

Submission on Developing a Regulatory Framework for Offshore Renewable Energy

Name	
Organisation (if applicable)	Taranaki Offshore Partnership
Contact details	

Release of information

Please let us know if you would like any part of your submission to be kept confidential.

I would like to be contacted before the release or use of my submission in the summary of submissions that will be published by MBIE after the consultation.

I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because [n/a](#)

[To check the boxes above: Double click on box, then select 'checked']

Consultation: Advancing New Zealand's energy transition
Energy and Resource Markets
Building, Resources and Markets
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140
New Zealand

Delivered via email: offshorerenewables@mbie.govt.nz

Attention: Offshore Renewable Energy Submissions

[Submission on 'Developing a Regulatory Framework for Offshore Renewable Energy' discussion document](#)

Taranaki Offshore Partnership (*TOP*) is a Joint Venture between NZ Super Fund (*NZSF*) and Copenhagen Infrastructure Partners (*CIP*) that is investigating offshore wind generation opportunities in Aotearoa New Zealand.

We appreciate the opportunity to provide a submission on the Ministry of Business, Innovation and Employment's (*MBIE*) discussion document '*Developing a Regulatory Framework for Offshore Renewable Energy*' Second Discussion Document, August 2023 (*Discussion Document*).

Consistent with our submission on MBIE's First Consultation Document, dated 14 April 2023, we support the prompt establishment of legislation to provide the investment certainty required for offshore wind developers to move into the feasibility assessment stage of projects in New Zealand.

It is important that legislation and regulations give certainty with respect to the feasibility assessment, commercial permit and environmental consenting stages as all will be critical to establishing offshore wind in New Zealand. Consequently, we support MBIE's proposed integrated approach that addresses licensing and consenting in a coordinated manner. Investors, suppliers and developers deliver the best outcomes for end users when there is a clear understanding of the full permitting process, including all the relevant considerations and statutory tests.

We therefore endorse the proposed approach of coordinated legislative reform.

Our submission on the discussion document is **attached** using MBIE's provided submission template. The submission is based on global experience in developing new markets, maturing projects to an investable stage and delivering offshore wind projects. Where relevant, responses have included experience and examples from other jurisdictions with offshore wind regimes and permitting regimes comparable to New Zealand law.

This letter provides background information regarding TOP, our Joint Venture parties and our projects.

Our Projects

Offshore wind is one of the fastest-growing renewable energy technologies globally, helping to transition energy systems to a consistent and reliable form of renewable, low-carbon power while creating jobs and economic investment in coastal regions around the world at a much larger scale than most other renewable technologies.

TOP was set up as a Joint Venture by NZSF and CIP with the aim to assess the potential for offshore wind projects in Aotearoa New Zealand and, if feasible, pursue their development. After carrying out due diligence on a number of offshore sites around the country, we identified the South Taranaki Bight and Waikato as prime areas for development due to world-class wind resource, relatively shallow waters and the presence of an established energy industry and associated infrastructure.

For the last two years we have been working to prove the feasibility of a large offshore wind farm (or wind farms) in the South Taranaki Bight (the South Taranaki Project). The initial development under investigation is up to 1GW generating capacity, which would represent over 11% of Aotearoa New Zealand's current electricity demand and could power more than 650,000 homes. We believe the South Taranaki Project could later expand to 2GW, making it significantly larger than most other renewable energy projects currently under consideration in the country and helping to meet the projected strong growth in demand for electricity.

Since 2021, we have completed a significant body of due diligence on the South Taranaki Project critical to commercial development, including:

- Establishment of an environmental technical working group including industry experts and representatives from iwi and the Department of Conservation
- Country-wide constraints mapping to identify optimal areas for offshore wind development
- Desktop studies of environmental, metocean, geotechnical and fisheries conditions in the South Taranaki Bight
- Acquisition of historical wind data from Māui and Kupe offshore platforms
- Deployment of a floating LiDAR for measurement of wind speeds at 150m hub height in June 2023
- Deployment of a fixed LiDAR on the Kupe platform, in a consortium with other developers
- Extensive industry capability mapping study, matching typical offshore wind jobs to the skills already available in Taranaki
- Technical feasibility studies on Port Taranaki and Pātea harbour to support construction and operation and maintenance activities
- Local South Taranaki office opened in Hāwera to enable day-to-day community engagement and presentations on offshore wind.

In addition to the completed due diligence we are carrying out work in the following areas:

- Passive acoustic marine mammals monitoring pilot study
- Seabird sensitivity study (with co-funding support from two other developers)
- Seismic design code review (with co-funding support from another developer)
- Regular discussions and workshops with Transpower
- Electricity market modelling
- Onshore and offshore cable route optioneering
- Co-funding to an impacts study led by another developer.

Alongside these activities, our team has dedicated much of the South Taranaki Project's first year to establishing relationships with communities and interest groups in Taranaki, in particular iwi as the holders of mana whenua and mana moana in the region.

We have also begun initial conversations with stakeholders in the North Waikato. We plan to leverage the extensive work done on the South Taranaki Project to extend our work on the opportunities in this region.

We acknowledge that building trust and relationships takes time, and that the technology of offshore wind is new to Aotearoa New Zealand. However, we are encouraged by our initial discussions and are committed to further exploring the South Taranaki Project in real partnership with iwi/Māori. We are also committed to ensuring that the South Taranaki Project can coexist with other uses of the marine area.

Our Team

As noted, Taranaki Offshore Partnership is a Joint Venture between NZSF and CIP:

- Founded in 2012, Copenhagen Infrastructure Partners P/S (CIP) today is the world's largest dedicated fund manager within greenfield renewable energy investments and a global leader in offshore wind. The funds managed by CIP focuses on investments in offshore and onshore wind, solar PV, biomass and energy-from-waste, transmission and distribution, reserve capacity, storage, advanced bioenergy, and Power-to-X. CIP manages ten funds and has to date raised approximately EUR 19 billion for investments in energy and associated infrastructure from more than 140 international institutional investors. CIP will accelerate its role in the global energy transition and aim to have EUR 100 billion under management in green energy investments in 2030. CIP has approximately 400 employees and 11 offices around the world. For more information, visit www.cip.dk
- The NZ Super Fund was set up to help the Government meet the future costs of national superannuation. The Fund's assets, which are currently worth more than \$NZ60 billion and include some \$NZ7.5 billion invested in Aotearoa New Zealand, are owned by the Crown on

behalf of all New Zealanders, but the fund manager operates on a commercial basis, independently of the Government. The Fund's partnership with CIP on the South Taranaki Project reflects its commitment to exploring commercially attractive investment opportunities in New Zealand infrastructure and sits alongside its existing €125 million commitment to CIP's globally-focused Energy Transition Fund. For more information, visit <https://nzsuperfund.nz/>

- Copenhagen Offshore Partners (COP) is the exclusive global offshore wind development partner to CIP, including for projects in Aotearoa New Zealand.

Our team is uniquely placed to comment on the matters raised in the Discussion Document. NZSF is inherently committed to the long-term success of Aotearoa New Zealand and can draw on a skilled team of experienced investment, infrastructure, and sustainability professionals. CIP and COP have a proven track record in delivering offshore wind projects worldwide, having been involved in other jurisdictions taking their first steps into offshore wind and in the development of related regulatory systems.

As an example, CIP is the developer behind Star of the South, the most advanced offshore wind project in Australia. As first and sole promoters of the Australian offshore wind industry at the time, CIP and the Star of the South project's founders had to deal with a system that lacked any established regulatory framework for offshore wind, which initially limited opportunities to invest. These opportunities were unlocked by the granting of an early exploration licence, which gave CIP the confidence to undertake several capital-intensive activities necessary to progress the Star of the South project, such as marine environmental monitoring and geotechnical studies.

At the same time, CIP and Star of the South helped put Australia on the map for other global offshore wind developers and allowed the Australian Federal and Victoria State Governments to learn about offshore wind and develop regulations alongside a live project. We believe the speed at which this was achieved in Australia is, in great part, due to the decision to support a competent developer like CIP from the early stages. CIP has a robust pipeline of work for the Australia-New Zealand region.

Our Submission

The attached submission provides our views on the questions raised in the Discussion Document. Contact details for our team (as well as confirmations regarding the release of information) are included in the submission.

We are available to assist in any way with MBIE's work and would be happy to provide further information and/or meet with officials to discuss the matters covered in this submission.



Brendon Jones

Director, NZ Superannuation Fund

Executive Summary

This submission summarises our feedback with respect to the development of a regulatory framework for offshore renewable energy.

We have identified a number of critical issues that we believe must be addressed to achieve a successful roll out of offshore energy – and particularly offshore wind – in Aotearoa New Zealand.

These include investigating potential pathways to feasibility and commercial permitting, clarifying the levels of coordination required by different actors (e.g. developers, local and central Government, transmission grid operators, and other electricity market participants) and proposing ways to ensure that iwi, hapū and local communities share this exciting development journey.

Offshore wind energy generation provides a very real opportunity for New Zealand to meet its emissions reduction targets while avoiding many of the concerns associated with onshore renewable energy generation.

By taking a long-term view in designing the regulatory framework, MBIE has the opportunity to develop a system that allows for speed in the initiation phase by building on what is already in place and ensures that future development (including the incorporation of technological advances) is not unnecessarily constrained.

The answers in this submission reflect our experience in developing offshore wind projects globally, along with what we have learned from over two years of research and engagement here in Aotearoa New Zealand. We draw your attention to a number of key points as they relate to each chapter of the Discussion Document:

Further detail on feasibility permits

- We agree that initial feasibility permit applications should be made in a ‘round’ of a fixed period. This will allow projects that win a permit to progress to construction with increased certainty.
- Developing projects of significant scale will be important if Aotearoa New Zealand is to attract the necessary expertise and support, given its geographical distance from countries with a developed offshore wind industry and the accompanying supply chain. Consequently, we do not recommend setting a maximum generation capacity.

Commercial permits

- Our preferred approach to project comparison is a merit-based competitive assessment, which considers social, environmental, and economic factors. We largely agree with the proposed criteria, with some changes suggested:
 - Add ‘promoting use and development of local community skills and content’ to the ‘economic development potential’ criterion.
 - Expand the ‘health and safety credentials’ criterion to include ‘environmental, social and governance (ESG) and health and safety credentials.
 - Add a sub-criterion such as: ‘evidence of established, feasible wind power equipment supply chain strategies/agreements’ to the ‘readiness of the project’ criterion.
 - Energy impacts should not be assessed at the commercial permit stage.

- To the extent possible, the commercial assessment criteria should align with the feasibility permit criteria and seek to mirror documentation required as part of that process. This will avoid double-handling of information and data requests and reduce the administrative burden on MBIE. In general, MBIE should avoid replicating assessment functions provided for elsewhere, such as for environmental impacts, developer capability and the national interest.
- Care should be taken to avoid competition in the later stages of project development as this would undermine the investment certainty that will be critical to ensuring Aotearoa New Zealand's offshore wind sector is successful and attracts necessary investment. Overlaps related to onshore infrastructure and connection should be resolved, as much as possible, when assessing feasibility permit applications, recognising the real constraints presented by the capacity of ports and transmission.
- We agree that 40 years is an appropriate maximum duration for the commercial permit and is consistent with overseas markets. This duration is inconsistent with the 35-year maximum term of coastal permits and marine consents under the RMA and EEZA; where possible, it would be useful for permits and licences/consents to be aligned.
- We support a regime that allows appropriate levels of flexibility for developers to extend their permit areas, subject to appropriate controls and oversight. Minor geographic extensions to existing sites should not require a new feasibility and commercial permit application.

Economics of the regime

- Offtake certainty is fundamental to offshore wind development. The offshore wind industry is growing globally and is on a clear cost-out pathway that would reduce the LCOE. Nascent markets, however, do face additional early project costs and can require a form of revenue stabilisation.
- The assessment of the opportunity to support offshore wind should focus on the value proposition of the technology over other types of renewable generation:
 - Wider economic benefits, including the creation of highly skilled jobs, support of local industries and assisting a just transition in Taranaki.
 - Higher capacity factor than onshore wind. Offshore wind generation patterns will align with periods of elevated demand and provide diversification benefits to the electricity grid.
 - Provide scale to support industrial electrification and Power-to-X opportunities.
- We agree with a cost recovery regime and highlight the importance of setting fees to the appropriate level for each stage of development.

Māori rights and interests and enabling iwi and Hapū involvement

- We consider that engagement with iwi and hapū should be undertaken on a principles-based approach, with the specific principles that underpin a particular relationship to be identified during early partnership discussions. We support co-design with iwi and hapū and are very open to collaboration.

Interaction with the environmental consenting processes

- We strongly support the creation of a single authority with responsibility for processing and determining applications for environmental consents required under the EEZA and RMA.
- We agree that the proposed permitting regime should avoid duplicating matters addressed in the already established environmental consenting processes. The scope of any overlap should be as narrow as possible to provide certainty to developers and promote investment.

- We support ‘readiness to seek’ over a ‘capability to obtain’ criterion. However, an alternative solution is to provide a process that offers increased certainty that an offshore renewable energy proposal will obtain environmental consents subject to appropriate conditions (i.e. by producing regulations that categorise offshore renewable energy proposals as ‘controlled activities’ under the RMA).
- We agree that environmental consents should not be required in advance of feasibility permits and consider that developers should have the option to obtain environmental consents and a commercial permit in any order, including concurrently.

Enabling transmission and other infrastructure

- We support a hybrid approach to developing transmission infrastructure. We are having ongoing and informative discussions with Transpower and are pleased with their willingness to engage with the offshore wind industry.
- We recognise that ports require certainty to facilitate the upgrades required to support offshore wind projects.
- Collaboration on enabling infrastructure is essential to ensure that actions/investments can be taken at the required time (not too late).

Decommissioning

- We agree that developers should be required to submit a decommissioning and restoration plan, including a cost estimate, and provide a financial security for the cost estimate.
- The definition of full removal should include what is technically feasible at the time of permitting and retain flexibility to reflect technological and logistical developments.
- We propose the value of the decommissioning financial security should be commensurate with the various stages of development of the project and build up throughout the project’s lifetime.

