NOPSEMA
Australia's offshore energy regulator

STATEMENT OF REASONS

Refusal of Regia MSS Environment Plan

Document No: A1277297

Date: 20 March 2026

1. On 11 February 2026, I, [redacted] Director Regulatory Operations – Production 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 refuse the Regia MSS Environment Plan (Document No: REG-EP-030-EP, Revision 4, dated December 2025) (EP) as I was not reasonably satisfied that the EP met all the criteria in sub-regulation 34 of the Environment Regulations.
2. The EP was submitted by petroleum title applicant, CGG Services (Australia) Pty Ltd (ACN: 081 777 755) (the applicant), to enable the applicant to undertake the petroleum activity described in the EP, which involves undertaking a marine seismic survey in Commonwealth waters.
3. For the purposes of assessing the EP, I was assisted by an assessment team comprised of a lead assessor, two additional environment specialists, two stakeholder engagement specialists, and with support from a specialist regulatory adviser in First Nations cultural heritage.
4. The reasons for my decision are set out below.

1. Legislative framework

5. All references to a regulation (reg) are to the Environment Regulations unless otherwise stated.
6. All definitions contained in the Environment Regulations are applied to those terms used in this statement.
7. The legislation relevant to my decision is set out in the Environment Regulations link.

2. Background

8. On 18 January 2024, the applicant submitted the EP (dated January 2024) to NOPSEMA in accordance with the Environment Regulations.
9. On 25 January 2024, NOPSEMA provisionally decided in accordance with reg 27 that the EP included material addressing all of the provisions in Division 2 of the Environment Regulations and published the EP on NOPSEMA's website for a 30-day public comment period in accordance with reg 30.
10. On 10 June 2024, the applicant submitted a modified EP and report on public comments for NOPSEMA assessment.
11. On 28 August 2024, NOPSEMA requested further information, pursuant to reg 32. The request identified that further information on a number of the criteria in reg 34 was required. In response to these requests, the applicant re-submitted the environment plan incorporating additional information.
12. In addition to the request detailed in [11] above, between 07 February 2025 and 20 June 2025, NOPSEMA provided two notices, pursuant to reg 33, requesting the applicant modify and resubmit the EP. The requests identified that NOPSEMA was not reasonably satisfied the acceptance criteria had been met. In response to these requests, the applicant resubmitted the EP incorporating modifications pursuant to reg 33.

13. The EP that is the subject of this decision was received on 10 December 2025 (Document No: REG-EP-030-EP, Revision 4, dated December 2025).

14. On 11 February 2026 I decided to refuse to accept the EP, as I was not reasonably satisfied that the EP met all the criteria in reg 34.

3. Materials

15. The materials considered in making this decision include, but are not limited to, those set out in Appendix A and are referenced where relevant in the reasons below.

4. Decision Overview

16. 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.

17. In considering the criteria in reg 34, I was not reasonably satisfied that the EP met criteria 34(c), 34(d), 34(e), 34(g) and 34(h). I therefore refused to accept the EP. My reasons for my decision are set out below.

5. Should the Environment Plan be accepted?

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

19. Reg 33 requires that, when making my decision as to whether the EP should be accepted, refused or accepted in part or with conditions, I considered the further information that the applicant provided pursuant to the requests made by NOPSEMA (here, the requests made on 28 August 2024, 7 February 2025 and 20 June 2025). The information the applicant provided in response to those requests was contained in the re-submitted version of the EP, which resulted in the final version of the EP (Document No. REG-EP-030-EP, Revision 4, dated December 2025).

20. Against this background (and having considered the materials in Appendix A), I made the following findings against each criterion for acceptance of the EP under reg 34.

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

21. Based on the reasons below, I **was** reasonably satisfied that the EP met the requirements of reg 34(a).

22. I found that the EP contained an appropriate description of the activity suitable to inform how it may affect the environment. This is because the scope and bounds of the activity are clearly described, and there is a thorough description of the activity components with the greatest potential to generate impacts and risks to the environment. For example:

    a. The location of the activity (Appendix A2, Section 3.4) is defined in terms of the Operational Area, Mitigation Source Area, Active Source Area and Survey Acquisition Area, which clearly describe where operations will occur during the activity and where the seismic sound source may be operated, therefore informing the assessment of impacts and risks from physical presence and underwater sound.

    b. The timing of the activity (Appendix A2, Section 3.2) is defined in terms of the broadest timing that the EP seeks approval for the activity (until 31 December 2028) and the maximum number of days of operations and acquisition.

    c. The survey activities, vessels and equipment (survey lines, seismic sound source, streamers and support activities) are sufficiently described (Appendix A2, Sections 3.5 and 3.6) to inform the assessment of impacts and risks.

d. The activity description includes activity limitations (Appendix 2, Section 4.2), which sets further bounds around the locations, specific timing (i.e., which months of the year), and the manner in which survey activities will be conducted, which have utility in reducing potential impacts and risks to environmental values and sensitivities.

23. I found there was a thorough description of the environment that may be affected by the activity with sufficient detail to inform the evaluation of environmental impacts and risks. 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 to describe the environment potentially affected by planned operations compared with risks from unplanned events. For example, appropriate descriptions of the ecosystem features and EPBC Act-listed threatened and migratory species relevant to the Operational Area and Environmental Planning Area are included within relevant impact and risk assessment appendices, with a greater level of detail provided for receptors that may be impacted by the effects of underwater sound.

