



## 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

## In Confidence

Office of the Minister for Energy

Cabinet Legislation Committee

## Offshore Renewable Energy Bill: Approval for Introduction

### Proposal

- 1 This paper seeks approval for the introduction of the Offshore Renewable Energy Bill and some additional policy proposals for inclusion in the Bill.

### Policy

- 2 This Bill delivers on the Government's commitment to introduce a regulatory regime for offshore renewable energy, as set out in Electrify NZ. Introduction by the end of 2024 is included in the Government's Quarter 4 Action Plan.
- 3 Offshore renewable energy has the potential to help grow an economy powered by clean energy and reach New Zealand's target of net-zero carbon emissions by 2050.
- 4 Our current system does not provide certainty for potential investors, and lacks mechanisms for the government to select projects in New Zealand's best interest and to manage risks to the Crown and the public.
- 5 In June 2024, Cabinet made key policy decisions on the offshore renewable energy regulatory regime [CBC-24-MIN-0041 refers], including a permitting regime, decommissioning obligations, safety zones, and full cost recovery.
- 6 I am seeking approval of further policy changes that align with the intent of existing Cabinet decisions (**Appendix One**). The Bill also reflects decisions I have made under delegated authority [CBC-24-MIN-0041 refers] (**Appendix Two**).

### Overview of the Bill

- 7 The purpose of the Bill is to:
  - 7.1 give greater certainty for developers to invest in offshore renewable energy developments; and
  - 7.2 allow the selection of offshore renewable energy developments that best meet New Zealand's national interests; and
  - 7.3 manage the risks to the Crown and the public from offshore renewable energy developments.
- 8 The Ministry of Business, Innovation and Employment (MBIE) will administer, monitor and enforce the new regime. The Minister for Energy may delegate some functions to MBIE's Chief Executive.

*The permitting regime will provide for feasibility and commercial permits*

- 9 The Bill establishes a regime with two new permits:
- 9.1 A **feasibility permit**, which gives the holder certainty that no other offshore renewable energy developers will be approved to develop the same site while they undertake feasibility studies. It does this by giving the holder the exclusive ability to apply for a commercial permit, as well as the right to apply for relevant environmental consents (resource or marine) in the permit area; and
- 9.2 A **commercial permit**, which must be obtained before construction begins and provides a final check (complementing environmental consent approvals) to ensure projects meet the required standard and risks are managed. It also provides a mechanism for imposing, monitoring and enforcing key obligations on the permit holder for the operational life of the development.

*Feasibility permits*

- 10 The Minister for Energy will launch feasibility permit application rounds and can define the scope of each round. The Bill includes requirements for feasibility permit applications, including providing a development plan. Further requirements will be set out in regulations and guidance.
- 11 The Minister for Energy will be able to award a feasibility permit, which will be valid for seven years if minimum thresholds are met.<sup>1</sup> The Minister may award permits having undertaken consultation and being satisfied that (among other things):
- 11.1 the proposed development is likely to deliver benefits for New Zealand;
- 11.2 the applicant has, or is likely to have, the technical and financial capability to install, operate, maintain, and decommission the proposed offshore generation infrastructure and comply with requirements.
- 12 In considering applications, the Minister for Energy must have regard to any significant national security risks, the impact on Treaty settlement rights, and the approach to managing of existing rights and interests in the area.
- 13 Where there are competing applications, the Minister for Energy will be able to award a feasibility permit to the applicant with the most merit, with detailed considerations to inform selection set out in regulations and guidance.

*Commercial permits*

- 14 Applicants for commercial permits must hold a current feasibility permit and provide a development plan and information relating to decommissioning (e.g. a decommissioning proposal, cost estimates, proposed financial security arrangements). The Minister for Energy must have regard to any significant national security or public order risks when considering applications.

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<sup>1</sup> Feasibility permits may be extended for up to another seven years in certain circumstances and will be subject to “use it or lose it” conditions, i.e. they can be revoked if certain conditions are not met.

