



Environmental management cost recovery

Core concepts

- Section 10F of the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* (Levies Act) requires that environment plan (EP) levies are imposed on EP submissions where the activities to which the EP relates are authorised by one or more Commonwealth titles.
- A levy is imposed on each EP submission, including EP revisions, received by NOPSEMA from titleholders or from applicants for petroleum pipeline licenses, petroleum special prospecting authorities and petroleum access authorities.
- The intent of the EP levy imposed under the Levies Regulations is to provide an equitable method to recover the costs expended by NOPSEMA in regulating environment-related matters across the full range of industry activities
- The method for calculating the amount of EP levy imposed on each submission and the timing of installments for payment of levies are specified in regs 59C and 59D of the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004* (Levies Regulations).
- A single EP may contain multiple activities of different types and durations, across different titles. 'Individual activities' within an EP submission must each be levied and are defined by the title (reg 59B, Levies Regulations) and the activity type (reg 59C of the Levies Regulations).
- References to 'year' within the Levies Act and the Levies Regulations are based on a 12-month period commencing on 1 January. The references to duration of activity within the compliance amount calculation are based on the calendar years within which the activity is permitted to occur. The timing for payment of subsequent compliance amount installments is also determined by calendar years.
- For the purpose of levy calculations, the timetable of the activity is taken to be the full period during which the activity might take place and is allowed for in the EP.
- The timing of when levies are due and payable does not necessarily coincide with when the activity or activities are being conducted.
- Regulation 59E of the Levies Regulations provides the circumstances within which NOPSEMA is required to remit or refund the compliance amount of an EP levy. These include EP refusal, EP revision or if EP withdrawal occurs prior to an assessment decision being reached.
- Expenses incurred by NOPSEMA for the assessment of offshore project proposals are recovered through a fee-for-service in accordance with reg 32 of the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (the Environment Regulations).
- Expenses incurred by NOPSEMA for the assessment of financial assurance arrangements are recovered through a fee-for-service in accordance with reg 33 of the Environment Regulations.

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1 Intent and purpose of this guideline

This guideline provides advice on the administration of environment plan (EP) levies and offshore project proposal (OPP) fees-for-service by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA). EP levies for greenhouse gas activity types are not provided for in the Levies Regulations and are not discussed in this guideline.

For further information on the fees-for-service for administration of financial assurance arrangements, please refer to NOPSEMA's *Financial assurance for petroleum titles guideline* (N-04750-GL1381) available on NOPSEMA's website.

The unit values and activity and compliance ratings levy values specified in this document are in effect from 1 January 2014.

2 Background and legislative framework

NOPSEMA was established under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act) and is funded through industry levies and fees-for-service, collected on behalf of the Commonwealth. As a principle of the formal cost recovery policy of the Australian Government, NOPSEMA recovers all of the costs of products and services it provides.

As a requirement of the Department of Finance, NOPSEMA maintains a cost recovery impact statement that is published on NOPSEMA's website. Any significant changes to the methods for NOPSEMA's cost recovery are proposed and stakeholders are consulted prior to significant amendments to the Levies Act or the Levies Regulations.

Further details on the current cost recovery impact statement can be found on NOPSEMA's website..

2.1 Environment plan levies

The Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (Environment Regulations) require that a titleholder must have an in force EP prior to the commencement of any petroleum activity. A petroleum activity is defined in the Environment Regulations as any operations or works in an offshore area undertaken for the purposes of:

- a. exercising a right conferred on a petroleum titleholder under the Act by a petroleum title; or
- b. discharging an obligation imposed on a petroleum titleholder by the Act or a legislative instrument under the Act.

Section 10F of the Levies Act imposes a levy on submission of an EP or a revised EP when the activity is authorised by one or more Commonwealth titles. The EP levy is applied for cost recovery of NOPSEMA's environmental management functions and is the sum of an 'activity amount' and a 'compliance amount.'

The Levies Regulations prescribe how EP levies are calculated and when they are due and payable.

The intent of the EP levy imposed under the Levies Regulations is to provide an equitable method to recover the costs expended by NOPSEMA in regulating environment-related matters across the full range of industry activities. Levies may not always appear directly proportional to the effort expended on each submission and instalment payments may not always coincide with the timing of the specific activity, but the method for calculating and recovering levies has been developed to be as equitable as possible across the industry.

