



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 – update on progress and establishment of a developer working group

Date:	25 July 2024	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2324-4013

Action sought		
	Action sought	Deadline
Hon Simeon Brown Minister for Energy	Agree for MBIE to establish an offshore renewable energy developer working group.	31 July 2024

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Melanee Beatson	Manager, Offshore Renewable Energy & Hydrogen Policy	Privacy of natural persons	
Stacey Campbell	Senior Policy Advisor	04 901 4139	

The following departments/agencies have been consulted

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

Offshore renewable energy – update on progress and establishment of a developer working group

Date:	25 July 2024	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2324-4013

Purpose

To seek your agreement for MBIE to establish an offshore renewable energy (ORE) developer working group. The working group will provide technical expertise to support the efficient development of regulations and implementation material and enable opening of the first feasibility permitting round shortly after the legislation is passed.

The briefing also provides an update to you about the progress of the regime, including developments on the Bill, regulations and implementation programme.

Recommended action

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

- a **Agree** for MBIE to establish an offshore renewable energy developer working group to provide technical industry expertise to support the efficient development of regulations and implementation material.

Agree / Disagree

Melanee Beatson
**Manager, Offshore Renewable Energy and
Hydrogen Policy**
Energy Markets, MBIE

25 / 07 / 2024

Hon Simeon Brown
Minister for Energy

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Progress on the regime

Drafting of the Bill

1. On 10 June 2024 Cabinet agreed to the policy settings for the offshore renewable energy (ORE) regime (CBC-24-MIN-0041). We subsequently provided drafting instructions to the Parliamentary Counsel Office (PCO) in mid-June. We have recently received the first draft of the Bill and will continue working with PCO to finalise the Bill for introduction by the end of the year.
2. We are also working on further advice on transmission and trailing liability for decommissioning ORE infrastructure, including engaging with officials in other jurisdictions. We will shortly seek policy decisions from you for inclusion in the Bill.

Development of regulations and implementation materials

3. We have also begun development of regulations, including policy work on the details of feasibility permit assessments and cost recovery. We will provide further advice on these in due course.
4. We are also working with the regulator on implementation material (guidance, prescribed forms, FAQs) needed to implement the regime.

Engagement following announcement

5. We are preparing for public engagement shortly after the key design features of the regime are announced (planned for early August). We plan to hold a public webinar and, if needed, follow-up meetings to provide an overview of the regime and answer any questions.

We propose to set up a developer working group

A developer working group will help us ensure regulations and implementation material are ready by mid-2025

6. As foreshadowed in a previous discussion with you, we propose to establish a developer working group to support the delivery of the regime. The purpose of the developer working group will be to support MBIE to implement the regime efficiently, i.e., developing regulations and implementation products (such as guidance and application forms) that are fit for purpose, before the opening of the first feasibility permitting application round.
7. The scope of the working group will be limited to providing technical industry expertise and will not be a forum for lobbying; developers will be expected to provide feedback on the Bill through the select committee process, like other stakeholders.
8. The working group will focus on offshore wind, as that is the most advanced technology and the focus of the first permitting round. We will engage with wave and tidal energy developers separately.
9. **Annex One** sets out the draft terms of reference for the working group.

Membership of the developer working group will be designed to support MBIE, while managing perception risks

10. To provide the technical expertise needed, we intend to invite participation from:
 - a. all ORE developers with an active interest in New Zealand.
 - b. one representative from the New Zealand Wind Energy Association (NZWEA).

11. We intend initially to invite all offshore wind developers we are aware of (including all those that have submitted on our discussion documents). Any other developers who identify as having an interest in New Zealand may be invited to participate. Making membership open to all offshore wind developers with an active interest in New Zealand will also help manage perception risks e.g., that participants could be advantaged in subsequent permitting rounds.
12. Developers will be invited to nominate one person each to be a member of the group. That person should have technical experience within the industry, including applying for a permit in another ORE regime, and constructing and operating ORE infrastructure.
13. An iwi representative may also be invited to participate in the group, subject to their interest.
14. If the nominations received exceed a manageable number for a working group, we will develop criteria to determine a representative subset to be on the working group.