**I N C O N F I D E N C E**

- 15 The Minister for Energy will be able to grant a commercial permit, which will be valid for 40 years,<sup>2</sup> if they are satisfied that the applicant:
- 15.1 has the technical and financial capability to carry out the proposed development plan;
  - 15.2 is highly likely to comply with the requirements of the regime; and
  - 15.3 will be able to put in place and maintain an acceptable financial security arrangement for decommissioning.
- 16 The Bill provides for applications to the Minister for Energy to vary, transfer, surrender and make a change in significant influence over the permit, and for the Minister to vary or revoke a permit in certain circumstances.

*There will be consultation requirements, including specific requirements for consultation with Māori groups*

- 17 The Bill includes public consultation requirements on feasibility permit applications as well as specific requirements for consultation with relevant Māori groups. Consultation with relevant Māori groups on feasibility and commercial permit decisions and any extensions to permit area is aligned with the proposed approach in the Fast-Track Approvals Bill 2024, as agreed by Cabinet [CBC-24-MIN-0041 refers]. The intention is to align this Bill with relevant changes to the Fast-track Approvals Bill 2024 once it is enacted.

*There will be decommissioning and financial security obligations*

- 18 The Bill introduces an obligation on all commercial permit holders (for infrastructure attributable to their permit) and owners of related transmission infrastructure to carry out, and meet the costs of, decommissioning.<sup>3</sup>
- 19 It also includes obligations to put in place and maintain an acceptable financial security arrangement.<sup>4</sup> There are specific considerations for the Minister for Energy to determine whether the arrangement is acceptable.
- 20 The Bill also establishes a form of limited trailing liability. Former permit holders will continue to have an obligation to decommission until the Minister for Energy is satisfied that the new permit holder's financial security has accrued to the total amount required, unless the Minister for Energy agrees to release them from the obligation before this point.
- 21 Where a permit holder applies to transfer a permit, the transfer will only take effect if the transferee has in place financial security of equal or greater value. The financial security of former permit holders will be held until released by the Minister for Energy.

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<sup>2</sup> Commercial permits may be extended for up to an additional 40 years.

<sup>3</sup> Unless specified otherwise, decommissioning is the total removal of infrastructure, and is required to be completed at the end of its life or before the expiry of the relevant permit.

<sup>4</sup> The requirement to maintain an acceptable financial security arrangement does not apply to Transpower. As Transpower is a State-owned enterprise, requirements are already in place to oversee the recovery of costs to fund decommissioning of its transmission infrastructure.

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*Safety zones will enable the protection of infrastructure and people*

- 22 The Minister for Energy will be able to declare safety zones up to 500 metres, where activities can be prohibited or restricted, around offshore generation infrastructure and substations. The Minister must take into account the size and nature of the development, and be satisfied a safety zone is necessary for the safety of the infrastructure, ships or persons.

*The Bill establishes administrative, monitoring and enforcement functions*

- 23 The Bill establishes enforcement officers and safety zone officers and empowers them to undertake compliance and enforcement actions. There are standard provisions to enable administration, monitoring (including of financial position), and enforcement (including for compliance notices and enforceable undertakings). These provisions align with the Crown Minerals Act 1991.
- 24 The Bill enables the Chief Executive of MBIE to prescribe forms, maintain a register of permits, publish feasibility data provided by permit holders, and share information with relevant agencies. It also provides for recovery of the costs of administering the regime through fees and levies.

*The Bill includes new offences and penalties*

- 25 The Bill introduces new offences for various breaches of the permitting regime, safety zones and decommissioning obligations.
- 26 Penalties for non-compliance include fines ranging from \$3,000 to \$10 million, pecuniary penalties, imprisonment for a term not exceeding two years, or the revocation of a permit. A summary of offences and penalties is included in **Appendix Two**.