Calculation, payment, refund and remittance of EP levies are discussed further in section 3 of this document.

2.2 Offshore petroleum project fee for service

Expenses incurred by NOPSEMA for the assessment of offshore project proposals (OPPs) are recovered under reg 32 of the Environment Regulations. Further information regarding OPPs is provided in NOPSEMA's *Offshore project proposal content requirements guideline* (N-04750-GL1346) available on NOPSEMA's website. Further information regarding cost recovery for OPP's is provided in section 4 of this document.

2.3 Financial assurance fee for service

Expenses incurred by NOPSEMA for the assessment for financial assurance arrangements may be recovered under regulation 33 of the Environment Regulations. For further information regarding financial assurance and the related fee for service, refer to NOPSEMA's *Financial assurance for petroleum titles guideline* (N-04750-GL1381) available on NOPSEMA's website.

3 Environment plan levy

3.1 Calculating the environment plan levy

The EP levy is calculated in accordance with s59C of the Levies Regulations.

The EP levy is the sum of an activity amount and a compliance amount which are discussed in further detail below.

The unit value, the activity ratings and the compliance ratings for individual activities are defined within the Levies Regulations and provide key inputs for calculating the levy amount. These are discussed in further detail in sections 3.1.3 and 3.1.4 below.

Each 'individual activity' within an EP is assigned an activity rating and a compliance rating. An individual activity means a *petroleum activity, or all of the petroleum activities, that:*

- a. *are authorised by a single Commonwealth title; and*
- b. *are of the same kind as a petroleum activity in the table in subregulation 59C(7); other than a seismic survey or other survey.*

3.1.1 Unit value, activity rating and compliance rating

The unit value, the activity ratings and the compliance ratings for petroleum activities are defined in sub-reg 59C(7) of the Levies Regulations and are included in Attachment 1 of this document.

As at 1 January 2014 the unit value is set at AUD 3,600.

The unit value and ratings of s59C of the Levies Regulations are periodically subject to formal review to ensure NOPSEMA can deliver legislated functions at an appropriate level of service. As described in guidance issued by the Department of Finance, any changes to the current cost recovery arrangements will follow a stakeholder consultation and review process. Should legislative amendments be made that adjust the unit value and/or ratings, any instalments that remain unpaid on the date from which the legislative amendments commence will be modified to reflect the amended legislation.

The activity and compliance ratings in s59C of the Levies Regulations are defined by 15 categories of activity types. NOPSEMA receives a wide range of submissions with various activity types and in some circumstances the activity type and rating to apply to a levy calculation may not be immediately apparent. In determining the rating(s) to apply to an EP levy calculation NOPSEMA considers the specific circumstances of the submission. In order to achieve consistency in calculations to the greatest extent practicable, key principles and considerations include:

- Each activity type described in an EP must have activity and compliance ratings assigned for those activities in each separate title, with the exception of seismic surveys and other surveys which are

3.1.4 Compliance amount

The compliance amount is worked out for an individual activity by identifying the compliance rating in Attachment 1 for the petroleum activity, multiplying the compliance rating by the unit value and multiplying that product by the duration of the individual activity. Where an EP contains multiple individual activities, the same calculation is undertaken for each activity as demonstrated below illustrating two individual activities in one EP:

$$\begin{aligned} \text{Compliance amount for EP} = & \\ & (\text{AUD } 3,600 \times \text{compliance rating for } \textit{individual activity A} \times \text{duration of } \textit{individual activity A}) \\ & + \\ & (\text{AUD } 3,600 \times \text{compliance rating for } \textit{individual activity B} \times \text{duration of } \textit{individual activity B}) \end{aligned}$$

In accordance with sub-reg 59C(4) of the Levies Regulations, NOPSEMA bases calculations of compliance amounts on the duration of each individual activity as described in an EP. The duration of an individual activity may be less than the period for which an EP is in force if this is clearly defined in the EP. Where flexibility is sought by allowing for an activity to take place in any time period over a number of separate calendar years, that duration will be used for the calculation of the compliance amount. This is also referred to in other NOPSEMA guidance as the ‘design envelope’ of an activity. Where an EP describes multiple individual activities with different durations, each individual activity will have the relevant duration applied.

