

## **PEP-11**

### **Issue**

The Court made orders quashing the decision of the Commonwealth-New South Wales Offshore Petroleum Joint Authority in relation to PEP-11 and the decision has been remitted to the Joint Authority. PEP-11 is subject to high levels of media and political scrutiny.

### **Key Talking Points**

- PEP-11 is a petroleum exploration permit located off the NSW coast in Commonwealth waters.
- The titleholders commenced judicial review proceedings in June 2022 against the Joint Authority for a decision to refuse a suspension, extension and variation application.
  - On 14 February 2023 the Federal Court of Australia made orders to quash the Joint Authority decision in relation to PEP-11.
  - The Court orders set aside the Joint Authority's decision on the ground that it was affected by a reasonable apprehension of bias.
  - Asset Energy's application has now been remitted to the Joint Authority and will be reconsidered by the Joint Authority in due course.

**Contact:** s22 , A/g Manager, Offshore Exploration

**Min ID:** QB22-000008

**Division:** Oil and Gas

**Cleared by:** Norelle Laucher, A/g General Manager, Offshore Resources

**Created:** 18 January 2023

**Updated:** 2/16/2023 9:46 AM

- The New South Wales member of the Joint Authority, will first consider its position in relation to the project as a relevant decision maker under the *Offshore Petroleum and Greenhouse Gas Storage Act* (2006).
  - The NSW government has committed to drafting new legislation and using planning laws to block access to the mainland in a bid to stop PEP-11.
  - The proposed legislation will only impact on activities in coastal waters. As PEP-11 is located in Commonwealth waters, the proposed legislation would not cancel the existing title.
- The Commonwealth will consider the matter once NSW member of the Joint Authority has considered the matter.
- I am not going to provide an ongoing commentary on future decisions that come before the Joint Authority in relation to PEP-11.

*If asked*

- On 4 February 2021, Asset Energy submitted a second application for a 24 month suspension of work program conditions and extension to the permit term.

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- The National Offshore Petroleum Titles Administrator (NOPTA) is currently assessing this application and it will be considered by the Joint Authority in due course.
- *If pressed:* the second application will not be progressed until a resolution on the first application is reached.
- The permit term expired in February 2021 however there is a provision in the governing legislation (the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*) to allow the permit to continue in force until a decision has been made on any pending application.
- Prior to any activity occurring within the permit area, approval of an environment plan plus other key permissioning documents by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) is required.
  - Asset Energy has not yet submitted an environment plan to allow for any activity (drilling of a well or seismic).

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## Background

- PEP-11 was granted on 24 June 1999. It is the only petroleum exploration title offshore of NSW. It was renewed on 13 August 2012.
  - Asset Energy Pty Ltd is a registered holder of the permit.
- Two seismic surveys (in 2010 and 2018 respectively) and one exploration well (New Seaclem-1 in 2011) have occurred within PEP-11 to date.
- The area extends offshore from Newcastle in the north, and down towards Sydney in the south.

## ***Application and judicial review proceedings***

- In January 2020, Asset Energy applied to the Joint Authority for a suspension and variation to the current conditions of the permit to allow additional time to drill an exploration well and remove the requirement for 500 km<sup>2</sup> 3D seismic acquisition.
- This is the fourth application made by Asset requesting more time to complete their work program since the 2012 renewal of the permit.
  - All applications are assessed on their merits and in accordance with *Offshore Petroleum Greenhouse Gas Storage Act 2006* (the Act) and the criteria outlined in the *Offshore Petroleum Exploration Guideline: Work-bid*.

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- On 4 February 2021, Asset submitted a second application for a 24 month suspension of work program conditions and extension to the permit term.
- Whilst the permit term was due to expire, the Act includes a provision to allow the permit to continue in force until a decision has been made on any pending application.
- On 30 March 2022, Asset Energy was advised of the Joint Authority's decision to refuse its application.
  - The Joint Authority consists of the responsible Commonwealth and responsible State Ministers.
  - The decision maker for this decision was the former Prime Minister, Scott Morrison.
  - On 15 April 2021, the Governor-General signed an instrument appointing Scott Morrison to administer the Department of Industry, Science, Energy and Resources portfolio.
- On 1 June 2022, Asset Energy filed an application in the Federal Court of Australia for judicial review of this decision under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR) and under s39B of the *Judiciary Act 1903* (Cth).
- On 27 October 2022 the court gave leave for Asset to amend their application to include additional grounds.
- Asset Energy claims it was denied procedural fairness on the grounds that:

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- the decision maker predetermined Asset Energy’s application and the decision was biased;
  - there was a reasonable apprehension of bias, in form of predetermination, on the part of the decision maker;
  - the decision maker failed to take into account particular submissions made by the applicant; and
  - the decision maker did not give Asset Energy an opportunity to respond to financial capacity issues raised by NOPTA.
- Asset Energy also claimed that the decision was of no effect on the basis that the former Prime Minister was not validly appointed as the responsible Commonwealth Minister.
  - On 14 February 2023, the Court made orders quashing the decision of the Commonwealth-New South Wales Offshore Petroleum Joint Authority in relation to PEP-11 and the decision has been remitted to the Joint Authority.
  - The orders quash the Joint Authority’s decision on the ground that a breach of the rules of natural justice occurred specifically, that it was affected by a reasonable apprehension of bias.
  - Asset Energy’s application has been remitted to the Joint Authority and will be reconsidered by the Joint Authority in due course.

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***Inquiry into the Appointment of the Former Prime Minister to Administer Multiple Departments***

- On 26 August 2022, the Prime Minister, the Hon Anthony Albanese MP and the Attorney General, the Hon Mark Dreyfus QC MP announced the appointment of the Hon Virginia Bell AC to lead an Inquiry into the appointment of the former Prime Minister to multiple ministries, including the resources portfolio and his decision in relation to PEP-11.
- Departmental officials assisted Ms Bell with her Inquiry.
- The report was published on Friday, 25 November 2022.
  - Six recommendations were made to improve transparency of appointments of ministers to an office, including new legislation and publication of appointments.
  - Implementation of the recommendations is being led by the Department of the Prime Minister and Cabinet.

***Titleholders' promotion of prospectivity***

- Asset Energy has been publicly promoting the potential prospectivity within PEP-11 and has suggested in the media that the project could be brought into fruition within two years with the 'co-operation of government' and the expedition of approvals processes.
- BPH Energy Ltd (the parent company of Asset Energy Pty Ltd) has released the following ASX announcements regarding PEP-11:

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- On 8 April 2021, Asset Energy confirmed the receipt of a “Basis of Well Design Report” for the Baleen exploration well from Add Energy (a consultancy firm specialising in engineering services)
- On 16 May 2021, Asset Energy announced, following a review of research reports published by Geoscience Australia in 2006 and 2008, their understanding of the prospectivity for the PEP-11 permit has been improved.
- On 31 May 2021, Asset Energy issued a call for tender for the provision of subsea wellhead equipment, materials and associated services for the Baleen drilling program.
- On 5 July 2021, Asset Energy announced it had issued a tender for the provision of conductor and surface casing and associated services.
- On 16 September 2021, Asset Energy issued a letter of intent to award a contract to provide conductor and surface casing plus associated services for the planned exploration well.
- On 30 September 2021, BPH Energy issued to the ASX, a copy of the presentation Dr Peter Cook gave to the ANZ Carbon Capture, Utilization and Storage Forum on Asset Energy’s plans to use the SeaBlue-1 gas well in PEP-11 to cost-effectively appraise the carbon storage potential of the offshore Sydney Basin.
- On 29 November 2021, BPH Energy published the Chairman’s address to the annual general meeting which noted the

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potential national significance of the Pep-11 prospect to being able to address the forecast gas shortages and net zero emissions targets.

