



Updated licensing requirements for petroleum and greenhouse gas activities following the Federal Court ruling in the Commissioner of Taxation v Shell Energy Holdings Australia Limited

This factsheet provides guidance to Industry in response to questions raised on additional title requirements following the decision of the Full Federal Court in the *Commissioner of Taxation v Shell Energy Holdings Australia Limited* [2022] FCA FC 2, on appeal from *Shell Energy Holdings Australia Limited v Commissioner of Taxation* [2021] FCA 496 (**the Judgments**).

Clarification of the definition of “explore.”

The Federal Court Judgments clarify that the term “explore” has a wide meaning under the [Offshore Petroleum and Greenhouse Gas Storage Act 2006](#) (**the OPGGS Act**), and that there should be no lacuna in the activities requiring authorisation under the OPGGS Act. Further, while the Judgments were concerned with determining the meaning of ‘exploration’ for petroleum, NOPTA will apply a similarly wide meaning to ‘exploration’ when used in the context of the greenhouse gas (GHG) provisions in the OPGGS Act. Accordingly:

Exploration for petroleum is not limited to activities to determine if petroleum exists. It also extends to activities directed at investigating whether petroleum is commercially recoverable, such as surveys and appraisals.

Exploration for potential GHG storage formations or injection sites is not limited to activities to determine if such formations or sites exist or their characteristics. It also extends to activities directed at investigating whether their use for GHG storage or injection (as relevant) is commercially feasible, such as surveys and appraisals.

The Judgments’ clarification includes activities that have not previously been understood to be exploration in nature, and require an appropriate authority prior to commencing operations outside of the titleholder’s current title area, for example:

Scenario	Description
Geophysical site surveys	A survey to map potential areas of interest for a pipeline development adjacent to petroleum production licences, retention leases or similar GHG titles.

Geophysical and geotechnical surveys	<ul style="list-style-type: none"> • Surveys to collect technical data to measure, profile and capture seabed characteristics to support commercialisation of a development opportunity. • Seabed mapping surveys designed to obtain information that would be used to ascertain if petroleum is recoverable and/or to assess the potential GHG storage capacity. • Obtaining data from an offshore area to identify/assess whether particular infrastructure might be suitable to recover petroleum or inject/monitor a GHG substance, and where to locate that infrastructure.
Marine Biota and/or Cultural Heritage surveys	Where the acquired data is used to determine the location of a potential petroleum or GHG pipeline, or installation of in-field subsea infrastructure.
Marine Biota and/or Cultural heritage surveys	A survey conducted to inform the development of an environment plan under the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023
Pre-drilling site surveys	Pre-drilling site surveys to establish the nature of the seabed for suitable anchor locations.
Installation of anchor points outside existing title	Where the well itself will be entirely within the area of an existing title, however at least one of the anchor points for the drilling rig may exist outside the permit area.

Activities outside a title area

Petroleum and GHG titleholders proposing to undertake activities in Commonwealth waters outside the boundary of their title should make themselves aware of the requirements of the OPGGS Act and associated regulations during the planning stages for these activities.



Titleholders may require an appropriate title that authorises the activity/operation, such as:

- a petroleum access authority (AA); or
- a GHG special authority (SLA).

An AA provides a titleholder with the authority to undertake petroleum exploration activities and/or operations related to the recovery of petroleum in or from its title, in an area where a titleholder does not have rights to undertake the activities. An equivalent GHG authority, such as an SLA, is applicable for a GHG activity in Commonwealth waters outside the boundary of a titleholder's title.

Data and reporting

All titleholders and authority holders are reminded of the reporting and data submission requirements under parts 7 and 9 of the [Offshore Petroleum and Greenhouse Gas Storage \(Resource Management and Administration\) Regulations 2011](#).

Authority holders should also be aware of the third-party reporting obligations under subsections 249(1) and 420(1) of the OPGGS Act.

Consultation with NOPTA

NOPTA assesses applications made under sections 234 and 242 (petroleum), and sections 407 and 415 (GHG) of the OPGGS Act for the grant of authorities. The Titles Administrator/ General Manager makes the decision to grant or to refuse to grant an authority.

NOPTA recommends titleholders enquire to discuss an activity proposed to be undertaken outside the titleholder's title area and any requirement for and duration of an authority. This recommendation includes petroleum and GHG exploration operations, operations related to the recovery of petroleum in or from a permit, lease or licence, and operations related to the injection and storage of a GHG substance, baseline investigations and monitoring of a stored GHG substance if part of the operation is to be conducted outside the title boundary.

Please contact the Titles Team if you have any questions or require any further information.

Phone: (08) 6424 3177 (Titles hotline)
Petroleum: Email titles@nopta.gov.au
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This factsheet should be read in conjunction with:

- The Offshore Petroleum: Special Prospecting Authority, Access Authority & Scientific Investigation Consents Guideline ([Petroleum Guideline](#)).
- The Offshore Greenhouse Gas: Search Authority, Special Authority and Research Consents Factsheet ([Greenhouse Gas Factsheet](#)).
- Frequently Asked Questions on Authority Requirements
- [NOPTA Form Guidance – Petroleum](#).
- [NOPTA Form Guidance – Greenhouse Gas](#).

Please note: this document is intended as a guide only and should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases.

Version History

Version	Date	Comment
1.0	08/01/2025	New Fact Sheet