References in the Levies Regulations to ‘year’ are defined as calendar years, being a 12-month period beginning on 1 January (refer to definitions in s3 of the Levies Act). Where an activity continues for less than 365 days, and it is possible that the activity could continue across two calendar years, the duration of the activity will be two years.

The duration of the individual activity is to be expressed in whole calendar years (part years are rounded up to the next whole year) up to a period of five years (which is the maximum period of time prior to the titleholder having to submit a proposed revision of an EP to NOPSEMA).

3.2 Paying the environment plan levy

In accordance with reg 59D of the Levies Regulations, the whole levy (comprised of the activity amount and the compliance amount) becomes payable when the EP or proposed revision is submitted.

The activity amount and the first compliance instalment are due 30 days after submission. The subsequent compliance instalments are due on 1 January of every calendar year after submission, for the period of the EP.

The period of the EP is the window of time commencing when the EP is submitted and continuing until the time indicated in the EP when activities will cease. As noted above, the timetable presented in the EP is considered to be the full possible duration of the activity for calculation of the compliance amount (i.e. the design envelope). For example, if an EP is submitted in year one and the duration of an activity is defined as one month but flexibility is sought, in that the activity may occur at some time in year one or in year two, the duration for the purposes of the compliance amount calculation will be considered to be two years. If an EP is submitted in year one and the duration of an activity is defined as one month but the activity will occur in year two, the duration for the purpose of calculation of the compliance amount will be considered to be one year. The compliance amount will be due in two equal annual instalments.

Section 688C of OPGGS Act allows NOPSEMA to charge a late payment penalty calculated at a rate of 0.333333% per day.

3.3 Refund or remittance of environment plan levies

Refund and/or remittance of the compliance amount must be provided in the circumstances outlined in reg 59E of the Levies Regulations (being EP refusal, EP revision or EP withdrawal) prior to an assessment decision being reached.

As the EP levy is payable on submission, an EP may continue under assessment for an extended period during which the compliance amount is still due even though the activity is not yet underway. The Levies Regulations do not provide for a refund or remittance of compliance amounts because the activity has not yet commenced. It should be noted that a delay in the assessment or other delay in the commencement of the activity does not affect the total EP levy payable or change the timing of payment of EP levies as required by the Levies Regulations. Similarly, if the activity finishes earlier than proposed in the EP there is no provision in the Levies Regulations for refund/remittance of the paid or unpaid compliance amounts.

The Levies Regulations do not provide for refund of the activity amount once an EP has been submitted to NOPSEMA under the Environment Regulations.

3.3.1 Refusal to accept an environment plan

If NOPSEMA refuses to accept an EP on the grounds that it does not meet the criteria for acceptance specified in the Environment Regulations, NOPSEMA will refund each instalment of the compliance amount that has been paid and remit each instalment of the compliance amount that is yet to be paid.

If NOPSEMA has provided a partial acceptance of the EP for some of the individual activities in the EP, this effectively constitutes a partial refusal for the other individual activity/activities in the EP and in this case the compliance amounts for those refused activities will also be refunded/remitted.

3.3.2 Revisions of environment plans

A full EP levy will be applicable on submission of a proposed revision of an EP to NOPSEMA when required under regs 17, 18 or 19 of the Environment Regulations. If NOPSEMA accepts a revised EP under the Environment Regulations, NOPSEMA is required to remit any unpaid compliance amount relating to the EP that has been superseded by the revision (regulation 59E, Levies Regulations). Future compliance instalments will only be paid for the EP in force and not for the superseded EP.

NOPSEMA may determine in writing that a revision proposed by a titleholder is a minor revision for the purposes of EP levy calculation (reg 59C, Levies Regulations). If NOPSEMA determines that the proposed revision is minor, no EP levy will be applicable on submission. In this circumstance the compliance amounts calculated and levied for the original EP submission remain due and payable (sub-reg 59E(2)(a), Levies Regulations). It should be noted that as the Environment Regulations apply a significance test to the revision requirements of reg 17, 18 and 19, NOPSEMA is unlikely to determine that a revision under those regulations is minor for the purposes of reg 59C of the Levies Regulations. NOPSEMA will consider the merits of any request under reg 59C and will consider the specific circumstances of the revision and the intent of legislation prior to making a determination.