*I am seeking agreement to policy changes included in the draft Bill*

- 27 I am seeking agreement to policy changes that align with the intent of existing Cabinet decisions but go beyond my delegated authority. The changes relate to details of permitting and a change in approach to the previous in-principle decisions made by Cabinet on transmission infrastructure. The specific changes and rationale are summarised in **Appendix One**.

*I have made further changes under my delegated authority*

- 28 I have used my delegated authority to take further decisions in line with the policy decisions agreed by Cabinet in June [CBC-24-MIN-0041 refers]. These are set out in **Appendix Two**.

**Relationship with other legislation**

- 29 The Bill is intended to work alongside existing regulatory processes that apply in the territorial sea and the exclusive economic zone. The Bill confirms that the permitting regime does not set aside any existing Acts, nor does any decision have any effect or bearing on other legislative requirements – particularly environmental consents and Treaty settlement Acts.

## IN CONFIDENCE

- 30 The Bill prohibits resource or marine consent holders giving effect to a consent to construct offshore renewable energy developments unless they are a commercial permit holder in respect of the development.
- 31 The Bill also makes consequential amendments to the Resource Management Act 1991 (RMA) and Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act) so that:
- 31.1 applicants for resource or marine consents related to offshore renewable energy developments are required to hold a current feasibility permit or a commercial permit for the relevant area; and
- 31.2 any consent applications under consideration when the regime comes into force cannot be granted unless the applicant is awarded a feasibility permit in the first feasibility permit round.
- 32 The intention is that the Fast-track Approvals legislation will be amended so that offshore renewable energy developers will be eligible to apply for fast-track consideration, once they hold a feasibility (or commercial) permit.

### Aspects of the Bill that may be contentious

- 33 The Bill is consistent with Cabinet's decisions, which have been publicised and generally well-received. The following issues may be contentious:
- 33.1 *Māori stakeholders may continue to seek a greater role for Māori*, as relevant iwi and hapū have previously sought a partnership approach and to have a decision-making role in granting permits. Māori groups have also previously sought a share of royalties gathered, government support to enable their commercial engagement in developments, and other measures to recognise their interests in the marine environment. (The Bill does not include royalties to the government.)
- 33.2 *The lack of government revenue stabilisation*, as the Government has made clear that offshore renewable energy developments are expected to compete on the same basis as other generation. It is therefore not intending to provide a revenue support mechanism (e.g. contracts for difference).
- 33.3 *The Bill will not resolve issues with competing uses in the marine environment*, and does not prevent other users from seeking consents or other approvals in the same area. The announcement that a seabed mining project in the South Taranaki Bight (considered the best area for fixed-bottom offshore wind) would be listed in Schedule Two of the Fast-track Approvals Bill has highlighted this issue. Developers,<sup>5</sup>

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<sup>5</sup> Developers wrote to relevant Ministers in May and September 2024 advising that listing Trans-Tasman Resources would have "a significant impact on investor confidence for offshore wind developers in this country".

IN CONFIDENCE

## IN CONFIDENCE

Taranaki Mayors,<sup>6</sup> and iwi and hapū have expressed concern about the potential impact of seabed mining on offshore wind developments.

- 34 In October 2024, one potential developer, BlueFloat Energy, announced its decision to leave New Zealand, citing uncertainties around the route to market (paragraph 33.2) and allocation of the seabed (paragraph 33.3) as contributing to its decision.

### Impact analysis

- 35 A Regulatory Impact Statement was submitted at the time that policy decisions were sought from Cabinet [CBC-24-MIN-0041 refers].
- 36 A Climate Implications of Policy Assessment was not required for the policy proposals contained in this Bill as the threshold for significance was not met.

