MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
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Enabling investment in offshore renewable energy

A summary of submissions to the *Enabling investment in offshore renewable energy* discussion document published in December 2022.

1. The Ministry of Business, Innovation and Employment (MBIE) received 59 submissions on the discussion document, **Enabling investment in offshore renewable energy**. In addition to written submissions, MBIE received oral feedback from iwi and developers through a series of meetings held between January and March 2023.

2. The submissions reflect the views of 23 energy industry stakeholders (eight of which are involved in offshore renewable energy developments), seven from iwi and iwi organisations, three from environmental NGOs, two from other marine industries, four from academics and research institutes. A list of the names of the submitters is included in **Annex One**. However, the name of one submitter has been omitted on their request for privacy reasons.

3. The discussion document explored approaches to enabling feasibility activities for offshore renewable energy developments in Aotearoa New Zealand. Key issues explored can be grouped into policy objectives, approaches to assessing feasibility, enabling Māori participation, and consideration of other uses and interests.

4. This document is a summary of the submissions MBIE received, including some of the key themes and issues raised by submitters. It draws on the comments made by submitters but does not reflect every comment made by each submitter. For the avoidance of doubt, numerical values of the terminology used in the document is outlined in Table 1 below.

Table 1: Definitions of numerical terminology

Terminology	Number of responses
One / single / a	**1**
A few / a couple	**2-3**
Some	**3-10**
Many	**Up to 50% of responses**
Most / a majority	**Over 50% of responses**
Unanimously	**All responses**

5. Due to the nature of this document, some, but not all, submissions have been directly quoted or referenced. All submitters consented to the use of their submission in this summary which would become publicly available.

WHAT WE HEARD: KEY THEMES

Submitters were supportive of offshore renewable energy developments

6. A majority of submitters supported offshore renewables being part of New Zealand's energy system mix. They agreed these technologies could be a helpful tool for decarbonisation and shifting away from fossil fuels. Any opposition was focused on the need to better understand Aotearoa New Zealand's energy demands and environmental impacts.

Strong support for regulation with permits awarded to select suitable developments

7. Most of the submitters agreed some form of regulation was necessary and the permitting approach was appropriate for enabling feasibility activities. Submitters said the exclusivity provided by the permitting approach will provide greater certainty to invest in these activities in the near term.

8. A few submitters said regulation was not necessary for feasibility activities. They said the existing consenting process was best placed to regulate offshore renewable energy developments – albeit with a few amendments or a national policy statement to inform decision-making on newer technologies.

Iwi favoured a Te Tiriti-based partnership approach to any regulation

9. Submissions by iwi strongly advocated for a partnership approach to regulation and said participation alone was not enough to meet the Crown's Treaty obligations. A key focus of a partnership-based approach, in their view, was sharing of revenue with Māori, economic opportunities and involvement in decision-making.

10. This view was also advocated by a few other submitters, largely environmental NGOs, who agreed mana moana involvement in the regime will be critical.

Strong support for streamlining regulatory settings with the consenting process

11. Submitters from all interest groups commented on the relationship of this regime with the Resource Management Act 1991 and the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012. Submitters mostly agreed environmental considerations were important but that they need to be streamlined with existing processes.

12. Whilst supportive of bespoke regulation for offshore renewables, industry submitters especially said that duplication of processes could adversely impact the policy objective and be a barrier to developments.

Some level of collaboration seen to be beneficial and necessary in the short-term

13. Submitters almost unanimously agreed that some degree of collaboration will be beneficial. Submitters proposed collaboration could enable the sharing of resources and experts to undertake these studies on an area-wide basis.

14. Submitters frequently commented on the government's role in establishing environmental baseline data. Some said government should be involved in collating this data or setting the standards for collection (i.e., a coordination role). Whilst a few submitters suggested government should be directly involved in the collection of baseline data.

SUMMARY OF VIEWS BY CHAPTER

Chapter 3: Policy objectives for regulation

General support for objectives with the added reference to Te Tiriti o Waitangi/The Treaty of Waitangi

15. A majority of the submitters supported the objectives in principle but some suggested that they need to be refined[1]. The objective relating to selecting developers or developments in line with our national interests attracted a lot of feedback. Submitters sought more clarity about what 'national interest' and 'environment' mean.

