



## COVERSHEET

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

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
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 Bill – updated Cabinet paper seeking approval for introduction

<b>Date:</b>	7 November 2024	<b>Priority:</b>	High
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	BRIEFING-REQ-0005576

Action sought		
	Action sought	Deadline
Hon Simeon Brown <b>Minister for Energy</b>	<p><b>Agree</b> to revise a policy decision made under your delegated authority</p> <p><b>Agree</b> to lodge the attached updated Cabinet paper seeking approval to the introduction of the Offshore Renewable Energy Bill by 10am, 14 November 2024</p>	13 November 2024

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Melanee Beatson	Manager, Offshore Renewable Energy and Hydrogen	Privacy of natural persons	
Laurie Boyce	Principal Policy Advisor	04 978 3338	

The following departments/agencies have been consulted
Department of Conservation, Ministry for the Environment, Ministry of Foreign Affairs and Trade, Ministry of Justice, Ministry for Primary Industries, Ministry of Transport, Te Arawhiti, Treasury, Electricity Authority, Environmental Protection Authority, Maritime New Zealand and New Zealand Defence Force. The Department of Prime Minister and Cabinet (Policy Advisory Group) was informed.

**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 Bill – updated Cabinet paper seeking approval for introduction

<b>Date:</b>	7 November 2024	<b>Priority:</b>	High
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### Purpose

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To seek your approval to:

- revise a decision made under your delegated authority, and
- lodge the attached draft Cabinet paper seeking approval for introduction of the Offshore Renewable Energy Bill by 10am on 14 November 2024.

### Recommended action

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

- a **Note** that the attached updated Cabinet paper and Offshore Renewable Energy Bill include changes made since 18 October 2024 following Ministerial, departmental consultation and quality assurance reviews

*Noted*

- b **Note** that you agreed (under your delegated authority) to give safety zone officers the power to require the master of a disabled ship to permit the ship to be towed away from the safety zone or accept any other assistance that the safety zone enforcement officer deems necessary

*Noted*

- c **Agree** to remove the above power, as the Director of Maritime New Zealand already has powers under the Maritime Transport Act 1994 to respond to distressed or disabled ships (including in a safety zone)

*Agree / Disagree*

- d **Agree** to lodge the attached draft Cabinet paper seeking approval to the introduction of the Offshore Renewable Energy Bill by 10am on 14 November 2024

*Agree / Disagree*

- e **Note** the Bill is still subject to minor changes as Parliamentary Counsel Office will undertake its quality assurance process until close to lodgement

*Noted*

f **Note** that the Ministry of Primary Industries has raised concerns with the Minister for Oceans and Fisheries about the impact on commercial fisheries and aquaculture, but we do not recommend changes to the Bill

*Noted*

Privacy of natural persons



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

Hon Simeon Brown  
**Minister for Energy**

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7 / 11 / 2024

## Background

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1. On 18 October 2024, we provided you a draft Cabinet paper and Bill for comment and Ministerial consultation [Briefing-REQ-0004369].
2. This briefing provides you with revised versions of the draft Cabinet paper (**Annex One and Two**) and Offshore Renewable Energy Bill (**Annex Four**), following Ministerial consultation and departmental consultation.
3. A draft Departmental Disclosure Statement is provided in **Annex Three** for your information. The clause references are based on an earlier version of the Bill and will be updated to reflect the final version of the Bill ahead of lodging.

## Updated draft Bill

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4. We are seeking your agreement to lodge the attached draft Cabinet paper seeking approval to the introduction of the Offshore Renewable Energy Bill for consideration at the Cabinet Legislation Committee (LEG) on 21 November 2024. Lodgement is due by 10am on 14 November 2024.
5. As signalled on 18 October 2024 (Briefing-REQ-0004369):
  - a) The appended version of the draft Bill (provided on 7 November) includes changes made following Ministerial consultation, departmental consultation, and quality assurance reviews.
  - b) Most changes are minor and technical clarifications to improve the quality of the Bill. The substantive changes relate to:
    - i. aligning the provisions relating to consultation with Māori with the Fast-track Approvals Bill, following Select Committee's report back on 18 October 2024, and
    - ii. providing clarity on the processes for putting in place financial security arrangements when a commercial permit is granted or transferred.
  - c) The Bill reflects policy decisions you made under your delegated authority from Cabinet<sup>1</sup> [CBC-24-MIN-0041] and further policy decisions on which you agreed to seek Cabinet approval at LEG. The specific changes and rationale for all of the decisions for Cabinet are summarised in **Appendix One of the draft Cabinet paper**.
  - d) A review of the Bill by the Ministry of Justice to determine whether it is consistent with the New Zealand Bill of Rights Act 1990 (BORA) is due to be provided to the Attorney-General on 14 November 2024 (a week before the LEG meeting).
6. The Bill is still subject to minor changes, as Parliamentary Counsel Office will undertake its quality assurance process until close to lodgement. This is being undertaken in a much shorter timeframe than the four weeks that is usually provided.
7. Further changes are likely to be needed during the Select Committee process to tidy any operational issues, address some known gaps, and bring relevant provisions into line with the final version of the Fast-track approvals legislation.