Compliance

- To encourage compliance and avoid unintentional non-compliance, the regulatory regime should set out clear obligations for developers, and ensure that participants are aware of, and understand, their responsibilities.
- We agree that the VADE model is a pragmatic way to encourage compliance. We recognise that where a participant deliberately or persistently fails to comply, the regulator will need to take appropriate enforcement action. The most punitive tools should be used selectively.

Other regulatory matters

- We support a decision-making model where the regulator would be the decision maker in most instances, with the option of the Minister taking on that role where a set of well-defined criteria is met.
- We support an approach to commercial permitting that provides for public notification of applications and decisions but does not allow for public participation in the permitting process as this would already be covered by the environmental consenting process.
- We consider it important for an appeal right to be available when an application for a commercial permit has been declined or when a commercial permit has been revoked.
- We suggest that the regulatory framework includes the ability for the regulator to authorise persons to engage in commercial and recreational fishing and aquaculture within the safety zone.

Common Abbreviations

CIP	Copenhagen Infrastructure Partners	MBIE	Ministry of Business, Innovation and Employment
CfD	Contract for Difference	MW	Megawatt
COP	Copenhagen Offshore Partners	MWh	Megawatt hour
Discussion Document	<i>Developing a Regulatory Framework for Offshore Renewable Energy, Second Discussion Document</i>	NBEA	Natural and Built Environment Act 2023
EPA	Environmental Protection Authority	NZSF	NZ Super Fund
ESG	Environmental, social and governance	OIA	Overseas Investment Act
EEZ	Exclusive Economic Zone	PPA	Power Purchase Agreement
EEZA	Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012	REZ	Renewable energy zone
GW	Gigawatt	RMA	Resource Management Act 1991
HSE	Health, safety and environment	the Minister	The Minister of Energy and Resources unless stated otherwise
km²	Square kilometre	TOP	Taranaki Offshore Partnership
LCOE	Levelised Cost of Electricity	TSO	Transmission System Operator

Responses to questions

Chapter 4: Further detail on feasibility permits

1 **Following an initial feasibility permit application round, should there be both an open-door policy and the ability for government to run subsequent rounds? If not, why not?**

We agree that the Ministry of Business, Innovation & Employment (MBIE) should initiate feasibility permit rounds in a fixed period.

Given the developing nature of the Aotearoa New Zealand offshore wind market, open-door applications could have the impact of increasing the risk profile of successful applications won during a controlled round. The focus should remain on supporting projects that win a permit to progress to construction.

We expect the first round to allocate the limited areas available for fixed foundation developments. Subsequent developments are likely to involve floating foundations, for which the available areas will be wider and less likely to have overlaps between developers.

We suggest the opportunity for open-door applications is reviewed as the market develops. An open-door policy allows developers to put forward applications where there is a strong basis for a project. Where applications are made outside of set application rounds (through an open-door policy), other developers should be notified to allow applications to be contested. If contested, a comparative process should be triggered, which should mirror the feasibility permit application round criteria to the extent possible.

2 **What size of offshore renewable energy projects do you think are appropriate for a New Zealand context?**

The Discussion Document suggests that projects between 500MW and 1GW would be the most appropriate for the Aotearoa New Zealand context, given the size of the market and the capacity of the transmission network. We agree with this suggestion.

However, rather than setting a maximum threshold for development, we recommend a minimum threshold be considered. Having multiple small-scale developments will likely create additional compliance and monitoring costs, as well as increased logistics, complication and administrative costs for supporting infrastructure such as ports and transmission, without an overall increase in the generation output available from the same wind resource.

Larger projects leverage economy of scale benefits, including access to global supply chains. They are also more likely to attract expertise from capable suppliers and foster competition across the supply chain, delivering value for consumers. This is critical for Aotearoa New Zealand, given its geographical distance from economies with developed supply chains for offshore wind. A larger area can allow for lower energy density and therefore higher production from each turbine (however this must be balanced against the increased cable length required).

MBIE should avoid setting an upper limit on project generation and should instead focus on ensuring Aotearoa New Zealand benefits from projects that achieve efficient economic scale. This would provide flexibility, as projects could change in size as development progresses. Better understanding of grid connection capacity, site characterisation studies and technological developments could all impact the final optimum project size.

Where any preferred size metric is proposed, we believe it should be set with respect to area of seabed and not an energy rating. In Victoria, developers are targeting an energy density of ~3-4MW/km² for seabed areas that are granted. Electricity output/rating depends on offtake, transmission, physical constraints (geophysical and geotechnical) as well as subsequent environmental approvals. Consequently, setting an approval threshold by reference to generation output would be unclear and unnecessarily complex. Should more efficient technology emerge in the pre-construction period, higher generation capacity per turbine could lead to projects going over any cap set at an early stage.

3

Do you think the maximum area of a project should be put forward by developers and set out in guidance material, rather than prescribed in legislation? If not, why not?

The Discussion Document sets out two options for the area to be covered by the feasibility permit:

1. The Government would set a fixed, maximum limit on the area of a feasibility permit.
2. Developers would put forward proposals, which the regulator would assess for reasonableness.

Given the limited areas available for fixed foundation developments and the irregular shapes of those areas, we agree that Option 2 will result in better outcomes. Option 2 will also enable developers of floating offshore wind farms to optimise their proposals.

As noted in our response to Q2, the Government should not prescribe a maximum project area or a maximum project size. Project areas should be based on the specific characteristics of each site, including wind profile, presence of other users, proximity to transmission solutions, and sea depths. Maximum areas may also need to be revised to reflect changes to underlying demand.

To facilitate developers to pursue the most efficient development strategy in each region, the Government should allow developers to apply for two permits side-by-side and at the same time. Developers should also be allowed apply for multiple developments in different locations.

Content of guidance

We consider that non-binding guidance, expressed as a range, may be valuable in some cases. For example, when assessing how projects have maximised the efficient use of the seabed area, which translates into more efficient construction and operation requirements, and lower-cost power for Aotearoa New Zealand. MBIE should consider whether guidance applies to individual phases or the entire project.

To bring greater certainty to developers, we recommend that guidance also includes a suggested buffer zone between projects to mitigate against negative externalities from neighbouring projects, such as wake loss.

We note that the ‘non-binding’ guidance material will need to be changed from time to time (which underlines our view that prescribing the size of a project in legislation should be avoided). For instance, forecast increases in turbine ratings may make this guidance inappropriate in future, as occurred with maximum tip heights in onshore windfarm consenting in Aotearoa New Zealand.

Ultimately, MBIE/the Minister should retain discretion to accept projects outside guidance, where the application provides appropriate justification.

Chapter 5: Commercial permits

4 **Should there be a mechanism for government to be able to compare projects at the commercial stage in certain circumstances? If yes, would the approach outlined in Option 2 be appropriate or would there be other ways to achieve this same effect?**

Competition in the later stages of project development should be avoided as much as possible. This would undermine the investment certainty that will be critical to ensuring Aotearoa New Zealand’s offshore wind sector is successful and attracts the necessary investment.

As detailed in the Discussion Document, the “readiness of the project” assessment required to submit a commercial permit application indicates that the application would need to be made close to financial close. By this stage of development, projects would have spent hundreds of millions in development expenditure.

We acknowledge that, if multiple projects are in development, there may be outstanding issues that need to be resolved during the feasibility permit period, such as sequencing access to transmission and port infrastructure. To provide investor confidence and unlock significant development expenditure, these issues should be resolved at least two to three years prior to projects achieving financial close. Projects will need to secure offtake in a similar timeframe.

Given the timing, the commercial permit may not be the appropriate mechanism within which to resolve these issues. If issues exist beyond the feasibility permit process, a mechanism should be considered as part of MBIE’s assessment of potential revenue stabilisation.

In the assessment of feasibility permit applications, we encourage MBIE to pre-emptively consider hard constraints, such as transmission access, in its assessment of the applications. We acknowledge the complexity and coordination required in de-risking projects at early stages. We recommend that MBIE considers setting up workshops with developers in the near future to work through preferred de-risking pathways.

For example, Transpower expects a maximum of 1 GW of offshore wind could be developed in South Taranaki before large-scale investment in grid upgrades is required. Unless transmission upgrades align with developers’ planned schedules, such conflicts should be resolved at the feasibility permit stage. Developers would require clear visibility to transmission access at the feasibility permit stage to ensure investors have sufficient confidence to undertake feasibility work.

Are the proposed criteria appropriate and complete? If not, what are we missing?

We acknowledge MBIE's intent is to ensure the best offshore wind projects are delivered in Aotearoa New Zealand. Whilst we broadly agree with the criteria, we caution they should be applied only at commercial permit stage, if the intent is for this permit to only be assessed close to financial close.

To progress activities required for a project readiness assessment, including project finance, developers will need to have a clear view of MBIE's approach to assessing these criteria. We will not be able to progress these activities if significant project uncertainty exists, including the potential for a decision by Government that stops the project, increases regulatory cost or delays delivery.

Consistent with our answer to Q4, if an assessment against these criteria is needed, we encourage MBIE to evaluate the opportunity to separate the assessment of projects against agreed criteria to at least two to three years before financial close. The final commercial permit assessment prior to financial close should be a re-confirmation of this assessment. This will require some further consideration of the prerequisites to submit into this process and could be aligned with a process to award a revenue stabilisation mechanism.

To the extent possible, the assessment criteria during the should align with the feasibility permit criteria and seek to mirror documentation required as part of that process. This will avoid 'double-handling' of information and data requests, and reduce the administrative burden on MBIE.

MBIE should also avoid replication of assessment functions provided for elsewhere, such as for environmental impacts, developer capability and the national interest. Environmental impacts should be determined under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZA) and Resource Management Act 1991 (RMA). A requirement to demonstrate compliance with baseline expectations may be acceptable.

Where some aspects of the assessment of developer capability have already been established for other regulatory purposes (e.g., the Overseas Investment Act), those conclusions should be able to be relied on. Equally, the established developer criteria should be expected to be relied upon in other processes.

Feedback on the criteria

In designing the final criteria, it will be important to find the right balance between achieving the desired outcomes and the potential cost implications for projects of this scale in new offshore wind markets. Provided below is some suggested feedback on the draft criteria, noting that we expect feedback on these criteria prior to commercial permit as described above.

Energy system impacts

Where possible, MBIE should consider 'energy system impacts' at the feasibility permit phase. In our view, the benefits and risks to the electricity system, including impacts on system resilience and the volume and location of generation, should be resolved as early as possible.

Economic development potential

Under the ‘economic development potential’ criterion we suggest adding ‘and promoting use and development of local community skills and content’ alongside ‘investment in localised supply chains.’ This should consider a developer’s approach to developing local businesses and skill sets and the extent to which developers enable iwi/hapū participation and maximise opportunities for Aotearoa New Zealand workers and businesses.

We do not suggest setting local content targets, as these will be very difficult to achieve in Aotearoa New Zealand due to the small size and distance from supply chains of a new offshore wind industry. We consider that the ‘economic development potential’ criterion should be used pragmatically to balance the opportunities for Aotearoa New Zealand with the realities of attracting developers.

Health and safety credentials

We suggest expanding the ‘health and safety credentials’ criterion to include ‘environmental, social and governance (ESG) and health and safety credentials’ so that wider environmental and social factors related to the developer can be considered. Offshore wind developers will play a key role in Aotearoa New Zealand’s energy and economic system. It is important that assessment criteria consider the extent of a potential developer’s alignment with Aotearoa New Zealand’s ESG values. This criterion could also consider the nature of a potential developer’s commitment to environmental performance and their capability in relation to offshore wind projects overseas.

Readiness of the project

Under the ‘readiness of the project’ criterion, we support a sub-criterion such as: ‘evidence of established, feasible wind power equipment supply chain strategies’. This is to ensure that a developer would realistically be able to construct the project in the given timeframe.

We would also support a project-level criterion linked to Aotearoa New Zealand’s climate goals/commitments, for example: ‘estimates of total lifecycle equivalent greenhouse gas emissions and total estimated avoided emissions.’ This is to ensure that the project enables Aotearoa New Zealand to meet its decarbonisation targets.

Iwi and Hapū

We agree that iwi and hapū involvement is an appropriate and important commercial assessment criterion. How that criterion is worded will be important to ensure it does not pre-determine the “appropriate” type of engagement and involvement favour by different iwi and hapū. We expect it will be difficult to objectively assess and compare “levels of engagement”.

In relation to one project, an iwi or hapū group may wish to have direct economic involvement, which will drive a particular level of engagement. In relation to another project, the iwi or hapū group may not want to have a direct economic involvement and may prefer to engage on a limited number of key decisions.

The permitting regime should not incentivise particular types of involvement in a way that would constrain each iwi and hapū group exercising their mana motuhake in determining how they wish to participate in a project on an on-going basis. Accordingly, we consider that the

commercial assessment should not set expectations in relation to a certain level or type of iwi and hapū engagement or provide for a comparison with the level of engagement on another project. Rather, the commercial assessment should consider whether a developer's engagement has been directed to the particular needs of the relevant iwi or hapū group.

Risk management strategy

We agree with the requirement for a risk management strategy and management plans, noting the timing and level of detail provided will require flexibility so contractor input can be incorporated. Generally detailed risk management plans are developed once contractors are fully appointed, post financial close. This could be handled through conditions on commercial permits.

Management plan

We agree that it is appropriate to seek a management plan for the operational life of the project at the commercial permitting stage, and for permit holders to be required to maintain and submit this plan ahead of regulator review meetings.

The level of detail provided at the commercial permitting stage should be commensurate with the stage of the development. These plans should be submitted ahead of a review meeting with the regulator. We agree that annual meetings with the regulator, along with annual updates to management plans, constitute an appropriate frequency.

6 Should there be mechanisms to ensure developers deliver on the commitments of their application over the life of the project? If yes, what should these mechanisms be?

We support the establishment of a mechanism to ensure developers report on progress on their commitments as the project develops. A management plan, presented annually to the regulator, is an appropriate tool. This approach recognises that commitments made over the life of the project are based on forecasts and will be identified prior to the establishment of robust supply chains to serve Aotearoa New Zealand's offshore wind industry.

7 Is 40 years an appropriate maximum commercial permit duration? If not, what would be an appropriate duration?

Permit duration

We agree that 40 years is an appropriate maximum duration for the commercial permit and is consistent with overseas markets.

