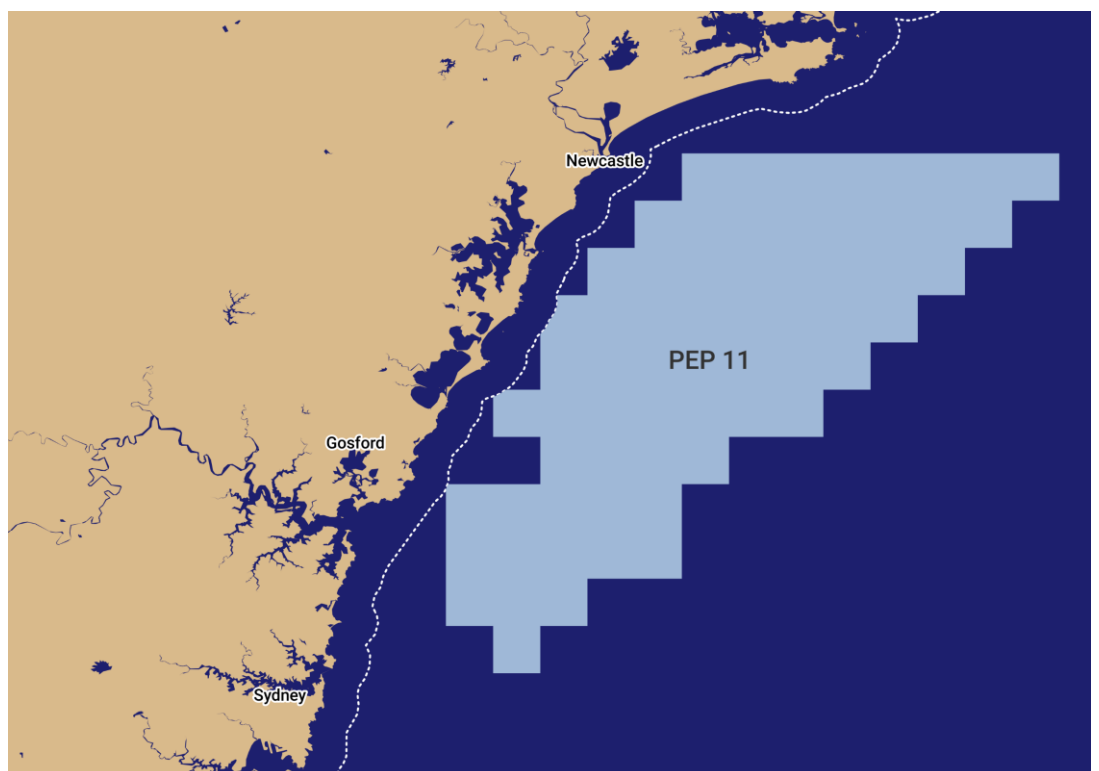


Petroleum exploration permit 11 (PEP 11): Recent developments

Daniel Montoya, BEnvSc (Hons), PhD
Research Team Leader, Parliamentary Research Service

