

**Submission
No 44**

**MINERALS LEGISLATION AMENDMENT (OFFSHORE DRILLING AND
ASSOCIATED INFRASTRUCTURE PROHIBITION) BILL 2023**

Name: Mrs Jacqueline Scruby

Date Received: 31 August 2023

Partially
Confidential

Jacqueline Scruby

31 August 2023

I welcome the opportunity to make a submission in support of the [Minerals Legislation Amendment \(Offshore Drilling and Associated Infrastructure Prohibition\) Bill 2023](#). (Minerals Amendment Bill).

I write this submission on my own behalf and on behalf of the Northern Beaches community, the names listed in Appendix A, as part of this submission. The names listed are people who have actively responded to my communication regarding this Inquiry and have expressly asked their names to be added. I request that the Inquiry accept and consider the support of those listed.

I also acknowledge and thank the Inquiry's broad terms of reference which allow the opportunity for community concerns to be considered, consistent with the Rio Declaration to which Australia is a signatory.¹

Listening to the Northern Beaches Community

I recently ran as an independent candidate in the 2023 NSW State Election in the seat of Pittwater. Critical to my campaign policy platform was the prevention of PEP-11 and future oil and gas exploration off NSW's coastline.

For nearly 3 years I have been actively listening to the Northern Beaches community (as campaign manager and advisor to federal MP Dr Sophie Scamps), which has included door knocking of 30,000 doors, conducting electorate wide surveys and running a petition focused on ending PEP-11.

If there is a single issue that unites every person in our community, it is opposition to PEP-11 and the drilling for oil and gas off our precious coastline. In these years of engaging the community, I have never met a member of the Northern Beaches community who hasn't been opposed to the exploration and drilling of oil and gas off our coastline.

In fact, the Northern Beaches community has been active for many years in fighting this PEP-11. Posters from Surfrider Northern Beaches continue to be visible around our electorate opposing PEP-11, there have been many protest 'paddle outs' and many submissions written. There is ongoing advocacy of many groups including Surfrider Foundation, Surfrider Northern Beaches, Save Our Coast and Surfers for Climate.

¹ This approach is consistent with the Rio Declaration. As outlined in the Wilderness Society's Report, *Who Holds the Power - Community Rights in Decision Making*, Australia is a signatory to the 1992 Rio Declaration which called for community rights to be adopted in relation to environmental legislation, including the rights of communities to know, to participate and to challenge environmental policy and legislation.

It is for this reason, that on 4 February 2023 I announced a similar bill to that currently the subject of this Inquiry, together with Justin Field (then MLC), Alex Greenwich MP and other independent candidates. (Appendix B).

Environmental impacts

The coastline of NSW is spectacular, world-class and valuable to Australia's biodiversity and tourism industry. Indeed, Pittwater is home to internationally recognised Home and Away's Summer Bay (Palm Beach) which draws regular tourists, a seal population and whale watching cruises.

The beach is an integral part of our way of life, people surf before school and work, swim throughout the year and observe the whale migration, dolphins, turtles and vibrant marine life in crystal clear waters, possibly the cleanest in the world. Our beaches are treasured by everyone who lives here.

The PEP-11 permit, and potential future permits, risk environmental damage, specifically the risk of oil spills, with devastating consequences for our beaches and marine life. In the May 2001 NSW Parliamentary Inquiry into Oil Spills in Sydney Harbour, the Australian Maritime Safety Authority stated in its submission that:

*"Oil and chemical spills in the marine environment can have widespread impact and long-term consequences on wildlife, fisheries, coastal and marine habitats, human health and livelihood, as well as recreational resources of coastal communities."*²

This is considered an unacceptable risk by the Northern Beaches community.

Indeed only a few weeks ago, in August 2023, members of my community met in NSW Parliament to lobby for the Bongin Bongin Bay in Mona Vale to become a marine sanctuary and 'no take zone' to protect the aquatic environment. It is inconsistent to have marine sanctuaries and yet fail to protect those areas from potential oil spills.

