

EXPLANATORY STATEMENT

**Issued by the Authority of the Minister for Resources, Water and Northern Australia,
the Hon Keith Pitt MP**

Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003

Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Cross-boundary Greenhouse Gas Storage) Regulations 2020

The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (the Levies Act) provides for the imposition of annual titles administration levies in relation to offshore petroleum and greenhouse gas titles. The levies are collected by the National Offshore Petroleum Titles Administrator (the Titles Administrator) in order to fund its operations on a cost-recovery basis.

Section 11 of the Levies Act provides that the Governor-General may make regulations for the purposes of a number of sections of the Levies Act, including section 10E. Section 10E provides that the amount of annual titles administration levies imposed by the Levies Act is the amount specified in, or worked out in accordance with, the regulations.

The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (the Levies Regulations) provide for the amounts of levies imposed by the Levies Act. The mechanism for setting levy amounts is preparation of a cost recovery implementation statement (CRIS) that meets the requirements of the Australian Government Cost Recovery Guidelines.

Purpose and operation

The purpose of the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Cross-boundary Greenhouse Gas Storage) Regulations 2020* (the Amendment Regulations) is to make a consequential amendment to the Levies Regulations to fully implement amendments to the Levies Act made by the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Miscellaneous Measures) Act 2020* (the Levies Amendment Act). The amendment to the Levies Regulations provides for the amount of annual titles administration levy imposed on a cross-boundary greenhouse gas assessment permit.

The amount of annual titles administration levy for a cross-boundary greenhouse gas assessment permit is \$10,000. This is the same as the amount of annual titles administration levy imposed for a work-bid greenhouse gas assessment permit. A cross-boundary greenhouse gas assessment permit is equivalent in nature to a work-bid greenhouse gas assessment permit, and therefore similar cost-recovery considerations apply in relation to administration of the two permit types. The Titles Administrator has revised its CRIS to reflect the new title type, and completed a Charging Risk Assessment in accordance with Department of Finance requirements.

As a result of amendments to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the OPGGS Act) in the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Cross-boundary Greenhouse Gas Titles and Other Measures) Act 2020* (the Cross-

boundary Greenhouse Gas Titles Act), the definitions of “greenhouse gas assessment permit”, “greenhouse gas holding lease” and “greenhouse gas injection licence” include a cross-boundary greenhouse gas assessment permit, a cross-boundary greenhouse gas holding lease and a cross-boundary greenhouse gas injection licence respectively. As a result, unless specifically indicated otherwise, a reference in the Levies Act or the Levies Regulations to a greenhouse gas assessment permit, a greenhouse gas holding lease or a greenhouse gas injection licence includes a reference to a cross-boundary greenhouse gas assessment permit, a cross-boundary greenhouse gas holding lease or a cross-boundary greenhouse gas injection licence. The Levies Act and Levies Regulations apply to cross-boundary greenhouse gas titles in an equivalent manner to their application to “ordinary” greenhouse gas titles.

Further, the Levies Amendment Act amended the Levies Act to insert new section 3B, which provides that, for the purposes of the Levies Act, the title area of a cross-boundary greenhouse gas assessment permit, a cross-boundary greenhouse gas holding lease or a cross-boundary greenhouse gas injection licence is taken to be in Commonwealth waters. A reference to “Commonwealth waters” in the Levies Regulations therefore includes the entirety of the title area of a cross-boundary greenhouse gas title, including the part of the title area that is otherwise ordinarily located in State or Northern Territory coastal waters.

The Amendment Regulations commence at the same time as Part 1 of Schedule 1 to the Cross-boundary Greenhouse Gas Titles Act commences. The amendments in the Amendment Regulations implement the amendments in Schedule 1 to the Levies Amendment Act that impose an annual titles administration levy on cross-boundary greenhouse gas assessment permits. Schedule 1 to the Levies Amendment Act commences at the same time as Part 1 of Schedule 1 to the Cross-boundary Greenhouse Gas Titles Act commences.

Consultation

The policy proposal to provide for grant and administration of cross-boundary titles was developed jointly with the Victorian Department of Jobs, Precincts and Regions (DJPR), and will enable the CarbonNet project to proceed with its proposed greenhouse gas injection and storage project site in the Gippsland Basin, offshore Victoria. Cross-boundary titles will be subject to annual titles administration levies imposed by the Levies Act, which will fund administration of cross-boundary titles by the Titles Administrator on a cost-recovery basis. The relevant policy area of DJPR, CarbonNet and the Titles Administrator were consulted on a draft of the Amendment Regulations.

