



COVERSHEET

Minister	Hon Simeon Brown	Portfolio	Energy
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List of documents that have been proactively released

Date	Title	Author
14 December 2023	Offshore renewable energy	MBIE
18 December 2023	Iwi Engagement in Offshore Renewable Energy	MBIE
1 February 2024	Offshore renewable energy: Timing and design of permitting regime	MBIE
1 March 2024	Offshore renewable energy: Regime design and next steps for Cabinet decisions	MBIE
15 March 2024	Offshore Renewable Energy – Alignment with Fast-track Approvals Bill	MBIE
28 March 2024	Offshore renewable energy regulatory regime: Draft Cabinet Paper	MBIE
18 April 2024	Offshore renewable energy – Interaction with environmental consents	MBIE
17 May 2024	Offshore renewable energy regulatory regime – Next steps	MBIE
21 May 2024	Offshore renewable energy – decommissioning requirements	MBIE
22 May 2024	Offshore renewable energy regulatory regime - Timeline	MBIE

Information redacted

YES

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

- Privacy of natural persons
- Commercial information
- Confidentiality
- Confidential advice to Government
- Free and frank opinions
- Legal professional privilege
- International relations
- Constitutional conventions



BRIEFING

Iwi Engagement on Offshore Renewable Energy

Date:	18 December 2023	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2324-1361

Action sought		
	Action sought	Deadline
Hon Simeon Brown Minister for Energy	Discuss approach to further engagement at your meeting during the week of 22 January 2024. Forward to the Hon Shane Jones, Associate Minister for Energy.	19 January 2024

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Peter Bartlett	Director, Sector Engagement	Privacy of natural persons	✓
Melanee Beatson	Manager, Offshore Renewables and Hydrogen	Privacy of natural persons	

The following departments/agencies have been consulted
N/A

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

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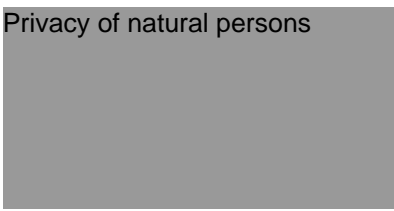
Recommended action

The Ministry of Business, Innovation and Employment (MBIE) recommends that you:

- a **Discuss** approach to further engagement at your meeting during the week of 22 January 2024.

Agree / Disagree

Privacy of natural persons



Peter Bartlett,
Director, Sector Engagement
Energy and Resource Markets, MBIE

18 / 12 / 2023

Hon Simeon Brown
Minister for Energy

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Purpose

1. This brief provides an outline of issues that iwi have raised in relation to the offshore renewables regime (the regime). We intend to discuss these at your meeting during the week of 22 January 2024 to inform any next steps.

Background

Government priorities

2. You have set the following relevant priorities for this term:
 - a. Deliver Net Zero by 2050 including by doubling New Zealand's renewable electricity.
 - b. The Coalition Government will work to improve outcomes for all New Zealanders, and will not advance policies that seek to ascribe different rights and responsibilities to New Zealanders on the basis of their race or ancestry.
 - c. The Coalition Government will honour the undertakings made by the Crown through past Treaty of Waitangi settlements.
3. We also note the intention to work constructively with iwi set out in your policy on offshore wind.

Iwi engagement on offshore renewables to date

4. Throughout the process to develop the offshore renewables regime, officials have been engaging regularly with iwi in regions where the initial tranche of offshore wind farms are expected by developers. The first tranche are being explored in South Taranaki and off the west coast of Waikato. One developer has also indicated that a second tranche could include floating offshore wind off the coast of Southland. A summary of relevant iwi and engagements to date is included in **Annex One**. A map produced by Transpower with potential development locations is attached in **Annex Two**.
5. In June 2023, the previous government directed officials to run a dedicated process with iwi to develop practical options on the following [DEV-23-MIN-0126 refers]:
 - 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.
 - b. How to ensure iwi and hapū benefit from the establishment of an offshore renewable energy industry.
6. The previous Minister of Energy and Resources met with the National Iwi Chairs Forum (NICF) in July 2023. Confidentiality [REDACTED]
7. Confidentiality [REDACTED] iwi from Taranaki, Waikato and Southland have coalesced into a smaller group that MBIE has regularly engaged with on development of the regime. This group has been valuable to understand iwi interests in the regime and offshore renewables industry. With this group, we pursued the dedicated process directed by Cabinet in the form of in-depth workshops on various issues outlined in this brief. This process was paused to allow for the general election and further discussions with you. Iwi are also engaging regularly with developers, including exploring commercial relationships.
8. Taranaki iwi bring a specific perspective to energy and resources policy and permitting issues given the oil and gas industry is also located there and there have been various court cases and Waitangi Tribunal hearings on Crown minerals issues. [REDACTED]
Free and frank opinions [REDACTED]

