

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Resources, Water and Northern Australia

*Industry Research and Development Act 1986*

*Industry Research and Development (Beetaloo Cooperative Drilling Program) Instrument  
2021*

Section 33 of the *Industry Research and Development Act 1986* (the IR&D Act) provides a mechanism for the Minister to prescribe programs, by disallowable legislative instrument, in relation to industry, innovation, science or research, including in relation to the expenditure of Commonwealth money under such programs.

The statutory framework provided by section 33 of the IR&D Act enables a level of flexibility to provide authority for Commonwealth spending activities in relation to industry, innovation, science and research programs. This allows the Government to respond quickly and appropriately to the need to implement innovative ideas and pilot programs on an ongoing basis and as opportunities arise. Prescribing programs in legislative instruments provides transparency and parliamentary oversight of Government programs and spending activities, whilst reducing administrative burden on the Commonwealth.

Once a program is prescribed by the Minister under section 33, subsection 34(1) allows the Commonwealth to make, vary or administer arrangements in relation to activities under the prescribed program. Arrangements may include contracts, funding agreements or other arrangements, and may provide for money to be payable by the Commonwealth to one or more third parties. The power conferred on the Commonwealth by subsection 34(1) may be exercised on behalf of the Commonwealth by a Minister or an accountable authority of a non-corporate entity, or by their delegate (under section 36).

The purpose of the *Industry Research and Development (Beetaloo Cooperative Drilling Program) Instrument 2021* (the Legislative Instrument) is to prescribe the Beetaloo Cooperative Drilling Program (the Program). The purpose of the Program is to encourage and facilitate accelerated gas exploration in the Beetaloo sub-basin through the provision of grants. The Program will support the development of the Northern Territory gas industry while building on the Australian Government's commitment to unlocking gas supply and contributing to gas security across Australia.

The funding for the Program has been secured through the Department of Industry, Science, Energy and Resources 2020-21 Mid-Year Economic and Fiscal Outlook (MYEFO) update. The Program provides \$50 million and will fund accelerated exploration and appraisal activities to be undertaken in the Beetaloo sub-basin. Funding authorised by this Legislative Instrument comes from Program 1.3: Supporting a Strong Resources Sector, Outcome 1, as set out in the *Portfolio Additional Estimates Statements 2020-21, Industry, Science, Energy and Resources Portfolio* (<https://www.industry.gov.au/sites/default/files/2021-02/2020-21-department-of-industry-science-energy-and-resources-paes.pdf>) at page 18.

The Program will be delivered by the Department's Business Grants Hub, which is a specialised design, management and delivery body with extensive expertise and capability in delivering similar programs.

The Program is an open non-competitive grant opportunity. That is, applications may be submitted at any time over the application period or until the grant opportunity is fully subscribed and are assessed on a first-come-first-served basis against established assessment criteria. The non-competitive nature means that funding decisions are determined without reference to the comparative merits of other applications. The Program is administered by the Department in accordance with the *Commonwealth Grant Rules and Guidelines 2017* (<https://www.finance.gov.au/sites/default/files/2019-11/commonwealth-grants-rules-and-guidelines.pdf>). Eligibility and assessment criteria are outlined in the Program guidelines, available at [www.business.gov.au](http://www.business.gov.au).

Spending decisions will be made by the Minister for Resources, Water and Northern Australia, taking into account the recommendations of an independent assessment committee.

Grant amounts will vary depending on the project but are capped at 25 percent of eligible project costs (see Program guidelines). The minimum grant amount is set at \$750,000 and the maximum amount at \$7,500,000. Eligible project costs cannot be funded from other Commonwealth, State, Territory or local government grants.

The Program involves the allocation of finite funds between eligible applicants. The nature of the grant opportunity is such that applicants must meet all of the established assessment criteria to the satisfaction of an independent assessment committee. This determinative process is accompanied by an enquiry and feedback process for applicants that were unsuccessful in receiving a grant. Accordingly, external merits review does not apply to decisions about the provision of grants under the Program.

Applications must address the eligibility and assessment criteria, and provide relevant supporting information. Evidence provided should be relative to the project size, complexity and funding amount requested. It must be sufficient to satisfy the independent assessment committee and the final decision maker that the proposed project will meet the policy objectives of the program.

