

~~SENSITIVE: LEGAL~~**Talking Points: PEP-11 decision maker**

- I am the responsible Commonwealth Minister under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the Act).
- Under the Act, the power to make decisions under the Act is vested in the Joint Authority.
- In the case of the PEP-11 applications the Commonwealth-NSW Offshore Petroleum Joint Authority is constituted by 'the responsible State Minister' and 'the responsible Commonwealth Minister'.

s 42

s42

~~SENSITIVE: LEGAL~~

Joint Authority (JA) decision making scenarios for PEP-11:

Two applications received:

1. Suspension, Extension & Variation 23/01/2020 (the first Application).

Varies out 3D seismic survey in Permit Year 5 and replaces it with post-well studies. Permit Year 4, which includes the drilling of the well, would be suspended for 60 months, with a corresponding extension of the permit term for 60 months.

2. Suspension and Extension 04/02/2021 (the second Application).

Suspends and extends Permit Year 4 for 60 months and extends the permit for a corresponding 60 months.

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Requesting addition information from NOPTA

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PEP-11

Headline Statement

- In February 2023 the Federal Court of Australia made orders to quash the Joint Authority decision in relation to the offshore exploration permit PEP-11. Asset Energy's applications have been remitted to the Joint Authority for reconsideration in due course.

Key Points

- The 2023 court orders set aside the Joint Authority's decision on the ground that it was affected by a reasonable apprehension of bias.

Status of the applications and decision-makers

- Asset Energy has made two applications to the Joint Authority in relation to the PEP-11 title.
- The National Electronic Approvals Tracking System (NEATS) reflects the current status of the applications – they are with the Joint Authority for decision.
- Decisions on the applications will be made by the Joint Authority.

Timeframe for the decision

- There is no set timeframe for the Joint Authority to make its decisions on the applications.
- The applications will be considered in order of submission.

Matters that should not be raised or commented on

- **s 42, s 47C**
- If pushed for more details on the National Offshore Petroleum Titles Administrator's (NOPTA) assessment, the question should be taken on notice to allow for appropriate consideration to be taken around the release of any additional information.

Contact Officer:

Name: Norelle Laucher
Division: Oil and Gas Division
Telephone: **s 22(1)(a)(ii)**
Last updated: 19/03/2024 3:40:00 PM

Costs to the Commonwealth

- The Court made an order that the Commonwealth pay Asset Energy's legal costs as agreed or assessed.
- The Commonwealth agreed to a proposal from Asset Energy for the payment of costs in the sum of \$121,608.00 (GST not applicable).
- The costs to the department associated with the legal proceedings (excluding the settlement costs agreed with Asset Energy) were \$183,260.92.
- The total cost to the Commonwealth was \$304,868.92.

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 made six 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 the Prime Minister and Cabinet.

PEP-11

Headline Statement

- The Federal Court of Australia has made orders to quash the Joint Authority decision in relation to the offshore exploration permit PEP-11. Asset Energy's applications have now been remitted to the Joint Authority for reconsideration in due course.

Key Points

- On 14 February 2023, the Court made orders setting aside the decision made by the Commonwealth-New South Wales Offshore Petroleum Joint Authority (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.

If asked about the costs

- The Court made an order that the Commonwealth pay Asset Energy's legal costs as agreed or assessed.
- The Commonwealth agreed to a proposal from Asset Energy for the payment of costs in the sum of \$121,608.00 (GST not applicable).
- *If asked as to costs incurred by the department:* The costs to the department associated with the legal proceedings (excluding the settlement costs agreed with Asset Energy) were \$183,260.92.
- The total cost to the Commonwealth was \$304,868.92.

If asked about timing on a new decision/status of the application

- Any future decision is a matter for the Joint Authority and will be determined after fair and impartial consideration of the application.
- The National Electronic Approvals Tracking System (NEATS) accurately reflects the current status of the applications – which is that they are with the Joint Authority for decision.

Contact Officer:

Name: Norelle Laucher
Division: Oil and Gas Division
Telephone: s 22(1)(a)(ii)
Last updated: 25/10/2023 6:52:00 AM

If asked about NOPTA's assessment/recommendation to the Joint Authority

- As the material relates to the decisions that are currently before the Joint Authority, it would be inappropriate for me to comment on its contents.

If asked about who the Commonwealth decision-maker will be

- The decision will be made by the Joint Authority.
- The current intention is that the Minister for Resources will be the decision-maker for the Commonwealth.

If asked about the second application

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

Matters that should not be raised or commented on

- **s 47C, s 47B**

- If pushed for more details on NOPTA's assessment, take the question on notice.

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.
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- Ms Bell made six 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 the Prime Minister and Cabinet.