24. I found that the description of commercial fisheries includes a review of relevant historical fishing effort data and is further supplemented by information and feedback received during relevant persons consultation, providing a level of detail sufficient to understanding the potential environmental impacts to fishing activities and fish resources. I considered feedback from relevant persons regarding the resolution of some commercial fishing effort datasets and data privacy constraints, but on balance I was satisfied that the EP has sufficiently acknowledged and accounted for these data limitations, while also supplementing the spatial data with information from relevant affected fishers.

25. I found that the description of cultural heritage values identifies a range of First Nations cultural features and values throughout the EP (e.g., Appendix B10, Appendix F3 and various impact and risk assessment appendices), including culturally significant species such as the southern right whale, culturally significant places such as Deen Maar and the Mornington Peninsula and culturally significant ecological processes such as the Bonney Upwelling. This description includes both tangible and intangible values and has been informed by a cultural heritage desktop assessment, relevant published sources of information and information received during relevant persons consultation.

26. I found that information on environmental values and sensitivities received by the applicant during relevant persons consultation has been reasonably incorporated, considered and evaluated in the EP. For example, southern right whales and blue whales were identified through consultation with relevant persons as species of cultural significance to First Nations peoples. Subsequently, they have been included in the description of cultural features and values that may be affected by the activity (Appendix F3, Section 3.16) and consideration has been given to how impacts and risks to these species as an environmental receptor also constitutes impacts and risks to these species as a cultural value (for example, Appendix E7, Section 4.5.2 and 10.2).

27. I found that the level of detail and rigour applied to the impact and risk assessments is commensurate to the magnitude of the impacts and risks arising from 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. For example, impacts and risks have been assessed in an increasing level of detail through a preliminary assessment (Appendix B4), detailed assessment of risks and impacts (Appendices D and E) and cumulative impact assessment (Appendix F1). Further detail and rigour are appropriately applied to the assessment of higher order planned impacts from underwater sound to key environmental values and sensitivities, such as southern right whales, blue whales, plankton communities, ecologically and commercially important fish and invertebrate species, and First Nations cultural features (Appendix F3).

28. I found that the EP (Appendix B2) considers relevant legislation and other environmental requirements (such as laws, codes, standards, agreements, treaties, conventions, or practices) and outlines their relevance to the activity. I also found that the EP (Appendix B2, Appendix D1-D4 and Appendix E1-E9) considers the requirements from relevant policies, plans of management, recovery plans, conservation advice, and other guidance for protected matters under the EPBC Act.

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

29. Based on the reasons below, I **was** reasonably satisfied that the EP met the requirements of reg 34(b).

30. I found that the EP (Appendix F2) describes the process applied by the applicant to evaluate whether impacts and risks are reduced to ALARP.

31. I noted from the EP that the ALARP assessment in Appendix F2 focuses on the decision-making process for adoption/rejection of control measures, defined under the regulations as '*a system, an item of equipment, a person or a procedure, that is used as a basis for managing environmental impacts and risks of an activity*'. I further noted that there are several elements of the broader environmental management system (EMS) relevant to managing the impacts and risks from the activity that the applicant does not consider to be control measures and are therefore excluded from the ALARP assessment. The EMS elements excluded from the ALARP assessment include the 'activity limitations' (Appendix A2) and the specific procedures and actions within control measures such as the Fauna Management Plan (FMP) and the Oil Pollution Emergency Plan. When considered alongside information on these relevant EMS elements presented elsewhere in the EP, on balance, I formed the view that the EP has given reasonable consideration to control measures.

32. I found that the evaluation of impacts and risks has informed the selection of a number of suitable control measures to reduce the consequence/severity or likelihood of impacts and risks, and that all types of control measures that could reasonably be considered are evaluated, particularly for higher order impacts from underwater sound emissions and physical presence. For example:

    a. Of relevance to the management of underwater sound impacts to Protected Matters:

        i. Baseline measures are adopted in line with relevant legislation and standard industry practice, for example, procedures aligned with EPBC Act Policy Statement 2.1 (Interaction between offshore seismic exploration and whales: Industry guidelines);

        ii. The EP considers alternative sound source technologies to minimize sound emissions and, where not adopted, reasons are provided in terms of their lack of suitability for the geophysical objectives of the survey or their availability;

        iii. The EP considers spatio-temporal limitations to avoid or reduce overlap with periods of importance for key values and sensitivities, for example, activity limitations are adopted to avoid or reduce impacts with periods of peak presence of blue whales and southern right whales;

        iv. A broad range of fauna detection technologies and deployment methods have been considered to improve fauna detection capabilities, including passive acoustic monitoring (PAM; via various deployment options and combinations), a spotter vessel, aerial overflight surveys, shore-based observations, drone technologies, infra-red (thermal) cameras, satellite imagery, and integration of citizen science observations. Reasons are provided for the adoption, partial adoption, or rejection of these measures in terms of their feasibility, benefits, cost/sacrifice, and safety considerations;

        v. Further management actions and procedures have been considered and are provided within the Fauna Management Plan (FMP; Appendix G2), including a range of pre-start, start-up and operational procedures applicable to key threatened species, such as blue whales and southern right whales, as well as other species and fauna groups.

        vi. The EP also provides for a coastal monitoring programme and sound source verification programme with adaptive measures for southern right whales.

b. Of relevance to the management of physical presence and underwater sound impacts to socio-economic receptors:

   i. The evaluation of impacts and risks to commercial fisheries has led to reasonable consideration and adoption of survey area adjustments, activity limitations and control measures. These have been implemented primarily to reduce potential interactions in areas of peak commercial trawl and southern rock lobster fishing, in addition to avoiding key shallow water invertebrate and finfish habitats (e.g. < 50 m depth).

   ii. Where further reduction of impacts to commercial fisheries was evaluated as not practicable (e.g. limiting equipment deployment and retrieval of streamers to the OA), I considered that the administrative control measure 'Otway Adjustment Protocol' (OAP) put in place by the applicant provided a reasonable alternative. The OAP provides viable avenues for compensation (e.g., displacement, loss of catch, loss or damage to gear) for situations where impacts to fisheries cannot otherwise be reduced or avoided.

