

Acceptance of Minerva Plug and Abandonment Environment Plan

Document No: A1172654

Date: 13 February 2025

1. On 09 January 2025, 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 Plug and Abandonment Environment Plan (Document No: 00MC-BHP-N00-0001, Revision 3, dated 13 December 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 plug and abandonment (**P&A**) of wells and removal of well 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 30 June 2022, the titleholder submitted the Minerva Plug and Abandonment and Field Maintenance Environment Plan (Rev 0) to NOPSEMA in accordance with the Environment Regulations.
6. On 07 July 2022, 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 04 August 2022, 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.
8. On 04 October 2022 and 12 December 2022, NOPSEMA made further requests for information based on Federal Court of Australia decisions at the time.
9. In 2024, the Minerva Plug and Abandonment and Field Maintenance Environment Plan was split into two separate Environment Plans, being:
 - (a) Minerva Decommissioning and Field Management Environment Plan; and
 - (b) Minerva Plug and Abandonment Environment Plan

The Minerva Plug and Abandonment Environment Plan (Rev 1) (the EP) was submitted to NOPSEMA on the 03 July 2024.

10. On 31 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 was required. In response to this request, the titleholder resubmitted the EP on 25 October 2024 (Revision 2) incorporating additional information pursuant to reg 32(3).

11. On 19 November 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 was required. In response to this request, the titleholder resubmitted the EP on 13 December 2024 (Rev 3) incorporating additional information pursuant to reg 32(3).
12. For the purposes of assessing the EP, I was assisted by an assessment team comprised of a Lead Assessor and an Environment Specialist. On 09 January 2025, 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

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

Decision Overview

14. 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.
15. 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.
16. I was satisfied that the EP contained the matters required by Division 2. My reasons for this part of my decision are set out below.
17. 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 (OPGGs 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.
18. 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 below.

Findings

Does the Environment Plan comply with Division 2

19. 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 that the EP complied with Division 2.

Environmental assessment: regulation 21

Regulation 21(1) - Description of the petroleum activity

20. 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.
21. I found that the EP addresses each of these matters in Section 3 of the EP, relevantly including the following:
 - (a) The description of the activity, which includes:

- (i) Vessel-based cleaning, inspection, and preparation of wells prior to mobile offshore drilling unit (MODU) based plug and abandonment activities;
 - (ii) Permanent plug and abandonment of the following wells using a moored semi-submersible MODU:
 - Minerva-1 exploration well;
 - Minerva-2A appraisal well (unless accepted that this well has been previously plugged to an acceptable standard);
 - Minerva-3 production well;
 - Minerva-4 production well;
 - (iii) Disconnection and removal of well infrastructure (Xmas trees, wellheads, and guidebases).
- (b) The location of the activity, which is within Production Licence VIC/L22, in Commonwealth waters. In this regard, the EP stated that:
- (i) An 'Operational Area' has been defined as 2,000 m (2 km) radius around each well location (Section 3.3).
 - (ii) The Operational Area is located in the Otway Basin, approximately 8 km south-southwest of Port Campbell, Victoria, Australia, in water depths of approximately 50–60 m of water. The coordinates for the well locations are provided in Table 3-2 of the EP and shown on Figure 3-1 (Section 3.2 and 3.3); and
- (c) The EP clearly describes the scope and bounds of the activity, in particular:
- (i) Vessel based cleaning, inspection, and preparation of wells prior to P&A;
 - (ii) Permanent plug and abandonment;
 - (iii) Removal of well infrastructure;
 - (iv) Post P&A equipment and debris recovery, environmental sampling and as left visual inspections;
 - (v) The EP is not intended to be the final decommissioning EP for Woodside's property in VIC/L22;
 - (vi) The EP does not address Section 270 of the OPGGS Act and title surrender requirements, as these requirements are considered in the Minerva Decommissioning and Field Management EP (which was accepted by NOPSEMA on 14 October 2024);
 - (vii) The scope of the EP does not include the movement of the MODU and project vessels outside of the Operational Area. These activities are undertaken in accordance with other relevant maritime legislation, such as the *Cth Navigation Act 2012*.
- (d) I noted that other activities relevant to the decommissioning of the Minerva Field are covered in different regulatory documents. In particular, the:
- (i) Minerva Decommissioning and Field Management EP (Commonwealth), which relates to:
 - removal of equipment in VIC/L22 and VIC/PL33; and
 - ongoing inspection, maintenance, and repair of all equipment prior to removal.
 - (ii) I note that this EP 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.

- (iii) 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) Information considered relevant for the consideration of environmental impacts and risks of the petroleum activity. Key aspects of the description included:
 - (i) location, timing and duration of the petroleum activity, including a description of the stages of the activity, which will occur between Q1 – Q2 2025. The estimated duration of P&A activities is stated as between 44 and 160 days and will be undertaken 24 hours per day, seven days per week (Section 3.4);
 - (ii) general details and operations of the MODU, project vessels, remotely operated vehicles (ROVs) and helicopters, which are provided in Sections 3.7-10;
 - (iii) the background and status of equipment, including cessation of production operations and subsea inspection;
 - (iv) planned emissions and discharges from the petroleum activity, including noise, light, atmospheric emissions, MODU, vessel and P&A discharges, as well as physical presence 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 hydrocarbon release from a loss of well control or vessel collision (Section 8).

22. 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

- 23. 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.
- 24. The EP addresses 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 (Section 4);
 - (b) a description of the environment which encompasses the operational area and broader EMBA (Figure 4-1), which represents the largest extent where an unplanned hydrocarbon release could have an ecological or socio-cultural impact (Section 4.1 and Table 4-1);
 - (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 and Point Nepean Defence Sites and Quarantine Station Area (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 (15 km from the Operational Area);
 - Lower Aire River Wetlands (42 km from the Operational Area);
 - Aire River (43 km from the Operational Area);
- (iii) the values and sensitivities of the Apollo Australian Marine Park (**AMP**), which is located within the EMBA (Section 4.5.6, Appendix D);
- (iv) the values and sensitivities of State marine protected areas located 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, Marengo Reefs Marine Sanctuary, Point Addis Marine National Park, Port Phillips Heads Marine National Park, Point Nepean National Park, Mornington Peninsula National Park (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 48 listed threatened and 48 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 4.4.4, Table 4-6). In particular:
 - distribution range for white sharks;
 - foraging (annual high use area) BIA for pygmy blue whales;
 - migration BIA for southern right whales; and
 - foraging BIAs for several seabirds, including wedge-tailed shearwater, wandering albatross, antipodean albatross, common diving petrel, buller's albatross, shy albatross, Indian yellow-nosed albatross, black-browed albatross and Campbell albatross.
- (ix) in addition to the BIAs overlapping the Operational Area, the EMBA overlaps with:
 - reproduction BIA for southern right whales (located 4 km from the Operational Area);
 - foraging BIAs for pygmy blue whales;
 - foraging BIAs for seabirds, short-tailed shearwater, gannet and white-faced storm petrel; and
 - breeding BIA for seabird short-tailed shearwater and common diving 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, defence activities and offshore renewable energy, 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, 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 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.
25. Based on the information contained in Section 4 and Appendix D of the EP, I found that the EP met the requirements of reg 21(2) and (3).