16. Submitters, particularly iwi, wanted to see a specific reference to partnership and Te Tiriti o Waitangi /The Treaty of Waitangi in the objectives. Iwi said the reference to participation in objective two would not be enough to meet the Crown's Treaty obligations on this issue. Iwi referenced the participatory model in the Crown Minerals regime as being inadequate to meeting the Treaty principles.

17. Energy industry submissions sought clarification on whether the objectives will apply to feasibility alone, or the whole regime and suggested they should have a long-term focus. In their view, reducing the cost of electricity or supporting energy security/resilience should be factored into the objectives for the broader regime.

18. A few submitters (primarily environmental NGOs and research institutes/academics) argued there should be a separate objective considering environmental impacts. One submitter noted that this should encompass "biodiversity, ecosystem functions and services, as well as environmental consequences on oceanography, wind, hydrodynamic processes."

Chapter 4: Proposals for managing feasibility activities

Government should focus on information gathering and enabling competition in the short-term

19. Many submitters said that the role of government should be to establish a central repository of information to enhance transparency and competition. A few submitters supported a spatial planning approach (like the Australian model of declared areas) to front-load public consultation to avoid investor risk that feasibility undertaken on areas will become 'no-go' or contentious areas. However, a majority of submitters understood that this would be difficult to undertake in the short-term.

20. Alternatively, iwi proposed a Te Tiriti-led approach to feasibility where government partner with tangata whenua to make assessments on developers, location and criteria at the point exclusivity granted.

21. Similarly, submissions from local government and industry bodies considered they should have a greater role in the feasibility process to ensure there is a holistic lens to development of this sector that considers wider industry and regional impacts.

Support for a developer-led approach to assessing feasibility but there is some concern around robustness, efficiency and transparency

22. Most of the submitters supported a developer-led approach to assessing feasibility. They agreed this was pragmatic to get developments underway while government gathers data and considers spatial planning in marine areas. Some submitters considered government

[1] The four objectives identified in the discussion document were; (i) enable selection of both the developer and the development to meet Aotearoa New Zealand's national interests, including appropriate safeguards and benefits for the environment, (ii) enable Māori participation in offshore renewable energy development, (iii) provide certainty for developers to invest in the short term, and (iv) ensure New Zealand remains competitive and can secure access to offshore renewable energy technology in a timely way.

could play a greater role in assessing feasibility in the future, but agreed a developer-led approach would be beneficial in the short term.

23. However, iwi, local government and environmental NGOs preferred a more collaborative or government-led approach to adequately consider Māori interests and environmental impacts through the feasibility process. They explained that government involvement will be necessary to facilitate consultation with Māori and stakeholders and address competing interests during the feasibility process to ensure there is a holistic and long-term consideration of impacts.

24. Similarly, a couple of submitters were concerned that a developer-led approach could tie up areas or result in inadequate baseline data to inform future consents. One submitter was particularly concerned that a developer-led approach could result in restrictions on public release of information and lack of understanding on competing interests, leading to delays. Similarly, another submitter was concerned that international experience is showing that without robust baseline data assessing the environmental impacts of a windfarm is challenging and could put the projects at risk. They noted that New Zealand has limited experience with large scale offshore industrial activity.

25. Energy industry stakeholders – including prospective developers of offshore renewables – said collaboration was necessary for efficient use of resources and reduce costs. Collaboration in Aotearoa New Zealand's context was seen to be necessary due to the infancy of the industry, isolated supply chain and the constitutional relationship between Crown and Māori. Specific suggestions for collaboration were environmental monitoring data, understanding cultural impacts/ Māori interests and transmission capacity.

26. Overall, the submissions indicate feasibility assessments were not seen to be a binary exercise led by either the government or developers. Submitters observed that a multi-stakeholder approach – which includes government, iwi and developers working with the local government, marine experts, minerals experts etc - was necessary to ensure studies are conducted in a transparent, consistent and inclusive manner. There were suggestions that feasibility assessments should be shared along a defined scope between developers and government.

27. As such, there was some commentary against the term 'developer-led' as it was too narrow and did not acknowledge the role of other key stakeholders and iwi.

