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Ministry of Business, Innovation and Employment (MBIE)
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Submission on *Developing a Regulatory Framework for Offshore Renewable Energy - 2nd Discussion Document*

Introduction

1. Energy Resources Aotearoa is New Zealand's peak energy sector advocacy organisation. Our purpose is to enable constructive collaboration across the energy sector through and beyond New Zealand's transition to net zero carbon emissions in 2050.

2. This document constitutes our submission on the MBIE consultation document *Developing a Regulatory Framework for Offshore Renewable Energy Second Discussion Document* (the "Discussion Document").

3. Energy Resources Aotearoa was born out of PEPANZ, the former peak body for the New Zealand upstream oil and gas sector. As such we have significant experience and insight into the administration and regulation of offshore petroleum exploration and production permits. We offer our suggestions and feedback from this perspective.

Key points

4. It is important offshore renewable energy project investors have the confidence to undertake the necessary detailed long-term investigations in a prospective area, secure in the knowledge they will have the opportunity to commercialise the resources. The approach to permitting outlined in the Discussion Document, including a feasibility permit holder having the right to apply for a commercial permit, supports this.

5. While we support proposals to centre the permitting regime on a feasibility permit followed by a commercial permit, some of the regulatory proposals covered in the Discussion Document appear to stray beyond the intent of enabling the development of offshore renewable resources. This is largely because the permitting regime appears premised on a competitive bidding environment, coupled with a desire by the Crown to optimise (and influence) the development of offshore renewable resources by comparing projects.

6. For example, the discussion of project comparison, and concerns relating to land banking, environmental standards, and access to infrastructure, are beyond the scope of the permit administrator. Ultimately this has the effect of blurring regulatory responsibilities and has the potential to undermine investor confidence. Clarity of regulatory purpose is important, and more likely to deliver optimal outcomes.

7. Given the scale and cost for an offshore project, and the high bar for applicants to meet technical, environmental, health and safety, and financial capability requirements for a permit, we suggest competition will be limited.

8. We support the proposal to limit the duration of the feasibility permit to five years on a "use-it-or-lose-it" basis. However, we recommend providing an option for a limited extension (say up to two years) as market conditions and consenting processes, beyond the control of the permit holder, may affect the decision to apply for a commercial permit.

9. Despite including a section on compliance, the Discussion Document is worryingly vague on permit conditions, particularly during the feasibility stage. We recommend the following for feasibility permits:

    a. an application for a feasibility permit must include a work programme, and the permit holder must comply with that programme;

    b. baseline environmental data, such as wind speed and direction, wave and current measurements, geotechnical survey results, and marine flora and fauna surveys must be provided to the regulator; and

    c. this data will become publicly available on surrendering a feasibility permit (without applying for a subsequent commercial permit), or after a prescribed time.

10. In designing the permitting system, we caution about regulatory overreach which may blur the lines between regulatory responsibilities. Given the preferred, developer led approach, the permitting system should focus on allocating exclusive rights to permit holders to investigate or develop the renewable energy potential of a defined offshore area. Operating in a high-cost environment and with a limited electricity market size, project developers are already incentivised to seek optimal development solutions, so the government does not need to fixate too much on optimising the resource through the permit system.

11. We have residual concerns that the role of the regulator or permit administrator has not been adequately defined in this Discussion Document. Throughout the proposals outlined, there are numerous examples where the boundaries between a new regulator and any existing regulators may be blurred. We recommend careful attention is paid to developing an intervention logic that identifies the administrative gaps in a permitting regime, and how the new

regulator is expected to fill those gaps. This will help inform the roles and responsibilities when operating within the system.

Changes made based on feedback from the first Discussion Document

12. We are pleased to see some feedback from the first discussion document incorporated into the government's thinking about the design of the regulatory framework.

