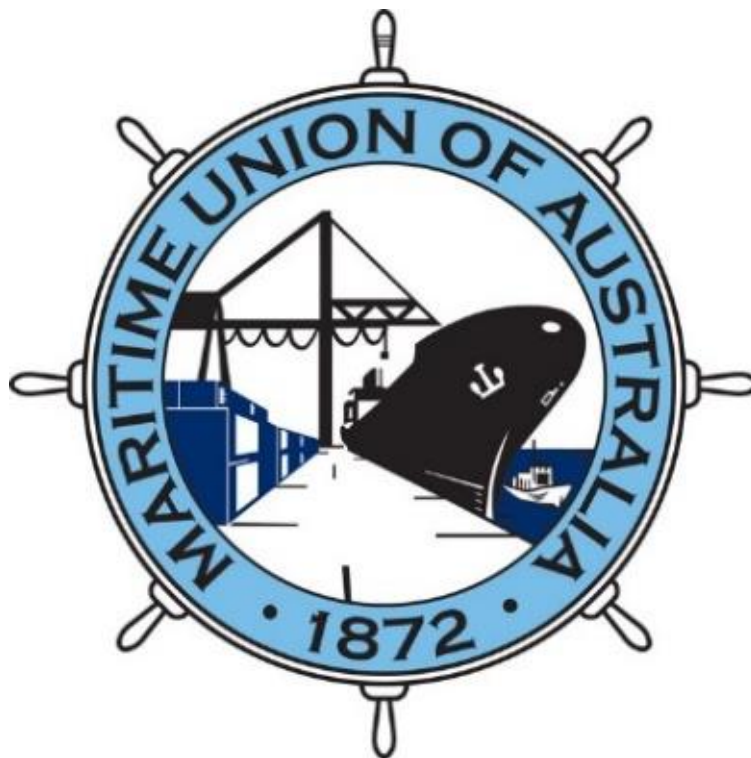


Consultation in the course of preparing an Environment Plan:

Submission from the Maritime Union of Australia



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National Offshore Petroleum Safety and Environmental Management Authority

Submitted via: NOPSEMA consultation hub.

[REDACTED]

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About us

This submission has been prepared by the Maritime Union of Australia (MUA).

The MUA is a division of the 120,000-member Construction, Forestry, Maritime, Mining, and Energy Union and an affiliate of the 20-million-member International Transport Workers' Federation (ITF).

The MUA represents approximately 14,000 workers in the shipping, offshore oil and gas, stevedoring, port services, and commercial diving sectors of the Australian maritime industry. We are also part of the Offshore Alliance (with the AWU), representing offshore oil and gas facility workers.

Summary

Consultation between key stakeholders, such as the union and title holders for both the operations and decommissioning phases of offshore oil and gas project activities, is integral to ensuring that the workforce onboard vessels and facilities can provide feedback. Therefore, NOPSEMA's consultation guidelines must be clear and concise to ensure genuine dialogue between parties can take place. The MUA will continue utilizing the consultation process to provide title holders with our member's expert knowledge on offshore tasks prioritizing safety and environmental sustainability.

The MUA recognises that the purpose of consultation under regulation 11A of The Offshore Petroleum and Greenhouse Gas Storage Regulations 2009 (Environment Regulations) is to ensure that authorities, persons, or organisations potentially affected by activities are consulted and any feedback is considered in the development of environment plans (EP's).

This submission focuses on improving NOPSEMA's consultation guidelines in the following areas:

1. Relevant Person recognition
2. Transparency of information
3. 'Reasonable period' time frame
4. First Nations people

Improvements to Consultation:

Identifying Relevant Persons

The MUA identifies as a relevant person under Section 11A (d) of the Offshore Petroleum and Greenhouse Gas and Storage (Environment) Regulations 2009 which states the titleholder must consult with Relevant Persons. The definition of a Relevant Person includes:

(d) a person or organisation whose functions, interests, or activities may be affected by the activities to be carried out under the environment plan or the revision of the environment plan.

NOPSEMA has left the decision of stakeholder relevancy up to the title holder, and the union is concerned that certain groups will be left out of the consultation process because these groups are deemed irrelevant.

On several occasions, title holders have ignored the union's request for genuine consultation regarding proposed offshore oil and gas activities, even though this is a title holder obligation. NOPSEMA must ensure that title holders adhere to these obligations.

Transparency of Information

As per section 11A of the Environment Regulations, NOPSEMA's new guidelines have recognised that title holders must provide sufficient information to relevant parties during the consultation process. NOPSEMA's consultation guidelines note:

2) For the purpose of the consultation, the titleholder must give each relevant person 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.

The MUA agrees that this is an important issue; however, we do not believe sufficient information should be at the discretion of the title holder.

As directed by NOPSEMA (direction 871), in August of 2022, Esso began seeking consultation with the community and relevant stakeholders on [phase 1 of their decommissioning plan](#). The MUA responded to Esso's consultation period, seeking to access further information on AIMS studies used by Esso that supported their position on leaving ten steel pile jackets in situ due to supposed environmental benefits. The operator is using this information in the phase 1 EP application to prove that leaving equipment in situ is not detrimental to the marine environment.

As of March 2023, Esso has refused to release this information to the MUA. Genuine consultation has been challenging without access to these studies as they are supporting evidence used by Esso to request to deviate from the legislation.

We argue that when title holders request to deviate from legislative obligations, all information must be provided to relevant persons before an EP is lodged. NOPSEMA must strengthen consultation guidelines that allow for all information to be requested and considered by parties during discussions.

‘Reasonable period’ Time Frame

As per 11A section 3 of the Environment Regulations, NOPSEMA’s guidelines propose that a title holder must give relevant persons a ‘reasonable period to allow them to make an informed assessment of possible consequences of the proposed petroleum or greenhouse gas activity.’

The term ‘reasonable’ has been left to the title holder to decide. The union argues that there must be a more concrete timeline in place to ensure genuine dialogue between parties can occur. Therefore, the MUA proposes a minimum consultation period of three months. This three-month period will allow authentic discussion between parties and time for relevant persons to properly research proposed activities.

First Nations People

We recognise that guidelines created by NOPSEMA regarding the consultation process of offshore oil and gas projects will affect Traditional Owners within Australia. Therefore, the Regulator and industry title holders must thoroughly consult First Nations people while developing regulations, guidelines, and environmental plans.

Summary of Position

Consultation between relevant persons and title holders while preparing an EP is critical to reducing environmental impacts and activity risks to ALARP-acceptable levels. Consultation must be genuine, intending to address any issue that interested parties may see arise for the project's life. NOPSEMA must release concrete guidelines that ensure title holders comply with their obligations under the legislation. Genuine consultation can only occur when specific guidance is in place, and all ambiguity requiring titleholder interpretation is removed.

The MUA urges NOPSEMA to reconsider a more robust framework of guidelines on information transparency, reasonable time frame periods, and recognition of relevant persons. More vigorous consultation guidelines will ensure that all parties can address project activities appropriately. ■