

Submission template

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

This is the submission template for responding to the consultation document *Developing a Regulatory Framework for Offshore Renewable Energy*. The Ministry of Business, Innovation and Employment (MBIE) seeks your comments by **5pm on Thursday, 02 November 2023**.

Please make your submission as follows:

1. Fill out your details under the “Your name and organisation” heading and, if applicable, check the boxes underneath on privacy and confidentiality.
2. Fill out your responses to the discussion document questions. Your submission may respond to any or all of the questions. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples. If you would like to make other comments not covered by the questions, please provide these in the “General comments” section at the end of the template.
3. Before sending us your submission:
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 - provide a separate version excluding the relevant information for publication.
4. Submit your submission by:
 - a. emailing this template as a PDF or Microsoft Word document to offshorerenewables@mbie.govt.nz; or
 - b. mailing your submission to:

Energy Resources Markets Branch
Ministry of Business, Innovation and Employment
15 Stout Street
PO Box 1473, Wellington 6140
Attention: Offshore Renewable Energy Submissions

Please direct any questions that you have in relation to the submissions process to offshorerenewables@mbie.govt.nz.

Release of Information

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

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Release of information

Please let us know if you would like any part of your submission to be kept confidential.

I would like to be contacted before the release or use of my submission in the summary of submissions that will be published by MBIE after the consultation.

I would like my submission (or identified parts of my submission) to be kept confidential and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

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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

NZWEA's preference is for government to progress 'set application rounds' for feasibility permitting. Developers want certainty, and if there were ad-hoc applications through an open-door arrangement, this certainty would be diminished by incumbent permit holders. NZWEA also believes that a competitive environment would be less successful through an open-door regime, as applicants would not be pressured to put their optimal commercial & technical proposals on the table at the time of ad-hoc submission. Government would also be in a better position to compare proposals with others during set application rounds. Set applications rounds would work in a similar way to a commercial tender, where winners are assessed based on the merits of the solution presented at a given point in time. It also seems sensible that additional application rounds be considered at specific intervals, such as every 2-3 years.

2

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

NZ's total power system is currently 10 GW, and via other forms of new renewable generation development (onshore wind, geothermal and grid scale solar), it is likely to be circa. 12 GW – 13 GW in 10 years' time. To meet NZ's carbon zero targets by 2050, it is estimated that NZ will need a step-change to reach 22+ GW by 2050. This assumes that the demand forecasts are realised as a result of the electrification transition under way, noting that there are still uncertainties as to whether this level of demand will actually materialise. Historically, onshore wind has been built at incremental stages to meet the required market demand levels. If demand increased significantly as forecast, then the onshore wind industry and offshore wind industry will respond appropriately and help to address the supply gap. Offshore wind is therefore part of a set of currently known solutions that will help achieve the step-change needed, but it needs to be done in a sustainable manner so as to not distort the current wholesale market and generation install-base. In terms of total offshore renewable project size, it seems that a modular approach is appropriate, both commercially and technically. Increments of 400 MW – 800 MW seem sensible, but individual developers may assess larger projects of 1 GW or more as being more commercially viable given the initial CAPEX involved and the economies of scale that could be achieved by a larger *initial project* investment.

Note 1: There is a point where large generation injection, say above 400MW could require the transmission grid to be substantially upgraded as part of the investment, depending on the location.

NOTE 2: Given NZ's proximity and the supply chain challenges that the market is facing, it may be appropriate to better utilise the critical construction infrastructure (ships, etc.) while they are in this part of the world, rather than via a modular approach over shorter time durations, noting the northern hemisphere competition for these resources is already heavily constrained. While a modular approach may suit the NZ market development, larger modular project sizes of say 1 GW may be more efficient given the effort required to secure the critical resources needed in this part of the world. Note: While there will be numerous domestic workforce opportunities for projects of this scale that can be transitioned from the existing

O&G sector, international reliance on critical resources and skills will still prevail, e.g. technicians, engineers, specialised ships, turbine suppliers, cable manufacturers, etc.