A "use-it-or-lose-it" approach to permit durations is appropriate

13. We agree that a use-it-or-lose-it approach to a feasibility permit is an appropriate way of ensuring permit holders don't "landbank" areas with the highest potential. However, we offer the following for consideration when considering the design of the overall regulatory regime:

    a. feasibility permits should be granted for a primary term (say five years) with permit holders having the option, on application, for an extension of up to two years; and

    b. feasibility permit applicants are required to submit a work programme outlining how studies will progress towards an application for a commercial permit.

14. We also recommend the regulator preserve the flexibility to grant permit holders an extension to retain their permits to recognise situations where permit holders are constrained in carrying out their activities by significant external events. Possible externalities may include supply chain issues, vessel availability, and consenting delays.

Chapter 3 – The overall permitting process

15. We agree in principle with the approach to permitting proposed. In our view it is important that feasibility permit holders should be able to conduct their studies and investigations with the comfort of having the subsequent right to apply for a commercial permit.

16. We are also pleased to see a "launch phase" for the regulatory regime that recognises there are firms already active in assessing New Zealand's offshore renewable energy potential. We expand further on this in the following sections.

Chapter 4 - Further detail on feasibility permits

17. Feasibility permits perhaps play the most important role in enabling offshore renewable energy projects. Uncovering the key environmental and technical data to inform and shape the development of a viable offshore project is the vital first

step in project development. However, it is important to bear in mind this is only one piece of the puzzle in putting together a viable project.

18. Permit area studies will necessarily need to occur in parallel with various other market and societal studies, as well as the development of the necessary supporting skills and infrastructure. The regulator needs to bear in mind the granting of feasibility permits provides a strong indication of credibility for the permit holder, which in turn shapes the commercial and competitive environment for the sector.

19. Therefore, we believe to maintain credibility of the sector the barriers to entry need to remain sufficiently high to ensure New Zealand's offshore renewable energy potential is properly explored by firms with the right financial and technical capabilities.

Allocating areas for feasibility studies

20. We support a process through which firms that are already investigating the potential for offshore renewable energy in New Zealand are given consideration in securing feasibility permits in their current area of interest. This recognises the importance of those early movers in establishing the offshore wind opportunity in New Zealand and the subsequent need to develop this regulatory regime.

21. After this initial launch of the permitting regime, our preferred approach is through a priority in time (or 'first in, first served') application process.

22. While this creates an issue for regulators of dealing with applications on an ad hoc basis, an annual or multiyear "block offer" type process is premised on there being a competitive bidding environment. We are not convinced that, beyond the initial launch, this will be the case.

23. That said, we also see benefit in the Crown reserving the right to periodically seek applications to investigate a specific area in consultation with the grid operator to meet a specific national interest. On those rare occasions the government may also choose to provide some measure of support to any potential project – as these would have an identified national interest.

Areas available for permitting

24. There appears to be little difference in the design of the two options presented in setting feasibility permit area size. We expect any applications will be required to conform to standard conditions, such as areas need to be contiguous, and are defined using graticular blocks. Whether or not a maximum size is set, or assessed for "reasonableness" is somewhat moot, given the preferred developer led approach to permitting.

25. However, we believe the discussion of option 2 mischaracterises the purpose of a feasibility permit. At the feasibility stage it is important to remember the

purpose of the permit is to study the area for its development potential. It is therefore difficult to assess the applicants ability to deliver on this project.

26. It would not be unreasonable for there to be guidance that specifies an upper limit on block size while retaining the flexibility to assess variations to this guidance. Regardless, the regulator will need to ensure that any assessment of an application follows a transparent and repeatable process.

27. On balance therefore we support option 2, where developers put forward proposals, which are assessed for reasonableness.

Feasibility and commercial permit sizes may vary

28. One issue that is not adequately addressed in the Discussion Document is the relationship between the area of a feasibility and the subsequent commercial permit.

29. Given the area of a commercial permit is the result of feasibility studies, it would not be unreasonable for a commercial permit area to represent an optimal, and therefore smaller, project area. This is particularly true if commercial permits attract a lease or rental charge based on permit area.