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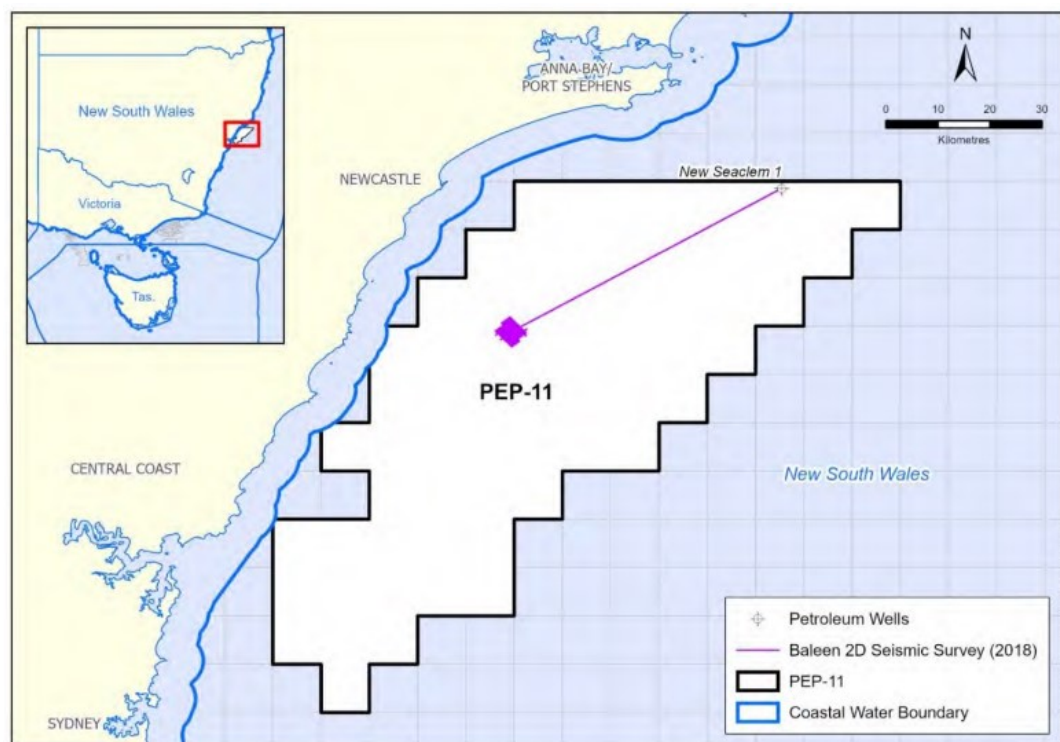
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1. Introduction

Petroleum exploration permit 11 (PEP 11) is a permit that enables joint venture titleholders Asset Energy Pty Ltd and Bounty Oil and Gas NL to investigate the identified area for potential natural gas reserves. It covers over 4,500 km² of Commonwealth waters off the coast of NSW between Newcastle and Sydney (Figure 1).

Figure 1: Petroleum Exploration Permit 11 (PEP 11)



Source: Australian Department of Industry, Science and Resources, [Disclosure log number: 22/067/71731](#), 29 November 2022, p 10.

Offshore petroleum exploration and mining in Commonwealth waters off the coast of NSW is regulated by a Joint Authority (JA) consisting of the Australian and NSW ministers for resources under the [Offshore Petroleum and Greenhouse Gas Storage Act 2006](#) (Cth) (OPGGGS Act). Decisions made by the JA include granting titles, approving title extensions and imposing and varying title conditions. Under JA arrangements, the Australian Government's decision prevails in the event of a disagreement.

PEP 11 was initially granted on 24 June 1999 with minimum work requirements and subject to a range of conditions.¹ Extensions to PEP 11 were granted in January 2016 and January 2018. On both occasions, the NSW Government opposed the extension of PEP 11. The joint venture submitted further extension applications in January 2020 and February 2021. The first of these applications was refused by the JA in March 2022 (Prime Minister Scott Morrison and NSW Deputy Premier Paul Toole).²

On 14 February 2023, the Federal Court quashed the decision of the JA to refuse the first application for a PEP 11 extension. It quashed the decision based on apprehended bias on the part of Scott Morrison, not actual bias.³ As of 4 September 2023, PEP 11 is listed as a 'pending application' in the National Electronic Approvals Tracking System (NEATS)⁴ as it awaits determination by the JA members, the Australian Minister for Resources, Madeleine King, and the NSW Minister for Natural Resources, Courtney Houssos.

On 22 June 2023, the [Minerals Legislation Amendment \(Offshore Drilling and Associated Infrastructure Prohibition\) Bill 2023](#) was introduced in the NSW Legislative Assembly by Rory Amon, the Liberal member for Pittwater.⁵ The bill proposes to amend 3 Acts to prohibit the granting of licences and permits to undertake or facilitate offshore petroleum and mineral exploration and recovery, except in the case of sand mining for beach nourishment. On 29 June 2023, the bill was referred to the NSW Legislative Assembly Standing Committee on Environment and Planning for an [inquiry](#).⁶

This paper provides some background information on PEP 11 and briefly outlines the current regulatory framework. The body of the paper is a timeline of key developments regarding PEP 11 and regulation of offshore gas and petroleum since the publication in 2011 of a paper from the Parliamentary Research Service, [Offshore petroleum exploration and mining](#).

