2 November 2023

Energy Resources Markets Branch
Ministry of Business, Innovation and Employment
15 Stout Street
PO Box 1473
Wellington 6140
Via email: offshorerenewables@mbie.govt.nz

Attention: Offshore Renewable Energy Submissions

Tēnā koutou katoa,

RE: TE NEHENEHENUI RESPONSE TO THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT'S DEVELOPING A REGULATORY FRAMEWORK FOR OFFSHORE RENEWABLE ENERGY (SECOND DISCUSSION DOCUMENT)

Attached is the response on behalf of Te Nehenehenui, the post settlement governance entity representing Ngāti Maniapoto, to the Ministry of Business, Innovation and Employment's Developing a Regulatory Framework for Offshore Renewable Energy (Second Discussion Document).

Recognition of Maniapoto Interest in Exclusive Economic Zone

One of the unique elements of the Maniapoto Claims Settlement Act 2022 is the recognition of Maniapoto interests in the exclusive economic zone (Subpart 9, clauses 125-126).

Subpart 9 arose in recognition of the assertion of Maniapoto rangatira Wahanui in 1883 that Maniapoto interests extend 20 miles (17.4 nautical miles) out to sea. Wahanui and others made a point of referencing their western boundary 20 miles out to sea in 1883, reflecting their understanding that they held mana moana over the area and its lucrative fisheries. Subpart 9 therefore recognises part of the Maniapoto existing interest in the exclusive economic zone. In particular, we assert that any regulatory framework for offshore renewable energy should be cognisant of the existing interest Maniapoto has in the exclusive economic zone.

TE NEHENEHENUI

RESPONSE TO THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT'S DEVELOPING A REGULATORY FRAMEWORK FOR OFFSHORE RENEWABLE ENERGY (SECOND DISCUSSION DOCUMENT)

DATED: 2 NOVEMBER 2023

INTRODUCTION

1. This response is made by Te Nehenehenui, the post settlement governance entity for Ngāti Maniapoto in response to the Ministry of Business, Innovation and Employment's Developing a Regulatory Framework for Offshore Renewable Energy (Second Discussion Document)[1].

2. This response covers:
    a. Responses to Developing a Regulatory Framework for Offshore Renewable Energy including:
        i. Existing Māori rights and interests offshore
        ii. Permitting criteria
        iii. Decision-making models and processes
        iv. Economic mechanisms and opportunities for Māori
        v. Environmental data standardisation, collection and collaboration.

DEVELOPING A REGULATORY FRAMEWORK FOR OFFSHORE RENEWABLE ENERGY

3. Te Nehenehenui provide the following submission in relation to the Second Discussion Document for Developing a Regulatory Framework for Offshore Renewable Energy.

4. In a cabinet paper released on 9 August 2023, Hon Dr Megan Woods committed to continue engaging with iwi and hapū, and through the National Iwi Chairs Forum, to provide practical options on the regulatory regimes and report back to Cabinet on the outcomes of these discussions at the end of 2023 so government can consider specific proposals for iwi and hapū participation. As outlined in the cabinet paper, the practical options to be discussed and explored with iwi and hapū included:
    a. Provisions for iwi and hapū participation in the delivery of the regime, such as a process for input into decision making on the grant of permits; and
    b. How to ensure iwi and hapū benefit from the establishment of an offshore renewable energy industry.

5. In lieu of establishing a renewable energy pou at National Iwi Chairs level, a working group of iwi and hapū from the regions proposed for offshore wind energy generation (Taranaki, Waikato to Kaipara and Southland) was established to work with MBIE's Energy and Resource Markets team to discuss policy options specifically:
    a. Existing Māori rights and interests offshore
    b. Permitting criteria
    c. Decision-making models and processes
    d. Economic mechanisms and opportunities for Māori
    e. Environmental data standardisation, collection and collaboration

    The iwi and hapū groups involved in this working group include Te Rūnanga o Ngāti Ruanui, Te Kaahui o Rauru, Te Korowai o Ngā Ruahine, Te Kāhui o Taranaki Trust, Te Kotahitanga o Te Atiawa Trust, Te Rūnanga o Ngāti Mutunga, Te Runanga o Ngāti Tama,

[1] Developing a Regulatory Framework for Offshore Renewable Energy: Second Discussion Document August 2023 (mbie.govt.nz)

Te Kāhui Maru, Te Rūnanga o Ngāi Tahu, Te Whakakitenga o Waikato, Te Nehenehenui, Te Rūnanga o Ngāti Whātua and Te Uri o Hau Hapū. The Energy and Resource Markets team of MBIE is committed to continue collaborating with this working group until the end of 2023 at which point recommendations will be provided to Cabinet on the outcomes of these discussions.
The outcomes of our discussions to date are outlined in the submission below.