We note that this duration is inconsistent with the 35-year maximum term of coastal permits and marine consents under the RMA and EEZA. Where possible, it would be useful for permits and licences/consents to be aligned. Consequently, we suggest that amendments to these Acts are considered to enable resource consents to be granted for a period consistent with other commercial permits.

Given it is possible that offshore wind farms will be able to be repowered at the end of their operating life, the regulatory regime should anticipate and provide for processes to enable the replacement or extension of commercial permits. Such a regime should ensure that while a

replacement application is being processed, the commercial permit continues to authorise activities. It may be appropriate for this continuation of authorisation to be limited to circumstances where the replacement application has been lodged a reasonable time before its expiry (for example 12 months before the conclusion of the expiring permit's term). This approach is consistent with existing resource consent processes under the RMA (see section 124, RMA). Whilst the time period of six months is used under the RMA, we propose 12 months be used for offshore wind repowering to reflect the complex and unknown nature of the decisions, which will be taken over 30 years in the future.

Permit area

There should be an allowance to propose minor amendments to permit site areas between the feasibility permit and the commercial permit. Such flexibility would, for example, accommodate new information about the wind resource or the sensitivity of the receiving environment. Provision for minor amendments will better ensure that the wind resource is able to be most efficiently used. The developer should bear the burden of establishing that the amendment to an area will not have any adverse effects on other granted feasibility or commercial permits and is consistent with the permit criteria.

Commercial permit areas should also include recognition of various safety and warning infrastructure which is outside the contiguous blocks (e.g. navigation aids and export cables).

8

Should a developer that wishes to geographically extend their development be required to lodge new feasibility permit and commercial permit applications? Why or why not?

As identified above, we support a regime that allows appropriate levels of flexibility to support developers to extend their permit areas, subject to appropriate controls and oversight.

We agree that a new permit application should be required where a developer is seeking a substantial increase to the original permit area. However, minor geographic extensions to existing sites should not require a new feasibility and commercial permit application.

Applications for extensions to permit areas should only consider the area of extension against the permit criteria (i.e. the change from the granted area to the new area) and should not be an opportunity to reconsider wider aspects relevant to the original application/permit. The new assessment should be limited to the change in area and its effect on the permit assessment (if any). This process would be similar to an existing RMA process where variations to existing consents made under section 127 of that Act only consider the effect of the change and do not reopen the original decision on the full proposal.

9

Would the structure of the feasibility and commercial permit process as described enable research and development and demonstration projects to go ahead? If not, why not?

There is potential for co-location of offshore wind with other offshore technologies, including wave and tidal energy; however, these technologies are at an early stage of development. The potential commercial and practical impacts of co-location are not yet well understood.

There should be a requirement for any research and development proponents to consult with affected stakeholders and resolve any conflicts before proceeding.

Is there an interdependency between the case for revenue support mechanisms and the decision as to whether to gather revenue from the regime? What is the nature of this interdependency?

We do not believe that the key issue is a potential interdependency between revenue support and revenue generation. Rather, MBIE's assessment of the opportunity to support offshore wind should focus on the value proposition of the technology and recognise the differences between offshore wind and existing asset regimes that have historically provided an opportunity for Government revenue generation, such as the offshore oil and gas sector.

As detailed in the Discussion Document, Aotearoa New Zealand offers ideal locations for offshore wind development due to strong offshore winds, relatively shallow water and close proximity to existing grid infrastructure. We expect these strong fundamentals will support the opportunity for offshore wind.

Irrespective of these strong fundamentals, offshore wind projects in new and developing markets have a significant upfront capital investment that needs to be recouped across the life of the project.

Governments have designed revenue stabilisation mechanisms to provide price certainty for both suppliers and consumers by bridging the gap between the levelized cost of electricity (LCOE) and the market price (referred to as the viability gap). The decision by governments globally to support offshore wind projects is underscored by the technology's capacity to support a broad range of desirable market and non-market outcomes.

Value proposition of offshore wind

In Aotearoa New Zealand, offshore wind has a unique value proposition:

- **De-risks the build out of required generation to meet Aotearoa New Zealand electricity needs**

Based on our assessment of the market need for generation in Aotearoa New Zealand, we believe there is significant risk in attempting to achieve the generation requirements with onshore sources alone.

Offshore wind has a higher capacity factor than onshore wind, requiring less infrastructure to deliver more generation for consumers. We expect a net capacity factor of >50% in the South Taranaki Bight, 1.5 times higher than the onshore portfolio average.

As a result, we estimate that producing the same output as a 1GW offshore wind farm would require around 1.5GW of onshore wind (approx. 150km² or 15,000 hectares) or 3.9GW of large-scale solar (approx. 100km² or 10,000 hectares).

- **Generation patterns will align with periods of elevated demand, lowering the cost of electricity for consumers**

Our modelling suggests that the generation from a South Taranaki offshore wind farm would be marginally higher during the spring and winter months, when demand in the country tends to be higher. Given the project's near zero short-run marginal cost,

generating at periods of high demand will have the effect of increasing supply and energy security whilst reducing prices for consumers.

- **Provides diversification benefits for Aotearoa New Zealand's grid, supporting energy security**

A key benefit of the Project is that it will provide diversification benefits to the New Zealand grid. Diversification refers to the benefits of having complementary generation sources across the country. Projects that are not co-located are exposed to different weather patterns, such as wind patterns and cloud cover, which means that when one project is experiencing low output due to unfavourable weather conditions, another project in a different location may be producing at a high level. Co-location also increases the risk of dependent failures, thereby posing risks to energy reliability, security, and price stability.

Our analysis suggests there will be a relatively low degree of correlation (less than 50% on average) with the onshore generation portfolio, providing energy security benefits for the system. Our modelling also shows the correlation with onshore wind appearing to drop to around 40% during peak demand hours. Additionally, a portfolio of offshore wind generation across the country would be negatively correlated to hydro inflows.

- **Offers wider economic benefits for Aotearoa New Zealand, including the creation of highly skilled jobs and support of local industries**

Offshore wind can help to secure a just transition for Taranaki as it moves away from oil and gas production.

Projects will deliver significant economic and social benefits to South Taranaki and Aotearoa New Zealand through long-term economic investment worth billions. This investment will continue the transformation of local industry profile.

Projects will support new, long-term, high quality local jobs. Investment of this scale also support the development of capability in wind energy, enabling the growth of supply chains, businesses and renewable energy infrastructure.

- **Capacity and commitment to support impacted local stakeholders, including iwi/hapū and the fishing industry**

We are committed to delivering value for local communities. We plan to continue implementing our extensive public and stakeholder engagement plan, which includes local communities, iwi/Māori and other stakeholders in the region.

We have opened a local South Taranaki office in Hāwera to enable day-to-day community engagement and presentations on offshore wind, which have been well-attended. We seek to share and, where appropriate, adapt global good practices to the local context, in partnership with stakeholders.

Our approach to engagement with iwi and hapū is to identify specific principles that underpin a particular relationship during early partnership discussions. Inclusivity and transparency are fundamental to the relationship. We plan to hold regular stakeholder sessions with iwi to present reports/information and provide opportunities for questions/comments as appropriate (depending on the stakeholder's interest in participating). We have already been providing some South Taranaki iwi with regular

updates on our FLiDAR wind measurement work, as agreed before the FLiDAR was deployed.

We have had initial conversations with Seafood NZ and will continue to progress this to understand potential impacts on fisheries. We will discuss coexistence with fishing customary rights with the likes of Te Ohu Kaimoana.

- **Positions Aotearoa New Zealand to support industrial electrification and take advantage of the Power-to-X opportunity**

The scale of generation provided by offshore wind is sufficient to support and encourage large scale industrial decarbonisation. An Aotearoa New Zealand hydrogen or other Power-to-X industry would require multiple large scale renewable electricity generation as an input to producing green hydrogen. We consider it unlikely that this demand will be met without new generation, at the scale offshore wind can provide.

Addressing revenue certainty

We would encourage MBIE and other Government departments to assess the value proposition for offshore wind and the role that it can play in the generation mix. We are currently progressing further detailed analysis and market modelling of the issues and opportunities noted above and are open to sharing, in confidence, the outcomes of this work.

As detailed in the Discussion Document, we acknowledge there are multiple potential pathways for offshore wind to address revenue certainty requirements, with an assessment of the available pathways impacted by windfarm fundamentals, maturity of the industry and corporate/retailer contracting suitability.

We also note that Transpower's independent assessment of 'Corporate Power Purchase Agreements', published October 2023, has identified several barriers to the use of corporate PPAs in Aotearoa New Zealand that will impact the market-led build out of required generation for all generation types, including:

- The lack of long-term price visibility, which is required to support PPA negotiations. Developers seek longer contract durations than most Aotearoa New Zealand businesses currently contract electricity for, and there is a lack of long-term price transparency of traded electricity contracts.
- Counterparties need to be sufficiently creditworthy for developers to be able to use a corporate PPA to successfully access funding. In Aotearoa New Zealand, only a small number of companies have both a suitable credit rating and electricity-intensive operations.
- The long development timeframes of renewable electricity generation projects mean there is a mismatch in negotiating a PPA and when the electricity will actually be delivered. This is especially true given recent global supply chain issues.
- The need for suitable risk management products (e.g. firming-type, peak hedges and other shaped products) due to the intermittency that comes with renewable generation. The cost due to shaping can have a significant impact on the total PPA cost.
- Lack of corporate recognition of PPA sustainability benefits, due to Aotearoa New Zealand's highly renewable electricity grid.

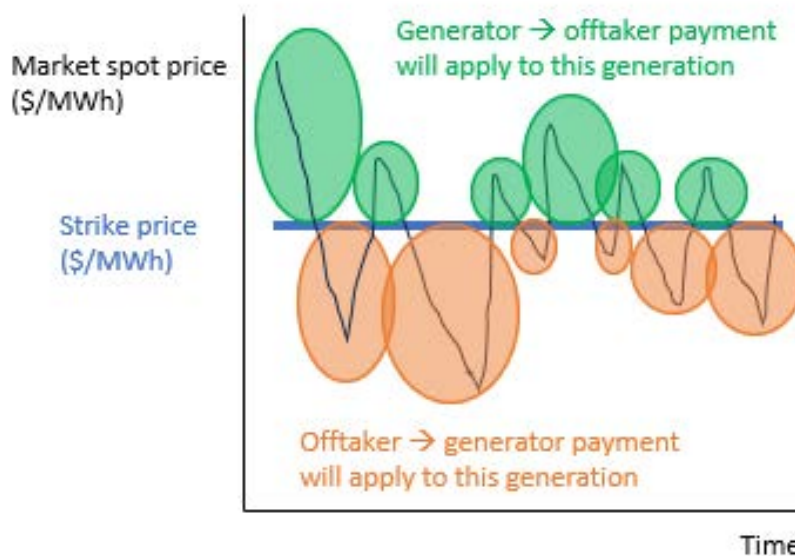
To support MBIE’s internal assessment, we have provided below detail about how a two-way Contract for Difference (CfD), one of the most common revenue stabilisation mechanisms for offshore wind, would work in practice.

Two-way contracts for difference

CfDs are financial instruments used by governments worldwide to promote investment in renewable energy generation. Rather than subsidising renewable energy investment, contracts for difference increase offtake certainty, which increases investor confidence. A ‘strike price’ per MWh generated is agreed between the generator and offtaker (e.g. a government). In a two-way CfD, when the market spot price is above or below the agreed strike price, payments flow between the parties.

As shown in Figure 1, if the market spot price was above the agreed strike price, payments would flow from the generator to the offtaker/government for those returns received above the strike price. In the opposite scenario, where the market spot price is below the agreed strike price the government/offtaker makes payments to the generator up to the strike price. With an appropriately determined strike price, a two-way CfD ensures that generators do not make windfall gains but do have sufficient generation price certainty to support long term investment decisions.

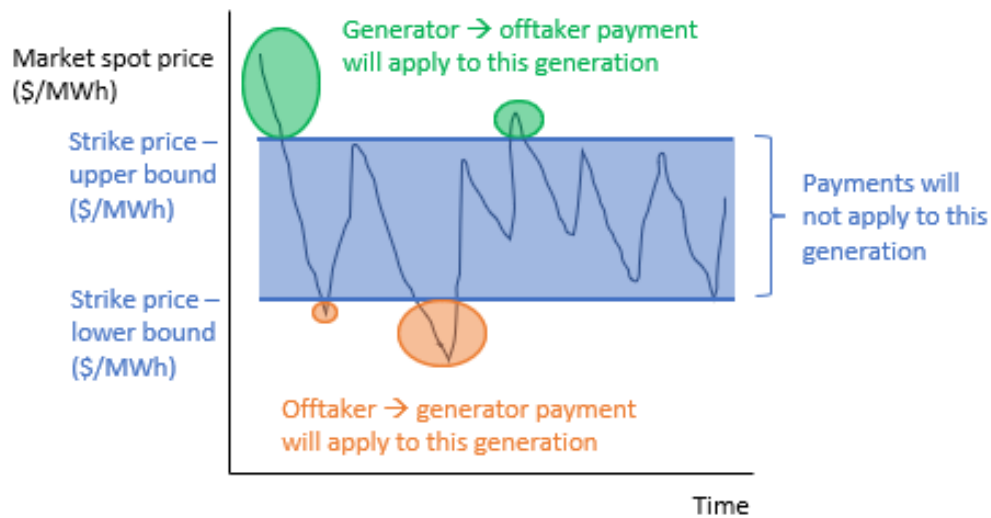
Figure 1: Two-way Contract for Difference showing payments made when the electricity market spot price is above or below the agreed strike price



To provide commercial efficiency and reduce complicated payment terms, the number of payments in a two-way CfD can be reduced by using a ‘collared’ strike price where upper and lower bounds are agreed.

This is shown in Figure 2 where the inner range (shown in blue) would not result in payments being made by either party.

Figure 2: Collared two-way Contract for Difference showing payments made when the electricity market spot price is above the agreed strike price upper bound or below the agreed strike price lower bound



CfDs are typically agreed for a long-term duration (e.g. 20 years). The extent of subsidy associated with a CfD is a factor of the difference between the strike price and the forecast wholesale electricity price. Strike prices consistent with the forecast long term wholesale price are considered revenue neutral, providing revenue stabilisation. This would assume that projects are viable at long-range wholesale prices, but require revenue stabilisation to access project finance.