NOTE 3: There are several Power-X projects in the pipeline requiring 300 MW or more of renewable supply that will need to commercially and technically align to a renewable generator. If these projects are commercially economic, we shouldn't limit the size of the offshore application. The step change in connected new load size will need a corresponding step change in renewable generation size.

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

NZWEA believes that developers should have flexibility to choose the size of a proposed development in their respective application, but with guidance from government in terms of indicative areas with a non-binding maximum. Each developer will design their solution differently, and each will have commercial and technical limitations that will govern not only the size of the wind farm, but the expected yield they hope to achieve from the operational project. Placing maximum area limits on developers will be necessary to reduce land banking tactics, but a balance needs to be exercised so as to not limit their abilities to design optimal solutions. Market forces will therefore dictate project sizes based on the expected commercial outcomes each investor hope to achieve, therefore introducing a restrictive area limit is not recommended.

NZWEA also believes that developers should be allowed to submit multiple solutions for a given area. This added flexibility will allow developers to consider different technical and/or commercial solutions that may provide benefits to government not previously considered. It also helps to increase competition and promotes innovation through an unconstrained environment.

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 long as the commercial proposal presented mimics the feasibility proposal (within reason), it would seem counter-productive for government to open the door to comparing the commercial proposals to others that may have been unsuccessful during the feasibility permitting stage. This approach would have the likely effect of under-mining the 'exclusive' nature of the commercial permit. NZWEA would therefore urge against a comparative regime at the commercial permitting stage.

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

5

The proposed criteria are comprehensive, however NZWEA offers the following to also be considered:

1. Supply chain – the global supply chain for equipment, critical infrastructure and human resources is heavily constrained, and likely to be constrained for the next 5-10 years. According to a recent report published by the Global Wind Energy Council, it is estimated that the global industry will need an additional 574,000 skilled resources over the next 5-10 years to support the growing demand of wind energy project

construction and operations. It is however uncertain if these supply chain constraints will prevail when NZ is expected to need the offshore wind investment. The majority of the skills increase increase will need to support offshore wind with an expected growth rate of 79% needed before 2027, as an example. These forecast constraints are more likely to affect northern hemisphere markets. If these supply chain constraints materialise in the early 2030's, developers will need support and commitment from the OEM's and construction companies before commercial permits are issued. Creating viable projects will attract the necessary talent and capability to NZ, noting that Taranaki already has some existing O&G capability that can make the transition when necessary. Government and developers should therefore consider their collective ability to attract these international resources to NZ, and to assist in the transition of existing domestic based talent.

2. A major benefit of offshore wind energy (due to its scale) is the ability to create 'new' localised industries such as the wind to hydrogen opportunity (i.e. Power-X). Government should therefore give specific focus to developers able to support the NZ economy through the creation of these new demand growth industries (favouring technologies that advance the decarbonisation process). While there are elements of this in the criteria already proposed, NZWEA believes that emphasis should be applied when assessing the commercial permitting regime.
3. It is likely that any new localised industry is located onshore, and outside the offshore permit area, but sill commercially linked to the offshore windfarm. The Government will need to ensure that the permitting regime takes account of this scenario and does not unintendedly force industry to reside offshore if it is not the most economic or safest location. As an example, the inclusion of chemical manufacturing combined with offshore wind generation will introduce challenging environmental compliance complexities.

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

Reporting and compliance mechanisms are appropriate to ensure developers are not progressing their project as described and approved, but also in a timely manner, noting that external forces beyond the control of the developer, may need to be considered when establishing such mechanisms. The behaviours that government are wanting to achieve (progressing the project in a timely manner), are therefore warranted. With large complex projects of this nature, flexibility from government does need to be exercised to ensure developers are not unnecessarily penalised and commercially exposed. Performance bonds are a standard and accepted method of providing these types of progress commitments.

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

7

International trends for asset life are showing that turbines are increasing their economic lives greater than previously considered. Typical wind farms (onshore and offshore) now operate for at least 25-30 years, as long as the recommended maintenance activities are carried out. A duration of 30 years is now quite typical with OEM's offering operational performance guarantees for this duration. A commercial permit of anything less than 40 years would therefore be limiting for developers.