Regulation 21(4) – Requirements

26. 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.
27. 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.
28. I considered that the EP met the requirements of reg 21(4).

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

29. 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.
30. 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;
 - (l) cultural features and heritage values;
 - (m) tourism/recreation; and
 - (n) onshore (indirect impacts).
31. 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 7.2);
 - (ii) seabed disturbance (Section 7.3);
 - (iii) light emissions (Section 7.4);
 - (iv) noise emissions (Section 7.5);
 - (v) atmospheric emissions (Section 7.6);
 - (vi) MODU and vessel discharges (Section 7.7);
 - (vii) plug and abandonment discharges (Section 7.8)
 - (viii) solid waste generation and management (Section 7.9);
 - (b) unplanned aspects:

- (i) hydrocarbon release – loss of well control (Section 8.2)
 - (ii) hydrocarbon release – vessel collision or bunkering (Section 8.3);
 - (iii) unplanned discharges of chemicals or minor hydrocarbon spills (Section 8.4);
 - (iv) loss of solid hazardous and non-hazardous waste (incl. dropped objects) (Section 8.5);
 - (v) marine fauna interaction (Section 8.6); and
 - (vi) introduction of invasive marine species (Section 8.7).
32. 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.
33. 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

34. 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.
35. 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, EPOs adopted include:
 - (i) EPO 1 - No unplanned interactions between the MODU or support vessels and other marine users;
 - (ii) EPO 2 - No impacts to the seabed greater than a severity level of 2 within the Operational Area during the petroleum activity;
 - (iii) EPO 3 - Avoid, or where not possible, minimise impacts to cultural features;
 - (iv) EPO 4 - Light emissions managed to limit impacts to marine fauna to short-term behavioural impacts only (severity level ≤ 2);
 - (v) EPO 5 - Noise emissions managed to limit impacts to marine fauna to short-term behavioural impacts only (severity level ≤ 2);
 - (vi) EPO 6 - 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) EPO 7 - Atmospheric emissions are limited to those necessary to maintain well integrity and complete the petroleum activity;
 - (viii) EPO 8 - Routine MODU and project vessel discharges comply with Marine Order requirements to restrict discharges to those necessary to perform the petroleum activity;
 - (ix) EPO 9 - Impacts from operational discharges associated with P&A activities limited to localised, temporary changes in water and sediment quality in the vicinity of the discharge location;
 - (x) EPO 10 - Waste generated is segregated and disposed of onshore in accordance with relevant legislation;

- (xi) EPO 11 – No loss of well integrity resulting in loss of hydrocarbons to the marine environment during the petroleum activity;
 - (xii) EPO 12 - No release of hydrocarbons to the marine environment due to a vessel collision during the petroleum activity;
 - (xiii) EPO 13 – Undertake the petroleum activity in a manner that will prevent an unplanned release of hydrocarbons to the marine environment from bunkering and refuelling activities that results in a substantial change in water quality which may adversely impact on biodiversity, ecological integrity, social amenity or human health;
 - (xiv) EPO 14 - No unplanned release of hazardous chemicals or hydrocarbon to the marine environment greater than a severity 2, during the petroleum activity;
 - (xv) EPO 15 – No unplanned release of solid hazardous or non-hazardous waste or incidents of dropped objects to the marine environment greater than a severity level 1 during the petroleum activity;
 - (xvi) EPO 16 - No vessel strikes with protected marine fauna (whales, sharks, and turtles) during the petroleum activity;
 - (xvii) EPO 17 - No introduction and establishment of invasive marine species into the Operational Area as a result of the petroleum activity.
36. 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.
37. 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.
38. 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

39. 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, 9.1, 9.8 and 9.11) (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 referenced documentation within the EP and is consistent with the Oil Pollution Emergency Plan (**OPEP**) (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. Section 9.7 outlines 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 9.12 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 9.8 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 9.8 outlines the approach to monitoring and record keeping for emissions and discharges (reg 22(6));
 - (g) an OPEP (Appendix E) 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 (**AMOSC**) 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 9.12.9 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 9.12.9 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 routine 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)).

40. 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

41. Details of 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.

42. 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.

43. Based on these matters, I considered that the EP met the requirements of reg 23.

Other information in the EP: regulation 24

44. 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. I found that the summary accurately reflects the responses received from relevant persons, such that relevant claims or objections can be adequately identified;
 - (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.

Should the Environment Plan be accepted?

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

46. 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 titleholder provided pursuant to the requests made by NOPSEMA. The information the titleholder provided in response to those requests was contained in the re-submitted versions of the EP which resulted in the final version of the EP (Revision 3).

47. 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)

48. 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. 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.
49. 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.
50. 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). 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 (loss of well control or vessel collision)
51. 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 environment that may be affected by planned operations (Operational Area), 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 4.6.1) 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;

- (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 4-10. 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.

52. 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.

53. 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).

54. Based on the findings 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)

55. 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:

- (a) 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 discharges, light emissions, underwater noise emissions, invasive marine species, marine fauna interaction and emergency events (such as a hydrocarbon release from a loss of well control or 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 and risks 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) when demonstrating impacts and risks are or will be reduced to ALARP. For example, feedback from the Australian Maritime Safety Authority (**AMSA**) has been incorporated into the EP through adoption of suitable reporting and notification performance standards (e.g., EPS 1.6);
- (e) available information obtained on the cultural features of the environment is adequately considered (Section 4.6.1, Tables 4-9/10). Impacts and risk evaluated in Sections 7 and 8 of the EP, consider potential impacts to cultural features and heritage values (Sections 7.2, 7.3, 7.4, 7.5, 8.2, 8.3 and 8.6), and addresses 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, 3.3 and 3.4) and control measures (C 3.1, 3.2, 3.3 and 3.4) 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) 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, and these will include information on cultural features and heritage values, including tangible and intangible cultural heritage;
- (h) the EP adequately identifies and evaluates the potential impacts and risks from the activity to listed threatened and migratory species, by being informed by the likelihood of species presence, distribution and behaviour within the area that may be affected by the activity, and is supported with peer-reviewed literature. In particular:
 - (i) the evaluation of impacts and risks to listed threatened and migratory species were informed by applying suitable control measures. For example:
 - the 'Frontline Offshore Seabird Management Plan' (C 4.2) to reduce potential interactions with nocturnal seabirds by managing external lighting from the MODU and project vessels; and

