Summary of Underpinning Analysis: Offshore Renewable Energy Regulations 2026

Agency responsible	Ministry of Business, Innovation and Employment
Portfolio	Energy
Date finalised	8 July 2026
Identification Number	REG-1906

Good law-making: 9(i)

The importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation	
Inconsistency identified?	NO
Summary of agency analysis	

Targeted consultation with offshore renewable energy developers, iwi and hapū, Transpower, and relevant public agencies on an exposure draft of the regulations was completed in mid-2025. This consultation met the statutory prerequisite in section 174(2) of the Offshore Renewable Energy Act 2026, which requires consultation with likely impacted parties.[1]

There was general support from submitters. Key concerns focused on the extent of Ministerial discretion, the need for greater transparency and certainty in decision-making, and clearer requirements for feasibility permit applications. Minor drafting changes were made in response, and the requirement for the Minister to consider an applicant’s current and future financial and technical capability was added. Other issues will be addressed through future guidance and operational policy.

The regulations give effect to February 2025 policy decisions made by the then Minister for Energy under delegated authority and consistent with the policy on the new offshore renewable energy regime agreed by Cabinet in June 2024 [CBC-24-MIN-0041]: https://www.mbie.govt.nz/dmsdocument/28536-offshore-renewable-energy-regulatory-regime-policy-decisions-minute-of-decision-proactiverelease-pdf

Policy for the regime was developed following two rounds of broader public consultation which is summarised in the April 2024 Regulatory Impact Statement:

[1] The Act provides that consultation undertaken before the Act came into force is treated as consultation for the purposes of section 174(2).

https://www.mbie.govt.nz/dmsdocument/29132-regulatory-impact-statement-offshore-renewable-energy-regime

Good law-making: 9(j)

The importance of carefully evaluating— • **the issue concerned; and** • **the effectiveness of any relevant existing legislation and common law; and** • **whether the public interest requires that the issue be addressed; and** • **any options (including non-legislative options) that are reasonably available for addressing the issue; and** • **who is likely to benefit, and who is likely to suffer a detriment, from the legislation**	
Inconsistency identified?	NO
Summary of agency analysis	

The regulations are part of a new regime for offshore renewable energy under the Offshore Renewable Energy Act 2026. Previously, there was no clear legal framework for developing and managing offshore renewable energy projects. The regime puts in place a two-stage permitting regime and related consultation requirements, obligations and enforcement provisions. It provides benefits by giving greater certainty for investors, enabling the selection of developments that best meet New Zealand's national interests, and managing the risks to the Crown and the public. The case for the regime and design options are set out in the April 2024 Regulatory Impact Statement: https://www.mbie.govt.nz/dmsdocument/29132-regulatory-impact-statement-offshore-renewable-energy-regime

There were non-regulatory options (such as guidance for appropriate matters[2]) for setting out some of the matters necessary to operationalise the feasibility permit stage, but regulations were determined to be the most appropriate option. As well as enabling the benefits of the regime to be realised, the regulations benefit offshore renewable energy developers, parties likely to be affected, the regulator, and the decision maker by setting out matters such as the minimum information applications must include, and what the Minister for Energy must consider when assessing whether the proposed ORE development is likely to deliver benefits for New Zealand.

The regulations also set the feasibility permit application fee which is a key part of implementing Cabinet-agreed cost recovery for the regime. Options for the application fee were set out in the March 2025 Cost Recovery Impact Statement: https://www.mbie.govt.nz/dmsdocument/30732-cost-recovery-impact-statement-offshore-renewable-energy-cost-recovery-pdf

Further tranches of cost recovery proposals will be needed later to cover application fees for permit variations, transfers, and surrenders, and commercial permits and safety zones.

[2] The intention is to issue guidance documents.

Good law-making: 9(k)

The importance of the responsible agency identifying and developing effective arrangements for implementing the legislation	
Inconsistency identified?	NO
Summary of agency analysis	

Implementation of the regulations will be undertaken by MBIE, the regulator for the new regime. The function will sit alongside the existing Crown Minerals permitting regime. Work on operational policy and guidance is well advanced, and funding for 2026/27 ($980,000) was allocated in Budget 2026 ahead of cost recovery from applicants and permit holders.

There has been consultation and engagement with departments that will have a role in the regime (e.g., the Government Communications Security Bureau and New Zealand Security Intelligence Service for the national security assessment), and this will continue as needed.