Risks and mitigations

15. We have identified the following risks with establishing a developer working group, as well as key mitigations.

Risk/Perceived risk	Mitigation strategy
<p>Risk that members of the group are advantaged (or perceived to be advantaged) by:</p> <ol style="list-style-type: none"> a) receiving earlier information on the likely design of the regulations and implementation material – e.g., giving them a head-start on preparations to submit applications. b) influencing the design of regulations/implementation materials and processes in a way that advantages them over non-members. <p>If not managed, this could give rise to judicial review risks.</p>	<p>The terms of reference will clearly state that the focus of the group is to provide technical input to support MBIE to implement the regime efficiently. The meetings and meeting materials will be designed to enable us to draw on this expertise without providing information about the regime prematurely.</p> <p>Membership of the group will include developers with an active interest in New Zealand, and a representative from the NZWEA. We will test the approach with the NZWEA.</p> <p>We do not intend to share the draft regulations with the working group. If there is a strong reason for sharing the draft regulations, approvals from MBIE Chief Legal, and then the Attorney-General will be sought as per the appropriate process before any drafts are shared in confidence with group.</p> <p>MBIE also intends to make summaries of the meeting minutes and material provided to participants available where appropriate.</p>
<p>Perceived bias if a member receives a permit over a non-member</p>	<p>MBIE officials who will or are likely to advise the Minister about permit applications will only attend the working group if/when their subject matter expertise is required. The Chair will ensure that discussion remains focused on technical input required by MBIE.</p>
<p>Risk of pre-empting advice to, and decisions by, the Minister for Energy</p>	<p>We will ensure that information provided to the group is presented in a manner that does not prejudice advice to the Minister. We will also make it clear that any information provided, or issues discussed, are to inform MBIE and do not pre-empt decisions on the regime.</p>

Perceived risk of subverting the Select Committee process	If members raise feedback about the ORE Bill as introduced, we will direct members to submit their feedback to Select Committee. If there is value in discussing policy issues related to the introduced Bill with the group, we would seek the Select Committee's approval before consulting on those issues.
Risk of information provided in confidence being shared beyond the working group	It will be a condition of membership that all material provided to members will be treated as in confidence, except where MBIE has consented to sharing that material more widely. In practice, MBIE intends to ensure that information provided to the group can be released alongside summaries of meeting minutes and material provided to participants where appropriate.
Perception risk that the group is unduly focused on offshore wind at the expense of other technologies	The terms of reference specify the focus of the group is on wind, because this is the focus of the first round and where developers have technical experience and expertise. Wave and tidal energy developers will be engaged through consultation on the regulations and able to submit on the draft Bill.


Next steps

16. Subject to your agreement, we will invite expressions of interest from developers and the NZWEA shortly after the policy decisions for the regime are announced and aim to have the first meeting of the working group soon after.

Annexes

Annex One: Offshore renewable energy – developer working group draft terms of reference

Final terms of reference is provided





Offshore Renewable Energy – Developer Working Group

Terms of Reference

August 2024

This document outlines the purpose, scope, membership and operating details for the Offshore Renewable Energy Developer Working Group (the Group).

Background

1. Offshore renewable energy is one of New Zealand's untapped energy sources and has the potential to help New Zealand grow an economy where transport and industry are powered by clean energy and reach net-zero greenhouse gas emissions by 2050.
2. The Ministry for Business, Innovation and Employment undertook two rounds of public consultation on the proposal for, and design of, an Offshore Renewable Energy (ORE) regulatory system. Information provided by submitters informed advice on the regime.
3. It is intended that a Bill be introduced by the end of 2024, with the legislation passing mid-2025. Work on the regulations and implementation material will occur while the Bill is being drafted and proceeding through the House to enable a feasibility permit round to open shortly after the legislation is passed.