¹ Australian Department of Industry, Science and Resources, [Disclosure log number: 22/067/71731](#), 29 November 2022, p 235.

² National Offshore Petroleum Titles Administrator (NOPTA), NEATS Public Portal: [Exploration Permit PEP-11](#), Australian Government, n.d., accessed 28 August 2023.

³ [Asset Energy Pty Ltd v Commonwealth Minister for Resources](#) [2023] FCA at [25].

⁴ National Offshore Petroleum Titles Administrator (NOPTA), NEATS Public Portal: [Exploration Permit PEP-11](#), Australian Government, n.d., accessed 28 August 2023.

⁵ R Amon, [Minerals Legislation Amendment \(Offshore Drilling and Associated Infrastructure Prohibition\) Bill 2023](#), *NSW Hansard*, 22 June 2023.

⁶ A Greenwich, [Minerals Legislation Amendment \(Offshore Drilling and Associated Infrastructure Prohibition\) Bill 2023](#), *NSW Hansard*, 29 June 2023.

2. Background

2.1 Ownership

Asset Energy Pty Ltd is an Australian energy exploration and production company.⁷ Formed in 2006, Asset Energy is a wholly owned subsidiary of Advent Energy Ltd.⁸ BPH Energy Ltd holds a controlling interest (35.8%) in Advent Energy and MEC Resources hold a non-controlling interest (48.2%).⁹ Bounty Oil and Gas NL was formed in 1999 and is an independent Australian oil and gas explorer and producer.¹⁰ Asset Energy holds an 85% interest in PEP 11 and Bounty Oil and Gas NL holds 15%. Asset Energy is the operator on behalf of the joint venture.

2.2 Prospective resources

Petroleum quantities can be classified as 'reserves', 'contingent resources' or 'prospective resources', depending on how much data is available about the petroleum accumulation (Figure 2). Any estimation of resource quantities for an accumulation is subject to both technical and commercial uncertainties, and as such is generally quoted as a range. 'Prospective resources' are those quantities of petroleum which are estimated, on a given date, to be potentially recoverable from undiscovered accumulations.

As of June 2023, no gas has been discovered in PEP 11. Studies carried out by the joint venture have produced evidence 'highly prospective for the discovery of gas'.¹¹ The total (low estimate plus best estimate) prospective resource in PEP 11 is 5.9 Tcf (trillion cubic feet) (Figure 2).¹² The company is of the 'aspirational' view that it could have the potential to supply up to 20 years of gas for NSW.¹³

⁷ Asset Energy Pty Ltd, [Home](#), 2023, accessed 28 August 2023.

⁸ Advent Energy Ltd, [Home](#), 2023, accessed 28 August 2023.

⁹ BPH Energy, [Home](#), 2023, accessed 28 August 2023; MEC Resources, [Advent Energy](#), 2023, accessed 29 August 2023; Australian Department of Industry, Science and Resources, [Disclosure log number: 22/067/71731](#), 29 November 2022, p 243.

