



## Consultation requirements under the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009

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### Core concepts

- The requirement that effective consultation be undertaken by titleholders with relevant persons or organisations on petroleum activities is a fundamental aspect of the environmental management regime for petroleum activities in Commonwealth waters.
- Consultation is a process which is mutually beneficial to both the party undertaking the consultation and those being consulted on offshore petroleum activities.
- The Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (Environment Regulations) require that titleholders consult with 'relevant persons' to ensure that any objections or claims of an environmental, social or economic nature are considered and addressed in submissions to NOPSEMA.
- The concept of a 'relevant person' with whom titleholders must consult should be interpreted broadly and is not limited to a certain category or group of persons.
- Titleholders have a responsibility to ensure that relevant persons are appropriately identified and consulted in accordance with legislative requirements.
- In order to ensure that titleholders are able to provide sufficient and relevant information, relevant persons should clearly describe how their functions, interests or activities may be affected by a proposed petroleum activity.
- Titleholders and relevant persons should communicate directly and openly during the consultation process. This will ensure transparency of information and allow objections and claims about titleholders' activities to be appropriately addressed in submissions to NOPSEMA.
- The objections or claims raised by relevant persons are a mechanism for titleholders to ensure that adverse impacts of the activity are identified and mitigated and that additional control measures have been adopted where appropriate.
- Early engagement, appropriate consultation strategies and respectful communication techniques will lead to more effective interaction with relevant persons and will ultimately increase the likelihood of meeting the consultation requirements of the Environment Regulations.

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## 1 Introduction

The Environment Regulations require that consultation be undertaken to ensure that persons who may be affected by an activity are given the opportunity to inform the titleholder how they may be affected and to allow the titleholder to assess and address any objections or claims about an activity in the preparation of environment submissions.

The purpose of consultation between titleholders and interested persons is to maximise transparency<sup>1</sup> and to ensure that the rights of relevant persons are upheld and appropriately taken into account throughout the planning, permissioning and execution stages of an activity.

As an independent regulator, it is NOPSEMA's role to assess whether, based on the information available to it, consultation with relevant persons has been appropriate. This information paper is intended to provide additional information on the core principles of the consultation process as outlined in the Environment Regulations to assist in achieving effective and efficient engagement on offshore petroleum activities.

Critical factors for successful consultation processes in the context of the Environment Regulations for both titleholders and relevant persons are discussed in the final section of this document.

### 1.1 Scope of this Information Paper

This information paper is focussed on consideration of the consultation requirements of the Environment Regulations as they apply to environment plans (EPs). While this information paper does not discuss the processes for public comment on offshore projects it is important that proponents of offshore projects undertake meaningful consultation on Offshore Project Proposals. The principles outlined in this information paper may assist in this regard.

## 2 Consultation as a process

The purpose of the consultation process is to ensure that potentially affected parties are provided with an adequate opportunity to consider and provide feedback on the potential impacts and risks of offshore petroleum activities relevant to their functions, interests or activities. In order for this process to be effective, consultation should be approached as a preventative and ongoing mechanism for addressing the impacts and risks associated with offshore petroleum activities.

Appropriate consultation with relevant persons is an integral step at both the planning stage of an activity, as well as throughout the life of the activity. The Environment Regulations contain specific requirements regarding consultation that must be undertaken 'in the course of preparing an environment plan' and implementation strategy requirements clarify that consultation is an ongoing obligation for titleholders.<sup>2</sup>

The key steps in the consultation process under the Environment Regulations and the interactions between titleholders and relevant persons during this process are illustrated in Figure 1 below.

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<sup>1</sup> ISO 26 000:2010 'Social Responsibility', defines transparency as: 'openness about decisions and activities that affect society, the economy and the environment, and willingness to communicate these in a clear, accurate, timely, honest and complete manner.'

<sup>2</sup> For further information on the interaction between the consultation requirements and other content requirements of an EP, please refer to NOPSEMA Guidance Note, 'N-04750-GN1344 – Environment Plan Content Requirements – Rev 0 – February 2014' (available online at [www.nopsema.gov.au](http://www.nopsema.gov.au)).