- measures set out within the Environment Protection and Biodiversity Conservation Regulations 2000 (**EPBC Regulations 2000**) – ‘Part 8 Division 8.1 Interacting with cetaceans’ to reduce potential interactions with marine fauna;
- (ii) the EP considered, evaluated, and detailed all reasonable control measures that could reduce impacts and risks to listed threatened and migratory species to ALARP;
- (i) the EP provided reasons that were supported by evidence for why the adopted controls for listed threatened and migratory species, 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) C 4.1 - Limiting external lighting to that required for navigational and safety requirements, except for emergencies;
 - (ii) C 4.2 - Implementing a ‘Frontline Offshore Seabird Management Plan’ to reduce the likelihood and consequence of interactions with nocturnal seabird species;
 - (iii) C 5.4 – Implement Marine Fauna Adaptive Management Plan prior to resupply vessel moves alongside MODU;
 - (iv) C 5.5 – Implement Marine Fauna Adaptive Management Plan prior to MODU and AHTS vessels (except for MODU resupply) mobilise to the Operational Area;
 - (v) C 5.6 - MODU and AHTS vessels enter the Operational Area during daylight hours (except for MODU resupply activities);
 - (vi) C 5.7 - Implement Adaptive Management Plan prior to commencing MODU movements within the Operational Area. MODU movements commence during daylight hours only;
 - (vii) C 5.8 - Limit vessel speeds to 6 knots or less in the Operational Area (excluding emergencies) during seasonal peaks in pygmy blue whale and southern right whale abundance;
 - (viii) C 5.10 - Limit the number of project vessels alongside the MODU at any particular time, except in emergency situations or as required by Safety Case;
 - (ix) C 5.11 - Marine Fauna Observer (MFO) to detect whales from AHTS vessels;
 - (x) C 5.12 - Thermal imaging cameras available for use during low visibility and night-time observations as detailed in the Marine Fauna Adaptive Management Plan;

56. Based on the findings above, 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)

57. 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 impacts and 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 4.4.3, 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 International Union for Conservation of Nature (IUCN) Reserve Management Principles in operation for an AMP 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) (Commonwealth of Australia, 2015) and the National Recovery Plan for the Southern Right Whale *Eubalaena australis* (Commonwealth of Australia, 2024); and
 - (f) the EP 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.
58. 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 impact assessment in Section 7 includes consideration of aspects typical for plug and abandonment activities, such as physical presence, seabed disturbance, lighting, noise, atmospheric emissions, MODU/vessel and activity discharges, and waste generation and management.
59. 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 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;
 - (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 7.3.3 (seabed

disturbance), while the risk of noise emissions impacting culturally important whale species are evaluated under Section 7.5.3;

- (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 evaluations (Sections 7 and 8) outline, and I accept, that:
 - (i) 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 7.3) or in the highly unlikely event of a hydrocarbon release from a loss of well control or vessel collision (Sections 8.2 and 8.3);
 - (ii) 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 locations are evaluated and adopted under Section 7.3 (C 3.1, C 3.2 C 3.3 and C 3.4); and
 - (iii) 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.

60. In relation to underwater noise emissions, I considered that the EP demonstrates that this specific impact to threatened and migratory whales will be of an acceptable level, because:

- (a) whilst the Operational Area overlaps with BIAs for threatened and migratory whales (i.e., foraging BIA for blue whales and migration BIA for southern right whales) (Table 4-6), I was reasonably satisfied that the activity would not be inconsistent with the 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, and the National Recovery Plan for the Southern Right Whale (2024), considering the expected timing and duration of the activity, along with implementation of suitable control measures;
- (b) the EP (Section 7.5) evaluates the impacts of underwater noise emissions from the petroleum activity, which are predominantly from the MODU, project vessels, helicopter operations, flaring/venting operations and positioning equipment (acoustic transponders). The evaluation also considers the potential for cumulative noise impacts from concurrent activities under the EP (i.e., maximum of three vessels and the MODU for a short duration in the Operational Area), other activities associated with decommissioning of the Minerva field (such as pipeline and equipment removal) and other activities occurring in the region (such as proposed marine seismic surveys and other exploration drilling activities);
- (c) the noise evaluation (Section 7.5) has been informed by contemporary peer-reviewed literature and internationally accepted impact evaluation thresholds (Table 7-7). I note that the EP does not reference recently updated technical guidance for assessing the effects of anthropogenic sound on marine mammal hearing (NOAA, 2024). Given that the titleholder's decision-making process for implementation of management measures described in the titleholder's Marina Fauna Adaptive Management Plan is based on the observation of whales within the behavioural disturbance footprint of the activity (Section 9.6.3.2), and that the update includes changes to the thresholds at which marine mammal auditory injury and temporary threshold shift (**TTS**) may occur (not behavioural disturbance),

I was satisfied that the update would not affect the implementation or effectiveness of the Marine Fauna Adaptive Management Plan. Further, I note that the titleholder has an appropriately robust implementation strategy (Section 9 of the EP) and management of change process (Section 9.8.4) to identify and determine the significance of any potential increased or new environmental impacts or risks not provided for in the EP. I considered this to include changes in understanding of the environment and potential impacts and risks arising from new information, such as NOAA, 2024;

- (d) the noise evaluation takes into consideration the likelihood of species presence, distribution and expected behaviours within the area that may be affected by underwater noise emissions and is supported with peer-reviewed literature. Cetaceans that may be present in the Operational Area, include baleen whales (such as blue, southern right, humpback, fin, sei, Bryde's, pygmy right and minke whales), large, toothed whales (such as killer whale), and dolphins (such as dusky dolphins) (Table 4-3);
 - (e) the defined acceptable level of impact has been compared to the predicted level of impact, which has been derived from comparing the results of the noise modelling study with published studies on the distribution patterns and behaviours of relevant species, to demonstrate that the environmental impacts of the activity will be managed to an acceptable level;
 - (f) the EP evaluates the potential for permanent threshold shift (**PTS**) and TTS in hearing and behavioural disturbance to cetaceans, due to underwater noise exposure from the activity. The evaluation of underwater noise is more detailed than for other environment receptors which is commensurate to the predicted magnitude of impacts and risks to cetaceans that may be encountered in the Operational Area;
 - (g) the evaluation is supported by underwater noise propagation modelling to determine the ranges over which PTS and TTS effects and behavioural disturbance may occur due to the activity;
 - (h) the EP explains that the predicted distances to PTS and TTS from modelling are based upon exposure for 24-hours by a stationary receptor, which is conservative given it is not a realistic scenario based on the predicted movement patterns of whales. The EP concludes that PTS and TTS effects for whales are not expected to occur as a result of the activity;
 - (i) the EP outlines that cetaceans may exhibit behavioural responses as a result of the activity; however, no population level impacts are expected. Impacts are predicted to be limited to transient individuals and be temporary in nature;
 - (j) the EP describes a range of control measures to reduce underwater noise impacts to cetaceans (in particular to blue whales and southern right whales) to an acceptable level (Section 7.5), as noted above;
 - (k) I note that in the event pygmy blue whales or southern right whales are sighted during the activity, the titleholder will implement the 'Marine Fauna Adaptive Management Plan'. The Plan will reduce the likelihood of impacts to biologically important behaviours of pygmy blue whales and southern right whales. As such, the activity is not expected to have an unacceptable level of impact on blue whale foraging, or southern right whale migration or reproduction behaviours.
61. Because of the above, I found that the EP demonstrates that with the implementation of the proposed management measures, impacts of underwater noise emissions (including cumulative impacts) to cetaceans will be managed to an acceptable level.

