

Submission on *Developing a Regulatory Framework for Offshore Renewable Energy*

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Release of information

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Chapter 4: Further detail on feasibility permits

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?

1

While Wind Quarry Zealand (WQZ) notes the previous Government took an in principle decision to proceed with a feasibility permitting approach. WQZ encourages the new Government to review and revoke this decision. WQZ's submission in the initial round of consultation on offshore renewable energy regulatory reform was based on the view that the provision of a permit is a property right and can only be provided by a property owner. The New Zealand Government owns neither the seabed or the wind and has no basis for the introduction of a permitting regime. While these earlier comments applied to the introduction of a feasibility study permitting regime, they apply equally to the introduction of a commercial permitting regime proposed in the second consultation document.

Our response to this question is that there should be no permitting regime.

WQZ's agrees there is a need to ensure offshore renewable energy projects are built and operated to high standards. The best way to do this is by developing a National Policy Statement for Offshore Renewable Energy which will fit within New Zealand's resource management regime and would guide developers and consenting agencies on expected standards.

2

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

This question is asked in the context of the maximum area to be covered by a feasibility permit but the question actually asked is broader than that.

WQZ's view is that project size should not be specified or limited in legislation. While there may be an appropriate upper limit for a project that is dedicated to supplying electricity to the New Zealand market (and 1 GW is likely in the ballpark for this) this limit does not apply to projects that will supply electricity directly to Power to X and other industrial sites. Several GWs of electricity may be required for such opportunities. If a multi-gigawatt offshore wind project of that scale is necessary to ensure the industrial project is also developed and has sufficient electricity to operate as planned, it should have the opportunity to do so.

WQZ notes that one of the reasons for restricting the size of a permit's area is concern over developers locking areas up and preventing it being used by others. Resource Consents can already stipulate timeframes within which development must occur. This process provides a regime for ensuring space is not unduly locked up by developers.

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?

- 3 As noted above, the area of a project should not be restricted in legislation.
- Another theme running through our response to this consultation exercise is equity of treatment between offshore and onshore renewable energy generation.
- There are no restrictions on the scale of other sources of renewable energy generation such as onshore wind or solar. There is no reason to hobble the competitiveness of offshore wind by placing restrictions on just one form of renewable electricity generation.

Chapter 5: Commercial permits

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?

- 4 As noted in our response to question 1, WQZ's view is that the proposed permitting regime – both feasibility and commercial – is inappropriate and should not be implemented.
- Similarly to our answer to the previous question, WQZ notes that there is no mechanism for Government to compare projects for other forms of renewable electricity. Introducing such a process for offshore renewable energy is unnecessary and introduces uncertainty into the process of developing a project.
- WQZ's view is that there are no reasons for Government involvement in assessing and comparing offshore renewable energy projects.

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

- 5 See our answer to Q4

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?

- 6 WQZ suggests there are existing mechanisms to cover many of the suggested requirements for developers. These include the Resource Management Act 1991, the Overseas Investment Act 2005 and the Health and Safety at Work Act 2015. The development of a specific National Policy Statement on Offshore Renewable Energy can strengthen these requirements via consenting (and there should be a process for the policies and guidelines of such an NPS to apply to projects in the EEZ).
- Decommissioning is an important requirement not currently covered specifically and there should be a mechanism to ensure this is appropriately planned for and funded.
- WQZ notes that one of the proposed criteria is the economic development potential of a project. WQZ suggests that rather than economic development being judged on a project by project basis the Government should support the development of an Offshore Wind Energy

Sector Deal where it partners with the offshore wind industry to develop the sector. This could be comparable to the UK's Offshore Wind Sector Deal: [Offshore wind Sector Deal - GOV.UK \(www.gov.uk\)](http://www.gov.uk). This would provide both guidelines for projects and criteria and processes for the Government to support the development of the sector.

The development of such a sector deal provides opportunity for the Government to refocus its efforts onto developing the sector in partnership rather than the proposed regulatory regime which is restrictive and would result in undue barriers to the sector's development.

