



WAFIC

WESTERN AUSTRALIAN FISHING
INDUSTRY COUNCIL INC

COMMERCIAL FISHING CONSULTATION FRAMEWORK FOR THE OFFSHORE OIL AND GAS SECTOR

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BACKGROUND

Activities such as seismic surveys, drilling, exploration, construction and installation of subsea infrastructure, and decommissioning are all offshore oil and gas industry requirements. These activities have the potential to affect commercially important aquatic organisms, their prey and habitats, the business activities of commercial fishers, and food security for the broader community.

There is an ongoing challenge in undertaking effective consultation with the commercial fishing industry in the development of Environment Plans (EP) managed through the National Offshore Petroleum Safety and Environment Management Authority (NOPSEMA) in Commonwealth waters, and other various State Government agency regulators in State waters. As part of EP submissions, titleholders must demonstrate they have consulted with 'relevant persons' whose functions, interests, or activities may be affected by the proposed activity.

The commercial fishing industry is the largest group of relevant persons to potentially be impacted by offshore oil and gas activities. The Western Australian Fishing Industry Council (WAFIC) has developed this framework to streamline consultation requirements and deliver conducive outcomes for the commercial fishing industry.

WAFIC is the peak industry body representing commercial fishing, pearling and aquaculture enterprises, processors, and exporters in Western Australia (WA)¹. It works in partnership with Government to secure a responsible and sustainable industry, set management directions and provides advocacy and representation on significant matters affecting WA's commercial fishing industry.

Purpose

This document provides best practice consultation principles and guidelines for oil and gas titleholders with the commercial fishing industry. Titleholders are expected to read this guideline before consulting with the commercial fishing industry and representative bodies. It should be read in conjunction with NOPSEMA's [*'Consultation in the course of preparing an environment plan'*](#) guideline.

¹ For Commonwealth Managed Fisheries that operate in WA waters clarification on consultation should be directed through the Commonwealth Fisheries Association, Tuna Australia, Australian Southern Bluefin Tuna Industry Association, Northern Prawn Fishing Industry Association or Australian Fisheries Management Authority

BEST PRACTICE CONSULTATION PRINCIPLES

Consultation should be a genuine and meaningful two-way dialogue in which the commercial fishing industry is given sufficient information and reasonable time to make an informed assessment of how the proposed activity might impact on their functions, interests, and activities. This guideline adopts five key principles to guide consultation with the commercial fishing industry in State and Commonwealth waters in WA.

Early Engagement

Early engagement in preliminary planning stages is essential to minimise impacts to the commercial fishing industry. If consultation is undertaken in the early planning stages, before any operational dates and designs are established, there is a greater opportunity to assess and address areas of concern. Identified issues can be negotiated with a view of achieving better outcomes for all relevant persons.

While early engagement is critical, consultation of an offshore project should be a continuous process through all stages of the regulatory and project life cycle.

Genuine Consultation

Genuine consultation is expressed through the ability to negotiate in good faith around areas of concern and is supported by transparency and mutual respect. Titleholders must demonstrate a genuine desire to co-design a consultation approach which is mutually beneficial for the commercial fishing industry. Titleholders have a responsibility to be accountable for the impacts they impose on commercial fishing operations and ensure there are opportunities for feedback to be received and implemented.

Proportional Consultation

The level of consultation should be proportionate to the type and scale of proposed activity, and the likelihood of impacts on the commercial fishing industry.

Timeframes for consultation should be realistic to allow the commercial fishing industry sufficient time to provide a considered response, including time for representative bodies to contact licence holders. Depending on the significance of the proposed activity, between 30 to 60 days is usually appropriate for effective consultation, with 30 days considered the minimum. Holiday periods and the end of financial year should be avoided, and titleholders should consider whether there is scope to delay consultation until alternative times in the year or provide longer consultation periods during these times.

Fit for Purpose

Information provided to the commercial fishing industry and peak industry bodies should be easy to understand – it should be in an accessible format which is easy to read, be written in plain language and clarify the key issues, particularly when the information is complex in nature. Written consultation should include summaries to allow commercial fishers to quickly assess whether the information is relevant to them and provide an appropriate level of information to easily identify and quantify impacts.

Impact Minimisation

Titleholders must plan for impact avoidance or, where this is not possible, minimise impacts to the commercial fishing industry as low as reasonably possible (ALARP). This planning should include impact assessments based on up-to-date science and relevant evidence from past activities, risk management strategies, and the implementation of suitable controls to mitigate potential impacts.

Titleholders should be continuously exploring new strategies for impact avoidance.