Submitters supportive of a permitting approach but this is not seen to exclude collaboration

28. Submitters were mostly supportive of a permitting approach as exclusivity will provide developers with investment certainty for timely progress. However, many said that it should not preclude collaboration and saw merit for a hybrid approach which involves other stakeholders and iwi. In addition to the arguments for a collaborative approach in paragraphs 22-27, the following comments were made on a hybrid approach:

    a. Some submitters said collaboration would occur naturally where it makes commercial sense and not something that should be prescribed in regulation.

    b. Some submitters said collaboration should be incentivised through co-funding agreements or participation in working groups. They argued that greater levels of collaboration need to be included within the permitting lifecycle. Local participation is important in Aotearoa New Zealand, to ensure that developers are not doing bare minimum to get permits.

    c. Iwi preferred a Te Tiriti-based approach which ensures Māori partnership, participation and decision-making. Iwi acknowledged that it might be difficult to fully

implement this in the short-term. However, at a minimum, iwi considered a hybrid option should ensure greater involvement of tangata whenua, data standardisation which enables Māori data sovereignty, pooling of resources to lower costs and increase efficiencies and Māori involvement in decision-making process.

29. A few submitters expressed strong opposition to the permitting approach as it was premised on a developer-led approach which they disagreed with. In particular:

    a. Iwi were concerned that it does not provide sufficient time for their involvement and data collected could not be standardised. Iwi views this as a replication of the Crown Minerals approach which, in their view, does not provide meaningful opportunities for Māori participation and Crown-Māori partnership.

    b. A submission from a local government body preferred that feasibility activities were managed under existing legislation with necessary amendments or national policy statements to guide local government decision making.

    c. One prospective developer saw permits as being an unnecessary administrative burden and considered a national policy statement would be a better pathway to achieving the policy objectives.

    d. One environmental NGO was concerned that exclusivity granted through the permitting approach could force the hands of consenting authorities.

Chapter 5: Enabling Māori participation

30. A majority of submitters saw broad opportunities for iwi and hapū, particularly:

    a. holistic economic opportunities – including the sharing of any revenue (ie royalties) generated by the Crown through the regime,

    b. industry training and subsequent employment,

    c. genuine and meaningful involvement in feasibility assessments,

    d. involvement in the policy process, and

    e. involvement in the decision-making process that reflects a partnership-based approach.

31. The submissions from iwi largely centred around the need to uphold Te Tiriti o Waitangi and existing settlements or claims between iwi, hapū and/or whānau, and the Crown. Iwi also wanted to see the regime go beyond the processes in the petroleum and minerals space which they said was not adequate to meeting Treaty obligations. Iwi strongly advocated for a partnership-approach in the regime and mechanisms that enable Māori to be involved in decision-making.

32. In addition, many submitters, including non-Māori, said “iwi should be remunerated for their time as cultural experts”. There were strong calls from a large number of submitters to resource iwi, hapū and/or whānau, in addition to sharing any generated revenue.

33. Many submitters asked guidelines to be developed to support developers’ involvement with iwi, hapū and/or whānau. Some submitters also welcomed the introduction of cultural competency training for developers.

34. Submitters had differing views on who should develop these guidelines however it was acknowledged that the Government cannot prescribe iwi, hapū and/or whānau involvement in legislation as this will vary between each iwi, hapū and/or whānau.

35. There were conflicting views around 'monitoring and enforcing' developer involvement with iwi, hapū and/or whānau. A majority of submitters supported a reporting approach, while a few submitters specifically advocated for a 'health of the relationship report'. However, a number of submitters disagreed, stating: "forced inclusion or government involvement to monitor relationships is contrary to true partnership and undermines the mana of iwi, hapū and/or whānau" that becomes "nothing more than a tick-box exercise".

36. Some submitters noted the proposed 'developer-led' approach side-lines the importance of iwi, hapū and/or whānau involvement and increases cultural marginalisation.