62. In relation to unplanned aspects of the activity (Section 8), the EP gives appropriate consideration to risks, such as a hydrocarbon release from a loss of well control or vessel collision, unplanned spills of chemicals and hydrocarbons, loss of solid hazardous and non-hazardous waste, introduction of invasive marine species and marine fauna interactions. 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.
63. I 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).
64. I found 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 titleholder's impact and risk assessments are informed by information received through the consultation process.
65. Based on the findings above, I was reasonably 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)

66. Sections 7 and 8 of the EP contain EPOs, EPSs and measurement criteria for impacts and risks of the petroleum activity.
67. 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 be 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).
68. 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.
69. I considered that the EPOs, EPSs and measurement criteria are clearly linked and complementary of one another, as demonstrated in the 'Environmental Performance Outcomes, Performance Standards and Measurement Criteria' tables for each of the impacts evaluated in Sections 7 and 8.

70. Based on the findings 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)

71. 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 of the EP provides a range of systems, practices and processes (see further detail below) which provided for all impacts and risks to continue to be managed to ALARP and acceptable levels for the duration of the activity.
72. The management of change (**MOC**) process was adequately described in Section 9.8.4 and was appropriate, because the process describes:
- (a) that 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) that risk assessment outcomes will be reviewed for compliance with regulation 39(2);
 - (c) that minor changes that do not trigger a requirement for a formal revision under reg 39(2), will be considered a 'minor revision' and tracked; and
 - (d) the titleholders' learning and knowledge sharing processes as well as review of impacts, risk and controls across the life of the EP (Sections 9.11.1, 9.11.2, and 9.11.3).
73. I found 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 set out 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 referenced documentation within the EP (and in the OPEP).
74. 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.
75. I found that the monitoring, recording and reporting arrangements were adequately described in Sections 9.8 and 9.10 and included routine internal and external reporting requirements and incident reporting arrangements. I found that these arrangements were appropriate as 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.

76. 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 9.8 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 found such processes would ensure prompt action and appropriate corrective measures were taken.
77. 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 found 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 commercial fishing bodies, commercial licence holders and First Nations groups;
 - (ii) share environmental monitoring and survey data; and
 - (iii) consult in the event of an emergency (such as an oil pollution incident);
 - (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) comply with routine external reporting requirements.
78. Based on the findings 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)

79. I was satisfied that the EP clearly described the boundaries of the petroleum activity (Sections 3 and 4), 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.
80. I was therefore 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)

81. Regulation 34(g) has two components that I must be satisfied the EP demonstrates:
- (a) first, that consultation has occurred as per the requirements in Division 3 of the Environment Regulations. Under Division 3, reg 25 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 regs 25(2)-(4)) (subparagraph 34(g)(i)); and
 - (b) second, that the titleholder adopted, or proposed to adopt, appropriate measures in light of those consultations (subparagraph 34(g)(ii)).
82. Overall, I must be reasonably satisfied that consultation undertaken was appropriate and adapted to the nature of the interests of the relevant persons.
83. I noted that the titleholder's consultation methodology (Section 5), Appendix F and the sensitive information part of the EP (also referred to as the 'Sensitive Information Report') were particularly relevant to this criterion.

84. 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.
85. 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 regulation 25(1). This is because:
- (a) The process (Sections 5.3 to 5.7 of the EP) provides for the identification of relevant persons within the categories of relevant persons defined by regs 25(1)(a), (b), (c), (d) and (e). The relevant person identification methodology for a range of groups of relevant persons is presented in Tables 5-1 and 5-2. The range of groups included:
- (i) under reg 25(1)(a), (b) and (c):
- government departments/agencies (marine, environment and industry).
- (ii) 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.
- (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 (Section 4 of the EP);
- (c) The Titleholder's process uses the terms, "functions," "interests" and "activities" for the purpose of identifying relevant persons under reg 25(1)(d) interpreted and applied broadly 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, which is used to assess whether or not the person or organisation is considered to be a relevant person under reg 25(1)(d). This assessment is provided in Appendix F, Table 1 of the EP;
- (d) The process includes reference to multiple sources of information such as publicly available materials, (for example, management plans for Commonwealth and State Marine Parks), and a review of relevant databases and registers (for example, Australian Fisheries Management Authority (**AFMA**) and Victorian Fisheries Authority (**VFA**) fishery catch and effort data, the Australasian Underwater Cultural Heritage Database and the National Native Title Register);

- (e) The process includes consideration of published guidance, such as the Western Australian Fishing Industry Council (**WAFIC**) consultation guidance, recognising that there is not specific consultation guidance available for Victorian commercial fisheries, as well as previous consultation history and/or advice from authorities and other relevant persons (such as the Director of National Parks and VFA);
 - (f) The process (Section 5.4 of the EP) 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, publishing consultation information sheets on its website and participating in community information sessions. I also noted that details of the EP have been available on the NOPSEMA website since 30 June 2022; and
 - (g) The process (Sections 5.3 of the EP) 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 self-identified in February 2023 and were then assessed as relevant persons under regulation 25(1)(d), as per Table 5-3 and Appendix F (Table 1). Persons or organisations that the titleholder assessed as not relevant but nonetheless chose to contact at its discretion in accordance with Section 5.3.4 in the EP, or self-identified and the titleholder assessed as not relevant, are outlined in Appendix F.
86. 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 determining relevant Commonwealth or State agencies or authorities, or determining whose functions, interests and activities may be affected by the activity. 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 of the EP) 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 of the EP).
87. I found that effective consultation has taken place with relevant persons in accordance with regulation 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 were subsequently recognised as a relevant person for the purposes of reg 25 by the titleholder (Tables 5-2 and Appendix F);
 - (b) provided a record of contact with other persons or organisations that the titleholder did not deem to be 'relevant persons' for the purposes of reg 25, but had chosen to contact (as per the process described in Section 5.3.7 of the EP) ;
 - (c) advised relevant persons of the legislative requirement to undertake consultation, along with the purpose. This included providing relevant persons with a copy of the NOPSEMA Consultation on offshore environment plans Brochure, after its publication in May 2023 (also Appendix F);
 - (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 regulation 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, the titleholder provided the Department of Defence (**DoD**) with a 'defence zone map' overlaid with the activity location (Appendix F; ref 2.15) and provided the AHO and AMSA with a 'vessel tracking map' overlapped with the activity location (Appendix F; ref 2.8). Further, emails sent to various First Nation groups contained a summary information sheet for the activity (Appendix F, refs 2.39-2.44);
 - (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 considered requests for additional information by relevant persons 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 Tuna Australia, South East Trawl Fishing Industry Association (**SETFIA**) and a number of relevant First Nations groups, among others; and
 - (vi) the titleholder 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 tailored PowerPoint presentations for meetings with different relevant persons.
- (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 commenced consultation with a subset of relevant persons in April 2022, with the provision of a consultation information sheet (Appendix F, ref 1.1);
 - (ii) the titleholder published advertisements in national, state and relevant local newspapers on 17 May 2023, advising of the proposed activities and requesting feedback;
 - (iii) targeted consultation with a broader group of relevant persons 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 noted that the timeframe for relevant persons to engage in consultation was, at minimum 5 months and at most 30 months;
 - (iv) 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;