CONSULTATION GUIDELINES

- Stakeholder engagement must be undertaken in the early stages of planning before any operational dates are established and decisions made. WAFIC's preference is that titleholders engage with the commercial fishing industry during both the offshore project proposal and Environment Plan (EP) assessment processes.
- Titleholders are responsible for identifying the distribution list of relevant fisheries impacted by proposed activities (See Appendix 1 – Fisheries Data Access for information on determining relevant fisheries). WAFIC requests titleholders develop a separate consultation strategy for fisheries impacted by unplanned events (e.g. oil spills) (See [WAFIC's Consultation Approach for Unplanned Events](#) for more information).
- Information provided to the commercial fishing sector must be tailored for each activity and relevant to the commercial fishing industry. Information should be concise, use simple language and clearly state upfront the reason for consultation. Consultation should include at minimum:
 - An activity summary so commercial fishers can quickly assess whether the information is relevant to them.
 - Map of proposed activity that includes operational areas, relevant fishery boundaries, bathymetric contours (20-40m intervals for depth <100m and 100m intervals for depth >100m), latitudes and longitudes, and distance to the coast. Note titleholders may need to prepare multiple maps.
 - Spatial data which is technically compatible with commercial fishing vessels so operational areas can be uploaded into vessel navigation systems, including a table of latitude and longitude coordinates.
 - Water depths.
 - Estimated timing and duration of the proposed activity.
 - Location and information on exclusion and cautionary zones.
 - Summary of early engagement outcomes and negotiations.
 - Impacts to commercial fishers and aquatic resources, and mitigation measures to ensure impacts are acceptable and ALARP.
 - Volumetric array for seismic surveys.
 - Compensation adjustment options, if applicable.
 - All other relevant information.
- The objectives of the consultation process should be clear from the outset. To avoid creating unrealistic expectations, any aspects of the proposed activity that has already been finalised and not subject to change should be clearly stated.
- Titleholders must identify any potential impacts to the commercial fishing sector upfront, including proposed mitigation measures to ensure impacts are acceptable and ALARP.
- Titleholders should reference the breeding stock assessment status for relevant aquatic organisms obtained by the agency responsible for the management of fisheries. If there are sustainability concerns with the breeding stock or biomass, discussions with relevant scientists should be undertaken.
- The commercial fishing industry requests a commitment from titleholders to assess the cumulative impacts the industry faces on an ongoing basis. This includes consideration for:
 - Suitability of proposed activity location

- Cumulative impacts on aquatic organisms and aquatic environments (including any activity that intersects with the operational area)
- Patterns of commercial fishing activity and likelihood of displacement.
- Suitability of proposed activity timing
 - Reproduction and moulting phases for aquatic organisms.
 - Peak fishing periods.
 - Commercial fishing closures.
- Spatial distribution and intensity of fishing operations can be highly variable over time. Titleholders should recognise that low or no fishing activity in an area does not mean there will be none in the future or that the impacts from activities will not impact the industry.
- To avoid over consulting commercial fishers, WAFIC requests titleholders do not directly consult individual licence holders without advice from WAFIC. Representative bodies are best placed to assess titleholders' identification of relevant fisheries that have a genuine level of exposure to potential impacts from offshore projects. Timing of consultation is also an important consideration as multiple notifications to individual licence holders within a week is not genuine and meaningful consultation.
- Titleholders should consider that a 'no reply' from commercial fishers does not indicate a lack of interest or lack of potential impact to fishing operations. In many instances, consultation fatigue and cumulative pressures from concurrent offshore oil and gas EP consultations does not provide a suitable environment for effective engagement. Titleholders must show genuine desire to co-design a consultation approach which is mutually beneficial for the commercial fishing industry.
- The commercial fishing industry expects there is zero recreational fishing from any associated oil, gas, or seismic vessel, including support vessels. This policy should be included in the EP and clearly communicated to vessel operators, contractors, and subcontractors.

FEE-FOR-SERVICE

WAFIC offers fee-for-service to assist titleholders in consultation with the fishing industry. As part of this service, WAFIC advises the best way to consult with individual licence holders that benefits both industries. WAFIC will give titleholders utilising this service priority over others, particularly over those that have not adapted their consultation strategy for the fishing industry.

Fee-for-service details are available on request.

SEISMIC SURVEY CONSULTATION

The commercial fishing industry seeks the following requirements regarding seismic surveys in both State and Commonwealth waters. Consultation should begin a minimum of 12 months prior to the commencement of a planned seismic survey.

Window of Opportunity / Matrix

The titleholder is to include an assessment matrix that identifies the best possible 'window of opportunity' for a proposed seismic survey. This matrix should note peak spawning periods for key indicator species of each commercial fishery and fishing activity using commercially relevant data, via an accepted and approved process (See Appendix 1 – Fisheries Data Access).