33. I also found that the EP gives reasonable consideration to measures to reduce impacts and risks to ALARP based on information received during consultation with relevant persons. As a result of the information received from relevant persons, it is evident that a number of activity limitations and control measures have been adopted, where practicable. For example:

    a. Information from relevant persons has been considered by the applicant and associated activity limitations have been included in the EP (Section 4.2 of Appendix A2). I noted that the proposed survey timing (16 September to 31 December) could not avoid all receptors and sensitive periods identified by relevant persons, but the EP demonstrates that information had been reasonably considered and evaluated such that reasonably practicable spatial and temporal limitations and control measures have been adopted to limit overlap with the sensitive periods for key species, such as southern right whale reproduction and peak blue whale foraging.

    b. Relevant persons consultation has directly informed the selection of activity limitations (Section 4.2 of Appendix A2) to avoid or reduce temporal overlap with peak fishing times or periods of high productivity for key commercially targeted species such as Gould's squid, giant crab, and southern rock lobster. It is also evident that fishing industry feedback has led to the adoption of spatial limitations to reduce potential acoustic impacts to abalone and recreational divers and avoid or minimise interference to commercial trawl and nearshore rock lobster fishing operations.

    c. I also considered that an iterative review of the OAP by fishing industry relevant persons contributed to a suitably detailed control measure, which included the adoption of all reasonably practicable avenues for compensation to effectively reduce impacts to fishers (e.g., loss of catch adjustment for fishers that may be indirectly impacted by increased competition from other displaced fishers).

    d. I found that activity Limitation 16 (No vessel movement within 5km of the Twelve Apostles State Marine Park) was adopted in response to consultation with Parks Victoria, who were concerned about IMS risks from the activity to values of the marine park including southern rock lobsters (Appendix D3, Section 8). Adopting this buffer would reduce the likelihood of vessels used in the Regia MSS introducing IMS into the marine park.

    e. As a result of consultation with the Director of National Parks, I noted that the applicant adopted a commitment that towing of equipment outside the Operational Area will not occur within an Australian Marine Park (AMP), except if required during an emergency (Appendix A2, Section 3.2.1), ensuring consistency with South-east Marine Parks Network Management Plan (2025).

34. I found that control measures outlined in the EP are sufficiently detailed to demonstrate if they will be effective in reducing impacts and risks to ALARP for the duration of the activity. For example:

    a. In relation to marine mammals, information is presented in Appendix E7 (Underwater sound impact assessment – Marine mammals), Appendix F3 (Further assessment of key values and sensitivity – Southern right whales and blue whales), Appendix F4 (Acceptable levels assessment), Appendix G2 (Fauna Management Plan), Appendix G5 (Whale Coastal Monitoring Programme Implementation Plan), Appendix G7 (Sound Source Verification Procedure), which collectively provide sufficient detail on the functionality, availability, reliability, independence and compatibility of the various types of measures that were proposed to be implemented. It is noted that issues remain with the EP demonstrating that some control measures will be effective in reducing impacts to an acceptable level. Please refer to acceptance criteria 34(c) (Section 5.3) for further findings related to these issues.

    b. For impacts to commercial fishers and their target species, adopted control measures are presented in Section 1.7 (physical presence) and 1.8 (underwater sound) of Appendix G1 alongside their relevant EPS and MC. It was evident that these control measures are suitably detailed commensurate to their complexity. For example, key features of the OAP are described in adequate detail in Appendix G4 and Appendix B3 (Section 5.2.1) and include eligibility, claim information and assessment process, claim window, and lodgement period.

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

35. I **was not** reasonably satisfied that the EP met the requirements of reg 34(c), because the EP has not demonstrated that impacts from underwater sound will be of an acceptable level. In particular, the EP does not demonstrate that uncertainty in predictions of impacts and the effectiveness of control measures have been adequately addressed [36]-[37], and the EP has not demonstrated that some defined acceptable levels of impact are achievable [38].

36. I was not reasonably satisfied that the EP demonstrated that underwater noise impacts will be of an acceptable level because uncertainty in impact predictions and effectiveness of control measures, to ensure impacts to protected matters are of an acceptable level, was not adequately addressed. For example, material differences in predicted impact ranges presented in different acoustic numerical modelling studies are not adequately evaluated, reconciled, or justified in the EP. In reaching this conclusion:

    a. I considered that the EP includes three acoustic numerical modelling technical reports (Appendix B7a, Appendix B7b and Appendix B7c), commissioned at successive stages of the EP's development to inform the underwater sound impact assessments. I noted that the third modelling study had been commissioned to address queries raised by NOPSEMA in both OMR's relating to new NMFS (2024) auditory effects criteria, but to also reflect changes to acoustic source characteristics (reduced from 2,820 in^3 to 2,630 in^3) and adjustments to model scenarios.

    b. I noted material differences in impact ranges predicted by the third modelling study, compared with the predicted ranges from the previous two modelling studies, including but not limited to substantial reductions in ranges predicted against behavioural response criteria as well as using animal movement and behaviour ('Animat') modelling.