3.3.3 Withdrawal of environment plans

If an EP is withdrawn before NOPSEMA has made a decision to accept or to refuse to accept the plan (reg 9(9), Environment Regulations), the paid compliance instalments will be refunded and any amounts not yet paid for future compliance instalments will be remitted.

An EP cannot be withdrawn under reg 9(9) of the Environment Regulations after the EP has been accepted by NOPSEMA. Consequently, refunds of EP levies are not provided in the circumstance where a titleholder has an EP in force but chooses not to proceed with the activity.

4 Offshore project proposal 'fee-for-service'

Expenses incurred by NOPSEMA for the assessment of OPPs are recovered under reg 32 of the Environment Regulations. Consistent with these provisions:

- a fee for service is payable to NOPSEMA on behalf of the Commonwealth for consideration of an OPP in accordance with part 1A of the Environment Regulations
- the fee will be the total amount of expenses incurred by NOPSEMA in administering and assessing the OPP
- on submission of an OPP NOPSEMA will advise the proponent of the NOPSEMA 'fee-for-service' rates

- the NOPSEMA fee-for-service rates are reviewed annually and NOPSEMA shall advise the proponent in writing of any changes to the NOPSEMA fee-for-service rates that occur during the assessment of the OPP
- the fee-for-service will be charged via a quarterly invoice and will specify the number of hours NOPSEMA has incurred during consideration of the OPP. The invoice will also include the fees associated with each NOPSEMA staff member that was involved in the administration and assessment of the OPP during the invoice period and all costs incurred as part of the assessment process
- pre-submission engagement costs will not be charged
- NOPSEMA may remit the whole or a part of an amount of the fee if NOPSEMA considers that there is good reason to do so.

5 Financial assurance ‘fee for service’

Expenses incurred by NOPSEMA for the assessment for financial assurance arrangements may be recovered under reg 33 of the Environment Regulations.

The Australian Petroleum Production and Exploration Association (APPEA) has developed the ‘*Method to assist titleholders in estimating appropriate levels of financial assurance for pollution incidents arising from petroleum activities*’ (the APPEA method) which provides a standard approach to quantifying the appropriate level of financial assurance to cover the potential costs, expenses and liabilities referred to in s571 of the OPGGS Act.

Examination of the cost calculation method may be required if the APPEA method is not used or if financial assurance arrangements are complex. In such circumstances a fee may be payable under reg 33 to allow NOPSEMA to engage relevant experts to thoroughly assess financial assurance arrangements proposed by the titleholder.

For further information regarding financial assurance and this fee for service, refer to section 5 of NOPSEMA’s ‘*Financial assurance for petroleum titles*’ guideline’ (N-04750-GL1381) available on NOPSEMA’s website.

6 References and notes

- *Offshore Petroleum and Greenhouse Gas Storage Act 2006*
- *Offshore Petroleum and Greenhouse Gas (Regulatory Levies) Act 2003*
- Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009
- Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004
- NOPSEMA guideline - Financial assurance for petroleum titles (N-04750-GL1381)
- NOPSEMA guideline - Offshore project proposal content requirements (N-4750-GN1346)
- NOPSEMA policy – Environment assessment (N-4750-PL1347)

For more information regarding this guideline, contact NOPSEMA on:

- telephone: +61 (0)8 6188- 8700, or
- e-mail: information@nopsema.gov.au

Attachment 1: Activity and compliance ratings (regulation 59C)