Benefits of two-way CfDs include:

- The increased certainty of offtake pricing allows project developers to access project finance at lower interest rates. This can both attract new players – increasing competition and lower project costs.
- Supporting projects in addressing barriers in the corporate/retailer PPA market.
- Negotiating a two-way CfD agreement would give the Government a mechanism to agree other financial or non-financial commitments with developers that provide benefits to Aotearoa New Zealand, including for example supporting schemes for capacity firming. This would be reflected in the strike price of a possible revenue stabilisation mechanism.

The Discussion Document identifies that there are some offshore wind projects beginning to come online in Europe without any government support in place. However, Aotearoa New Zealand's offshore wind industry and electricity market differs in several ways:

- The offshore wind industry is already well established in Europe, having operated for 20 years, with development initially supported via CfDs and/or other state aid measures.
- Offshore wind projects in Europe can feed into a continent-wide grid, increasing the size of the market a project is able to reach.
- Europe also has a larger pool of large industrial consumers who may be able to enter into corporate PPAs or CfDs. Transpower has identified a number of barriers to the use of corporate PPAs in Aotearoa New Zealand, as discussed above.

Is there a risk in offering support mechanisms for offshore renewables without offering equivalent support to onshore renewables? Are there any characteristics of offshore renewables which mean they require support that onshore renewables do not?

When considering where to target revenue stabilisation mechanisms, some of the following factors could be considered:

- If an investment faces unique barriers to implementation
- If an investment offers unique (net) benefits, over other solutions
- If an investment is not likely to occur in a satisfactory timeframe (e.g. to meet rapidly growing demand) without additional support.

The Aotearoa New Zealand energy market will require a combination of different technologies to deliver its energy transition objectives. Each of these technologies will play a different role in supporting the system and require different incentives and investment signals to accelerate their deployment.

The offshore wind industry is growing globally and is on a clear cost-out pathway that would reduce the LCOE. Nascent markets, however, do face additional early project costs and have required a form of revenue stabilisation. Given the early stage of development, the need for support Aotearoa New Zealand remains uncertain. We note that compared to other nascent markets, Aotearoa New Zealand will benefit from strong market fit and wind profile.

Revenue stabilisation mechanisms should be structured in a way that reduces or eliminates the viability gap. This is typically achieved through a long term CfD that allows for project financing and attracts the lowest cost capital without having to “physically” deliver on the contract.

It should be noted that, with or without a CfD, the renewable generator’s incentive to produce and bid into the market is unchanged, due to its near zero short run marginal cost. For example, two identical wind farms, one with a CfD contract and the other without, would have the same bidding strategy and would receive the same pool revenue. They would both have the same impact on the spot price.

The addition of new renewable projects into the market system, with or without a CfD, will place downward pressure on the average spot price.

Revenue stabilisation has been required to bring offshore wind to market for several reasons:

- The merchant revenue that offshore wind projects can earn in new markets is often insufficient to achieve commercial viability. The scale of offshore wind electricity generation is much greater than that of onshore renewable electricity projects, so there is much higher merchant risk if only selling on the electricity spot market. In the coming years, TOP will explore the appetite of banks to lend to a project with some exposure to merchant revenue. However, we would expect that exposure to be minimal (e.g., 5-10%) and we would be looking to have most – if not all – our generation volume covered by a creditworthy offtake agreement with a 20-year duration.
- The scale of offshore wind projects means that they have high capital expenditure compared with onshore projects, including fixed costs associated with mobilisation of new supply chains and substantial upgrades to existing ports and transmission

infrastructure. In emerging markets like Aotearoa New Zealand, where regulatory frameworks and supply chains do not exist or are in their infancy, these activities are costly.

- The lack of existing offshore or coastal infrastructure and related supply chains also means that offshore wind projects tend to have longer lead times. Key infrastructure, including ports and transmission, is less likely to be present or easily adaptable to offshore wind due to its unique qualities and scale. It is therefore not possible for developers to make investment decisions with standard project return on investment timescales and support is needed to make projects bankable.
- The use of offshore wind power limits competition for scarce land with sensitive uses such as housing, agricultural production and timber, which cannot be easily substituted.

Although the current market-driven approach has served the Aotearoa New Zealand electricity system well, we anticipate it will become more challenging to deliver renewable electricity in this system in future. Our experience from other jurisdictions suggests there is risk in over-reliance on land generation projects to meet electricity generation needs. Delivering large-scale infrastructure onshore attracts complex consent requirements, land-use considerations and local opposition. We expect this issue will become more contentious in Aotearoa New Zealand as more onshore generation is built. Increasing amounts of renewable electricity generation will need to be constructed to meet projected electricity demand, which will grow as Aotearoa New Zealand intensifies efforts to reduce carbon emissions.

12

Should there be a revenue flow back to government? And if yes, do you have views on how this should be structured? For comments on potential flows to iwi and hapū please refer to Questions 14 and 15.

The value proposition of offshore wind is in its ability to solve for large-scale energy needs and de-risk the decarbonisation pathway for Government, while contributing to significant social and economic benefits during its lifecycle.

The business model for offshore wind and the level of revenues generated during operations allow the project to recover the high upfront capital costs and meet the return requirements. The cost and revenue profiles are not comparable to other industries that have historically provided an opportunity for revenue flow back to Government, such as the offshore oil and gas industry.

For projects to offer revenue flow to the Government, the additional cost incurred by the project will have to be passed to the offtaker, and eventually to the end consumer. This will result in an inefficient flow of capital and higher energy bill for the consumer.

As is typical with other large infrastructure projects, a revenue share mechanism could be considered to protect against any super profits if they materialise over the project lifetime. That said, cost recovery mechanisms are well understood and accepted for projects of this scale and should form the basis for any fees imposed to the project.

We agree that offshore wind projects should benefit local communities, including assessing opportunities to directly benefit iwi/hapū to reflect the special mana whenua and mana moana relationship they have with relevant project areas. A key part of our development strategy is engagement with iwi/hapū and other impacted stakeholders.

13

Do you agree with the proposed approach to cost recovery? If not, why not?

The Discussion Document proposes to structure cost recovery into an application fee and an annual fee. We agree with the proposed approach and highlight the importance of setting fees to the appropriate level for each stage of development. The following factors should be considered when establishing the cost recovery regime:

- Fees should be reasonable, transparent and related to the regulator’s effort/expenditure. Therefore, fees need not be proportional to the size of the site or permitting (feasibility/commercial) stage, but rather the administrative effort needed to process the application (that is, they should fairly reflect the service provided to operators and not cross-subsidise other activities).
- Fees may need to recognise the substantial additional application and processing payments that may be payable to other authorities under alternative regimes.
- Appropriate annual fees focused on administrative cost recovery should be payable after a permit has been granted.
- Fees relating to the commercial permit are likely to be higher than fees relating to the feasibility permit, due to the amount of information available at the commercial permitting stage.

We agree that application fees can be useful to deter non-serious applicants. However, fees should not add undue financial burden to projects at the earliest – and riskiest – stages of development.

Chapter 7: Māori Rights and Interests and Enabling Iwi and Hapū involvement

14

Is there anything you would like us to consider as we engage with iwi and hapū on Māori involvement in the permitting regime?

Over the past 18 months, we have had several discussions with iwi, hapū and local community members. Those discussions confirmed a desire by iwi and hapū to meaningfully participate in conversations and decision-making related to offshore wind. Based on those discussions, we interpret ‘meaningful participation’ as:

- Avoiding the regime becoming a formal ‘approval’ exercise, where developers are simply expected to ‘tick boxes’ with respect to engagement.
- Co-designing feasibility studies (e.g. environmental), where all parties involved respect each other’s experience and expertise resulting in a true co-design process.
- Exploring commercial partnership models for iwi and hapū to co-invest in offshore wind projects.

We believe that strong bonds have been formed between some offshore wind developers and iwi (particularly in South Taranaki) over the last 1-2 years. We understand this relationship-building has resulted in increased offshore wind understanding and expertise within iwi, and the setting up of governance structures within and between iwi, to engage with the offshore wind industry.

Other key points to consider:

- We agree that it would be inappropriate for legislation to include any requirements relating to direct economic involvement. In terms of whether there is a role for Government to support iwi and hapū to enable direct investment – we think there likely is – but this is a matter that should be discussed between iwi/hapū and Government officials. Some issues to investigate could be whether the Government provides seed funding or Government loans to enable iwi/hapū to achieve minimum direct investment levels, or grants to cover consultant costs.
- We support the proposal of incorporating iwi resourcing costs in the permit fee structure.
- If the Government decides to collect revenue from offshore wind projects, we strongly support the Government’s consideration of models to enable the sharing of revenue flows with iwi and hapū to reflect special mana whenua and mana moana relationships with relevant project areas.
- We anticipate that the Government and iwi/hapū will need to work together to co-design an appropriate model and framework for the distribution of these funds. We do not consider it appropriate for developers to be involved in this design or distribution process.
- The framework for reporting should cover iwi and hapū requirements as well as Government requirements. This would reduce the risk of duplication of efforts between regulators and iwi/hapū. We believe that annual reporting would be adequate.

15

Have we identified the key design opportunities to work collaboratively with iwi and hapū alongside consultation? Is there anything we have missed?

We consider that engagement with iwi should be undertaken on a principles-based approach, with the specific principles that underpin a particular relationship to be identified during early partnership discussions. We suggest some form of information sharing should form the foundation of this engagement as a starting point for good faith and meaningful participation; the specific principles identified in collaboration with iwi and hapū will ensure that good faith and meaningful participation continues to be achieved throughout the consenting process and into the operational phase.

We support co-design with iwi and hapū and are very open to collaboration. We have already worked alongside iwi in the following areas:

- Iwi participation and contribution to Environmental Technical Working Group established in relation to the Project.
- Meetings and updates with Te Aranga, who represent Ngā iwi o Taranaki interests in renewable energy.
- Consultation with He Toronga Pakihi ki Taranaki (the Taranaki Māori Business Network) on their recommendations for our Industry Capability Mapping study workshops.
- A hui with the eight chairs of Taranaki iwi to discuss our Industry Capability Mapping study workshops.

Other points to consider:

- We believe that the best interaction will be achieved by having iwi members forming part of working groups.
- The iwi and hapū engagement process for consents and applications should be streamlined as much as possible. Iwi and hapū resources are already stretched across various consultations. The process for offshore wind should not result in an unnecessary burden.

We are also open to discussing commercial partnerships and co-investment with iwi. We note that guidance on managing situations and possible complications where different iwi and hapū claim mana whenua or mana moana over a given area would be valuable for developers. These situations can become more complicated where there are equity and governance considerations.

16 Are there any Māori groups we should engage with (who may not have already engaged)?

We agree that the iwi and hapū that have an interest in areas of development are correctly identified from an early stage. We are happy to share our wider stakeholder engagement list with MBIE.

We also recommend engaging with Te Ohu Kaimoana to discuss interaction of offshore renewable energy projects with customary fishing rights. We are aware that some iwi groups are more hapū-centric, so will require more engagement on a hapū-level than other iwi.

Our long-term vision is to have an extended reach to communities, whānau and individuals in the locations where offshore wind projects are proposed. We see the fruits of this through our office and Information Hub in South Taranaki where we routinely discuss involvement of Māori with the local community.

Chapter 8: Interaction with the environmental consenting processes

17 For each individual development, should a single consent authority be responsible for environmental consents under the Resource Management Act 1991 and the and Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012? Why or why not?

We strongly support the creation of a single authority with responsibility for processing and determining applications for environmental consents required under the EEZA and RMA. The Discussion Document suggests that this could provide better management and oversight of the process across the life of a project and support the consideration of the environmental impacts of the project. We agree with these benefits and also note:

- The applicant would prepare one application addressing the EEZA and RMA requirements. This will reduce duplication of effort and enable consistency, although the application will still need to address the different statutory frameworks applying to the EEZ and territorial sea.
- Stakeholders and interested parties will only be required to participate in one process.
- A single processing authority will reduce the administrative burden.

- The decision-maker will be better able to consider the environmental effects of the project in a holistic manner. Conditions imposed on the EEZA and RMA consents will be more likely to be consistent and work together.
- The timeframes for decision-making will be aligned. Operating under two separate processes creates the potential for decisions to be issued at vastly different times.

A single authority would streamline the process for seeking environmental consents, and also enable environmental effects to be managed in a more integrated manner. It will therefore contribute to the delivery of offshore renewable technology in a timely and sustainable way.

How to achieve a single environmental consenting process

We note that a process for joint processing of “cross-boundary” applications for environmental consents already exists. The process is administered by the Environmental Protection Authority (EPA). However, there are some issues with this existing process:

- It only provides for activities that are carried out in both the coastal marine area and EEZ/continental shelf (s89 EEZA). It does not provide for joint processing of any landward activities.
- Joint decision making on “cross-boundary” applications is only possible where the resource consent application is determined to relate to a proposal of national significance by the Minister and referred to a board of inquiry (see ss98-99A of the EEZA). In those circumstances, the applications for the cross-boundary activity are determined by a single board of inquiry. If the resource consent application is not referred to a board of inquiry, separate decision-making processes will apply.

We consider a single environmental consenting process should be automatically available for all aspects of offshore renewable energy developments. Such developments are likely to meet the tests for a proposal of national significance contained in the RMA, and a Ministerial decision should not be required to access the single process.

Further opportunities to streamline environmental consenting

We consider the environmental consenting process for offshore renewable energy could be further streamlined through the establishment of a pool of specialist decision-makers that have a good understanding of development in offshore environments. This approach would help to drive high quality decision-making through the development of specialist knowledge on offshore developments, as well as support consistency in decision-making.

This approach could draw on the Freshwater Planning Process established by the Resource Management Amendment Act 2020 (see Part 4, Schedule 1 RMA – cl 59 and 65 in particular). This process requires the Minister for the Environment to appoint freshwater commissioners to create a pool of specialist commissioners. Each freshwater panel then comprises two freshwater commissioners, as well as two council nominations and one tangata whenua nomination. Freshwater commissioners must be accredited under section 39A RMA (Making Good Decisions certified) and collectively have knowledge of and expertise in judicial processes and cross-examination, freshwater quality, quantity and ecology, the RMA and tikanga Māori and mātauranga Māori.