8

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?

A developer should be allowed to extend their geographic development, once its operational. It seems appropriate that the same criteria be applied to the extended area, as that for new feasibility and commercial permitting processes, however some weight and consideration needs to be given to the existing permit and performance of the respective permit holder. If the permit holder is performing at or above the stated conditions, then this experience needs to be a positive factor when considering the extension request. If the permit holder is not operating to the existing obligations, then the converse needs to be applied. Government should also allow for the buying and selling of neighbouring permits to other approved developers to expand geographical areas, as long as the purchasing developer has met the governments' performance criteria.

Time extensions to previously granted permit durations should also be considered by government, but within limits, i.e., up to an additional 3-5 years. This duration flexibility may be appropriate under certain situations and provide comfort to developers such that if circumstances change over time that warrant a small duration extension, the mechanism is available for them to exercise that ability.

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?

It seems reasonable to adopt an "R&D permit" regime alongside the feasibility permit proposal. As stated in the government's proposal, R&D is an important feature that will promote new ideas and technologies. As such, the feasibility and commercial permitting process should not act as a barrier or constraint to innovation. NZWEA therefore supports a process that allows developers to test their respective ideas and innovations with a view to advance them (if successful), to a full commercial permit submission.

Chapter 6: Economics of the regime

10 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?

NZWEA abstains from answering this question.

11 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?

NZWEA abstains from answering this question.

12 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.

If there are revenue flow-back regimes implemented, the resulting costs will simply be passed onto consumers, in the form of a pseudo-tax. This may distort the costs of electricity in the wholesale market and potentially result in a less economic dispatch choices to be made due to the revenue flow-back costs paid to government that aren't subject to other forms of electricity generation. NZWEA therefore cautions the use of these flow-back arrangements to

limit the distortionary effects. If the intent is to offset the permitting compliance costs for government, then an argument could be made for its introduction, but it would have to be at a level that did not unduly restrict the developer outcomes while avoiding any electricity market distortions.

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

13

The revenue gathering comparisons being made between the royalties under the Minerals Act seem to be different to that of renewable energy. The difference with electricity is that we already have electricity producers operating in the market that do not pay a royalty. Under the Crown Minerals Act 1991, all developers pay the same level of royalty, regardless of where the investment is physically located. Currently, onshore wind farm investors pay an access fee to landowners to operate on the land where the assets are sited. If the Crown is the owner of the seabed, an occupation royalty could therefore be justified. The permitting proposal requires offshore developers to incur significant costs in applying for (and complying with) permits, a cost which is not borne by the existing onshore wind industry. Avoiding any distortionary affects should therefore be the primary objective. NZWEA supports a cost recovery mechanism but again, we caution if significant royalties are charged but are not consistently applied to all electricity market technology types.

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

The obligations under Te Tiriti o Waitangi must be respected at all parts of the permitting process. Iwi and hapū must also be treated as partners in any offshore development, in the same way as government is treated as a partner. Further, developers may wish to involve iwi and hapū as 'commercial' partners and progress these investments together. There are significant opportunities for iwi and hapū to share in the economic success of these projects such that these benefits can be transferred to their respective communities.

Care should be taken to ensure there is a pathway to resolve differences of opinion between various Māori entities, be it a Māori authority or a Crown entity. Some onshore projects have been impacted by the courts not being able to adjudicate on implementation or interpretation of Te Tiriti principles and no authority is in place to provide this.

15

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

Yes, NZWEA believes the key features have been captured that require developers to work collaboratively with iwi and hapū, noting that in some cases, iwi may choose to be a full commercial partner for offshore renewable energy development.

16

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

All iwi need to be considered under this regulatory framework. While some offshore renewable energy projects are focused on the Taranaki region, all regions will have offshore opportunities, and as such, all iwi need to be considered as mandatory stakeholders under this regime.

Chapter 8: Interaction with the environmental consenting processes

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?