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

7 The current process under the RMA provides for consents to be granted for up to 35 years. WQZ suggests this is sufficient control over the length of time an area is used for commercial activity.

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?

8 WQZ notes the Resource Management Act already provides for this - developers should be required to lodge new Consent Applications for any extension of the area of their development.

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?**

While WQZ's interests are in the commercial deployment of proven technology it recognises the importance of R&D and demonstration projects. These projects should have a simple and straightforward mechanism under which they can operate. The proposed permitting regime will not provide such a mechanism.

Chapter 6: Economics of the regime

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?

While the consultation is on offshore renewable energy, our response to this question is specifically on offshore wind.

10 As noted in our response to Question 6, WQZ suggests that the Government should support the development of an Offshore Wind Energy Sector Deal where it partners with the offshore wind industry to develop the sector. This could be comparable to the UK's Offshore Wind Sector Deal: [Offshore wind Sector Deal - GOV.UK \(www.gov.uk\)](http://www.gov.uk). The development of such a sector deal would be a strategic acknowledgement of the economic development potential provided by offshore wind and would include agreed mechanisms to support the sector's development. WQZ suggests this is the broader strategic process by which these issues should

be addressed rather than through a document on regulatory reform. However, since these issues have been raised here, we will provide some commentary.

WQZ's view is that revenue stabilisation mechanisms, such as Contracts for Difference (CfDs), will be appropriate to support the development of the offshore wind industry. As noted in the consultation document, two-way CfDs provide revenue certainty but do not necessarily result in a subsidy. CfD's have successfully operated in the UK and encouraged the development of a large-scale offshore wind industry. The average UK CfD auction price has been below the average wholesale market price meaning the UK Government's cashflow has been net positive from the programme.

WQZ supports the development of a CfD programme in New Zealand. Provided an appropriate price is agreed the Government will be taking little risk while providing certainty of revenue to developers and their financiers.

WQZ notes that the Government also has the ability to be a customer for electricity via Power Purchase Agreements. Again, provided an appropriate price is agreed the Government will be taking little risk while providing certainty of revenue to developers and their financiers.

WQZ's view is that both Government CfDs and PPAs should be considered in New Zealand.

Such support should be provided by the Government on the basis of the strategic significance of the industry and the tax revenue resulting from it.

As noted earlier, WQZ's view is that the Government has no ownership rights with respect to either the seabed or wind, and does not have a legal mandate to implement a permitting regime. This lack of ownership will also stop it implementing a royalty income stream. This is quite different to other countries where there is clear Government or Government agency ownership of the seabed.

It is WQZ's view that the revenue gathering mechanisms suggested in the consultation document are inappropriate in Aotearoa New Zealand.

WQZ does however, view projects as having a responsibility to distribute benefits to affected communities, including iwi and hapū . Significant community benefit payments are made by offshore wind projects in a number of countries. It is WQZ's view that this is the model that should be implemented in New Zealand. Such community benefit payments should be agreed and committed to through the consenting process.

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?

11

As noted above, WQZ suggests that the strategic significance of the economic development opportunity associated with the offshore wind sector should be recognised by the New Zealand Government through a sector deal. Offshore wind should be targeted for support because of several key characteristics.

New Zealand's large and high-quality offshore wind resources provides a massive economic development opportunity that is not available from onshore generation of renewables. Offshore wind provides the only currently viable source of truly large-scale generation that will

be needed for the production of the Power to X products that will be required to decarbonise aviation, shipping, heavy road transport and production of key chemicals such as ammonia, urea and methanol. Large-scale generation and manufacturing of these products will be required to service the local market. There is an even larger opportunity from export of these products.

Offshore wind provides this large-scale generation without the impact on productive land that occurs with solar generation and with much less impact on landscape values than onshore renewables.

WQZ argues the risk is not from offering these support mechanisms to offshore wind over onshore renewables. The risk is rather from not offering them. If New Zealand does not support and encourage the development of offshore wind the country's productive land will be reduced and its highly regarded natural landscapes will be diminished by onshore wind.

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.