Pre / Post Survey Environment Assessment

The titleholder should conduct an up-to-date scientific literature review on relevant fisheries and key indicator species, fish biology and spawning behaviour, seasonal patterns, stock assessment status, catch and effort data, baseline aquatic environment data and any other relevant information.

The commercial fishing industry objects to seismic surveys during peak spawning periods for key indicator species. If the titleholder cannot avoid peak spawning periods, the titleholder must demonstrate, using scientific published peer reviewed literature, why the chosen timing and location will have no adverse impacts on the commercial fishing industry and aquatic environment.

Cumulative Impacts

Early consultation and EPs must address cumulative impacts from seismic surveys on commercial fishing activity, aquatic organisms, and the aquatic environment. The titleholder is to provide the history of all seismic surveys which have taken place over all or part of the proposed survey area over the last ten years and include forward planned survey events.

Loss Adjustment

Titleholders must commit to a loss adjustment protocol for commercial fishers who are impacted by a seismic survey. Adjustment protocols developed for the National Energy Resources Australia (NERA) Collaboration Environment Plan should be considered. Any deviation from this protocol will require additional consultation with the commercial fishing industry and representative bodies.

Additional information is available online:

<https://www.nera.org.au/NERA-projects/Collaborative-Seismic-Environment-Plan-Project>

DECOMMISSIONING CONSULTATION

The commercial fishing industry seeks the following requirements regarding decommissioning of any offshore oil and gas infrastructure in both State and Commonwealth waters.

Objective

Oil and gas titleholders must ensure the decommissioning of any offshore oil and gas infrastructure minimises social, economic, and environmental impacts to the commercial fishing industry and the aquatic resource, or value adds at a population level. Titleholders should consider decommissioning at the earliest stages of project development and throughout the projects lifetime to ensure the continuation of fishing activity and its future viability.

Decommissioning

The commercial fishing industry requests titleholders consider the following points for total removal, partial removal and non-removal options for oil and gas infrastructure. These points should apply, unless otherwise agreed with the commercial fishing industry, or not demonstrated to be inconsistent with other applicable legal requirements and guidelines.

- No infrastructures to be left in-situ that presents a snagging risk to current or future fishing operations.
- WAFIC does not support the use of over trawlable structures due to safety risks.
- No material or contaminants that will present an unacceptable risk to aquatic resources or marine environments can remain in-situ.
- A benthic survey should be undertaken upon completion of decommissioning activities before removing infrastructure from navigational charts to ensure no infrastructure is left that presents a snagging risk to current or future fishing operations.
- Proposed decommissioning options should consider and include feedback from individual licence holders through consultation processes.
- Titleholders should not commit to artificial reef proposals until discussions with WAFIC have secured in-principal agreement.
- Due to the complexities of decommissioning, feedback from the commercial fishing industry, should be considered on a case-by-case basis.

APPENDIX 1: FISHERIES DATA ACCESS

The Status Reports of WA Fisheries and Aquatic Resources provides an annual update on the state of the fish stocks and other aquatic resources of WA. These reports outline the most recent assessments of the cumulative risk status for each of the aquatic resources within WA's six bioregions using an Ecosystem Based Fisheries Management approach. These reports are available via the following link:

<https://www.fish.wa.gov.au/About-Us/Publications/Pages/State-of-the-Fisheries-report.aspx>

The Department of Primary Industries and Regional Development (DPIRD) has an extensive range of scientific and grey literature available through their website. When preparing an EP, titleholders should undertake a literature review before consulting with relevant persons. This literature is available via the following link:

<https://www.fish.wa.gov.au/About-Us/Publications/Pages/default.aspx>

Spatial Data for WA Fisheries

Data WA is a central portal for WA Government data (available at <https://data.wa.gov.au/>) which provides public access to datasets containing spatial boundaries for all WA fisheries. Each feature relates to the management boundary of a specific type of fish/fishery/area or activity.

Titleholders should use this to identify relevant fisheries impacted by the operational area of a proposed activity.

Catch and Fishing Effort Data for WA Fisheries

To access catch information and fishing entitlement data for WA fisheries, titleholders must make a formal request to DPIRD, using the appropriate form.

How to make a request:

Download a data request form from:

<https://www.fish.wa.gov.au/Sustainability-and-Environment/Fisheries-Science/Stock-assessment-and-data-analysis/Pages/Making-a-data-request.aspx>

Complete the form with the required data and submit to the following email:

datarequest@dpird.wa.gov.au