

CarbonNet Project

Managing long-term liability for geologic storage of CO₂
Joint IEA-GCCSI Workshop

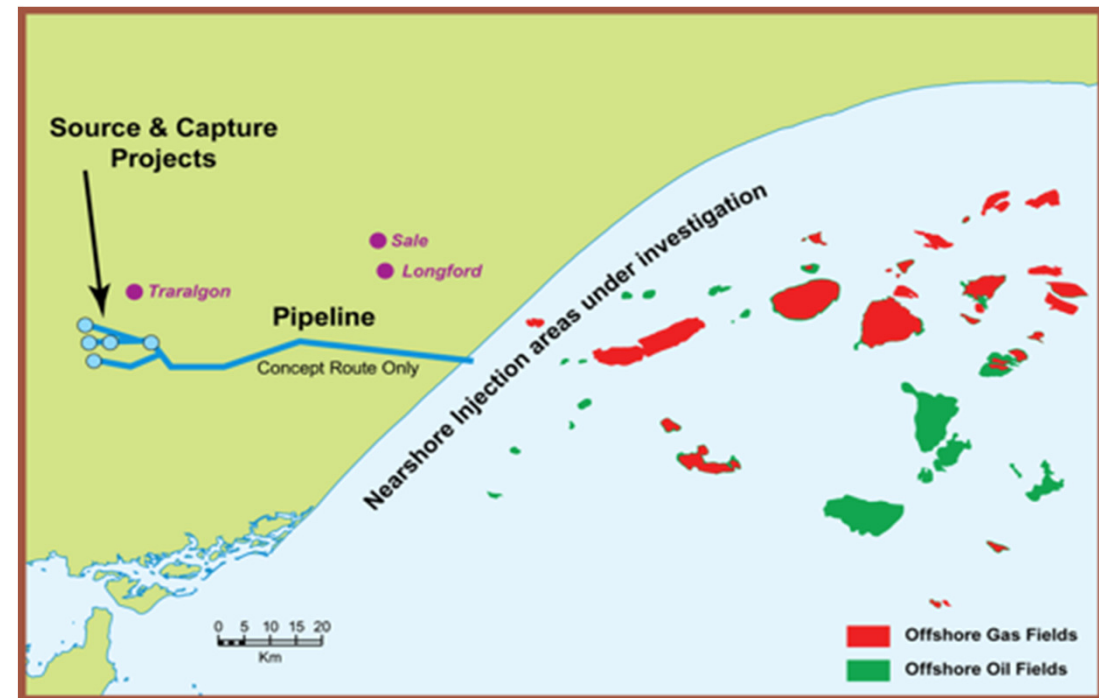
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20 – 21 April 2015

The CarbonNet Project

- **Project perspective** on regulatory process
- Not representing Victorian or Commonwealth Governments
- Not representing Victorian or Commonwealth regulators