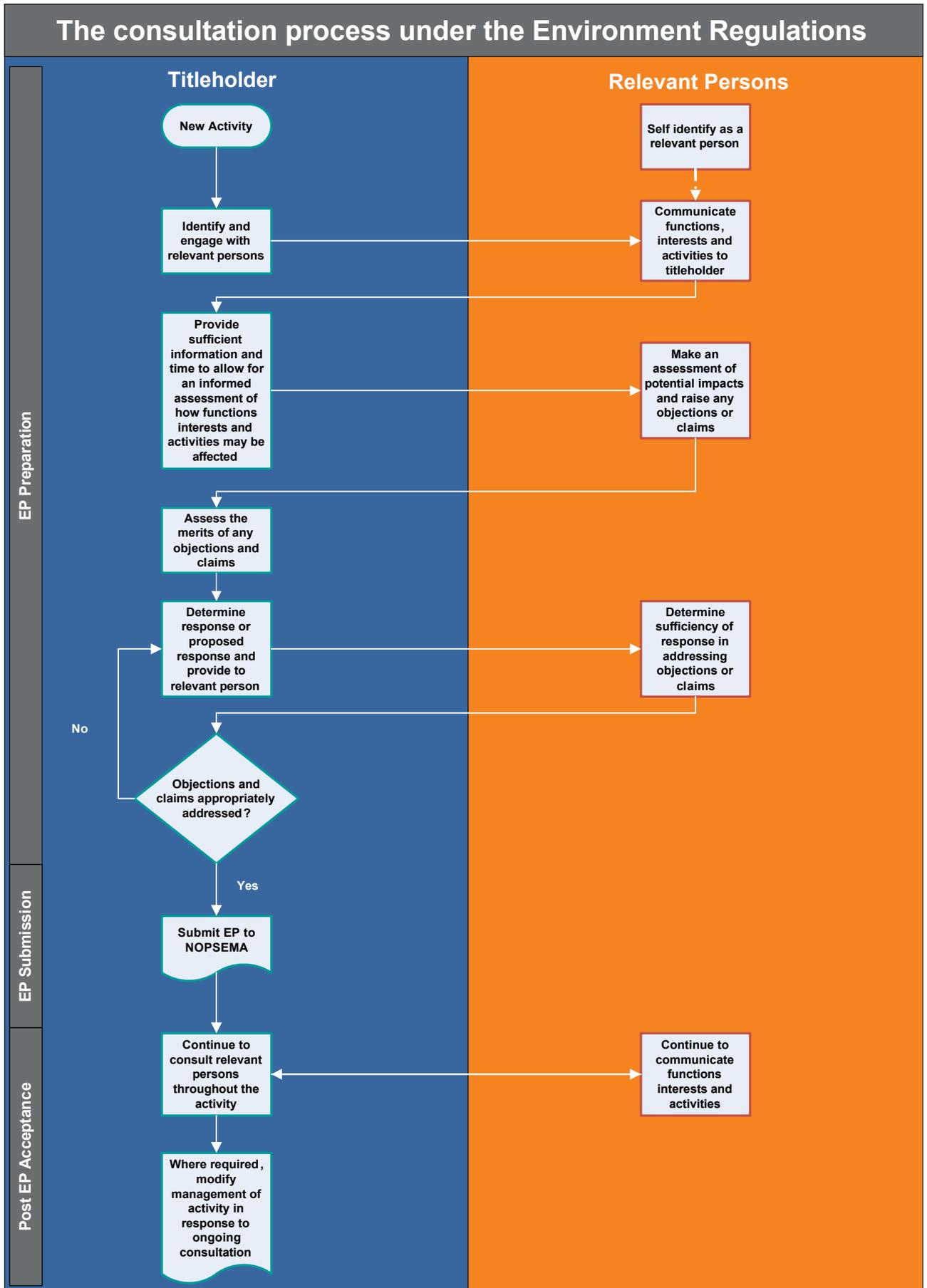


Figure 1 – The consultation process under the Environment Regulations

## 2.1 Principles of the consultation process

While the model for consultation utilised for any given activity may vary depending on a range of factors, certain key principles should be evident in all consultation processes in order for NOPSEMA to be satisfied that the consultation requirements of the Environment Regulations have been met.

The principles described below are adapted and amended from a report<sup>3</sup> by the Commonwealth Ministerial Council on Mineral and Petroleum Resources<sup>4</sup> and are reproduced here to provide a 'starting-point' on how a consultation process may be undertaken.

