



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

Offshore renewable energy regulatory regime – Next steps

Date:	17 May 2024	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2324-3410

Action sought		
	Action sought	Deadline
Hon Simeon Brown Minister for Energy and Resources	Agree to circulate the draft Cabinet paper for consultation with your Ministerial colleagues	20 May 2024

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Melanee Beatson	Manager, Offshore Renewable Energy and Hydrogen	Privacy of natural persons	✓
Marissa Quinn	Senior Policy Advisor, Offshore Renewable Energy and Hydrogen	Privacy of natural persons	

The following departments/agencies have been consulted

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments



BRIEFING

Offshore renewable energy regulatory regime – Next steps

Date:	17 May 2024	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2324-3410

Purpose

The purpose of this briefing is to:

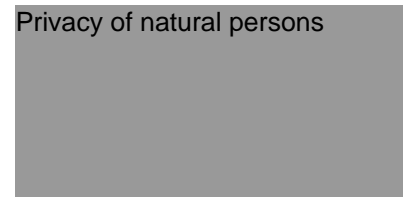
- provide you with the draft Cabinet paper seeking policy decisions for the offshore renewable energy regulatory regime and next steps to seek Cabinet agreement,
- outline changes to the paper since the noting paper considered by Cabinet Economic Policy Committee (ECO) on 1 May 2024, and
- provide you with advice on the timing for the development of the regulations.

Recommended action

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

- Note** we will provide you a briefing on decommissioning and trailing liability the week of 20 May 2024;
Noted
- Note** the advice in this briefing on the timing of the regulations and when a feasibility permit application round could be opened;
Noted
- Agree** to circulate the draft Cabinet paper for consultation with your Ministerial colleagues.
Agree / Disagree

Privacy of natural persons



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

17/05/2024

Hon Simeon Brown
Minister for Energy

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Background

1. You intended to seek Cabinet's agreement to the offshore renewable regulatory regime in May 2024, to enable introduction of the Bill into the House by the end of 2024.
2. Due to the Budget moratorium, you instead took a noting paper to Cabinet Economic Policy Committee (ECO) on 1 May 2024 setting out your intentions for regulating offshore renewable energy developments and noting your intention to return to Cabinet in June to seek agreement to the design of the regime. ECO discussed and noted the proposed design of regime.
3. We have provided in **Annex one** a draft Cabinet paper for you to circulate for ministerial consultation.

Changes to Cabinet paper

4. Minimal changes have been made to the body of the draft Cabinet paper. We have repeated the analysis from the noting paper (with minimal clarifications), so that your Cabinet colleagues have the analysis readily available to them. No significant changes have been made to the design of the regime.
5. We have shortened the proposed recommendations, placing the bulk of the regime design detail in Appendix one of the draft Cabinet paper. The Policy Advisory Group (PAG), Cabinet Office and Treasury have been consulted on the approach taken to the recommendations in the Cabinet paper.

Minor changes have been made to Cabinet paper

6. Minor changes/clarifications have been made to the paper for the following reasons:
 - To clarify that a feasibility permit is required to apply for resource and/or marine consents related to the construction and operation of offshore renewable energy infrastructure, not other consents that may be needed for feasibility activities (paragraphs 27 of draft Cabinet paper and 6 and 8 of Appendix one of draft Cabinet paper).
 - To clarify that the Minister for Energy ultimately makes the decision on whether to grant or decline a permit (paragraph 40.6 of draft Cabinet paper).
 - To clarify that a feasibility permit can be extended in limited circumstances (paragraphs 42.2, 47 of draft Cabinet paper and 14.5 and 22 of Appendix one of draft Cabinet paper).
 - To clarify that decisions on the allocation, variation and revocation of permits can be delegated to the regulator (paragraph 12 of Appendix one of the draft Cabinet paper).
 - The penalty for interfering with offshore renewable energy infrastructure has been removed to avoid duplication with the Maritime Transport Act 1994 (paragraph 42.6 of Appendix one of draft Cabinet paper). The Maritime Transport Act applies and already contains offences where a person takes any action in respect of a ship that causes unnecessary danger or risk to any other person or to any property (even if injury or damage does not occur).
 - To clarify that the regulator may receive (but not *require*) information from other government agencies (paragraph 45 in Appendix one of draft Cabinet paper).

Decommissioning requirements

7. **Constitutional conventions**, we undertook to provide you and the Minister for Resources with further advice early next week on how the proposed decommissioning requirements for offshore renewable energy compare with those that apply to oil and gas in New Zealand. We understand there is a desire to align the regimes unless good reason exists for differences.
8. The main differences between the regimes are in the requirements for the value and type of financial security a permit holder must obtain, and in whether trailing liability exists for permit holders who transfer out of a permit. If changes to the decommissioning requirements set out in the draft Cabinet paper are required, we will provide an updated version to you prior to lodgement.

