



Government of **Western Australia**
Department of **Transport**

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DISPERSANT CONSENT USE GUIDANCE NOTE

Dispersant Consent Use Guidance Note

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Amendment record

This guidelines document is reviewed to ensure its continuing relevance to the systems and process that it describes. A record of contextual revisions is listed in the following table.

Page No.	Context	Revision	Date

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1 Purpose

The purpose of this Guidance Note is to outline the consent framework for the use of dispersants in or adjacent to Western Australia (WA) State waters during a Marine Oil Pollution (MOP) incident resulting from a shipping or offshore petroleum activity.

This Guidance Note does not include consent use guidance for other oil spill control agents that aren't considered dispersants.

2 Background

With the assistance of energy, dispersants act to break up oil spills (either at the surface or subsurface) into small droplets that descend or are maintained in the water column where they are more easily biodegraded by naturally occurring bacteria and other microorganisms. Dispersant efficacy depends on a number of factors including, but not limited to:

- Dispersant type
- Oil type
- Metocean (weather and oceanographic) conditions
- Age of the oil (is it fresh or weathered?)

In the right conditions, the application of dispersant could improve the rate and time of natural dispersion of oil and help to reduce environmental impacts in other locations. Because of this, dispersants may be considered for use as a response option in the event of a MOP incident.

The Department of Transport (DoT), however, acknowledges that the use of dispersants is not always an effective or useful response option and, in some situations, may lead to further environmental damage. As such, there are strict controls in place around the use of dispersants in and adjacent to WA State waters during a MOP incident.

3 Related Documents

This Guidance Note should be read in conjunction with the WA State Hazard Plan for Maritime Environmental Emergencies (State Hazard Plan – MEE), relevant DoT Guidance Notes, DoT's Incident Management Plans and DoT's Oil Spill Contingency Plans, where applicable.

4 State Legislation and Consent Authority in WA State Waters

In accordance with the *WA Emergency Management Act 2005* and the *Emergency Management Regulations 2006*, the WA DoT Chief Executive Officer, Department of Transport, is the Hazard Management Agency (HMA) for the MOP hazard in State waters.

The HMA has overall responsibility for ensuring that there is an adequate response to a MOP incident in State waters. During an actual or impending MOP incident in State waters, the HMA (or their delegate) will assume the role of the State Marine Pollution Coordinator (SMPC). The SMPC provides overall strategic management of the response, and executive level support and guidance to the Incident Controller (IC).

4.1 Shipping Related Incident – Originating in State Waters

In conjunction with the State emergency legislation outlined above, ship-based incidents that result in a release of oil into the marine environment are responded to in accordance with the Australian Maritime Safety Authority (AMSA) National Plan for Maritime Environmental Emergencies (2020) (National Plan).

An exemption granted in accordance with the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* allows the application of dispersant in both Commonwealth and State waters provided it is in accordance with the National Plan and a relevant Oil Spill Contingency Plan.

4.2 Offshore Petroleum Activity Related Incident – Originating in State Waters

The Department of Energy, Mines, Industry Regulation and Safety (DEMIRS) is the regulatory agency for petroleum activities in State waters and lands under the following legislation:

- *Petroleum and Geothermal Energy Resources Act 1967*
 - Petroleum and Geothermal Energy Resources (Environment) Regulations 2012
- *Petroleum (Submerged Lands) Act 1982*
 - Petroleum (Submerged Lands) (Environment) Regulations 2012
- *Petroleum Pipelines Act 1969*
 - Petroleum Pipelines (Environment) Regulations 2012

DEMIRS also has a regulatory role in relation to the approval of dispersant use in WA State waters in response to a petroleum activity related MOP incident. In accordance with the above regulations, it specifies that a person must not apply chemical dispersant to an oil spill unless the Minister for Mines and Petroleum, or the appropriate HMA as prescribed under the *Emergency Management Act 2005*, has given written consent to the application of dispersant.

In April 2015, DEMIRS provided written guidance that consultation with DoT's HMA should be undertaken prior to written consent being provided by the Minister for Mines and Petroleum for the application of dispersant to an oil spill in WA State waters originating from a petroleum activity approved under the above petroleum legislation. In effect, this means that the SMPC will either be the consent authority or will be consulted by the Minister for Mines and Petroleum where a request to apply dispersant in State waters, in relation to a petroleum activity MOP incident, is made by a Petroleum Titleholder.

Environment Plans (EP) for State based petroleum activities may consider the use of dispersant as a response option within their Oil Spill Contingency Plans. However, approval for actual use of dispersants will be considered at the time of an incident occurring. In other words, there is no 'pre-approval' for the use of dispersants in State waters for an MOP incident resulting from a petroleum activity.

5 National Legislation and Consent Authority in Commonwealth Waters

5.1 Shipping Related Incident – Originating in Commonwealth Waters

As nominated in the National Plan, AMSA is the Jurisdictional Authority and Control Agency for ship-based MOP incidents in Commonwealth waters. In this role, AMSA has the decision-making authority in relation to the application of dispersant in Commonwealth waters.

