



**THE HON CHRIS BOWEN MP**  
**MINISTER FOR CLIMATE CHANGE AND ENERGY**

MS24-002001

Ms Sue McCarrey  
Chief Executive Officer  
Offshore Infrastructure Regulator

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Dear Ms McCarrey

I am writing to outline my expectations, as the responsible Commonwealth Minister for the *Offshore Electricity Infrastructure Act 2021* (the OEI Act), as to the exercise of the functions and powers conferred on the Offshore Infrastructure Regulator (the Regulator) under the OEI Act and associated regulations (OEI framework).

This Statement of Expectations will assist with the Australian Government's commitment to effective governance and performance of regulatory functions, guided by the *Public Governance, Performance and Accountability Act 2013*. It forms part of the Government's commitment to good corporate governance of regulatory bodies and reducing unnecessary regulatory burden on business and the community.

I would like to acknowledge the extensive work the Regulator has undertaken to date in providing advice and guidance to the offshore renewables sector on compliance with regulatory requirements under the OEI framework. I expect the Regulator will continue this important work to enable a safe, environmentally responsible and sustainable offshore renewables industry.

**Overview**

The OEI Act commenced on 2 June 2022 and provides the legislative framework for licensing and regulation of offshore renewable energy infrastructure and offshore electricity transmission infrastructure in the Commonwealth offshore area. The OEI Act establishes the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) as the Regulator.

I recognise that there is distinct legislative separation between the functions, duties, and cost recovery of NOPSEMA and the Regulator. The functions of the Regulator are administered by NOPSEMA.

The Regulator is responsible for overseeing work health and safety, infrastructure integrity, and environmental management for offshore infrastructure activities in the Commonwealth offshore area. The Regulator is also responsible for the appointment of OEI inspectors. Under section 227 of the OEI Act, the *Work Health and Safety Act 2011* (WHS Act) applies as if a reference to Comcare were a reference to the Regulator.

The Regulator's operational expenses are cost-recovered through fees and levies imposed on the industry under the OEI framework and the *Offshore Electricity Infrastructure (Regulatory Levies) Act 2021* and associated regulations, as outlined in the Cost Recovery Implementation Statement. I expect you to ensure that cost recovery arrangements remain adequate to effectively discharge your administrative and regulatory functions, while remaining cost-effective and conducting reviews of cost structures and regulatory charges prior to seeking any increases.

### **Strategic Objectives**

The establishment of an offshore renewable energy industry supports the Government's climate change and net zero objectives by reducing emissions from the electricity sector, while maintaining energy security, reliability and affordability.

The development of an offshore renewables industry will also bring additional benefits in our national interest, including the creation of new jobs, skills and training for Australia's workforce, regional development and support for manufacturing industries and the development of Australian supply chains, and significant investment in Australia's coastal economies.

I expect the Regulator to support the establishment and future growth of the offshore renewables industry by assuring the health and safety of Australia's offshore workforce and the protection of the environment.

### **Functions, Powers and Operations of the Regulator**

#### Functions

The Regulator's principal functions are to oversee work health and safety, infrastructure integrity and environmental management for offshore infrastructure activities in the Commonwealth offshore area.

To deliver these functions, I expect the Regulator to:

- Advise stakeholders, provide guidance materials, and publish information in order to promote stakeholder understanding of regulatory requirements, good industry practice and continuous improvement in industry performance.
- Contribute to efficient decision-making of the responsible Commonwealth Minister, including by proactively advising me and the Department of Climate Change, Energy, the Environment and Water on matters that may impact on or present an unacceptable risk to Government or industry operational objectives.
- Develop and implement effective monitoring and enforcement strategies to ensure compliance with work health and safety, infrastructure integrity and environmental management obligations.

- Investigate accidents, occurrences and circumstances relating to work health and safety, infrastructure integrity and environmental management and report on these investigations to me, as appropriate.
- Monitor the implementation of measures set out in approved management plans for licence holders to comply with obligations under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), advising the Department on non-compliance with those measure and cooperating on enforcement actions as necessary.

### Operations

I expect you to make all reasonable efforts to assess management plans, safety and protection zone applications, and provide feedback on design notifications in a timely and efficient manner within legislated timeframes. I expect any extensions to occur only when necessary and to be kept to the minimum period possible.

I expect you to ensure that approved management plans:

- Address the requirements of the *Offshore Electricity Infrastructure Regulations 2022* (OEI Regulations).
- Provide for ongoing consultation, as set out in the licence holder's stakeholder engagement strategy, and that consultation remains appropriate with consideration to the stage of the OEI project.
- Provide for full identification of, and meaningful and timely engagement with people, organisations, communities and groups listed in the OEI Regulations.
- Put in place appropriate and adapted measures to address claims raised by those consulted, with regard to government guidelines relating to engagement on OEI projects. This includes guidance developed by the Department on the Government's expectations and requirements for licence holders when consulting with First Nations people and groups.