In its Annual Financial Report (30 June 2022), BPH Energy reported that Advent Energy Advent has received a copy of the Environmental Plan for the PEP-11 Baleen well from the Xodus group and is being reviewed prior to release.

- In October 2022, Asset Energy advised it had received a draft an Environment Plan in relation to the exploration well drilling program for their review from Xodus Group.

### ***Opposition***

- There is significant community opposition to PEP-11 as well as opposition by Federal and NSW MPs. Opposition has been renewed with the Federal Court making orders to quash the most recent decision and remit it back to the Joint Authority.
- On 6 February, Senator Whish-Wilson (Greens Senator for Tasmania) introduced the debate on the Offshore Petroleum and Greenhouse Gas Storage Amendment (Fight for Australia's Coastline) Bill 2022 in the Senate.
  - This Bill was proposed to cancel Petroleum Exploration Permit 11, and Petroleum Exploration Permit/T/49P (King Island, Tasmania); prevent any petroleum exploration leases for the Otway Basin/12 Apostles being granted; and prohibit any further petroleum exploration in the three areas.

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- Senator Whish-Wilson moved a motion for the Order for the Production of Documents in relation to PEP-11. On 9 February 2022, the Senate agreed to the motion.
- On 4 February 2023, NSW Independent MP for Sydney, Alex Greenwich, stated that he and a number of other independents, if elected, will unveil a bill to stop PEP-11. The Bill would seek to amend the State Planning Act to ban certain developments on land and at sea.
- On 3 February 2023, NSW Premier Dominic Perrottet reaffirmed his government's opposition to PEP-11.
  - On 14 February 2023, the Perrottet government committed to introducing new legislation and using planning laws to block access to the mainland, should they again win office at the forthcoming election on 25 March 2023.
- Local members at the time, including Jason Falinski (Liberal – McKellar), Lucy Wicks (Liberal – Robertson), Trent Zimmerman (Liberal – North Sydney) and Dave Sharma (Liberal – Wentworth) spoke against the PEP-11 permit and work program and called for a ban on oil and gas exploration offshore Sydney. All these members were defeated at the general election in 2022.
- A Change.org petition "Stop blasting or drilling for oil or gas off Newcastle and the Central Coast to Manly" has over 80,000 signatures.

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- Save our Coast, a community action group opposed to seismic testing and drilling in the PEP-11 permit area, has organised a number of local protests and national petitions against PEP 11.
- Independent MP Zali Steggall OAM backed the group's action, and tabled a petition in Parliament on 6 February 2020, opposing seismic and drilling activities off the NSW coast.
  - Ms Steggall introduced a Private Members Bill: *Offshore Petroleum and Greenhouse Gas Storage Amendment (Stopping PEP11) Bill 2021* to the previous Parliament.
  - On 13 February 2023, Ms Steggall re-introduced the private member's bill as the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Stop PEP11 and Protect Our Coast) Bill 2023*.
  - Debate of the bill has been adjourned, with resumption of the debate scheduled to be an order of the day for the next sitting.
  - New Mackellar MP, Dr Sophie Scamps, has also been vocal in her opposition to gas exploration within the PEP-11 permit and exploration for oil and gas anywhere in Australian waters and seconded the motion for the reintroduction of the bill.
- Newcastle City Council and Central Coast Council have passed motions opposing offshore exploration off the coast of New South Wales.

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- The Surfrider Foundation organised 'paddle out' protests against PEP-11 along the Sydney and Central Coasts over three consecutive weekends from 17 April 2021. The first protest attracted around 250 surfers.
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### ***Opposition***

- There is significant community opposition to PEP-11 as well as opposition by Federal and NSW MPs. Opposition has been renewed with the Federal Court making orders to quash the most recent decision and remit it back to the Joint Authority.
- On 19 March 2023 an alliance of political groups participated in a rally at Bar Beach in Newcastle to urge the Federal Government to cancel the PEP-11 permit.
  - Federal Newcastle MP Sharon Claydon stated that due process was being followed to ensure the case would not return to court, however also spoke in opposition to the permit.

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- NSW election candidates for Labor (Tim Crakanthorp MP, State Member for Newcastle), Liberal (Thomas Triebsees, Liberal Candidate for Newcastle), The Greens and NSW Socialist Alliance (Niko Leka) spoke against the permit at the rally, along with Ms Claydon.
- On 6 February, Senator Whish-Wilson (Greens Senator for Tasmania) introduced the debate on the Offshore Petroleum and Greenhouse Gas Storage Amendment (Fight for Australia's Coastline) Bill 2022 in the Senate.
  - This Bill was proposed to cancel Petroleum Exploration Permit 11, and Petroleum Exploration Permit/T/49P (King Island, Tasmania); prevent any petroleum exploration leases for the Otway Basin/12 Apostles being granted; and prohibit any further petroleum exploration in the three areas.
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**Division:** Oil and Gas

**Cleared by:** Norelle Laucher, General Manager, Offshore Resources  
s22

**Created:** 18 January 2023

**Updated:** 05/01/2023 3:25 PM

- I am not going to provide an ongoing commentary on future decisions before the Joint Authority in relation to PEP-11.

*If asked*

- On 4 February 2021, Asset Energy submitted a second application for a 24-month suspension of work program conditions and extension to the permit term.
  - The National Offshore Petroleum Titles Administrator (NOPTA) is currently assessing this application and it will be considered by the Joint Authority in due course.
- The permit term expired in February 2021, however there is a provision in the governing legislation (the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*) to allow the permit to continue in force until a decision has been made on any pending application.
- Prior to any activity occurring within the permit area, approval of an environment plan plus other key permissioning documents by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) is required.
  - Asset Energy has not yet submitted an environment plan to allow for any activity (drilling of a well or seismic).

**Contact:** s22, Manager, Offshore Exploration Section s22

**Min ID:** QB22-000008

**Division:** Oil and Gas

**Cleared by:** Norelle Laucher, General Manager, Offshore Resources s22

**Created:** 18 January 2023

**Updated::** 18/05/2023 1:33PM

## Background

- PEP-11 was granted on 24 June 1999. Two seismic surveys (in 2010 and 2018 respectively) and one exploration well (New Seaclem-1 in 2011) have occurred within PEP-11 to date.

## *Application*

- In January 2020, Asset Energy applied to the Joint Authority for a suspension and variation to the current conditions of the permit to allow additional time to drill an exploration well and remove the requirement for 500 km<sup>2</sup> 3D seismic acquisition.
- On 30 March 2022, Asset Energy was advised of the Joint Authority's decision to refuse its application.

## *Titleholders' promotion of prospectivity*

- Asset Energy has been publicly promoting the potential prospectivity within PEP-11 and continues to progress their exploration plans.
  - In October 2022, Asset Energy advised it had received a draft Environment Plan in relation to the exploration well drilling program for their review from Xodus Group.