5.2 Offshore Petroleum Activity Related Incident – Originating in Commonwealth Waters

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) administers the Commonwealth *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023. This legislation requires that an offshore petroleum activity in Commonwealth waters must have an EP, which includes the requirement for an Oil Pollution Emergency Plan, accepted by NOPSEMA before the activity commences. The EP submission process provides the mechanism for an offshore petroleum titleholder to gain acceptance for the use of specific oil spill dispersants and deployment strategies in Commonwealth waters, prior to a MOP incident occurring.

Any dispersant use in response to a MOP incident from a Commonwealth offshore petroleum activity must be carried out in accordance with an accepted EP and no additional approvals are required to implement these response arrangements. However, in certain situations DoT does request to be consulted. This is detailed further below in Section **Error! Reference source not found.**

5.3 DoT Consultation Request in Commonwealth Consent Process

During the response to either a shipping or petroleum activity MOP incident that originates in Commonwealth waters, the use of dispersants does not require the consent of the SMPC. However, where the application of dispersants in Commonwealth waters could have an impact on State waters, DoT requests to be consulted prior to any dispersant application.

For an offshore petroleum activity MOP incident, this consultation is to be requested through the SMPC. A discussion will then be held between the offshore petroleum titleholders IC, the SMPC, the State IC, the State Environmental Scientific Coordinator (ESC) and NOPSEMA.

For a shipping-based MOP incident, this consultation is to be conducted through the SMPC, the State IC, the State ESC and AMSA.

This is to ensure that the State is fully aware of where dispersed oil (or dispersant) could enter State waters, understands any potential implications, and agrees on the appropriate environmental monitoring measures to be put into place to measure any impacts. As a part of this, the SMPC will require modelling on dispersed oil and documented Net Environmental Benefit Analysis/Spill Impact Mitigation Assessment's (NEBA/SIMA's) to be provided, as a part of this discussion.

6 Consent Process in State Waters

During a response to either a shipping or offshore petroleum activity MOP incident in State waters, regardless of the source, the use of dispersants requires the written consent of the SMPC. Any approach to the SMPC for consent to use dispersants must be made by the relevant IC.

In seeking the consent from the SMPC to use dispersants in State waters, the IC is expected to have had the option assessed by a panel formed within the Incident Management Team (IMT). This panel should be chaired by the IC and include the participation of the State ESC. The involvement of subject matter experts such as the Commonwealth Scientific and Industrial Research Organisation (CSIRO) and the State Environmental Liaison Group (ELG) on the panel is strongly encouraged.

In formulating its position on the potential use of dispersants, the panel is to use the decision-making process outlined in the Obtaining Approval to use an Oil Spill Control Agent at Sea or on a Shoreline (AMSA 2022) document. This process is to be documented and records retained within the IMT. This process is also used as part of the formal request from the IC to the SMPC for approval.

Upon being asked to consent to the use of dispersants, the SMPC will confirm with the IC that the appropriate panel was formed and that the required decision-making process was followed. The SMPC will also confirm the recommendation of the ESC.

If the ESC does not support the IC's request to use dispersant, the SMPC may seek to convene a meeting with both the IC and ESC to consider the divergent views prior to making a final decision.

In granting consent, the SMPC may impose conditions such as:

- The dispersant requested for use must be listed on the AMSA Register of Oil Spill Control Agents and be consistent with the Obtaining Approval to use an Oil Spill Control Agent at Sea or on a Shoreline (AMSA 2022) document.
- If consent is provided, the IC will direct the use of the dispersant in accordance with the operational situation at the time.
- Consent may be withdrawn at any time.
- Consent may be limited to geographic boundaries, times or weather conditions.

In the situation that consent is granted, and dispersants are to be used, it is a requirement that the IC closely monitor the effects, impacts, and continually assess the net environmental benefit of continuing this response option. The results of this monitoring and evaluation are to be regularly communicated to the SMPC and formal documented records produced. This process is outlined in Figure 1 below.

6.1 Consultation if Commonwealth Waters or Adjacent State/Territory Waters May Be Impacted

During the response to either a shipping or petroleum activity MOP incident originating in State waters and where the application of dispersants in State waters could have an impact on Commonwealth or adjacent State/Territory waters, DoT will facilitate consultation with the Commonwealth through AMSA, or the relevant State/Territory authority, as part of the State consent process. This will ensure that the Commonwealth or the relevant State/Territory authority is fully aware of where dispersed oil (or dispersant) could enter their waters, understands any potential implications, and agrees on the appropriate environmental monitoring measures to be put into place to measure any impacts. As a part of this, the SMPC will seek to provide modelling on dispersed oil and documented NEBA/SIMA's, as a part of these discussions.