### Communication

Open and effective engagement should be undertaken between titleholders and relevant persons ensuring accurate and relevant information is provided and that any feedback provided is received and addressed openly.

### Transparency

The consultation process adopted, individuals being consulted, details of the activity and any points of interest or controversy should wherever possible be made open and transparent. A productive consultation process will establish agreed information and feedback processes.

### Collaboration

An effective consultation process will have mutually beneficial outcomes to both relevant persons and the titleholder. By approaching consultation as a collaborative process, appropriate outcomes are achieved.

### Inclusiveness

Titleholders should recognise, understand and involve relevant persons early and throughout the lifespan of the activity.

### Integrity

The manner in which consultation is undertaken should foster respect and trust. This should be evident from the consultation report included in the EP.

## 3 Regulatory context

Regulation 10 provides that if the Regulator is reasonably satisfied that the EP meets the criteria set out in regulation 10A, the Regulator must accept the EP.

Regulation 10A of the Environment Regulations details the criteria for acceptance of an EP. The criteria relevant to consultation require that an EP demonstrates that:

- *the titleholder has carried out the consultations required by Division 2.2A; and*
- *the measures (if any) that the titleholder has adopted, or proposes to adopt, because of the consultations are appropriate.*

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<sup>3</sup> 'Principles for Engagement with Communities and Stakeholders', Ministerial Council on Mineral and Petroleum Resources, 2005, available online at <[http://www.pir.sa.gov.au/\\_\\_data/assets/pdf\\_file/0020/41735/mcmpr\\_principles\\_nov05.pdf](http://www.pir.sa.gov.au/__data/assets/pdf_file/0020/41735/mcmpr_principles_nov05.pdf)>

<sup>4</sup> The MCMPR is a Commonwealth Council comprised of state and territory Ministers as well as respective Ministers from Papua New Guinea and Timor Leste. The MCMPR states that its mission is to 'ensure the safe, responsible, and competitive development of the nation's mineral and energy resources to optimise long-term economic, social and environmental benefits to the community.' For further information please refer to: <[http://www.directory.gov.au/directory?ea0\\_if99\\_120.&organizationalUnit&14d53f089117-4be9-84dc-5423635d8e6a](http://www.directory.gov.au/directory?ea0_if99_120.&organizationalUnit&14d53f089117-4be9-84dc-5423635d8e6a)>

In assessing whether an EP meets the criteria set out in Regulation 10A, NOPSEMA has regard to the information in the EP which is required to be included in accordance with the Regulations discussed below.

Subregulation 16(b) specifies that a report on all consultations between the titleholder and any relevant person for regulation 11A, is to be included in the EP.

Under 11A, relevant persons must be consulted with and be provided with 'sufficient information' and a 'reasonable period' for consultation to be undertaken.

Therefore the Regulator must be reasonably satisfied that:

- the consultation report contains the information specified under subregulation 16(b),
- that this report demonstrates that the titleholder has carried out consultation in accordance with regulation 11A, and
- that the measures (if any) that the titleholder has adopted, or proposes to adopt, because of the consultations are appropriate.

The Regulator will only be able to determine that the consultation provisions of the Environment Regulations have been met when all of three of the above points have been satisfactorily addressed in an EP.

### 3.1 Relevant persons

Subregulation 11A(1) of the Environment Regulations provides:

*(1) In the course of preparing an environment plan, or a revision of an environment plan, a titleholder must consult each of the following (a relevant person):*

*(a) each Department or agency of the Commonwealth to which the activities to be carried out under the environment plan, or the revision of the environment plan, may be relevant;*

*(b) each Department or agency of a State or the Northern Territory to which the activities to be carried out under the environment plan, or the revision of the environment plan, may be relevant;*

*(c) the Department of the responsible State Minister, or the responsible Northern Territory Minister;*

*(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;*

*(e) any other person or organisation that the titleholder considers relevant.*

Regulation 11A requires that government organisations, persons and organisations must be consulted when their activities 'may' be relevant or when their functions, interests or activities 'may' be affected. Therefore the entity does not need to establish that they *are* relevant, or that their functions, interests or activities *will* be affected – simply that they *may* be.

The relevancy or otherwise of the person or organisation must be determined on a case-by-case basis as it requires consideration of the nature and extent of the possible impacts arising from the activity.