In May 2020, the Titles Administrator consulted with CarbonNet, as the sole greenhouse gas titleholder in Commonwealth waters, on the amount of annual titles administration levy proposed to be imposed in relation to cross-boundary greenhouse gas assessment permits. CarbonNet did not raise any concerns.

Regulatory Impact

The Office of Best Practice Regulation (OBPR) has confirmed that a Regulation Impact Statement is not required for the Amendment Regulations. The OBPR reference is ID 24169.

Statement of Compatibility with Human Rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker of a legislative instrument to which section 42 (disallowance) of the *Legislation Act 2003* applies to cause a statement of compatibility to be prepared in respect of that legislative instrument. A Statement of Compatibility with Human Rights has been prepared to meet that requirement and is set out at Attachment B.

Details of the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Cross-boundary Greenhouse Gas Storage) Regulations 2020*

Section 1 – Name

This section provides that the title of the Regulations is the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Cross-boundary Greenhouse Gas Storage) Regulations 2020*.

Section 2 – Commencement

This section provides for the commencement date for the provisions of the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Cross-boundary Greenhouse Gas Storage) Regulations 2020* (the Amendment Regulations).

The Amendment Regulations commence at the same time as Part 1 of Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Cross-boundary Greenhouse Gas Titles and Other Measures) Act 2020* (Cross-boundary Greenhouse Gas Titles Act) commences. The amendments in the Amendment Regulations implement the amendments in Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Miscellaneous Measures) Act 2020* (Levies Amendment Act) that impose an annual titles administration levy on cross-boundary greenhouse gas assessment permits. Schedule 1 to the Levies Amendment Act commences at the same time as Part 1 of Schedule 1 to the Cross-boundary Greenhouse Gas Titles Act commences. Part 1 of Schedule 1 to the Cross-boundary Greenhouse Gas Titles Act commences by Proclamation on 1 October 2020.

Section 3 – Authority

This section provides that the Amendment Regulations are made under the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (the Levies Act).

Section 4 – Schedules

This section is a machinery clause that enables the Schedule to the Amendment Regulations to operate according to its terms.

Schedule 1 – Amendments

Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004

Item 1 – After subregulation 59A(7)

Part 11A of the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (the Levies Regulations) sets out the amounts of annual titles administration levies imposed on eligible titles by the Levies Act. **Eligible title** is defined in subsection 10E(7) of the Levies Act.

The Levies Amendment Act amends the definition of *eligible title* in subsection 10E(7) to include a cross-boundary greenhouse gas assessment permit. This will ensure that annual titles administration levies are imposed on cross-boundary greenhouse gas assessment permits in the same way that they are imposed on “ordinary” work-bid greenhouse gas assessment permits. Subsection 10E(4) of the Levies Act provides that the amount of annual titles administration levy imposed on an eligible title is the amount that is specified in, or work out in accordance with, the regulations. Currently, there is no levy amount specified in Part 11A for an eligible title that is a cross-boundary greenhouse gas assessment permit. This item amends regulation 59A of the Levies Regulations require consequential amendments to specify the levy amount for a cross-boundary greenhouse gas assessment permit.

The amount of annual titles administration levy for a cross-boundary greenhouse gas assessment permit is \$10,000. This amount is the same as the amount of levy charged for a work-bid greenhouse gas assessment permit. A cross-boundary greenhouse gas assessment permit is equivalent in nature to a work-bid greenhouse gas assessment permit.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

*Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment
(Cross-boundary Greenhouse Gas Storage) Regulations 2020*

These Regulations are consistent with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Cross-boundary Greenhouse Gas Storage) Regulations 2020* (the Amendment Regulations) are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Regulations make consequential amendments to the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (the Levies Regulations) to fully implement measures in the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Miscellaneous Measures) Act 2020*. The amendment to the Levies Regulations provides for the amount of annual titles administration levy imposed on a cross-boundary greenhouse gas assessment permit.

Human rights implications

The Amendment Regulations make consequential technical amendments only and do not engage any of the applicable rights or freedoms.

Conclusion

The Amendment Regulations are compatible with human rights as they do not raise any human rights issues.

**The Hon Keith Pitt MP
Minister for Resources, Water and Northern Australia**