Chapter 6: Considerations for a permitting framework

37. Acknowledging that some submitters did not support a developer-led permitting approach to managing feasibility (see paragraphs 22-27), there was clear support for the following in a permitting framework:

    a. criteria based on technical capability, national interest and financial capability,

    b. reviewing permit criteria where there is a material change to the permit holder's status and/or capability with the possibility of revoking a permit when the criteria is not met,

    c. revocation of a permit if the permit holder was not making progress on feasibility studies ('use it or lose it' provisions),

    d. MBIE to manage the permitting process as it had the necessary expertise from regulating Crown Minerals regime,

    e. a cost-recovery model for funding the regime,

    f. regular reporting to give effect to 'use it or lose it' provisions, and

    g. enforcement provisions following the VADE model which limits revocation of a permit to 'serious breaches' with opportunities to remedy the breach.

Submitters sought greater clarity around the scope of criteria

38. On the proposed criteria, some submitters noted that they should be sufficiently broad and flexible to allow different structures/companies to participate (e.g., local/small or consortia). Submitters made some specific suggestions about the terminology used and methodology for assessing the technical and financial criteria which largely related to clarifying the scope of the national interest test and the financial/commercial capability test.

39. On reviewing permits where there is a material change, submitters suggested the framework should clearly indicate when a review would be triggered. However, some submitters noted the threshold should not be too low given the likelihood of changes to funding structures in the early stages of project development.

Submitters sought longer durations for permits as robust feasibility assessments expected to take longer in Aotearoa New Zealand

40. On the duration of a permit, around half of the submissions were supportive of the proposed permit duration of five years with a two-year extension as this is in line with international norms and will ensure timely progression of developments.

41. However, the remaining submitters suggested five years was too short to go through Aotearoa New Zealand's consenting process and to build meaningful relationships with stakeholders, particularly iwi, hapū and/or whānau. Submitters were particularly concerned there would be delays beyond the developer's control which could impact progress within

five years (e.g., supply chain, limitation to expert or iwi resourcing). Amongst those that said five years was too short, there was a slight preference for ten years. Support for longer durations was largely from iwi, developers, investors and industry bodies.

42. Despite the widespread support for a 'use it or lose it' provision, a few submitters acknowledged that some discretion will be necessary due to the infancy of Aotearoa New Zealand's industry and the lack of experts in this field. Submitters were concerned that lack of progress will sometimes be due to lack of experts or supply chain issues which were outside of their control. It was suggested that a reasonability test could be useful to mitigate this risk.

Submitters held differing views on the decision-making structures and processes

43. A majority of submitters agreed MBIE should manage the permitting process as it had the necessary expertise from regulating the Crown Minerals regime. Supporters noted that this would provide consistency and clarity in processes and provide a central point of contact for stakeholders, Māori and the public. However, a few submitters suggested councils, or the Ministry for the Environment or Department of Conservation (or a combination of these entities) would be better suited for this role or that the role should be shared with Māori.

44. In regard to the decision-maker, many submitters said ministerial decision-making would be appropriate given the significance of the infrastructure. However, submitters were equally supportive of these decisions being made by officials to ensure the decisions are objective and timely. Alternative suggestions for decision-making included partnering with tangata whenua or joint-ministerial decision-making involving the Minister for the Environment.

45. Submitters were split on whether overlapping applications should be dealt with by merit, negotiation and/or lottery. A few submitters noted that the issue of overlap could be avoided by allocating areas through a bidding process or government-led collaboration (i.e., awarding exclusivity at commercial permit stage).

46. Iwi were particularly critical of the proposed approaches to decision-making given the absence of iwi participation or partnership. Whilst a few iwi acknowledged that the Minister and MBIE might be best placed to make decisions and manage permits, the process must involve and be in partnership with the iwi concerned. Iwi considered tangata whenua should be involved throughout the feasibility process (and beyond) – this includes preapplication, decision-making and monitoring. They also considered decisions to amend applications should be made in partnership with tangata whenua and government.

47. Submitters (including most developers) were supportive of permit decisions being made public – with appropriate redactions of commercially sensitive information. They agreed that transparency through public notification is key to informing prospective developers how they will be assessed and the grounds on which permits have been accepted or declined.