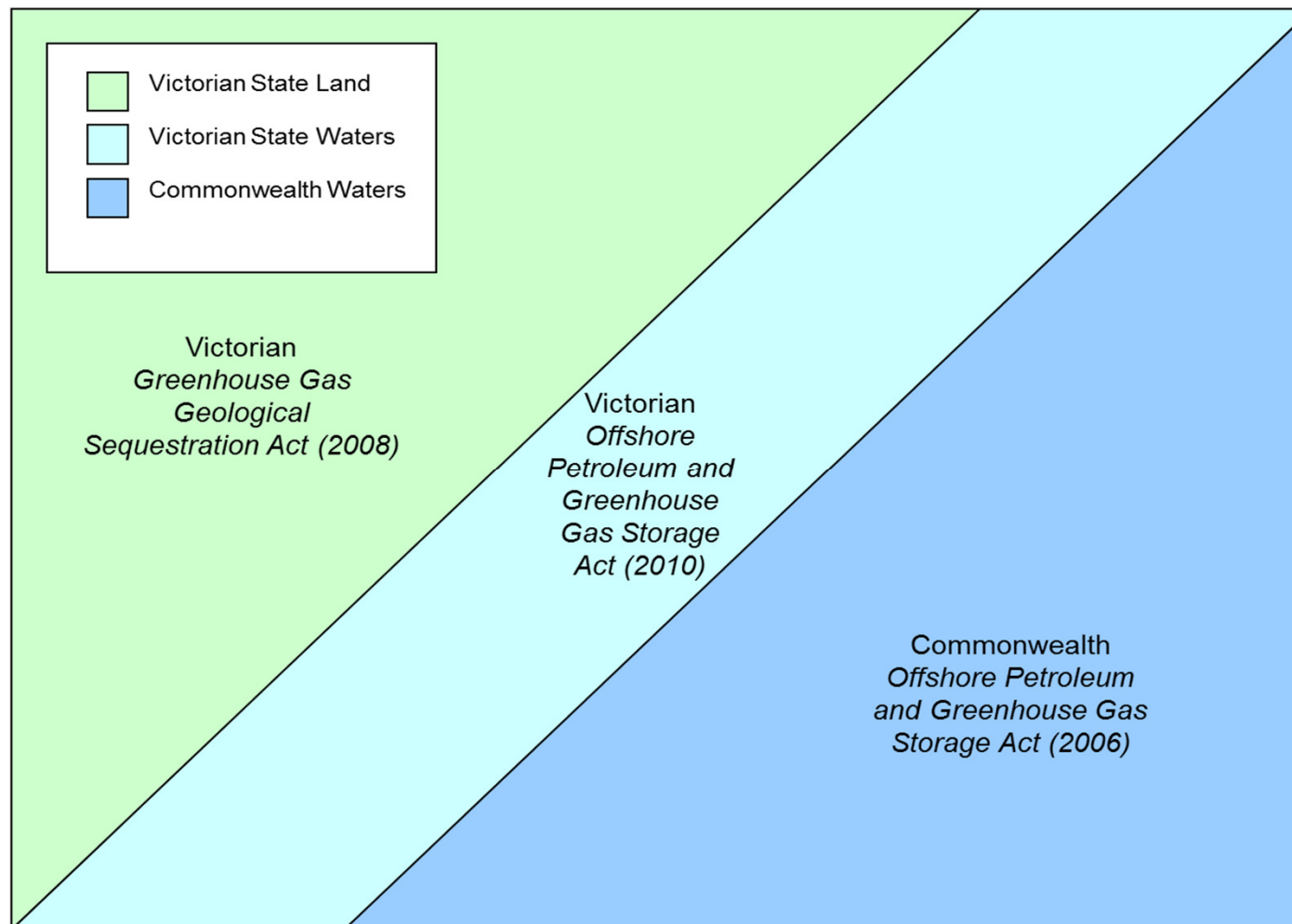
The CarbonNet Project

- Established in 2009 to investigate the potential for a commercial-scale, multi-user CCS network in Gippsland, Victoria, Australia
- Capturing CO₂ emissions from industrial sources and injecting it for storage in rock formations deep below the sea bed
- Funded by the Australian & Victorian Governments
- Working collaboratively with industry

