



Environmental Defenders Office

17 November 2021

Stuart Smith
Chief Executive Officer
National Offshore Petroleum Safety and Environmental Management Authority
10 Mounts Bay Road
PERTH WA 6000

By email: [REDACTED]

Dear Mr Smith

Barossa Development Drilling Environment Plan

1. We act for the Environment Centre Northern Territory Inc (**ECNT**) in respect of the above matter.
2. We refer to the draft Environment Plan submitted by Santos Ltd (**Santos**) to NOPSEMA on 6 October 2021 for the Barossa Development Drilling and Completions activity (**Drilling EP**). The activity forms part of the Barossa Offshore Gas Project (**Project**).
3. Our client asserts that it is a relevant person within the meaning of cl 11A of the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (Cth) (**Environment Regulations**). Our client asserts that its status as a relevant person has been accepted by Santos through its action in recognising ECNT as a stakeholder and purporting to consult with it pursuant to the Environment Regulations (see **attached** correspondence from Santos to ECNT dated 18 May 2021).
4. Our client considers that the information provided to it by Santos to date falls short of the consultation required in relation to the activities the subject of the Drilling EP under cl 11A of the Environment Regulations and that the Drilling EP does not meet the criteria in cl 10A of the Environment Regulations.

Nature of engagement

5. Our client has asserted, and continues to assert, that it is a relevant person in relation to the Project and the Drilling EP.

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6. Santos refers to our client in the Drilling EP as having written to Santos requesting to be consulted (p 90). ECNT's assertion of its status as a relevant person is acknowledged on p 103 of the Drilling EP however Santos' response to this "claim" on p 106 is only that it is aware of its obligations under the Environment Regulations. We note that this position appears to be contrary to the statements contained in the **attached** letter from Santos to ECNT dated 18 May 2021, in which Santos confirmed that it would consult with our client in accordance with the Environment Regulations (that is, as a relevant person under cl.11A).
7. ECNT reiterates that it is a relevant person for the Drilling EP and the Project more broadly.

Nature of proposed activity

8. The information provided to ECNT was narrowly limited to the drilling component of the Project, despite numerous specific requests for Santos to confirm information and provide further and updated details about the Project. This includes requests for information on the pipeline connecting the drilling infrastructure to onshore facilities, details of the greenhouse gas emissions of the Project over its lifetime and confirmation as to the use of carbon capture and storage.
9. ECNT reiterates that drilling is not an independent activity separate to the Project. The Project cannot occur without this activity. The specific details of the drilling determine the potential impacts and risks of the Project. It is a necessary component and integral to the Project.
10. In this regard, we note that the Federal Court has recently held that such ancillary but necessary components of projects are required to be assessed as part of the project as whole. In *Australian Conservation Foundation Inc v Minister for the Environment* [2021] FCA 550, the Court held that the North Galilee Water Scheme Project was an ancillary activity to the Carmichael Coal Mine Project rather than a separate and independent action under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). The Court made it clear that assessment ought not be limited to a narrow sense of individuated operations when those operations are so connected and closely associated as to be integral to a broader project. Our client considers that the same approach should be applied here to the drilling activity.
11. While distinct activities may require separate EPs under the Environment Regulations, our client expects that the impacts and risks of those activities (and the necessary consultation) should not be unduly narrowed to exclude key aspects of the Project and determination of control measures which may, if possible, make those impacts acceptable and as low as reasonably practicable.

Sufficient information not provided

12. Clauses 11A(2) and (3) of the Environment Regulations require Santos to provide ECNT with "sufficient information" to allow it to make an informed assessment of the possible consequences of the activities the subject of the Drilling EP on ECNT's functions, interests and activities.

Greenhouse gas emissions

13. ECNT is concerned that it has not received sufficient information about the greenhouse gas emissions and climate change impacts and risks of the Project.

14. As outlined above, Santos limited the information provided to only that which relates to the drilling component of the Project. ECNT cannot understand how these emissions will affect its interests, functions and activities without the context and detail of the greenhouse gas emissions associated with the production, processing and consumption of the gas, which development drilling is designed to support.
15. ECNT reiterates that it requires confirmation of the total greenhouse gas emissions of the Project, the warming scenarios with which the Project and those emissions are consistent, and any proposed control measures such as CCS or offsets. ECNT does not consider that the Drilling EP fulfils the criteria in cl 10A(g) of the Environment Regulations in this regard.
16. ECNT requested that Santos provide details of risk assessment of climate change impacts on the Project itself. Santos did not provide any assessments and only a general statement that it undertakes climate change risk assessments across all areas of its operations. Our client is concerned that this information, again limited only to the drilling component of the Project, does not demonstrate that impacts and risks have been managed to acceptable levels nor as low as reasonably practicable as required by cl 10A(b)-(c) of the Environment Regulations. The location and design of infrastructure such as wells and pipelines is directly relevant to the extent of physical risks to the Project itself and these should be fully considered and addressed before activities commence.
17. ECNT notes that Santos provided a figure for estimated greenhouse gas emissions specifically limited to drilling activities – 166,000 tonnes CO₂-e. This figure is not included anywhere in the Drilling EP. Our client therefore considers that the EP does not show that the impacts and risks of this significant contribution to climate change have been managed to acceptable levels nor as low as reasonably practicable as required by cl 10A(b)-(c) of the Environment Regulations.
18. ECNT also notes that Santos characterises the impact and risk of its greenhouse gas emissions as a contribution to “national greenhouse gas levels”. This misunderstands climate change as a global phenomenon and that all emissions increase warming and so cause environmental harm. In our client’s view, a control measure requiring that this new source of greenhouse gas emissions be made net zero over its lifetime (either through avoidance or reduction measures, or offsets as a last resort) is necessary to ensure the impacts and risks of the Project are acceptable and as low as reasonably practicable as required by cl 10A(b)-(c) of the Environment Regulations.

Hydrocarbon spill impacts

19. ECNT requested detailed information about the marine environment and coastal communities and environments that may be affected by hydrocarbon spills from the Project. While Santos confirmed its assessment of the relative likelihood of spills, ECNT does not consider that the information provided adequately addresses the magnitude and types of risk and impact particularly where the exposure values were assessed as “high” (i.e. the Arafura Shelf).
20. As discussed above, design of infrastructure such as wells and pipelines is directly relevant to potential hydrocarbon spill risks and impacts and these should be fully considered and addressed before activities commence.

21. As outlined further below, ECNT is also concerned that the Drilling EP does not demonstrate consultation with Tiwi Island communities potentially affected by a hydrocarbon spill associated with the Project as required by cl 10A(g) of the Environment Regulations.

Next steps

22. Our client looks forward to proper engagement with Santos in respect of the Drilling EP and the broader Project in accordance with the Environment Regulations.

23. Our client submits that, in light of our client's concerns, NOPSEMA should:

- a. Request under cl 9A or 9AC of the Environment Regulations that Santos provide further information on the greenhouse gas emissions, hydrocarbon spill impacts and cultural heritage impacts associated with the Drilling EP and the Project; and
- b. Not accept the current draft Drilling EP until consultation has been properly undertaken with all relevant persons and Santos has demonstrated that the impacts and risks of the activity the subject of the Drilling EP are acceptable and as low as reasonably practicable.

Please contact us at ruby.hamilton@edo.org.au should you wish to discuss the content of this letter.

Yours sincerely,

Environmental Defenders Office



Ruby Hamilton
Solicitor, Safe Climate (Gas & Corporate)

Copy to: Michael Marren
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