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Department of Home Affairs
Critical Infrastructure Reforms

Submission lodged via <https://www.homeaffairs.gov.au/reports-and-publications/submissions-and-discussion-papers/protecting-critical-infrastructure-systems>

SECURITY LEGISLATION AMENDMENT (CRITICAL INFRASTRUCTURE) Bill 2020

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) has reviewed the Exposure Draft of the Security Legislation Amendment (Critical Infrastructure) Bill 2020, accompanied by explanatory documents and provides comments in this letter for your consideration.

Purpose of the Critical Infrastructure Bill 2020

1. NOPSEMA notes the importance of introducing positive security obligations to actively protect critical infrastructure in exceptional circumstances, in particular as it relates to the cyber security of critical infrastructure.
2. NOPSEMA supports the leadership taken by the Department of Home Affairs and the Secretary of Home Affairs in administering a number of the provisions set out in the Critical Infrastructure Bill 2020.

The role of NOPSEMA

3. In NOPSEMA's previous submission offered in response to the Consultation Paper prepared by the Department of Home Affairs on 'Protecting Critical Infrastructure and Systems of National Significance', NOPSEMA provided information on the regulatory role of NOPSEMA.
4. NOPSEMA was established in 2012 as an independent statutory authority with oversight for the safety, well integrity and environmental management of offshore petroleum, and greenhouse gas storage activities, in Commonwealth waters and in coastal waters where regulatory powers and functions have been conferred.
5. NOPSEMA's regulatory remit is focused and specialised in the assessment, monitoring and the enforcement of controls, measures and standards specific to safety and environmental management systems, and the structural integrity of wells. NOPSEMA inspectors hold qualifications and have extensive experience in these areas. NOPSEMA's regulatory oversight and expertise does not extend to security controls that may be applied by owners and operators of offshore oil and gas facilities.

Regulatory oversight and cyber-security

6. NOPSEMA notes that the Critical Infrastructure Bill 2020 proposes to introduce a risk management program for the Energy Sector that will set out sector-specific requirements and positive obligations for cyber security management.
7. NOPSEMA notes that a division within the Department of Home Affairs, administers *the Maritime Transport and Offshore Facilities Security Act 2003* and its associated regulations. Under this



regulatory framework, maritime security threats (including cyber-security threats), may be raised by operators and offshore service providers in their risk assessments accompanying offshore facility security plans. NOPSEMA is of the view, noting existing arrangements under the MTOFSA, that the Department of Home Affairs already provides oversight of offshore facility security threats and that cyber security threats, are likely raised within this regulatory framework.

8. NOPSEMA notes that in the Explanatory Memorandum to the Bill – there is a statement that there is no existing national all-hazards regulator in the energy sector and that the Department of Home Affairs will continue to engage across the sector to determine the appropriate regulator for the energy sector risk management plans. NOPSEMA notes that the Explanatory Memorandum further states that the objectives of the legislation focus on economic outcomes, reliable and secure supplies, and consumer protections.
9. Given the purpose of the Critical Infrastructure Bill 2020, and the broader security portfolio relationships expressed in the Bill, such as the role of the Australian Signals Directorate in relation to responding to reports of cyber-security incidents, NOPSEMA's regulatory maturity does not extend to security regulation of the energy sector. NOPSEMA is of the view that the regulatory oversight of energy sector security risk management plans, should be oversighted by an appropriate regulator with access to cyber security expertise.
10. NOPSEMA supports ongoing engagement on approaches to safeguarding the energy sector and considers these reforms will contribute to improving the security of critical infrastructure in Australia.

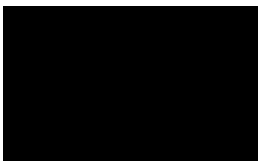
Any questions regarding the submission or any other matters should be directed to:

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Yours sincerely



Stuart Smith
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27 November 2020