- (v) 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 (from Perth) on 17 February 2024 to attend a consultation session organised by Guditj Mirring Traditional Owners Aboriginal Corporation (**GMTOAC**) specifically for the purpose of progressing industry consultation matters (Appendix F, Table 2); and
 - (vi) considered relevant persons' views as to 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 the initially proposed timeframes, and flexibility was provided to meet on specific dates identified by GMTOAC.
- (f) 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 (Appendix F; Table 2), 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 (and the nature of that conversation) or a meeting organised and held. Records of written responses were also included in the sensitive information report; and
- (g) 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 consistently provided these notifications through the information sheets, in specific written correspondence and at meetings.
88. 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) built on the titleholder's existing knowledge of environmental values and sensitivities in the EMBA (Section 4 of the EP); and
 - (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 First Nations groups (such as GMTOAC, Bunurong Land Council Aboriginal Corporation (**BLCAC**) and Eastern Maar Aboriginal Corporation (**EMAC**)) and Seafood Industry Victoria (**SIV**)) are included in the EP.
89. I considered that the titleholder's assessment of merit, and responses to objections and claims were reasonable and supported (reg 24(b)(ii) and (iii)), and the measures adopted because of the consultation were appropriate (reg 34(g)(ii)). In this regard I found that:
- (a) the report on consultation (Appendix F; Table 2) provides for the clear identification of objections and claims raised by relevant persons, along with the titleholder's assessment of merit and response to each objection and claim;
 - (b) 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 above and evaluation of additional control measures and changes made to the EP (as presented in Appendix F; Table 2). For example, as a result of consultation undertaken with the BLCAC, the titleholder adopted the use of marine fauna observers (**MFOs**) for the duration of the activity to observe for whales and seals (Section 7.5.6) and

updated the EP to capture the requirement of providing planned operational updates (activity commencement and cessation notifications) to BLCAC (Section 9.10.2);

(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 commercial fishers, the Department of Defence, AMSA and AHO have been included in the EP (e.g., C 1.3, C 1.4, C 1.5, C 1.6 and C 1.7, Section 7.2);

(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. For example the commitment by the titleholder to provide decommissioning environmental survey data to interested groups (Section 9.9, Table 9-6).

90. I found the content of the EP met the requirements of reg 24(b), as per my reasons in section 'other information in the EP: regulation 24' above.

Relevant persons under regulation 25(1)(a)-(c)

91. 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.

92. Section 5.3.2 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 is considered to be appropriate. Appendix F; Table 1 in the EP provides the titleholder's assessment of the 22 commonwealth and State Departments and agencies that are considered to be a relevant person under reg 25(1)(a)-(c).

93. I noted that consultation with the relevant persons under reg 25(1)(a)-(c) occurred, in accordance with NOPSEMA's 'Consultation with Commonwealth agencies with responsibilities in the marine area guideline' (GL1887), predominately via email, unless otherwise requested.

94. I considered it evident 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.

95. The titleholder initially contacted and commenced consultation with relevant persons under reg 25(1)(a)-(c) in April 2022 and again 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.

96. 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).

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.

Relevant persons under regulation 25(1)(d)

99. Relevant persons under reg 25(1)(d) are ‘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.’
100. 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 found the titleholder’s interpretation and application of the terms to appropriately promote the objects of the Environment Regulations, including that offshore petroleum activities are carried out in a manner consistent with the principles of ESD.
101. 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 found to be appropriate.
102. 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”, “recreational marine users, tourism and representative bodies”, “titleholder and operators”, “peak industry representative bodies”, “Traditional Custodians and Nominated Representative Corporations”, “native title representative bodies”, “local government and community representative groups or organisations”, “other non-government groups or organisations” and “research institutes and local conservation groups or organisations”.
103. 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.
104. 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 request was made by relevant persons under reg 21(1)(d), and this was recorded in the Sensitive Information Report.
105. 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 outlined above, the EP describes a clear process for the identification and broad capture of relevant persons providing for the identification of relevant persons as defined by reg 25A(1)(d).
106. I will explain my conclusions as to the titleholder’s consultations with Commercial Fisheries relevant persons, then First Nations relevant persons, and then my conclusions on other relevant persons categories under reg 25(1)(d) as noted above.

Commercial fisheries relevant persons

107. In reviewing the consultation records, I found that effective consultation had taken place with commercial fisheries and peak representative bodies. These relevant persons were identified following the methodology described in Section 5.3 of the EP (Table 5-2), which was informed by an evaluation of the expected presence of commercial fisheries in the Operational Area and EMBA (Section 4.6.2). I found this to be an appropriate manner in which to identify this group of relevant persons.
108. Records of consultation provided in Appendix F indicate that the titleholder had identified 23 relevant persons who fit within the 'commercial fisheries and representative bodies' description. It was noted that AFMA provided the titleholder with a list of bodies which should be consulted, and the titleholder acted upon that advice engaging with those bodies. In the case where specific industry bodies disseminate the information to their members and/or relevant commercial fishing licence holders, this is identified by the titleholder in the EP (for example, SIV).
109. The titleholder's approach to consultation with commercial fishing relevant persons is consistent with AFMA's advice, such that through the relevant fishing industry associations, all fishers who have entitlements to fish within the Operational Area were consulted and I found that consultation was carried out in accordance with reg 25.
110. The titleholder initially contacted and commenced consultation with a subset of commercial fishing relevant persons in April 2022. After then, the titleholder initiated and consulted with a broader group of commercial fishing relevant persons between June and July 2023 and provided a follow-up in January 2024 to these relevant persons. In addition, consultation commenced with another subset of commercial fishing relevant persons in January 2024.
111. I was satisfied that the titleholder had engaged in appropriate consultation with the relevant persons, having sought to engage with them in a manner appropriate to their circumstances and with sufficient information, and providing a period of between 5 and 30 months for the consultations. Where a shorter 5-month period was provided, I was nevertheless satisfied that this was reasonable.
112. I also noted that the titleholder largely received no feedback, objections or claims from these relevant persons. Where objections or claims raised by a relevant person had been identified, the titleholder assessed the merit of each objection or claim and determined whether or not additional measures were required in response. For example, the EP contains a commitment for the titleholder to provide notifications to relevant parties prior to commencement and upon completion of activities, as per PS 1.4. This includes:
- (a) government departments (AFMA, DAFF and VFA);
 - (b) industry representative bodies (Commonwealth Fisheries Association (CFA) and SIV);
 - (c) 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
 - (d) Victorian licenced fishers that have requested notifications during consultation facilitated by SIV.
113. For the reasons set out above, for the purposes of reg 34 (1)(g), I accepted this criterion was met insofar as it related to commercial fisheries and peak representative bodies.