48. However, submitters were less supportive of including a public consultation requirement to the decision-making process. A majority of the submitters said this would be burdensome to both the decision-maker and the public as it was too early in the process for informed input. These submitters suggested public participation should occur through the consenting process or at the commercial permit stage. Iwi noted that this consultation process is not an appropriate vehicle for seeking their views in the decision-making process which should involve some form of co-governance.

49. Those that supported public consultation for feasibility permits agreed that it is important for transparency and democratic reasons. Given permit holders will be given some form of exclusivity, some submitters said public input into the suitability of the developer at was important to uphold democratic principles.

Support for reporting and ongoing monitoring but some concern of the administrative burden

50. Most submitters were supportive of regular reporting requirements and considered it to be necessary to give effect to 'use it or lose it' provisions. However, preferred timeframes for reporting varied (weekly, monthly, quarterly, 6-montly, annually, 2-years) and submitters considered these needed to be limited in scope to make compliance reasonable. Industry stakeholders emphasised that reporting can be a costly exercise and unreasonable if it is not meaningful to the administration of the regime.

51. Submitters were supportive of transparent reporting standards built on acceptable project management methodology. New Zealand Petroleum and Minerals' reporting requirements for oil and gas was noted to be appropriate for use in this regime.

52. Noting the sensitivity of the information that would be contained in reports, submitters held differing views on the sharing or publication of reporting information:

    a. Most developers and industry bodies said reporting information should be held in confidence by the regulator and disclosures from reporting exempt from the Official Information Act 1982.

    b. Some submitters said public disclosure was justified provided commercially sensitive information is redacted.

    c. One submitter said the onus of public reporting should rest with the developer.

53. However, submitters almost unanimously agreed that feasibility data should eventually be made public once a commercial permit granted.

54. In addition to reporting, a few submitters suggested regular meetings could provide informal reporting opportunities. Alternatively, one submitter suggested regular reporting accompanied by powers to seek further information to balance the need for transparency with costs.

Chapter 7: Consideration of other uses and interests

Submitters were supportive of considering the uses, interests and values listed in the discussion document.

55. Other uses, interests and values identified largely reflected cultural, environmental and economic uses. Some submitters (environmental NGOs and research institutes) were concerned about how cumulative impacts would be considered which they said could not be mapped but was important to understand the long-term, cumulative impacts of developments.

56. Some submitters, especially iwi, were critical of placing an over-emphasis in 'mapping' interests as they do not tell the full story and some interests cannot be mapped. In particular, one iwi noted that "some Māori uses, interests and values are not mapped to protect the spiritual and physical integrity of these areas for example pūkawa, mahinga kai, tauranga waka and kaitiaki."

57. A few submitters called for a comprehensive work programme to be undertaken to fully understand and analyse alternative uses, interests and values before space is allocated to offshore renewable energy developments. However, other submitters said this exercise is best done through the feasibility assessment process (see commentary in paragraphs 22-27 on collaborative approaches to managing feasibility).

Little support for prohibiting feasibility activities in light of other uses, interests and values

58. A majority of submitters said there should not be a prohibitive list of uses, interests and values. Submitters – from a range of interest groups – noted that most uses, interests and values can be managed and should be assessed on a case-by-case basis and emphasis should be on co-operation and consultation. Two submitters from a mining and energy background were especially mindful of existing interests precluding development in perpetuity – they suggested Government should appropriately analyse trade-offs with existing and prospective uses and not be bound by a list of prohibited areas.

59. However, a few submitters suggested the following should be excluded from consideration:

    a. Uses, interests or values impacting conservation and recovery of threated species or marine reserves given the Government's commitment to major expansion of marine protected areas.

    b. Hazardous areas should be excluded for safety reasons – particularly areas around cables, mineral deposits and petroleum exploration or production sites.

    c. Sites of special cultural significance and wahi tapu sites. Iwi submitted that Te Tiriti o Waitangi and cultural interests should be prohibited for offshore renewable generation unless an agreement is reached between the Crown and tangata whenua. This was supported by developers and other industry submitters who said development should be permitted with the consent of local iwi (rather than areas prohibited).

    d. Legally recognised areas set aside for specific uses (e.g. fishing) or Treaty settlements.