EXISTING MĀORI RIGHTS AND INTERESTS OFFSHORE

Refer to Chapter 7 of the Discussion Document - Māori Rights and Interests and Enabling Iwi and Hapū Involvement

6. Existing rights and interests of Māori should not be unduly impacted by the feasibility and the commercial stages of developments for example limiting access to and use of areas through the establishment of safety zones around developments and sub-sea transmission cables that run ashore.

7. Te Nehenehenui has legally recognised rights and interests, specifically the recognition of Maniapoto existing interests in the exclusive economic zone (as set out at Subpart 9, clauses 125-126 of the Maniapoto Claims Settlement Act 2022).

8. Subpart 9 arose in recognition of the assertion of Maniapoto rangatira Wahanui in 1883 that Maniapoto interests extend 20 miles (17.4 nautical miles) out to sea. Wahanui and others made a point of referencing their western boundary 20 miles out to sea in 1883, reflecting their understanding that they held mana moana over the area and its lucrative fisheries. Subpart 9 therefore recognises part of the Maniapoto existing interest in the exclusive economic zone. Te Nehenehenui assert that any regulatory framework for offshore renewable energy should be cognisant of the existing interest Maniapoto has in the exclusive economic zone.

9. Potential impacts on existing rights and interests from the establishment of offshore renewable energy generation include reduced commercial fisheries quota holdings, reduced ability for recreational fishing and mataitai activities, as well as shallow and open water aquaculture.

10. Experience with the Crown Minerals Act 1991 (CMA) has shown that due to the relatively weak Treaty clause which requires that actors only "have regard to" Treaty principles, coupled with the narrow interpretation of this clause by the courts as only requiring that a decision-maker must give the matter genuine attention and thought, and that they are entitled to conclude it is not of sufficient significance to outweigh other contrary considerations. This interpretation in the CMA essentially pushes the rights and interests of Māori out of scope, pushing them along the process, to be addressed during consenting under the Resource Management Act 1991 (RMA) or the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ). However, experience tells us that once a permit has been granted under the CMA, it is largely inevitable from that point on, and Māori have little ability to sufficiently address rights and interests through consenting processes.

11. The purpose of the new Act for offshore renewable energy generation must be explicit and articulated in a way that it addresses the rights and interests of Māori upfront and not be left for the consenting process. For example, if its purpose was "to uphold Te Tīriti and its principles and manage offshore renewable energy generation for the benefit of all New Zealanders, while also considering economic, cultural, environmental and social outcomes" the rights and interests of Māori would be addressed during the permitting process and compensation for any loss paid, while developers would also be required to demonstrate how their proposal will develop and maintain partnerships with Māori and the wider community to achieve the above outcomes.

12. For this reason, we require active involvement in drafting the new Act through access to exposure drafts and any regulations, policies and/or guidance documents associated with the regime to ensure that these documents are articulated in a way that allows the ability to sufficiently address matters pertaining to Te Tīriti.

RECOMMENDED CRITERIA IN THE PERMITTING PROCESS

Refer to Chapter 3 of the Discussion Document - The Overall Permitting Process, Chapter 4 – Further Detail on Feasibility Permits, and Chapter 5 – Commercial Permits

13. Submissions to the December 2022 Discussion Document for Enabling Investment in Offshore Renewable Energy required that impacted iwi and hapū are involved in decision making on permit applications.

