

ASIC
Australian Securities &
Investments Commission



NOPSEMA
Australia's offshore energy regulator

MEMORANDUM OF UNDERSTANDING

between the

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

and the

**NATIONAL OFFSHORE PETROLEUM SAFETY AND ENVIRONMENTAL
MANAGEMENT AUTHORITY**

May 2023

MEMORANDUM OF UNDERSTANDING
between the
AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
and the
NATIONAL OFFSHORE PETROLEUM SAFETY AND ENVIRONMENTAL
MANAGEMENT AUTHORITY

This Memorandum of Understanding (MOU) sets out a framework for cooperation and information exchange between the Australian Securities and Investments Commission (ASIC) and the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) (together referred to as the agencies), to facilitate liaison, co-operation, assistance and the exchange of information between the agencies for the effective and efficient performance of their respective statutory functions.

1. PURPOSE

- 1.1 The agencies recognise that the need for cooperation and mutual assistance at all levels between them is desirable to assist in the discharge of their respective functions and to maximise the effectiveness of their statutory functions.
- 1.2 This MOU is a statement of the intent of the agencies to liaise, cooperate and exchange information in relation to the performance of their respective statutory functions.
- 1.3 The agencies agree to assist each other in the exchange of relevant information, appropriate referral of matters, and co-operation in compliance, education and enforcement activities within the framework of this MOU and consistent with all relevant laws.
- 1.4 The agencies will use their best endeavours to meet the terms of this MOU. This MOU does not impose any legally binding obligations on the agencies or modify or supersede any laws. Nothing in this MOU can legally restrict the agencies respective statutory discretion and powers under the relevant legislation.

2. THE AGENCIES

- 2.1 ASIC is responsible for monitoring, regulating and enforcing corporations and financial services laws. ASIC is Australia's integrated corporate, markets, financial services and consumer credit regulator. ASIC is responsible for the administration and enforcement of the *Corporations Act 2001* and other financial sector legislation, which provide for the regulation of corporations, securities and futures markets and intermediaries, authorised deposit-taking institutions, credit and insurance providers and intermediaries, and investor and consumer protection in relation to financial services and consumer credit products.

- 2.2 NOPSEMA is Australia's offshore energy regulator. Specifically, NOPSEMA is the statutory authority responsible for administering occupational health and safety (OHS), well integrity and environmental management requirements under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and under the corresponding State or Territory Acts which confer those responsibilities on NOPSEMA. NOPSEMA also performs the functions of the Offshore Infrastructure Regulator and is therefore responsible for OHS, environment and financial security of the offshore renewables industry.

3. LIAISON BETWEEN AGENCIES

- 3.1 The agencies agree to maintain contact to ensure the effective operation of this MOU.
- 3.2 Any changes to an agency's nominated contact officer(s) or their contact details, as provided in Schedule 1, must be communicated to the other agency as soon as possible.
- 3.3 All communication about the operation of this MOU is to be made to the nominated officer(s).
- 3.4 The agencies agree that liaison in respect of routine operational matters will occur on an 'as needed' basis between nominated officer(s) of the agencies.
- 3.5 In order to ensure effective liaison, the agencies have exchanged, and will continue to update, lists of nominated officer(s) at both the regional and national level.

4. REGULATION AND POLICY DEVELOPMENT

- 4.1 Each agency will use its best endeavours to notify the other of proposed changes in regulatory policy and guidance which are likely to impact on the regulatory responsibilities of the other agency and provide the opportunity to consult the other agency about those changes.
- 4.2 Each agency will use its best endeavours to provide advance notice of proposed publication of regulatory guidance or media releases that may be of interest to, or have an impact on, the regulatory responsibilities of the other agency.
- 4.3 Where appropriate, the agencies may consider whether to issue a regulatory or policy document or media release jointly having regard to the subject matter and policy objectives of each agency.

5. MUTUAL ASSISTANCE AND COOPERATION

- 5.1 The agencies recognise the need for cooperation and mutual assistance at all levels to effectively discharge their responsibilities.

The agencies agree, where legally permitted and in accordance with their respective policies and procedures, to provide each other with mutual assistance, exchange of relevant information and appropriate referrals of matters in areas of mutual interest to assist them to effectively discharge their respective responsibilities.

- 5.2 Subject to each agency's obligations at law, the agencies will, where appropriate, provide assistance and cooperation in a timely manner in relation to:
- (a) the exchange of information;
 - (b) appropriate referrals of matters; and
 - (c) exchange of technical information and expertise.
- 5.3 The agencies agree to provide assistance and to cooperate on surveillance, compliance, and enforcement matters involving entities subject to oversight by both agencies including ensuring that companies undertaking offshore oil and gas activities are complying with their obligations to measure and disclose information.
- 5.4 The agencies agree, where legally permitted and in accordance with their respective policies and procedures, to consider the interests of the other agency in carrying out their statutory functions.
- 5.5 The agencies will meet formally when required to share operational information and discuss strategic issues for which both parties have an interest.

6. ACCESS TO INFORMATION

- 6.1 Each agency may hold information relevant to the other agency's statutory responsibilities. Subject to each agency's obligations at law, that information may be disclosed by one agency to the other agency under paragraphs 7 and 8 of this MOU.
- 6.2 Each agency will take all reasonable steps to ensure that it complies with all legal, policy and administrative requirements which apply to the disclosure and protection of information.

