

Senate Standing Committee on Economics
ANSWERS TO QUESTIONS ON NOTICE
Department of Industry, Science and Resources
Inquiry into Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment
(Safety and Other Measures) Bill 2024 [Provisions]
14 March 2024

AGENCY/DEPARTMENT: Department of Industry, Science and Resources

TOPIC: Questions on consultation

REFERENCE: Written Question - Senator Susan McDonald

QUESTION No.: 2

1. The Department currently has a consultation paper seeking feedback on the existing consultation requirements for offshore oil and gas projects. The consultation paper says that recent court decisions have introduced uncertainty into the consultation requirements for titleholders with respect to relevant persons. Can you elaborate on the impact of this uncertainty?
2. Has the Department heard directly from Traditional Owners concerns that they are being overwhelmed by requests for consultation?
3. What are some examples the Department is aware of where Traditional Owners were being consulted on Environmental Plans that were at odds with the intended application of the regulations?

ANSWER

1. The consultation paper states that:

Recent court decisions have changed how we understand the consultation requirements in the Offshore Environment Regulations. The court decisions have provided some clarity on how titleholders should consult with relevant persons, including with First Nations people or communities. However, feedback from stakeholders is that some uncertainty remains.

The consultation paper sought to understand the impact of this uncertainty on all stakeholders and how to ensure that consultation requirements are clear.

2. The Department has heard a range of views from First Nations stakeholder groups. Some First Nations stakeholders have expressed concerns to the department about the volume, timeliness and accessibility of information for consultations undertaken by oil and gas proponents. First Nations submissions to the consultation described challenges with the existing regulatory framework. For example, some suggested the importance of earlier engagement; that industry could provide clearer, more relevant information; and that appropriate time should be provided, noting First Nations representatives would need to consult communities. Some submissions emphasised resourcing challenges and the importance of relationship building. Public submissions will be available on the department's website in due course.

3. The purpose of consultation under the Environment Regulations is to ensure that authorities, persons or organisations which are potentially affected by activities are consulted and their input considered in the development of environment plans. In *Santos NA Barossa Pty Ltd v Tipakalippa* [2022], the Federal Court noted that a connection of traditional owners with sea country may constitute an interest for the purposes of the regulations, which has led to a wider group of people being consulted on proposed oil and gas activities than in the past.