Similar expertise requirements apply to appointments to Boards of Inquiry (see s99A(5) of the EEZA and Schedule 10, Natural and Built Environment Act 2023 (NBEA – s76 in particular). However, because proposals of national significance relate to a large range of project types, there is no ‘standing pool’ of members with accumulated specialist expertise. We consider an approach that allows this expertise to develop in the context of offshore wind developments would be particularly beneficial given offshore renewable energy is currently a new prospect in Aotearoa New Zealand.

The environmental consenting process could also be further streamlined by providing for better alignment between the RMA and the EEZA. For example, under the RMA, the National Policy Statement for Renewable Energy Generation and the New Zealand Coastal Policy Statement provide direction to decision-makers. No equivalent policy guides EEZ decision-makers although the EEZA does provide for the preparation of EEZ policy statements. An opportunity exists to align the information requirements applying to EEZ and RMA applications, through EEZA regulations and RMA planning directions. Please also see our comments below (in General comments section) regarding the potential benefits from streamlining and avoiding duplication between the feasibility/commercial permitting regime and the OIA.

More specifically, we consider that assessment of developments under the OIA should not require a separate application to the Overseas Investment Office, and should instead be considered within the commercial permitting stage to avoid double handling. Accordingly, we suggest that a streamlined assessment pursuant to the OIA should be incorporated into commercial permitting criteria.

Other environmental consenting processes

In addition to the existing single environmental consenting process, we consider it appropriate for offshore renewable energy development to have access to other consenting processes. Access to a ‘toolbox’ of consenting processes allows the applicant to choose the process best suited to the particular proposal. Accordingly, we suggest the following RMA consenting options should also be available for EEZA consents:

- Direct referral to the Environment Court. This process provides access to a highly skilled decision maker, albeit without the benefit of specific offshore expertise.
- Fast track consenting. This process is currently available for wind or solar energy generation activities (NBEA, Sch 10, cl 14) on land and within the territorial sea. This process may not be appropriate for more complex proposals, but the Minister will be capable of determining whether the project is able to be approximately considered via the fast-track process.

Do environmental consenting processes adequately consider environmental effects such that it is not necessary to duplicate an assessment of environmental effects in the offshore renewables permitting regime?

We agree that the proposed permitting regime should avoid duplicating matters addressed in the already established environmental consenting processes. That is because:

- The RMA and the EEZA together provide a comprehensive regime for the management of the environmental effects of offshore renewables. The EEZA was specifically introduced to address gaps in the environmental management regime.
- The consenting authorities (the EPA and local authorities) are better placed to administer and consider environmental matters than MBIE. They have more expertise in this field, although as noted above processes to improve the expertise of decision-makers should also be considered.
- Duplication has the potential to result in inconsistent outcomes. For example, conditions imposed on environmental consents could conflict with, or not be fully aligned with, environmental requirements of permits. This risk is increased where consents relate to technology that is new to Aotearoa New Zealand and where domestic best practice has not yet developed.
- Duplication will result in unnecessary process costs and delays, as well as creating investment uncertainty for developers.

Where regulatory regimes cover similar fields, some matters inevitably sit within the scope of both regimes. For example, there is an overlap between the RMA and Health and Safety legislation, the RMA and the Building Act, the RMA and the Wildlife Act, and the RMA and heritage protections, and other examples. Over time, case law has developed to narrow the scope for duplication and inconsistency, but these overlaps still create uncertainty as well as additional cost and delays. It is important that, from the outset, the offshore wind permitting regime provides a high level of clarity as to the matters it does and does not cover. The scope of any overlap should be as narrow as possible to provide certainty to developers and promote investment.

Even if the proposed permitting regime excludes specific environmental effects assessment, there is a potential for overlap to arise in relation to decommissioning obligations, health and safety obligations, and other matters. We propose that the following approaches are taken to narrow the potential for duplication and inconsistency between the permitting and environmental consenting regimes:

- The proposed permitting regime should contain a clear statement of the matters that are within and outside its scope. MBIE should produce guidelines to support the regulatory framework containing practical examples to inform developers that are preparing applications under the permitting and environmental consenting regimes.
- The legislation should contain a requirement for the 'last in time' decision-maker to take into account any existing permit requirement or environmental consent conditions and seek to achieve consistency (i.e. for decommissioning obligations).

- MBIE should produce guidelines on permitting requirements for offshore energy as well as their relationship with consenting.
- The Ministry for the Environment should produce guidelines on environmental consent conditions for offshore renewable energy consents. These conditions could be reviewed, compiled, and developed into a baseline condition set that could be presumptively applied to Aotearoa New Zealand offshore wind farms. Standardisation has been a feature in overseas markets that have had considerable growth in offshore wind developments. Those markets have seen fairly standardised/common conditions develop over the course of a number of offshore wind permit decisions. In Aotearoa New Zealand, a relatively small number of offshore developments are anticipated. Accordingly, to achieve the same outcome, it will be necessary to take the proactive step of producing guidance.
- The production of guidelines will have several benefits:
 - The guidelines will be produced at the same time and therefore can be developed in a manner that is consistent and reduces overlap.
 - Decision-makers that are considering a move away from the standard approach will be on notice that it will be necessary to consider the potential impacts of duplication and inconsistency.
 - The guidelines will set clear expectations for offshore renewable energy developments that will assist both developers and decision-makers. Developers will have an expected starting point and a clear understanding of the nature of management plans that will be expected to be produced and adhered to.
 - Greater certainty in environmental controls and compliance measures will assist developers to better price operating costs, which in turn may assist with reducing cost uncertainty and the scale of any necessary revenue stabilisation.
 - Increased regulatory certainty will assist with attracting overseas investment to the Aotearoa New Zealand market and reduce consenting risks.

Proactive offshore renewables guidance on both adaptive management and the precautionary principle may also be helpful to consent authorities who will be contending with how to manage technology that is new to Aotearoa New Zealand but well understood overseas. Guidance will improve the quality and consistency of decisions on environmental consents. Guidance could include:

- Mechanisms to ensure developers are open to alternative options as they progress through the feasibility, commercial and design phases.
- Aspects to include in adaptive management (such as project siting, sizing and scheme types) in response to the findings of environmental and social surveys, consultations, shifting technology readiness levels and how the offshore regime should consider cumulative effects.

Should the offshore permitting regime assess the capability of a developer to obtain the necessary environmental consents? If not, why not?

We support a commercial permit assessment criterion relating to the ‘readiness to seek’ the necessary environmental consents (where not already obtained). We do not support a criterion relating to ‘capability to obtain’ the required environmental consents.

A more detailed explanation of this view is set out below, along with an alternative solution providing increased certainty that an offshore renewable energy proposal will obtain environmental consents subject to appropriate conditions.

A ‘readiness to seek’ criterion

We consider ‘readiness to seek environmental consents’ is relevant to establish that the project is mature and ready for commercial operation. Environmental data collection normally represents one of the major development cost items and will only be carried out effectively (or at all) by experienced developers who can demonstrate proven use and understanding of the supply chain for these kinds of studies. The scope of a ‘readiness’ criterion should be clearly defined, so that it does not invite consideration of ‘capability’. We suggest a ‘readiness’ criterion should allow for consideration of:

- The skills and experience the developer has in relation to seeking environmental consents.
- A plan to collect the necessary environmental data, for example having mobilised the supply chain for data collection (e.g. run pilot studies and chartered vessels), and having developed relationships with local community environmental groups, relevant experts and environmental consultants.
- Early engagement with consent authorities.

While we support a readiness to seek criterion, we do not support including consideration of “an understanding of the environmental consenting process(es)” within this criterion (as suggested by the Discussion Document). Without more specificity, we do not consider this will elicit useful information; however, it has the potential to allow ‘capability’ to obtain environmental consents to creep into consideration (an outcome we consider should be avoided).

A ‘capability to obtain’ criterion

We do not support a ‘capability to obtain’ criterion as it would not be possible for an authority considering such a criterion to do so without considering (at least to some extent) the environmental effects of the proposal and proposed management measures. Even if the permitting regime excludes a full effects assessment process, this criterion will result in duplication of effort and require the permit authority to consider matters outside their expertise. We consider ‘capability’ to obtain environmental consents should be expressly excluded from the matters to be considered in relation to feasibility and commercial permits.

The Discussion Document suggests this criterion would reduce the likelihood of permits being awarded to an applicant that is not likely to be able to get a consent. We consider the capability of a developer to obtain the necessary environmental consents should be at the developers’

own risk, not assessed by the permit authority. Developers are unlikely to commit themselves to the cost of seeking a permit if there is a low likelihood they will obtain the environmental consents necessary to utilise such a permit.

The concern raised in the Discussion Document can be adequately addressed through a provision for permits to be reviewed if no substantial progress is made toward obtaining environmental consents within a set timeframe. We would caution against a power to automatically revoke permits if environmental consents are not obtained within a set timeframe given the timeframes for environmental consenting processes can be driven by matters outside the control of the developer.

An alternative solution

An alternative solution is to provide a process that offers increased certainty that an offshore renewable energy proposal will obtain environmental consents subject to appropriate conditions.

This outcome could be achieved by permitting the Minister to produce regulations that categorise offshore renewable energy proposals as ‘controlled activities’ under the RMA. This would have the effect of ensuring that consent must be granted for an offshore renewable activity but can have conditions imposed. This anticipated/controlled activity status should be available for offshore renewable energy developments that have obtained a feasibility permit and are located outside of mapped areas of significant environmental value.

Another way to achieve this outcome could be to provide for a ‘referral process’ that enables specific offshore renewable energy proposals to be categorised as a controlled activity through a Ministerial decision. In practice, this approach could operate similar to the Covid-19 Recovery (Fast-track Consenting) Act’s ‘referred projects’ process. However, the criteria should be limited principally to whether:

- The applicant is a holder of a feasibility permit in relation to the activity and area. A requirement for a proposal to hold a feasibility permit will ensure it meets relevant public benefit expectations.
- The project has the potential to have significant adverse environmental effects, taking into account proposed management measures.

One complicating factor is that the EEZA does not provide for controlled activity status. However, it does allow the Minister to make regulations that classify an activity as permitted (subject to terms and conditions) if the activity does not have significant effects and does not require case-specific consideration (EEZA, s29(4)). Although permitted activity regulations to date have related to categories of activities, there is nothing in the EEZA that prevents permitted activity regulations being made in relation to specific projects. This tool could therefore be used to achieve a similar outcome.

What is the optimum sequencing between obtaining feasibility permits, commercial permits and relevant environmental consent(s)?

The Discussion Document clarifies that offshore renewable energy projects will be required to have all the relevant authorisations (environmental consents, feasibility and commercial permits) before construction can begin, and sets out different options for the order in which developers may or should be required to get these authorisations.

We agree that environmental consents should not be required in advance of feasibility permits. Prior to obtaining a feasibility permit, a developer will not have sufficient permitting certainty to invest in the work required to obtain environmental consents.

We disagree with MBIE's preference for developers to be required to obtain environmental consents prior to seeking a commercial permit (Option 1) for the following reasons:

- The Discussion Document says this option would mean the regulator does not need to assess the developer's capability to obtain environmental consents. However, as discussed above in relation to Q19, it is not necessary for the regulator to assess capability – no matter the sequencing of permitting and environmental consenting. This is because the RMA and EEZA provide comprehensive environmental management regimes that the permitting regime does not need to duplicate.
- The Discussion Document says this option would enable financial and technical capability assessment to take place as close as possible to the final investment decision. However, financial and technical capability is unlikely to materially change over the timeframe required to get environmental consents and interim reporting obligations can be used to ensure information and assessments remain current.
- The Discussion Document says this option would give the regulator the final say on whether the development goes ahead. It is unclear as to why the regulator needs the final say. A project will not be able to proceed without a commercial permit so the regulator will have a veto even if it is not last in time. It would be inappropriate for the regulator to override decisions on environmental consents through its final say.
- This option will increase administrative burden for MBIE, given it will be assessing proposals which have no certainty of going ahead.

We consider developers should have the option to obtain environmental consents and a commercial permit in any order, including concurrently (Option 3). This option would give developers the ability to fit consenting and permitting into their development schedules with the most flexibility. The optimum sequencing may vary for different projects, depending on the relative difficulty or cost of obtaining a commercial permit or environmental consent for a particular project.

21

Are there any other matters about the environmental consent regimes that you think need to be considered in the context of the offshore renewable energy permitting regime?

The Discussion Document refers to the recent consultation on new National Policy Statements for Renewable Energy Generation and Electricity Transmission. We agree that strengthening the direction in these documents will assist with the delivery of offshore renewable energy.

The Discussion Document also refers to the lack of EEZ Policy Statements and identifies this as a potential future workstream. As discussed above in relation to Q18, we consider a more helpful workstream would be to produce guidelines on environmental consent conditions for offshore renewable energy. Such guidelines would set clear expectations as to management of the environmental effects of offshore renewable energy.

We consider the permitting regime should bar the regulator from having regard to trade competition or the effects of trade competition when considering submissions on applications for permits, as is the case under the RMA and EEZA. This restriction will ensure that the permitting regime is not used to oppose trade competitors and will be particularly important if a public submissions process is included within the permitting regime.

22

How should the factors outlined influence decisions to pursue offshore renewable energy developments in the Exclusive Economic Zone or the Territorial Sea? Are there other factors that may drive development in the Exclusive Economic Zone versus the Territorial Sea?

It is not clear why the Discussion Document is seeking feedback on the 'optimal location' of offshore renewable energy developments as it simply refers to 'future work'.

We see no need for the regulatory regime to establish a preference for developments to be located in either the Territorial Sea or the EEZ. The environmental consenting processes require project features and site-specific context to be assessed on a case-by-case basis. There is no need to pick winners or identify preferred locations ahead of individual projects being considered under the RMA/NBEA and EEZA frameworks. More specifically, there is no need to preclude developments in particular areas, as the appropriateness of a specific project on a specific site can be determined during consenting. The exception to this statement is of course the identification of significant environmental features that are protected from development; however, these will be located in both the EEZ and the Territorial Sea. Site-specific analysis will allow the appropriateness of site to be determined as a whole and in the context of a site's value, instead of based on where the site sits in the scheme of distance from the shore. Effects on visual amenity and marine sanctuaries will need to be considered as part of that process.