    c. I considered the applicant's account of the modelling in the EP, for example, Section 7.3 of the EP and introduction to Appendix B7, which acknowledge and provide some account for the variability between modelling providers due to modelling assumptions and computational approaches. However, while some variability due to modelling approaches, NMFS guidelines and changes to the input parameters is expected, on balance there is insufficient information to rationalise and qualify the magnitude of differences between the studies.

d. I also considered the modelling methods against key considerations outlined in NOPSEMA's acoustic impact evaluation and management information paper (N-04750-IP1765) in relation to impact predictions and modelling, including reference to detailed context on model selection in the New Zealand Department of Conservation (DOC 2016) Report of the Sound Propagation and Cumulative Exposure Models Technical Working Group. A number of potential model limitations and areas of uncertainty associated with the third modelling methods were identified that have not been clarified or addressed in the EP.

e. I gave weight to the high sensitivity of the receiving environment, and noted that the effectiveness of some control measures relies on accurate sound level predictions. I noted, consistent with information presented in NOPSEMA's acoustic impact evaluation and management information paper (N-04750-IP1765), that the level of accuracy and rigour required in the prediction of received sound levels is to be informed by the intensity and duration of acoustic emissions in combination with the complexity and sensitivity of the receiving environment. On this basis, the EP has not demonstrated that the modelling has adequately accounted for biologically relevant frequencies in the NMFS (2024) auditory weightings, or that the modelling provides the level of accuracy, rigour and reliability that would be appropriate for this particular application (noting the nature and scale of the activity and the highly sensitive receiving environment).

f. I gave weight to the requirements of EPBC Act listed threatened species recovery plans, including the Blue Whale Conservation Management plan and the National Recovery Plan for the Southern Right Whale.

g. I noted that despite the substantial uncertainty created by the divergent modelling outputs, the EP adopts some control measures derived solely from the shorter impact ranges in the third modelling study, without demonstrating an appropriate level of conservatism to address the level of uncertainty that has been introduced, or account for potentially larger areas of impact. For example, given the two contrasting lines of evidence, the EP has not demonstrated that a 5 km shutdown zone for blue whales (or a 9 km shutdown zone for low frequency cetaceans) will be sufficient to manage sound in a manner that is not inconsistent with the Blue Whale Conservation Management Plan (e.g. 'any blue whale continues to utilise the area without injury, and is not displaced from a foraging area').

h. I gave consideration to a sound source verification program that is proposed in the EP, but also noted that the EP does not provide adequate adaptive management for receptors other than southern right whales in the event that sound verification indicates exceedances, leaving a clear gap in the ability to manage impacts to foraging pygmy blue whales and other fauna, if noise predictions prove unreliable.

i. I noted that modelling results underpin impact assessments for a range of receptors (including protected matters), a number of control measures, demonstrations of acceptable levels of impact, EPOs and EPSs.

37. Therefore, on balance, I was not reasonably satisfied that the EP has adequately addressed the uncertainty in the underwater noise impact predictions, or that control measures, demonstrations of acceptable levels of impact, EPOs and EPSs derived from these impact predictions set a level of performance that is sufficient to manage impacts to acceptable levels, particularly in relation to blue whales.

38. I was not reasonably satisfied that the EP demonstrates that underwater sound impacts to fish and invertebrates will be of an acceptable level, because impact predictions in the EP indicate that fish and invertebrates will be exposed to sound above the defined acceptable levels set by the applicant. Therefore, the defined acceptable levels are not achievable. For example:

    a. The EP establishes defined acceptable levels to fish and invertebrates that are either unachievable or inconsistent with impact predictions:

i. Defined acceptable levels for fish include a requirement for no exposure above a TTS threshold (186 dB SEL24h);

ii. Defined acceptable levels for molluscs require that sound levels do not exceed 212 dB PK-PK; and

iii. Defined acceptable levels for cephalopods are assigned an acceptable level based on a 162 dB SEL threshold.

b. I considered that numerical acoustic modelling and the impact assessments (Appendix E3 and Appendix E4) predict that fish and invertebrates will be exposed to sound levels above these levels. Therefore, the EP does not demonstrate that the defined acceptable levels will be achievable, and no additional justification or control measures are identified to address this inconsistency.

c. I also noted that the defined acceptable level for fish and exposure above the TTS threshold is worded inconsistently in different parts of the EP (e.g. Appendix E3; Section 6 and Section 11), with the different forms altering interpretation of it to some degree, but neither form of the acceptable level is achievable or appropriate. The defined acceptable level is also inconsistent with the applicant's own justification in the impact assessments that implies that TTS effects are temporary, recoverable and acceptable (Appendix E3).

39. In relation to First Nations cultural features and values, given that applicant proposes to manage impacts and risks to intangible cultural heritage values through management of impacts to tangible environmental values, I found that the outstanding issues outlined above [36] – [37] relating to acceptability of impacts to marine fauna (including marine fauna of cultural significance) result in the EP not demonstrating that impacts to First Nations cultural features and values will be managed to an acceptable level.

Other considerations

40. In considering the requirements of reg 34(c), I found that the process of defining acceptable levels considers reasonable internal and external context, such as the Principles of ESD, applicable policy documents, plans of management, recovery plans, conservation advice, other guidance for matters protected under the EPBC Act, and industry standards.

41. I also found that many defined acceptable levels were appropriate and the EP demonstrated they were achievable. Notwithstanding the issues identified in [36]-[39], I noted other evidence in the EP that supported the case that other impacts and risks will be of acceptable levels.