Contact: s22, Manager, Offshore Exploration Section s22

Min ID: QB22-000008

Division: Oil and Gas

Cleared by: Norelle Laucher, General Manager, Offshore Resources s22

Created: 18 January 2023

Updated: 18/05/2023 1:33PM

## PEP-11

### Issue

The Court made orders quashing the decision of the Commonwealth-New South Wales Offshore Petroleum Joint Authority in relation to PEP-11 and the decision has been remitted to the Joint Authority. PEP-11 is subject to high levels of media and political scrutiny.

### Key Talking Points

- The titleholders commenced judicial review proceedings in June 2022 against the Joint Authority for a decision to refuse a suspension, extension and variation application.
  - On 14 February 2023 the Federal Court of Australia made orders to quash the Joint Authority decision in relation to PEP-11 on the ground that it was affected by reasonable apprehension of bias.
  - Asset Energy's application has now been remitted to the Joint Authority.
- The Commonwealth will consider the matter once the NSW member of the Joint Authority has considered the matter.
- Any future decision is a matter for the Joint Authority and will be determined after fair and impartial consideration of the application.

**Contact:** s22, Manager, Offshore Exploration Section  
s22

**Min ID:** QB22-000008

**Division:** Oil and Gas

**Cleared by:** Norelle Laucher, General Manager, Offshore Resources  
s22

**Created:** 18 January 2023

**Updated:** 09/06/2023 1:33 PM

- I am not going to provide an ongoing commentary on future decisions before the Joint Authority in relation to PEP-11.

*If asked*

- On 4 February 2021, Asset Energy submitted a second application for a 24-month suspension of work program conditions and extension to the permit term.
  - The National Offshore Petroleum Titles Administrator (NOPTA) is currently assessing this application and it will be considered by the Joint Authority in due course.
- The permit term expired in February 2021, however there is a provision in the governing legislation (the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*) to allow the permit to continue in force until a decision has been made on any pending application.
- Prior to any activity occurring within the permit area, approval of an environment plan plus other key permissioning documents by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) is required.
  - Asset Energy has not yet submitted an environment plan to allow for any activity (drilling of a well or seismic).

**Contact:** s22, Manager, Offshore Exploration Section s22

**Min ID:** QB22-000008

**Division:** Oil and Gas

**Cleared by:** Norelle Laucher, General Manager, Offshore Strategy Branch s22

**Created:** 18 January 2023

**Updated::** 09/06/2023 1:33PM

## Background

- PEP-11 was granted on 24 June 1999. Two seismic surveys (in 2010 and 2018 respectively) and one exploration well (New Seaclem-1 in 2011) have occurred within PEP-11 to date.

## Application

- In January 2020, Asset Energy applied to the Joint Authority for a suspension and variation to the current conditions of the permit to allow additional time to drill an exploration well and remove the requirement for 500 km<sup>2</sup> 3D seismic acquisition.
- On 30 March 2022, Asset Energy was advised of the Joint Authority's decision to refuse its application.

## Titleholders' promotion of prospectivity

- Asset Energy has been publicly promoting the potential prospectivity within PEP-11 and continues to progress their exploration plans.
  - In October 2022, Asset Energy advised it had received a draft Environment Plan in relation to the exploration well drilling program for their review from Xodus Group.

## NSW legislation

- On 1 June 2023, the NSW Opposition introduced the Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill 2023 to the Legislative Assembly.

Contact: s22 Manager, Offshore Exploration Section s22

Min ID: QB22-000008

Division: Oil and Gas

Cleared by: Norelle Laucher, General Manager, Offshore Strategy Branch s22

Created: 18 January 2023

Updated:: 09/06/2023 1:33PM

- Although not yet publicly available, it is reported the Bill seeks to ban the laying of infrastructure, such as pipelines, within five kilometres of NSW's coastline and has the support of key crossbenchers.

**Contact:** s22, Manager, Offshore Exploration Section s22

**Min ID:** QB22-000008

**Division:** Oil and Gas

**Cleared by:** Norelle Laucher, General Manager, Offshore Strategy Branch s22

**Created:** 18 January 2023

**Updated::** 09/06/2023 1:33PM

## PEP-11

### Issue

The Court made orders quashing the decision of the Commonwealth-New South Wales Offshore Petroleum Joint Authority in relation to PEP-11 and the decision has been remitted to the Joint Authority. PEP-11 is subject to high levels of media and political scrutiny.

### Key Talking Points

- The titleholders commenced judicial review proceedings in June 2022 against the Joint Authority for a decision to refuse a suspension, extension and variation application.
  - On 14 February 2023 the Federal Court of Australia made orders to quash the Joint Authority decision in relation to PEP-11 on the ground that it was affected by reasonable apprehension of bias.
  - Asset Energy's application has now been remitted to the Joint Authority.
- The Commonwealth will consider the matter once the NSW member of the Joint Authority has considered the matter.
- Any future decision is a matter for the Joint Authority and will be determined after fair and impartial consideration of the application.

Contact: s22  
s22

Offshore Exploration Section

Min ID: QB22-000008

Division: Oil and Gas

Cleared by: Norelle Laucher, General Manager, Offshore Resources  
s22

Created: 18 January 2023

Updated: 24/07/2023 3:57 PM



- I am not going to provide an ongoing commentary on future decisions before the Joint Authority in relation to PEP-11.

*If asked*

- On 4 February 2021, Asset Energy submitted a second application for a 24-month suspension of work program conditions and extension to the permit term.
  - The National Offshore Petroleum Titles Administrator (NOPTA) is currently assessing this application and it will be considered by the Joint Authority in due course.
- The permit term expired in February 2021, however there is a provision in the governing legislation (the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*) to allow the permit to continue in force until a decision has been made on any pending application.
- Prior to any activity occurring within the permit area, approval of an environment plan plus other key permissioning documents by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) is required.
  - Asset Energy has not yet submitted an environment plan to allow for any activity (drilling of a well or seismic).

**Contact:** Js22 Manager, Offshore Exploration Section s22

**Min ID:** QB22-000008

**Division:** Oil and Gas

**Cleared by:** Norelle Laucher, General Manager, Offshore Strategy Branch s22

**Created:** 18 January 2023

**Updated::** 24/07/2023 3:57PM

## Background

- PEP-11 was granted on 24 June 1999. Two seismic surveys (in 2010 and 2018 respectively) and one exploration well (New Seaclem-1 in 2011) have occurred within PEP-11 to date.

## Application

- In January 2020, Asset Energy applied to the Joint Authority for a suspension and variation to the current conditions of the permit to allow additional time to drill an exploration well and remove the requirement for 500 km<sup>2</sup> 3D seismic acquisition.
- On 30 March 2022, Asset Energy was advised of the Joint Authority's decision to refuse its application.

## Titleholders' promotion of prospectivity

- Asset Energy has been publicly promoting the potential prospectivity within PEP-11 and continues to progress their exploration plans.
  - In October 2022, Asset Energy advised it had received a draft Environment Plan in relation to the exploration well drilling program for their review from Xodus Group.
  - In July 2023, Asset Energy and Joint Venture partner Bounty Oil & Gas NL were reported as continuing to investigate the availability of a mobile offshore drilling rig to drill the proposed Seablue-1 well on the Baleen prospect in 2024.

