly or partially results from an activity.
- (j) The term 'control measure' means a system, an item of equipment, a person or a procedure, that is used as a basis for managing environmental impacts and risks.
- (k) The term 'environmental management system' includes the responsibilities, practices, processes, and resources used to manage the environmental aspects of an activity.
- (l) The term 'environmental performance' means the performance of a titleholder in relation to the environmental performance outcomes and standards mentioned in an environment plan.
- (m) The term 'environmental performance outcome' (EPO) means a measurable level of performance required for the management of environmental aspects of an activity to ensure that environmental impacts and risks will be of an acceptable level.
- (n) The term 'environmental performance standard' (EPS) means a statement of the performance required of a control measure.
- (o) The term 'principles of ecologically sustainable development' (ESD) means the principles of ESD set out in Section 3A of the EPBC Act.
- (p) The term 'relevant person' has the meaning provided under reg 25 of the Environment Regulations.

- (q) The term 'operational area' is taken to be the operational area for the petroleum activity as defined in Sections 3.2 and 3.3 of the EP.
- (r) The Program Report – Strategic Assessment of the environmental management authorisation process for petroleum and greenhouse gas storage activities administered by the National Offshore Petroleum Safety and Environmental Management Authority under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* that was endorsed on 7 February 2014, is referred to as the Program.
- (s) The term 'as low as reasonably practicable' is referred to as 'ALARP.'

Appendix B: Legislative Framework

158. The Environment Regulations provide that:

- (a) Before commencing a petroleum activity, a titleholder must submit an environment plan for the petroleum activity to NOPSEMA (reg 26(1)).
- (b) A petroleum activity means any operation or works in an offshore area carried out for the purpose of (a) exercising a right conferred on a petroleum titleholder under the OPGGS Act by a petroleum title; or (b) discharging an obligation imposed on a petroleum titleholder by the OPGGS Act or a legislative instrument under the OPGGS Act (reg 5).
- (c) An environment plan for a petroleum activity that is, or is part of, an offshore project may only be submitted if NOPSEMA has accepted an OPP that includes that activity or if the Environment Minister has made a decision or granted approval under the EPBC Act relating to an action that is equivalent or includes that activity (reg 26(3)).
- (d) If a titleholder submits an environment plan, NOPSEMA may request the titleholder to provide further written information about any matter required by the Environment Regulations to be included in the environment plan (reg 32).
- (e) If a titleholder receives a request under reg 32, they must provide the information requested by incorporating the information into the environment plan and resubmitting the environment plan within the period specified or within a longer period agreed to by NOPSEMA.
- (f) If the environment plan is resubmitted under reg 32, NOPSEMA must have regard to that further information in making the decision under reg 33.
- (g) Within 30 days after the day NOPSEMA publishes the environment plan (reg 28) if the NOPSEMA is:
 - (i) reasonably satisfied that the environment plan meets the criteria set out in reg 34, NOPSEMA must accept the environment plan (reg 33(1)(a));
 - (ii) not reasonably satisfied that the environment plan meets the criteria set out in reg 34, NOPSEMA must give the titleholder notice in writing (reg 33(5)); or
 - (iii) if NOPSEMA is unable to make a decision on the environment plan within the 30-day period, NOPSEMA must give the titleholder notice in writing and set out a proposed timetable for consideration of the environment plan (reg 33(3)(b)).
- (h) A notice to a titleholder under reg 33(5) must:
 - (i) state that NOPSEMA is not reasonably satisfied that the environment plan submitted by the titleholder meets the acceptance criteria set out in reg 34;
 - (ii) identify the criteria set out in reg 34 about which NOPSEMA is not reasonably satisfied; and
 - (iii) set a date by which the titleholder may resubmit the environment plan.

159. Pursuant to reg 16, NOPSEMA must not accept an environment plan unless it is reasonably satisfied that the titleholder is compliant with subsection 571(2) of the Act in relation to the activity, and the compliance is in a form that is acceptable to NOPSEMA.

160. Regulation 34 provides the acceptance criteria NOPSEMA must consider in determining whether to accept an environment plan, and includes that the plan:

- (i) is appropriate for the nature and scale of the activity;

