



7 March 2024

## **Re: Senate Economics Legislation Inquiry into the OPGGS (Safety Measures and Other Measures Bill)**

The Electrical Trades Union of Australia ('the ETU')<sup>1</sup> is the principal union for electrical and electrotechnology tradespeople and apprentices in Australia, representing well over sixty-thousand workers around the country. The ETU represents our members employed in the offshore oil and gas industry, who are predominantly employed as electricians and instrumentation technicians who will be directly impacted by the changes put forward in this bill.

As an affiliate member of the Australian Council of Trade Unions, the ETU fully supports and has made contributions to the ACTU's submission to this Inquiry. While the ETU welcomes the improvements to the OPGGS Act that relate to Health and Safety Representatives (HSRs) set out in the Bill, there are still several areas where the proposed Bill continues to provide inadequate support to HSRs and falls short of the government's stated intention to harmonise the Bill with Model WHS Laws. These are detailed in the ACTU's submission, and the ETU supports recommendations made by the ACTU to address the gaps and inconsistencies described therein.

The ETU welcomes these reforms as long overdue. Our members experience of NOPSEMA is of a regulator that has demonstrated a regulatory response that focusses on the lower end of appropriate regulatory controls and one that has failed to promote workplace collaboration and engagement of workers in problem solving the significant workplace health and safety challenges in this sector.

The meaning of self-regulation has been bastardised for the convenience of employers and at the expense of workers. The move from prescriptive regulatory approaches to process focussed regulatory oversight from the 1970's onwards was never intended to create an environment where employers literally "self" regulate. The focus was always about ensuring that hazards, the risks that arose from them and the control measures used to mitigate them were appropriate to the particular circumstances surrounding the activity, recognising that a prescriptive regulatory approach was only really suitable for large, fixed workplaces with fairly static hazards. Under a process focused approach, workers were supposed to play a greater role in assessing and determining hazards in the workplace and implementing the appropriate control measures to mitigate the risks arising from these hazards.

The ETU has been a long-time advocate of electrical training and licensing across Australia. This is to ensure that the integrity of electrical qualifications is maintained so that worker, user, and community safety is maximised. In addition to the recommendations set out in the ACTU submission, the ETU argues that the Bill must include reference to and recognition of state-based occupational licensing regimes and Australian Standards and make explicit that these apply to offshore installations.

In the absence of clarity under the current legislation, the ETU is aware of several situations

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<sup>1</sup> Being a division of the CEPU, a trade union registered under the *Fair Work (Registered Organisations) Act 2009* (Cth).

where employers have asserted that licensing and Australian standards do not apply, increasing safety risks and causing safety incidents – including fires. Furthermore, the ETU has concerns that NOPSEMA has sided with employers in arguing that licencing and standards do not apply. Considering this, any update to the Act must explicitly specify that occupational licensing does apply on offshore installations, as does the application of Australian wiring standards.

#### *Environmental Approvals Process*

The ETU notes that current Bill proposes amendments to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) which would have the effect of entrenching NOPSEMA's current accreditation to carry out EPBC Act approvals in law (in Schedule 2 Part 2). The Government has said that this amendment is necessary to amend the consultation requirements laid out in the OPGG Environment Regulations.

As detailed in the submission by the Maritime Union of Australia (MUA), the current accreditation of NOPSEMA to perform EPBC Act approvals has drained sorely needed expertise and staffing out of the Department of Environment, with significant implications for EPBC Act approvals of offshore renewable energy infrastructure.

Given that the consultations on the current Bill are only beginning, the ETU recommends that the government delay any consideration of amendments to the *Environment Protection and Biodiversity Conservation Act 1999* to allow amendments to the OPGG Environment Regulations (Schedule 2 Part 2 of the Bill) until there is a clear proposal on how it wishes to amend the regulations. This will allow all stakeholders to properly consider the implications of the proposed changes.

#### *Consultation Process*

Finally, the ETU has concerns that industry has been pushing for regulatory or legislative changes to reduce consultation requirements. Any weakening of consultation requirements would weaken the ability of titleholders to understand any environmental, social and cultural impacts of their activities.

Any reforms to consultation processes must protect a union's status as 'relevant persons' whose 'functions, interests or activities' may be affected. Genuine consultation with unions, in the course of preparing for offshore petroleum activities, will assist both proponents and workers in meeting Australia's labour demand.

Furthermore, any reform of consultation processes in the OPGG Environment Regulations must preserve First Nations rights to comprehensive and authentic consultation about projects on their lands and waters. The ETU has long supported First Nations' peoples' rights to 'free, prior and informed consent'.

NOPSEMA is a regulatory agency dominated by the very industry it is charged with regulating and we see changes to the Act, amended to include the matters raised in our submission and the ACTU and MUA submissions, as being critical to breaking this nexus and modernising both the regulator and these workplaces and their historical underperformance when it comes to consultation and workplace health and safety outcomes.