42. However, on balance, I was unable to be reasonably satisfied that the EP met the requirements of reg 34(c) because of the concerns set out at [36]-[39] above.

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

43. Based on the reasons below, I **was not** reasonably satisfied that the EP met the requirements of reg 34(d), because the EP includes EPOs that do not reflect appropriate levels of environmental performance for management, or are incomplete, including for key impact pathways and environmental sensitivities

44. I found that the EP includes EPOs for southern right whales (SRW) that contain ambiguous terms, are incomplete, or are not consistent with defined acceptable levels or the obligations of a recovery plan. The EPOs do not provide confidence that the activity will be managed to acceptable levels, and do not set a clear or appropriate level of environmental performance that demonstrate consistency with requirements of the National Recovery Plan for the Southern Right Whale, e.g. '*does not prevent any southern right whale from utilising the area or cause auditory impairment*' and '*the risk of behavioural disturbance is minimised*'. For example:

a. I noted a number of inconsistencies in the EPOs presented in various parts of the EP; for example, the impact assessment in Appendix F3 (Further Assessment of Key Environmental Values and Sensitivities) states that '*To meet the Recovery Plan obligations and the defined acceptable levels, the management approach must ensure that SRWs can continue to utilise the reproduction BIA and that the risk of behavioural disturbance is minimised… To operationalise these principles, CGG will manage to an EPO whereby, "No behavioural disturbance will occur to any SRW within the reproduction BIA as a result of the Regia MSS."*' I considered this to be clear and appropriate wording for an EPO, however, the EPO referenced in the text is not included in Appendix G1 (Environmental Performance Tables) and the EP (page 64) states that '*Any inconsistencies that may be found in other parts of the EP are considered superseded by the tables in Appendix G1. Such inconsistencies that remain in the EP are either an artefact from the passage of time due to the iterative nature of the process, or an unintentional error.*'. I have, therefore, concluded that the EPO has not been carried through to be implemented.

b. I noted that the EPOs in Appendix G1 include, '*As a result of the implementation of real-time monitoring and activity limitations, SRW are not exposed to sound levels that cause substantial behavioural disturbance within or adjacent to BIAs or HCTS*'. However, the EP does not define "substantial behavioural disturbance" or demonstrate how this would be consistent with requirements of the National Recovery Plan for the Southern Right Whale with respect to managing impacts of underwater noise (i.e., does not prevent any southern right whale from utilising the area, and the risk of behavioural disturbance is minimised).

c. I noted that another EPO in Appendix G1, '*Underwater sound emissions from the Regia MSS are empirically measured and validated through the sound source verification procedure to ensure they remain within levels that do not cause injury or unacceptable disturbance to Southern Right Whale*' is also ambiguous as it does not define what an "unacceptable disturbance" is.

d. I noted that another EPO in Appendix G1, '*As a result of implementation of the suite of mitigation measures, SRW are not exposed to sound levels that result in auditory impairment or displacement from BIAs or HCTS*' does not demonstrate why this is aligned with requirements of the National Recovery Plan for the Southern Right Whale. The EP does not demonstrate how an EPO aimed at preventing "displacement" will not prevent southern right whales from utilising the reproduction BIA, or that the risk of behavioural disturbance is minimised; there are potentially behavioural impacts that could occur that are less pronounced than displacement of animals from the reproduction BIA that could disrupt reproduction and, therefore, prevent utilisation of HCTS for sensitive reproduction behaviours (e.g. resting, nursing, accompanying dependent young).

e. I noted that Appendix G1 also contains an incomplete EPO relevant to SRWs, – '*As a result of implementing shutdown or relocation procedures when a SRW enters the 13 km ensonified area…* [sic]'. As the EPO is incomplete in Appendix G1, it is unclear what the level of environmental performance to be achieved is intended and, therefore, whether the EP would not be inconsistent with the National Recovery Plan for the Southern Right Whale.

45. I gave consideration to the various EPOs in Appendix G1 individually but also considered if the EPOs collectively provided for an appropriate level of performance, however, giving weight to the requirements of the recovery plan for a key threatened species and its critical life stage, I was not reasonably satisfied that appropriate EPOs had been clearly set.

46. I found that, as per issues relating to uncertainty with acoustic modelling and impact predictions summarised in findings against the criterion in reg 34(c) [36]-[37], the EP includes an EPO for blue whales, '*As a result of shutting down or relocating the sound source when a blue whale is observed within 5 km, blue whales will not be behaviourally disturbed within this range, leading to the protection of important foraging areas and avoidance of displacement*', which does not demonstrate that the activity is able to be managed to acceptable levels or offer a sufficient level of protection to

ensure the activity can be undertaken in a manner consistent with the Blue Whale CMP (i.e. '*any blue whale continues to utilise the area without injury, and is not displaced from a foraging area*').

47. Consistent with earlier findings against the criterion in reg 34(c) [38] relevant to defined acceptable levels, I found the application and framing of acoustic impact threshold criteria within EPOs to be inappropriate and unclear. For example, the EPO (Appendix G1) "Fish will not be exposed to cumulative sound levels exceeding 186 dB SEL cum24hr for more than 24 hrs" may not represent a reasonable level of protection as TTS may occur at or within 24 hours, thus the EPO may facilitate TTS occurring in fish. Furthermore, acoustic modelling and the impact assessment predicts this exposure of fish to TTS may occur – hence the EPO is unachievable.