Managing other uses, interests or values

60. A majority of submitters preferred the management of other uses to occur through the environmental consent process so all uses, interests and values can be considered together.[2] However, some submitters preferred to take a precautionary approach by prohibiting the use of some areas for offshore renewable energy developments. Other mechanisms for managing other uses mentioned in the submissions ranged from developer-led commercial negotiations to government enforced exclusion zones.

61. However, most submitters said consultation and case-by-case assessments would be important to appropriately understanding, weighting and assessing competing risks and interests.

OTHER COMMENTS

62. Submissions identified a number of other issues they considered should be explored in the next discussion document. This included:

    a. subsidies, tax deductions or off-take arrangements,

    b. developments to transmission grid to increase capacity,

    c. long-term targets for offshore renewable energy developments,

    d. developments to ports and other infrastructure in the supply chain, and

    e. use of excess energy generated from offshore renewables.

[2] Environmental consent processes are set out in the Resource Management Act 1991 (and its successor legislation) and the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

ANNEX ONE: LIST OF SUBMITTERS

Submitter Name	Submitter type
Air New Zealand	Organisation; Industry, Aviation
Beca	Organisation; Legal and consultants
Blue Float Energy & Elemental Group	Organisation; Industry, Energy
Bureau Veritas	Organisation; Industry, Quality assurance
Business Energy Council	Organisation; Industry, Energy
Climate Justice Taranaki	Organisation; Environmental
Contact Energy	Organisation; Industry, Energy
Copenhagen Offshore Partners & NZ Super fund	Organisation; Industry, Energy
Earl Bardsley	Individual
Electricity Retailers' Association of New Zealand	Organisation; Industry, Energy
Energy Estate	Organisation; Industry, Energy
Energy Resources Aotearoa	Organisation; Industry, Energy
Firstgas Group	Organisation; Industry, Energy
Forest and Bird	Organisation; Environmental
Genesis Energy	Organisation; Industry, Energy
GNS Science	Organisation; Academic and research
Hiringa	Organisation; Industry, Energy
Infrastructure New Zealand	Organisation; Industry, Infrastructure
Karen Pratt	Individual
Kathleen Cole	Individual
Klaus Schollmeyer	Individual
Mana Wairua Energy	Organisation; Industry, Energy
Meridian Energy	Organisation; Industry, Energy
National Institute of Water and Atmospheric Research Ltd (NIWA)	Organisation; Academic and research
New Zealand Conservation Authority	Organisation; Government entity
New Zealand Wind Energy Association	Organisation; Industry, Energy
Nga Taranaki o Iwi & Post-Settlement Governance Groups	Iwi
NZ Marine Energy Association	Organisation; Industry, Energy

NZ Rock Lobster Industry Council	Organisation; Industry, Fisheries
Oceanex	Organisation; Industry, Energy
OMV Limited	Organisation; Industry, Energy
Parkwind	Organisation; Industry, Energy
Port Taranaki	Organisation; Industry, Port
Powerco	Organisation; Industry, Energy
Pricewaterhouse Cooper	Organisation; Legal/Consultant
Scott Beck	Individual
Simpson Grierson	Organisation; Legal and consultants
South Taranaki District Council	Organisation; Local Government
Stephen Craen	Individual
Straterra	Organisation; Industry, Minerals
Sumitomo Corporation	Organisation; Industry, Energy
Taranaki Energy Watch	Organisation; Environmental
Taranaki Energy Watch	Organisation; Industry, Energy
Taranaki Regional Council	Organisation; Local Government
Te Kaahui o Rauru	Iwi
Te Kahu o Taonui	Iwi
Te Kotahitanga o Te Atiawa Trust	Iwi
Te Rūnanga o Ngāi Tahu	Iwi
Te Rūnanga o Ngāti Mutunga	Iwi
Te Rūnanga o Ngāti Ruanui	Iwi
Te Waka (Waikato Regional Economic Development Agency)	Organisation; Economic development
Transpower	Organisation; Government entity
Venture Taranaki	Organisation; Industry, Energy
Waikato Regional Council	Organisation; Local Government
West Coast Regional Council	Organisation; Local Government
Wind Quarry Zealandia	Organisation; Industry, Energy
Wise Response Society	Organisation; Environmental
Yellow River Global Capital Limited	Organisation; Industry, Energy