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 application 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 for decision.
- The Commonwealth will consider the matter once the NSW member of the Joint Authority has considered the matter.
- The 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
Cleared by: Cliff Weeks, General Manager, Offshore Resources Branch s22

Min ID: QB24-000019
Division: Oil and Gas
Created: 22 January 2024
Updated: 3/19/2024 4:00 PM/3/19/2024 4:00:00 PM/3/19/2024 4:00 PM/3/19/2024 4:00:00 PM

QB24-000019

- 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 application is currently under consideration by the Joint Authority.
- The permit term expired in February 2021, however there is a provision in the 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, key permissioning documents, such as an environment plan, must be accepted by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).
 - Asset Energy has not yet submitted an environment plan for any activity to NOPSEMA.

Contact: s22, Manager, Offshore Exploration Section s22
Cleared by: Cliff Weeks, General Manager, Offshore Resources Branch s22 s22

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Background

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

Application

- In January 2020, Asset Energy applied to the Joint Authority for a suspension and variation to the conditions of the permit to allow additional time to drill an exploration well and remove the requirement for 500 km² 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 September 2023, multiple media outlets reported that Asset Energy would receive a majority of \$1.5 million from capital raising for PEP-11.
 - The total work program value published on the National Electronic Approvals Tracking Systems is \$21.1 million.
 - It has been reported in the media on multiple occasions that Asset Energy and Joint Venture partner Bounty Oil & Gas NL are continuing to investigate the potential contract of a mobile

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offshore drilling rig to drill the proposed Seablue-1 well on the Baleen prospect in 2024.

- The company has publicly stated the importance of PEP-11 to securing Australia's energy supply.

NSW legislation

Environmental Planning and Assessment Amendment (Sea Bed Mining and Exploration) Bill 2024

- On 6 February 2024, the NSW Government introduced a Bill that would prohibit the carrying out of sea bed petroleum and mineral exploration and recovery and related development in state waters.

Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill 2023

- On 1 June 2023 the NSW opposition introduced a Bill that aims to block access to the NSW shore, potentially affecting the viability of offshore exploration projects in Commonwealth waters.
- On 29 June 2023, the Bill was referred to the NSW Legislative Assembly Standing Committee on Environment and Planning.
 - On 21 November 2023 the Committee tabled its report which found that key aspects of the Bill may be constitutionally invalid or have unintended consequences.
 - The report recommends the Legislative Assembly not pass the Bill. The NSW Government response is due 21 May 2024.

Contact: s22 Manager, Offshore Exploration Section s22
Cleared by: Cliff Weeks, General Manager, Offshore Resources Branch s22 s22

Min ID: QB24-000019
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Created: 22 January 2024
Updated: 3/19/2024 4:00:00 PM 3/19/2024 4:00:00 PM
PM3/19/2024 4:00:00 PM 3/19/2024 4:00:00 PM
PM3/19/2024 4:00:00 PM

QB23-000008**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)

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

Min ID: QB22-000008
Division: Oil and Gas

Created: 18 January 2023
Updated: 24/11/2023 5:15 PM

QB23-000008

- 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 application is currently under consideration by the Joint Authority.
- 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).

QB23-000008

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 km² 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 September 2023, multiple media outlets reported that Asset Energy would receive a majority of \$1.5m from capital raising for PEP-11.
 - The total work program value published on the National Electronic Approvals Tracking Systems is \$21.1 million.

QB23-000008

- It has been reported in the media on multiple occasions that Asset Energy and Joint Venture partner Bounty Oil & Gas NL are continuing to investigate the potential contract of a mobile offshore drilling rig to drill the proposed Seablue-1 well on the Baleen prospect in 2024.
- The company has publicly stated the importance of PEP-11 to securing Australia's energy supply.

NSW legislation

- On 1 June 2023, the NSW Opposition introduced the Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill 2023 to the NSW 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 NSW Legislative Assembly Standing Committee on Environment and Planning.
 - On 21 November 2023 the Committee tabled its report which examined the Bill and found that key aspects of the Bill may be constitutionally invalid or have unintended consequences.

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Unit 12, Level 1, 114 Cedric St, Stirling, WA 6021
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23 October 2023

By Email

S 47C

Yours sincere!>>

David Breeze

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30 August 2023

Mr David Breeze
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Via email to **s22**

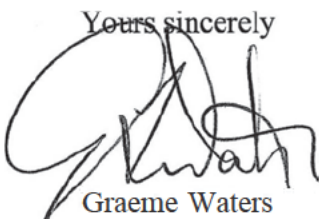
NEATS Ref: Z4NMT2; NDZHAVN

Dear Mr Breeze

s 47C

I would be grateful for your response by 30 September 2023.