First Nations relevant persons

114. I noted that the titleholder has tailored their approach to First Nations consultation to assess the possible consequence of the proposed activity on each of those relevant persons' functions, interests, or activities. An 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 of the EP);
 - (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 of the EP specifically addresses consultation with First Nations people, noting the method has been customised for the region (Victoria) with 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 relating to identification and consultation with First Nations relevant persons (Section 5.5 of the EP). 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 consultation records show that relevant representative corporations were requested to forward consultation information to their members and to advise of other Traditional Custodian groups and/or individuals with whom the titleholder should consult (Appendix F; Table 2);
 - (g) At section 4.6.1.5 of the EP, 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;
 - (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 of the EP, 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 information sheets, maintaining website listings, sending out emails, making phone-calls, publishing notices in national, regional and local newspapers, engaging directly with these groups, holding meetings (virtually and in person), developing and delivering presentation packs, and attending community engagement opportunities.
115. On that basis, I found that these were appropriate and reasonably adapted to the nature of the interests of these relevant persons;
116. In applying the methodology described above, the following five (5) First Nations groups and individuals were identified as relevant persons and consulted with in the course of preparing the EP (Table 5-3):
- (a) the Bunurong Land Council Aboriginal Corporation (BLCAC) was consulted between May 2023 and November 2024, including a meeting held on 8 December 2023 and virtual meetings held on 13 March

2024 and 7 May 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 BLCAC's feedback regarding environmental and cultural values in Section 4.6.1.5 of the EP, and has assessed potential impacts to these values in Sections 7 and 8 of the EP;
 - (ii) the EP recognises 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 of the EP;
 - (iii) BLCAC advised that the project is significantly removed from their area of interest;
 - (iv) the titleholder has also taken BLCAC's advice of contacting the Flinders Island Aboriginal Association (**FIAA**); and
 - (v) the titleholder attended a community workshop on 7 May 2024, at the request of BLCAC.
- (b) the Eastern Maar Aboriginal Corporation (**EMAC**) was consulted 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 the EMAC in the EP, including:
- (i) recognising EMAC'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 of the EP, where applicable;
 - (ii) providing EMAC with information on noise level monitoring, mitigation measures including rig positioning to reduce impact, and training and qualifications of marine mammal observers;
 - (iii) responding to EMAC's questions regarding specific environmental management aspects (e.g., noise management and modelling), interest in participating in incident response, and request for funding to undertake independent environmental assessments; and
 - (iv) clearly advising EMAC funding is available to support an independent assessment and committed to continue to engage with EMAC as part of ongoing consultation (Section 9.9 of the EP).
- (c) the Wadawurrung Traditional Owners Aboriginal Corporation (**WTOAC**) was consulted between May 2023 and February 2024, including a meeting held on 13 July 2023 and 14 February 2024. At the time of the EP submission, I noted that in the EP the titleholder had recognised and resolved objections and claims raised by WTOAC, including:
- (i) recognising the WTOAC's feedback regarding environmental and cultural sensitives in Section 4.6.1.5 of the EP, and has assessed potential impacts to these in Sections 7 and 8 of the EP;
 - (ii) providing 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
 - (iii) consulting with EMAC after WTOAC informed the titleholder that it did not require further consultation because the proposed 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 between May 2023 and January 2024. At the time of the EP submission, I noted that in the EP the titleholder had recognised and resolved objections and claims raised by relevant persons, noting that:
- (i) 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 EMAC. The titleholder advised that it has consulted with EMAC; and

- (ii) GLAWAC advised the titleholder of its expectation to be consulted should an unplanned impact, such as an oil spill, occur. 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 (Section 9.9 of the EP).
- (e) the Guditj Mirring Traditional Owners Aboriginal Corporation (GMTOAC) was consulted between May 2023 and July 2024, including by way of 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 note that the titleholder considered that it had 'completed' consultation when the EP was submitted to NOPSEMA on 03 July 2024; however, the Sensitive Information Report contained exchanges between GMTOAC (and Environment Justice Australia (EJA) on behalf of GMTOAC) and the titleholder up to 11 December 2024 (the EP was resubmitted to NOPSEMA on 13 December 2024), and that the EP had been updated to reflect these consultations accordingly (e.g., Appendix F; Table 2);
- (f) as a result of this consultation process, I found that:
- (i) the EP recognises information about Sea Country values of the Guditjmarra people (see Section 4.6.1.5) and of intangible cultural heritage values (see Section 4.6.1.6), as summarised in Tables 4-9 and 4-10. The information set out in the EP is based on a review of available literature, information available on the GMTOAC website, publications by GMTOAC (such as '2023-2033 Guditjmarra Nyamat Mirring Plan' and 'Research Principles and Guidelines: Creating Partnerships for Research with Guditjmarra and/or on Guditjmarra Country'), and 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 on 14 February 2024). These include, for example:
- that the surrounding waters are significant breeding grounds and habitats for culturally significant species to the Guditjmarra 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);
 - that the Bonney Upwelling is a dominant ecological feature of Guditjmarra Sea Country; and
 - that Deen Maar Island and its surrounds hold deep spiritual significance to Guditjmarra people.
- (ii) the EP presents an evaluation of impacts and risks on the cultural heritage values identified, and adoption of suitable controls where applicable, in Sections 7 and 8 of the EP, as noted above;
- (iii) the EP includes evidence that the titleholder recorded and addressed specific objections and 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, objections or claims raised during the 17 February 2024 workshop, covering topics such as:
- 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.
- (iv) 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;

- (v) 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 marine fauna species in Sections 7.2, 7.4 and in particular, Section 7.5;
- (vi) 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 a timeline of consultation and communication undertaken;
 - the 'Consultation Report' (Appendix F, Table 2) for GMTOAC, which cross references objections, claims, responses and the titleholder's evaluation of consultation outcomes in line with the methodology presented in Section 5;
 - a 'record of consultation', including communication material, correspondence, and records of presentations delivered to GMTOAC.
- (vii) when considered in their entirety, the records provided in the EP indicated 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; and
 - 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 of the EP.
- (viii) from February 2024, GMTOAC initially, and subsequently their legal representatives EJA, took the view that they were not satisfied with the manner in which consultation had been undertaken to date. These objections and claims (among others) were raised by GMTOAC (and EJA on behalf of GMTOAC) and communicated to the titleholder in a number of letters dated 5 February 2024 (GMTOAC), 21 March 2024 (EJA on behalf of GMTOAC), 19 April 2024 (EJA on behalf of GMTOAC), 29 May 2024 (EJA on behalf of GMTOAC), 7 June 2024 (EJA on behalf of GMTOAC), 9 September 2024 (EJA on behalf of GMTOAC), 11 November 2024 (EJA on behalf of GMTOAC), 15 November 2024 (EJA on behalf of GMTOAC) and 22 November 2024 (EJA on behalf of GMTOAC) (Appendix F, Table 2 & Sensitive Information Report);
- (ix) 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 was concerned that it had 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 EPs, 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 Gunditjmara Sea Country, individually and cumulatively; and
- GMTOAC was developing a consultation protocol (also referred to as '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.