### Compliance

- 37 The Bill complies with:
- 37.1 principles of the Treaty of Waitangi. It requires all persons exercising functions, powers, and duties under it to act in a manner that is consistent with the obligations arising under existing Treaty settlements and relevant customary rights;
  - 37.2 advice from the Treaty Provisions Officials Group on any Treaty of Waitangi provisions;
  - 37.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - 37.4 the disclosure statement requirements, which require a Departmental Disclosure Statement to be prepared and appended to this paper;
  - 37.5 the principles and guidelines set out in the Privacy Act 2020;
  - 37.6 relevant international standards and obligations;
  - 37.7 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

### Consultation

*Policy decisions have been informed by two rounds of public consultation*

- 38 MBIE carried out two rounds of public consultation from December 2022 and August 2023. Feedback generally supported the proposed regulatory regime. MBIE also engaged with industry, iwi and other stakeholders on policy proposals and regulatory design issues during the development of the regime.

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<sup>6</sup> The Taranaki Mayoral Forum wrote to the Minister for Energy in September urging there to be “a comprehensive risk analysis to fully understand the science, the operating models and the positions of the various parties involved before making any decisions to ensure we do not lose the possibility of an offshore wind development occurring off the Taranaki coast”.

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*Consultation with government agencies*

- 39 The following agencies were 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.
- 40 The Ministry for Primary Industries (MPI) raised concerns about how offshore renewable energy developments may impact commercial fisheries and aquaculture. I do not propose changes to the Bill, as the permitting regime is not designed to resolve conflicts with other users. The impact on other users will be considered as part of the environmental consenting process. MPI also recommended consultation on permits with Te Ohu Kaimoana, which the Minister for Energy can do as part of assessing applications.

*Consultation with government caucus and other parties in Parliament*

- 41 Ministerial and coalition party consultation has been completed.

**Binding on the Crown**

- 42 The Bill binds the Crown.

**Creating new agencies or amending law relating to existing agencies**

- 43 The Bill does not create any new agencies, but it gives MBIE a new function as regulator of the regime.

**Allocation of decision-making powers**

- 44 The Bill does not create any new decision-making powers between the executive, the courts, and tribunals.

**Associated regulations**

- 45 The Bill enables regulations to be made to support the implementation and administration of the regime. Drafting is expected to be of medium size and complexity. The associated regulations will cover:
- 45.1 feasibility and commercial permits (including matters relating to applications, granting and administration of permits),
  - 45.2 cost recovery (fees and levies), and
  - 45.3 decommissioning (relating to both generation and transmission infrastructure).
- 46 Development of regulations for feasibility permits and cost recovery is being prioritised to enable the first feasibility permit round to open in late 2025.

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- 47 An update of the Exclusive Economic Zone and Continental Shelf (Environmental Effects—Decommissioning Plans) Regulations 2021 will likely be needed at a later date.
- 48 Work to develop national direction on offshore wind energy, led by the Parliamentary Under-Secretary to the Minister Responsible for RMA Reform, is expected to commence in the second half of 2025.

**Other instruments**

- 49 The Bill includes provisions empowering the making of safety zone notices, which are secondary legislation and are disallowable instruments.

**Definition of Minister, Ministry, and chief executive**

- 50 The Bill does not contain a definition of Minister or the Ministry, as the definitions in section 13 of the Legislation Act can be relied on. The Bill defines “chief executive” as the chief executive of the administering Ministry (i.e. MBIE) because of the various functions it gives MBIE.

**Commencement of legislation**

- 51 The Act is intended to come into force on the day after it receives Royal Assent. The proposed timeline for commencement and implementation is set out below. I intend to launch the first feasibility permit round in late 2025 or as soon as practicable after commencement.

<b>Milestone/Activity</b>	<b>Timeframe</b>
Passing of the Bill	Mid-2025
Feasibility permit and cost recovery regulations in force	Mid-2025
Publication of guidance to support feasibility permit applications	Late 2025
First feasibility round initiated	Late 2025
First feasibility permits granted	2026

**Parliamentary stages**

- 52 I propose the Bill is introduced on the same day as it is approved for introduction by Cabinet, and that it is referred to the Transport and Infrastructure Committee by the end of 2024. I intend the Bill to be passed and come into force in mid-2025.