While Ngāi Tahu and Waikato iwi have less historic engagement with the energy and resources portfolios, they are now actively lifting their effort on energy issues generally.

Iwi perspectives on offshore renewables

9. Free and frank opinions [redacted]
10. Iwi have, however, raised concerns with how the regime will be structured, and whether it will reflect their view of the Crown's obligations under the Treaty of Waitangi (the Treaty). The major issues that iwi have raised in relation to the regime are:
- a. an expectation for adequate involvement in policy design and permitting decision making, reflecting how iwi view their status as Treaty partners,
 - b. expectations that the regulatory regime will require project developers to undertake adequate engagement with iwi on all aspects of projects,
 - c. ensuring rights and interests in the marine space that stem from the Treaty or Treaty settlements are maintained or compensated for if offshore developments affect these,
 - d. strong interests in being economically involved in the industry and Government supporting this, particularly any benefit sharing if the Government decides to take revenue from offshore renewables developments.
11. Confidentiality [redacted]
12. In respect of Government support for commercial involvement, Taranaki iwi in particular have asked that any royalties from developments should be shared between iwi and the Crown. Free and frank opinions [redacted] In our initial briefing on the offshore regime [2324-1066 refers], we have noted that we will recommend to you that the Government does not take a royalty from developments. Iwi are aware that this is a potential outcome.
13. Free and frank opinions [redacted]

Existing Treaty rights and interests in the marine space are complex

14. The initial tranche of offshore renewables developments are likely to involve activity in both the coastal marine area (out to 12 nautical miles) and exclusive economic zone (EEZ, beyond the 12 nautical mile limit). We expect the generation assets themselves to be built in the EEZ, with transmission lines running through the coastal marine area.
15. Different legal positions and rights and interests apply in each area. In the coastal marine area, the Marine and Coastal Area (Takutai Moana) Act 2011 replaced the Foreshore and Seabed Act 2004 and provides various customary title and customary interests to iwi. Most of these rights, and particularly those for Taranaki iwi, have not yet been formalised, with The Office for Māori Crown Relations – Te Arawhiti running an ongoing process. An interim Waitangi Tribunal report on the Marine and Coastal Area Act was also issued in early October 2023 which makes some recommendations for the Government to change the scope of

these rights. The Government has also committed to amend section 58 of the Marine and Coastal Area Act to make clear Parliament's original intent.

16. Customary rights and interests are important considerations to the development of offshore renewables as they provide avenues for iwi to assert certain involvement (and in some limited cases, a veto) through consenting processes under the Resource Management Act 1991.
17. In the EEZ, current rights and interests are less clear. However, we understand both Ngāi Tahu (Southland) and Maniopoto (Waikato) Treaty settlements have Crown acknowledgements that their customary interests extend out to these areas. New Zealand is also bound by the United Nations Convention on the Law of the Sea (UNCLOS), which determines the scope of our sovereignty in the EEZ (broadly, we have the right to regulate activity, but do not "own" the area).
18. In addition, fisheries settlements and quota have been raised. Offshore wind developments may reduce the size of quota areas that could be fished, but it is not yet clear how material this impact could be. We have sought to discuss this directly with iwi and with Te Ohu Kaimoana (the trust set up to manage Māori fisheries quota). We intend to work further with Te Ohu Kaimoana to ensure the potential impacts on fisheries quota are not overstated or misunderstood.
19. **Confidentiality**
Offshore renewables are significantly different from Crown resources, in that the wind is an intangible resource for which Crown ownership has not been asserted, and further, is not located in a specific geographic area under Crown ownership. The regime will however provide exclusive rights to developers to undertake activities in particular marine spaces, with significant impact on other activities. While we intend not to recommend royalties, the structure of any Government revenue gathering would need to be carefully managed in respect of this issue.
20. We are doing further work to determine what implications offshore renewables developments, and the regime, have for current iwi rights and interests in the marine space, and can provide you further advice.