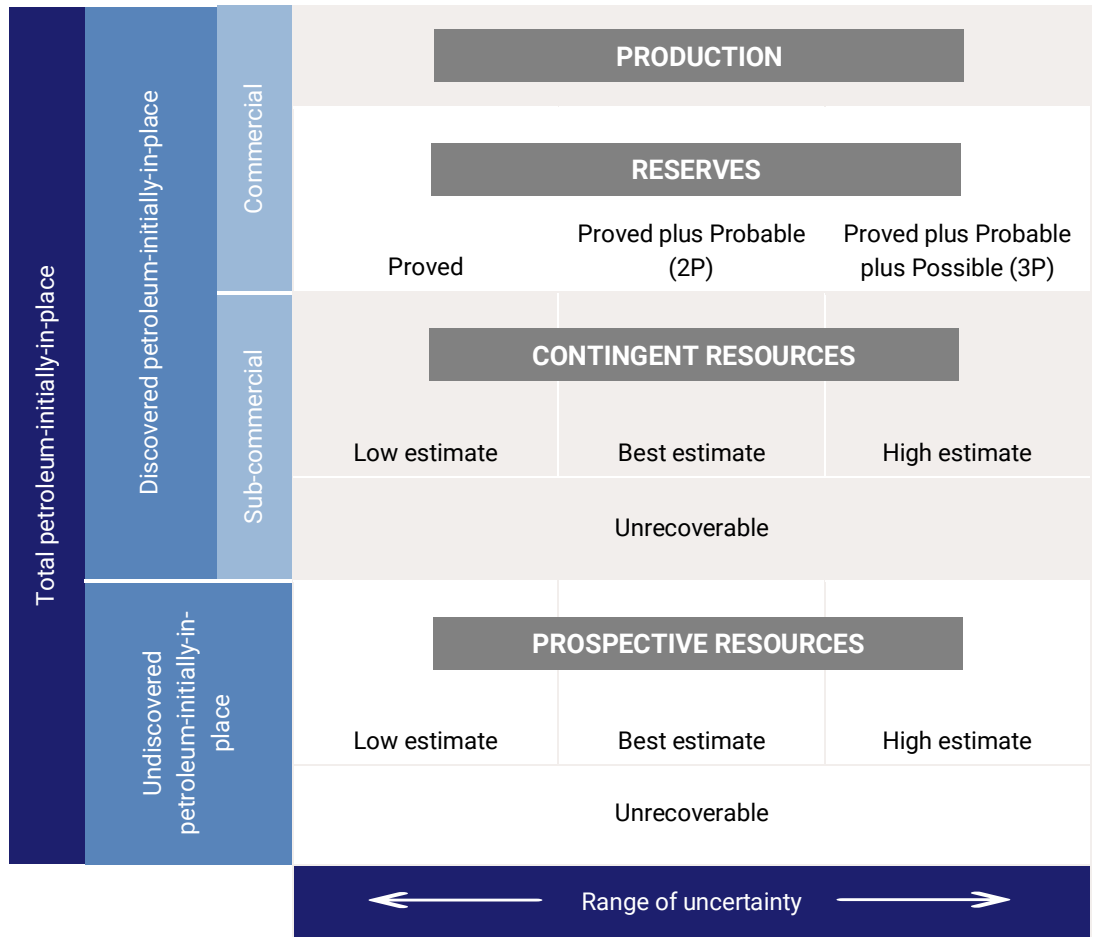
¹⁰ Bounty Oil & Gas NL, [About us](#), 2023, accessed 28 August 2023.

¹¹ BPH Energy, [Annual Financial Report 2023](#), 2023, p 2.

¹² Advent Energy Ltd, [Projects – Sydney offshore basin \(PEP 11\)](#), 2023, accessed 28 August 2023.

¹³ Advent Energy Ltd, [Supplementary offer information statement](#), 21 March 2023, p 6.

Figure 2: Resources classification system



Adapted from: Society of Petroleum Engineers, [Petroleum resources classification system and definitions](#), 2023, accessed 28 August 2023

3. The regulatory framework

Responsibility for the regulation of offshore petroleum and greenhouse gas (GHG) storage activities in Australian waters is divided between the Australian and state and territory governments. Under the Offshore Constitutional Settlement (OCS),¹⁴ the NSW Government has jurisdiction over waters which generally extend 3 nautical miles (approximately 5.5 km) from the low water mark ('coastal waters').¹⁵ The Australian Government has jurisdiction for offshore areas beyond 3 nautical miles from the low water mark ('Commonwealth waters').¹⁶