Contact: s22 Manager, Offshore Exploration Section s22

Min ID: QB22-000008

Division: Oil and Gas

Cleared by: Norelle Laucher, General Manager, Offshore Strategy Branches s22

Created: 18 January 2023

Updated: 24/07/2023 3:57PM

***NSW legislation***

- On 1 June 2023, the NSW Opposition introduced the Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill 2023 to the Legislative Assembly.
- The Bill aims to block access to the NSW shore, potentially affecting the viability of any offshore exploration projects in Commonwealth waters.
- On 29 June 2023, following debate, the Bill was referred to the Legislative Assembly Standing Committee on Environment and Planning and is expected to report by 21 November 2023.

**Contact:** s22 Manager, Offshore Exploration Section s22

**Min ID:** QB22-000008

**Division:** Oil and Gas

**Cleared by:** Norelle Laucher, General Manager, Offshore Strategy Branch s22

**Created:** 18 January 2023

**Updated::** 24/07/2023 3:57PM

DEPARTMENT OF INDUSTRY, SCIENCE AND RESOURCES

MS23-000059

To: Minister for Resources (For Decision)

DECISION MAKER ON PEP-11 APPLICATIONS

Timing: Routine

**Recommendations:** That you

1. **Indicate** your preferred Commonwealth decision maker who will, with the NSW decision maker, make Joint Authority decisions for the Petroleum Exploration Permit 11 (PEP-11) applications:

- a. **Option A:** the Commonwealth Minister for Resources;
- b. **Option B:** another Commonwealth Minister in the Industry, Science and Resources Portfolio; or
- c. **Option C:** an SES employee in the department, as your delegate.

**Option A / Option B / Option C / Please discuss**

2. **Note** that the department recommends that you discuss whether the decision should be made by ministers or delegates with the Hon Courtney Houssos MLC, NSW Minister for Natural Resources and the responsible State Minister for the Joint Authority, before indicating a preferred Commonwealth decision maker.

**Noted / Please discuss**

3. **Note** that under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, Joint Authority decisions must be made either by the two Ministers or two delegates of the Joint Authority, so Minister Houssos will need to agree should Option C be preferred.

**Noted / Please discuss**

**Minister:**

Date:

**Comments:**

<b>Clearing Officer:</b>	Norelle Laucher	General Manager, Offshore Strategy Branch	Ph: s22 Mob: s22
Contact Officer:	s22	Manager, Regulatory Reform	Ph: s22 Mob: s22
<b>For Parliamentary Services' use only.</b> Date Submitted to the Minister's office in PDMS:			7/6/2023

**Key Points:**

1. On 14 February 2023, the Federal Court made orders to quash the decision of the Commonwealth-NSW Offshore Petroleum Joint Authority dated 26 March 2022 to refuse the application for a variation and suspension of the conditions to which PEP-11 is subject and remit the application to the Joint Authority (**MS23-000170** refers).

a. s42

2. The purpose of this brief is to obtain your preference for the Commonwealth decision maker for the PEP-11 applications. s42  
s42

**Sensitivities and Handling**

3. On 4 February 2023, Chris Minns, as the then leader of the NSW state Opposition, announced that the Opposition continues to oppose PEP-11. The department is not aware of any similar statements made by the now Premier since the election on 25 March 2023.

**Data referenced:** N/A

**Consultation with the Cities and Northern Australia Division, Department of Infrastructure, Transport, Regional Development, Communications and the Arts:** Nil

4. The matter is not relevant to the Northern Australia portfolio.

**Other Consultation:** YES

5. Legal Branch

**ATTACHMENTS**

**A:** Options for the Commonwealth decision maker for PEP-11 applications

**B:** s42

**Attachment A**

Options for the Commonwealth decision maker for PEP-11 applications

1. There are three options for the Commonwealth decision maker, <sup>s42</sup>

*Option A – Commonwealth Minister for Resources as the responsible Commonwealth Minister*

2. As the Commonwealth Minister for Resources, you can make decisions as the responsible Commonwealth Minister, jointly with the responsible NSW Minister, as members of the Commonwealth-NSW Offshore Petroleum Joint Authority under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act).

<sup>s42</sup>

*Option B – Another Commonwealth Minister appointed to the Industry, Science and Resources Portfolio as the responsible Commonwealth Minister*

4. Under the OPGGS Act, another Commonwealth Minister appointed to the Industry, Science and Resources Portfolio (Portfolio) can also exercise powers as the responsible Commonwealth Minister. Another Minister appointed to the Portfolio could therefore be the Commonwealth decision maker.

<sup>s42</sup>

*Option C – An SES employee in the department, as a delegate of the Joint Authority*

6. An SES employee could be the Commonwealth decision maker as a delegate of the Commonwealth member of the Joint Authority.

**OFFICIAL: SENSITIVE**  
**Legal-Privilege**



**Prepared for Department of Industry, Science and Resources**

**s22** A/g Senior Legal Counsel  
Your ref: LEX 72881 Our ref: 23001461  
18 May 2023

---

**s42**



DEPARTMENT OF INDUSTRY, SCIENCE AND RESOURCES

MS23-000170

To: Minister for Resources (For Information)

**ASSET ENERGY PTY LTD V THE COMMONWEALTH MINISTER FOR RESOURCES, AS THE RESPONSIBLE COMMONWEALTH MINISTER OF THE COMMONWEALTH-NSW OFFSHORE PETROLEUM JOINT AUTHORITY & ANOR, WAD106/2022 (PEP-11) – COURT ORDERS AND NEXT STEPS**

**Recommendations:** That you

1. **Note** that draft consent orders and a joint memorandum were submitted to the court on 30 January 2023.

**Noted / Please Discuss**

2. **Note** that the court will consider the joint memorandum and draft consent orders before making final orders. Public statements should not be made prior to final orders.

**Noted / Please Discuss**

3. **Note** the department has prepared talking points at Attachment A and a draft media release at Attachment B for use once court orders are made.

**Noted / Please Discuss**

4. <sup>s42</sup>

**Noted / Please Discuss**

**Minister:**

Date:

**Comments:**

<b>Clearing Officer:</b>	Jane Urquhart	Deputy Secretary, Strategy and Resources	Ph: s22 Mob: s22
Contact Officer:	Norelle Laucher	A/g General Manager, Offshore Strategy Branch	Ph: s22 Mob: s22
<b>For Parliamentary Services' use only.</b> Date Submitted to the Minister's office in PDMS:			1/2/2023

PEP-11

s47E(d)

Talking Points

- Legal proceedings about a decision regarding the PEP-11 title have now been resolved.
- The Federal Court has made orders setting aside the Commonwealth-New South Wales Offshore Petroleum Joint Authority's (Joint Authority) decision to refuse an application relating to the PEP-11 title under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act).
- The orders of the Court were made by the consent of the Government and Asset Energy.
- These orders set aside the Joint Authority's decision on the ground that it was affected by a reasonable apprehension of bias. Asset Energy's application has now been remitted to the Joint Authority and will be reconsidered by the Joint Authority in due course.