12

As already noted, WQZ does not agree there should be a dedicated revenue flow back to Government. The Government's return from projects will be the increased tax take resulting from the successful development of the offshore wind ecosystem – both generation projects and the industrial projects that will utilise the electricity generated.

WQZ views offshore wind projects as having a responsibility to distribute benefits directly to affected communities, including iwi and hapū . Significant community benefit payments are made by offshore wind projects in a number of countries. It is WQZ's view that this is the model that should be implemented in New Zealand. Such payments should be agreed and committed to through the consenting process.

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

13

WQZ does not agree with the proposed approach to cost recovery. Our view is that the Government should not be operating a permitting process and so its costs will be minimal.

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

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

14

WQZ suggests the Government should consider seeking independent legal advice on its basis for implementing a property-rights based regime of permitting and (potentially) royalty collection for offshore renewable energy.

Considering the country's history with the Seabed and Foreshore Act 2004 and the Marine and Coastal Area (Takutai Moana) Act 2011, WQZ is very surprised that the Government is proposing to introduce regulations that appear to be based on the assumption that the Government is the owner of the seabed.

Under the Marine and Coastal Area (Takutai Moana) Act 2011 it is iwi and hapū that have applied for Customary Marine Title that are the only parties with rights over the seabed.

The alternative assumption is that the Government is proposing to introduce a property-based suite of regulations that are based on the assumption that it owns the wind (or waves, tides or solar radiation). This also has no basis in law.

This is quite different to the situation with mineral and petroleum resources where the Government is the legal owner which provides the basis for implementing the property rights of permits and extraction of royalties.

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

WQZ agrees that iwi and hapū should be involved at a design stage, in decision making and in the economic opportunities that occur with offshore wind.

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

We note that offshore wind installations may have impacts on commercial fishing. Māori have significant interests in commercial fishing and it would be sensible to engage with those companies.

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?**

WQZ's view is that for projects that will have infrastructure both inside 12 NM and outside 12 NM it is sensible to have a single consenting agency responsible for all the offshore components of consent applications. As this is already allowable under the EEZ Act it makes sense for the Environmental Protection Authority to be the agency responsible.

Where projects are located inside the 12 NM boundary there is already a single agency responsible – the relevant Regional Council. WQZ's view is that this does not need to change.

18 **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?**

WQZ's view is that the consenting processes already in place adequately consider the environmental effects of an offshore renewable energy project. It is not necessary to duplicate the process.

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

As noted, WQZ's view is that the permitting process proposed is inappropriate and not needed. The Government does not need to assess the capabilities of a developer to obtain consents. We also note that success in consenting is likely to be significantly dependent on the capabilities of the advisors the developer chooses to use – rather than on the developer's direct capabilities.

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

20

As noted, WQZ's view is that the permitting process proposed is inappropriate and not needed. Our view is that the rigours of the consenting process are sufficient to ensure high quality projects are constructed and operated.

There should be no restrictions on when a resource consent can be applied for.

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?

WQZ's submission on the first round of consultation noted that instead of a complicated, commercially restrictive and legally questionable permitting process there should be a National Policy Statement on Offshore Renewable Energy. This would guide developers and consenting agencies on the expected standards for offshore renewable energy developments.

Having reviewed the latest document this remains WQZ's view.

While the development of a national policy statement is not an easy process it is a simpler approach than what is proposed and will ensure high quality projects are constructed and operated.

This National Policy Statement on Offshore Renewable Energy should supersede the unnecessarily restrictive "avoid" policies of the New Zealand Coastal Policy Statement.

We also note that there should be a process for such a NPS to apply in the EEZ so there are consistent policies and guidelines wherever a project is located.

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?

WQZ agrees with the short list of key factors suggested – project economics, landscape, character and amenity value, environmental impacts, and existing and future uses and interests.

As an example of the interplay of these key factors - WQZ views the optimum location for an offshore wind development in the South Taranaki Bight as being in the territorial sea from 5-12 NM offshore. At this distance from shore the project economics are better and the overall environmental impact is lower than for sites further from shore. There is also less impact on other uses such as commercial shipping, commercial fishing and mining activities.