**Proactive Release**

- 53 I propose to release this paper proactively, subject to any redactions that may be required consistent with the Official Information Act, within 30 business days following its consideration.

## Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that the purpose of the Offshore Renewable Energy Bill is to:
  - 1.1 give greater certainty for developers to invest in offshore renewable energy developments; and
  - 1.2 allow the selection of offshore renewable energy developments that best meets New Zealand's national interests; and
  - 1.3 manage the risks to the Crown and the public from offshore renewable energy developments;
- 2 **agree** the following changes relating to details of permits (set out in **Appendix One** (Table 1)) that align with the intent of previous Cabinet decisions and are reflected in the draft Bill:
  - 2.1 all the functions and decisions in relation to the allocation and variation of permits (other than maintaining the permit register) and safety zones will be undertaken by the Minister for Energy (or their delegate);
  - 2.2 require that, when considering a commercial permit application, the Minister for Energy has regard to any changes to the proposed development that are material to the benefits assessed at the feasibility permit application stage;
  - 2.3 permit holders must be a single entity that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993;
  - 2.4 the Bill will not require that feasibility permit applications are for a single continuous area, but Ministerial guidance on permit rounds may set this out as a preference;
  - 2.5 enable the chief executive to publish feasibility data when a commercial permit takes effect or one year after a feasibility permit ends;
  - 2.6 a permit vests in the liquidator on the liquidation of the permit holder, or in the Crown in the event of removal from the Companies Register;
  - 2.7 the chief executive may amend a permit to correct any minor omissions, errors, or other defects in permits; and
  - 2.8 a general power to seek additional information from permit applicants;
- 3 **agree** to a change in approach to previous in-principle decisions (set out in **Appendix One** (Table 2)), which is reflected in the draft Bill, following further policy work on transmission infrastructure:

**I N C O N F I D E N C E**

- 3.1 where the offshore renewable energy transmission infrastructure is owned by someone other than a permit holder, the owner:
  - 3.1.1 must be a single entity that is either a body corporate that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993;
  - 3.1.2 will have an obligation to decommission transmission infrastructure and meet the associated costs;
  - 3.1.3 will (with the exception of Transpower) have an obligation to put in place financial security to cover decommissioning costs; and
  - 3.1.4 must provide reports about the infrastructure and related activities to the chief executive;
- 3.2 transmission infrastructure owners or commercial permit holders must inform the regulator of any commercial arrangements to acquire or transfer offshore renewable energy infrastructure within 30 days of entering into the arrangement;
- 3.3 any person who builds, owns or operates an offshore renewable energy substation may apply for a safety zone around it; and
- 3.4 enable the recovery of fees and levies from transmission infrastructure owners for monitoring and enforcing decommissioning obligations;
- 4 **note** the decisions that I have made under delegated authority from Cabinet [CBC-24-MIN-0041 refers], as set out in **Appendix Two**;
- 5 **note** that work to develop national direction on offshore wind energy is expected to begin in the second half of 2025 and will be led by the Parliamentary Under-Secretary to the Minister Responsible for RMA Reform;
- 6 **approve** the Offshore Renewable Energy Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 7 **agree** that the Bill be introduced on the same day as Cabinet's confirmation;
- 8 **agree** that the Government propose that the Bill be referred to the Transport and Infrastructure Committee for consideration for a period of six months (from December 2024) and enacted by mid-2025.

Authorised for lodgement

Hon Simeon Brown  
Minister for Energy

**I N C O N F I D E N C E**

## Appendix One: Policy proposals for Cabinet approval

Below are the proposals for which the Minister for Energy is seeking approval. These proposals align with the intent of previous Cabinet decisions.