- I am committed to ensuring any decision made by the Joint Authority in relation to PEP-11 will be approached fairly and with an open mind and will be based on all the material before the Joint Authority and in line with the requirements of the relevant legislation.

***If asked about timing of the decision***

- Any future decision of the Joint Authority will be determined after fair and impartial consideration of all the information before it.

***If asked about the impact of the NSW election on the decision***

- I am aware the NSW Election will take place on Saturday 25 March 2023.
  - I am also aware that the NSW caretaker period is due to commence on Friday 3 March 2023 which may impact the timing of the Joint Authority's future decisions.

***If asked about the costs***

- The court has also made an order that the Commonwealth pay Asset Energy's legal costs as agreed or taxed.
- The Commonwealth will now take steps to come to an agreement with Asset Energy about a reasonable amount of costs.

***Background***

- PEP-11 is a Petroleum Exploration Permit located in Commonwealth waters, offshore of New South Wales adjacent to Newcastle and Sydney
- The permit covers an area of approximately 4,575 km<sup>2</sup>.
- Asset Energy Pty Ltd is the operator and holds an 85 per cent interest in PEP-11. Bounty Oil and Gas NL hold the remaining 15 per cent interest.

- In January 2020, Asset Energy applied to the Commonwealth – New South Wales Offshore Petroleum Joint Authority (Joint Authority) for a suspension and variation to the conditions of the PEP-11 permit to allow additional time to drill an exploration well and remove the requirement for a seismic survey.
- On 4 February 2021, Asset submitted a further application for a suspension of work program conditions and extension to the permit term.
- The Joint Authority is a body constituted by the responsible Commonwealth Minister and the responsible State Minister (or their respective delegates).

**From:** s22  
**Sent:** 27/01/2023 5:01:57 PM  
**To:** s22 @industry.gov.au>; s22  
s22 @industry.gov.au>  
**Cc:** "Laucher, Norelle" s22 @industry.gov.au>; "Lawrence, David" s22 @industry.gov.au>; "Urquhart, Jane" s22 @industry.gov.au>  
**Subject:** Talking Points - PEP-11 Decision [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]  
**Attachments:** Talking Points - PEP-11 Decision.docx

Hi s22

As discussed, please find attached talking points in relation to the PEP-11 legal proceedings. These comments have been cleared through AGS.

s47E(d)

I will be on leave on Monday and Tuesday, but please feel free to contact Norelle Laucher if you have any follow up questions.

s22

**Manager**

Oil & Gas Division | Offshore Strategy Branch | Strategic Policy  
Ngunnawal Country, 10 Binara Street (GPO Box 1013) Canberra ACT 2601 Australia  
Department of Industry, Science and Resources

P s22

| M s22

| E<sup>s</sup><sub>2</sub>

[industry.gov.au](http://industry.gov.au)

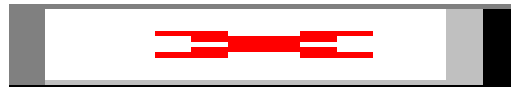
**industry.gov.au** ABN 74 599 608 295

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### **Acknowledgement of Country**

Our department recognises the First Peoples of this nation and their ongoing connection to culture and country. We acknowledge First Nations Peoples as the Traditional Owners, Custodians and Lore Keepers of the world's oldest living culture and pay respects to their Elders past, present and emerging.



~~OFFICIAL: Sensitive~~  
~~Legal privilege~~

## **Talking Points – PEP-11**

- Legal proceedings about a decision regarding the PEP-11 title have now been resolved.
- The Federal Court has made orders setting aside the Commonwealth-New South Wales Offshore Petroleum Joint Authority's (Joint Authority) decision to refuse an application relating to the PEP-11 title under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act).
- The orders of the Court were made by the consent of the government and Asset Energy.
- These orders set aside the Joint Authority's decision on the ground that it was affected by a reasonable apprehension of bias. Asset Energy's application has now been remitted to the Joint Authority and will be reconsidered by the Joint Authority in due course.
- I am committed to ensuring any decision made by the Joint Authority in relation to PEP-11 will be approached fairly and with an open mind and will be based on all the material before the Joint Authority and in line with the requirements of the relevant legislation.

### ***If asked about timing of the decision***

- Any future decision of the Joint Authority will be determined after fair and impartial consideration of all of the information before it.
- I am aware the NSW Election will take place on Saturday 25 March 2023.
  - I am also aware that the NSW caretaker period is due to commence on Friday 3 March 2023 which may impact the timing of the Joint Authority's future decisions.

### ***If asked about the costs***

- The court has also made an order that the Commonwealth pay Asset Energy's legal costs as agreed or taxed.
- The Commonwealth will now take steps to come to an agreement with Asset Energy about a reasonable amount of costs.

### ***General Talking Points***

- PEP-11 is a Petroleum Exploration Permit located in Commonwealth waters, offshore of New South Wales adjacent to Newcastle and Sydney
- The permit covers an area of approximately 4,575 km<sup>2</sup>.
- Asset Energy Pty Ltd is the operator and holds an 85 per cent interest in PEP-11. Bounty Oil and Gas NL hold the remaining 15 per cent interest.
- In January 2020, Asset Energy applied to the Commonwealth – New South Wales Offshore Petroleum Joint Authority (Joint Authority) for a suspension and variation to the conditions of the PEP-11 permit to allow additional time to drill an exploration well and remove the requirement for a seismic survey.
- On 4 February 2021, Asset submitted a further application for a suspension of work program conditions and extension to the permit term.
- The Joint Authority is a body constituted by the responsible Commonwealth Minister and the responsible State Minister (or their respective delegates).



s22

**From:** s22

**Sent:** Friday, 27 January 2023 5:01:00 PM

**To:** s22 ; s22

**Cc:** [Laucher, Norelle](#); [Lawrence, David](#); [Urquhart, Jane](#)

**Subject:** Talking Points - PEP-11 Decision [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

**Sensitivity:** Normal

**Attachments:**

[Talking Points - PEP-11 Decision.docx](#) ;

---

Hi s22

As discussed, please find attached talking points in relation to the PEP-11 legal proceedings. s42

s42

s42

I will be on leave on Monday and Tuesday, but please feel free to contact Norelle Laucher if you have any follow up questions.

s22

**Manager**

Oil & Gas Division | Offshore Strategy Branch | Strategic Policy

Ngunawal Country, 10 Binara Street (GPO Box 2013) Canberra ACT 2601 Australia

Department of Industry, Science and Resources

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[industry.gov.au](http://industry.gov.au) ABN 74 599 608 295

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OFFICIAL: Sensitive  
Legal privilege

**From:** "Laucher, Norelle"  
**Sent:** 17/02/2023 10:46:38 AM  
**To:** s22 @industry.gov.au>  
**Cc:** "s22" "s22" @industry.gov.au>; "s22" "  
s22 @industry.gov.au>; "Lawrence, David" s22 @industry.gov.au>  
**Subject:** PEP-11 - decision making process [SEC=OFFICIAL]

Good morning s22

As requested, please find some points on the process for making a decision on PEP-11.

Please let me know if you need any additional points today.

