

Frequently Asked Questions

Guideline - Consultation under the RSNL

<p>1. What is the purpose of the guideline?</p>	<p>The purpose of this guideline is to provide guidance to accredited rail transport operators, and those applying for accreditation, on the legislative requirements and expectations for meaningful consultation on the establishment, review or variation of their SMS.</p>
<p>2. Have the requirements for consultation changed?</p>	<p>No, there have been no changes to consultation requirements under the RSNL. This guideline seeks to provide clarity on the current requirements, taking into consideration the outcomes of court cases relating to consultation.</p>
<p>3. Why publish a guideline now when changes have been recommended as part of the review of the RSNL?</p>	<p>Regulation amendments are not expected to be drafted until late 2028, however ONRSR committed to the development of guidance in 2021, and a further court case relating to consultation requirements under the RSNL indicates that further guidance is needed sooner. Guidance is based on current RSNL requirements and addresses the outcomes from those two court cases.</p> <p>The guideline introduces the concept of ‘meaningful consultation’ in line with the wording of review recommendation 5 but does not attempt to pre-empt any changes, rather to reflect ONRSR’s position that consultation should be meaningful, not perfunctory.</p> <p>Should consultation requirements change as a result of the review, the guideline will be updated to reflect any changes.</p>
<p>4. If consultation is also required under workplace health and safety legislation or other legislation, do we have to run separate consultation for each?</p>	<p>No, provided that you can meet the requirements under each piece of legislation through the one process, there is no need to run separate consultation processes.</p>
<p>5. Who is responsible for consultation where changes are proposed on the national network for interoperability (NNI)?</p>	<p>Responsibility for consultation on a proposed change sits with the RTO that is initiating the change to their railway operations. The same applies when the change relates to the NNI. In most (but not all) cases, interoperability changes are likely to be initiated by rail infrastructure managers.</p> <p>If two interfacing RIMs are implementing the same change, then each has a duty to consult, and this consultation may be done jointly or separately as appropriate.</p>

<p>6. Are the consultation requirements scalable for smaller changes (or changes with lower risk) to safety management systems?</p>	<p>The RSNL doesn't distinguish between major or minor changes however it is appropriate to design and implement the consultation in consideration of the scope and nature of the change. A smaller change may require consultation with a smaller number of parties or simpler messaging or delivery/collection methods.</p>
<p>7. Does the guideline apply to tourist and heritage (T&H) operators?</p>	<p>Yes, the consultation requirements apply to accredited T&H operators, so the guideline also applies. Given that many T&H operators have limited geographic boundaries and a relatively small number of rail safety workers, consultation is likely to be a simpler process with less parties involved.</p>
<p>8. Do I have to consult the union(s) on all changes?</p>	<p>If any of the staff <i>likely to be affected by the change</i> are represented by a union, then that union must be consulted. However, if none of the staff likely to be affected by the change are union members, then the union does not have to be consulted, even if they represent workers in other roles or locations.</p>
<p>9. The Guideline includes consultation with health and safety representatives. If the organisation doesn't have any staff representatives, does this mean that representatives must be appointed?</p>	<p>The RSNL does not require a WHS representative to be appointed. If the organisation has WHS representatives that would normally represent the staff who are likely to be affected by the change, then they should be consulted. If the organisation does not have staff WHS representatives, there is no obligation to appoint them, unless requested by staff in line with local WHS legislation.</p>
<p>10. Is the reference to "health and safety representatives" intended to refer only to formally elected representatives under applicable workplace health and safety legislation, or is it intended to extend to other consultative bodies, such as health and safety committees?</p>	<p>Wording in the guideline regarding health and safety representatives is taken directly from the RSNL.</p>
<p>11. If the change only affects a particular region, do I have to consult workers in other regions?</p>	<p>No, as workers in other regions won't be affected by the change, they do not have to be consulted.</p>
<p>12. Can you provide examples of when the public may need to be consulted?</p>	<p>Where an SMS is being established, reviewed or a variation is required, examples may include installing, upgrading or closing pedestrian crossings; upgrading passenger platform infrastructure; or installing new or upgrading train horns on level crossing approaches.</p>

	In addition, depending on the proposed change to the SMS, road managers and other parties involved in interface agreements may also need to be consulted.
13. Is there a requirement to reach agreement through consultation?	No. While agreement would be an ideal outcome, the rail operator is ultimately responsible for making decisions regarding safety.
14. Are operators required to produce a consultation plan as evidence of consultation, and if so, does it have to be a specific format?	No, however an operator will need to be able to demonstrate that they have complied with consultation requirements, and a consultation plan is a useful tool to provide evidence of compliance.
15. Who contributed to the development of the guideline?	<p>A Consultation Guideline Reference Group was established by ONRSR to inform the development of the draft guideline, comprising representatives from the Rail, Tram and Bus Industry Union, Australian Federated Union of Locomotive Employees, Metro Trains Melbourne, Downer Group and Aurizon.</p> <p>The draft was published for industry consultation in early 2026 and ten responses were received.</p>
Further Information	
16. Where can I direct any questions?	In the first instance, send an email to the ONRSR email address: contact@onrsr.com.au
17. Can I read further about the outcomes of the recent court case?	Further information about the decision of the Supreme Court of New South Wales (Court of Appeal) is available on the AustLII website .