Nevertheless, we consider the factors identified in the Discussion Document are valid. A key additional factor that is relevant to the location of offshore renewable energy developments is that winds tend to blow stronger further offshore.

Are the trade-offs between a developer-led and a TSO-led approach, set out above, correct? Is there anything missing? What could we learn from international models?

We agree with the trade-offs that have been set out in the Discussion Document. However, while a Transmission System Operator (TSO) or Government-led build could reduce the cost of development in the long term, the Government must be confident that the TSO can deliver offshore transmission assets in a timely manner. Developers require certainty regarding the availability of transmission and grid connection to achieve final investment decision and there are significant costs associated with delays to transmission network upgrades or grid connection. A robust compensation mechanism to cover any delays would be required.

We are having ongoing and informative discussions with Transpower and are pleased with their willingness to engage with the offshore wind industry. Their recent scenario modelling has been very helpful.

Hybrid approaches to developing transmission infrastructure can be effective in providing developers with greater certainty to support investment, driving down costs and improving delivery timelines. For example, the Government/TSO could finance and own the onshore and offshore transmission assets, and the developer could design, construct, operate and maintain them. This approach unlocks cost synergies given the developer will already be responsible for maintenance of the turbines.

The Netherlands' TSO-led approach was effective because of the large number of connection points it required, having set a target to install 70 GW of offshore wind by 2050. This meant it could adopt a standardised approach and transfer risk to energy users. Transpower's experience with offshore transmission in the Cook Strait HVDC link would be beneficial in a TSO-led approach. However, Aotearoa New Zealand is likely to have a relatively small offshore wind portfolio and therefore not be able to achieve the economies of scale that would make a TSO-led approach practical. In other countries, targets for offshore wind electricity production have been set, which then lead transmission upgrades. To signal the transmission upgrades required, it would be useful for MBIE to include an offshore wind target in the upcoming energy strategy.

The international models provided are useful in outlining some approaches to developing transmission assets. However, Aotearoa New Zealand has a unique set of transmission requirements. Given there are substantial differences between proposed sites, and each has a separate connection point, a bespoke approach to transmission will be required. We also believe that, given the likely small offshore wind portfolio and the Government's lack of practical experience in offshore wind, a developer-led or hybrid approach to offshore transmission is likely to be most suitable for Aotearoa New Zealand. This will also lessen the risk to consumers.

We understand that Transpower has recently been open to engaging in a hybrid developer-led approach to building grid infrastructure, whereby with Transpower's support, a developer may construct certain grid assets that are then vested in Transpower as the TSO. We note that

technical requirements should not be overly prescriptive as technology will progress over time. Requirements should be linked to the Electricity Code to avoid duplication.

In the UK, the developer will typically build the offshore transmission infrastructure. The energy regulator will then run a competitive tender where third parties bid for a licence to be the Offshore Transmission Owner who will own and operate the transmission infrastructure.

This approach allows a developer to build the transmission connections to their technical specifications and develop internal capability while also giving the developer more control over timeframes. In Aotearoa New Zealand an analogy could be drawn between Offshore Transmission Owners and local lines companies. Or, given that Transpower already has some experience in managing offshore transmission assets (i.e. the HVDC link between the North and South Islands), we consider it could be appropriate for Transpower to own such offshore grid infrastructure assets as part of its role as grid owner.

24

Which party do you think should build offshore connection assets? Can existing processes already provide the flexibility for this to be carried out by the developer?

Considering the upgrades and new infrastructure required to support the development of an offshore wind industry in Aotearoa New Zealand, in addition to Transpower's current capabilities, we believe a developer is best placed to lead the design, construction, operation and maintenance of offshore connection assets, provided the Government guarantees projects with firm and unconstrained access throughout their lifetime. A developer-led build, supported by international specialists, can shorten delivery timeframes and lower overall costs. We see no major obstacles to a developer-led build from our recent conversations with Transpower.

The offshore connection asset could then be sold to Transpower. This would mirror the examples listed above where ownership of assets has been built by a developer then ownership transferred to Transpower or where Transpower is a joint applicant. An appropriate asset transferral process would need to be co-designed with Transpower to facilitate this.

We anticipate we will have better clarity on the most efficient way forward after discussions with Transpower in the coming years. Our preference is for the developer to build all offshore infrastructure and the onshore substation, ensuring it is built to standards which enable eventual transfer to Transpower. It is important that the developer has certainty and control over construction windows for investment certainty. Further to this, we consider that it is unreasonable to expect Transpower to manage multiple construction projects where it may not have control over project planning.

25

What are the potential benefits and opportunities for joint connection infrastructure? Do you agree with the barriers set out and how could these be addressed?

We agree that there are potential benefits and opportunities for joint connection infrastructure. The potential benefits include efficiencies and cost-sharing. Ultimately, to address commercial sensitivities, developers will require certainty regarding the connection point, the maximum capacity cap and the expected curtailment associated with that connection point over the life of the project. Grid connection and transmission infrastructure are key commercial considerations for developers when evaluating a final investment decision.

To enable joint infrastructure, a risk-sharing mechanism between developers, the Government and the TSO may be required.

In terms of the barriers to joint connection infrastructure, we note that:

- Different projects being on different timelines in terms of accessing transmission and funding/finance cycles. It is difficult to see project timings aligning perfectly, such that equitable/proportional agreements would be required to ensure costs are shared fairly.
- Transmission corridors developed by the TSO are welcomed by developers; however, developers need to be engaged in this process to ensure that developer requirements will be met and lead to a straightforward consenting process.
- In general, any initiatives owned by Government agencies are welcomed by developers provided they are at the right level of detail and focus on the required areas for developers.

We recognise that developers may be regarded as competitors for the development of (and acquisition of infrastructure associated with) offshore wind farms for the purposes of the Commerce Act 1986. We are aware of our obligations under this Act, including the need to ensure that any potential collaboration or information sharing between developers in relation to joint connection infrastructure is compliant with the Act. While the Act has important objectives, it is worth noting these obligations may create timing and compliance hurdles for joint infrastructure.

26

Do you agree with the representation of the timeline challenge for onshore interconnection assets? What opportunities might there be to front load planning work for interconnection upgrades? What role do you see for the developer in this?

The Discussion Document identifies a timeline challenge for onshore interconnection assets. We agree with the characterisation of the timeline challenge. In our view, coordination between different parties will be required to ensure efficiency.

Transpower has recently consulted on the concept of Renewable Energy Zones (REZs), which are a way of connecting new renewable electricity generation and major electricity users to the electricity network. In a REZ, multiple parties agree together to co-locate and share the costs of a single connection to the grid, as well as possible network upgrades required to enable the new load and use. This model has been used overseas to enable significant volume of generation investment by coordinating the connection of several generators to the transmission network via shared assets.

The complexities raised during the consultation period have resulted in Transpower continuing to work through the REZ concept with relevant stakeholders, so what this concept can offer is not yet clear. However, the REZ concept as presented by Transpower in 2022 notes that while REZs have the potential to enable coordination, reduce connection costs and overcome first mover disadvantage, they are unable to reduce the lead times associated with onshore interconnection infrastructure. City or regional deals (such as those used in the UK and Australia) could be another way for Aotearoa New Zealand to enable generation and industry in a region.

Changes will need to be made to the regulatory framework to allow for the establishment of REZs. For instance, in Queensland, the State Government has recently consulted on an exposure draft of the Energy (Renewable Transformation and Jobs) Bill, which amongst other matters will allow the relevant Minister to declare part of Queensland to be a REZ. A declared REZ will include nominated sections of the transmission network with connections regulated under a REZ management plan. We consider that MBIE should consider adopting a similar approach for declaring REZs.

Regional Spatial Strategies as proposed by the Spatial Planning Act 2023 or Regional Policy Statements under the RMA could also be used to identify the location of onshore interconnection infrastructure to front foot land acquisition expectations prior to final commitment from renewable energy developers. However, landowners are likely to oppose such an approach due to the 'planning blight' it creates when the development may not proceed for some time. Regional Spatial Strategies were intended to be driven by central and local Government, with developer participation. If the Spatial Planning Act 2023 is repealed, there may be merit in retaining some form of long-term spatial planning that provides for key infrastructure investment. Spatial planning could be more directly included in Regional Policy Statements or infrastructure-related national direction. Spatial planning can identify both areas where development is anticipated and areas where there are significant environmental values to be protected. For example, direction requiring a coordinated approach to infrastructure funding and investment by central Government, local authorities and other infrastructure providers (s 15(2)) for offshore wind, would be a helpful provision within the new regulations.

We agree with the proposal that developers, after being awarded a feasibility permit, could help fund investigations and preparatory work for the transmission upgrades.

27

What changes might be needed in order to deliver the types of port infrastructure upgrades needed to support offshore renewables?

We recognise that ports require certainty to facilitate the upgrades that are required to support offshore wind projects. These upgrades are expected to include wharf and laydown area expansions, and equipment upgrades. Port upgrades may also require capital dredging to allow for larger vessels, with the potential need for identification of new onshore or offshore spoil disposal sites or options for use of dredged material as part of any required reclamation. For example, Port Taranaki currently has only two consented marine areas available for disposal of limited volumes of material from maintenance dredging and any change to the disposal volumes or selection of new disposal areas would require extensive modelling and environmental studies to confirm the areas are suitable and would not create adverse effects. New consents would be required for dredging and disposal or any reclamation, which are discretionary activities under the Regional Coastal Plan for Taranaki, with consent applications for dredging having been fully notified in the past.

The scale of development required – Port Taranaki

Quay and berth improvements: Existing quays and berths will need to be strengthened and modified to handle the heavy equipment and materials required for offshore wind projects. Indicatively, wharf structures will need to support up to 30-40 tonnes per square metre. This is substantially more than Port Taranaki's existing wharf capability.

Specialised equipment: Ports and/or port operators will need to invest in and have available specialised equipment such as heavy-duty cranes, transport trailers, and blade handling facilities to efficiently handle wind turbine components. The weights of components are orders of magnitude greater than current lifting capability at ports in Aotearoa New Zealand.

Storage laydown areas and warehousing: Enhanced storage and warehousing facilities are needed to accommodate the components of wind turbines, including blades, nacelles, towers, and foundations. The sizes of the components are significant. Indicatively, assuming 500MW of bottom fixed offshore wind construction per year:

- Quayside (outbound): four hectares of space is required to handle foundations and wind turbines.
- Quayside (inbound): three hectares of space is required to handle foundations and wind turbines. Quay baring capacity would need to be ~30 tonnes per square metre.
- Hinterland storage area: 12 hectares is required to store all components prior to marshalling and dispatch to the offshore construction site.

Ports will need to make existing space available and develop new areas (possible reclamations) to meet these requirements. Ports will need to reconfigure existing customer storage requirements including developing inland ports to meet the storage needs of existing customers displaced by offshore wind storage.

Capital cost estimates

The port upgrades listed above will require significant capital expenditure. Along with Port Taranaki, we have received indicative capital cost estimates listed based on an early, high-level study we undertook collaboratively. We are happy to discuss these with MBIE.

Given the significant costs, it would be useful for Port Taranaki to consider how upgrades could be applied to other uses in future, such as oil and gas decommissioning and/or green fuel bunkering, as well as for offshore wind construction.

Suggestions to improve the delivery of port infrastructure upgrades

Permitting and regulatory streamlining

The permitting process should be streamlined to expedite the necessary regulatory approvals for port infrastructure upgrades, minimizing delays. It currently takes between six and eight years to consent significant port developments. This is evidenced by recent and current consenting processes at Napier Port, Port of Tauranga, Lyttleton Port, and North Port. Many recent significant port upgrades have been affected by consenting delays.

The New Zealand Coastal Policy Statement provides enabling policy support for works needed to achieve the efficient and safe operation of ports. The recent Supreme Court *Port Otago Limited v Environmental Defence Society Inc & others* [2023] NZSC 112 decision clarifies that

this enabling policy is directive and not necessarily overridden by environmental protection policies. That said, given the scale of the upgrades required at ports to enable offshore wind projects, we consider stronger national direction that specifically acknowledges the changing needs of ports to service new activities would assist with providing the certainty that ports need to proceed with upgrades.

Support for consenting port upgrades could also be provided by way of:

- Regional Spatial Strategies and Regional Policy Statements that identify planned port upgrades and provide an enabling framework for consenting those upgrades.
- Inclusion of projects necessary to support port development projects (e.g. roading projects) to be recognised and provided for long term development planning under the Local Government Act 2002 and plans under the Land Transport Management Act 2003.

Additionally, coastal occupation permits for most ports are to expire in 2026 (s384A RMA). Accordingly, we suggest the regulations provide support for ports to 'tie in' expansion applications needed for offshore renewables within those replacement consent processes that are to soon take place.

Iwi/Hapū engagement

We will work collaboratively and in partnership with iwi/hapū to ensure early engagement that optimises port development. As noted in Q14, if the Government decides to collect revenue from offshore wind projects, we strongly support the Government's consideration of models to enable the sharing of revenue flows with iwi and hapū to reflect special mana whenua and mana moana relationships with relevant project areas.

Workforce training

Training programs must be provided to ensure the local workforce is equipped with the necessary skills to support offshore wind operations, maintenance, and construction.

Collaboration and partnerships

Foster collaboration between port authorities, offshore wind developers, Government agencies, and private sector companies to facilitate investments in port infrastructure and share the financial burden. This could include a sector collaboration framework focused on building confidence amongst ports so that required investment is brought forward in time. This would include a governance group of affected stakeholders, such as iwi/hapū, central Government, local Government, offshore wind developers and port authorities, who develop a pathway to enable the investment and upgrades required.

An example that Aotearoa New Zealand could look to is the Port of Hastings, Victoria, which was identified as the most suitable location to facilitate offshore wind assembly in Victoria subject to gaining approvals. The Victorian Government and Port of Hastings have taken a proactive approach to managing port upgrades. The Victorian Government owns the port and is taking an active role in planning, coordinating and funding upgrades. A key part of the upgrade strategy for the Port of Hastings is to ensure that any upgrades made for offshore wind will be able to be utilised for other applications in future, for example logging, electric vehicles or container storage.