Norelle

### ***Why does the decision have to be made by the Joint Authority?***

- The Court has made orders setting aside the decision made by the Commonwealth-New South Wales Offshore Petroleum Joint Authority and the decision has been remitted to the Joint Authority.
- Under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, the Joint Authority is the decision-maker for the application made by Asset Energy. It was a decision of the Joint Authority that was subject to judicial review.
- Therefore, it is the decision of the Joint Authority that has been remitted, not only the Commonwealth's part of the decision.
- The Act does not contemplate the Commonwealth Minister and the New South Wales Minister as two separate decision-makers. Rather, each Minister advises the decision that they think should be made in respect of an application.
  - Where the two Ministers agree in relation to the decision that they think should be made, that becomes the decision of the Joint Authority.
  - Where the two Ministers disagree in relation to the decision that they think should be made, the Commonwealth Minister may decide the matter, and that becomes the decision of the Joint Authority.

- Where the Commonwealth Minister gives the New South Wales Minister written notice of a decision the Commonwealth Minister thinks should be made, and the New South Wales Minister does not tell the Commonwealth Minister what decision the New South Wales Minister thinks should be made, the Commonwealth Minister may decide the matter, and that becomes the decision of the Joint Authority.
- The Joint Authority must reconsider Asset's application.

### ***How will a decision be made?***

- Under the Act the decision maker for the application is the Commonwealth-NSW Offshore Petroleum Joint Authority.
- The Commonwealth-NSW Offshore Petroleum Joint Authority is comprised of the responsible Commonwealth Minister, or their delegate, and the responsible NSW State Minister, or their delegate.
  - This is currently the Commonwealth Minister for Resources and the NSW Minister for Regional NSW.
- In making a decision, the two members of the Joint Authority will each consider the application and form their own view.
  - If both members consider that the application should be approved, this would constitute an approval decision by the Joint Authority and Asset would be notified.
  - If both members are of a mind to refuse the application, Asset would be notified of the Joint Authority's intention and the reasons for the proposed decision, and provided 30 days to respond to the Joint Authority's concerns.
  - If further information is provided by Asset in response to the notification, the Joint Authority would consider the information and then make a final decision.
    - If the Joint Authority refuses the application, Asset would be notified of the final decision.
  - In the case of a disagreement between Joint Authority members, the Commonwealth Minister's decision has effect as the decision of the Joint Authority.

- A record of the lodgement of the application will be publicly available on the National Electronic Approvals Tracking System (NEATS) website. Once the final decision is made, the outcome of the application will be published here.

***Does the Court's decision mean that Asset Energy are now able to undertake further activities, such as drilling, in the title area?***

- Prior to any on water activity occurring within the permit, approval of an environment plan plus other key permissioning documents by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) is required.
  - Asset Energy has not yet submitted an environment plan to allow for any further activity (drilling of a well or seismic).

**Norelle Laucher**  
**A/g General Manager**

Oil and Gas Division | Offshore Strategy Branch  
Ngunnawal Country, L5 Industry House, 10 Binara St (GPO Box 2013) Canberra ACT 2601 Australia  
Department of Industry, Science and Resources  
**P s22** | **s22** **E s22** [@industry.gov.au](mailto:s22@industry.gov.au)  
Pronouns: She/Her

**industry.gov.au** [ABN 74 599 608 295](https://www.industry.gov.au)

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**OFFICIAL**

## PEP-11

### Headline Statement

- The Federal Court of Australia has made orders to quash the Joint Authority decision in relation to the offshore exploration petroleum permit PEP-11.

### Key Points

- On 14 February 2023, the Court has made orders setting aside the decision made by the Commonwealth-New South Wales Offshore Petroleum Joint Authority in relation to PEP-11 and the decision has been remitted to the Joint Authority.
- These orders set aside the Joint Authority's decision on the ground that it was affected by a reasonable apprehension of bias.
- Asset Energy's application has now been remitted to the Joint Authority and will be reconsidered by the Joint Authority in due course.

### *If asked about the former Prime Minister's involvement*

- The Governor-General appointed the former Prime Minister, the Hon Scott Morrison MP, to administer the then Department of Industry, Science, Energy and Resources (DISER) on 15 April 2021.
- Mr Morrison was then a responsible Minister and could administer the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGGS Act), including to make the refusal decision.

### *If asked about the costs*

- The court has also made an order that the Commonwealth pay Asset Energy's legal costs as agreed or assessed.
- The Commonwealth will now take steps to come to an agreement with Asset Energy about a reasonable amount of costs.
- *If asked as to costs incurred by the department to date:* The costs associated with the legal proceedings billed to the department as of 16 January 2023 are \$146,019.80.

#### Contact Officer:

Name: Norelle Laucher  
Division: Oil and Gas Division  
Telephone: s22  
Last updated: 9/10/2023 3:23:00 PM

### ***If asked about timing on a new decision***

- Any future decision is a matter for the Joint Authority and will be determined after fair and impartial consideration of the application.

### ***If asked about the second application***

- Asset Energy has made two applications to the Joint Authority in relation to the PEP-11 title. The Joint Authority will consider the applications in order of submission.

s47E(d)

## **Background**

- In January 2020, Asset Energy applied to the Joint Authority for a suspension and variation to the conditions of the PEP-11 permit to allow additional time to drill an exploration well and remove the requirement for a seismic survey.
- The Joint Authority refused the application on 26 March 2022 and NOPTA advised Asset Energy of the Joint Authority's decision on 30 March 2022.
  - The Joint Authority is a body constituted by the responsible Commonwealth Minister and the responsible State Minister. The Commonwealth member of the Joint Authority was the former Prime Minister, the Hon Scott Morrison MP.
- On 1 June 2022, Asset Energy filed an application for judicial review in the Federal Court.

## **The Bell Inquiry**

- On 25 November 2022, the Hon Virginia Bell AC delivered her Report on the Inquiry into the appointment of the former Prime Minister to multiple ministries to the Government.
- Ms Bell has made 6 recommendations centred on improving public transparency of both substantive and acting appointments. The Government has agreed to implement the Inquiry Report recommendations.
- Implementation of the recommendations is being led by the Department of Prime Minister and Cabinet.

s22

**From:** [Laucher, Norelle](#)

**Sent:** Tuesday, 14 February 2023 1:01:05 PM

**To:** s22

**Cc:** [DLO King](#); s22 ; s22

**Subject:** PEP-11 judgement - QTB input [SEC=OFFICIAL]

**Response requested:** No

**Importance:** High

**Sensitivity:** Normal

**Attachments:**

[PEP-11 judgement - QTB input.docx](#) ;

---

Good afternoon s22

Please find additional points for the QTB following the Federal Court judgement.

Kind regards,

Norelle

**Norelle Laucher**  
**A/g General Manager**

Oil and Gas Division | Offshore Strategy Branch  
Ngunnawal Country, L5 Industry House, 10 Binara St (GPO Box 2013) Canberra ACT 2601 Australia  
Department of Industry, Science and Resources  
P s22 | s22 | E s22 [@industry.gov.au](mailto:s22@industry.gov.au)  
Pronouns: She/Her

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**Acknowledgement of Country**

Our department recognises the First Peoples of this nation and their ongoing connection to culture and country. We acknowledge First Nations Peoples as the Traditional Owners, Custodians and Lore Keepers of the world's oldest living culture and pay respects to their Elders past, present and emerging.