30. We also note that a feasibility permit does not, for the most part, limit the use of the offshore areas for other users while feasibility studies occur. This is expected to be quite different for a commercial permit where significant amounts of infrastructure are expected to be installed. It may be that other marine environment users will object to larger offshore areas being unreasonably locked up by commercial permits.

31. There is the opportunity for a commercial permit to increase in size, and therefore expand the project capacity through an extension of lands, at a later date. This provides the permit holder with an opportunity to phase their development, while minimising their costs.

Feasibility permits should require a work programme

32. We are surprised to see no discussion of permit conditions and work programmes in the Discussion Document.

33. One of the best ways to ensure offshore areas are not unreasonably tied up is by requiring applicants to submit a work programme. Helpfully a work programme also informs both the reporting requirements and any subsequent compliance matters.

34. We recommend work programme, including milestones, be explicitly included in the application for a feasibility permit.

Data collected should be made available in certain cases

35. An important role of the permit regulator is to collect and maintain any data provided by permit holders in relation to their reporting requirements. This data is likely to have both general and commercial value.

36. If a feasibility permit holder elects not to exercise the right to apply for a subsequent permit, any baseline data collected – such as environmental (wind, waves, and current) and geotechnical data – should be made publicly available on the basis that others may wish to apply for a feasibility or commercial permit.

37. For the avoidance of doubt, any intellectual property developed by the permit holder, such as field layout or other engineered solutions, should remain the property of the former permit holder.

Chapter 5 – Commercial permits

38. The point made in the opening paragraphs of this chapter ruling out a bidding process for commercial permits doesn't make sense in the context of the proposed approach to permits. Essentially it reaches the right conclusion for the wrong reasons – that is, you can't have a feasibility permit regime premised on having an exclusive right to study and then apply for a subsequent commercial permit, then consider competitive bidding for commercial permits.

39. We agree with the use it or lose it premise. But there needs to be some opportunity for an extension in the event there has been a significant movement in the market (domestic electricity, international procurement for equipment or some other externality). This would be by application of the permit holder and at the discretion of the regulator.

40. Grid capacity coordination is not the role of the permit regulator as this is clearly the role of the system operator, Transpower. We note there would be no equivalent requirement for the developers of onshore renewable energy resources, so we question the requirement here.

It is not the role of the permit regulator to compare power projects

41. It is highly unlikely any offshore renewable energy project will receive a final investment decision with significant commercial issues outstanding. This includes resolving any uncertainties with supporting infrastructure and electrical transmission grid access. The financial commitment is too significant and the downside too costly for these issues not to have been surfaced prior to the application for a commercial permit. We do not see a role for the offshore renewable resource permit regulator in comparing projects.

42. At this early stage it is unclear who will be the regulator for this regime, and what the capabilities of that regulator are. It is difficult to support an option that seeks to have the option to "pick winners" when this is premised on:

a. no understanding of who the regulator is, and how they will coordinate with other regulators and part of government;

b. competing projects in the same geographical areas; and

c. competing projects having the same levels of maturity.

43. We do not support Option 2, which allows nearby or adjacent feasibility permit holders to make what is effectively a counter proposal once an application is received. This would effectively set up a de facto capacity auction, which is not a feature of the proposed permitting regime. This would also diminish any first mover advantage, a powerful incentive in an emerging sector with a low number of participants.

44. An assessment process which deals with each application on its merits, provides a more transparent and risk-free process for both the applicant and the Crown. Particularly when you consider an unsuccessful applicant will likely be inclined to challenge any decision, leading to further, but avoidable delays.

45. Therefore, we prefer Option 1. This provides far more certainty for investors and advantages firms with more developed projects to proceed. Firms are incentivised with a potentially significant first mover advantage. This is an important incentive for a nascent industry in New Zealand.