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<sup>1</sup> Cabinet authorised you to make decisions on certain matters, including on offences and penalties for the offshore renewable energy regime in consultation with the Minister of Justice.

## **We are seeking your agreement to revise a delegated decision to include a power**

8. The Bill establishes safety zones of up to 500 metres around offshore renewable energy infrastructure, to protect it from accidental or intentional harm and to ensure public and navigational safety. It also empowers safety zone officers to undertake a range of compliance and enforcement actions.
9. On 18 June 2024 [Briefing 2324-3049], you agreed to include a power for officers to require the master of a disabled ship to permit the ship to be towed away from the safety zone or accept any other assistance that the safety zone enforcement officer deems necessary. During agency consultation, Maritime New Zealand identified that this power duplicates an existing power of the Director of Maritime New Zealand under the Maritime Transport Act 1994 to respond to a distressed or disabled ships (including in a safety zone).
10. To avoid duplication, we therefore recommend you agree to revoke your decision to include this power in the Bill.
11. This power is not included in the updated version of the Bill.

## **MPI has raised concerns about the impact on commercial fisheries and aquaculture**

12. During departmental consultation on the 18 October version of the Bill, the Ministry for Primary Industries (MPI) indicated that it supported the Bill overall, but that it has concerns about how offshore renewable energy may impact commercial fisheries and aquaculture, and fisheries/aquaculture settlements.
13. MPI has suggested that the Bill should include the changes below, which might be raised by the Minister for Oceans and Fisheries. We do not recommend changes to the Bill, particularly at this late stage, and have set out the reasons below.

**MPI Proposal 1:** *Require the Minister for Energy to consult with the Minister for Oceans and Fisheries in making decisions on granting feasibility and commercial permits, as well as in granting safety zones.*

- Under the proposed structure of the regime, the appropriate time for assessing the impacts of proposed developments on other marine users, including fisheries, is at the environmental consenting stage. The permitting regime has been designed to work alongside and not duplicate the existing consenting regime. It is beyond the agreed scope of the regime to resolve conflicts with other users. The impact of a safety zone on fishing (and other marine users) will also be considered as part of the environmental consenting process.
- The Bill does not preclude the Minister for Energy consulting with other Ministers. In line with the Cabinet manual, the Minister for Energy can consult with other Ministers on relevant decisions.

**MPI Proposal 2:** *Include a requirement to consult with Te Ohu Kaimoana as trustee for the Fisheries and Aquaculture settlements, alongside other groups identified, to ensure the specific impacts on Māori fisheries/aquaculture are captured in consultation processes built into the regime (at both the feasibility and commercial permit stages).*

- The Bill already provides that the Minister for Energy must have regard to the impact of granting the permit on Treaty settlement rights, protected customary rights areas, and **any other Māori groups with relevant interests** when considering permit applications. This includes Te Ohu Kaimoana as trustee for the Fisheries and Aquaculture settlements. We have engaged with Te Ohu Kaimoana as we have developed the regime.
14. We have added comment on the concerns raised by MPI to the draft Cabinet paper.

## Next steps

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15. Subject to your approval, the Cabinet paper will be lodged by 10am, 14 November 2024, for consideration by LEG on 21 November and Cabinet on 25 November 2024.
16. Before lodging, we can provide your Office a compare version of the Bill that shows the changes between the 7 November version and the version that is to be lodged on 14 November 2024.
17. We will also provide a draft press release, Q&A, and a public facing fact sheet to support an announcement on the introduction of the Bill.
18. The table below summarises the proposed timeline for the Bill:

Milestone	Timing
Lodgement for Cabinet Legislation Committee	By 10am, 14 November
Cabinet Legislation Committee meeting	21 November
Cabinet confirmation	25 November
Introduction of Bill into the House	25 November
First Reading	10 December
Select Committee report back (six months)	Mid-2025
Second Reading, Committee of the Whole, Third Reading and Royal Assent	Mid-2025
Commencement	The day after receiving Royal Assent

## Annexes

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Confidential advice to Government