14. Therefore we recommended that the regulatory regime sets out specific requirements/criteria for developers to involve impacted iwi and hapū groups through each stage of the feasibility and commercial permits. These stages and our recommended criteria are outlined below:

Recommended Feasibility Assessment Criteria

a. *Pre-feasibility*
    i. Submission of a mandatory iwi and hapū participation plan that identifies existing rights and interests and outlines how they will be involved during feasibility.
b. *Feasibility permit assessment*
    i. Establishment of a board style approach to decision-making including representatives from iwi/hapū, government and local regulators to undertake a completeness check against the mandatory plan; and
    ii. Permits are awarded with conditions that reflect involvement of iwi and hapū as agreed in the mandatory plan.
c. *Feasibility study development*
    i. Developers work with impacted iwi and hapū to understand the potential impacts of the planned development on existing rights and interests, and the environment;
    ii. The decision-making board monitors and undertakes enforcement, where necessary, of the permit conditions stated above;

iii. Annual reporting through combined iwi/developer/central-local government hui, followed by a iwi/developer co-authored annual report which is provided to the decision-making board, and
iv. Submission of a mandatory Cultural Impact Assessment as part of the feasibility study.

Recommended Commercial Assessment Criteria

d. Pre-commercial

i. Submission of a mandatory iwi and hapū participation plan that agrees involvement across the life of the asset including securing broader outcomes or non-price based criteria such as economic, environmental, cultural, social and educational opportunities;
ii. Submission of a mandatory Cultural Impact Assessment as part of the commercial permit application.

e. Commercial permit assessment

i. Establishment of the aforementioned decision-making board including representation from iwi/hapū, and central and local government to undertake a completeness check against the mandatory plan; and
ii. Permits are awarded with conditions that reflect involvement of iwi and hapū as agreed in the mandatory plan.

f. Life of generation asset

i. The decision-making board monitors and undertakes enforcement, where necessary, of the permit conditions stated above;
ii. Annual reporting through combined iwi/developer/central-local government hui to feedback on the work programme and health of the relationship between developers and iwi and hapū, followed by a iwi/developer co-authored annual report which is provided to the decision-making board.

15. In addition to the above criteria, we see value in collaborating in the development of best practice guidelines for the mandatory iwi and hapū participation plan (referred to above) for offshore renewable energy generation, similar to the Best Practice Guidelines for Engagement with Māori[2] developed by Te Rūnanga o Ngāti Ruanui for the petroleum industry. This guide could specify mechanisms and tools to enable iwi and hapū partnership and participation including but not limited to:

a. Establishment of a Kaitiaki Forum or similar mechanisms to enable shared planning, implementation and ongoing monitoring and compliance;
b. Establishment of a Technical Working Group to plan and implement feasibility studies;
c. Relationship Agreement or Memorandum of Understanding;

[2] Best Practice Guidelines for Engagement With Maori (nzpam.govt.nz)

d. Commercial Partnership Agreement;
e. Power Purchase Agreement;
f. Environmental Compensation Agreement;
g. Data Sharing Agreement;
h. Service Level Agreement; or
i. Agreement to secure broader outcomes or non-price based criteria such as economic, environmental, cultural, social and educational opportunities including but not limited to local employment and procurement, as well as skills development through scholarships, cadetships and secondments.

16. In reference to *Question 4* of the Discussion Document and whether there should be a mechanism in the regime to be able to compare projects at the commercial stage, we support Option 2 (developer-initiated, with an option to compare) provided that the aforementioned decision-making board is established with iwi/hapū representation to make these decisions. With this option, developers would apply for a commercial permit which would be publicly notified and any other developers progressing feasibility in a similar location would have a time limited opportunity to make their own application. The decision-making board could then compare both applications side-by-side.

17. In reference to *Question 6* of the Discussion Document and whether there should be mechanisms to ensure developers deliver on the commitments of their application over the life of the project, we support this approach and recommend the aforementioned decision-making board monitors and undertakes enforcement, where necessary, of the permit conditions (as referred to in *paragraph 14fi*).

18. In reference to *Question 7* of the Discussion Document and whether 40 years is an appropriate maximum duration for the commercial permit, experience with the petroleum industry tell us that other measures are required to ensure that a permit holders commitments evolve over time. Irrespective of the duration, we recommend a 10 year review period which is assessed by the aforementioned decision-making board with iwi/hapū representation.

19. In reference to *Question 8* of the Discussion Document and whether permit holders who wish to geographically extend their project are required to lodge new feasibility and commercial permit applications, we support MBIEs thinking which is to progress via a new permit application. This will ensure that proposals are assessed against the same criteria, impacted iwi and hapū are engaged as would occur for a new permit, and there is an opportunity, if competition exists, for comparison between projects.