Despite what may be said about Pittwater, we are not NIMBY's. We stand not only for our electorate, but for the whole of NSW, in our strong belief that there is no place for offshore oil and gas drilling along our coastline.

Lessons from California

We know from international jurisdictions, including California, how difficult it is to regulate and reduce the risk of oil and gas spills from offshore oil and gas drilling once projects and licences have been approved. Once a lease is granted or extended it is almost impossible to stop, and can give risk to financial compensation requirements.³

² Section 2.2,

<https://www.parliament.nsw.gov.au/lcdocs/inquiries/2205/Committee%20Report%2029%20May%20201%20-%20Inquiry%20into%20Oil%20Sp.pdf>

³ Professor Deborah Sivas, California's oil spill and the challenges of regulating off-shore drilling, Stanford

California ended new offshore oil and gas projects in 1969. However, today, 50 years on, the drilling continues. In 2021 over 140,000 gallons of oil spilled into the Pacific ocean causing a 13 mile slick and environmental destruction.⁴

The proposed Minerals Amendment Bill represents an opportunity for NSW Parliament to lead Australia, by ensuring the drilling of oil and gas off our precious coastline stops now, before a major environmental disaster.

Australia's commitment to the Paris Agreement

The Northern Beaches community have voted for action on climate change at both state and federal level. They have given a mandate to state and federal governments to implement robust climate change policy that aligns with the Paris Agreement.

The International Energy Agency has stated that there can be no new investments in oil, gas and coal from this point in order to meet the targets of the Paris Agreement. PEP-11 or future permits for the exploitation of oil or gas, would contribute to greenhouse gas emissions, inconsistent with the UN Sustainable Development Principles and the Paris Agreement, to which Australia is a signatory.

All states, including NSW have an obligation to introduce policies, such as this bill relates to, that support our national commitments.

Additionally, there is no energy or economic need for PEP-11. Even if PEP-11 does find gas, it will not reach the Australian market for many years. Therefore any assertions by the PEP-11 proponents to this effect should be wholly rejected by the Inquiry.

Scope of the Minerals Amendment Bill

The proposed bill intends to prevent oil and gas exploration and exploitation permits:

- in NSW waters
- in Commonwealth waters to the extent that NSW cannot approve infrastructure or activities that support oil and gas exploration and exploitation in Commonwealth waters.

I consider this to be the correct approach in order to achieve the intended objectives of the bill, particularly as PEP-11 is nearly wholly in Commonwealth waters, subject to the Inquiry finding no constitutional issues.

The turbulent history of policy regarding PEP-11

The timeline below outlines a high-level, non-exhaustive history of PEP-11. It provides the context for why the Northern Beaches community feel they have been on a rollercoaster ride with PEP-11 and are calling for robust legislation that prevents PEP-11 and all future similar projects.

⁴ Ibid

Date	Event
1981	PEP-11 was first surveyed. ⁵
December 2010	First offshore petroleum exploratory well off the coast of NSW was drilled in Petroleum Exploration Permit 11. Gas was not found..
2006	Offshore Petroleum and Greenhouse Gas Storage Act 2006 and Joint Authority established.
2020	Ongoing advocacy by Zali Steggall including petition to urge the federal government not to renew PEP-11 Permit. Asset Energy claims NOPTA recommended the Joint Authority approve the application.
2021	Zali Steggall introduces the <i>Offshore Petroleum and Greenhouse Gas Storage Amendment (Stopping PEP11) Bill 2021</i> and support from Dr Sophie Scamps MP for Mackellar.
December 2021 (Federal Election)	Scott Morrison announces PEP-11 is 'dead in the water.'
March 2022	Decision to not renew PEP-11.
2022	Federal court action by Asset Energy on the grounds that Scott Morrison's decision lacked due process.
February 2023	NSW government, the federal government and Asset Energy seek consent orders in the Federal court, effectively squashing Scott Morrison's decision to not approve PEP-11. The matter is referred back to the Joint Authority.
3 February 2023	Draft bill announced as an election commitment by NSW Parliament independents Justin Field, Alex Greenwhich and candidates Jacqui Scruby, Joeline Hackman, Helen Conway, Victoria Davidson and Elizabeth Farrelly.
16 February 2023	In response to the independent bill announcement, NSW Liberal Party announced a bill to stop drilling for oil and gas in NSW waters, but did not pass the bill, despite being in government.
March 2023	Zali Steggall reintroduces her bill <i>Offshore Petroleum and Greenhouse Gas Storage (Stop PEP 11 and Protect Our Coast) Private Members Bill</i> .
June 2023	NSW Liberal-National coalition introduces Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill 2023 .
November 2023	Joint Authority decision due.