Relevancy implies that there exists a reasonable connection or relationship to the activity in question. Factors such as the nature of the activity, description of the environment in which the activity is being undertaken and the possible impacts and risks of the activity should be taken into account when determining whether a reasonable connection exists between the activity, and potential relevant person(s).

The Environment Regulations place an onus on titleholders to consult with relevant persons. However, how the titleholder identifies relevant persons may be influenced by people or organisations making themselves known to the titleholder and outlining their relevance to the proposed activity. To demonstrate their relevance, persons or organisations who consider they should be consulted on a proposed activity

should communicate to the titleholder how their functions, interests and activities may be affected by the proposed activity. This is discussed in further detail below.

### 3.1.1 Functions, interests or activities

It is NOPSEMA's role to assess whether the titleholder has consulted with a relevant person whose functions, interests or activities may be affected by the activities to be carried out under the EP. In making its determination as to whether the titleholder has consulted with relevant persons, NOPSEMA will consider the manner in which the environmental impacts and risks of the proposed activity may produce an effect or change in the functions, interests or activities of persons or organisations.

The terms 'functions', 'interests' or 'activities' may be considered as three separate tests which must be applied to all potential relevant persons to ensure the titleholder complies with consultation requirements under regulation 11A.

The Environment Regulations do not define the terms **functions**, **interests** or **activities**, however these terms are important in determining whether a person or organisation is a relevant person or not. Several common definitions of these terms are provided below. These are by no means exclusive and do not represent a statutory interpretation of these terms, but are intended to provide a guide in determining whether a particular person or organisation may be a relevant person. Titleholders should consider the particular circumstances of an activity when coming to a determination as to who may be a relevant person that may be affected by that activity.

**Functions** – a person or organisation's power, duty, authority or responsibilities,<sup>5</sup> or;  
an activity that is natural to or the purpose of a person or thing.<sup>6</sup>

**Interests** – a person or organisation's rights, advantages, duties, and liabilities,<sup>7</sup> or;  
a group or organisation having a common concern.<sup>8</sup>

**Activities** – a thing that a person or group does or has done.<sup>9</sup>

As discussed previously, people or organisations who wish to be consulted as relevant persons should demonstrate how their functions, interests or activities may be affected by the environmental impacts and risks of a proposed activity. This will enable the titleholder to consider those factors in order to make an informed assessment as to how they will engage with the person or organisation in question.

Where a relevant person has extensive dealings with titleholders, consideration should be given to the development of guidance detailing their functions, interests and activities and how and when they wish to be consulted on activities. This will assist both titleholders and relevant persons in ensuring that appropriate and relevant consultation occurs.

Regulation 11A could potentially encompass a broad range of persons or organisations. No category of persons or organisations should be excluded when considering which persons must be consulted with and an assessment of relevant persons should be undertaken for each proposed activity.

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<sup>5</sup> *Butterworths Concise Australian Legal Dictionary*, Third Edition, Lexis Nexis Butterworths, 2004.

<sup>6</sup> *Oxford English Dictionary*, Oxford University Press 2014. Available online at <[www.oxforddictionaries.com](http://www.oxforddictionaries.com)>

<sup>7</sup> Above n 5.

<sup>8</sup> Above n 6. Definition of 'Interest' (noun).

<sup>9</sup> Above n 6. Definition of 'activity' (noun).

## 3.2 Provision of information and time

Consultation is not an isolated action to be undertaken, but a process to be developed and implemented. The requirement that sufficient information and a reasonable time be provided to relevant persons ensures that such persons are able to make an informed assessment of the possible consequence of the proposed activity on their functions, interests or activities.

### 3.2.1 Sufficient information

Subregulation 11A(2) of the Environment Regulations provides that:

*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.*

When considering what will constitute the provision of ‘sufficient information’, titleholders should have regard to factors including the ‘functions, interests and activities’ of the relevant person, as well as economic, cultural and social factors which may influence their response.

It may not be appropriate to provide all relevant persons with the same type and amount of information. Factors such as the nature and scale of the activity and its associated impacts and risks will influence how relevant persons may be affected. It is therefore important that titleholders consider the potential impacts of their activity on the particular functions, interests and activities of each relevant person to ensure that sufficient and appropriate information is provided.