Purpose and Scope

4. The purpose of the Group is to support the Ministry of Business, Innovation and Employment (MBIE) and the Minister for Energy by providing technical industry expertise to inform:
 - a. the development of regulations to be made under the ORE Bill.
 - b. the development of implementation materials (including guidance) and processes.
 - c. other issues or questions that arise that the policy and operational teams may bring to the group related to the delivery of the ORE regime.
5. The Group will consist of members with technical experience within the offshore wind industry,¹ including applying for a permit in another ORE regime, and constructing and operating ORE infrastructure.
6. The Group will not pre-empt or prejudice decision-making by MBIE or Ministers and is not a vehicle for decision-making.

¹ The working group will focus on offshore wind, as that is the most advanced technology and the focus of the first permitting round. We will engage with wave and tidal energy developers separately.

7. While MBIE will draw on the Group's expertise to inform the development of regulations, it is not intended that the group will see a copy of the draft regulations before other interested parties. The group will also not see the draft Bill before it is publicly available.
8. Where developers have policy concerns regarding the Bill, they are expected to raise those concerns through submitting on the Bill through the Select Committee process.
9. This Group will not replace standard consultation and engagement processes.

Membership

10. MBIE will chair the Group and officials will attend, as needed, to inform their work programme.
11. Membership of the Group is on a voluntary and non-paid basis.
12. MBIE will invite one nominated representative each from:
 - a. Offshore wind developers with an active interest in New Zealand
 - b. New Zealand Wind Energy Association.
13. Members should be able to provide technical industry expertise and ideally have experience within the ORE industry, including applying for a permit in another ORE regime, and constructing and operating ORE infrastructure.
14. If the number of developers seeking to be part of the group would result in an unworkable group size, MBIE will determine a process for selecting members of the Group.
15. The nominated representative must make reasonable efforts to regularly attend each meeting of the Group. An alternative representative can only attend on agreement of the Chair.
16. An Iwi representative may be invited to attend meetings of the Group.
17. MBIE may at its discretion invite other members to participate in the Group after the Group has formed.
18. MBIE may also invite other individuals or organisations to attend meetings of the Group on an ad hoc basis.

Administration

19. MBIE is responsible for the administrative tasks associated with the Group, including arranging meetings, providing papers and agendas, and taking minutes.
20. Where reading in advance is required, MBIE will endeavour to circulate material a week in advance of a meeting taking place. Otherwise, material for discussion will be tabled on the day.

Meetings

21. The Group will meet as determined by MBIE. This is expected to be approximately once every four weeks, commencing September 2024.

22. The Group may meet on additional occasions with mutual agreement of MBIE and group members. MBIE may defer or cancel a meeting if it is not required at a particular time.
23. MBIE will advise when the Group is no longer required. However, the Group will be dissolved on royal assent of the Bill at the latest.

Location

24. Meetings of the Group will be hosted by MBIE in Wellington. Members are encouraged to attend in person, but remote attendance will be accommodated.
25. Costs associated with attending the meeting in person will be at the member's own expense.

Confidentiality

26. Members of the Group may be provided with sensitive information for consideration and discussion. Members will treat all information provided as 'in confidence' in status, unless informed otherwise. It is a condition of membership that issues discussed by, or materials provided to, the Group will not be discussed outside the Group (including within the member's organisation), except where MBIE has consented to sharing that material more widely.

Official Information Act 1982

27. The Official Information Act 1982 (OIA) applies to any information provided to the Group, MBIE or the Minister. The Act provides grounds for withholding some types of information, including commercially sensitive information (unless the withholding of that information is outweighed by the public interest in making the information available).
28. To recognise the public interest in the development of the ORE regime, MBIE may choose to proactively release agendas, minutes, or other documents related to the Group on its website. In this event or in the event of MBIE receiving a request for information under the OIA for information pertaining to the Group, where appropriate, MBIE will consult members prior to releasing personal or sensitive information.

Conflicts of Interest

29. Members are expected to identify and declare to the Chair any potential direct or indirect conflicts of interest they have upon becoming aware of such conflicts (beyond being a developer with an interest in the ORE system).