The [Offshore Petroleum and Greenhouse Gas Storage Act 2006](#) (Cth) (OPGGS Act) outlines the legal framework for exploration and recovery of petroleum and GHG activities in Commonwealth waters. Under this framework, the Australian, state and territory governments administer the regulatory regime under 'Joint Authority' arrangements. There is an Offshore Petroleum Joint Authority (JA) for each state and the Northern Territory which comprises the responsible Australian Minister and the relevant state or Northern Territory minister.¹⁷ For NSW, the relevant Joint Authority members are Madeleine King, Australian Minister for Resources, and Courtney Houssos, NSW Minister for Natural Resources. Decisions made by the JA include releasing offshore petroleum exploration areas, granting titles, approving title extensions and imposing and varying title conditions.¹⁸ The Australian Government's decision prevails in the event of a disagreement within a JA.¹⁹

The OPGGS Act establishes 2 statutory authorities:

1. The National Offshore Petroleum Titles Administrator (NOPTA), with responsibility for titles administration and data management functions in relation to offshore petroleum and greenhouse gas activities in Commonwealth waters
2. The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), which has functions relating to occupational health and safety (OHS) of offshore petroleum facilities and greenhouse gas storage activities, as well as

¹⁴ Australian Attorney-General's Department, [Offshore Constitutional Settlement](#), Australian Government, n.d., accessed 28 August 2023.

¹⁵ D Montoya, [Offshore petroleum exploration and mining](#), Briefing Paper No 01/2011, NSW Parliamentary Library Research Service, March 2011, p 23.

¹⁶ L Kenny and L Ferris, [Offshore Petroleum and Greenhouse Gas Storage Amendment \(Titles Administration and Other Measures\) Bill 2021 \[and\] Offshore Petroleum and Greenhouse Gas Storage \(Regulatory Levies\) Amendment Bill 2021](#), Bills Digest No. 6, 2021-22, Commonwealth Parliamentary Library, 2 August 2021.

¹⁷ National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), [Relevant decision makers](#), Australian Government, n.d., accessed 28 August 2023.

¹⁸ NOPTA, [Regulatory responsibilities](#), Australian Government, n.d., accessed 28 August 2023.

¹⁹ D Montoya, [Offshore petroleum exploration and mining](#), Briefing Paper No 01/2011, NSW Parliamentary Library Research Service, March 2011, p 23.

structural integrity of facilities, wells and well-related equipment and environmental management.²⁰

Offshore petroleum exploration and mining in NSW coastal waters is regulated by the [Petroleum \(Offshore\) Act 1982](#).²¹ PEP 11 is not subject to this legislation.

²⁰ S Power, [Offshore Petroleum and Greenhouse Gas Storage Amendment \(Cross-boundary Greenhouse Gas Titles and Other Measures\) Bill 2019 \[and\] Offshore Petroleum and Greenhouse Gas Storage \(Regulatory Levies\) Amendment \(Miscellaneous Measures\) Bill 2019](#), Bills Digest No. 82, 2019-20, Commonwealth Parliamentary Library, 11 February 2020.

²¹ D Montoya, [Offshore petroleum exploration and mining](#), Briefing Paper No 01/2011, NSW Parliamentary Library Research Service, March 2011, p 37.

4. Timeline of key developments since 2011

This timeline identifies key developments that have occurred since the Research Service published [Offshore petroleum exploration and mining](#) in March 2011. The timeline includes:

- The PEP 11 work program
- Amendments to the Commonwealth regulatory regime
- Australian and NSW Government decisions
- Commonwealth and NSW parliamentary developments.

One of the most important sources of information, particularly regarding Commonwealth developments, is a FOI (freedom of information) [disclosure](#) published on 9 November 2022 containing correspondence that was sent to former Prime Minister, Scott Morrison, before he made a decision on PEP 11 in March 2022.²² The disclosure includes material to support the Prime Minister in either [refusing](#) the application or [approving](#) the application with conditions.

Regarding NSW legislation, no significant amendments have been made to the *Petroleum (Offshore) Act 1982* since 2011.