17

To ensure consistency, NZWEA is of the view that a single consenting authority be responsible for environmental consents. Implementing environmental consents via separate regional authorities will only serve to slow consenting down, but also duplicate efforts across multiple authorities, and create inconsistent decisions and regional distortions. Regional bodies are not geared up for consenting processes that are outside NZ territorial waters. A consistent and single authority approach is therefore required for offshore renewable energy projects.

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?

18

Duplication of environment assessments should be avoided. The existing environmental consenting processes in place adequately provide for offshore renewable energy consenting. An assessment of the EEZ may however be needed to ensure that the idiosyncrasies of offshore renewable energy projects are fairly included during the consenting process. The EEZ may not have considered the offshore wind energy opportunity when that legislation was introduced, hence this consideration.

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

19

It seems prudent to assess the capabilities of the developers and their abilities to obtain environmental consents, in the same manner as ensuring that developers are skilled and experienced with building and operating offshore renewable energy projects. It should be part of the overall assessment criteria of the developer. NZWEA supports the requirement for developers to obtain an environmental consent prior to submitting a commercial permit but following a feasibility consent.

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

20

Environmental consenting is a key part of the pre-commercial development process and should be included as a pre-cursor to the commercial permitting phase. It should be sequenced after the feasibility permit and as the next stage prior to full commercial permit assessment. Option 1 is therefore preferred. Due to extended times that it may take to obtain an environmental consent, it may be prudent allow a 'conditional' commercial consent to be granted (when all other criteria are met) prior to the environmental consent being granted. Developers would likely seek consents for the environmental consent and commercial consents in parallel. As stated in question 18, it should not duplicate the environmental consenting processes already in place.

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?

21

Alignment between the commercial permitting outcomes and the EEZ Act should be considered, such that they do not conflict with each other, e.g. consenting durations. The RMA-REG and REG-TA should also be reviewed to ensure alignment and consistency with the Offshore Renewable Energy Regulations. A clear demarcation between IMO marine

environmental standards and regulations and renewable energy permit regime will equally be required.

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?

Wind speed and energy production generally increase with increasing distance from the coast, with sometimes higher capacity factors, however operational costs also increase. When assessing the consenting process, a balance needs to be struck between these dynamics (and others) to ensure there is an optimal outcome for government and for the developer.

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?

There are pros and cons to all of the different models proposed however NZWEA favours the developer-led model. This model allows the developer to control the offshore transmission construction alongside the generation plant construction stages ensuring the optimisation of resources and equipment for both project phases. It also ensures that the delivery timeline of each phase is coordinated and delivered when needed. The quality of transmission assets is also key, given the highly corrosive environment that the transmission assets operate in, so developers tend to have greater insight into these standards based on international experiences.

Transpower should be a key stakeholder during the design of the offshore transmission system, noting their experiences over many years owning and operating the Cook Strait power cables, the fibre optic cables, and the shoreline connecting substations at Oteranga Bay and Fighting Bay.

if Transpower own and operate offshore connection assets they will need to upskill and procure offshore services which will be duplicated with the developer's capability. This will increase the cost of transmission and no doubt provide a distraction to Transpower.

Similar to a GXP (GIP), private generation can sit beyond the connection point and still function, as long ownership and operations responsibility is clearly defined. There are similarities in offshore oil and gas (not in NZ) where multiple developers procure gas transmission services from another operator bore coming to onshore assets.

NZWEA supports the developer-led model during construction, but with an asset transfer (divestment) arrangement to Transpower post commissioning, whereby Transpower becomes the owner & operator of the offshore transmission system in the same way as the undersea Cook Strait cable assets.

With multiple offshore transmission system connections possible, i.e., South Taranaki, Waikato & Southland, this model may therefore be favourable to ensure only one asset owner is controlling the entire transmission system. This ensures that consistent system reliability & security is maintained, and market dispatch mechanisms are appropriately managed by a single party.

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?

See answer to question 23. To reiterate, a developer-led approach seems sensible, but with an asset transfer (developer to TSO) capability post commissioning. The demarcation of this model is likely to be the generator side of the HV disconnector at the onshore gateway. Transpower would therefore be responsible for building, owning, and operating the onshore transmission system and backbone connection on the opposite side of the HV disconnector.