Timing of regulations

9. You requested advice on how quickly the regulations can be completed, and a round opened, after the Bill is enacted.
10. The timeline we've provided is based on enabling the first round to open as soon as possible. The proposed timeline is ambitious and requires almost all parts of the process to run faster than normal and/or in parallel. This includes drafting priority regulations while the Bill is in Select Committee.
11. We intend to undertake the policy work for the first tranche of regulations, and getting Cabinet approval, by the end of the year or early 2025. If we obtain the necessary approvals, including the approval from Select Committee, we understand that officials can consult on the draft regulations while the Bill is in Select Committee, subject to getting the necessary approvals, including from Select Committee. We are working to confirm this understanding with the Clerk of the Select Committee.
12. The earliest a round could technically open is 28 days after the regulations have been notified in the New Zealand Gazette. In practice this would be at least six weeks after the Bill was passed, i.e. likely to be August 2025, if the Bill was passed in June 2025.
13. Our working assumption has been to aim to open the first round in **Confidential** 2025. Subject to your views, we could bring this forward, but it would be a small margin and would introduce additional risk of slippage.
14. The proposed timeline would also allow industry time to familiarise with the final legislation, regulations and guidance before a round opens. **Free and frank opinions**
[Redacted]
[Redacted]
[Redacted]
[Redacted]
15. For reference, Australia's Offshore Electricity Infrastructure Act 2021 received assent in December 2021 and came into force in June 2022. The first regulations came into force in August 2022 and guidelines in December 2022. The first round in Gippsland, Victoria ran from January – April 2023 and the granting of the first licences was announced on 1 May 2024. Other States are planning or just opening their first rounds.
16. Below we set out our current planning assumptions and key steps to opening a feasibility permit round once the legislation is in force.

Steps	Timing	Notes
Passing of Bill	June 2025	
Cabinet approval of regulations	June / July 2025	Regulations should only be submitted to the Cabinet Legislation Committee after the Bill has been enacted.
Governor General approval of regulations	June / July 2025	Governor General can only approve regulations once the Bill has been enacted.
Gazettal of regulations	June / July 2025 (The Thursday after Governor General approval)	The Gazette is published on a Thursday.
Regulations come into force	July / August 2025	Once Gazetted, there is a minimum 28-day period before the regulations can come into force.
Make statutory delegations for powers the Minister intends to delegate		This can only happen when the regime is in force, but could be done relatively quickly.
Guidance / prescribed forms and other material published	August 2025	Would need to be published after regulations are approved.
First feasibility round opened	Confidential advice 2025	
First permits awarded	In 2026	The legislation will prescribe the maximum time the regulator / Minister may take to make a permitting decision. We will update you further on this. [REDACTED] Free and frank opinions [REDACTED] [REDACTED]

17. Confidential advice to Government [REDACTED]
[REDACTED]
[REDACTED]

Next steps

Seeking Cabinet decisions

18. The table below summarises the proposed next steps for seeking Cabinet decisions on the attached draft Cabinet paper.

19. The next step is for you to consult with your ministerial colleagues. Given ECO noted that you intended to seek decisions from Cabinet in June 2024, in consultation with the Minister Responsible for RMA Reform, the Minister for Oceans and Fisheries, the Minister for Resources, the Minister for Regional Development and other Ministers as appropriate, you may wish to consult in two tranches:

- first with the Minister Responsible for RMA Reform, the Minister for Oceans and Fisheries, the Minister for Resources, and the Minister for Regional Development
- once the above consultation is completed, with your other Ministerial colleagues.

Date	Milestone
Friday 17 May	Consultation with the Minister Responsible for RMA Reform, the Minister for Oceans and Fisheries, the Minister for Resources, and the Minister for Regional Development <i>Alternatively could happen alongside Ministerial consultation</i>
Tuesday 21 May	Ministerial consultation begins (5 days)
Tuesday 28 May	Feedback from Ministerial consultation
Wednesday 29 May	Revised Cabinet paper provided to Minister
Thursday 30 May	Cabinet paper lodged
Tuesday 4 June	Cabinet Business Committee
Monday 10 June	Cabinet

Upcoming decisions required

20. We are preparing the following briefings to seek further decisions from you in the areas that will be delegated to you by Cabinet. Decisions are required to inform drafting instructions.

Date	Briefing	Explanation
Week commencing 20 May 2024	Offshore renewable energy – decommissioning and trailing liability	Needed to inform final Cabinet paper and drafting instructions
Week commencing 27 May 2024	Offshore renewable energy – offences and penalties	Needed to inform drafting instructions.
Week commencing 27 May 2024	Offshore renewable energy – permit variations	Needed to inform drafting instructions.
Week commencing 1 July 2024	Offshore renewable energy – transmission infrastructure	Needed to inform drafting instructions (second tranche)

Annexes

Annex One: Draft Cabinet paper

Annex Two: Draft Cabinet paper with tracked changes

Annex One: Draft Cabinet paper

The draft Cabinet paper is withheld as it constitutes confidential advice to Government. The final Cabinet paper has been proactively released and is available on the MBIE website.