

Sensitive: NSW Cabinet

NSW Government response to the Legislative Assembly Committee on Environment and Planning's inquiry report on the Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill 2023

The Government welcomes the Legislative Assembly Committee on Environment and Planning's inquiry report on the Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill. The Government acknowledges the findings of the inquiry and supports its recommendations.

Recommendation 1

That the NSW Government work with the Commonwealth Government to explore opportunities to review existing environmental assessment standards that apply to petroleum and minerals exploration and recovery in the offshore area of the State.

Supported.

The NSW Government and Commonwealth Government regularly engage on environmental assessment standards applying to resource projects.

The Commonwealth Government is currently undertaking a comprehensive review of the environmental management regime for offshore petroleum and greenhouse gas storage activities. This three-year review will ensure the framework reflects best practice for offshore environmental management and is consistent with reforms to the national environmental legislation including nature positive plan. The review will involve working with NSW Government agencies, interested industries and stakeholders. Public consultation opportunities will be available, including on proposed regulatory amendments.

The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) is the regulator for offshore petroleum projects in Commonwealth Waters. Environmental standards for offshore mineral exploration in Commonwealth waters apply both NSW legislative standards and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). An independent review of the EPBC Act is required every 10 years, with the last review's final report being publicly released in January 2021. The Commonwealth Government is currently implementing reform priorities through the Nature Positive Plan and the NSW Government is regularly engaging with the Commonwealth throughout this process.

Recommendation 2

That the Legislative Assembly not pass the Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill 2023.

Supported.

The NSW Government does not support offshore mineral or petroleum exploration or mining for commercial purposes either in or adjacent to NSW coastal waters but acknowledges the finding of the parliamentary inquiry that the Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill 2023 may have constitutional issues and risks unintended consequences.

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The NSW Government introduced the *Environmental Planning and Assessment Amendment (Sea Bed Mining and Exploration) Bill 2024* to prohibit the carrying out of seabed petroleum and mineral exploration and recovery in NSW coastal waters and other development within the State for the purposes of sea bed petroleum and mineral exploration and recovery anywhere.

The Bill was passed by Parliament on 14 March 2024 and received assent on 25 March 2024.

The prohibitions of the Bill do not extend to activities which may benefit the environment, such as the recovery of sand for beach nourishment or beach scraping which are undertaken to help protect coastal areas from erosion, or certain dredging activities that are not related to mineral exploration and recovery.