**Table 1: Proposals relating to offshore renewable energy permits**

Policy proposal	Rationale
All the functions and decisions in relation to the allocation and variation of permits, decommissioning obligations and safety zones, (other than maintaining the permit register) are undertaken by the Minister for Energy (or their delegate)	Consolidating the functions and responsibilities aligns with legislative best practice Aligns with the approach taken under the Crown Minerals Act Functions and decisions are vested in the Minister for Energy can be delegated to the chief executive of MBIE
Require that, when considering a commercial permit application, the Minister for Energy has regard to any changes to the proposed development that are material to the benefits assessed at the feasibility permit application stage	Provides an opportunity to check that benefits claimed at the feasibility stage – and considered as part of a comparative process – are delivered (unless there is a reasonable justification)
Permit holders must be a single entity that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993	Supports administration, enforcement and compliance with the regime Aligns with the approach taken internationally
The Bill will not require that feasibility permit applications are for a single continuous area, rather Ministerial guidance on permit rounds may set this out as a preference	Requiring this may have unintended consequences and constrain future technologies (such as wave or tidal) which could be configured differently to offshore wind farms
Enable the chief executive to publish feasibility data disclosed when a commercial permit takes effect or one year after a feasibility permit ends	Supports the development of the industry and in line with the principles for requiring feasibility data to be disclosed in exchange for exclusivity in a developer-led model
A permit vests in the liquidator on the liquidation of the permit holder, or in the Crown in the event of removal from the Companies Register	Provides for permits to be appropriately treated in the event of insolvency or removal from the Companies Register Aligns with the Crown Minerals Act
The chief executive may amend a permit to correct any minor omissions, errors, or other defects in permits	Provides for more efficient administration and aligns with section 91A of the Crown Minerals Act
General power to seek additional information from permit applicants	Supports administration of the regime Common regulatory power in similar regimes in New Zealand and overseas

**Table 2: Proposals relating to transmission infrastructure**

The below proposals take a targeted, light-touch approach. This differs from the approach that Cabinet agreed in-principle in June 2024, because it has since been established that the Transpower’s existing systems, processes and guidance are already appropriate. A prescriptive approach to the transfer and ownership of transmission infrastructure is therefore not required.

Policy proposal	Rationale
<p>In situations where the offshore renewable energy transmission infrastructure is owned by someone other than a permit holder, the owner:</p> <ul style="list-style-type: none"> <li>must be either a body corporate that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993</li> <li>will have an obligation to carry out and meet the costs of decommissioning transmission infrastructure</li> <li>will (with the exception of Transpower) have an obligation to put in place financial security to cover decommissioning costs</li> <li>must provide reports about that infrastructure and related activities to the chief executive</li> </ul>	<p>Supports the administration of the regime and enforcement of obligations and compliance with the regime</p> <p>Aligns with the approach taken internationally for similar regimes</p> <p>Together with corresponding offences with high penalties, ensures infrastructure is decommissioned at the end of its life by the party that has the most direct responsibility over the infrastructure</p> <p>Reduces the risk of costs falling to the Crown if an owner fails to decommission adequately</p> <p>As a State-owned enterprise, Transpower presents a lower risk to the Crown and has mechanisms in place to fund the costs of decommissioning infrastructure under the regulated Transmission Pricing Methodology</p>
<p>Transmission infrastructure owners or commercial permit holders must inform the regulator of any commercial arrangements to acquire or transfer offshore renewable energy infrastructure within 30 days of entering into the arrangement</p>	<p>Supports the effective administration of statutory obligations and monitoring compliance</p>
<p>Any person who builds, owns or operates an offshore renewable energy substation may apply for a safety zone around that substation</p>	<p>Reduces risk of damage to infrastructure and collisions in areas where substations are being developed, operated or decommissioned</p> <p>Provision is limited to substations to rely on existing statutory mechanisms for protection of cables and pipelines</p>
<p>Enable the recovery of fees and levies from transmission infrastructure owners for monitoring and enforcing decommissioning obligations relating to them</p>	<p>Necessary to manage any financial implications that may arise from the monitoring and administration of decommissioning obligations for transmission infrastructure not owned by permit holders</p>

## **Appendix Two: Summary of decisions made by Minister for Energy**

Below is a summary of decisions made by the Minister for Energy under delegated authority from Cabinet [CBC-24-MIN-0041 refers] and included in the draft Bill. References to the “Minister” are the Minister for Energy.