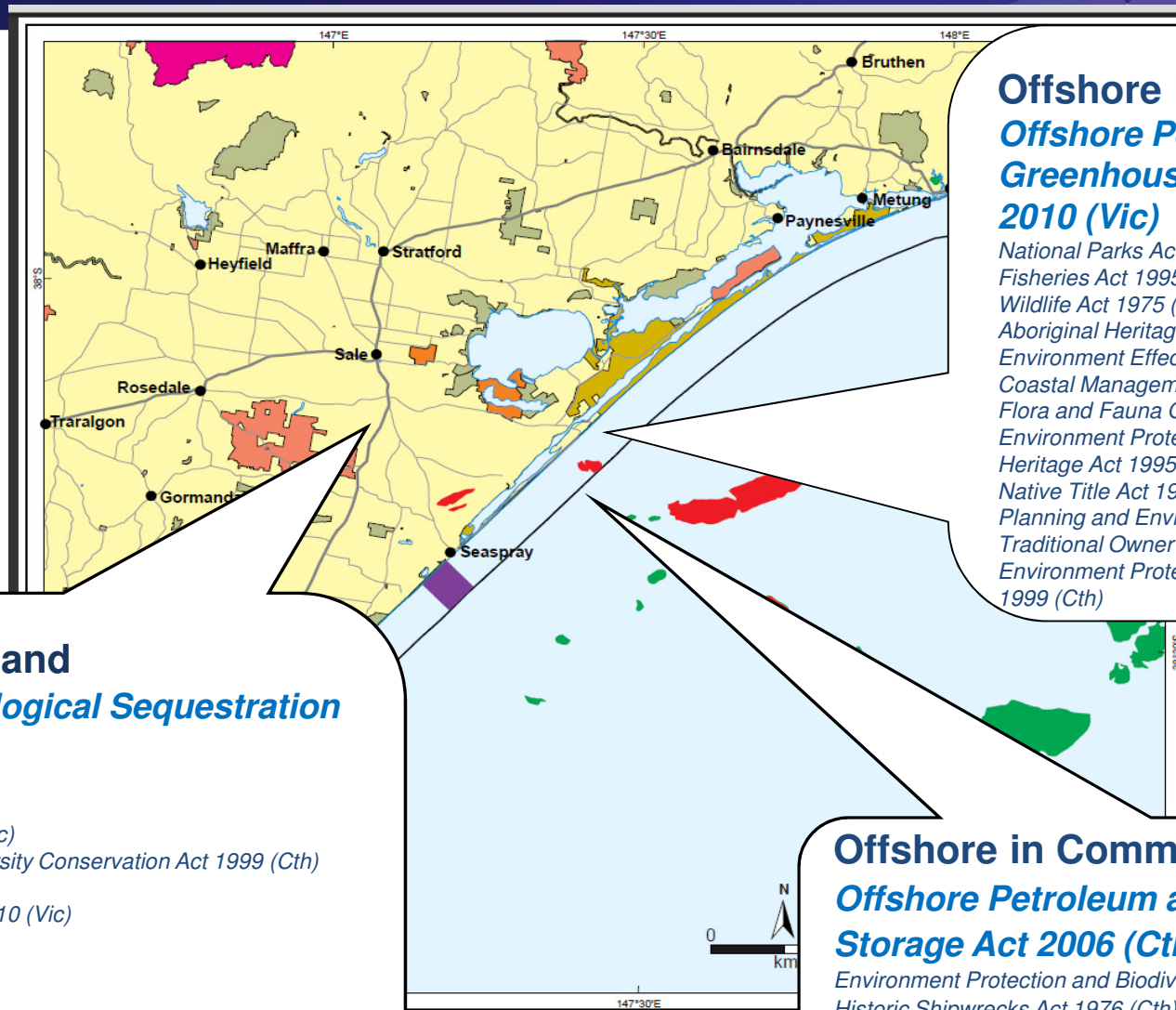


Legislative context

- Three GHG Acts – offshore legislation very complex



Legislative context



Onshore Victorian land

Greenhouse Gas Geological Sequestration Act 2008 (Vic)

Pipelines Act 2005 (Vic)
Environment Effects Act 1978 (Vic)
Environment Protection Act 1970 (Vic)
Environment Protection and Biodiversity Conservation Act 1999 (Cth)
Aboriginal Heritage Act 2006 (Vic)
Traditional Owner Settlement Act 2010 (Vic)
National Parks Act 1975 (Vic)
Native Title Act 1993 (Cth)
Land Act 1958 (Vic)
Crown Lands (Reserves) Act 1978 (Vic)
Transfer of Land Act 1958 (Vic)
Coastal Management Act 1995 (Vic)
Flora and Fauna Guarantee Act 1988 (Vic)
Forests Act 1995 (Vic)
Heritage Act 1995 (Vic)
Planning and Environment Act 1987 (Vic)
Wildlife Act 1975 (Vic)

Offshore in Victorian waters

Offshore Petroleum and Greenhouse Gas Storage Act 2010 (Vic)

National Parks Act 1975 (Vic)
Fisheries Act 1995 (Vic)
Wildlife Act 1975 (Vic)
Aboriginal Heritage Act 2006 (Vic)
Environment Effects Act 1978 (Vic)
Coastal Management Act 1995 (Vic)
Flora and Fauna Guarantee Act 1988 (Vic)
Environment Protection Act 1970 (Vic)
Heritage Act 1995 (Vic)
Native Title Act 1993 (Cth)
Planning and Environment Act 1987 (Vic)
Traditional Owner Settlement Act 2010 (Vic)
Environment Protection & Biodiversity Conservation Act 1999 (Cth)

Offshore in Commonwealth waters

Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth)

Environment Protection and Biodiversity Conservation Act 1999 (Cth)
Historic Shipwrecks Act 1976 (Cth)
Sea Installations Act 1987 (Cth)
Environment Protection (Sea Dumping) Act 1981
Native Title Act 1993 (Cth)

Long-term liability

- Different long-term liability regimes in Victorian & Commonwealth jurisdictions for stored CO₂
- Regulatory Test Toolkit recommendation 10 –
 - “Consider the need to align approach to long term storage liability across jurisdictions taking into account international developments”
- Regulatory Test Toolkit recommendation 8 –
 - “Identify options for enabling cross-jurisdictional storage of CO₂”

Long-term liability - Victoria

- In Victorian onshore & offshore GHG legislation –
 - where injection licence is cancelled or surrendered, the Crown becomes the owner of any injected GHG substance
 - legislation is silent on what liabilities are transferred to the State (presumably common law remains indefinitely)
- Rationale for this approach -
 - consistent with approach taken for other earth resources & waste disposal industries – “the liability should lie where it falls”
 - provides community assurance
 - acts as disincentive to poor operational performance

Long-term liability - Commonwealth

- In Commonwealth offshore GHG legislation –
 - No legislative provision which transfers ownership of any injected GHG substance to Cth
 - Legislation provides that Cth must indemnify a former GHG licence holder where -
 - There is a liability for damages;
 - The liability arose out of an act/omission done in the carrying out of operations authorised under the licence;
 - The liability is incurred or accrues after the end of the closure assurance period (ie 15 years after site closing certificate issued).
 - Commonwealth assumes liability if closure assurance period declared and licence holder ceases to exist

Long-term liability challenges in Victoria

- How different are the Victorian & Commonwealth approaches in practical terms? (.... “act/omission done in the carrying out of operations authorised under the licence”)
- How big a disincentive are different liability regimes to attracting private investment in fledgling CCS industry in Victoria?
- Will the commercial sector accept an open-ended liability?
- How will the lack of alignment in LTL regimes effect the implementation of a solution which enables cross jurisdictional storage?

The CarbonNet Project



For further information, including regular project updates, please visit:

www.energyandresources.vic.gov.au

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