The territorial sea waters in the South Taranaki Bight also form part of the West Coast North Island Marine Mammal Sanctuary. We understand other developers are considering projects that will run cabling through the Sanctuary. It is important that the presence of the Sanctuary does not unduly restrict the development of offshore renewable energy – nor drive developers to site turbines further from shore where, perhaps counter-intuitively, there are likely to be greater impacts on marine mammals (such as Blue Whales).

Chapter 9: Enabling transmission and other infrastructure

23 **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?**

The trade-offs between the two approaches that were suggested appear correct. WQZ is expecting a developer-led approach in New Zealand.

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?**

WQZ expects Transpower to build and own interconnection infrastructure (the core national grid) but is open regarding the ownership of connection assets transmitting electricity from the shore to the grid connection point. This could be owned by the developer, Transpower or a third party infrastructure provider.

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?**

WQZ agrees with the comment in the consultation paper that developers are unlikely to coordinate on joint connection infrastructure and the reasons given i.e. there will be commercial sensitivities, timelines are unlikely to align perfectly, and one developer is unlikely to take on risk related to another project.

WQZ notes there are unlikely to be benefits for the first mover developer - with greater benefits accruing to subsequent projects.

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?**

WQZ agrees there are likely to be timeline challenges with developing interconnection assets. We understand the suggestion that one approach could be for developers to fund some preparatory work and it will be helpful for there to be a mechanism for this to occur. We also suggest that the operating model for Transpower (and/or electricity distribution businesses) could (and should) be changed to enable investment in “anticipatory capacity” ahead of confirmed demand. We will be commenting further on this issue in our submission on “Measures for Transition to an Expanded and Highly Renewable Electricity System”.

27

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

WQZ suggests there should be publicly funded upgrades of port infrastructure to enable offshore wind development in New Zealand. Offshore developers would in turn contribute to repaying this investment in infrastructure through port charges.

This would create a more level playing field with onshore renewable energy businesses which already receive use of publicly funded infrastructure in the form of roads, and contribute to the roading system's operating costs through road user charges and excise tax.

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?

WQZ agrees that developers should have decommissioning plans (noting that these would be indicative initially and then firmed up as the decommissioning date gets closer) and cost estimates, and provide financial security.

29

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

WQZ's view is that the decommissioning plan, cost estimates and security should not be based on the assumption of full removal. This is because full removal is not and is not likely to be international best practice. Best practice is to leave infrastructure under the seabed in situ and remove infrastructure that is located above the seabed. Leaving infrastructure under the seabed in situ (e.g. buried cables and the lower parts of foundations) has considerably less environmental impact than would result from the works required to fully remove them. Full removal is also considerably more expensive than leaving the infrastructure under the seabed in situ. Setting aside funding for works that will not be carried out would impose a very large financial cost on projects (considering the estimated 35+ years project life).

The decommissioning plan, cost estimates and financial security required should be based on a realistic best practice decommissioning process.

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?

WQZ notes that offshore wind projects are developed on the basis of the likely future costs that will be in place when the projects are constructed (and not on the basis of current costs). Over the 30 years that the offshore wind industry has been operating there have been significant reductions in costs. The first projects are only now being decommissioned. The costs for these first projects will likely be much higher than for future projects. While the exact "learning rate" reduction in costs is uncertain it will occur.

WQZ's view is that the indicative decommissioning process and costing model should be designed and prepared by an independent professional firm. This will lead to the best

assessment of the likely decommissioning costs and reduced likelihood of undue costs being imposed on developers. This plan should be reviewed and re-costed every ten years and the financial security required from the developer adjusted.

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

As noted earlier, WQZ's view is that the permitting process is inappropriate and should not be implemented.

WQZ's view is that an indicative decommissioning plan should form part of the project's initial consent application and assessed by the appropriate consenting authority. Consenting is the correct process for an initial assessment of the potential effects of decommissioning.

Consent conditions should include the process for the project providing financial security.