In delivering your functions relating to the design notification process, I expect you to provide feedback that helps to ensure that best practice safety, infrastructure integrity and environmental management principles are built into project designs from the earliest stage.

In delivering your functions relating to determining safety and protection zones, I expect you to exercise decision making that facilitates co-existence with other marine users to the greatest extent possible while ensuring safety and infrastructure integrity objectives can be achieved. The OEI framework operates under the principle of shared use of the offshore marine environment and therefore marine users should not be restricted any more than is necessary to ensure safety of navigation and operation, and the protection of assets. This includes, ensuring restrictions are removed promptly when risks to safety and infrastructure are no longer posed.

In order to deliver your legislative functions and powers in the most appropriate, efficient and effective manner, I expect you to operate in a manner consistent with the principles of regulator best practice (RMG 128).

### *Principle 1 – Continuous improvement and building trust*

I expect you to operate in a transparent and efficient manner that builds trust, enhances accountability, independence and is in accordance with principles of procedural fairness, while maintaining protection of confidentiality requirements. In order to do this, I expect you to:

- Optimise your organisational structure and maintain competent capacity to ensure the provision of timely, consistent, evidence-based and credible assessments, analysis, reports, advice and recommendations.
- Maintain a sound information management system that records regulatory decisions, including the rationale and supporting evidence.
- Publish summaries of management plans, prohibition notices, improvement notices and enforceable undertakings on your website.
- Report annually on the Regulator's performance against key performance indicators to ensure accountability and transparency through the Annual Report required under section 690 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

### *Principle 2 – Risk based and data driven*

I expect you to manage risks proportionately and maintain essential safeguards to people and the environment while minimising regulatory burden. In order to do this, I expect you to:

- Undertake regular reviews of your policies, procedures and processes.
- Utilise benchmarking, stakeholder surveys, industry, engagement with the offshore workforce and the community and other means to obtain insights that drive improved regulatory outcomes.
- Maintain a focus on work health and safety, infrastructure integrity and environmental management, by adopting and maintaining an effective risk-based framework for compliance monitoring and enforcement.
- Stay informed about technological advancements and operational practices in the offshore renewables sector and adapt your operations accordingly.

### *Principle 3 – Collaboration and engagement*

I expect you to communicate transparently and implement regulations in a modern and collaborative way.

While recognising the independence of the Regulator, I expect you to:

- Work closely with the Department and to be proactive in keeping myself, my office and the Department informed of significant incidents, actions or issues related to its legislative and administrative functions.
- Engage with the Nature Positive Regulation Division of the Department in relation to compliance with, and any necessary enforcement in relation to EPBC Act obligations in OEI Act management plans.

- Cooperate with the Offshore Infrastructure Registrar on the administration and enforcement of the OEI Act and the applied work health and safety provisions, including continued information sharing, and identify and address any barriers to collaboration in a timely manner.
- Work collaboratively with other marine regulators, including the Australian Maritime Safety Authority and the Australian Communications and Media Authority, to promote shared use of the offshore marine environment and balance competing interests between Australia's offshore renewable energy industry and other marine users.
- Cooperate and foster strong working relationships with other Commonwealth, State or Territory agencies and authorities having functions relating to the regulation of offshore infrastructure activities.
- Support and reinforce Australia's international standing and access to leading regulatory practice through taking an active involvement in relevant international forums and groups.

As the responsible Minister, the Department will ensure that the Regulator is well informed on policy, as specific initiatives and strategies are being considered and implemented, to allow implementation of best practice. I expect you to have regard to the Department's policies, expectations and guidelines in undertaking your functions under the OEI Act.

### **Regulatory Reform Agenda**

The Government is committed to improving regulator performance, capability and culture through regulatory stewardship. This Statement of Expectations forms part of the Government's commitment to good corporate governance and to our regulatory reform agenda that aims to boost Australia's productivity and lower the cost of living by ensuring a fit-for-purpose regulatory environment.

I expect the Regulator to contribute to the Australian Public Service Regulatory Reform agenda by applying the Resource Management Guide 128 Regulator Performance to its regulatory functions to assess its performance and engagement with stakeholders, including reporting against the principles of regulator best practice through the Regulator's Annual Report.

### **Statement of Intent**

I would appreciate your response to this letter in the form of a statement of intent within two months. I ask that this letter and your statement of intent be made available on your website.

I look forward to working with you to establish this new industry in Australia.

Yours sincerely



CHRIS BOWEN