The sufficiency of information provided to the person or organisation being consulted is a matter which must be demonstrated by the titleholder in their EP<sup>10</sup>. It is important in this respect that the EP demonstrates *why* the information provided to relevant persons is sufficient in the context of the activity and the person concerned.

Relevant persons should consider whether the information provided has been sufficient and if not, state the grounds on which additional information should be provided.

Consultation with relevant persons is a key step in the development of an EP that informs the external context of an activity and subsequent management of environmental impacts and risks. It is unlikely that an EP will be finalised until effective consultation with relevant persons has been undertaken.

In addition, EPs are technical documents which may contain sensitive or confidential information about an activity. For these reasons, it may not be practicable or feasible for a titleholder to provide a full copy of an EP to a relevant person.

It is therefore important that relevant persons clearly articulate how they think an activity may affect their functions, interests or activities. Where necessary, the relevant parties may request further appropriate information to inform an assessment of potential effects of the activity.

NOPSEMA will assess all information available in determining whether the requirements of the Environment Regulations have been met.

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<sup>10</sup> Explanatory Statement to the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations, 2011.

### 3.2.2 Reasonable period

Subregulation 11A(3) of the Environment Regulations requires that:

*The titleholder must allow a relevant person a reasonable period for the consultation.*

The reasonableness of the period provided for the consultation to occur will be assessed on a case-by-case basis. Consideration should be given to any guidance issued by a person or organisation concerning how they expect to be consulted, having regard to the functions, interests and activities of the person or organisation.

The nature, scale and complexity of an activity as well as the extent and severity of potential impacts and risks will also influence the amount of time that may constitute a reasonable period for consultation.

The titleholder should demonstrate in their EP why the period provided to each relevant person has been reasonable in the circumstances. The titleholder should also advise NOPSEMA of any other factors to be taken into account in assessment of whether a reasonable period has been afforded to each relevant person.

### 3.3 Assess the merits of objections or claims

Subregulation 16 (b)(ii) of the Environment Regulations requires that the EP include a report on consultations between the titleholder and any relevant person that contains:

*an assessment of the merits of any objection or claim about the adverse impact of each activity to which the environment plan relates.*

Titleholders are not required to explicitly agree or disagree with objections or claims however the EP should include a full and complete demonstration of how objections or claims have been considered and how the merits of these objections and claims have been assessed. The objections or claims raised by relevant persons are a mechanism for titleholders to ensure that potentially adverse impacts of the activity are identified and mitigated through the application of appropriate control measures.

Relevant persons should ensure that any objections or claims raised are supported by appropriate evidence so that they can be appropriately assessed and addressed by the titleholder.

NOPSEMA requires all relevant information to determine whether the merits of any objection or claim have been appropriately assessed.

### 3.4 Responding to objections or claims

Subregulation 16 (b)(iii) of the Environment Regulations requires that titleholders include in the EP

*a statement of the titleholders response or proposed response, if any, to each objection or claim.*

Having received feedback from relevant persons in the course of the consultation process and assessed the merits of objections or claims, titleholders are required to adopt measures to address the objections and claims.

It is important to note that a response or proposed response in this context refers to the control measures that the titleholder has adopted or will adopt to manage a particular environmental impact or risk that has been raised through an objection or claim as opposed to providing a verbal or written response to the relevant person.

This is supported by the criteria for acceptance of an EP set out in subregulation 10A(g) which require an EP to demonstrate that:

- (i) the titleholder has carried out the consultations required by Division 2.2A; and*
- (ii) the measures(if any) that the titleholder has adopted or proposes to adopt, because of the consultations are appropriate.*

To support a demonstration that control measures are appropriate the titleholder should ensure that:

- the control measures adopted to address any objection or claim have been communicated to an affected person, and
- the person is satisfied that the control measures are appropriate to address their objection or claim.

Evidence that relevant persons are satisfied with the control measures adopted should be documented in an EP to assist the titleholder in demonstrating that measures are appropriate. NOPSEMA acknowledges that relevant persons may not always agree that control measures adopted are appropriate. In this case it is up to the titleholder to demonstrate in the EP that the selected control measures have reduced environmental impacts and risks to as low as reasonably practicable. NOPSEMA will make its assessment based on all information available when determining whether measures adopted are appropriate.