WQZ expects that a detailed and specific consent application will be required at a later date (perhaps 35 years later) when the actual decommissioning process is being planned. It is likely that decommissioning methods will have improved and during that time.

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

As noted above, WQZ suggests that the decommissioning plan and costings are reviewed every ten years based on independent professional advice.

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

The global offshore wind industry is placing considerable emphasis on life cycle analysis of projects and continually improving recycling processes for decommissioned infrastructure. There is no need for a specific regulatory requirement for this to occur.

If there are new regulations surrounding recycling they should be applied equitably to any requirements for onshore projects.

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?

Yes

Chapter 11: Compliance

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

As noted, WQZ's view is that the proposed permitting process is inappropriate and unnecessary. Project compliance is already regulated through the relevant legislation –

Resource Management Act, EEZ Act, Health and Safety at Work Act and the various codes of practice for marine and electricity industry activities

The offshore renewable energy industry should have comparable compliance processes to those in place for onshore renewable energy. The comparison with the requirements under the Crown Minerals Act is inappropriate.

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

Extending on our answer to the previous question – the proposed compliance approach is inappropriate. There are already suitable regulatory and compliance processes in place.

We suggest that the starting point should be to ensure that the offshore renewable energy industry has comparable processes to those in place for onshore renewable energy.

Chapter 12: Other regulatory matters

37 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?

As noted throughout this submission, WQZ's view is that the proposed permitting approach is flawed and inappropriate. The existing regulatory environment is sufficient to ensure good projects are consented, built and monitored – with the addition of a National Policy Statement for Offshore Renewable Energy.

If a permitting process is introduced, decisions should ideally be made by a regulator.

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 appropriate process for public submissions on projects is through the existing consenting process.

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

QZ WQZ notes that there is already an existing appeal process regarding consents. Our view is that this is sufficient.

While WQZ does not agree with the proposed permitting process, if it is introduced there should be an opportunity for appeal. These projects are too significant for there not to be an avenue for reviewing decisions.

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 global offshore wind industry operates in markets where there are very high health and safety standards and regulations in place, and developers expect this to be the case in New

Zealand. WQZ's view is that it is unlikely that New Zealand requirements will place undue project risks for developers.

WQZ also notes that many key risk areas will not involve the developer's business directly. Considerable components of work involved in developing and operating an offshore wind project will involve contractors. It is a key responsibility for developers that these businesses are aware of their requirements, and are monitored for compliance.

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

WQZ notes that safety zone requirements vary from project to project and country to country. The development of safety zone standards in New Zealand requires further investigation and should be assessed as part of the consenting process and form part of consenting conditions. It should be considered in the National Policy Statement on Offshore Renewable Energy that we have proposed.

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

WQZ's expertise is with offshore wind. We do not have any comments on the applicability of the regime to other renewable energy technologies.

General comments

WQZ has hoped that the outcome of the offshore wind regulatory review will be enabling legislation that recognises:

- New Zealand has a globally significant offshore renewable energy resource (particularly offshore wind) that can slash New Zealand greenhouse gas emissions and contribute to emissions reductions in other countries.
- The urgency with which the offshore renewable energy resource needs to be developed for the country to achieve its emissions reduction targets.
- There should be equity with the regulations for onshore renewable energy.

The simplest way to achieve these outcomes is to make enhancements to the existing consenting regulations, notably by introducing a National Policy Statement for Offshore Renewable Energy that will provide guidance to developers and consenting agencies over expected standards and conditions that should be placed on projects.

Instead, what has been proposed is a permitting pathway that is seemingly designed for the Government to:

- Control the industry by choosing projects and developers.
- Restrict investment by putting barriers in the way of developers that are not present for onshore renewable energy projects.

The proposed regulatory regime is not fit for purpose. Furthermore, it is based on a process that involves the Government providing property rights over resources which it does not own. We urge the Government to:

- Seek further independent legal advice on the proposed regime.
- Explore the creation of a regulatory regime based around the existing consenting legislation and the development of a National Policy Statement on Offshore Renewable Energy.

Thank you for the opportunity to provide this submission and we look forward to further engagement with MBIE.