IWI AND HAPŪ PARTICIPATION IN PERMIT DECISION-MAKING

Refer to Chapter 7 of the Discussion Document - Māori Rights and Interests and Enabling Iwi and Hapū Involvement

20. Submissions to the December 2022 Discussion Document for Enabling Investment in Offshore Renewable Energy recommended a board style approach to decision-making

with iwi/hapū representation (refer to *paragraph 14b.i*) to determine the outcome of feasibility and commercial permit applications. Our preference is that this decision-making board ultimately makes decisions rather than the alternative of forming an advisory board with iwi/hapū representation that makes recommendations to a decision maker.

21. Furthermore, our preference is for a decision-making board with iwi/hapū representation over the alternative of a dedicated submission process where iwi and hapū are notified and submit their views on applications, and require the regulator consider these views under the legislation. Experience with the CMA and the Block Offer process tells us that there is limited scope to influence permit decisions in this process.

22. Our expectation is that resourcing costs for the impacted iwi and hapū groups to be involved in decision-making is incorporated into the Application Fee.

ECONOMIC MECHANISMS AND OPPORTUNITIES FOR MĀORI

Refer to Chapter 6 of the Discussion Document – Economics of the Regime and Chapter 7 – Economic Opportunities for Māori

23. In Europe and the UK, policy supports and financial de-risking tools have been fundamental to initiating investment in offshore wind energy generation projects. The typical offshore wind commercial package observed overseas, includes three key mechanisms:
    a. Rights **-** the allocation of offshore rights (usually by tender);
    b. Government-backed Contract for Difference (CfD) **-** the offer of a two-way, government backed CfD hedge contract that de-risks the project; and
    c. Royalty **-** payment of a royalty (or upfront developer fee) that share the economic benefits of these projects recognising national and local community economic interests and loss, or through direct co-investment models.

24. Historically, the New Zealand Government has played similar roles in the establishment of the petroleum industry in terms of regulation and management, and direct investment. In 1960's the Government invested directly into oil and gas exploration and development after the discovery of the Kapuni and Maui gas fields by establishing the Natural Gas Corporation to provide facilities for the processing, transmission, and distribution; and also by taking a 50 percent interest in the Maui field to provide a catalyst for its development. This is not dissimilar from revenue support mechanisms proposed in the Discussion Document and outlined below such as a CfD.

25. Whilst we are supportive of transitioning to more sustainable forms of renewable energy generation in Aotearoa this cannot be at the expense of tangata whenua as has been the case with the petroleum industry.

26. In the event that revenue support and gathering mechanisms are supported in this new regime, the Crown and Government are obligated in accordance with Te Tīriti to elect mechanisms and policy options that share the economic benefits of offshore renewable

energy generation projects with the impacted iwi and hapū groups to enable an equitable partnership. Accordingly, we have assessed each of the three key mechanisms outlined in the Discussion Document (rights, CfDs and royalties), outlined potential policy options that would enable an equitable partnership with impacted iwi and hapū, and provided our recommendations as follows:

Key Commercial Partnership Mechanisms

a. *Rights* - Rights are issued to a developer to build and operate an offshore wind farm for a specific period of time over the area specified in the permit.

    i. *Policy option 1 (Recommended):* Impacted iwi and hapū receive an allocation based on a designated permit area and could trade this right or work with a developer on a specific project. It is important to note that iwi and hapū have current applications for claim under the Marine and Coastal Area (Takutai Moana) Act 2011 for Customary Marine Title and Protected Customary Rights.

b. *Government-backed Contract for Difference (CfD) -* A CfD gives investors' confidence and security while also providing a direct supply of electricity to Aotearoa.

    i. *Policy option 2a (Recommended): Impacted iwi and hapū independently trade CfDs with developers* - Government supply impacted iwi and hapū with the CfD to offer to developers to leverage a partnership e.g., a share as a joint venture partner or an equity return. Government continues to pay the developer the difference between the wholesale price and the CfD strike price.

    ii. *Policy option 2b: Government in partnership with impacted iwi and hapū groups engages in the tender process supported by a CfD* – Government leverages the impacted iwi and hapū into the process to negotiate a greater economic package with developers.

c. *Royalty* **-** Payment made recognising national and/or local community interests and loss.

    i. *Option 3 (Recommended)*: Revenue flows back (e.g., royalties) to government and the impacted iwi and hapū groups. This should be structured so a generation output ($ per MWh) based royalty is charged to a wind farm once it is producing and this is shared equitably with the government and the impacted iwi and hapū groups. In reference to *Questions 12, 14 and 15* of the Discussion Document, this policy option is recommended.