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?

Each developer will have differing opinions on what model suits them best. Irrespective, a collaborative model would seem warranted so that the balance between timely delivery of the connection assets is achieved and coordinated, as well as ensuring that the assets are designed and built to the appropriate standards. Asset ownership is a separate matter to be considered, and flexibility on the ownership model may need to be considered given the diverse group of offshore developers and the different geographic locations under investigation around NZ's coastline and offshore locations. A 'one-size-for-all' may not necessarily suit.

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?

Communication and coordination are important attributes when designing and constructing the onshore interconnection assets required. If the offshore plant is constructed, but the onshore connection assets are not built in time due to long landowner consenting regimes, then the financial success of the whole offshore project is at risk. Forward coordination is therefore an important factor to be considered during the feasibility permitting stage. Once feasibility permits are granted, work on the onshore interconnection assets should immediately commence. Transpower currently has a cost methodology for interconnection assets in place, hence this model should equally be applied to the interconnection assets connecting the offshore renewable energy assets.

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

Individual developers are best positioned to answer this question. It is clear however that the current Port infrastructure is not equipped to accommodate the proposed offshore wind equipment being imported into the country. During construction, turbine blade 'lay-down' areas and heavy equipment cranes will be needed to transition the large nacelles and towers. As an example, Port of Taranaki has estimated that to accommodate the construction and operations of the proposed wind farms in the South Taranaki region, and estimated USD\$200M – USD\$350M in CAPEX will be required to construct the port infrastructure.

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?

It seems prudent to have developers provide a decommissioning plan at the time of commercial permit application. Consideration should be given to the environmental

implications during decommissioning and the need to preserve the seabed and surrounding natural area during such activities. Estimating the cost to decommission the wind farm some 35-40 years into the future is considerably difficult to determine, especially given the advancement of technologies that could be deployed and the unknown future use of the underlying infrastructure. Estimates based on 'today's costs' therefore seem prudent, noting flexibility will need to be adopted by government when mandating the decommissioning activities. Periodic assessments of the decommissioning plan (say every 5 years) will alleviate some of these unknowns. A financial security in the form of a remediation bond could be considered, similar to that in place at Tiwai Point.

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

Full removal is the desired outcome, but only if this is the best outcome for the environment. If the environment has benefited from the offshore infrastructure over an extended time, for example in the form of a newly establish reef hosting new or growing fish and plant species, then full removal may not be beneficial. Other examples may be the re-purposing of the underlying infrastructure for other uses, hence full removal may not be necessary. As a base-case, a full removal proposal would be a sensible place to start, but government will need to exercise flexibility in the event of the potential future benefits of the infrastructure. Option 2 in the proposal is preferred.

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?

In terms of the timing of requiring the decommissioning security to be lodged, while it is least risk to government to have this lodged at the time of commercial permit acceptance, this will unlikely appeal to developers due to the considerable financial burden and commercial risk it would entail at the start of the project. A staggered lodgement of the security that aligns to the risk profile of the project during the construction and O&M period, would be a more balanced approach. Allowance also needs to be given to the period where the offshore asset is generating an income stream, therefore reducing some of the financial risk associated with lodging large securities. A remediation bond would be appropriate, in the same manner as that lodged for the decommissioning of the Tiwai Point aluminium smelter.

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

At the feasibility stage, a high-level indicative decommissioning plan may be prudent, which sets out the approach, methodology and likely activities required to decommission the asset, however in NZWEA's view, this process may be quite premature at the feasibility stage, and more appropriate at the commercial permitting stage. In addition, indicative costings at the feasibility stage of the permitting process would be highly speculative and inaccurate. The approach should be more about the developer capability to decommission, rather than the method, process and cost.

It is also important that the principles of decommissioning the offshore installation are understood during the original commercial permitting stage by all parties, i.e. what can and can't remain on the seabed. Changes in view on this over time can have large impacts on developers' commercial outcomes. This has been done poorly in the oil and gas sector.