Applications will be assessed in two stages. AusIndustry will first conduct preliminary eligibility checks and if eligible, applications are then considered by an independent assessment committee that assesses them against assessment criteria. Both the eligibility criteria and assessment criteria are set out in the program guidelines. Committee membership may include Commonwealth representatives and external experts engaged on the basis of their specific expertise. The committee may also seek additional advice from independent technical experts. The role of the committee is to evaluate whether an eligible application meets established criteria and whether the proposal provides value for money. Given the non-competitive, first-come-first-served nature of the grant opportunity, the Committee makes their determinations by concluding whether responses are satisfactory or unsatisfactory.

Applications will only be considered for a grant if they can satisfactorily demonstrate that the nominated exploration project meets all of the assessment criteria.

After considering the applications, the independent assessment committee will make recommendations to the Minister regarding those applications suitable for funding. The Minister will make the final decision about which grants to approve, taking into consideration the independent assessment committee's recommendations, and the availability of grant funds. The Minister will not approve funding if there are insufficient program funds available across relevant financial years for the Program.

Both successful and unsuccessful applicants will be informed in writing. Unsuccessful applicants have an opportunity to discuss the outcome with the Department, and can submit a new application for the same or similar project, provided the Program is still open. Where this occurs, applicants should include new or more information to address the weaknesses identified in their previous application.

Persons who are otherwise affected by decisions or who have complaints about the Program will also have recourse to the Department. The Department investigates any complaints about the Program in accordance with its complaints policy and procedures. If a person is not satisfied with the way the Department handles the complaint, they may lodge a complaint with the Commonwealth Ombudsman.

The Legislative Instrument specifies that the legislative powers in respect of which the Instrument is made is the following:

#### Territories Power

The Legislative Instrument specifies that the legislative power in respect of which it is made is the territories power (s 122 of the Constitution). The territories power empowers the Parliament to 'make laws for the government of any territory'.

Funding provided under the Legislative Instrument is intended to support the acceleration of exploration activities in the Beetaloo sub-basin, which is wholly located in the Northern Territory.

#### Authority

Section 33 of the IR&D Act provides authority for the Legislative Instrument.

#### Consultation

##### **Consultation**

In accordance with section 17 of the *Legislation Act 2003*, the Attorney-General's Department was consulted on this Legislative Instrument.

Relevant exploration companies were consulted through the policy development process for the instrument. The Department of the Prime Minister and Cabinet, the Department of

Finance and the Department of Foreign Affairs and Trade were consulted on the Program guidelines. Technical advice was sought from the Northern Territory Government on key aspects of the guidelines including the parameters that were set for applicants.

**Regulatory Impact**

The Program is non-regulatory and therefore carries no regulatory burden (OBPR reference number 43292).

## **Details of the *Industry Research and Development (Beetaloo Cooperative Drilling Program) Instrument 2021***

### **Section 1 – Name of Instrument**

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Beetaloo Cooperative Drilling Program) Instrument 2021*.

### **Section 2 – Commencement**

This section provides that the whole of the Legislative Instrument commences on the day after registration on the Federal Register of Legislation.

### **Section 3 – Authority**

This section specifies the provision of the *Industry, Research and Development Act 1986* (the IR&D Act) under which the Legislative Instrument is made.

### **Section 4 – Definitions**

This item provides for definitions of terms used in the Legislative Instrument.

### **Section 5 – Prescribed Program**

This section prescribes the Beetaloo Cooperative Drilling Program (the Program) for the purposes of section 33 of the IR&D Act.

The Program provides grants to encourage and facilitate accelerated gas exploration in the Beetaloo sub-basin and in turn support the development of the Northern Territory gas industry.

### **Section 6 – Specified Legislative Power**

This section specifies that the legislative power in respect of which the Legislative Instrument is made is the power of the Parliament to make laws with respect to the government of a Territory (section 122 of the Constitution).

## **Statement of Compatibility with Human Rights**

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

*Industry Research and Development (Beetaloo Cooperative Drilling Program)  
Instrument 2021*

This Legislative Instrument is compatible 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 purpose of the *Industry Research and Development (Beetaloo Cooperative Drilling Program) Instrument 2021* is to prescribe the Beetaloo Cooperative Drilling Program (the Program). The purpose of the program is to encourage and facilitate accelerated gas exploration in the Beetaloo sub-basin.

### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Keith Pitt MP**

**Minister for Resources, Water and Northern Australia**