27. Irrespective of whether or not revenue support and gathering mechanisms are elected in this regime or any process outside of this, the Crown and Government have a

responsibility to uphold Te Tīriti and its principles of partnership and active protection of Māori rights and interests to ensure an equitable partnership endures and active participation is enabled throughout the life of these developments.

28. In addition to this, the Crown and Government have a responsibility to ensure the regime enables active participation of impacted iwi and hapū groups in each project that receives a permit. This could occur through the recommended key participation mechanisms as outlined below:

Key Active Participation Mechanisms

a. *Seed funding* (this is in addition to the cost recovery structure of an Application Fee and Annual Fee) - Participation in a sector requires more than the allocation of rights. A grant or non-recourse loan is paid by the Crown to the impacted iwi and hapū groups to enable long term equity participation in each offshore renewable energy generation project that receives a permit and resource consent to proceed to construction. This follows precedents set in the spectrum as well as fisheries where Māori entities received various other items in addition to rights.

b. *Cultural/kaitiaki support fund* (this should form part of the Annual Fee) - Payment by developers to impacted iwi and hapū groups to compensate for costs associated with provision of services to developers for the duration of the permit. Services could include but are not limited to active participation in feasibility studies, as well as monitoring and compliance during construction, operation, and decommissioning.

29. In reference to *Question 13* of the Discussion Document, we support the approach to recover costs from administering the regime from participants via an Application Fee and Annual Fee provided it is structured to compensate the impacted iwi and hapū groups for their involvement in decision-making (refer to *paragraph 22*), Cultural/kaitiaki support fund as a mechanism for active participation (refer to *paragraph 28b)* and environmental data collaboration and collection (refer to *paragraph 34*). In addition to the Application Fee and Annual Fee, we propose the addition of Seed Funding as a mechanism to enable active participation (refer to *paragraph 28a*).

30. In reference to *Question 11* of the Discussion Document which mentions potential distortionary impacts of implementing revenue support mechanisms (e.g., a CfD) for offshore renewables and not for onshore wind or onshore solar projects and this disincentivising onshore renewables. For the Government to reach its net-zero 2050 goals and reduce emissions to 30% below 2005 levels by 2030 a significant change is required in terms of the amount of alternative energy generation and the mix of those energy types. Within an intermittent alternative energy system, offshore wind has the highest capacity factor (energy generating capacity) of 50-55% compared to that of onshore wind at 40% and solar at 16%. Offshore wind also requires significant capital investment compared to that of onshore wind and solar projects. Therefore, we see value in implementing revenue support and gathering mechanisms for offshore renewables provided that this is done in a Te Tīriti compliant manner as discussed above (refer to *paragraphs 26-28*).

ENVIRONMENTAL DATA STANDARDISATION, COLLABORATION AND COLLECTION

Refer to Chapter 2 of the Discussion Document – We remain interested in enabling opportunities for collaboration.

31. Submissions to the December 2022 Discussion Document for Enabling Investment in Offshore Renewable Energy recommended a Te Tīriti-led approach, or a more spatially planned approach with Government, ahead of the near-term preferred option of a developer-led approach. Whilst this Discussion Document appears to still favour the developer-led approach it identifies a collaborative environmental data collection exercise for feasibility studies as the first foundational step to potentially enabling a more spatially planned approach in the longer term.

32. There are risks associated with relying on developers to collect data individually and without guidance, coupled with the lack of baseline environmental data in New Zealand. Risks include data that is fragmented, inconsistent, hard to compare and therefore less valuable, and as a result data that is not sufficient to inform robust consenting decisions. Furthermore, the limited specialist expertise in New Zealand may mean that developers 'lock up' specialist expertise for individual studies.

33. We support MBIEs current thinking around the development of guidance for best practice/international standards of collection, monitoring, and mitigation techniques via a technical forum inclusive of government, developer and iwi representation; and a collaborative exercise between government, developers and impacted iwi and hapū groups to plan studies, and collect and share environmental data.

34. We expect that this collaboration will occur from pre-feasibility, post-feasibility, and post consent to fulfil monitoring conditions, and resourcing costs for the impacted iwi and hapū groups to be involved in this process are incorporated into the Annual Fee.