Chapter 6 – Economics of the Regime

We do not see a case for the Crown to provide projects with supporting measures

46. While cognisant of the longer term economic and environmental benefits large scale offshore renewable energy projects could provide, we do not believe it is the role of government to provide commercial support to these projects.

47. It is generally accepted offshore renewable energy projects are high cost and need to be executed at scale to be economic. New Zealand has a relatively small, islanded electricity market, so any large scale offshore renewable energy project will likely have a significant market impact.

48. Direct government financial support for these projects has the potential to distort the electricity market, creating a tilted playing field for these new entrants. This also significantly increases the risk of overbuild, and therefore over supply into the electricity market which will have a chilling effect on further investment.

Revenue collection

49. It is important to remember encouraging the development of offshore renewable energy projects is not about monetising a specific resource. Rather, this regime is about use of the offshore commons by project proponents for

commercial purposes. In effect the Crown is acting like any landowner where a third party wants to make use of their land.

50. In the offshore environment the Crown, as steward of the offshore lands, is essentially acting as a landowner. Therefore, it is not unreasonable for the Crown to require a permit holder to pay the larger of:

    a. an occupation charge, which may be in the form of a permit fee based on area; and
    b. a royalty calculated on the profitability of the authorised renewable energy project.

51. An accounting-based profit royalty recognises the need for a project to recover the significant investment costs needed to develop the project, even before seeking a return on an accounting profit. This approach has parallels with the petroleum royalty regime. However, care is needed to ensure any revenue collected is fair and proportionate to the risk the Crown, and the inconvenience to other marine users.

Cost recovery

52. It is not unreasonable for the regulator to recover administrative and assessment costs, provided the basis for determining these costs are reasonable and transparent. In principle we support the approach taken by the regulator for the Crown Minerals Act, where an annual fee is calculated on the basis of permit area, with a minimum fee set to cover administrative costs.

53. An application for a feasibility or commercial permit will require specific, detailed analysis by the regulator to undertake a meaningful assessment. This is particularly true given the proposed criteria outlined in the Discussion Document. This has the potential to be a complex and costly process and would be in addition to the already onerous and expensive (and likely publicly notified) marine consenting process.

54. We recommend a fixed fee approach for assessing applications. In our experience fixed fee cost recovery incentivises regulators to make decisions in a timely manner, and ensures applicants are well informed about the necessary information requirements to support their application.

Chapter 7 – Māori Rights and Interests and Enabling Iwi and Hapū Involvement

Care needs to be taken to ensure potential conflicts of interest are managed

55. It is not clear how the Crown intends to manage the tension between providing or encouraging economic participation for iwi and hapū, and their role as kaitiaki for their rohe.

56. Any process involving iwi and hapū in a decision-making process will need to be open, transparent, and subject to challenge. It also needs to be clear to developers how decisions are being made and what influence and weight the Crown is giving to input from iwi and hapū.

Economic opportunities for Māori

57. We do not support any form of mandated partnering being imposed on project proponents. If a project proponent wishes to partner with iwi and hapū, that is their prerogative. Further, it is imperative that any application be treated in a fair and consistent manner, regardless of the permit participants (assuming this would be a joint venture arrangement).

58. It is important for the integrity of the regulatory regime that all applicants are subject to the same scrutiny and standards as any other. This includes any decommissioning securities requirements as well as an assessment of the financial, technical, environmental, and health and safety capabilities.

59. Treaty of Waitangi issues are complex, and constantly evolving. Regardless, it is vital the Crown remains central to the treaty partner relationship and does not seek to use permit holders as an agent in this regard. Therefore, any revenue flows to iwi and hapū as a result of any Treaty considerations or obligations are the responsibility of the Crown and should not flow from a permit holder.

Chapter 8 – Interaction with environmental Consenting Processes

60. Our submission on the first Discussion Document outlined our preference for a spatially planned regime, rather than a developer led approach. This preference is founded on the proactive identification of overlapping interests and areas where development potential will be limited.