**OFFICIAL**

## **Talking Points – PEP-11**

- On 14 February 2023, the Federal Court of Australia made orders in relation to the application for judicial review of the Commonwealth-New South Wales Offshore Petroleum Joint Authority's (Joint Authority) decision to refuse an application in relation to PEP-11.
- The orders of the Court were made by the consent of the government and Asset Energy.
- These orders set aside the Joint Authority's decision on the basis that it was affected by a reasonable apprehension of bias. Asset Energy's application has now been remitted to the Joint Authority and will be reconsidered by the Joint Authority.
- I am committed to ensuring any decision made by the Joint Authority in relation to PEP-11 will be approached fairly and with an open mind and will be based on all the material before the Joint Authority and in line with the requirements of the relevant legislation.

## ***What does the Offshore Petroleum and Greenhouse Gas Storage Act require***

- The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the Act) and associated regulations provides the legal framework for the exploration and recovery of petroleum and greenhouse gas storage activities in Commonwealth waters.
- In accordance with the Act, oil and gas exploration and production activities can only happen in Australian Commonwealth waters under the authority of a title granted by the relevant Joint Authority.
- In the case of PEP-11, the Joint Authority is made up of the responsible Commonwealth Minister and the relevant NSW State minister.
- Joint Authority decision-making procedures require the State Minister to first advise their decision, and then the Commonwealth Minister advises their decision. If the State and Commonwealth Minister agree, then the agreed decision is the decision of the Joint Authority. If the State and Commonwealth Minister disagree, then the Commonwealth Minister's decision is the decision of the Joint Authority.
  - Prior to any activity occurring under the permit, acceptance of an environment plan, plus any other key permissioning documents, by



the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA – the regulator) is required.

- For operational activities, such as drilling an exploration well, the environment plan is subject to a comprehensive consultation process.
- Asset Energy has not yet submitted an environment plan to allow for any activity (drilling of a well or seismic).

***If asked about timing of the decision***

- Any future decision of the Joint Authority will be determined after fair and impartial consideration of all of the information before it.
- I am aware the NSW Election will take place on Saturday 25 March 2023.
  - I am also aware that the NSW caretaker period is due to commence on Friday 3 March 2023 which may impact the timing of the Joint Authority's future decisions.

***If asked about the costs***

- The Court has also made an order that the Commonwealth pay Asset Energy's legal costs as agreed or taxed.
- The Commonwealth will now take steps to come to an agreement with Asset Energy about a reasonable amount of costs.

s47E(d)

### ***General Talking Points***

- PEP-11 is a Petroleum Exploration Permit located in Commonwealth waters, offshore of New South Wales adjacent to Newcastle and Sydney
- The permit covers an area of approximately 4,575 km<sup>2</sup>.
- Asset Energy Pty Ltd is the operator and holds an 85 per cent interest in PEP-11. Bounty Oil and Gas NL hold the remaining 15 per cent interest.
- In January 2020, Asset Energy applied to the Commonwealth – New South Wales Offshore Petroleum Joint Authority (Joint Authority) for a suspension of and variation to the conditions of the PEP-11 permit to allow additional time to drill an exploration well and remove the requirement for a seismic survey.
- On 4 February 2021, Asset submitted a further application for a suspension of work program conditions and extension to the permit term.
- The Joint Authority is a body constituted by the responsible Commonwealth Minister and the responsible State Minister (or their respective delegates).

s22

**From:** [Laucher, Norelle](#)

**Sent:** Monday, 27 February 2023 3:22:00 PM

**To:** s47E(d)

**Subject:** RE: 230227 Ltr to STEGALL re PEP11 .docx [SEC=OFFICIAL:Sensitive]

**Sensitivity:** Normal

**Attachments:**

[230227 Ltr to STEGALL re PEP11\\_ TOH \(002\).docx](#) ;

---

Good afternoon s47E  
(d)

As discussed, please find some suggested edits from Legal.

Kind regards,

**Norelle Laucher**

**A/g General Manager**

Oil and Gas Division | Offshore Strategy Branch

Ngunnawal Country, L5 Industry House, 10 Binara St (GPO Box 2013) Canberra ACT 2601 Australia

Department of Industry, Science and Resources

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### \intbl Acknowledgement of Country

\intbl Our department recognises the First Peoples of this nation and their ongoing connection to culture and country. We acknowledge First Nations Peoples as the Traditional Owners, Custodians and Lore Keepers of the world's oldest living culture and pay respects to their Elders past, present and emerging.



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**From:** O'Harte, Tom <[REDACTED]@industry.gov.au>

**Sent:** Monday, 27 February 2023 2:52 PM

**To:** Laucher, Norelle <[REDACTED]@industry.gov.au>

**Subject:** FW: 230227 Ltr to STEGALL re PEP11 .docx [SEC=OFFICIAL:Sensitive]

**Importance:** High

\sb280\fb0Hi Norelle

\sb280\fb0Could I please have an ASAP review of this draft letter? I will call to discuss.

\sb280\fb0s47E  
(d)

\qc\sb280~~OFFICIAL: Sensitive~~

DEPARTMENT OF INDUSTRY, SCIENCE AND RESOURCES

MS23-001255

To: Minister for Resources (For Decision)

**DELEGATIONS UNDER THE *OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE ACT 2006***

**Timing:** Routine – 11 August 2023

**Recommendations:** That you  
s47E(d)

**Minister:**

Date:

**Comments:**

<b>Clearing Officer:</b>	Norelle Laucher	General Manager, Offshore Strategy Branch	Ph: s22 Mob: s22
Contact Officer:	s22	Manager, Regulatory Reform	Ph: s22 Mob: s22
<b>For Parliamentary Services' use only.</b> Date Submitted to the Minister's office in PDMS:			13/9/2023

**Key Points:**

s47E(d)

**Data referenced:** NIL

**Consultation with the Cities and Northern Australia Division, Department of Infrastructure, Transport, Regional Development, Communications and the Arts:** NIL

**Other Consultation:** YES

7. Legal Branch, State and Northern Territory Government departments responsible for offshore resources, NOPTA and NOPSEMA.

**ATTACHMENTS**

- A:** Joint Authority instruments of delegation
  - B:** Letters to State and NT Joint Authority Ministers
  - C:** Joint Authority instruments relating to Tasmania, Eastern Greater Sunrise, and Territory of Ashmore and Cartier Islands
  - D:** Instrument delegating petroleum powers to Senior Executive officials
  - E:** Instrument delegating powers relating to NOPSEMA CEO's leave to the Secretary
  - F:** Instrument delegating GHG storage expanded powers to Senior Executive officials
- s47E(d)

DEPARTMENT OF INDUSTRY, SCIENCE AND RESOURCES

MS23-001246

To: Minister for Resources (For Information)

OFFSHORE TITLES DECISIONS – END OF JULY 2023

TIMING: Routine

**Recommendations:** That you

1. **Note** the upcoming offshore title decisions at Attachment A s47E(d)  
s47E(d)

**Noted / Please discuss**

2. **Note** the upcoming offshore title decisions at Attachment B which are currently with Joint Authority delegates for decision or with NOPTA for assessment and indicate any you require elevated to Ministers for decision.