Activity and compliance ratings			
Item	Petroleum activity	Activity rating	Compliance rating
1	Operation of a facility that is used for the recovery or processing of petroleum	25	22
2	Operation of a facility that is used for the storage of petroleum but not for the recovery or processing of petroleum	14	9
3	Recovery of petroleum using a subsea installation that: (a) is not by itself a facility mentioned in item 1; and (b) is not connected to a facility mentioned in item 1 or 2 that is located in the same production licence area; and (c) is not connected to a licensed pipeline that is located in the same production licence area	12	6
4	Operation of a licensed petroleum pipeline	6	3
5	Construction or installation of a facility mentioned in item 1 or 2	25	18
6	Construction or installation of a licensed petroleum pipeline	16	13
7	Decommissioning, dismantling or removing a facility mentioned in item 1 or 2	22	14
8	Decommissioning, dismantling or removing a licensed petroleum pipeline	16	14
9	Significant modification of a facility mentioned in item 1 or 2	23	17
10	Significant modification of a licensed petroleum pipeline	16	13
11	Drilling	27	14
12	Seismic survey	17	9
13	Other survey	10	3
14	Any other petroleum-related operations or works carried out under an instrument, authority or consent granted or issued under the OPGGS Act	9	3
15	Any other activity relating to petroleum exploration or development which may have an impact on the environment	9	3

Attachment 2: Examples of environment plan levy calculations

Example 1 – Multi-client Seismic Survey (Special Prospecting Authority)

An EP is submitted on 4 March for a seismic survey to be undertaken under the authority of a Special Prospecting Authority (SPA 1) between September and November of the same year.

Activity amount calculation					
Title	Activity type	Activity rating	Unit value	Activity amount	
SPA 1	12 (seismic survey)	17	AUD 3,600	AUD 61,200	
Total activity amount for environment plan				AUD 61,200	
Compliance amount calculation					
Title	Activity type	Compliance rating	Unit value	Duration of activity	Compliance amount
SPA 1	12 (seismic survey)	9	AUD 3600	1	AUD 32,400
Total compliance amount for environment plan					AUD 32,400
Period of environment plan					1
Equal annual instalments					AUD 32,400
Environment plan levy payable					
Total environment plan levy payable					AUD 93,600
Payments due					
First payment (activity amount + first compliance instalment) <i>(30 days after submission)</i>			3 April, Year 1	AUD 93,600	

Example 2 – Seismic survey (exploration permits)

An EP is submitted on 20 November (Year 1) for a 20 day seismic survey to be undertaken the following April (Year 2), to acquire data across two exploration permits (Permit A and Permit B). As required by sub-reg 59C(5) the survey is charged once only regardless of the number of titles the survey is occurring over. Also note that as the EP was submitted in Year 1 for the activity to take place in Year 2, the 'period of the EP' is 2 years, whilst the 'duration of the activity' is rounded up to the nearest whole year (1 year).

Activity amount calculation					
Title	Activity type	Activity rating	Unit value	Activity amount	
Permit A and Permit B	12 (seismic survey)	17	AUD 3,600	AUD 61,200	
Total activity amount for environment plan				AUD 61,200	
Compliance amount calculation					
Title	Activity type	Compliance rating	Unit value	Duration of activity	Compliance amount
Permit A and Permit B	12 (seismic survey)	9	AUD 3,600	1	AUD 32,400
Total compliance amount for environment plan					AUD 32,400
Period of environment plan					2
Equal annual instalments					AUD 16,200
Environment plan levy payable					
Total environment plan levy payable					AUD 93,600
Payments due					
First payment (activity amount + first compliance instalment) <i>(30 days after submission)</i>			AUD 77,400	20 December, Year 1	
Second payment (second compliance instalment) <i>(1 January of the calendar year following submission)</i>			AUD 16,200	1 January, Year 2	

Example 3 – Multi-well drilling campaign and pre-drilling geotechnical surveys

An EP, submitted on 20 February, Year 1, describes drilling of multiple wells in one title (Permit 'A') during the period of July of Year 1 until July of Year 2 and pre-drilling geotechnical surveys in Year 1. Specific timing of each well is not provided, however a total of 200 days drilling and 20 days survey is detailed in the EP. The duration of the individual activities has been limited to the years that were specified in the EP.