61. While we have no preference on whether developments that cross regulatory boundaries should be a single consenting authority, our preference is the decision-making process is clearly signalled, transparent, and least cost.

62. We note these developments will generally of a scale such that they are likely be considered a “proposal of national significance”. For such a proposal it is important to note that resource management and environmental effects legislation already has provisions to manage these cross-boundary consenting issues. When considering the consenting process these provisions should be the starting point for assessments, and any changes to streamline the process recommended.

63. As we noted in our comments relating to feasibility permits in the first discussion document, specific attention should be given to where the consents should be notified or non-notified.

64. For example, activities carried out under the authorisation of a feasibility permit will likely have minimal environmental effects and are unlikely to infringe on the and the rights of other marine users. Whereas a commercial permit has a significantly greater environmental impact and restrictions of the rights and access of other marine users. The latter should be notified.

The permitting regime does not set environmental standards

65. We recommend the permitting regime focus exclusively on allocating the rights to undertake particular studies or activities in a defined geographical area. It is important to recognise these permits give the right, but not the permission to undertake these activities, and that appropriate marine consents are required to ensure the environment is protected.

66. In recent times we have seen the Crown Minerals Act 1991 gradually turn from being a clean regulatory regime focused on the allocation and administration of rights and collection of royalties, to a regime with blurred regulatory responsibilities. This risks having critical issues fall between the cracks, possibly leading to suboptimal outcomes.

67. We also refer the reader to our comments made in relation to Chapter 10, which deals with decommissioning. Here, we outline our recommendations to align the decommissioning obligations and alignment with a most proactive, life-cycle approach to marine consents.

Sequencing of permits

68. We do not support MBIE's preferred Option 3, which requires marine consents to be obtained prior to applying for a commercial permit. Our preference is for Option 2.

69. Given the time, cost, and resources required to prepare a marine consent application it is an unreasonable for this to be a condition precedent for an application for a commercial permit.

70. In our view Option 1 requires the applicant to commit to an expensive and detailed marine consenting process, prior to having the comfort they have the right to commercialise the offshore renewable resources. Essentially the permit applicant has the permission, but not the right to build and operate an offshore renewable energy project, in a yet to be granted geographical area. This will undoubtedly undermine investor confidence, particularly if the regulator reserves the right to apply a "national interest test", as suggested in this document.

Chapter 9 – Enabling transmission and other infrastructure

71. It is unclear what policy issue this section is seeking to address. The suggestion is there may be a coordination failure between project proponents, supporting infrastructure owners, and the transmission system operator (Transpower).

72. In our view this is highly unlikely. Potential developers already have an excellent understanding of the challenges and infrastructure needed to enable the development of offshore renewable energy projects. This includes engaging with Transpower to ensure access to the transmission system and port authorities.

73. It is not the role of the permitting regime to look to optimise transmission system and infrastructure use, particularly at this early stage of investigations. Where cooperation makes commercial sense project proponents, infrastructure owners, and the system operator, all are incentivised to look for cost saving, and value add opportunities.

The cost and time to develop the supporting skills and infrastructure is challenging

74. The delivery of the necessary infrastructure, such as upgrades to port facilities, will require significant time and investment. This supporting infrastructure is crucial for the safe, reliable, and cost-effective development of offshore renewable energy projects. Project developers will need the comfort that service providers, such as port authorities, are planning and making suitable investments as the sector develops.

75. This is not however without risk. For example, ports may need to reconfigure existing customer storage requirements to accommodate new service offerings. In doing so it is possible those investments made by infrastructure owners may not be fully realised as there are no guarantees proposed projects will take a positive final investment decision. On the other hand, without these investments it is possible developer will look to more favourable project locations.

76. In managing these issues, we see a potential role for government to work with project developers and supporting infrastructure owners to help coordinate provision of the necessary skills and infrastructure needed to support offshore renewable energy development in New Zealand.