### **Decommissioning obligations**

There will be a limited trailing liability on former permit holders that continues until the Minister is satisfied the new permit holder’s financial security has accrued to the total amount required, or the Minister agrees before this point to release former permit holders from the obligation.

The amount of financial security that must be put in place by a commercial permit holder (or any person obliged to maintain financial security relating to transmission infrastructure) must be based on the costs the government would incur if it carried out the decommissioning.

### **Permit variations, extensions, transfers and change in significant influence**

Permit holders can apply to vary and extend the duration and area of permits. The Minister must assess the applications against certain considerations and, if it is a minor extension to a permit area, consult with relevant iwi and any other permit holder the Minister considers may be affected before approving the change. The Minister may also consult with iwi or any other party with interests when considering variations to permit conditions and extensions to commercial permit durations.

There are requirements for when and how applications for permit variations and extensions can be made, including the timeframes in which an application must be made.

A transfer of the permit cannot occur without the prior approval of the Minister. It will be an offence to have a change in significant influence of the permit holder without prior approval of the Minister. In considering applications for both, the Minister must be satisfied the permit holder will still have the capabilities to deliver the work and meet their obligations. Approvals for transfers are subject to the transferee putting in place acceptable financial security arrangements before the transfer takes effect.

When approving variations, extensions, transfers, and changes in of significant influence, the Minister may impose any further conditions necessary to manage and mitigate any risks that may arise from the changes to the permit holder.

### **Other functions, powers or duties needed for the regulator**

Safety zone officers, who are either a constable, or a person in command of a New Zealand Defence Force ship (or a person under that person’s command), are empowered to require ships in safety zones unlawfully to move vessel outside the safety zone or direct the master of the ship to not to enter a safety zone.

MBIE, as the regulator may provide relevant information to and receive relevant information from safety zone officers and listed Departments and Crown entities, and any other agency in New Zealand that holds information that relates to activities to which the Act applies.

### Offences and penalties

Offence provisions have been agreed in consultation with the Minister of Justice, along with penalties for non-compliance as set out in the table below. The Minister for Energy can also revoke a permit when offences are committed.

Offence	Maximum penalty
Giving effect to an environmental consent to undertake offshore renewable energy infrastructure activities without a commercial permit	Individual: \$1,000,000 or up to 2 years imprisonment (or both) Other: \$10,000,000
Changing significant influence over the permit holder without approval	\$800,000
Failing to notify the Minister of change of circumstances	\$200,000
Failing to notify the Minister about change in significant influence over permit holder	\$200,000
Entering or carrying out prohibited activities in a safety zone	\$10,000
Knowingly failing to meet decommissioning obligations Knowingly failing to have and retain the required level of financial security (These offences may also apply to directors if they were a director of the permit holder at the time the offence was committed)	Individual: \$1,000,000 or up to 2 years imprisonment (or both) Other: \$10,000,000 or three times the cost of decommissioning, or in the case of contravention of the financial security obligation, three times the amount by which the contravention reduced the required amount of the security
To wilfully obstruct, hinder, resist or deceive any person in the execution of any powers under the Act	\$3,000
Failing to provide information within the time and manner specified	\$20,000
Knowingly providing false, altered, incomplete or misleading information.	\$800,000
Failing to comply with requirements of a safety zone officer	Individual: \$15,000 or up to 1 year imprisonment (or both) Other: \$150,000
Office holder having a personal interest in a permit	\$20,000
Contravening a compliance notice or enforceable undertaking	\$200,000
Pecuniary penalties relating to failing to meet decommissioning obligations or failing to put in place or maintain adequate financial security	Individual: \$500,000 Other: \$10,000,000 or 3 times the remedial cost