A total of \$21.1 million was expended on the PEP 11 work program by the joint venture between August 2012 and February 2021. PEP 11 expired on 12 February 2021.²³ A 26 March 2022 decision to refuse the first application for extension of PEP 11 was quashed by the Federal Court on 14 February 2023, and the Court sent the application back to the JA to be determined in accordance with law. As of 4 September 2023, the JA has not made a decision on the PEP 11 application. The joint venture has 2 continuing applications with NOPTA: the first application lodged in January 2020 and the second application lodged in February 2021. The second application was accepted by NOPTA but not dealt with pending the outcome of the first application.²⁴

²² Australian Department of Industry, Science and Resources, [Disclosure log number: 22/067/71731](#), 29 November 2022.

²³ National Offshore Petroleum Titles Administrator (NOPTA), NEATS Public Portal: [Exploration Permit PEP-11](#), Australian Government, n.d., accessed 28 August 2023.

²⁴ BPH Energy, [Annual Financial Report 2023](#), 2023, p 3.

Key developments since 2011

Sources for each development are provided at the end of the timeline.

Date	Development
2012	
Jan 2012	NOPTA and NOPSEMA began operation on 1 January 2012 ¹
Aug 2012	PEP 11 seismic reprocessing and geotechnical studies commenced, total cost \$250,000 (Aug 2012 to Aug 2023) ²
2013	
Aug 2013	PEP 11 2D seismic survey and geotechnical studies commenced, total cost \$2m (Aug 2013 to Feb 2019) ²
Nov 2013	OPGGS Act amendments expanded the monitoring and investigation powers of NOPSEMA ³
2014	
Feb 2014	OPGGS Act amendments streamlined environmental approvals for offshore petroleum and GHG activities, with NOPSEMA becoming the sole assessor for environment plans ⁴
May 2014	The joint venture applied for a 12-month extension of PEP 11 ⁵
2015	
Feb 2015	The JA approved a 12-month extension of PEP 11 ⁵
Mar 2015	OPGGS Act amendments provided for states and territories to confer powers to regulate offshore petroleum activity in state coastal waters to NOPSEMA. As at August 2023, Victoria is the only state to have conferred these powers to NOPSEMA ⁶
May 2015	The joint venture applied for a 24-month extension of PEP 11 ⁵
Aug 2015	PEP 11 geotechnical studies commenced, total cost \$350,000 (Aug 2015 to Feb 2019) ²
Nov 2015	The NSW Government informed the Australian Government of its opposition to approval of a 24-month extension of PEP 11 ⁷
2016	
Jan 2016	The JA approved a 24-month extension of PEP 11 ⁵
Jun 2016	The joint venture applied for a 24-month extension of PEP 11 ⁵
2017	
Jun 2017	The NSW Government informed the Australian Government of its opposition to approval of a 24-month extension of PEP 11. It opposed renewal of PEP 11 because of general inconsistencies between Commonwealth and NSW assessment and performance requirements in relation to explorations and titleholders across a wide range of considerations, including financial, technical, reporting, environmental and community consultation standards ⁸