48. I found that the EP identifies all environmental performance outcomes (EPOs) as being relevant to the management of impacts and risks to First Nations cultural features and values (for example, Appendix F3, Section 3.16.2). Consequently, I found that the deficiencies with EPOs outlined above [43]-[47] results in not being satisfied that the EP provides appropriate EPOs in relation to First Nations cultural features and values.

Other considerations

49. In considering the requirements of reg 34(d), I found that the EP (Appendix G1) includes EPOs that relate to all identified impacts and risks relevant to the activity, and, notwithstanding the elements identified in [43]-[48], many EPOs, EPSs and measurement criteria were appropriate, clearly linked and complimentary of each other.

50. However, the elements identified above [43]-[48] could not be overcome and, on balance, I was not reasonably satisfied that the EP had met the requirements of reg 34(d).

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

51. For the reasons outlined below, I **was not** reasonably satisfied that the EP met the requirements of reg 34(e).

52. I was not reasonably satisfied that the EP includes appropriate assurance mechanisms, including audit and review. This is because the frequency of key environmental audits is not demonstrated to be sufficient to ensure ongoing compliance with all EP commitments for the duration of the activity.

53. In forming this view, I considered that the environmental audits described in the EP include:

    a. A review of the Environmental Compliance Register (ECR) to be undertaken during the commencement audit, within seven days of the activity commencing (Appendix B3, Section 5.6.3).

    b. Weekly audits "to assess the effectiveness of the environmental performance outcomes and standards, the activity limitations, the implementation strategy and identify areas for improvement" (EPS, page 5 of Appendix G1).

54. I noted that the Environmental Compliance Register (ECR) is the only assurance mechanism described in the EP that clearly captures all EP commitments, as it includes provision for inclusion of EPOs, EPSs and MC, activity description, activity limitations, implementation strategy and "any other EP commitments" (Appendix B3, Section 5.6.2). However, I also noted that the EP provides for only a single audit of the ECR, to be undertaken during the commencement audit (Appendix B3, Section 5.6.3).

55. I noted that the weekly audit does not include review of all EP commitments, because there are commitments in the EP that are not captured in the EPOs, EPSs, activity limitations or the implementation strategy, as per the scope of the weekly audits. For example:

a. Commitments in the activity description (Appendix A2) that are not Activity Limitations, such as maximum number of acquisition days, the latest permitted finish date of the activity and a commitment to not towing deployed equipment through an Australian Marine Park.

b. Commitments made in impact/risk assessment appendices such as a commitment that soft (re)start of the survey [post shutdown from detection of exceedance of specified SSV impulsive noise levels] can only commence if the sound source detected by the SSV buoys is confirmed not to be from the Regia MSS and it is during daylight hours (Appendix F3, Section 3.1.5).

56. I also noted that the EP describes a number of other processes to be undertaken prior to commencement of the activity, including the Acquire Seismic on Paper workshop and reviews of environmental knowledge. The EP also includes ongoing consultation and planning mechanisms, such as the Sea Country Protection Plan and the diving and petroleum SIMOPS plans. I found that these processes may result in amendments to the EP and the introduction of additional commitments in areas not included in the weekly audit.

57. Considering the above points and giving weight to the nature and scale of the activity and complexity of the environmental management measures proposed in the EP, I was not reasonably satisfied that a single audit of the ECR at the commencement of the activity is sufficient to assure compliance with all EP commitments for the full duration of the activity (up to 90 days).

Other considerations

58. In considering reg 34(e), I note that I was reasonably satisfied the EP includes an appropriate management of knowledge and change process (Appendix B3, Sections 5.3.2 and 5.3.4), establishes a clear chain of command (Appendix B3, Section 5.4.6), sets out roles and responsibilities of key personnel (Appendix B3, Table B3-2 and Table B3-3) and includes 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 (e.g., Appendix B3, Section 5.5).

59. However, the elements identified above [52] – [57] could not be overcome and, on balance, I was unable to be reasonably satisfied that the EP met the requirements of reg 34(e).

5.6. 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)

60. I **was** reasonably satisfied that the EP met the requirements of reg 34(f), because the EP clearly describes the boundaries of the petroleum activity and its defined Operational Area (Appendix A2). The EP also includes Protected Matters Search Tool results (Appendix B5). I found that these results indicate no overlap of the Operational Area with any World Heritage Properties, demonstrating that no part of the activity will be undertaken in any part of a World Heritage Property within the meaning of the EPBC Act.

5.7. The EP demonstrates that the applicant 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)

61. For the reasons outlined below, I **was not** reasonably satisfied that the EP met the requirements of reg 34(g).

62. Reg 34(g) has two components which the EP must demonstrate:

a. First, that consultation has occurred as per the requirements in reg 25. This requires that the applicant 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)).

b. Second, that the applicant adopted, or proposed to adopt, appropriate measures in light of those consultations.

63. I found that the EP contains evidence to demonstrate that the applicant has carried out the consultations required by reg 25. The reasons for this are set out at [66]-[71] below, which led to me being reasonably satisfied that reg 34(g)(i) is met.

64. I found that the EP contains evidence relevant to assessing whether the applicant has adopted, or proposes to adopt, appropriate measures in response to its consultations with relevant persons. Despite evidence supporting that the applicant has adopted appropriate measures in some cases (as detailed at [72]), I ultimately reached a conclusion reg 34(g)(ii) is not met.