**Noted / Please discuss**

s47E(d)

**Noted / Please discuss**

**Minister:**

Date:

**Comments:**

<b>Clearing Officer:</b>	Cliff Weeks	General Manager, Offshore Resources Branch	Ph: s22 Mob: s22
Contact Officer:	s22	A/g Manager, Offshore Development	Ph: s22 Mob: s22
<b>For Parliamentary Services' use only.</b> Date Submitted to the Minister's office in PDMS:			17/8/2023

**Key Points**

s47E(d)



s47E(d)

**Data referenced: NIL**

**Consultation with the Cities and Northern Australia Division, Department of Infrastructure, Transport, Regional Development, Communications and the Arts: NIL**

7. This matter is not relevant to the Northern Australia portfolio.

**Other Consultation: YES**

s22

**Attachments**

- A:** Ministerial and key decisions
- B:** Upcoming decisions by Delegates and NOPTA

BACKGROUND ON KEY DECISIONS FOR MINISTERS

*EXPLORATION TITLES*

s22

MINISTERIAL TITLE DECISIONS AS AT 31 JULY 2023

Petroleum Exploration Permits

	Title ID	Application	Company	Status
1.	PEP-11	Suspension and extension (COVID-19)	Asset Energy	Awaiting NOPTA advice. No advice until decision on first application.

s22

s22

DEPARTMENT OF INDUSTRY, SCIENCE AND RESOURCES

MS23-000865

To: Minister for Resources (For Information)

OFFSHORE TITLES DECISIONS – END OF JUNE 2023

TIMING: Routine

**Recommendations:** That you

1. **Note** the upcoming offshore title decisions at Attachment A s47E(d)  
s47E(d)

**Noted / Please discuss**

2. **Note** the upcoming offshore title decisions at Attachment B which are currently with Joint Authority delegates for decision or with NOPTA for assessment, and indicate any you require elevated to Ministers for decision.

**Noted / Please discuss**

3. **Note** the upcoming offshore title decisions at Attachment B where decisions are conferred directly on the Titles Administrator and advise if you require further briefing.

**Noted / Please discuss**

**Minister:**

Date:

**Comments:**

<b>Clearing Officer:</b>	Cliff Weeks	General Manager, Offshore Resources Branch	Ph: s22
Contact Officer:	s22	Manager, Offshore Development	Ph: s22 Mob: s22
<b>For Parliamentary Services' use only.</b> Date Submitted to the Minister's office in PDMS:			10/7/2023

**Key Points**

s47E(d)

MINISTERIAL TITLE DECISIONS AS AT 30 JUNE 2023

Petroleum Exploration Permits

	Title ID	Application	Company	Status
1.	PEP-11	Suspension and extension (COVID-19)	Asset Energy	Awaiting NOPTA advice. No advice until decision on first application.

s22

## BACKGROUND ON KEY DECISIONS FOR MINISTERS

### ***EXPLORATION TITLES***

#### ***NSW/PEP-11 – Suspension and extension of exploration permit***

Asset Energy submitted a suspension and extension application on 4 February 2021. The application is currently with NOPTA for assessment.

An application for judicial review by Asset Energy of a recent decision to refuse a 24 month suspension, extension and variation application has concluded (**MS22-000582** refers).

Parties settled the matter by consent, and the Federal Court gave effect to that settlement on 14 February 2023.<sup>1</sup> The original decision is set aside, and the application is remitted to the Joint Authority for decision. You will be briefed separately on that application.

s22



# Meeting Minute: Mining, Exploration and Geoscience NSW Petroleum Exploration Permit PEP-11 Update Date: 6 July 2023

<b>MEETING PURPOSE</b>	To provide an update to Mining, Exploration and Geoscience - Department of Regional NSW		
<b>TITLE NO:</b>	Petroleum Exploration Permit PEP-11 ( <b>PEP-11</b> )		
<b>LOCATION:</b>	Online via Microsoft Teams 2pm AWST / 4pm AEST		
<b>ATTENDEES:</b>	<p>National Offshore Petroleum Titles Administrator (<b>NOPTA</b>) - Department of Industry, Science and Resources (DISR)</p> <ul style="list-style-type: none"> <li>• <b>s22</b> , Director Petroleum Exploration, Greenhouse Gas Storage and Acreage Release</li> <li>• <b>s22</b> , Titles Manager Exploration</li> <li>• <b>s22</b> , Assistant Titles Manager</li> </ul> <p>Offshore Resources Branch (<b>ORB</b>) - Department of Industry, Science and Resources (DISR)</p> <ul style="list-style-type: none"> <li>• <b>s22</b> , Manager Offshore Exploration Team</li> </ul> <p>Offshore Strategy Branch (<b>OSB</b>) - Department of Industry, Science and Resources (DISR)</p> <ul style="list-style-type: none"> <li>• Norelle Laucher, General Manager</li> <li>• <b>s22</b> , Manager Regulatory Reform Team</li> <li>• <b>s22</b> , Assistant Manager Regulatory Reform Team</li> </ul> <p>Mining, Exploration and Geoscience (<b>MEG</b>) - Department of Regional NSW</p> <ul style="list-style-type: none"> <li>• <b>s22</b> , Manager Assessments &amp; Projects – Coal &amp; Petroleum</li> <li>• <b>s22</b> , Senior Assessment Analyst – Coal &amp; Petroleum</li> <li>• <b>s22</b> , Assessment Analyst – Coal &amp; Petroleum</li> </ul>		
<b>PRESENTATION</b>	No		
<b>KEY DISCUSSION POINTS</b>	<p><b>Roles outlined:</b></p> <ul style="list-style-type: none"> <li>• NOPTA is the technical advisor to the relevant Joint Authority. NOPTA prepares written advice on applications. In preparing the advice, NOPTA considers the merits of the application, relevant provisions of the OPGGA Act, associated regulations, and relevant Guidelines.</li> <li>• MEG prepares briefing to the State Minister.</li> <li>• OSB prepares briefing to the Commonwealth Minister.</li> </ul> <p><b>Approach to the applications:</b></p> <ul style="list-style-type: none"> <li>• NOPTA will prepare separate advice for each application (First and second application).</li> <li>• A cover letter will be provided outlining the order of consideration: <ul style="list-style-type: none"> <li>- If the First Application is approved, the Second Application does not need to be considered.</li> <li>- If the First Application is refused, the Second Application needs to be considered.</li> </ul> </li> <li>• Once the advice is provided to the decision makers, it is suggested OSB and MEG meet to discuss the briefing process for their respective Ministers.</li> </ul> <p><b>RFI:</b></p> <ul style="list-style-type: none"> <li>• NOPTA is currently drafting a further request for further information (<b>RFI</b>) and will provide to OSB for coordinating a legal review.</li> <li>• OSB will include the decision makers in the letter for the titleholder's information.</li> </ul>		
<b>OTHER CONSIDERATIONS / TO NOTE</b>	•		
<b>OTHER MATTERS AND TALKING POINTS</b>	•		
<b>NOPTA INTERNAL DISCUSSION POINTS</b>	•		
<b>ACTION ITEMS</b>	•		
<b>PREPARED BY</b>	Name: <b>s22</b> Position: Assistant Titles Manager Date: 06/07/2023	<b>REVIEWED BY:</b>	Name: Position: Date: