



COVERSHEET

Minister	Hon Simeon Brown	Portfolio	Energy
Title of Cabinet paper	Offshore Renewable Energy Regulatory Regime Offshore Renewable Energy Bill: Approval for Introduction	Date to be published	20 December 2024

List of documents that have been proactively released		
Date	Title	Author
November 2024	Offshore Renewable Energy Bill: Approval for Introduction	Office of the Minister for Energy
November 2024	Offshore Renewable Energy Bill: Approval for Introduction LEG-24-MIN-0235	Cabinet Office
13 June 2024	2324-3049 Offshore renewable energy regime – offences, penalties, powers and appeals	MBIE
20 June 2024	2324-3446 Offshore Renewable Energy regulatory regime – permit variations	MBIE
25 July 2024	2324-4013 Offshore renewable energy - update on progress and establishment of a developer working group	MBIE
8 August 2024	2425-0577 Accelerated timing for Offshore Renewable Energy Bill and Hydrogen Action Plan	MBIE
19 August 2024	2425-0725 Engagement with iwi on the offshore renewable energy regulatory regime	MBIE
23 August 2024	2425-0230 Offshore renewable energy regulatory regime – decommissioning obligations	MBIE
23 August 2024	2324-3448 Offshore renewable energy regulatory regime – transmission infrastructure	MBIE
18 October 2024	BRIEFING-REQ-0004369 Offshore Renewable Energy Bill – draft Cabinet paper seeking approval for introduction and agreement to related policies	MBIE
7 November 2024	BRIEFING-REQ-0005576 Offshore Renewable Energy Bill – updated Cabinet paper seeking approval for introduction	MBIE
June 2024	Offshore Renewable Energy Regulatory Regime: Policy Decisions	Office of the Minister for Energy
June 2024	Offshore Renewable Energy Regulatory Regime: Policy Decisions Minute of Decision CBC-24-MIN-0041	Cabinet Office

May 2024	Offshore Renewable Energy Regulatory Regime	Office of the Minister for Energy
May 2024	Offshore Renewable Energy Regulatory Regime Minute of Decision ECO-24-MIN-0062	Cabinet Office

Information redacted

YES

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

- a. Privacy of natural persons
- b. Confidential advice to Government



BRIEFING

Offshore renewable energy regulatory regime – transmission infrastructure

Date:	23 August 2024	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2324-3448

Action sought		
	Action sought	Deadline
Hon Simeon Brown Minister for Energy	Agree to the proposed approach to managing the development of transmission infrastructure supporting offshore renewables	2 September 2024

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Melanee Beatson	Manager, Offshore Renewable Energy and Hydrogen Policy	Privacy of natural persons	<i>For Offshore Renewable Energy policy matters</i>
Tamara Linnhoff	Manager, Electricity Generation, Infrastructure and Markets Policy	Privacy of natural persons	<i>For matters relating to Transpower and the wider electricity system</i>
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The following departments/agencies have been consulted
MBIE (Commerce and Consumer Affairs portfolio), Parliamentary Counsel Office

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

Title

Date:	23 August 2024	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2324-3448

Purpose

To seek policy decisions on the treatment of transmission infrastructure under the offshore renewable energy (ORE) regime, to inform the instructions to Parliamentary Counsel Office (PCO) for the drafting of the Offshore Renewable Energy Bill.

Executive summary

In June 2024, Cabinet agreed to the overall design of a regulatory regime for ORE, the purpose of which is to:

- give developers greater certainty to invest in ORE projects;
- enable the selection of developments that best meet New Zealand's national interests; and
- manage the risks to the Crown and the public from ORE developments.¹

The regime covers both generation infrastructure (e.g. wind turbines) and transmission infrastructure (e.g. subsea cables and offshore substations) in the Exclusive Economic Zone (EEZ) and territorial sea. In June 2024, Cabinet:

- agreed to an in-principle approach to managing the development of transmission infrastructure for ORE developments (in which commercial permit holders would be responsible for planning, building and funding transmission infrastructure and Transpower would become responsible for owning, operating and decommissioning it), and
- noted that the Minister for Energy intended to return to Cabinet with further proposals.

We have undertaken further policy work and recommend that the regime:

- does not prescribe strict roles and responsibilities or legislative mechanisms to facilitate transfers of ownership of transmission infrastructure (a departure from Cabinet's in-principle decision),
- maintains parity where possible with existing regulatory settings and pricing for transmission connections and service for onshore transmission investment development, and
- applies safety zone provisions and decommissioning obligations to transmission infrastructure in a targeted way, to minimise risks to the Crown and public.

Subject to your agreement, we will instruct Parliamentary Counsel Office (PCO) to reflect this approach in the Offshore Renewable Energy Bill (the ORE Bill). We recommend that you seek Cabinet's explicit agreement to the approach when you seek approval to introduce the Bill in November.

¹ While this third prong of the regime's purpose was not explicitly agreed by Cabinet, it is the driver for several policies Cabinet has agreed and will feature in the purpose statement of the Bill.

Recommended action

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

- a **Note** that Transpower has existing systems, processes and guidance to enable either ORE developers or Transpower to build transmission infrastructure and enable developers to transfer assets to Transpower to operate and maintain
Noted
- b **Agree** that, while some developers have identified they want to be able to develop transmission infrastructure themselves and to transfer it to Transpower once it is operational, the regime should not prescribe these roles and should retain flexibility for any party to build, own and/or operate the infrastructure
Agree / Disagree
- c **Agree** that ORE permits will not be required for a person to build and operate transmission infrastructure, noting that environmental consents and other regulatory approvals will still be required
Agree / Disagree
- d **Agree** that, consistent with the approach taken with ORE generation infrastructure, anyone that builds, owns or operates transmission infrastructure for ORE will:
- i. have a statutory obligation to decommission infrastructure built in the EEZ and territorial sea
 - ii. be required to provide financial security to cover decommissioning costs, unless the infrastructure is owned by Transpower
 - iii. be able to apply for safety zones around cables and substations built in the EEZ and territorial sea, and
 - iv. be subject to any other obligations or requirements necessary to minimise risks to the Crown and public identified during draft of the ORE Bill
- Agree / Disagree*
- e **Agree** that the ORE Bill includes offences and penalties for breaches to of any decommissioning obligations and safety zones that apply to transmission infrastructure
Agree / Disagree
- f **Note** that we will work with the Parliamentary Counsel Office (PCO) to give effect to these decisions in the ORE Bill
Noted
- g **Agree** to seek Cabinet's explicit agreement to the approach to regulating transmission infrastructure when you seek approval this November to introduce the Bill
Agree / Disagree

Privacy of natural persons



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Energy Markets, MBIE

23 / 08 / 2024

Hon Simeon Brown
Minister for Energy

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Background

1. Offshore renewable energy (ORE) developments require significant and expensive transmission infrastructure to connect the offshore generation assets (e.g. offshore wind turbines) to the national grid. The transmission infrastructure includes offshore substations and subsea cabling.
2. On 10 June 2024, Cabinet Business Committee agreed to the detailed design of the ORE regime, which applies to all commercial ORE infrastructure, including transmission infrastructure [CBC-24-MIN-0041 refers]. Cabinet agreed in-principle to a hybrid development model in which:
 - a. commercial permit holders will be responsible for planning, building and funding new offshore transmission infrastructure, and
 - b. Transpower will become responsible for owning, operating and decommissioning offshore transmission infrastructure and may be involved in prescribing technical design standards.
3. The Cabinet paper explained that further policy work was needed on the details of how offshore transmission infrastructure would be regulated. Cabinet noted that you intended to return to Cabinet with further proposals on transmission infrastructure.
4. Following further policy development and discussions with the Commerce Commission, the Electricity Authority and Transpower, this briefing provides advice on the proposed approach to regulating the development of transmission infrastructure connected to ORE developments.
5. This briefing does not provide advice on:
 - a. non-regulatory challenges for connecting offshore renewable energy developers to onshore interconnection infrastructure (the grid backbone), where significant upgrades may be required because of the amount of power they generate, and
 - b. measures to address regulatory barriers in the Resource Management Act 1991, as they are being considered separately in the Electrify NZ work programme.

Objectives for treatment of transmission in the ORE Bill

6. To help us assess policy options, we developed a set of objectives for the treatment of transmission infrastructure in the ORE Bill. We determined that in addition to supporting the broad purposes of the regime, the treatment of transmission infrastructure should:
 - a. enable **timely development** of appropriate transmission infrastructure
 - b. **minimise risks** to the Crown and public, especially risks from abandoned transmission assets, and risks to other marine users
 - c. maintain **parity** where possible with existing regulatory settings and pricing for transmission connections and service for onshore transmission investment development
 - d. ensure **consistent treatment** of transmission infrastructure in the EEZ and territorial sea, and
 - e. **minimise economic and regulatory burden** by relying on existing regimes where possible.

Design of transmission settings

Existing processes will enable the most efficient allocation of responsibilities between developers and Transpower

7. The division of responsibility set out in the in-principle decisions (i.e. permit holders build and Transpower owns operates and decommissions ORE transmission infrastructure) described in paragraph 2 above) was intended to:
 - a. provide **investment certainty** to developers by giving them control over delivery timeframes, quality and costs of transmission infrastructure and by providing clearly defined roles and responsibilities to developers and Transpower, and
 - b. **leverage the respective strengths** of developers and Transpower, as developers are likely to have the greatest technical expertise in designing and building the transmission assets (especially those with ORE developments in other countries), while Transpower may be the most suitable entity to maintain and operate the infrastructure.
8. We have determined that these outcomes can be achieved without further regulatory intervention. Through further discussions with the Commerce Commission, Electricity Authority and Transpower we have confirmed:
 - a. While Transpower generally develops transmission infrastructure,² electricity generators can develop infrastructure and privately negotiate transfers of assets to Transpower.³ The development and ownership of transmission infrastructure connecting to the grid is a matter of commercial choice and agreement between the parties involved.
 - b. Transpower is well positioned to own and operate offshore transmission infrastructure that connects ORE wind farms. For example, Transpower presently owns and operates the High Voltage Direct Current link between the North and South Islands. Initial conversations with Transpower have suggested that existing processes can be adapted and extended to apply to offshore developments. Once Cabinet decisions are announced, Transpower intends to undertake further work to determine how this occurs.
 - c. It may be beneficial or preferable in some circumstances for electricity generators or other third parties to retain ownership of some or all transmission infrastructure connected to ORE developments. The system currently provides greater flexibility to allow any party to own and maintain infrastructure connecting to the national grid which may deliver better outcomes in the long term.
 - d. Existing requirements and incentives will ensure any infrastructure connecting to the grid is of a suitable standard to maintain the integrity of the grid. Transpower requires that developers engage early with Transpower to ensure the design and specifications of transmission infrastructure is adequate. Transpower operates a stage-gate process to new connections and is involved every step of the way, even for developer-led connection projects.

² A Transpower Works Agreement is used where a customer asks Transpower to build and commission new grid-connected assets, e.g. a new connection to the grid or an upgrade of an existing connection to the grid. The costs to be paid under this agreement are the actual delivery costs, plus interest during construction and (where applicable) financing costs.

³ Transpower released guidance in December 2023, after consultation closed on the ORE regulatory regime, on customer-led new connections. If customers build assets that Transpower has agreed to take ownership of, the transfer occurs through a Sale and Purchase Agreement and is triggered upon final inspections of works completed, approved commissioning tests and accepting new connection assets.

- e. Transpower can issue guidance to help provide clarity on questions such as how transmission assets will be valued to inform commercial negotiations to transfer assets to Transpower. This will level the playing field between developers and enable them to forecast financials with greater certainty.

We recommend against further regulatory intervention

- 9. Further regulatory intervention could remove flexibility, which can adversely impact competition and prevent the most efficient allocation of roles between developers and Transpower. A one size fits all approach may not work given the expertise of different permit holders will vary. Furthermore, an approach that is suitable for offshore wind may not be the ideal approach for developments of other offshore renewable technologies (e.g. wave, tidal) in the future. Relying on the existing settings better achieves the following of our objectives:
 - a. enables **timely development** of appropriate transmission infrastructure by retaining flexibility for the most capable party to develop the infrastructure
 - b. **maintains parity** with onshore transmission infrastructure development by applying the same regulatory settings and pricing mechanisms, and
 - c. **minimises economic and regulatory burden** by relying on existing regimes.
- 10. The main risk of our proposed approach is that, as flagged by some developers during consultation, the existing mechanism for transferring assets to Transpower through commercial negotiation creates uncertainty about the terms they could expect. While a more prescribed approach could create greater certainty for developers, we consider that it is not integral to enabling development, and that education for and constructive engagement with developers to help them understand existing settings may address their concerns.