65. My conclusion above at [64] was due to it not being evident that the applicant's response to a specific request from the South East Trawl Fishery Industry Association (SETFIA) was appropriate. Consequently, I was not reasonably satisfied that appropriate measures had been adopted in this case. I noted:

a. The applicant has not demonstrated that a reasonable buffer exists between the survey acquisition area and Orange Roughy Research Program sampling sites to avoid disturbance to fish in a way that could compromise the integrity of the Orange Roughy Research Program, a matter that was raised by SETFIA during consultation (Event ID 1649).

b. The applicant adopted an activity limitation prohibiting sound source discharge within the research areas (Section 4.2 of Appendix A2) and the EP notes that the survey acquisition area is located 5.27 km from the nearest Orange Roughy Research Program area. However, to justify the adequacy of this separation distance, the EP relies on the findings of a single study that suggested negligible disruption to the spawning behaviour of cod within 5-40 km of a seismic survey. This spawning focussed justification does not address potential seismic impacts on fish catchability for research integrity, which was central to SETFIA's concern.

c. The EP adopted a new impact threshold criteria for fish behavioural disturbance with the most recent underwater noise modelling study, which indicates that sound from the seismic source may result in behavioural disturbance up to 13.8 km from the seismic source, which is greater than the existing 5.27 km buffer separating the survey acquisition area and the research program sampling sites. However, the EP does not provide any further evaluation or justification for this.

Other considerations

66. The EP (Section 4 and Appendix C1) provides a sufficient description of the applicant's process for identifying relevant persons under reg 25, demonstrating a comprehensive approach that considers all categories in regs 25(1)(a)-(e) and interprets "functions," "interests," and "activities" consistently with NOPSEMA's 'Consultation in the course of preparing an environment plan guideline' (N-04750-GL2086). The process draws on relevant information sources and accounts for the nature of the activity, environmental context, and predicted impacts and risks. It also includes mechanisms for self-identification through broad public awareness efforts and reflects consideration of relevant case law, including Santos NA Barossa Pty Ltd v Tipakalippa [2022] FCAFC 193.

67. I considered that the applicant gave each relevant person sufficient information in line with reg 25(2). They explained the purpose and regulatory requirements of consultation and provided information about the activity, the environment that may be affected, the predicted impacts and risks, and the proposed control measures. This material was offered in several formats, including summaries, maps, webinar videos, preliminary assessments, and the full EP. The applicant used a mix of engagement methods such as emails, calls, meetings, and information sessions. Their approach was flexible and two-way, and they responded to reasonable requests for additional information. Some

groups, such as First Nations representatives, received tailored information. Fee-for-service agreements with commercial fishing associations supported effective engagement with commercial fishers. There was one case where a proposed response was included in the report on consultation but had not been sent before the EP was finalised. However, I was satisfied that the relevant person already had sufficient information based on earlier communications.

68. I considered that the applicant allowed a reasonable period for consultation in line with reg 25(3). Most relevant persons were contacted well before the initial EP submission, between February and December 2023. Those identified later were engaged as soon as practicable and at least three months before the final EP submission. The applicant provided reasonably timely responses despite the high number of relevant persons involved. They also issued clear reminders about key dates and communicated submission timeframes and updates transparently. Multiple follow-ups were made to non-responsive relevant persons, using alternative methods where appropriate. Requests for additional time or opportunity to participate were accommodated, except in limited cases that did not affect the overall reasonableness of the consultation period (see [71]). Consultation continued beyond the formal period, with further meetings and responses to information requests occurring up to the final EP submission.

69. I confirmed that the applicant advised each relevant person of their right under reg 25(4)(a) to request that consultation information not be published, as evidenced within consultation records such as emails, letters, and information sheets. Consultation records also show that some relevant persons made these requests, and I verified that the corresponding information was included only in the sensitive information part of the EP, and not elsewhere as required by reg 26(8).

70. I acknowledge that the EP contains statements reflecting the applicant's view that consultation obligations were met before the first EP submission (Section 4.1). However, I considered all consultation undertaken and documented in the final EP in making a conclusion that reg 34(g)(i) is met.

71. Whilst some relevant persons raised concerns about the adequacy of the applicant's consultation process recorded in the EP, I was reasonably satisfied that reg 34(g)(i) is met after finding evidence that the applicant's consultation efforts were aligned with the requirements under reg 25. For example, a First Nations representative group requested that the applicant enter into its Consultation and Negotiation Protocol and undertake a Cultural Values Assessment (CVA), asserting that these steps were necessary for consultation to be considered complete for the purposes of reg 25. Although the applicant did not comply with these requests, I was satisfied that its consultation efforts outside the Consultation and Negotiation Protocol were nonetheless consistent with reg 25, having regard to my findings at [66]-[69] and the fact that the Environment Regulations do not require applicants to enter into agreements with relevant persons for offshore petroleum activities to proceed. These expectations were also raised more than a year after the group first received an invitation to consult, and the applicant had already taken other reasonable steps to inform its understanding of the environment that may be affected, without undertaking the CVA.

72. Notwithstanding my finding at [65] that the applicant has not adopted appropriate measures in response to its consultations with some relevant persons and therefore has not met reg 34(g)(ii), I identified evidence demonstrating that appropriate measures were adopted in other instances as follows:

    a. The consultation report (Appendix C2) clearly identifies objections, claims, and other concerns that were raised by relevant persons, and sets out corresponding assessment of merit and response statements that explain how feedback was addressed, including any resulting changes to the EP. This information shows that the applicant took reasonable steps to appropriately incorporate and address relevant persons feedback in the EP, with the exception of the instance noted in [65].

    b. I noted numerous examples of where the applicant undertook more detailed assessments of key environmental values and sensitivities or revised its approach to managing the activity following consultation with relevant persons. I also noted numerous cases where

information from relevant persons did not lead to changes to the EP. I considered this appropriate where the applicant clearly documented valid reasons for this outcome in the consultation report (Appendix C2), or where information elsewhere in the EP demonstrated that the impacts and risks raised by relevant persons will be managed to ALARP and an acceptable level.