Offshore wind cluster development

Where possible, establishing offshore wind clusters near ports to create synergies among industry players, such as manufacturers, service providers, and research institutions should be encouraged.

The concept of renewable electricity zones or city/regional deals could also be applied to port infrastructure, as the construction port will be a key part of any future offshore wind project in Aotearoa New Zealand. The [Townsville City Deal](#) in Australia could be of interest (which is related to the 'Industry Powerhouse for the North' venture), as a key initiative is 'Port City – Enhance Townsville as a major port city working with the Port of Townsville to build trade and export growth'. The initial commitment for the Port City objective was to complete the business case for upgrading channel capacity at the port, with a future opportunity of port expansion identified. The three-year progress review found that the required work had exceeded the initial commitment: the channel upgrade had progressed past business case stage to construction, and the business case evolved to include the port expansion future opportunity.

Funding mechanisms

Innovative financing options, such as public-private partnerships, subsidies, and grants, to fund port infrastructure upgrades for offshore wind projects should be explored. Funding options are particularly needed to help ports navigate through an uncertain period when there is a need to invest now to be ready on time and a point in the future when Government regulations are in place, offshore wind developers have been awarded permits and offshore wind developers are entering commercial relationships with ports to support their projects.

Port investments are crucial for facilitating the growth of offshore wind energy and ensuring that ports can meet the demands of this new industry in a timely fashion.

Chapter 10: Decommissioning

28

Should developers be required to submit a decommissioning plan, cost estimate and provide a financial security for the cost estimate? If not, why not?

We agree that developers should be required to submit a decommissioning and restoration plan, cost estimate and provide a financial security for the cost estimate. Worldwide, CIP is committed to applying specific ESG criteria to the decommissioning process in the situation where lifetime extension (continuing to operate until useful lifetime is reached) or re-powering (replacing turbines and using existing balance of plant items) is not financially viable. Decommissioning should follow the overarching principles of: 'best practicable environmental option', consideration of the rights and needs of sea users, safety of navigation both at and below the surface, and health and safety protection. For post-decommissioning activities and monitoring, we will work with Government and other affected parties to decide how best to manage these.

Some flexibility in decommissioning will be required as some structures will need to remain in place for practicality reasons. Currently, there is no developed method to remove the monopile from the seabed (for a fixed turbine). Leaving some of the infrastructure in place may be better

for the seabed/general environment, for example the array and export cables. Likewise, the release of decommissioning financial security will need to be responsive to the nature of any proposed decommissioning. Some offshore renewables projects could be decommissioned in stages and the release of any security would also need to be released in stages.

In the UK, decommissioning for offshore wind is legislated for in the Energy Act 2004. The Secretary of State can require a decommissioning programme to be submitted in which they can either accept or reject (s 105). UK decommissioning guidance (Decommissioning of offshore renewable energy installations under the Energy Act 2004: guidance notes for industry (England and Wales), dated March 2019) also provides that decommissioning must be considered as part of the environmental impact assessment stage and securing statutory consents (section 5.2.1), with a final draft plan expected to be submitted for approval 6 months pre-construction (section 5.2.2). If there is an approved decommissioning programme in place, it is an offence to carry out decommissioning work that is not in accordance with the approved programme (s 110). The Secretary of State can require the developer to provide security for executing an approved decommissioning programme (s 106(4)).

The UK approach is preferred to that set out in the New Zealand Crown Minerals (Decommissioning and Other Matters) Amendment Act 2021. That statute relates currently only to decommissioning of oil and gas infrastructure but could potentially be replicated for decommissioning of renewable generation infrastructure, if the Government chose that approach. However, the Crown Minerals decommissioning regime includes an onerous and perpetual liability regime, including criminal liability for directors - which has the potential to deter skilled directors, and may risk disincentivising offshore investment.

We support the obligation for decommissioning to lie with the developer and for the decommissioning plan, cost estimate and financial security to reflect this, but do not consider it prudent to include the more onerous provisions of the Crown Minerals (Decommissioning and Other Matters) Amendment Act 2021 discussed above.

29

Should the permit decommissioning plan, cost estimate and financial security be based on the assumption of full removal? If not, why not?

The permit decommissioning plan, cost estimate and financial security could be based on the assumption of full removal, provided that the definition of full removal includes what is technically feasible at the time of permitting. It should retain the flexibility to reflect technological and logistical developments in the offshore wind industry in relation to decommissioning. Environmental conditions, infrastructure condition, technological changes will influence the decommissioning strategy at the time of decommissioning. We think it would be sensible for the extent of decommissioning to be defined in the proposed decommissioning plan, when a developer can assess what the most environmentally-friendly solution would be, as well as what is technically possible.

Offshore wind projects, which typically have a minimum life expectancy of 30 years, have been successfully decommissioned in Europe, the first of which was the Yttre Stengrund project in Swedish waters in 2015. At the time of submission, partial removal is a common decommissioning strategy for both offshore and onshore infrastructure.

We support the obligation for decommissioning to lie with the developer and for the decommissioning plan, cost estimate and financial security to reflect this. We support provisions related to the decommissioning of both onshore and offshore infrastructure. The following are examples of aspects which would make up a decommissioning plan:

Offshore infrastructure

At the end of the operational phase of a project, decommissioning involves removing offshore structures above the seabed, with the exception of rock armours and protected or buried offshore cables, to avoid the environmental impacts associated with their removal. Decommissioning of the wind turbine generators will comprise of removal of blades, nacelle and towers. Currently, the industry standard decommissioning method for wind turbines is to apply the reverse installation method.

Onshore components and infrastructure

To minimise disturbance, most below ground transmission equipment should be left in place with cable ends, sealed and securely buried as a precautionary measure. The surface interfacing infrastructure like link and fibre pits could be removed if environmental impacts may arise or required as part of landholder agreements. Above ground signage and markers will be removed. Substations, overhead towers and lines can be dismantled and disposed of or repurposed. Areas of hardstand and foundations at the substation sites will be removed and remediated or allowed to remain subject to future use of the sites.

Equipment from feasibility permit stage

Given that equipment installed temporarily for information gathering during the feasibility permit stage will be small infrastructure, we do not think it warrants inclusion in decommissioning obligations.

Staged financial security

We suggest that the permit holder should not be required to lodge a financial security upon the granting of a commercial permit. Imposing a significant debt on a business' balance sheet in the early stages of the project's development may have the effect of constraining the developer's ability to construct an offshore windfarm, which could also deter overall investment in offshore renewable energy. Instead, we propose the value of the financial security should be commensurate with the various stages of development of the project. This approach could assist with project financing, as the building-up of decommissioning security could be considered an ongoing operational expense rather than an initial capital expense.

The form of security will need to be tailored to offshore wind developers and will need to provide for flexibility to provide different forms of security over the life of the asset. The cost estimate should be based on the cost to developer for decommissioning – there should be no practical difference between the cost to developers or to the Government.

30 What are your views on the considerations set out in relation to the calculation of the cost estimate and financial security value or suggested approach for financial security vehicle?

The Government should be flexible in the type of financial assurance acquired to ensure there is a benefit to the cost incurred for the guarantee. It should consider the following types of financial security:

- Guarantees (including parent company and third-party guarantees)
- Other forms of security (such as security over project revenues) on a case-by-case basis.
- Letters of credit
- New Zealand Government debt securities
- Bonds (including surety bonds).

CIP has global experience with decommissioning obligations. We support structures which escalate over time to ensure full financial guarantees at the time of decommissioning, limiting the obligations during the early stage of operation.

31 What should the developer be required to provide in relation to decommissioning at the feasibility application stage?

We agree with the proposal that developers should be required to submit a high-level decommissioning plan at the feasibility application stage.

We do not think that decommissioning security should be required at the feasibility stage. Until turbines have been constructed or other equipment installed, there is no effective decommissioning liability. Any structures from the feasibility stage are likely to be limited, and removal and security can be managed under the EEZA and the RMA for small scale structures.

32 What ongoing monitoring approach do you think is appropriate for the decommissioning plan, cost estimate and financial security?

The Government could consider requiring periodic updates to decommissioning plans and cost estimates (e.g., every ten years) and periodic assessments of a proponent's capacity to comply with its decommissioning obligations.

During the construction and operation stages of the project, a full review of the decommissioning plan should not be required. However, the developer should be required to review the existing plan and provide the regulator with material updates (e.g., cost estimate changes of +/- 15%). This would require proactive developer disclosure.

33 Are there any other ways in which the regulatory regime could encourage the refurbishment of infrastructure or the recycling of materials?

We consider that the regulatory regime should encourage the consideration of opportunities for refurbishment and repowering before decommissioning and recycling. It is likely that refurbishment and repowering will be contemplated by developers before deciding to decommission their assets. It will be key to ensure that the replacement commercial permit

process is efficient, minimises consenting risk and provides appropriate levels of investment certainty. Mandatory considerations in replacement applications should include the value of the existing investment.

The decommissioning of offshore facilities, including towers, monopiles, jackets, and other steel components, requires an onshore recycling facility with the ability to handle large quantities of steel. Given the expected volume of decommissioned infrastructure, there are opportunities for existing recycling facilities to capture the material increase in traditional scrap recycling and potential component reuse.

Infrastructure support for the recycling of materials (e.g. port upgrades) should be contemplated at 10 years from the end of the commercial permit (integrated into the decommissioning review schedule). Ensuring there are recycling facilities with access to suitable port infrastructure could be an area for the Government to coordinate in future. The offshore wind industry could support future steel recycling opportunities and initiatives. We expect that, by the time any offshore wind farm in Aotearoa New Zealand is decommissioned, there will be sufficient incentive to recycle (including demand for scrap steel at NZ Steel's Glenbrook mill electric arc furnace) that recycling regulation would not be required.

34

Should offshore renewable energy projects applying for a consent to decommission be required to provide a detailed decommissioning plan related to environmental effects for approval by consent authorities? If not, why not?

We agree with the proposal to require detailed decommissioning plans to include consideration of environmental effects. The environmental effects of decommissioning would, to some extent, be anticipated at the time of securing the initial environmental consents and management plans related to decommissioning should be living documents that are updated during operation and prior to decommissioning. Environmental aspects of the plan should be addressed by subject matter experts as technical input to the overall consent authority. Objectives of the decommissioning plans should be clearly identified enabling certification of decommissioning plans without further reservation of substantive decision making over decommissioning.

We agree that environmental consents for offshore renewable energy should be subject to a condition requiring the developer to prepare a detailed decommissioning plan that will be certified by an appropriate agency. As with other management plans, the decommissioning plan could be updated at any time and re-certified. Large scale amendments to the decommissioning plan (i.e. that fundamentally alter the nature of the activity) should be subject to a consent variation process.

We do not expect local authorities to have the expertise to certify decommissioning plans. It is important that the certifying agency has the skill set to ensure the decommissioning plan meets the requirements of the consent condition. We consider it would be more appropriate for this role to sit with the EPA given their experience implementing the EEZA.

Further, as noted above in relation to Q18, there is the potential for duplication between environmental consenting processes and permitting processes. This duplication should be kept as narrow as possible to reduce the administrative burden on developers. The Discussion

Document says the permitting regime would relate to decommissioning obligations and financial security, whereas the environmental consents regime would focus on environmental effects. However, it also says that “*whether anything other than full removal will be accepted should be considered by the relevant environmental consent authorities*” (p51).

We agree that the decommissioning obligations primarily have environmental consequences (i.e. if some of the infrastructure is left in situ). We therefore consider that both decommissioning obligations and related environmental effects should be considered as part of the environmental consenting process.

Chapter 11: Compliance

35 **How can the design of the regulatory regime encourage compliance so as to reduce instances of non-compliance?**

To encourage compliance and avoid unintentional non-compliance, the regulatory regime should set out clear obligations for developers and ensure that participants are aware of and understand their responsibilities. The regulator should educate participants about how to comply. The regime also needs to ensure that participants are able to comply by making processes for complying as simple and convenient as possible.

The regime should contain incentives to encourage compliance, such as economic inducements including, for example, fee reductions for early payment.

The regulatory regime should be designed to create downward pressure, encouraging noncompliant participants to move down the model to full compliance and to where lower-level and less costly interventions are effective. The compliance structure needs to be consistent and fair, as this will ensure that compliance activities assist in creating a level playing field for participants. Failing to do this will undermine incentives for voluntary compliance and unfairly advantage those who are non-compliant.

36 **Is the compliance approach and toolbox in Chapter 11 appropriate for dealing with non-compliance within the regulatory regime?**

We agree that the VADE model is a pragmatic way to encourage compliance. The use of the VADE model is consistent with other regulatory regimes in Aotearoa New Zealand, and gives the regulator access to a ‘toolbox’ to respond to instances of non-compliance in a proportionate and targeted manner.

We recognise that where a participant deliberately or persistently fails to comply, the regulator will need to take appropriate enforcement action. The most punitive tools should be used selectively. They should be reserved for the most serious breaches, and where intermediate sanctions – such as warnings and compliance/abatement notices – would be inadequate to manage the non-compliance effectively.

The Discussion Document identifies a range of enforcement options to respond to potential breaches. These options will create incentives for voluntary compliance and provide further options for the regulator to undertake directed compliance. We recognise that it is important for there to be consistency with other compliance regimes. However, we consider that the

regulatory regime needs to acknowledge the unique features of the offshore renewable energy. For instance, permit revocation should be reserved only for the most egregious cases so as not to undermine the investment security provided by the issuing of a permit. Given the potential value of those permits, it is also important to provide for appropriate appeal and challenge procedures to ensure revocation decisions are robust.

In relation to other enforcement options identified in the Discussion Document (which could be used in combination in appropriate circumstances), we agree that:

- The regulator should have the ability to request information, carry out inspections and investigations into alleged non-compliance. The compliance regime should however be primarily based on a developer self-reporting expectation. This expectation should tie into annual reporting (Management Plans) as discussed under Q5 above.
- Infringement notices are an appropriate compliance response to less serious breaches. They are an efficient method to deter non-compliance.
- Compliance notices and enforceable undertakings are appropriate compliance responses where a permit holder needs to fix a single or recurring breach. We consider these tools should be the first port of call in any serious case of non-compliance because they are focused on securing ongoing compliance.
- Pecuniary penalties may be appropriate for serious breaches. We consider they should be reserved for instances where the offender has profited from the offence and are appropriate in the circumstances.
- Prosecution and imprisonment should be available for the most serious and persistent breaches.