(x) After this time, EJA on behalf of GMTOAC also communicated these objections and claims with NOPSEMA through a number of copied and direct correspondence (Appendix F; Table 2 and Sensitive Information Report);

(xi) the titleholder responded to the objections and claims raised through written correspondences (emails and/or letters) to GMTOAC (and EJA on behalf of GMTOAC) on 26 February 2024, 10 April 2024, 7 May 2024, 30 May 2024, 17 June 2024, 9 July 2024, 12 September 2024, 11 October 2024 and 11 December 2024.

117. I was reasonably satisfied that the titleholder had carried out consultation with BLCAC, EMAC, WTOAC and GLAWAC, and 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.

118. In relation to the specific claims raised by GMTOAC (and EJA on behalf of GMTOAC) between February and November 2024, I acknowledge that those views are genuinely held and that GMTOAC considers consultation has not been undertaken in accordance with the Environment Regulations. Despite this, the contents of the EP indicate that adequate consultation had occurred. This is because:

(a) the titleholder first contacted GMTOAC in relation to the EP and relevant person consultation process approximately 20 months prior to the submission of the accepted EP (the initial contact was in May 2023). The titleholder had engaged in consistent communication with GMTOAC, with a willingness to engage and discuss the proposed activity;

(b) the EP consultation records (as summarised in Appendix F; Table 2) show that during that time a two-way exchange of information occurred and that the titleholder made multiple offers to consult between 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) 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 18 July 2023, seeking GMTOAC's direction as to the manner of consultation and requesting information about 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'. This promotion by GMTOAC offered another mechanism for individual members of the group to self-identify and attend, and reflected the titleholders' encouragement of GMTOAC 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'. Allowances and accommodation were offered by the titleholder for GMTOAC members to participate in the consultation meeting;
 - (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 meeting, during which project information was shared with attendees (through a PowerPoint presentation) and further consultation offered. Representatives of EJA, who later confirmed they were acting for GMTOAC, were present at the meeting on 17 February 2024;
 - (vii) the titleholder followed-up this meeting with responses to questions taken on notice during the joint industry consultation meeting in correspondence dated 26 February 2024 .
- (c) the titleholder had prepared adapted communication material (e.g., power points presentations with images, photos, maps and diagrams) to facilitate conversations at the meetings held on 29 June 2023 and 17 February 2024;
- (d) additional correspondence (emails and letters) were exchanged between 17 February 2024 and 11 December 2024 between the titleholder and GMTOAC (and EJA on behalf of GMTOAC), including a response to all of the GMTOAC (and EJA on behalf of GMTOAC) letters providing the titleholder's responses to the claims and objections summarised above;
- (e) records provided in Appendix F and the Sensitive Information Report show that the titleholder advised GMTOAC on a number of occasions during consultation that funding (reasonable financial support) was available to support independent technical advice (e.g., correspondence dated 7 May 2024). The EP also 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). I noted that the titleholder informed GMTOAC on 11 December 2024 that it was no longer offering to provide funding for independent technical advice, as the titleholder considered that consultation for the purposes of reg 25 was complete; and
- (f) the EP (Appendix F and Sensitive Information Report) shows that GMTOAC (via EJA) provided the titleholder with the 'Gunditjmarra Consultation and Negotiation Protocol' (also referred to as the 'Consultation Plan') on 11 November 2024, following the adoption of the Consultation Plan by Gunditjmarra on 26 October 2024. The 'Consultation Plan' was therefore provided to the titleholder approximately 8 months after GMTOAC via EJA had initially informed the titleholder on 21 March 2024 that it was preparing such a plan. The titleholder advised GMTOAC on 11 December 2024, that it would not adopt the proposed Consultation Plan in its current form, and this position is reflected in the EP (Appendix F and Sensitive Information Report).
119. Despite the titleholder advising that it did not accept GMTOAC's plan in its current form, I was satisfied that consultation had been carried out as required by reg 25. Titleholders are not required to enter into consultation plans, protocols or frameworks (or similar) in order to discharge their obligation under reg 25.

The law does not require they do so, and it is open to a titleholder to apply some decisional choice in how the consultation is undertaken.

120. 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, including through:
- (a) publication of activity advertisements in five (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, 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). 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. The GMTOAC advertised the planned 17 February 2024 consultation session to its members via three posts on social media (Facebook); and
 - (e) many email requests and presentation materials requesting GMTOAC to identify any other individuals, groups or organisations that should be contacted about the activity and its potential impact to values, interests and activities (for example, in a power point presentation delivered on 29 June 2024, and further correspondence, for example on 18 July 2024 and on 22 January 2024).
121. I found that overall, the contents of the EP showed 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 the opportunity to contribute to the EP, in accordance with reg 25.
122. The EP also demonstrates that government and other organisations were consulted with regards to First Nations cultural heritage matters in the course of preparing the EP. For instance:
- (a) the First Nations Legal and Research Services (**FNLRS**) was consulted with in May-June 2023. FNLRS emailed the titleholder confirming they had no feedback or questions in relation to the proposed activity; and
 - (b) the Victorian 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 Minerva decommissioning activities (in relation to activities covered by the Minerva Decommissioning and Field Management EP, such as pipeline removal), 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 at the time of final EP submission to NOPSEMA; and

123. In light of information provided in the consultation summary report (Appendix F) and records provided in the Sensitive Information Report relating to consultation with First Nation relevant persons, 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 had been underway for a lengthy period of time, allowing multiple opportunities and sufficient time for relevant persons to engage, having commenced, at its latest, in July 2023 and continued until, at the earliest, March 2024 (a period of at least 9 months), a reasonable period of time in the context of the matters noted above;
 - (c) First Nations relevant persons or groups consulted for this activity were 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 were met by the titleholder;
 - (e) communication and notification commitments, as well as inclusion of other measures were adopted as a direct result of consultation with First Nations relevant persons;
 - (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 accepted EP was submitted to NOPSEMA in December 2024;
 - (h) the titleholder resolved objections and claims raised by relevant persons regarding the proposed activity and measures adopted because of consultation were considered appropriate; and
 - (i) the titleholder committed to ongoing engagement with First Nations groups, as agreed 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 support capacity for ongoing engagement and consultation on environment plans by First Nations people. The EP also provides that information, claims or objections received as part of ongoing consultation will be assessed under the titleholder's Management of Change (Section 9.8.4) protocols, where relevant.