Chapter 10 – Decommissioning

77. We agree that a commercial permit should have a condition that places an explicit obligation on the permit holder to decommission the facilities and infrastructure at the end of its economic life.

78. However, we do not agree the party who constructs and operates the offshore renewable energy project infrastructure should be the ones to decommission. This obligation should be explicitly against the permit holder.

79. A shortcoming of the marine consenting process is an apparent inability of the legislation to consider a lifecycle approach for applications. What that means is project proponents are required to seek consents to install, operate, and remove structures and equipment, but each of these steps are considered as a unique and separate processes.

80. Not unreasonably, regulators should have an expectation that permit holders adopt a "good industry practice" approach to operating and maintaining facilities and equipment. We see this approach applied in the Crown Minerals Act 1991. Importantly, what is considered good industry practices now is likely to change in the future, as methods and technology are constantly evolving. A relevant example of this can be seen in the design of offshore oil and gas facilities, which typically consider how the facility will be decommissioned in the initial design.

81. It is appropriate therefore for the regulator to periodically require an updated decommissioning cost estimate to ensure the magnitude of the decommissioning liability is quantified and understood. This also provides an opportunity for the permit holder to incorporate new decommissioning techniques and practices, as they evolve.

82. We recommend an approach in the offshore renewable sector that seeks to align the marine consenting process with the decommissioning obligations. This removes the need for the permit administrator to set an arbitrary environmental standard when determining the Crown's exposure decommissioning costs, and ultimately what type of financial security type and amount may be required.

83. We recommend therefore the design of the regulatory regime, as it relates to decommissioning that requires:

    a. an explicit obligation on the permit holder too fund and undertake any decommissioning;

    b. permit holders to supply an asset register that details the type and quantity of infrastructure covered by the decommissioning obligation;

    c. a decommissioning plan that aligns with the marine consent conditions;

    d. a decommissioning cost estimate that is consistent with the asset register and decommissioning plan; and

    e. permit holders to be able to demonstrate the financial capability to meet decommissioning costs, and to provide financial security, if required, by the regulator.

A potential approach may be to develop an "infrastructure permit" regime

84. Much like the CMA, where the permit area relates to the underlying resource, we expect commercial permits will define an area where the offshore renewable

energy resource is to be developed. It is likely, if not unavoidable, that supporting infrastructure (such as subsea cables) will be installed outside of the permitted area. It is also possible that different parts of the project may not be owned by the commercial permit holder. In these circumstances we suggest an "infrastructure permit" may be a suitable regulatory tool.

85. Such a permit will provide a right to install, operate, and maintain infrastructure and equipment (with the appropriate resource and marine consents of course), but also creates the obligation to decommission at the end of the useful economic life. We believe this approach would provide a suitable means to accommodate bespoke commercial structures, particularly in the event that infrastructure may be shared between projects.

86. In designing this type of framework careful consideration should also be given to opportunities to reuse and repurpose facilities. For example, the potential to repurpose offshore oil and gas structures for use in renewable energy projects is being investigated by a number of early movers in the sector. It is appropriate to consider a process through which ownership, and therefore the decommissioning obligation, can transfer across the different regulatory regimes.

87. This approach may have applicability across other sectors.

Financial assurance should seek to manage, not eliminate risks

88. Any financial assurance required by the regulator, and this should be on a case-by-case basis, should avoid imposing unnecessary costs on developers in order to avoid the risk of the Crown having to meet the cost of decommissioning. While it is possible to design a regime that effectively minimises and protects the Crown in any and all situations, such a regime comes at the cost of disincentivising investment in the first place.

89. We recommend progressing the offshore permitting regime for renewable energy projects in a way that **seeks to manage** the risk that the Crown or a third party is required to undertake and fund decommissioning. The alternative risk minimisation / elimination approach currently being progressed in petroleum sector will undoubtedly act as a deterrent to investment.[1]

Chapter 11 – Compliance

90. The application of the VADE model to a new offshore renewable energy permitting regime is a continuation of the approach used successfully by NZP&M in regulating the petroleum and minerals sectors. We agree this approach is likely to translate well into the new permitting regime.