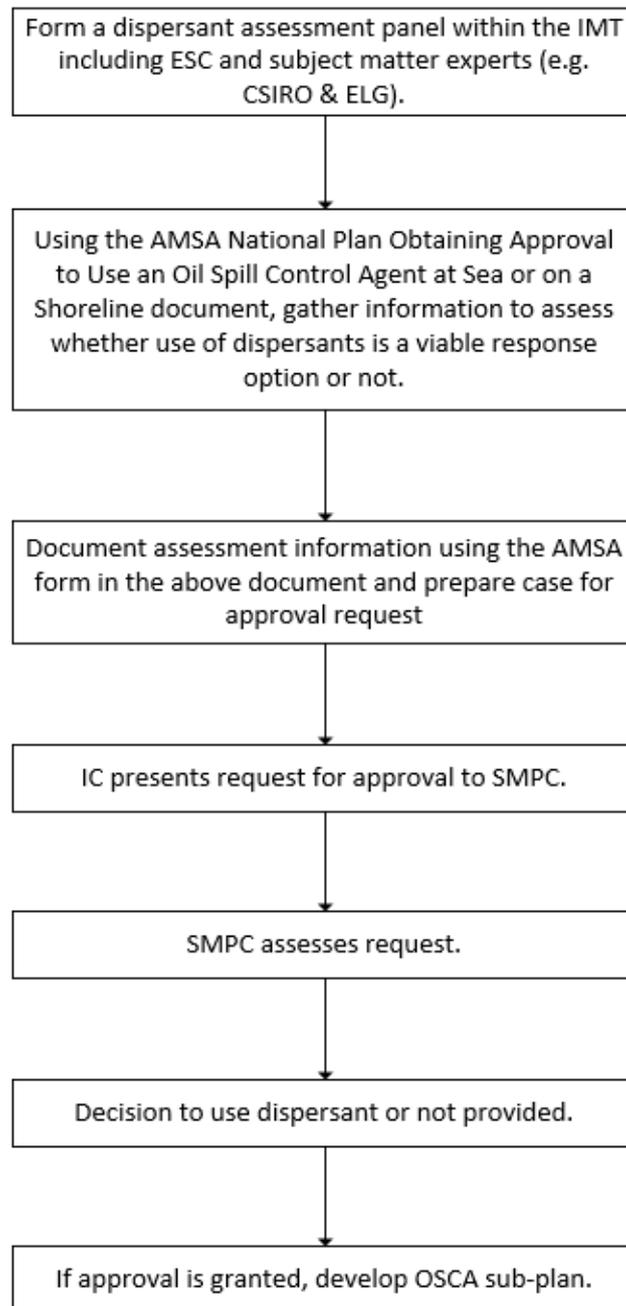


Figure 1 – Assessment Process for Requesting Use of Dispersant in State Waters

7 Considerations for the Use of Dispersants

The following points should be taken into consideration when assessing the suitability of dispersants as a response option in WA State waters:

- The effectiveness of dispersants on hydrocarbons exposed to the elements diminishes quickly over time. Long lead times may be required to get the necessary assets and equipment in place to deploy the dispersant in the required location. Consequently, the option of using dispersants should be considered as early as possible during an incident response.
- Consideration must be given to subsurface currents and the transport and fate of any dispersed hydrocarbons throughout the water column.
- Consideration must be given to the employment of a robust environmental monitoring program if dispersants are used. This monitoring program must be sufficient to determine if the use of the dispersant has been effective at dispersing oil, where the dispersed oil has moved throughout the water column, and any impacts detected in the marine environment as a result of dispersant application.
- Consideration must also be given to environmental sensitivities in the zone of potential impact (e.g. intertidal and benthic habitats, fauna presence) and key ecological windows (e.g. coral spawning, whale migration, seabird and turtle nesting).

8 Document Review

This Guidance Note will be reviewed every five years, or earlier if required.

9 Additional Information

Australian Government:

- Australian Maritime Safety Authority (2020). National Plan for Maritime Environmental Emergencies. Available at <https://www.amsa.gov.au/marine-environment/national-plan-maritime-environmental-emergencies>
- Australian Maritime Safety Authority (2022). Obtaining Approval to Use an Oil Spill Control Agent at Sea or on a Shoreline. Available at <https://www.amsa.gov.au/marine-environment/national-plan-maritime-environmental-emergencies/obtaining-approval-use-oil-spill>
- Australian Maritime Safety Authority Register of Oil Spill Control Agents. Available at <https://www.amsa.gov.au/marine-environment/pollution-response/register-oil-spill-control-agents>

WA State Government:

- Western Australian State Hazard Plan for Maritime Environmental Emergencies (2023). Available at <https://www.wa.gov.au/government/publications/state-hazard-plan-maritime-environmental-emergencies>

10 General Enquiries

All enquiries relating to dispersant arrangements in WA should be made to:

Maritime Environmental Emergency Response Unit
Maritime | Department of Transport
Fremantle, Western Australia
marine.pollution@transport.wa.gov.au