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

Regular reviews of the decommissioning plans should be a mandatory requirement post commercial permit acceptance. As mentioned, technologies, costs and methodologies change over time and so does the risk profile. A decommissioning plan review should therefore be carried out at say each five yearly intervals to assess if the existing plan is still relevant and fit for purpose. If the technology, approach, method, or costs change during each review period, the commensurate security bond quantum should also be adjusted to reflect the agreed changes. It may be such that the security level could arguably decrease as well as increase, hence flexibility with either scenario needs to be considered.

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

Repowering of the offshore asset is by far the best way to 'recycle' the wind assets, therefore extending the economic life of the project and capitalising on the considerable sunk costs and effort to establish the installation. Once the repowering opportunities are no longer viable, recycling of the raw materials is likely to be an opportunity for the asset owner to progress, thereby offsetting any of the decommissioning costs and reducing any environmental impacts.

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?

In the same way as during the commercial permitting process, i.e., the environmental plan is approved by the appropriate authority, the decommissioning plan should also be approved by an appropriate environment authority...but only at the time of decommissioning. Given that the decommissioning will be undertaken so far ahead into the future, any decommissioning activities should be subject to the environmental regulations of the day.

It should also be stressed that there are considerable trailing liabilities associated to the future unknown decommissioning costs. Developers will need to assess this liability carefully against the forecast commercial returns they can expect. If the balance of these factors is not right, then the developers will be discouraged from participating in the project and seek investment opportunities elsewhere. Parity of offshore renewable policies against the onshore equivalent also needs to be considered to ensure there are no distortionary outcomes.

Chapter 11: Compliance

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

The VADE (Voluntary, Assisted, Directed, Enforced) model is an appropriate regime to adopt. Ultimately, open and trusted dialogue between government and the developer will be crucial attributes to instil which will reduce the risk of non-compliance. If developers run into issues at any point during the construction or operations of the asset, then openness and clear dialogue will be the best ways to resolve such issues. The over-arching goal is for the developer to deliver to the expectations set by government as contained on the commercial permit, and for NZ Inc. to be the end beneficiary of the investment. While enforced remediation measures will be required, it is fully acknowledged that this approach is a last resort lever for government to pull in unique circumstances. Note. If Government assistance is provided, then it would be

reasonable for a more heavily regulated approach to ensure tax payers benefit from the money that has been invested.

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

NZWEA has no issues with the approach suggested.

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?

Option 3 (hybrid) in the proposal seems to have favour, noting that Ministerial intervention should only be progressed in extreme circumstances where matters of national significance need to be considered that are outside the scope of the regulatory authority.

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?

NZWEA believes that there are suitable protections in place that address the interests of the public, hence it is not recommended that government seek public submissions for commercial permitting. There is already suitable legislation in place to assess all interested party's views (e.g. at the environmental consenting stage), and by injecting public interests at the commercial permitting stage, would only complicate matters and duplicate the overall consenting process. It would also not likely lead to an outcome that suits all parties, and would therefore result in alienating many invested stakeholders, including the developers. Option 1 is therefore the preferred.

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

Once a commercial permit is granted, it should not be able to be appealed. If parties do not agree with a permitting decision made by the regulator, then this is best raised during the feasibility permitting stage, via an appeal process. If commercial permits can be appealed, the exclusive right and costs incurred by the developer will be questionable and likely lead to reduced market participation and unintended outcomes. At the feasibility permit stage, it may be warranted for an appeal process to be available, which would likely be progressed through the existing legal system.

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?

Developers would need to be fully briefed on the obligations under the NZ Health and Safety at Work Act 2015, along with Maritime and WorkSafe best practise. International certifications for HSE should be mandatory requirements for all developers to adhere to. Ambiguity may exist when foreign maritime vessels are working alongside local infrastructure operating outside NZ territorial waters. Developers will need clear guidance on what international or local regulations are applicable.

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

NZWEA supports the introduction of safety zones for all offshore renewable energy installations, both during construction and during operations. Option 2 in the proposal is the preferred pathway.

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

No issues at this stage.

General comments

NZWEA welcomes the permitting regime proposed and applauds the authors of the draft proposals for their consultative approach and for actively listening to the industry throughout the regulatory development process.