Activity amount calculation					
Title	Activity type	Activity rating	Unit value	Activity amount	
Permit A	11 (drilling)	27	AUD 3,600	AUD 97,200	
Permit A	13 (other survey)	10	AUD 3,600	AUD 36,000	
Total Activity Amount for Environment Plan				AUD 133,200	
Compliance amount calculation					
Title	Activity type	Compliance rating	Unit value	Duration of activity	Compliance amount
Permit A	11 (drilling)	14	AUD 3,600	2	AUD 100,800
Permit A	13 (other survey)	3	AUD 3,600	1	AUD 10,800
Total compliance amount for environment plan					AUD 111,600
Period of environment plan					2
Equal annual instalments					AUD 55,800
Environment plan levy payable					
Total environment plan levy payable					AUD 244,800
Payments due					
First payment (activity amount + first compliance instalment) <i>(30 days after submission)</i>			AUD 189,000	22 March, Year 1	
Second payment (second compliance instalment) <i>(1 January of the calendar year following submission)</i>			AUD 55,800	1 January, Year 2	

Example 4 – Construction of a new development

An EP is submitted on 1 September (Year 1) for construction of a new facility which consists of an FPSO on Production Licence C with subsea completions also on Production Licence C (considered as part of the 'parent' facility) and additional subsea completions on Production Licence D. Construction will be occurring on the Production Licence C between June of Year 2 and June of Year 3 while work on Licence D will occur in Year 3 only.

Activity amount calculation					
Title	Activity type	Activity rating	Unit value	Activity amount	
Licence C	5	25	AUD 3,600	AUD 90,000	
Licence D	14 (other)	9	AUD 3,600	AUD 32,400	
Total activity amount for environment plan				AUD 122,400	
Compliance amount calculation					
Title	Activity type	Compliance rating	Unit value	Duration of activity	Compliance amount
Licence C	5	18	AUD 3,600	2	AUD 129,600
Licence D	14 (other)	3	AUD 3,600	1	AUD 10,800
Total compliance amount for environment plan					AUD 140,400
Period of environment plan					3
Equal annual instalments					AUD 46,800
Environment plan levy payable					
Total environment plan levy payable					AUD 262,800
Payments due					
First payment (activity amount + first compliance instalment) <i>(30 days after submission)</i>			AUD 169,200	1 October, Year 1	
Second payment (second compliance instalment) <i>(1 January of the calendar year following submission)</i>			AUD 46,800	1 January, Year 2	

Third Payment (third compliance instalment) <i>(1 January of the subsequent calendar year)</i>	AUD 46,800	1 January, Year 3
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Example 5 – Operation of a facility

An EP is submitted on 15 January (Year 1) for operation of a facility for five years. The facility includes operations of a fixed platform and a floating storage offtake on production licence Y, subsea facilities on production licence Z which tie back to the fixed platform, and a licenced pipeline (pipeline licence A).

Activity amount calculation					
Title	Activity type	Activity rating	Unit value	Activity amount	
Licence Y	1	25	AUD 3,600	AUD 90,000	
Licence Y	2	14	AUD 3,600	AUD 50,400	
Licence Z	3	12	AUD 3,600	AUD 43,200	
Pipeline licence A	4	6	AUD 3,600	AUD 21,600	
Total activity amount for environment plan				AUD 205,200	
Compliance amount calculation					
Title	Activity type	Compliance rating	Unit value	Duration of activity	Compliance amount
Licence Y	1	22	AUD 3,600	5	AUD 396,000
Licence Y	2	9	AUD 3,600	5	AUD 162,000
Licence Z	3	6	AUD 3,600	5	AUD 108,000
Pipeline licence A	4	3	AUD 3,600	5	AUD 54,000
Total compliance amount for environment plan					AUD 720,000
Period of environment plan					5
Equal annual Instalments					AUD 144,000
Environment plan levy payable					
Total environment plan levy payable					AUD 925,200
Payments due					
First payment (activity amount +first compliance instalment) <i>(30 days after submission)</i>			AUD 349,200	14 February, Year 1	
second payment (second compliance instalment) <i>(1 January of the calendar year following submission)</i>			AUD 144,000	1 January, Year 2	
Third payment (third compliance instalment) <i>(1 January of the subsequent calendar year)</i>			AUD 144,000	1 January, Year 3	
Fourth payment (fourth compliance instalment) <i>(1 January of the subsequent calendar year)</i>			AUD 144,000	1 January, Year 4	
Fifth payment (fifth compliance instalment) <i>(1 January of the subsequent calendar year)</i>			AUD 144,000	1 January, Year 5	