⁵ NSW Parliament Briefing Paper 1/2011

<https://www.parliament.nsw.gov.au/researchpapers/Pages/offshore-petroleum-exploration-and-mining.aspx>

Constitutional validity is important. It is worth noting that the proponents of PEP-11 have successfully challenged federal attempts to permanently end the permit in the Federal Court. Additionally, the NSW Liberal party has also expressed its past position (earlier this year in *Pittwater Life*, February 2023 - as shown below) that legislative action to end PEP11, such as this bill, is unconstitutional and outside the jurisdiction of the NSW Government. Obviously, this is not a position I agree with having worked with Justin Field to draft the first version of this bill, but it does highlight the challenges that may face this legislation and the need for this inquiry.

Stick to the election facts, urges Stokes

Retiring MP Rob Stokes says he would like to see all candidates for Pittwater “stick to the facts” in the lead-up to the NSW election.

Referencing Independent for Pittwater candidate Jacqui Scruby’s pitch for the NSW Government to investigate legislating against offshore mining so that the PEP-11 gas lease could never resurface, Mr Stokes said:

“It’s nothing to do with the State - we’ve got a very clear policy when it comes to offshore gas or oil exploration or drilling: it’s not allowed.

“The only way to ensure PEP-11 can never return is to change federal law - PEP-11 is outside State waters.

Rob Stokes, Liberal Member for Pittwater, [Pittwater Life](#), February 2023, Page 10

The Northern Beaches community has been on a rollercoaster ride with PEP11, honestly believing more than once that the PEP11 permit is ‘dead in the water’, only for it to come back. It is therefore essential that this bill is constitutionally sound before being passed.

Supporting this bill and NSW in becoming the first state to ban offshore oil and gas exploration and drilling

I, together with the rest of the Northern Beaches community, support this bill. We are committed to doing everything it takes to ending PEP11 and protecting our beautiful beaches from the risk of environmental crisis.

This bill is an incredible opportunity for NSW to lead Australia and take climate and environmental action that reflects the science, community expectation and consistency with existing policies including commitments to the Paris Agreement.

It takes an innovative approach to preventing offshore oil and gas exploration and drilling in both state waters and Commonwealth waters. I sincerely hope that this inquiry finds that approach to be constitutionally sound.

It is an incredible achievement of the community-backed independent movement, that a legislative approach which was publicly stated as impossible by the Liberal Party earlier this year, is now the legislation they are progressing in NSW parliament, with the support of the Nationals. Competition, marginal seats and election pressure force parties to listen and represent communities and organisations such as Surfrider NB and Surfers for Climate, that campaign and mobilise communities. May this approach to politics and progressive change towards better community outcomes continue.

APPENDIX A: Northern Beaches residents in support of this submission

The names below have been included to provide the Inquiry with a snapshot of support from the community. The list is a result of recent communication via my newsletter with people requesting to be included in my submission. The support from the community is far broader than this list. I request that the inquiry considers these names.

Appendix A displayed the full names of 353 individuals.

APPENDIX B: Draft legislation - January 2023

Bill drafted by Justin Field MLC in consultation with me and Alex Greenwich, Member for Sydney.

