

Consultation Feedback Summary

ONRSR Guideline Consultation under the RSNL

Background

The Rail Safety National Law 2012 (RSNL) requires operators to consult on the establishment, review or variation of their safety management system (SMS).

The *Consultation under the Rail Safety National Law Guideline* was developed in collaboration with union and industry representatives to assist operators in understanding ONRSR's expectations of meaningful consultation. It does not place additional responsibilities on operators but explains ONRSR's expectations.

Overview of consultation

ONRSR consulted on the draft guideline between 13 February and 6 March 2026. This included emailing accredited operators, unions, representative bodies and government departments and calling for industry feedback via the ONRSR website, LinkedIn and the Engage newsletter.

ONRSR received ten written submissions to the draft guideline:

- Queensland Rail
- Sydney Metro
- BHP
- Australian Rail Track Corporation
- Cooma Monaro Railway
- Australian Narrow Gauge Railway Museum Society
- Mining and Energy Union, Western Australian District
- Australian Federated Union of Locomotive Employees
- Australasian Railway Association
- Queensland Department of Transport and Main Roads.

Feedback summary

The key points are outlined in the tables below. Spelling and grammatical corrections have been excluded from the table, as have minor changes for readability that do not change the meaning of the text.

Feedback which has resulted in changes to the Guideline

This table summarises feedback which has resulted in a change to the Guideline

Feedback	Response
<p>The guideline risks moving beyond guidance. It should not expand legal obligations, prescribe processes not required by legislation, or imply that compliance with the guideline, is itself, the legal standard.</p>	<p>The contents of this guideline impose no legal duty. It is not intended to replace the provisions of the RSNL or other relevant legislation or to limit or expand its scope. In the event of an inconsistency between this guideline and the RSNL, the RSNL will prevail.</p> <p>This has been clarified in the introduction to the Guideline.</p>
<p>Further clarity is needed on references to ‘non-accredited rail transport operators’. As currently drafted, this section may create uncertainty about who is captured by that expression.</p>	<p>A section has been included about ‘who should use this guideline’ and the definitions for non-accredited operators and ‘other duty holders’, which includes many of the rail-related parties referred to, has been added.</p> <p>It has been further clarified that the guideline does not impose additional requirements above those required in the RSNL.</p>
<p>Avoid or clarify acronyms and jargon</p>	<p>A definitions section has been added to the Guideline.</p>
<p>The concept of providing a “reasonable opportunity” for input (as required by section 99(3)(b)) is introduced in section 3.3 but is not reflected in the listed principles of meaningful consultation, creating potential inconsistency.</p>	<p>Guideline principles have been expanded to include:</p> <ul style="list-style-type: none"> > requires the provision of relevant information with consideration of accessibility, including appropriate methods of delivery, cultural, linguistic diversity and literacy levels of affected workers

Feedback	Response
	<ul style="list-style-type: none"> > provides opportunities for feedback on issues raised, including ensuring that workers' schedules allow time for reading and listening to, absorbing and responding to information
<p>Clarify that the responsibility for consultation with operators on the National Network for Interoperability (NNI) rests with the RTO initiating the change to their railway operations on the NNI.</p>	<p>The introduction section of the Guideline has been amended to clarify that it is the operator that is reviewing, amending or changing their SMS that has the responsibility to consult.</p>
<p>The RSNL has a lot of components where consultation may be required. While the majority by far will be with RSW, RSO and RIM etc, the fourth point on page 8 adds in the public. Suggest this "miscellaneous" dot point be expanded to covers others such as road managers when it comes to interface agreements, private siding owners etc.</p>	<p>The public listed in the RSNL as one entity that must be consulted, as appropriate.</p> <p>An explanatory note has been added that the public can also include road managers, utilities and emergency services. This has also been incorporated into the 'who to consult' diagram.</p>
<p>Several points of feedback were received regarding consultation with a union, such as:</p> <ul style="list-style-type: none"> > consultation should commence with the local union delegate > the business agreement could assist in identifying the union representing affected workers > clarifications about the role off the local union delegate 	<p>Section 3.2 – Who to consult – has been updated to reflect this feedback, where appropriate and consistent with the RSNL.</p>

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<p>The “who to consult” diagram would benefit from further development into a clearer decision tree format. While the questions posed prompt a yes/no response, they all ultimately lead to the same outcome, which may reduce the diagram’s effectiveness in supporting user understanding.</p>	<p>The diagram has been redeveloped to include more detail and align to the RSNL.</p>
<p>Avoid creating de facto documentation requirements not found in the legislation (remove reference to consultation plan or strategy)</p>	<p>Amendments have been made to clarify that good planning and documentation is consistent with principles of meaningful consultation and a documented plan or strategy is an optional tool that can form part of the evidence on the quality of consultation undertaken.</p>
<p>Rail operators do not consider if their workers will have the time or literacy to absorb emailed consultation information, consider adding to or amending the bulleted principles of meaningful consultation at the beginning of the guideline.</p>	<p>Agreed and added into the principles of meaningful consultation. Also incorporated into the “who to consult” diagram.</p>
<p>The concept of a “reasonable opportunity for input” would benefit from further clarification. In practice, what is reasonable will depend on the nature of the proposed change, the persons affected, operational requirements, and the practical realities of the relevant workforce. A uniform consultation period will not be appropriate in all cases.</p>	<p>Agreed. Section 3.3 – providing reasonable opportunity for input – has been amended to include these concepts in determining what is reasonable.</p>
<p>The draft guideline does not include if there is an expectation that when a rail operator consults when updating an Emergency Management Plan.</p>	<p>Agreed. The following statement has been incorporated ‘This should include an appropriate level of consultation when an EMP is updated’</p>