Yours sincerely



Graeme Waters
Titles Administrator

MEDIA RELEASE



**MADELEINE KING MP
SHADOW MINISTER FOR TRADE
SHADOW MINISTER FOR RESOURCES
MEMBER FOR BRAND**

**EMMA MCBRIDE MP
SHADOW ASSISTANT MINISTER FOR MENTAL HEALTH
SHADOW ASSISTANT MINISTER FOR CARERS
MEMBER FOR DOBELL**

PITT MISLEADS PARLIAMENT ON PEP-11

It's time for the Resources Minister to come clean about why it's taking him so long to rule on the Petroleum Exploration Permit 11 (PEP-11) after he was caught misleading Parliament last month.

In Question Time on 21 October, Federal Member for Dobell Emma McBride asked Minister Pitt if he would put a stop to PEP-11.

He responded that he was considering an application to renew the licence and he would be 'taking advice' from the regulator.

Then, in Senate Estimates last week, the National Offshore Petroleum Titles Administrator (NOPTA) revealed they had provided advice in April 2020 and were now waiting on the Minister to make a decision.

Either Minister Pitt has misled the Parliament, or he's not across his portfolio brief.

Minister Pitt is not waiting on advice. He has the regulator's advice and he's still refusing to make a decision.

The Minister was supposed to rule on PEP-11 back in February, so he's eight months past the deadline.

He knows this project will put our coastline, our marine life, and our economy at risk.

Thousands of jobs up and down the NSW coast depend on our pristine beaches.

Those jobs will be under threat if this risky project goes ahead.

Minister Pitt needs to come clean about the Government's position on PEP-11 and why it's taking him so long to make a decision.

He has the final say on PEP-11 and he can put an end to this project with the stroke of a pen today.

Instead, he continues to sit on his hands.

Labor stands with our communities against PEP-11.

Minister Pitt needs to do the right thing by our community and put an end to PEP-11, now.

TUESDAY, 2 NOVEMBER 2021

MEDIA CONTACTS:

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The Hon Madeleine King MP

Minister for Resources and Minister for Northern Australia

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[Parties agree to resolve Petroleum Export Permit 11 \(PEP-11\) litigation](#)

Parties agree to resolve Petroleum Export Permit 11 (PEP-11) litigation

3 February 2023

The Australian Government and Asset Energy have reached an agreement to end ongoing litigation relating to PEP-11 and have filed proposed consent orders with the Federal Court of Australia.

Should the Federal Court of Australia accept the proposed consent orders, the PEP-11 decision will be returned to the Commonwealth-New South Wales Offshore Petroleum Joint Authority for consideration.

In the first instance, the Government of New South Wales, as the New South Wales member of the Joint Authority, will consider its position in relation to the project as a relevant decision maker under the *Offshore Petroleum and Greenhouse Gas Storage Act (2006)*

The Commonwealth will then consider the matter once the New South Wales member of the Commonwealth-New South Wales Offshore Petroleum Joint Authority has considered the matter.

Asset Energy had commenced proceedings in the Federal Court to challenge Scott Morrison's decision to refuse applications in relation to PEP-11.

Asset Energy commenced proceedings following the revelation that Mr Morrison had secretly sworn himself to the resources portfolio and to four other departments of state without disclosure to his Cabinet colleagues or to the public.

Ministers

[The Hon Madeleine King MP \(/ministers/king\)](#)

[The Hon Ed Husic MP \(/ministers/husic\)](#)

[Senator the Hon Tim Ayres \(/ministers/ayres\)](#)

The Bell Inquiry confirmed the Solicitor-General's conclusion that the principles of responsible government were "fundamentally undermined" because Mr Morrison was not "responsible" to the Parliament, and through the Parliament to the electors, for the departments he was appointed to administer.

The consent orders, if granted, will vacate Mr Morrison's decision to refuse applications in relation to PEP-11, and return the PEP-11 application to the Commonwealth-New South Wales Offshore Petroleum Joint Authority for a new decision.

The Minister for Resources, the Hon Madeleine King MP, has welcomed that both parties have reached an agreement to resolve the court proceedings.

Minister King stated that "I assure Australians that any decisions that I take as the Federal Minister for Resources will always be based on sound evidence and in accordance with the law. Australians quite rightly expect this of their elected leaders.

"I am not going to provide an ongoing commentary on future official decisions that come before the Joint Authority, whether in relation to PEP-11 or any other matter."

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The department acknowledges the traditional owners of the country throughout Australia and their continuing connection to land, sea and community. We pay our respect to them and their cultures and to the elders past and present.

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