



COVERSHEET

Minister	Hon Simeon Brown	Portfolio	Energy
Title of Cabinet paper	Offshore Renewable Energy Regulatory Regime: Policy Decisions	Date to be published	26 August 2024

List of documents that have been proactively released

Date	Title	Author
June 2024	Offshore Renewable Energy Regulatory Regime: Policy Decisions	Office of the Minister for Energy
4 June 2024	Offshore renewable energy regulatory regime: policy decisions ECO-24-MIN-0041 Minute	Cabinet Office

Information redacted

YES

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reason of confidential advice to the Government.



Cabinet Business Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Offshore Renewable Energy Regulatory Regime: Policy Decisions

Portfolio **Energy**

On 4 June 2024, the Cabinet Business Committee:

Background

- 1 **noted** that in May 2024, the Cabinet Economic Policy Committee (ECO):
 - 1.1 discussed and noted a paper setting out the Minister for Energy's (the Minister's) intentions for regulating offshore renewable energy developments;
 - 1.2 noted that the Minister, in consultation with the Minister Responsible for RMA Reform, the Minister for Oceans and Fisheries, the Minister for Resources, and the Minister for Regional Development, intended to seek decisions from Cabinet in June 2024 on the proposals outlined in the submission;

[ECO-24-MIN-0062]
- 2 **agreed** that the purpose of the regime will be to:
 - 2.1 give developers greater certainty to invest in offshore renewable energy projects; and
 - 2.2 enable the selection of developments that best meet New Zealand's national interests;
- 3 **noted** that the design of the regime has not changed substantively since it was discussed and noted by ECO on 1 May 2024, apart from the introduction of a form of trailing liability or an ongoing requirement to maintain financial security that the Minister could remove when approving the transfer of a permit;
- 4 **agreed** to the design of the regime as described in Appendix One, attached to the submission under CBC-24-SUB-0041;
- 5 **noted** that the Minister intends to return to ECO with further proposals on transmission infrastructure;

Financial implications

- 6 **agreed** that the costs of administering the regime will be fully recovered from permit-applicants and permit-holders, through application and annual fees, to be prescribed in secondary legislation;

- 7 **noted** that the Ministry of Business, Innovation and Employment (MBIE) will provide further advice on the cost recovery regime in the second quarter of 2025;
- 8 **noted** that there is expected to be an initial deficit before the cost recovery regime commences, which MBIE considers it can manage from its balance sheet;

Legislative implications

- 9 **agreed** that the decisions will be given effect through the Offshore Renewable Energy Bill (the Bill), Confidential advice to Government
- 10 **agreed** that the Bill will include a provision stating that the Act will bind the Crown;
- 11 **noted** that the regime will require consequential amendments to other legislation, including the Resource Management Act 1991 and the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012;
- 12 **agreed** that the Bill will include regulation-making powers, including the ability to make regulations to prescribe:
- 12.1 the permit application assessment and variation process, including the factors for assessing applications against the considerations set out in paragraphs 14.2 and 20 of Appendix One,
 - 12.2 the fees charged to enable full cost-recovery;
 - 12.3 the appropriate level and form of financial security to support decommissioning obligations;
 - 12.4 application and information requirements, including the implementation of a public register;
 - 12.5 details of the conditions that may be attached to permits; and
 - 12.6 requirements relating to change of control of permit-holders and transfer of permits;
- 13 **authorised** the Minister for Energy to take further decisions in line with the policy decisions agreed under CBC-24-MIN-0041 on:
- 13.1 further details of the permit application assessment and allocation process (including procedural requirements relating to Treaty of Waitangi settlements);
 - 13.2 further details of the decommissioning obligations, including:
 - 13.2.1 how a default trailing liability or requirement to maintain financial security following a permit transfer is implemented; and
 - 13.2.2 alignment, where necessary, with any proposed changes to the decommissioning arrangements in the Crown Minerals regime;
 - 13.3 whether fees collected should be used to support iwi and hapū engagement with developers,
 - 13.4 the process for considering applications for permit variations and extensions;

- 13.5 which decisions can be appealed and whether there are other limitations on appeal rights beyond the ability to appeal on points of law only;
 - 13.6 the details of the offences, defences, and penalties introduced by the regime, in consultation with the Minister of Justice, including whether permits can be revoked as a penalty beyond the proposed 'use it or lose it' provisions;
 - 13.7 any other functions, powers, or duties needed for the regulator to ensure compliance with permit conditions, the Act, and/or regulations;
 - 13.8 the details and process for activating the 'use it or lose it' provision (described in paragraph 14.6 of Appendix One, which applies to feasibility permits);
 - 13.9 entities the regulator requires information from or needs to provide information to, including what that information may be and how it is handled;
 - 13.10 the regulation-making powers in addition to those detailed above, which would be confirmed when seeking approval to introduce the Bill;
 - 13.11 any other minor or technical issues that arise during the drafting of legislation and its passage through the House;
- 14 **invited** the Minister to issue drafting instructions to the Parliamentary Counsel Office for the Offshore Renewable Energy Bill and associated secondary legislation.

Jenny Vickers
Committee Secretary

Present:

Rt Hon Winston Peters (Chair)
Hon David Seymour
Hon Brooke van Velden
Hon Shane Jones
Hon Chris Bishop
Hon Dr Shane Reti
Hon Simeon Brown
Hon Erica Stanford
Hon Paul Goldsmith
Hon Judith Collins KC
Hon Matt Doocey
Hon Casey Costello
Hon Andrew Hoggard
Hon Chris Penk
Hon Karen Chhour

Officials present from:

Department of the Prime Minister and Cabinet