Date	Development
2018	
Jan 2018	The JA approved a 30-month extension of PEP 11 ⁵
2019	
Feb 2019	PEP 11 drill exploration well commenced, total cost \$15m (Feb 2019 to Feb 2020) ²
Feb 2019	The joint venture applied for a 24-month extension of PEP 11, but withdrew the application in October 2019 before the JA made its decision ⁵
Oct 2019	OPGGs Act amendments expanded the monitoring and enforcement powers of NOPSEMA inspectors, including to limit self-incrimination protections to individuals, and provided inspectors with new well integrity monitoring powers ⁹
2020	
Jan 2020	The joint venture applied for a 24-month extension of PEP 11 (the first application) ⁵
Feb 2020	PEP 11 3D seismic survey commenced, total cost \$3.5m (Feb 2020 to Feb 2021) ²
Apr 2020	The Australian and state/territory government Joint Authorities jointly released a COVID-19 work-bid exploration permits policy that allowed for 12-month title extensions due to the impact of COVID-19 ⁰
Apr 2020	NOPTA recommended approval of the first application ⁵
May 2020	OPGGs Act amendments strengthened and clarified NOPSEMA monitoring, inspection and enforcement powers during an oil pollution emergency ¹¹
Jul 2020	The JA requested additional information from the joint venture on how it would fund the work program ⁵
Aug 2020	The joint venture provided the JA with additional information on funding ⁵
2021	
Jan 2021	The COVID-19 work-bid exploration permits policy concluded on 31 January 2021 ¹²
Feb 2021	The joint venture submitted a second application to extend PEP 11 for 24 months citing delayed decision-making on the first application and the COVID-19 work-bid exploration permits policy as reasoning ⁵
Feb 2021	The NSW Government informed the Australian Government of its opposition to approval of first application. Two reasons were given: concerns about the difference between NSW and Commonwealth legislation; and the pace of exploration ⁵
Jun 2021	The NSW Legislative Council passed a motion opposing renewal of PEP 11 and calling on the NSW Government to oppose renewal of PEP 11 and take action to prevent the construction of any infrastructure related to PEP 11 ¹³
Jun 2021	The Senate Standing Committees on Environment and Communications handed down the final report into the impact of seismic testing on fisheries and the marine environment. The report recommended regulatory reforms to improve community consultation related to offshore petroleum activities ¹⁴
Sep 2021	OPGGs Act amendments improved the decommissioning regulatory framework for offshore oil and gas projects by providing for greater control over changes in title ownership, expanding existing powers to 'call back' previous titleholders to

Date	Development
	undertake decommissioning and remediation works, and improving assessment of the suitability of prospective titleholders ¹⁵
Oct 2021	Zali Steggall introduced a private members bill in the House of Representatives – the Offshore Petroleum and Greenhouse Gas Storage Amendment (Stopping PEP11) Bill 2021 (Cth). The bill would have cancelled PEP 11 and prohibited any further petroleum exploration or exploitation in the area. It lapsed at dissolution of Parliament on 11 April 2022 ¹⁶
Nov 2021	Peter Whish-Wilson introduced a private members bill in the Senate – the Offshore Petroleum and Greenhouse Gas Storage Amendment (Fight for Australia's Coastline) Bill 2021 (Cth). The bill would have cancelled PEP 11 and a permit at King Island in Tasmania (T/49P), prohibited the granting of an application in the Otway Basin in Victoria (V21-3) and prohibited any further petroleum exploration or exploitation in these 3 areas. It lapsed at dissolution of Parliament on 11 April 2022 ¹⁷
Dec 2021	On 16 December 2021, the JA issued a Notice of Intention to Refuse (NOIR) the first application for 3 reasons: the joint venture had not provided enough information to meet the force majeure criteria for extension; the joint venture had not demonstrated that it would have access to sufficient financial resources to fulfil its obligations under title conditions; and the high levels of community opposition to the application ⁵
2022	
Jan 2022	The joint venture responded to the NOIR. The response did not include additional evidence to address the first 2 reasons for refusal cited in the NOIR ⁵
Feb 2022	Prime Minister Scott Morrison formally proposed to refuse the first application, and referred the matter to then NSW Deputy Premier Paul Toole, who had 30 days to respond before the matter was considered finalised ¹⁸
Feb 2022	The NSW Coalition Government released its Offshore exploration and mining policy. The Government did not support offshore mineral, coal or petroleum exploration or mining for commercial purposes in or adjacent to NSW coastal waters, and would only consider offshore mineral exploration or mining in NSW coastal waters for the purposes of beach nourishment, provided it was for a broader public benefit ¹⁹
Mar 2022	On 26 March 2022, NOPTA gave notice to Asset Energy that the JA had decided to refuse the first application ²⁰
Jun 2022	Asset Energy applied to the Federal Court pursuant to section 5 of the <i>Administrative Decisions (Judicial Review) Act 1977</i> (Cth) and section 39B of the <i>Judiciary Act 1903</i> (Cth) to review the decision of the JA ²⁰
Jun 2022	A package of 3 Acts established a regulatory framework to enable the construction, installation, commissioning, operation, maintenance, and decommissioning of offshore electricity infrastructure in Commonwealth waters, one of which clarified how the new framework works alongside the OPGGS Act framework ²¹
Aug 2022	Peter Whish-Wilson introduced a private members bill in the Senate – the Offshore Petroleum and Greenhouse Gas Storage Amendment (Fight for Australia's

