

## NOPSEMA

- 1. You've previously given evidence at Estimates about the impact of the Tipakalippa decision on NOPSEMA's assessment of Environmental Plans. Can you outline again how that judgement and subsequent ones have impacted on NOPSEMA's workload, and on NOPSEMA's expectations of titleholders in relation to consulting relevant persons?**

Recent judgements have provided clarity around the breadth and extent of consultation required by the Environment Regulations, and NOPSEMA has noted the significant effort that is required from titleholders to comply in practise. Titleholders must consult with a potentially very large class of relevant persons and include content in their EP that reflects all their consultations for NOPSEMA's decision-making.

The effects of the legal challenges against previously accepted environment plans continues to be felt, with extended timeframes for titleholders to undertake the broader consultation now required the predominant impact. Although this led to a period where the rate of environment plan submissions/resubmissions and approval of environment plans decreased, environment plan approvals have increased over the past few months, with a particular increase in both approvals and submissions since December.

Even when substantial consultation has been undertaken by titleholders, there remains a risk that not all relevant persons have been identified and consulted and that the requirements may not have been met.

- 2. Is the current regulation clear enough on who is a relevant person for the purposes of NOPSEMA doing its job effectively?**

NOPSEMA works within the legislative and regulatory framework provided by Parliament.

NOPSEMA also welcomes the Government's announcement that it will be looking into clarifying and improving consultation requirements as an initial phase of the offshore environmental management review. We note a consultation paper seeking views from stakeholders was published earlier this year. NOPSEMA will continue to provide advice and support to the Department of Industry, Science and Resources (DISR) which is leading the review, on opportunities to clarify and improve the requirements.

- 3. Is the current regulation clear enough on when consultation is considered complete, for the purposes of NOPSEMA doing its job effectively?**

The consultation paper published earlier this year sought stakeholder views on when is a consultation process considered complete. NOPSEMA welcomes this question being included in the paper and any changes that give an appropriate level of certainty for stakeholders.

**4. Have you heard directly from Traditional Owner groups that they are experiencing “consultation fatigue”? Can you elaborate?**

NOPSEMA has received feedback from First Nation’s representatives around consultation by industry has indicated that there is concern and frustration with a range of issues.

**5. What is the cause of this consultation fatigue?**

Traditional Owner groups concerns relate to titleholder consultation practices, inconsistency in approaches adopted by titleholders and their organisations’ capacity to properly engage and resource the consultations arising.

Feedback indicates that a particular concern due to some titleholders not engaging in a manner that is suitable and appropriate for the First Nations people seeking to be engaged, such as via negotiated agreements.

More specific concerns have been raised by First Nations representatives have included timing of the proposed consultation (i.e., consideration of culturally sensitive events and times of year), location of where the proposed consultation is to occur, and the volume and technical complexity of information provided.

NOPSEMA has observed that where industry seeks to engage with First Nations representatives in a mutually agreed approach, the consultation can be improved.

**6. The record of meeting of the Community and Environment Reference Group on 8 November 2024 notes that many on the committee raised the issue of “consultation fatigue” at the meeting. Firstly, can you explain the role and membership of the CERG, and whether it has Traditional Owner representation on it.**

NOPSEMA established a Community and Environment Reference Group (CERG) in March 2018 as an avenue for NOPSEMA to directly hear community perspectives on offshore petroleum environmental management. Further information on CERG, including its terms of reference and membership, which does include Traditional Owner perspectives, can be found on NOPSEMA’s website:

<https://www.nopsema.gov.au/community-resources/engagement-and-transparency>

**7. And, secondly, what they meant when they reported “consultation fatigue”?**

At the 8 November 2023 CERG meeting, members provided an introduction of their background and their initial perspectives of NOPSEMA and the offshore energy industry from any previous engagement. The term “consultation fatigue” was mentioned in the meeting record as a “theme”, however the majority of the views expressed concern over misuse or misrepresentation of the term “consultation fatigue” and emphasising that it did not mean that consultees were not interested in being consulted.

Further information on the CERG can be found in the meeting record on NOPSEMA’s website:

<https://www.nopsema.gov.au/sites/default/files/documents/Meeting%20record%20-%20Community%20and%20Environment%20Reference%20Group%20-%20Meeting%2012.pdf>

**8. Would the regulations be improved and NOPSEMA’s workload be more manageable if there were time-bound consultation periods in the regulations?**

The consultation paper published earlier this year sought stakeholder views on providing a reasonable time for consultation. NOPSEMA welcomes this question being included in the paper and any changes that give a more clarity to stakeholders.

**9. Is there such a thing as too much consultation, and are we seeing that now?**

Consultation with relevant persons under the Environment Regulations is a requirement. How the consultation is undertaken determines its effectiveness and the workload on industry and First Nations representatives.

NOPSEMA has observed that where industry seeks to engage with First Nations representatives through a mutually agreed approach, the consultation workload is reduced for all parties and the consultation outcomes are improved.

Please refer to NOPSEMA’s submission to the Environment and Communications Legislation Committee for the Protecting the Spirit of Sea Country Bill 2023.

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/SeaCountryBill2023/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/SeaCountryBill2023/Submissions)

NOPSEMA identified in its submission that it continues to encourage industry to consider how to minimise the consultation burden on First Nations people.