[1] We refer the reader to our feedback to New Zealand Petroleum and Minerals on the proposed guidelines for financial securities for decommissioning in the petroleum sector, which traverses many of the same issues. Available at: https://www.energyresources.org.nz/dmsdocument/258

91. While endorsing a proportional approach with clear escalation pathways, we also note permit holders will be subject to other reporting and regulatory compliance requirements from electricity market, health and safety, and environmental regulators. With reporting and other permit conditions remaining undefined in this Discussion Document, we caution care should be exercised to ensure minimal overlap and duplication of requirements.

Chapter 12 – Other Regulatory Matters

Decision making in the regime

92. We support the preferred hybrid decision making approach to permit decisions (Option 3 in the Discussion Document). Again, we note this approach works successfully with the petroleum and minerals regime and we see no reason this approach should not be replicated here.

Public notification

93. We do not agree a formal, publicly notified process prior to the granting of either a feasibility or a commercial permit is required. This is for several reasons.

94. The first is these permits give the permit holder the exclusive right, but not the permission, to undertake an activity in a geographically defined area. Importantly, permit holders will need to acquire the appropriate marine consents in order to undertake activities. These applications will be subject to the appropriate notifications and consultation under the environmental effects legislation.

95. Second, we expect regulators to require significant iwi, hapū, stakeholder, and community engagement to have already been undertaken by applicants in support of an application for a commercial permit. Again, we highlight the grant of this permit does not give the holder the permission to proceed with any project or development.

96. Our views are premised on the supposition that the development of New Zealand's offshore renewable energy resources is an activity to be encouraged as we look to decarbonise our economy.

97. Overall, position is the primary role of the permit regulator should be to ensure permit holders have the financial and technical capabilities to undertake these studies and developments, and that offshore renewable resource potential is assessed and developed in a timely manner. To venture beyond that risks further blurring the boundaries of regulatory responsibility.

Non-interference with offshore infrastructure

98. In terms of exclusion and non-interference zones around offshore infrastructure, we expect renewable energy infrastructure to be treated no differently to other structures in the offshore environment.

99. The issue of freedom of navigation for leisure vessels has been a source of controversy for a number of European jurisdictions. Current practice for windfarms in Europe appears to be leisure craft are permitted to transit through the area but are not permitted to anchor. We note there are regulations specifying minimum turbine blade heights above the water surface to minimise the likelihood of a turbine blade striking a mast. These appear to be sensible and pragmatic accommodations for other marine users.

100. We also note the subsea cables and connectors will likely be afforded the same the protections as those covered by the by the Submarine Cables and Pipelines Protection Act 1996 in territorial waters.

101. Expectations for freedom of navigation and transit through commercial permit areas will need some careful consideration to ensure the minimum of impact for other marine users. However, there appear to be a number of other jurisdictions that can provide suitable direction in making policy choices.

Conclusion

102. We appreciate the opportunity to provide input on this important work. We see enormous potential in the development of New Zealand's offshore renewable energy resources, and we recognise the important role the government plays in giving investors the confidence to invest.

103. It is a feature of the New Zealand's legislative environment that decision-makers responsible for assessing the social and economic benefits of an activity are distinct and separate from those assessing and managing the effects. This important separation of responsibilities underpins the whole legislative environment. In designing a regulatory regime to enable offshore renewable energy projects policy makers needs to be cognisant of, and respect where the regulatory responsibilities lie.

104. Further blurring of those responsibilities, such as we have seen with amendments to the Crown Minerals Act, will undermine the purpose of this consultation – which is to enable and encourage investment in an important, but nascent sector.

105. Should you wish to discuss anything in this submission further, or seek clarification, please contact Craig Barry, policy director upstream and climate, at craig.barry@energyresources.org.nz.