### 3.5 Documentation of consultation undertaken

Each EP must document the entire consultation process undertaken on the proposed activity to ensure transparency in the consultation process. Although the Environment Regulations require that certain aspects of the process be explicitly contained in the 'consultation report' section of the EP, NOPSEMA will consider the entire EP when making its determinations as to whether consultation has been appropriate.

As noted above, pursuant to regulation 10A, NOPSEMA is required to be 'reasonably satisfied' that the EP demonstrates that consultation has been undertaken in accordance with the requirements of Division 2.2A of the Environment Regulations. This determination must be informed by consideration of the EP as a whole.

Subregulation 16(b) of the Environment Regulations requires that a report on *all* consultations between the titleholder and any relevant person be included in the EP that contains:

- (i) a summary of each response made by a relevant person; and*
- (ii) an assessment of the merits of any objection or claim about the adverse impact of each activity to which the environment plan relates; and*
- (iii) a statement of the titleholder's response, or proposed response, if any, to each objection or claim; and*
- (iv) a copy of the full text of any response by a relevant person*

The requirements of subregulation 16(b)(ii) and (iii) have been discussed at sections 3.3 and 3.4 above.

Subregulation 16(b)(i) of the Environment Regulations requires that the titleholder document a summary of each response made by a relevant person.

As titleholders are required to also state their response or proposed response for 'each' objection or claim raised by a relevant person in their EP, it is appropriate that the summary at subregulation 16(b)(i) identify and isolate the individual objections or claims. This may assist the titleholder in demonstrating that they have fulfilled their obligation to provide a response or proposed response to each objection or claim raised by a relevant person.

Subregulation 16(b)(iv) of the Environment Regulations requires that titleholders include a copy of the full text of any response by a relevant person in the consultation report of the EP. In this case a response refers to all written correspondence received by the titleholder from a relevant person during the consultation process. NOPSEMA interprets the term 'full text' to mean an unedited version of the correspondence received without redacted or modified text.

The 2011 Explanatory Statement to the Environment Regulations provides that the consultation report should 'promote transparency of all levels of consultation undertaken.' Where practicable, titleholders should document in written form all communications undertaken between themselves and relevant persons. This might require documenting the minutes of meetings, undertaking written communications wherever practicable and requesting that responses from relevant persons be provided in writing.

The process of documenting all responses from relevant persons will enable NOPSEMA to make an accurate and appropriate assessment of the consultation undertaken on the proposed activity.

Relevant persons should ensure that any response to a titleholder clearly articulates objections and claims and is provided in writing so that it can be included in an EP for assessment by NOPSEMA.

### 3.6 Ongoing consultation

Subregulation 14(9) of the Environment Regulations outlines that the implementation strategy in the EP must provide for appropriate consultation with:

- (a) relevant authorities of the Commonwealth, a State or Territory; and*
- (b) other relevant interested persons or organisations.*

The implementation strategy for the EP should therefore demonstrate ongoing arrangements for consultation with relevant persons. Ongoing consultation is an important mechanism for continued engagement with relevant persons over the life of an activity. This is particularly relevant where an activity may take place over a number of years or where multiple activities in different locations are proposed under an EP. Titleholders should ensure that a clear process is documented in the EP which allows for ongoing identification and engagement with relevant persons. The requirements for consultation in preparation of an EP should be considered in the development of a process for ongoing consultation so that relevant persons are consistently provided with sufficient information and time to make an informed assessment. The process should also ensure that objections and claims raised in relation to ongoing activities are appropriately assessed and managed.

Where ongoing consultation identifies new or increased environmental impacts or risks for an activity, the titleholder should modify management of the activity and apply additional controls where appropriate. In all cases the revision provisions of regulation 17 of the Environment Regulations apply and titleholders must submit a proposed revision of an EP where the criteria for revision are met.

### 3.7 Publication of summarised information

In accordance with subregulation 11(3) of the Environment Regulations, titleholders must submit to NOPSEMA a summary of the EP for public disclosure within 10 days of receiving a notification of EP acceptance.

Subregulation 11(4) provides that, amongst other things, the summary must include details of, 'consultation already undertaken and plans for ongoing consultation'. The summary must be to the satisfaction of the Regulator.

The EP summary is the primary mechanism for the titleholder to demonstrate to relevant persons and the general public that the environmental impacts and risks of an activity are being appropriately managed. By including a detailed summary of the consultation process undertaken and the outcomes of that process the titleholder can ensure that transparency is maintained for all stakeholders.