- (j) demonstrates that the environmental impacts and risks of the activity will be reduced to ALARP;
 - (k) demonstrates that the environmental impacts and risks of the activity will be of an acceptable level;
 - (l) provides for appropriate environmental performance outcomes (EPOs), environmental performance standards (EPSs) and measurement criteria;
 - (m) includes an appropriate implementation strategy and monitoring, recording, and reporting arrangements;
 - (n) does not involve the activity or part of the activity, other than arrangements for environmental monitoring or for responding to an emergency, being undertaken in any part of a declared World Heritage property within the meaning of the EPBC Act;
 - (o) demonstrates that:
 - (i) the titleholder has carried out the consultation required by Division 3; and
 - (ii) the measures (if any) that the titleholder has adopted, or proposes to adopt, because of the consultation are appropriate; and
 - (p) Complies with the OPGGS Act and the Environment Regulations.
161. Regulation 33(10)(a)(ii) provides that NOPSEMA may accept the plan subject to limitations or conditions applying to operations for the activity.
162. The Environment Regulations provides for the authorisation of a petroleum activity, but does not authorise an oil spill, which is considered for risk evaluation and contingency planning in the EP only. Section 569 of the OPGGS Act places obligations on petroleum titleholders to control the flow and prevent the escape of petroleum within the permit area, lease area or licence area.
163. The Environment Regulations impose a duty on the titleholder to demonstrate to NOPSEMA in the environment plan that a proposed activity will be carried out in a manner:
- (a) consistent with the principles of ecological sustainable development set in section 3A of the EPBC Act; and
 - (b) by which impacts and risks of the activity will be reduced to ALARP and acceptable levels.

Appendix C: Key materials considered in making the decision

164. In making this decision, I considered the documents making up the EP submission in accordance with legislative requirements and NOPSEMA policy and procedure. The material that I had regard to in making this decision included:
- (a) The EP comprising:
- Minerva Decommissioning and Field Management Environment Plan (Document number 1401801084, Revision 3, dated 6 September 2024)
 - Sensitive Information Report - Minerva Decommissioning and Field Management Environment Plan (Revision 3, dated September 2024)
165. The legislative framework relevant to EP assessments, including:
- (b) the OPGGS Act
- (c) the Environment Regulations and
- (d) the EPBC Act Program¹
166. Policies and Guidelines:
- (e) NOPSEMA Assessment policy (N-04000-PL0050)
- (f) NOPSEMA Environment plan assessment policy (N-04750-PL1347)
- (g) NOPSEMA Environment plan decision making guidelines (N-04750-GL1721)
- (h) NOPSEMA Consultation in the course of preparing an Environment Plan guideline (N-04750-GL2086)
- (i) NOPSEMA Section 572 Maintenance and removal of property regulatory policy (N-00500-PL1903)
- (j) NOSPEMA Section 270 Consent to surrender title regulatory policy (N-00500-PL1959)
- (k) NOPSEMA Petroleum activity guidance note (N-04750-GN1343)
- (l) Department of Climate Change, Energy, Environment and Water (DCCEEW), Significant Impact Guidelines 1.1 – Matters of National Environmental Significance, EPBC Act Policy Statement (2013)
- (m) Department of Sustainability, Environment, Water, Population and Communities' (DSEWPaC) 'Indirect consequences' of an action: Section 572E of the EPBC Act (2013).
167. Guidance:
- (n) NOPSEMA Environment plan content requirements guidance note (N-04750-GN1344)
- (o) NOPSEMA Petroleum activities and Australian marine parks guidance note (N-04750-GN1785)
- (p) NOPSEMA Oil pollution risk management guidance note (N-04750-GN1488) and
- (q) Department of Industry, Science, Energy and Resources, Offshore Petroleum Decommissioning Guideline (2018).
168. Procedures:
- (r) NOPSEMA Environment plan assessment standard operating procedure (N-04750-SOP1369).
169. Other relevant documents and records:

¹ <https://www.environment.gov.au/protection/assessments/strategic/offshore-petroleum-greenhouse-gas>

- (s) Relevant published, peer-reviewed scientific literature, including the scientific literature cited in the EP and relevant national/international standards such as the Australian and New Zealand Guidelines for fresh and marine water quality (ANZG, 2018).
 - (t) EPBC Referral, Decommissioning of the Minerva Pipeline in Victorian State Waters, Victoria (EPBC 2024/09879)
 - (u) Relevant policies, plans of management, recovery plans, conservation advice and other guidance for matters protected under the EPBC Act, including:
 - (i) Commonwealth of Australia, Threat Abatement Plan for the Impacts of Marine Debris on the Vertebrate Wildlife of Australia's Coasts and Oceans (2018)
 - (ii) Commonwealth of Australia, Recovery Plan for Marine Turtles in Australia 2017–2027 (2017)
 - (iii) Commonwealth of Australia, Conservation Management Plan for the Blue Whale 2015–2025 (2015)
 - (iv) Commonwealth of Australia, National Recovery Plan for the Southern Right Whale *Eubalaena australis* (2024)
 - (v) Offshore Petroleum Decommissioning (Department of Industry, Science, Energy and Resources, 2022)
 - (vi) National Light Pollution Guidelines for Wildlife, including marine turtles, seabirds and migratory shorebirds (DoEE, 2020)
170. Relevant legislative requirements that apply to the activity and are relevant to the environmental management of the activity; and
171. Relevant Federal Court of Australia authority.