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

73. I **was not** reasonably satisfied that the EP met the requirements of reg 34(h), because the EP is not consistent with the Object of the Environment Regulations (reg 4). Specifically, because I was not reasonably satisfied that the EP demonstrates that the environmental impacts and risks from the activity will be of an acceptable level under reg 34(c), I also could not be reasonably satisfied that the EP complies with reg 4.

6. Other considerations

6.1.1. Correspondence received directly by NOPSEMA

74. I note NOPSEMA received communications directly from third parties relating to the activity and its subsequent assessment. Information received directly from third parties was forwarded to the titleholder for consideration and incorporation into the EP where appropriate.

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

75. The Streamlining Program endorsed under Section 146 of the EPBC Act outlines the environmental management authorisation process under the EPBC Act for offshore petroleum and greenhouse gas activities administered by NOPSEMA and requires NOPSEMA to comply with Program responsibilities and commitments.

76. 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 by NOPSEMA during decision making with respect to offshore projects and activities.

77. In accordance with the Program, I considered Matters Protected under Part 3 of the EPBC Act, including listed threatened and migratory species and the Commonwealth marine area. However, given the reasons outlined under acceptance criteria 34(c) and 34(d) above, I was not reasonably satisfied that the EP met the requirements of the Program. My decision is weighted on the basis that the EP has not adequately demonstrated that impacts and risks to protected matters will be managed to acceptable levels or that the activity will be managed in a manner that is not inconsistent with relevant recovery plans for listed threatened species.

7. Conclusion

78. For the reasons set out above, I was not reasonably satisfied that the EP met all the criteria set out in reg 34, therefore, I refused to accept the EP.

[redacted]

Director Regulatory Operations – Production Environment

20 March 2026

Appendix A: Key materials considered in making the decision

1. 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, but was not limited to:
    a. The EP, comprising:
        i. Regia MSS Environment Plan (Revision 4, December 2025) and included appendices and material referenced within;
        ii. Sensitive information reports containing full text consultation records between the titleholder and relevant persons.
    b. The Assessment Report – CGG Regia Marine Seismic Survey EP – A1096104.
    c. NOPSEMA EP assessment policies, guidelines, and guidance (published on the NOPSEMA website);
    d. NOPSEMA Acoustic impact evaluation and management Information Paper (N-04750-IP1765), including supporting scientific and technical reports cited within the Information Paper.
    e. NOPSEMA Environment plan assessment standard operating procedure (N-04750-SOP1369);
    f. Relevant policies, plans of management, recovery plans, conservation advice, and other guidance for matters protected under the EPBC Act, including (but not limited to):
        i. Department of the Environment, Water, Heritage and the Arts, Significant Impact Guidelines 1.1 – Matters of National Environmental Significance, EPBC Act Policy Statement (2013);
        ii. Department of the Environment and Energy, National Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds and Migratory Shorebirds (2023);
        iii. Commonwealth of Australia, National Recovery Plan for the Southern Right Whale *Eubalaena australis* (2024);
        iv. Commonwealth of Australia, Conservation Management Plan for the Blue Whale 2015–2025 (2015);
        v. Department of Agriculture, Water and the Environment, Guidance on key terms within the Blue Whale Conservation Management Plan (2021);
        vi. Commonwealth of Australia, Recovery Plan for Marine Turtles in Australia 2017–2027 (2017);
        vii. Commonwealth of Australia, Threat Abatement Plan for the impacts of marine debris on the vertebrate wildlife of Australia's coasts and oceans (2018);
        viii. Commonwealth of Australia, National Recovery Plan for Albatrosses and Petrels (2022);
        ix. Commonwealth of Australia, National Recovery Plan for the Orange-bellied Parrot (2016);
        x. Commonwealth of Australia, Wildlife Conservation Plan for Seabirds (2020);
        xi. Commonwealth of Australia, Wildlife Conservation Plan for Migratory Shorebirds (2015);
        xii. Conservation Advice Balaenoptera physalus Fin Whale (2015);

xiii. Conservation Advice Balaenoptera borealis Sei Whale (2015);

xiv. Commonwealth of Australia, South-east marine region profile (2015);

xv. Director of National Parks, South-east Marine Parks Network Management Plan (2025);

xvi. Commonwealth of Australia, National Strategy for Reducing Vessel Strike on Cetaceans and other Marine Megafauna (2017);

xvii. EPBC Act Policy Statement 2.1 – Interaction between offshore seismic activities and whales (2008);

xviii. EPBC Regulations 2000 - Part 8, Interacting with Cetaceans and Whale Watching;

xix. Relevant published, peer-reviewed scientific literature and technical guidance, including the literature cited in the EP, including (but not limited to):

xx. National Marine Fisheries Service (2024). Update to: Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 3.0): Underwater and In-Air Criteria for Onset of Auditory Injury and Temporary Threshold Shifts. U.S. Dept. of Commer., NOAA. NOAA Technical Memorandum NMFS-OPR-71, 182 p.

xxi. Accomando et al. (2025) U.S. Navy Phase 4 Report on Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Revision 2025.1), and references therein.

g. Published consultation guidance by relevant persons, including the Gunditjmara Consultation and Negotiation Protocol

h. Relevant legislative requirements that apply to the activity and are relevant to the environmental management of the activity

i. Relevant Federal Court authority and issued judgements