IWI AND HAPŪ PARTICIPATION IN ENVIRONMENTAL CONSENTING DECISION-MAKING

Refer to Chapter 8 of the Discussion Document – Interaction with Environmental Consenting Processes

35. As mentioned above (refer to *paragraph 11*) the new Act must be explicit and articulated in a way that it addresses the rights and interests of Māori upfront in the permitting process and not be left for the consenting process. This will ensure that consenting processes focus solely on the sustainable management of natural and physical resources and consider environmental effects relative to each application.

36. In terms of the environmental consenting process in the Territorial Seas, the new National Government has announced that it will repeal Labour's Resource Management Act Reforms (including the Natural and Built Environment Act (NBA), Spatial Planning Act (SPA), and Climate Adaptation Act (CAA)) reverting back to the RMA and the introduction of a fast-track consenting regime including one-year consenting for major infrastructure and renewable energy projects.

37. Irrespective of whether or not National progresses with this policy or maintains the path of the outgoing Labour Government to repeal the RMA and enact the NBA, SPA and CAA there are some clear gaps in both consenting pathways. The former will require direction from the Minister to amend the National Policy Statement for Renewable Energy Generation (NPS-REG) as currently the New Zealand Coastal Policy Statement's 'avoid' policies in relation to specific indigenous biodiversity, outstanding natural character and outstanding features and landscapes in the coastal environment (including within the Territorial Seas) override the weaker language of the NPS-REG making it harder to obtain consent. The latter, which will take up to 10 years to complete the transition to the new resource management system of the NBA and SPA, and development of the first National Policy Framework which will provide all national direction, will require clear transitional provisions so developers know what rules will apply at different stages of their projects prior to the bedding-in of this new system. Similarly, within the EEZ, guidance may be required to assess the importance of renewable energy generation where there are conflicts with environmental interests and values.

38. In reference to *Question 21* of the Discussion Document, we recommend that clarity is provided in terms of the above environmental consenting pathways within the Territorial Seas and EEZ to provide assurance and confidence to all stakeholders. As noted above (refer to *paragraphs 7-8*) the Crown has already acknowledged the existing interests of Maniapoto in the exclusive economic zone (as set out at Subpart 9, clauses 125-126 of the Maniapoto Claims Settlement Act 2022).

39. In addition to the above recommendations relating to environmental consenting pathways, we recommend the establishment of a board style approach to decision-making on all environmental consents within the Territorial Seas and the EEZ. Similar to the decision-making board proposed to consider applications for feasibility and commercial permits (refer to *paragraph 14b.i* above), this board should consist of representation of iwi/hapū, and central and local government.

40. In reference to *Question 17* of the Discussion Document, should a single consent authority be established and responsible for consents under both the RMA Act, EEZ Act and fast-track consenting provisions, we recommend that the aforementioned decision-making board and its representation forms part of this authority.

41. In reference to *Question 19* of the Discussion Document, we recommend that the offshore permitting regime assesses the capability of a developer to obtain the necessary environmental consents including their understanding of the environmental consenting processes and pathways, and early engagement to work through environmental data collection which, as mentioned in *paragraphs 31-34*, should be done in collaboration with government, other developers and impacted iwi and hapū groups.

42. In reference to *Question 20* of the Discussion Document and the optimal sequencing of permits and environmental consents, we support Option 1 which is to obtain a feasibility

permit, followed by the relevant environmental consents, and then application for a commercial permit. This way, at the commercial permit application stage, there will be no need to assess a developer's capability to get the relevant environmental consents as they will already be in place.

OPPORTUNITIES FOR JOINT CONNNECTION INFRASTRUCTURE

Refer to Chapter 9 of the Discussion Document – Enabling Transmission and other Infrastructure

43. In reference to *Question 25* of the Discussion Document, we support the approach of developers coordinating and progressing on similar timelines, if possible, so infrastructure developed in areas of high interest will be developed with fewer cables resulting in reduced environmental impacts and a reduction in costs.

PORT INFRASTRUCTURE

Refer to Chapter 9 of the Discussion Document – Enabling Transmission and other Infrastructure

44. In reference to *Question 27* of the Discussion Document, we acknowledge that a significant amount of investment is required into port infrastructure for offshore renewable energy projects to progress. Whilst we are not across the current needs of these ports (scale of development and costs) we encourage the Government to invest into this infrastructure to make the step change that's required to achieve their net-zero 2050 goals and reduce emissions to 30% below 2005 levels by 2030.