The regulatory regime should provide penalties that are tailored to individuals and companies (similar to s339 of the RMA). It will also need to address liability for the acts of agents. The regime should include statutory defences for offences and, in this regard, we consider the defences in s 341 of the RMA provide a good starting point.

We generally agree with Table 4 on page 61 of the Discussion Document which identifies the types of breaches that are considered minor, moderate, serious or critical and the type of compliance option that is proposed for each. However, as noted, we consider the less serious tools should be the first port of call with more serious tools only if needed. This point is not expressed in Table 4.

We also consider there may be some cases where critical breaches would be better addressed by a compliance notice/enforceable undertaking than the more serious compliance options listed in the table. For example, a failure to decommission might be better addressed by a compliance option that resulted in decommissioning occurring, rather than a pecuniary penalty, revocation of permit, or imprisonment/fine.

Should the decision maker within the regime be the regulator but with an option for the Minister to become the decision maker in a specific set of circumstances? If not, why not?

We agree that the hybrid model (Option 3) is the most appropriate. It is commonly used in Aotearoa New Zealand (for example, the ‘call in’ power in s 142 of the RMA and the ‘referral’ power in the Covid-19 Recovery (Fast-track Consenting) Act 2020). Under the options presented, the decision will be made by an appropriately skilled person or based on advice from such a person.

The proposed approach is in line with other markets including Australia where the Minister may sign-off (on recommendation from a senior public servant in the responsible department) or delegate the decision-making to a senior public servant in the responsible department. In Australia, the responsible department and regulator report to the same Minister.

We agree that the criteria that must be satisfied for the Minister to become the decision-maker should be clearly set out in the legislation. The criteria should be relatively narrow so that the Minister should not become the default decision maker. The examples referred to above do not provide a useful template to distinguish between offshore renewable energy developments that should be determined by the Minister or the regulator.

The Discussion Document refers to a potential criterion being significant national interest considerations. While this terminology is used in other regulatory regimes (most notably the overseas investments regime), the terminology is quite vague and would enable the Minister to consider a range of factors, depending on the application. These factors could include national security, public order, and international relations; competition, market influence, and the economy; economic and social impact (the existing benefit test serves as a guide for this); alignment with Aotearoa New Zealand’s values and interests (consideration is given to broader considerations – for example, environmental policy, and giving better effect to Te Tiriti o Waitangi); and the character of the investors. Given the scale of offshore renewable energy, most developments would meet this criterion. We consider that Ministerial decision-making should be limited to national security, public order, and international relations.

We do note that development of offshore wind projects can take several years and therefore potentially span multiple governments and different energy ministers. Given this mismatch between the political cycle and infrastructure developments, appropriate strategies should be employed throughout the lifetime of the project to mitigate political and regulatory risks and maintain investment certainty. These strategies could include encouraging non-partisan approaches to the use of offshore renewable energy and maintaining constructive communication between developers and public agencies to ensure that decision-making is consistent.

The Discussion Document also suggests the Minister become the decision-maker where there is a difficult choice between two overlapping applications that both meet the relevant criteria. As discussed in relation to Q4 above, we do not consider such decisions should be made at the commercial permit stage. Any competition should be resolved at the feasibility stage so as not

to undermine investment. Accordingly, we do not consider Ministerial decision-making will be needed in this situation.

38

Should there be an opportunity for public submissions on the commercial permitting decision? What would this capture that the environmental consent decision does not? If not, why not?

The Discussion Document discusses whether decisions on both feasibility and commercial permits should include public notification and consultation requirements, beyond iwi and hapū. It considers that interested parties should have an opportunity to express views and have any concerns taken into account, and proposes that this is done by notification (Option 1) or public consultation (Option 2).

We support Option 1, which provides for public notification of applications and decisions but does not allow for public participation in the permitting process. All consultation should be completed prior to commercial permitting decisions. Developers require certainty to progress to financial close. Additional submission rounds at the commercial permitting phase raise risks and may significantly delay achieving financial close on a project.

Environmental consenting processes are likely to be fully publicly notified so there is already a clear opportunity for broad public engagement and submissions in relation to environmental effects (which includes economic, social and cultural effects of offshore renewable proposals).

We note that there is already an incentive for developers to engage with relevant stakeholders when determining the scope of a feasibility permit, as seeking a feasibility permit that is not cognisant of potential constraints (e.g. port capacity) would be a risk to the developer.

The nature of the matters being considered as part of the commercial permit stage means that members of the public are unlikely to provide information that would be relevant or contribute to better decision-making.

There is another option that has not been considered in the Discussion Document – that is, limited consultation with submissions invited from potentially affected parties e.g. Transpower, electricity distribution boards, ports, and known users of the relevant Crown Minerals Act/EEZ area (such as fishing and shipping). These stakeholders are likely to be in a better position to provide information that would be relevant or contribute to better decision-making. If this option was preferred, the legislation should expressly limit submissions to matters directly relevant to the commercial permit. Matters relevant to other issues, such as the feasibility permit or environment consenting should be disregarded to reduce duplication of effort and cost and delay. It is also essential that submissions at the commercial permit stage should not allow back-tracking on the main agreed project parameters as this would represent excessive risk at a late stage in the process.

39

Should permitting decisions be able to be appealed and if so which ones? Which body should determine such appeals?

We consider it important for an appeal right to be available for applicant developers when an application for a commercial permit has been declined or permit-holders when a commercial permit has been revoked. However, we consider that an independent authority with suitable expertise should provide a review function in first instance as this would provide a low-cost mechanism to consider disputes, avoiding the need to refer matters to the courts.

There should be no provision for third party appeals of the grant of commercial permits. Although, judicial review would of course remain available.

The Discussion Document recommends that permit transfers be approved by the regulator. We agree that change of control provisions are appropriate given it may impact the suitability of the permit holder to progress the development. However, we consider the change of control provisions must provide a pathway to support transfers of both the operator and changes within corporate groups. Small changes in parent company shareholdings (e.g. less than 25%) should not unduly trigger change of control provisions.

40

What early information would potential participants of the regime need to know about health and safety regulations to inform decisions about whether to enter the market?

The Discussion Document notes that in some high-risk sectors adherence to health and safety standards is often a significant component of a project, including informing the way the operation is designed, constructed, and operated. Operators are often required to prepare and submit a safety case (or hazard management plan) to a regulator prior to commencing development or starting operations.

Given the size and nature of offshore renewable energy projects, there is a risk of low probability, high consequence events that may cause major environmental damage, and result in significant loss. We see the benefit of the regulatory regime including a requirement that potential participants prepare a safety case (or hazard management case) prior to commencing development. Safety cases will assure the operator, workers, emergency services, community, and WorkSafe that the potential for major incidents has been systematically assessed and that effective and suitable controls are, or will be, in place. They will act as a check that process safety is well understood and managed.

In terms of the information that potential participants would need to know about the health and safety regulations to inform decisions about whether to enter the market, we consider that the regulatory regime needs to clarify whether the requirement to prepare a safety case (or hazard management case) is mandatory for all projects, or only for projects over a certain size and scale. The regulatory regime needs to include:

- The timeframe for submitting the safety case.
- The information required in the safety case.

- The process the regulator will follow when considering the safety case, including whether the participant will be given an opportunity to revise the safety case (for instance, if the technical information relied on is out of date).
- The process for reviewing the decision of the regulator to reject safety case.

Offshore wind is a very safety-conscious industry, and TOP would aim to exceed requirements of the current Health and Safety at Work regulations. CIP is an experienced offshore wind developer guided by ESG principles, including good industry practice in the management of health, safety and environmental issues. In CIP's projects worldwide, the following processes are used to manage health, safety and environment (HSE):

- Risk management process as per ISO31000, including hazard identification, risk assessment, identification and implementation of control measures, monitor and review.
- Safety-by-design from initial design through to construction, enabling the highest levels of health and safety for all personnel by considering potential health and safety risks of infrastructure, products or processes and eliminating or controlling these at the earliest stage.
- Job safety analysis, hazard identification, hazard identification & risk assessment, design risk assessment, hazard in construction study, safe systems of work.
- Assessing all suppliers or contractors thoroughly on their HSE competency before any contract is placed.
- HSE communication, for example safety alerts and toolbox meetings.

These HSE management processes would be applied by TOP to all offshore wind projects in Aotearoa New Zealand.

41

What are your views on the approach to safety zones including the trade-offs between the different options presented?

We support Option 4. We consider it appropriate to have safety zones around offshore renewable energy infrastructure to protect the public, the environment, and infrastructure.

We agree that default safety zones can be identified within the legislation, however safety zones for a specific development will need to be tailored to its particular characteristics. The safety zones will also vary based on stage of the development. It is likely that safety zones will need to be bigger during construction, but during operational phases more limited safety zones or even co-location of uses may be appropriate. We suggest that safety zones are set through commercial permits and clearly carved out of environmental consenting considerations. It will be necessary for the legislation to expressly address this point to avoid the potential for double up as has been seen for hazardous activities and utilities like airports.

We note that the UK enables safety zones to be declared for renewable energy installations. Under s95 of the Energy Act 2004 (UK) safety zones may be declared for securing the safety of individuals, vessels or installations during the construction, operation and maintenance, extension or decommissioning of a renewable energy installation. The usual safety zone is 500 metres for construction and 50 metres for the operational phase. However, a notice authorising a safety zone may contain provision granting permission for vessels to enter or

remain in a safety zone or for persons to carry on prohibited activities (such as commercial or recreational fishing).

42

Do you have any views or concerns with the application of these proposals to other offshore renewable energy technologies?

We are aware of many other marine renewable electricity generation technologies in development. Technologies such as wave and tidal converters could, one day, be co-located with offshore wind. Ocean thermal energy conversion technology requires much deeper water so is unlikely to be co-located with offshore wind.

However, the commercial readiness of most of those technologies is very different to that of offshore wind, so developers of those technologies are best placed to express a view on the suitability of this permit process to their plans.

General comments

Value of clear policy signals

The inclusion of offshore wind targets in Aotearoa New Zealand's upcoming *Energy Strategy* would send a clear signal to developers. Ambitious, feasible policy targets help to mobilise the supply chains and services needed to deliver offshore wind at pace and at lowest cost.

Targets assist in giving developers confidence to make the significant investments required whilst also clarifying the sector's role in supporting Aotearoa New Zealand's nationally determined contributions. Procurement, for example, typically occurs five to seven years prior to operation.

Targets must be realistic, achievable, and set in collaboration with industry. They must also be protected from excessive political intervention to ensure that they are not liable to reversal by future governments.

Changes to project characteristics between feasibility permit and commercial permit

Based on our experience delivering large-scale offshore wind projects, project specifics are likely to change between the feasibility permit and commercial permit stage. For example, CIP's first offshore wind project, *Veja Mate*, used 6MW Siemens Gamesa turbines. Our *Beatrice* project, built two years later, used 7MW turbines. More recently, our *ChangFang* and *Xidao* project has chosen Vestas' 9.5MW turbines as the technology type. We expect future developments may be up to 24MW.

We expect the applications for feasibility permits will include 'design envelopes' (e.g., maximum turbine numbers, turbine height). We suggest developers provide MBIE a range of design parameters at the feasibility permit stage, instead of a single, fixed design. This enables developers to accommodate technology advances, address environmental constraints/opportunities, allow for changing conditions and select the optimal design at the final stage.

Transfers and change of control scenarios

Transferability of commercial permits should be provided for, so long as the transferee is appropriate. Permitting should also cater for non-substantial changes in developer ownership.

Overlap with Overseas Investment Act

We agree that the national interest criterion between the Overseas Investment Act 2005 and the offshore energy infrastructure regime should be aligned. To avoid inefficient duplication and reduce risk of delay, we suggest MBIE ensures assessment is coordinated between the two bodies, and that learnings on testing developers' alignment with the national interest are shared across the two regimes.

Additionally, we note that the OIA regime has some design features which are not well suited to long term infrastructure projects such as offshore wind farms:

- OIA consents typically require the 'overseas investment' to be acquired within a short-term period (usually 12 months and unlikely to be longer than 5 years)
- Where benefits need to be proved, those benefits must be proved on a before and after basis, meaning that where an incremental asset is acquired (e.g. an interest in sensitive land), the benefits derived from the earlier stages of the development are not considered
- OIA consent is granted for specific assets, meaning that additional OIA consent would be needed if additional sensitive land was identified as being necessary for a permitted project (with new benefits required, as noted above)
- The acquisition of farmland is subject to an advertising regime and contracting restrictions that inhibit the developer's ability to secure the land corridors that will be required for the project (developers are forced to either seek OIA consent at a point in time when the project requirements are uncertain, or to include an OIA condition which makes the developers proposal less attractive to landowners).

To provide greater certainty for developers, MBIE should consider excluding the acquisition of any interest that has already been assessed as the subject of a permit (or any property or project acquired in connected with a permit) from the OIA.

Such an exclusion would be an appropriate policy outcome, on the basis that the new regime will appropriately consider and monitor the same criteria that would otherwise apply under the OIA.

Any such exclusion could be achieved by amending the OIA, specific regulations under the OIA, or providing for a class exemption under the OIA regulations, and would ideally extend to both the acquisition of any interest in a permit and the acquisition of any interest in any property or assets acquired in connection with a permit.

Review of guidance issued by the Australian Government on offshore windfarm environmental impact assessment

As suggested in a workshop at MBIE, we have reviewed for efficacy the Australian Government's July 2023 guidance on the 'Key environmental factors for offshore windfarm environmental impact assessment' under the *Environmental Protection and Biodiversity Conservation Act 1999*.

A guidance tailored to a New Zealand context would be a useful starting point for developers to understand the most pertinent environmental impacts, what best practice looks like, and which regulations and requirement apply to different aspects of development and species.

Endorsement by Government also gives certainty that the key issues to address have been identified.