Date	Development
	<p>Coastline) Bill 2022 (Cth). The bill proposes to amend the OPGGS Act to cancel PEP 11 and a permit at King Island in Tasmania (T/49P), prohibit the granting of an application in the Otway Basin in Victoria (V21-3), and prohibit any further petroleum exploration or exploitation in these 3 areas. The second reading debate took place on 9 February 2023²²</p>
2023	
Feb 2023	<p>On 3 February 2023, Asset Energy and the Australian Government agreed to end ongoing litigation relating to PEP 11 and filed proposed consent orders with the Federal Court of Australia²³</p>
Feb 2023	<p>On 4 February 2023, Courtney Houssos, then Labor Shadow Minister for Natural Resources, reiterated NSW Labor’s ‘long standing opposition’ to the PEP 11 project in a media release²⁴</p>
Feb 2023	<p>Zali Steggall introduced a private members bill in the House of Representatives – the Offshore Petroleum and Greenhouse Gas Storage Amendment (Stop PEP11 and Protect our Coast) Bill 2023 (Cth). The bill proposes to amend the OPGGS Act to cancel PEP 11, prohibit any further petroleum exploration or exploitation in the area, and protect the climate, local economy and biodiversity of the area in and adjacent to PEP 11. As of 4 September 2023, the bill is at the second reading stage which was moved on 13 February 2023²⁵</p>
Feb 2023	<p>On 14 February 2023, the Federal Court quashed the 26 March 2022 decision of the JA to refuse the application for a variation and suspension of the conditions to which PEP 11 is subject. It quashed the decision based on apprehended bias on the part of Scott Morrison, not actual bias. In other words, a fair-minded person may reasonably apprehend that Scott Morrison might not have been impartial when he made his decision. Both parties consented to the quashing of the decision. The Court remitted the first application back to the JA to be determined in accordance with law²⁰</p>
Jun 2023	<p>On 22 June 2023, the Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill 2023 was introduced in the NSW Legislative Assembly by Rory Amon, Liberal member for Pittwater. The bill proposes to amend 3 Acts: the <i>Petroleum (Offshore) Act 1982</i> to prohibit the granting of permits and licences to undertake or facilitate offshore petroleum exploration or recovery; the <i>Offshore Minerals Act 1999</i> to prohibit the granting of licences under that Act, except licences in relation to sand mining for the purpose of beach nourishment; and the <i>Environmental Planning and Assessment Act 1979</i> to prohibit development to undertake or facilitate offshore petroleum or mineral exploration or recovery²⁶</p>
Jun 2023	<p>On 29 June 2023, the Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill 2023 was referred to the NSW Legislative Assembly Standing Committee on Environment and Planning for an inquiry²⁷</p>
Jun 2023	<p>On 29 June 2023, Cate Faehrmann, The Greens member, gave notice of motion for introduction of the Minerals and Petroleum Legislation Amendment (Seabed Mining and Drilling and Associated Development Prohibition) Bill 2023 in the NSW</p>

Date	Development
	Legislative Council. The bill proposes to prohibit the granting of development consent and the granting of permits and licences for the purposes of offshore petroleum or mineral exploration or recovery, or development intended to facilitate offshore petroleum or mineral exploration or recovery ²⁸
Jul 2023	On 21 July 2023, Federal Minister for Climate Change and Energy, Chris Bowen, declared an offshore wind zone that partly overlaps with PEP 11. The joint venture noted that the declared wind area does not materially impact the PEP 11 title or the main PEP 11 target areas ²⁹
Jul 2023	Asset Energy announced that they were investigating the availability of a mobile offshore drilling unit to drill the proposed Seablue-1 well in PEP 11 which would take approximately thirty-five days to complete ³⁰

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