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DEPARTMENT OF INDUSTRY, SCIENCE AND RESOURCES

MB23-001058

To: Minister for Resources

MEETING WITH DELEGATION OF TRADITIONAL OWNERS FROM THE NORTHERN TERRITORY**Timing:** For meeting scheduled from 3:30 pm (AEDT) on 28 November 2023.**Meeting with:** Traditional Owners from the Northern Territory and a representative from the Australian Energy Producers. Talking points are at Attachment A and biographies, with a map showing connection to country, is at Attachment B.**Prior meetings:** You have not met with this delegation of Traditional Owners before.**Proposed note taker:** N/A**What we want:** To understand how the Australian Government can facilitate First Nations engagement on offshore developments. Feedback may inform short-term changes (MS23-001822 and MS23-001699 refer) and the environmental management regime review.

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Issues and Sensitivities:

1. The Federal Court is considering whether Santos should be required to revise its environment plan for the Barossa gas pipeline construction. You should not discuss the project or the case in any detail while this matter is before the Federal Court.
2. This meeting will provide you with a better understanding of First Nations perspectives of working with companies on offshore oil and gas projects, informed by local experience.

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- i. In November 2023, the Environmental Defenders Office (EDO) wrote to you

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Clearing Officer:	Cliff Weeks	General Manager Offshore Resources Branch	s 22 s 22	
Contact Officer:	s 47F	First Nations Section	s 22 s 22	
For Parliamentary Services' use only. Date Submitted to the Minister's office in PDMS:			27/11/2023	

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Consultation with the Cities and Northern Australia Division, Department of Infrastructure, Transport, Regional Development, Communications and the Arts: Nil.
The matter is not relevant to the Northern Australia portfolio.

Other Consultation: YES. Minerals and Resources Division.

Attachments

- A:** Talking points
- B:** Biographies
- C:** Background – Santos-led Barossa Gas project

Talking Points

- We recognise there may be opportunities to do things differently when it comes to collaborating and partnering with First Nations people across the resources sector.
- For example, my department has been funded to review the environmental management regime for offshore petroleum and greenhouse gas storage activities, over three years.
- The review will focus on consultation requirements, including with First Nations Australians.
- There will be opportunities for you to participate in the review process and inform the review recommendations.
- In the meantime, we are considering whether we can provide clarity through minor regulatory changes, consistent with First Nations feedback my department has received to date.
- Government still expects industry to undertake genuine and robust consultation with First Nations stakeholders – we are simply looking for ways to increase clarity and certainty around the process.
- Following the recent National Sea Country Alliance Summit, the National Native Title Council will provide advice to my department about how consultation can be better conducted in the short term, ahead of broader regulatory reforms.

Santos-led Barossa Gas Project (if asked)

- I am aware of the current litigation brought forward by the Environmental Defenders Office, on behalf of Mr Simon Mukarra.
- I am unable to comment on this matter while it is before the court.

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Background – Santos-led Barossa Gas project

The Santos-operated Barossa Gas project has been subject to legal challenges regarding:

- 1) the project drilling environment plan
- 2) the pipeline environment plan.

Both proposed activities require the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) to accept an environment plan under the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023 (OPGGs regs) before associated project activities can commence.

- On 1), the drilling environment plan, the Federal Court considered Santos had not consulted with all relevant persons whose functions, interests and activities may be affected by the activity. The court set aside the decision by plan by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) to accept Santos' environment plan (Santos NA Barossa Pty Ltd v Tipakalippa [2022] FCFA 193 – 2 December 2022 refers). Santos is yet to submit a new or revised drilling plan for NOPSEMA's consideration.
- On 2), the pipeline environment plan, the Federal Court is currently considering a decision by Santos to not submit a revised pipeline environment plan for the same project, following results of a cultural heritage survey (Simon Munkarra v Santos NA Barossa Pty Ltd refers).
- In accordance with a general direction issued by NOPSEMA in January 2023, Santos commissioned several reports and identified no occurrence of significant new environmental impact or risk, or significant increase in an existing environmental impact or risk not provided for in the pipeline environment plan. Accordingly, Santos considered it did not need to submit a revised pipeline environment plan to NOPSEMA before it can commence pipeline work.
- This is under challenge in the Federal Court, with the hearing in-train (commenced 27 November 2023). Santos is restrained from progressing pipeline works in an area adjacent to the Tiwi Islands (i.e. no pipeline works are to be progressed further south of a point referred to as KP86 on the pipeline route) until at least 15 January 2024, or an alternate date as determined by the trial judge.

These Federal Court challenges follow a 2023 decision to set aside NOPSEMA's decision to approve a seismic survey environmental plan submitted by Woodside Energy Scarborough Pty Ltd on the basis NOPSEMA did not have the statutory power to approve a plan when the required consultation had not been undertaken (Cooper v National Offshore Petroleum Safety and Environment Management Authority (No 2) [2023] FCA 1158 – 28 September 2023 refers).

It should be noted that the ruling did not comment on the adequacy of the consultation undertaken by Woodside in the development of the Scarborough environment plan.

Given Federal Court challenges to date, the offshore oil and gas sector continues to call for further advice from governments and First Nations communities on how industry can fulfil their obligations under OPGGS Regs.

From: S 47F
To: S 47F
Cc: S 47F
Subject: Updated bios for First Nations Cultural Advisors
Date: Monday, 27 November 2023 10:33:14 AM
Attachments: [Short Bio - First Nations Cultural Advisors - 24 November 2023 \(002\).pdf](#)

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Hi S 47F, the delegation in Canberra has grown over the weekend – there are now 10 Traditional Owners including three from the Tiwis. I hope that they can all be accommodated in tomorrow's meeting.

Their bios are attached and a map of where they are from.

Accompanying them will be S 47F

I might be there too just to help people get around but the Traditional Owners will be doing all the talking.

I had someone from the department who is preparing the brief call me. If the expanded delegation is ok, please pass this on to her/DISR.

The delegation will likely already be signed in.

Thanks

s 47F

From: s 47F
 To: s 47F
 Subject: Request for Minister to meet with Traditional Owner delegation in Canberra next week
 Date: Wednesday, 22 November 2023 5:11:23 PM
 Attachments: Short Bio - GA Cultural Advisors - 19 September 2023.pdf
 DA-3-001 (S&C).pdf

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His 47F, as discussed yesterday,

Australian Energy Producers has been asked by a delegation of Traditional Owners from the Northern Territory (West Arnhem, East Arnhem, Central Arnhem and Victoria River District Regions) to arrange meetings for them with parliamentarians in Canberra on Monday 27th and Tuesday 28th November. They are all people who hold leadership positions on land councils and/or prescribed bodies corporate, and other entities representing their communities.

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them.

Australian Energy Producers s 47F will be accompanying

I am hoping the Minister can meet with them on Monday or Tuesday, even if only briefly. At this stage they are any time both days, except for a meeting with s 47F at 11.30am Monday.

Their bios attached. Happy to discuss.

Kind regards

s 47F

Ms 47F Es 47F

energyproducers.au

signature_1589912594



Australian Energy Producers acknowledges and pays respect to the past and present Traditional Custodians and Elders of this nation and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

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