7. UNSOLICITED ASSISTANCE

- 7.1 Each agency recognises that in the course of carrying out its functions and exercising its powers, it will periodically come into possession of information which would, if provided to the other agency, be likely to assist that other agency in administering or enforcing the particular laws for which that agency is responsible.
- 7.2 Each agency agrees, subject to the applicable laws, to use reasonable endeavours to notify the other agency on a timely basis of the existence of information which the agency holding that information considers may assist the other agency to perform its regulatory or enforcement functions,

notwithstanding that it may not have received a request from the other agency for such information.

8. REQUESTS FOR CONFIDENTIAL INFORMATION

- 8.1 One agency may request the other agency to disclose confidential information in the possession of the other agency to it. These requests will be made in writing, and specify the purpose for which the information is sought.
- 8.2 Each agency agrees, subject to applicable laws to use best endeavours to provide information in a timely manner in response to requests for confidential information from the other agency. An agency may decline to provide requested information based on operational considerations.
- 8.3 The agencies agree that where one agency makes a written request for confidential information to the other agency, they will confer to determine any impediments to fulfilment of the request and the most appropriate basis for the release of the information (if permitted by law).

9. CONFIDENTIALITY

- 9.1 Each agency will keep confidential, in accordance with applicable laws:
 - (a) any request for information made under this MOU and any matter or information arising under this MOU, including consultations between the agencies, and solicited or unsolicited assistance; and
 - (b) any information received by an agency pursuant to this MOU.
- 9.2 The agency providing information has the right to specify the level of confidentiality attached to the information it provides to the other, consistent with confidentiality provisions in each agency's legislation.
- 9.3 If confidential information received by an agency from the other agency under this MOU is subject to a legally enforceable demand (including a subpoena or freedom of information request) to disclose the information, the agency in receipt of the demand will to the extent permitted by law, inform the other agency before complying with the demand. The agencies agree to discuss the appropriate course of action if a legally enforceable demand is received by one agency.

10. PROSECUTIONS

- 10.1 Prior to commencing a prosecution in which the other agency may have an interest, each agency will consult with the other via the nominated contact officer.
- 10.2 Prosecutions for offences involving only one agency will be the responsibility of that agency. Where investigation discloses evidence of offences involving the jurisdiction of both agencies, the agencies will consult with a

view to determining the most appropriate way to take the prosecution forward.

- 10.3 Subject to the views of the Commonwealth Director of Public Prosecutions, and the agreement of both agencies, joint prosecutions may be undertaken.

11. COSTS

- 11.1 Each agency is responsible for meeting its own costs in conforming to this MOU.

12. COMMENCEMENT AND TERM OF THIS MOU

- 12.1 This MOU takes effect from the date of signing by both an ASIC Commissioner and the Chief Executive Officer of NOPSEMA.
- 12.2 The MOU will apply for a period of five years from this date and may be extended by exchange of letters between the agencies.

13. TERMINATION

- 13.1 This MOU will continue in effect until:
- (a) the expiry of the five year term and any extensions agreed between the agencies;
 - (b) the expiry of thirty (30) calendar days after either agency gives written notice to the other agency of its intention to terminate; or
 - (c) the date the agencies mutually agree to terminate the MOU.
- 13.2 In the event of termination of this MOU, information obtained under this MOU will continue to be treated in accordance with the terms of this MOU, in particular the confidentiality provisions of this MOU. This MOU will continue to have effect with respect to all requests for assistance that were made before the effective date of termination.

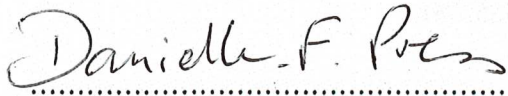
14. DISAGREEMENTS

- 14.1 If there is a disagreement over the operation of this MOU or in relation to any matter in this MOU, the nominated contact officers of the agencies will meet and seek to resolve the disagreement at the operational level within 28 days. Should this negotiation fail, the disagreement will be referred to a Commissioner at ASIC and the Chief Executive Officer of NOPSEMA to resolve.

15. AMENDMENTS OR VARIATIONS

- 15.1 This MOU may be amended or varied at any time by exchange of letters between the agencies.
- 15.2 An amendment or variation to the MOU takes effect on the date it is signed by the agencies or on a date agreed by the agencies in writing.

Dated this 24th day of MAY.....2023



**Danielle Press
Commissioner
Australian Securities and
Investments Commission**



**Susan McCarrey
Chief Executive Officer
National Offshore Petroleum Safety
Environmental Management Authority**

SCHEDULE 1 – Contact Details

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

For matters associated with this MOU:

The person occupying the position of Senior Executive Leader,
Financial Reporting & Audit, currently Thea Eszenyi

Tel: 0411 514 373

Email: thea.eszenyi@asic.gov.au

Nominated Officer(s):

The person occupying the position of Senior Manager,
Financial Reporting & Audit, currently Rajnish Padarath

Tel: 0412 269 478

Email: rajnish.padarath@asic.gov.au

NATIONAL OFFSHORE PETROLEUM SAFETY AND ENVIRONMENTAL MANAGEMENT AUTHORITY

For matters associated with this MOU:

The person occupying the position of Head of Division –
Environment, Renewables and Decommissioning, currently Cameron Grebe

Tel: (08) 6188 8770

Email: Cameron.grebe@nopsema.gov.au

Nominated Officer(s):

The person occupying the position of Manager -
Decommissioning, currently David Christensen

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Email: david.christensen@nopsema.gov.au