Feedback	Response
<p>Suggest noting that any consultation requirements under workplace health & safety (WHS) legislation are in addition to RSNL requirements but that operators can consider addressing both sets of obligations through one consultation process.</p>	<p>Agreed and amended.</p>
<p>If the principles of meaningful consultation are retained, recommend amending “communicating” to “informing” where the intent is to describe one way information flow. The term “communication” is commonly understood to imply a two-way exchange, which may not align with the description provided.</p>	<p>Agreed and amended.</p>
<p>The guideline states that “agreement should be the objective” of consultation, but later notes that agreement is not required. Suggest reframing to emphasise that informed input is the objective; disagreement does not indicate consultation failure; and safety decisions remain the operator’s responsibility under s52 and s47 RSNL.</p>	<p>Agreed and amended.</p>
<p>Emphasise competency for staff facilitating consultation rather than training</p>	<p>Agreed and amended.</p>

Feedback which has not resulted in changes to the Guideline

This table summarises feedback which has not resulted in a change to the Guideline.

Feedback	Response
<p>The draft guideline could be read as suggesting that any change to an accredited operator’s safety management system, no matter how minor, gives rise to a consultation obligation. That would be impractical and could divert attention away from meaningful consultation on changes that are genuinely significant.</p> <p>The final guideline should make clear that consultation is to be undertaken proportionately, having regard to the nature, scale and likely impact of the proposed change.</p>	<p>No change made to the Guideline.</p> <p>The Guideline already states that what is reasonably practicable increases with the safety risks and nature of the proposed decision. This means that more consultation is expected for a safety critical decision, such as a major rewrite of procedures or the incident management framework, than for a change to role titles where the safety impacts are less.</p>
<p>Remove the term “meaningful consultation” and the associated principles from the guideline. The RSNL requires consultation SFAIRP.</p> <p>The introduction of additional terminology risks creating confusion, particularly where elements of the outlined principles may not be reasonably practicable in a given circumstance.</p>	<p>No change made to the Guideline.</p> <p>Meaningful consultation is a term used in the RSNL review. It is intended to emphasise the importance of quality consultation.</p> <p>The principles in section 2 are consistent with good consultation processes. Operators need to assess what is reasonably practicable in their individual circumstances.</p>
<p>Section 3.1.2 begins with “A rail transport operator’s SMS must include systems and procedures to...” Suggest delete the word "systems" - SMS is an acronym for safety management system.</p>	<p>No change made to the Guideline.</p> <p>Phrasing is taken from the National Regulations.</p>
<p>Concern that the Guideline suggests that operators are, by virtue of the RSNL alone, required to appoint health and safety</p>	<p>No change made to the Guideline.</p>

Feedback	Response
<p>representatives or to consult broader workplace health and safety structures whenever changes are made to the SMS.</p>	<p>There is no requirement under RSNL to establish health and safety representatives, but they must be consulted where already established.</p>
<p>The following statement “Assessment should be undertaken in accordance with the operator’s duty to ensure safety SFAIRP (section 47 of the RSNL) needs to be clarified. It implies that a wholly new assessment is required for all of the consultation feedback. However, the consultation feedback might be used to review and update existing risk assessments, rather than undertaking a wholly new assessment.</p>	<p>Agreed, but no change made to the Guideline.</p> <p>Given that one of the outcomes of consultation can be more informed decisions that harness the knowledge and experience of workers, operators should assess the information gained during consultation to determine if there is a need to review and update existing risk assessments.</p>
<p>The draft guideline may be read as implying that all changes relating to rules must follow the same formal consultation pathway or timeframe. If that is the intended effect, it may introduce substantial delay even for minor or machinery amendments.</p>	<p>No change made to the Guideline.</p> <p>Under the RSNL, the same consultation requirement applies to all changes to network rules. Timelines are established in the law, however there is an exception available where there is an immediate risk to safety.</p>
<p>This is an excellent opportunity to set out good quality advice for small scale operators and it would be appreciated that ONRSR can take the time to consider providing this level of advice.</p>	<p>No change made to the Guideline.</p> <p>The consultation requirements apply to all accredited RTOs, regardless of the size of their operations. A small organisation however may pursue fewer changes and require less time on consultation due to its smaller size, fewer staff with a simpler organisational structure and few or no interfaces with other operators, road managers.</p>

Feedback outside scope

ONRSR has also received feedback it considers is outside the scope of the Guideline or ONRSR's regulatory remit:

Feedback: There is concern that the guideline is being progressed while the National Transport Commission's (NTC) broader review of consultation provisions under the RSNL remains underway. The final guideline should not anticipate or pre-empt the outcome of that reform process.

Response: Regulation amendments are not expected to be finalised until late 2028. The Guideline is based on current RSNL requirements. Should consultation requirements change as a result of the review, the guideline will be updated to reflect any changes.

Feedback: Suggestions provided on the conduct and public reporting of ONRSR's regulatory activity related to consultation requirements

Response: ONRSR conducts risk-based compliance activities and determines the scope of audits and inspections on the risk profile of each individual operator.