For an EP summary to be to NOPSEMA's satisfaction, titleholders should provide details of consultation already undertaken. The EP summary should enable relevant persons and the general public to make an informed assessment as to how objections or claims raised about an activity have been addressed. It should also outline all agreed arrangements for ongoing consultations with relevant persons and outline triggers for when further input from relevant persons will be sought by the titleholder regarding the activity in question.

Interested persons are able to locate information pertaining to EPs submitted and accepted by NOPSEMA at [nopsema.gov.au](http://nopsema.gov.au)

## 4 Critical factors for success

The below table summarises the key considerations for titleholders and relevant persons in ensuring that consultation processes for environment plans are successful.

Document section	Considerations for Titleholders	Considerations for Relevant Persons
<b>2 – Consultation as a process</b>	<ul style="list-style-type: none"> <li>• Consultation should be approached as an ongoing mechanism for addressing the impacts and risks associated with offshore petroleum activities.</li> <li>• Consultation should occur at both the planning stage of an activity, as well as throughout the life of the activity.</li> </ul>	<ul style="list-style-type: none"> <li>• Clearly communicate to titleholders how and when you wish to be consulted both prior to and during an activity.</li> </ul>
<b>2.1 - Principles of the consultation process</b>	<ul style="list-style-type: none"> <li>• A consultation process should ensure open and effective engagement with relevant persons through communication, transparency, collaboration, inclusiveness and integrity.</li> </ul>	<ul style="list-style-type: none"> <li>• Approach consultation with titleholders openly and collaboratively such that potential impacts to your functions, interests and activities can be identified and assessed.</li> </ul>
<b>3.1 – Relevant Persons</b>	<ul style="list-style-type: none"> <li>• Relevant persons are persons or organisations whose ‘functions, interests or activities’ <i>may</i> be affected by the activities to be carried out under the EP.</li> <li>• No category of persons or organisations should be excluded when considering which persons must be consulted with.</li> <li>• Titleholders should have regard to guidance issued by a person or organisation concerning how they expect to be consulted.</li> <li>• An assessment of relevant persons should be undertaken for each proposed activity.</li> </ul>	<ul style="list-style-type: none"> <li>• To demonstrate relevance, persons or organisations who consider they should be consulted on a proposed activity should communicate to the titleholder how they believe their functions, interests and activities may be affected by a proposed activity.</li> <li>• Relevant persons who have extensive dealings with titleholders should consider developing guidance on how and when they wish to be consulted.</li> </ul>
<b>3.2 - Provision of information and time</b>	<ul style="list-style-type: none"> <li>• Titleholders should consider the effect of their activity on the particular functions, interests and activities of each relevant person to ensure that sufficient and appropriate information is provided.</li> <li>• In most cases it will not be appropriate to provide all relevant persons with the same type and amount of information.</li> <li>• The nature, scale and complexity of an activity as well as the extent and severity of potential impacts and risks will influence the amount of time that may constitute a</li> </ul>	<ul style="list-style-type: none"> <li>• Where a relevant person believes that information provided by a titleholder is insufficient to make an informed assessment they should communicate to the titleholder in writing the grounds upon which they consider they should be provided additional information.</li> <li>• It is not always practicable or feasible for a titleholder to provide a full copy of an EP to a relevant person.</li> </ul>