Other relevant persons under reg 25(1)(d)

124. In addition to the matters discussed above specifically regarding commercial fisheries and First Nations relevant persons, I also considered how the titleholder has carried out consultation with the other relevant persons and groups identified under reg 25(1)(d). These included, "titleholder and operators" , "peak industry representative bodies", "local government and community representative groups or organisations", "other non-government groups or organisations" and "research institutes and local conservation groups or organisations".
125. I noted that most of 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. 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.

126. Some relevant persons under reg 25(1)(d) provided feedback during consultation which was not related to an adverse impact of the activity, and the titleholder identified the feedback and indicated what changes were made to the EP in response (if any) (in Appendix F, Table 2).

Conclusion as to reg 34(g)

127. Based on the findings set out above, 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)

128. 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 and section 270 of OPGGS Act and General Direction 831 and provides for the plug and abandonment of wells and for the removal of well infrastructure (xmas trees, wellheads, and guidebases) within the VIC/L22 before 30 June 2025.

129. I also noted that the EP is not intended to be the final decommissioning EP for Woodsides property in VIC/L22 and VIC/PL33, and that other activities relevant to the decommissioning of the Minerva Field are covered in other EPs. In particular:

- (a) Minerva State Decommissioning and Field Management Environment Plan, which relates to the decommissioning of the pipeline in Victorian coastal waters;
- (b) Minerva Decommissioning and Field Management EP (Commonwealth), which relates to:
 - (i) removal of equipment in VIC/L22 and VIC/PL33; and
 - (ii) ongoing inspection, maintenance, and repair of all equipment prior to removal.

130. 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.

131. For the reasons set out above, 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.

132. 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

133. 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 that was provided to NOPSEMA by third parties was provided to the titleholder for consideration and incorporation into the EP.
134. The correspondence was processed in accordance with NOPSEMA's third party correspondence process, which includes forwarding the correspondence to the titleholder so that the titleholder can address the concerns raised in the correspondence as part of the consultation process for the EP.
135. I found that matters raised in the correspondence and addressed in the EP were either consistent with matters previously raised in the course of the consultation process, and/or were adequately addressed in the EP, as set out above.

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

136. 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.
137. In implementing the Program, NOPSEMA conducts assessments of EPs 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.
138. 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, the activity is not inconsistent with the Conservation Management Plan for the Blue Whale 2015-2025 (Commonwealth of Australia, 2015) and the National Recovery Plan for the Southern Right Whale *Eubalaena australis* (Commonwealth of Australia, 2024);
 - (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, 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; 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, the EP requires for all project vessels to comply with the 'EPBC Regulations – Part 8 Division 8.1 interacting with cetaceans' in relation to distances to cetaceans'.

The Program: Cumulative environmental impacts

139. 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.
140. 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.
141. I considered the potential for cumulative environmental impacts to the Commonwealth marine area as required by the Program, and found the EP demonstrates that the titleholder had evaluated cumulative impacts in relevant parts of the EP. For example, under Sections 7.2.3.6 (Physical Presence), 7.4.3.6 (Light Emissions), and particularly in Section 7.5.3.4 (Noise Emissions), the EP evaluates other petroleum activities that are either underway, or proposed to commence, in the Otway Basin within the project timeframe, and identifies controls to reduce the risk of noise emissions having an impact on cetaceans.
142. After considering the information presented in the EP, 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

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

SIGNED



Director Decommissioning - Environment

13 February 2024

Appendix A: Relevant Terms

144. 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 Plug and Abandonment Environment Plan (Document number 00MC-BHP-N00-0001, Rev 3, dated 13 December 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 plug and abandonment of wells and removal of well infrastructure 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 Section 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

145. 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 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.

146. 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.

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

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

- (b) demonstrates that the environmental impacts and risks of the activity will be reduced to ALARP;
 - (c) demonstrates that the environmental impacts and risks of the activity will be of an acceptable level;
 - (d) provides for appropriate environmental performance outcomes (EPOs), environmental performance standards (EPSs) and measurement criteria;
 - (e) includes an appropriate implementation strategy and monitoring, recording, and reporting arrangements;
 - (f) 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;
 - (g) 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
 - (h) Complies with the OPGGS Act and the Environment Regulations.
148. Regulation 33(10)(a)(ii) provides that NOPSEMA may accept the plan subject to limitations or conditions applying to operations for the activity.
149. 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.
150. 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

151. 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:
 - (i) Minerva Plug and Abandonment Environment Plan (Doc No: 00MC-BHP-N00-0001, Revision 3, dated 13 December 2024);
 - (ii) Sensitive Information Report - Minerva Plug and Abandonment Environment Plan (Revision 3, dated December 2024).
152. The legislative framework relevant to EP assessments, including:
- (a) the OPGGS Act;
 - (b) the Environment Regulations; and
 - (c) the EPBC Act Program¹.
153. Policies and Guidelines:
- (a) NOPSEMA Assessment policy (N-04000-PL0050);
 - (b) NOPSEMA Environment plan assessment policy (N-04750-PL1347);
 - (c) NOPSEMA Environment plan decision making guidelines (N-04750-GL1721);
 - (d) NOPSEMA Consultation in the course of preparing an Environment Plan guideline (N-04750-GL2086);
 - (e) NOPSEMA Section 572 Maintenance and removal of property regulatory policy (N-00500-PL1903);
 - (f) NOSPEMA Section 270 Consent to surrender title regulatory policy (N-00500-PL1959);
 - (g) NOPSEMA Petroleum activity guidance note (N-04750-GN1343);
 - (h) Department of Climate Change, Energy, Environment and Water (DCCEE), Significant Impact Guidelines 1.1 – Matters of National Environmental Significance, EPBC Act Policy Statement (2013);
 - (i) Department of Sustainability, Environment, Water, Population and Communities' (DSEWPaC) 'Indirect consequences' of an action: Section 572E of the EPBC Act (2013).
154. Guidance:
- (a) NOPSEMA Environment plan content requirements guidance note (N-04750-GN1344);
 - (b) NOPSEMA Petroleum activities and Australian marine parks guidance note (N-04750-GN1785);
 - (c) NOPSEMA Oil pollution risk management guidance note (N-04750-GN1488); and
 - (d) Department of Industry, Science, Energy and Resources, Offshore Petroleum Decommissioning Guideline (2018).
155. Procedures:
- (a) NOPSEMA Environment plan assessment standard operating procedure (N-04750-SOP1369).
156. Other relevant documents and records:
- (a) Relevant published, peer-reviewed scientific literature, including the scientific literature cited in the EP and relevant national/international standards;

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

- (b) EPBC Referral, Decommissioning of the Minerva Pipeline in Victorian State Waters, Victoria (EPBC 2024/09879);
- (c) 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);
- 157. Relevant legislative requirements that apply to the activity and are relevant to the environmental management of the activity; and
- 158. Relevant Federal Court of Australia authority.