The regime will apply to transmission in a targeted way

- 11. Cabinet has already agreed that the regulatory regime applies to commercial ORE developments, which includes any transmission infrastructure connecting the generation infrastructure to the national grid. This was necessary given transmission infrastructure poses similar risks to generation infrastructure and integral to the delivery of ORE developments.
- 12. However, there are a few key differences between transmission infrastructure and generation infrastructure that warrant different treatment in the Bill. For example:
 - a. We understand that site exclusivity is not critical to the development of transmission infrastructure. Transmission cables commonly overlap and substations in some cases are shared between multiple developments. To better enable this, the size and shape of the permit area will be driven by the generation infrastructure only.
 - b. As indicated in Cabinet's in-principle decisions, it is highly likely that transmission infrastructure will be developed and managed by different parties over its lifetime. The regime needs to allow the potential for transmission infrastructure to be transferred and shared between multiple parties – this is generally not the case for generation infrastructure.
 - c. Transpower is a state-owned enterprise so the risk of it failing to decommission infrastructure is less consequential than private companies. Transpower has mechanisms in place to fund the costs of decommissioning infrastructure under the Transmission Pricing Methodology. Imposing financial security obligations would cause financial burden, which would increase costs that flow on to consumers.
- 13. To minimise the regulatory burden and achieve the objectives set out above, we recommend applying a targeted approach to the management of these risks that is consistent to the

approach taken with generation infrastructure. We have discussed how to implement these proposals with PCO. It is expected to work in the following way:

- a. The Minister for Energy will be able to consider transmission plans and security of supply risks as part of the permit allocation process to ensure developments are appropriately sized.
 - b. Iwi and the public will be consulted on transmission plans (alongside plans for the generation infrastructure) as part of the permit allocation process.
 - c. There will be a statutory obligation on the relevant permit holder or any person who owns or operates transmission infrastructure connected to ORE developments to decommission transmission infrastructure built in the EEZ and territorial sea.
 - d. Financial security to cover decommissioning costs will be required from the relevant permit holder or any person who builds, owns or operates ORE transmission infrastructure in the EEZ and territorial sea – unless the transmission infrastructure is owned or operated by Transpower (as explained in paragraph 12(c)).
 - e. A permit holder or any person who owns or operates transmission infrastructure will be able to apply for safety zones around cables and substations built in the EEZ and territorial sea.
 - f. Offences and penalties are created for breaches of any decommissioning obligations and safety zones.
 - g. Owners and operators of offshore transmission are not required to obtain permits under the ORE permitting regime (i.e. the permits apply only to generation infrastructure such as wind turbines).
14. In practice, this means that ORE developers, Transpower or any third party involved in owning and operating transmission infrastructure will be subject to a statutory decommissioning obligation and may apply to establish safety zones around the infrastructure, without being required to hold a feasibility or commercial permit. Existing regulatory obligations applying to the electricity industry will still apply, to ensure infrastructure is maintained at an appropriate standard and environmental impacts are appropriately considered.

International experience suggests targeted intervention may be most suitable for New Zealand

15. New Zealand's electricity transmission system does not warrant greater intervention in the form of a separate permitting system for transmission infrastructure (as adopted by Australia and the United Kingdom). Our transmission system is a natural monopoly and a comparatively smaller market servicing the whole country. In the short term, we are unlikely to see the level of competition for offshore transmission infrastructure and critical mass of ORE developments that might warrant a separate permit for transmission.
16. The targeted approach also provides more flexibility and choices for the New Zealand regulatory system to evolve as the industry matures. Globally, as markets matured, several jurisdictions have moved towards a more centralised or 'plan-led' development model where the Transmission System Operator or a third party builds and operates transmission infrastructure. This is generally driven by opportunities for joint connection and efficiencies of scale that arise when numerous ORE developments are co-located in one area.

Next steps

17. We will be meeting with developers and representatives from the Commerce Commission, Electricity Authority and Transpower on 5 September 2024, and will confirm the workability of the policy approach and any supporting work needed at that meeting.
18. As directed by you, we are working closely with PCO to provide you with a draft ORE Bill by early November. Subject to your agreement to the recommendations in this paper, we will instruct Parliamentary Counsel Office to reflect this approach in the ORE Bill.
19. We recommend that rather than returning to ECO with these policy decisions, you seek Cabinet's explicit agreement to the approach when you seek approval this November to introduce the Bill. This will enable the ORE Bill to be drafted in time for introduction this year and minimises the burden on Cabinet's time.