Developers support active iwi involvement

21. The current group of offshore wind developers active in New Zealand are supportive of meaningful involvement of iwi in the permitting regime, throughout all stages of developments, as well as economically. Developers indicate they understand the need to build strong social license for offshore wind farms in local communities, given the long-term nature of the assets.
22. In respect of the permitting process and their own engagement, developers indicate that they would appreciate the regime providing certainty over the roles and responsibilities of all parties through robust guidance, and application and permit criteria. Developers also indicate they support a proportion of application fees funding iwi engagement processes.
23. In respect of commercial involvement, at least one developer has publicly indicated they would support the Government taking a royalty and distributing it to iwi, while some others have begun conversations about direct commercial relationships.

Next steps

24. We would like to discuss these issues with you to inform further engagement with iwi and any policy design for the offshore renewable regime consistent with your priorities. Subject to

your guidance, there would be options to deal with some of the above issues through legislative provisions in the offshore regime.

25. We also recommend continuing the close engagement to date, both at officials level and directly between you and relevant iwi. We would like to discuss with you how best to manage this engagement to inform any further work you may wish to pursue on the design the regime.
26. For example, you could consider holding early hui on offshore renewables, including with the NICF, to establish relationships and understand iwi perspectives. We expect that relevant iwi are also likely to request a meeting early in your term.

Annex One – Summary of recent Iwi Engagements

1. The following is a summary of the main iwi that have taken an interest in the offshore regime and previous engagements.

Taranaki

2. In Taranaki, developments are likely to occur in the territory of Ngāti Ruanui and Ngāruahine (which border either side of Hawera), and potentially Ngā Rauru (south of Patea). These would likely connect to the grid in Stratford or Brunswick.
3. All eight Taranaki iwi are taking an active interest in the development of the regime and potential industry, given this is likely to centre in the wider region. Due to their Treaty settlement structure the eight Taranaki iwi regularly work collectively to address policy issues and administer their settlements. We have engaged both individually and collectively with iwi on this basis (particularly via the collective settlement organisation Ngā Iwi o Taranaki).

Waikato

4. Offshore renewables developers are also exploring the west coast of Waikato, connecting to the grid at Huntly or Glenbrook and potentially servicing electrification of heavy industry in the region. In the past few months Waikato Tainui and Maniopoto (both border Kawhia harbour) and Ngāti Whātua Ōrākei (extending from just north of Dargaville to south of Auckland) have become more interested in being involved in offshore wind policy and commercial developments, and have begun to increase their engagement with us.

Southland

5. One offshore wind developer has also indicated that a second tranche of developments could include floating offshore wind off the coast of Southland. As floating offshore wind is currently significantly more expensive than fixed bottom, and due to uncertain demand and much more difficult technical considerations in Southland, we do not expect developments to happen before the late 2030s, if at all. However, Ngāi Tahu has also been actively involved in engagement on the regime.

Recent engagements

September 2022	Ministerial hui and officials level workshop.
September to November 2022	Workshops on iwi specific policy content for the phase one discussion document.
December 2022	Ministerial hui alongside release of phase one discussion document.
February to November 2023	Regular one to one meetings with iwi where requested.
July 2023	Meeting between Minister of Energy and Resources and NICF Chairs of Pou Tahua (Economic Growth Pillar) and Pou Take Ahuarangi (Climate Change Pillar)
August 2023	Taranaki and Waikato Iwi, and Ngāi Tahu, establish an informal working group on offshore renewables to engage with officials
August to October 2023	Workshops to inform policy questions on the phase two discussion document

Annex Two – Location Map