DECOMMISSIONING

Refer to Chapter 10 of the Discussion Document – Decommissioning

45. Recent experience with the abandonment of the Tui oil field and the subsequent taxpayer funded decommissioning, is a motivating factor to ensure that offshore renewable energy generators who construct and operate this infrastructure are held responsible for decommissioning it at the end of its useful life and meeting the costs of these decommissioning activities.

46. With this in mind, we support the approach of developers submitting a decommissioning plan in order to obtain a permit and this plan being subject to regular reviews to ensure it is kept up to date; provision of a cost estimate and financial security covering their decommissioning plan; and permit holders being subject to regular financial capability assessments to ensure they are capable of carrying out and meeting the costs of decommissioning. In addition, we recommend that developers collaborate with the impacted iwi and hapū groups in the development of decommissioning plans and these groups are also involved when these plans are reviewed.

47. In reference to *Question 29* of the Discussion Document, we support the approach for the decommissioning plan, cost estimate and financial security to be based on full removal which will require a permit holder to obtain and maintain financial security of a greater

amount. The rationale for this, is to provide Government and taxpayers with greater protection and avoid what occurred in the Tui oil field.

48. In reference to *Question 31* of the Discussion Document, in terms of timing of when decommissioning plans should be assessed, we support the approach to submit a complete decommissioning plan and cost estimate at the commercial permit stage however we require that a developer capability is also assessed as part of their feasibility application. During feasibility developers should demonstrate their understanding of the decommissioning requirements; relevant knowledge, capability, and experience to execute decommissioning activities; and provide an outline of a decommissioning plan based on full removal. As mentioned above, development of decommissioning plans should be done in collaboration with the impacted iwi and hapū groups.

49. In reference to *Question 34* of the Discussion Document, in addition to MBIEs regime and requiring this decommissioning plan and financial securities, we support the requirement for permit holders to submit a more detailed decommissioning plan related to environmental effects to support an application for a marine consent to decommission. Development of these more detailed plans should also be done in collaboration with the impacted iwi and hapū groups.

DECISION-MAKING WITHIN THE REGIME
Refer to Chapter 12 of the Discussion Document – Other Regulatory Matters

50. In reference to *Question 37* of the Discussion Document, and the proposed options for the decision-making structures, we support Option 2 (decision by a regulator) and Option 3 (hybrid model) over Option 1 (ministerial decision), provided that the decision-making board has appropriate iwi/hapū representation. This board style approach to decision making with appropriate iwi and hapū representation is reflected in *paragraph 20*.

TRANSFER AND CHANGE OF CONTROL SCENARIO
Refer to Chapter 12 of the Discussion Document – Other Regulatory Matters

51. In the instance that there is a change in ownership of structures via acquisition or mergers, or permit holders want to sell their interests, we expect that criteria to obtain a feasibility and commercial permit and the associated conditions continue to be met by the transferee. Therefore, we require that any permit transfer is approved by the aforementioned decision-making board with appropriate iwi/hapū representation.

THE CASE FOR SAFETY ZONES
Refer to Chapter 12 of the Discussion Document – Other Regulatory Matters

52. In reference to *Question 41* of the Discussion Document, and the options proposed for safety zones, we support Option 4 where guidance is developed on appropriate safety zone sizes for each development stage (e.g., 500 metres for key risk periods and 50 metres for normal operation) but there is flexibility to consider applications for other amounts,

over Option 1 (no safety zone), Option 2 (automatic 500 metre safety zone around all infrastructure), and Option 3 (consideration on a case-by-case basis). We recommend that consideration of safety zones in accordance with Option 4 is done via the aforementioned decision-making board with appropriate iwi/hapū representation which will enable prior consideration of the potential impacts on existing Māori rights and interests when setting these limits.

CONCLUSION

53. We assert that any regulatory framework for offshore renewable energy should be cognisant of the existing interest Maniapoto has in the exclusive economic zone, and, as noted at paragraph 5, we look forward to continuing working with MBIE's Energy and Resource Markets team until the end of 2023 to confirm the policy options and recommendations outlined in this submission.