Good law-making: 9(l)

Legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons	
Inconsistency identified?	NO
Summary of agency analysis	

The regulations produce benefits by providing certainty about requirements relating to feasibility permit applications and aspects of the assessment process (e.g. what must be assessed in determining whether the proposed ORE development is likely to deliver benefits for New Zealand). This benefits offshore renewable energy developers, parties likely to be affected, the regulator, and the decision maker. The regulations sit within the broader offshore renewable energy regime that could deliver substantial benefits to New Zealand by enabling offshore renewable energy projects.

The cost of the regulations will be compliance and administration costs, which are expected to be outweighed by the benefits of the regime.

The regulations impose a feasibility permit application fee to implement Cabinet-agreed cost recovery for the regime based on the beneficiary pays principle. The fee is set at $130,000 (excluding GST) which was based on the estimated cost of the regulator assessing four applications.

The regulations implement policy that is consistent with the offshore renewable energy regime policy agreed by Cabinet in June 2024 [CBC-24-MIN-0041]. A qualitative analysis of the costs and benefits of the regime as a whole was set out in the April 2024 Regulatory Impact Statement: https://www.mbie.govt.nz/dmsdocument/29132-regulatory-impact-statement-offshore-renewable-energy-regime

Good law-making: 9(m)

Legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available	
Inconsistency identified?	NO
Summary of agency analysis	

The regulations are part of a new regime that is the most effective and efficient way to fill gaps in the existing legislation to enable offshore renewable energy developments in New Zealand. The regulations are the most effective way to set out necessary requirements to operationalise the feasibility permit stage of the regime.

Prescribing key application requirements and fees in regulations promotes consistency, transparency, and investor certainty, while leaving operational matters to guidance. This approach was assessed as more proportionate than either highly prescriptive regulation or reliance solely on administrative practice.

Rule of Law: 9(a)(i)

The law should be clear and accessible	
Inconsistency identified?	NO
Summary of agency analysis	

The regulations have been drafted to be clear and accessible to the intended audience. The primary users of the legislation are actual and potential feasibility permit applicants and the regulator.

The regulations will be published on the Legislation website (www.legislation.govt.nz). The regulator intends to issue guidance under the new regime to help applicants.

Rule of Law: 9(a)(ii)

The law should not adversely affect rights and liberties, or impose obligations, retrospectively	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

Rule of Law: 9(a)(iii)

Every person is equal before the law	
Inconsistency identified?	NOT APPLICABLE

Summary of agency analysis	

Rule of Law: 9(a)(iv)

There should be an independent impartial judiciary	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

Rule of Law: 9(a)(v)

Issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

Liberties: 9(b)

Legislation should not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

Taking of property: 9(c)

Legislation should not take or severely impair, or authorise the taking or severe impairment of, property without the consent of the owner unless- • **there is a good justification for the taking or severe impairment; and** • **fair compensation for the taking or severe impairment is provided to the owner; and** • **the compensation is provided, to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or severe impairment**	
Inconsistency identified?	NOT APPLICABLE

Summary of agency analysis

Taxes, fees and levies: 9(d)

The importance of maintaining consistency with section 22(a) of the Constitution Act 1996 (Parliamentary control of taxation)	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

Taxes, fees and levies: 9(e)

Legislation should impose, or authorise the imposition of, a fee for goods or services only if the amount of the fee bears a proper relation to the cost of providing the good or service to which it relates	
Inconsistency identified?	NO
Summary of agency analysis	

The regulations set a fee for feasibility permit applications ($130,000 excluding GST) that is based on the estimated cost of the regulator assessing four applications.

There is a high level of uncertainty about the number of applications that may be received (if any) and the number of permits that may be granted (if any). The fee has been set at a level that seeks to offset fixed costs to the extent possible given this uncertainty.

Analysis to date notes that if there are fewer applications than anticipated, the regulator will under-recover fixed costs. If there are more applications, the additional revenue from application fees would support the scaling up of resources required to process a greater volume of applications in a timely manner.

Taxes, fees and levies: 9(f)

Legislation should impose, or authorise the imposition of, a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both—

- **the benefits that the class of payers is likely to derive, or the risks attributable to the class, in connection with the objective or function; and**
- **the costs of efficiently achieving the objective or providing the function**

Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

Role of courts: 9(g)

Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	

Role of courts: 9(h)

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review	
Inconsistency identified?	NOT APPLICABLE
Summary of agency analysis	