	<p>reasonable period for consultation.</p> <ul style="list-style-type: none"> <li>An EP must demonstrate why the information and time period provided to relevant persons is sufficient in the context of the activity and the person concerned.</li> </ul>	
<p><b>3.3 – Assess the merits of objections or claims</b></p>	<ul style="list-style-type: none"> <li>Titleholders are not required to agree or disagree with objections or claims raised about an activity.</li> <li>An EP must include a full demonstration of how the merits of objections or claims have been assessed.</li> <li>The objections or claims raised by relevant persons are a mechanism for titleholders to ensure that adverse impacts of the activity are identified and mitigated.</li> <li>Titleholders should demonstrate that additional control measures have been adopted where appropriate.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that any objections or claims are supported by appropriate evidence.</li> <li>Objections or claims should focus on the potential environmental impacts and risks of the activity</li> </ul>
<p><b>3.4 – Responding to objections or claims</b></p>	<ul style="list-style-type: none"> <li>A response or proposed response to an objection or claim refers to the control measures that the titleholder has adopted or will adopt to manage a particular environmental impact or risk.</li> <li>In most cases a titleholder will need to ensure that the measures adopted to address any objection or claim have been communicated to an affected person.</li> <li>Evidence that relevant persons are satisfied with the measures adopted should be documented in an EP such that the titleholder can demonstrate that those measures are appropriate.</li> </ul>	<ul style="list-style-type: none"> <li>Relevant persons should consider the control measures put in place by a titleholder to address their objection or claim and provide a written response to the titleholder to indicate whether they are satisfied that their objection or claim has been adequately addressed.</li> </ul>
<p><b>3.5 - Documentation of consultation undertaken</b></p>	<ul style="list-style-type: none"> <li>A summary of responses from relevant persons should identify and isolate the individual objections or claims of the relevant person.</li> <li>Full text means an unedited version of correspondence received without redacted or modified text.</li> <li>Where practicable, titleholders should document in written form communications undertaken between themselves and relevant persons.</li> </ul>	<ul style="list-style-type: none"> <li>Relevant persons should ensure that any response to a titleholder clearly articulates objections and claims and is provided in writing such that it can be included in an EP for assessment by NOPSEMA.</li> </ul>

<p align="center"><b>3.6 – Ongoing Consultation</b></p>	<ul style="list-style-type: none"> <li>• Ongoing consultation is an important mechanism for continued engagement with relevant persons over the life of an activity.</li> <li>• Ongoing consultation is particularly important where an activity may take place over a number of years or where multiple activities in different locations are proposed under an EP.</li> <li>• Titleholders should ensure that a clear process is documented in the EP which allows for ongoing identification and engagement with relevant persons.</li> <li>• The requirements for consultation in preparation of an EP should be considered in the development of a process for ongoing consultation.</li> <li>• Where ongoing consultation identifies new or increased environmental impacts or risks for an activity the revision provisions for an EP under regulation 17 apply.</li> </ul>	<ul style="list-style-type: none"> <li>• Relevant persons should agree with titleholders how and when they wish to be consulted during the life of an activity</li> </ul>
<p align="center"><b>3.7 - Publication of summarised information</b></p>	<ul style="list-style-type: none"> <li>• The EP summary is the primary mechanism for the titleholder to demonstrate to relevant persons and the general public that the environmental impacts and risks of an activity are being appropriately managed.</li> <li>• For an EP summary to be acceptable to NOPSEMA it should enable relevant persons and the general public to make an informed assessment as to how objections or claims raised about an activity have been addressed.</li> <li>• An EP summary should outline agreed arrangements for ongoing consultation with relevant persons.</li> </ul>	

## 5 References and further reading

### Legislation and explanatory documentation

*Offshore Petroleum and Greenhouse Gas Storage Act 2006*

Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009

Explanatory Statement to the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations, 2011.

### Other sources

*Butterworths Concise Australian Legal Dictionary*, Third Edition, Lexis Nexis Butterworths, 2004.

ISO 26 000:2010; Social Responsibility

*Oxford English Dictionary*, Oxford University Press, 2014. Available online at:  
<http://www.oxforddictionaries.com/>

‘Principles for Engagement with Communities and Stakeholders’, Ministerial Council on Mineral and Petroleum Resources, 2005, available online at:

[http://www.pir.sa.gov.au/\\_\\_data/assets/pdf\\_file/0020/41735/mcmpr\\_principles\\_nov05.pdf](http://www.pir.sa.gov.au/__data/assets/pdf_file/0020/41735/mcmpr_principles_nov05.pdf)

Guidance to assist titleholders to determine which Australian Government agencies might be considered relevant for consultation purposes under the OPGGS Act in developing or revising their environment submissions available on the Department of Environment website at:

<http://www.environment.gov.au/node/25719>

### NOPSEMA Documents

N-04000-PL0050 – Policy - Assessment

N-04750-PL1347 – Policy - Environment Assessment Policy

N-04750-GN1343 – Guidance Note - Petroleum Activities

N-04750-GN1344 – Guidance Note – Environment Plan Content Requirements

N-04750-GN1448 – Environment Plan Summaries

### Note:

All references to Regulations contained within this Information Paper are to the Commonwealth Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009. All references to ‘the Act’ contained in this Information Paper are to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.