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14 April 2023

Offshore Renewable Energy Submissions
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Submission on the "Enabling Investment on Offshore Renewable Energy" discussion document

Introduction

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

2. This paper constitutes our submission on the "Enabling Investment in Offshore Renewable Energy" discussion document.

3. We are pleased to see polices and workstreams such as this that are looking to enable future energy project opportunities. Energy projects and infrastructure are critical to our economic and social wellbeing. Recent legislative reforms have focussed almost exclusively on environmental sustainability, failing to fully appreciate the other, equally important, legs of the energy trilemma, namely energy affordability and security.

4. Our responses to the specific questions in the discussion document are collated in Appendix 1. We are happy to meet with Officials to discuss any responses in further detail.

Key points

- As for any other energy resource, we support the need for an enabling regime to manage the allocation of areas to explore and develop offshore renewable energy resources. New Zealand (particularly Taranaki) has a combination of both accessible offshore resources (wind, solar, etc) and the capital, infrastructure, and skilled workforce (based on the oil and gas sector) needed to harness it. We strongly support efforts to diversify and grow our energy mix.

- As new technologies emerge to meet our growing energy needs through and beyond the transition to a low-emissions economy, the first-best role of government is ensuring that a regulatory framework enables these

technologies to be deployed on a commercial basis, so long as any adverse effects are effectively managed.[1]

- A neutral policy position on economic activities should be the cornerstone of New Zealand's energy system. It is important that offshore renewable energy projects be treated consistently (not disproportionately promoted or subsidised) in the same way as other activities. To not do so will unfairly distort the economic drivers in the energy (particularly electricity) sector resulting in a misallocation of scarce economic resources.

- Offshore renewable energy projects should be subject to the same stringent rules and requirements as any other offshore activity, proportionate to their risks. This includes consenting; health and safety; environmental monitoring and reporting; decommissioning (including any post-decommissioning requirements); and financial security.

- We favour a regime wherein offshore renewable energy project proponents who successfully acquire a permit to study the feasibility of developing the resources have the right to apply for a subsequent development permit, should the feasibility study prove positive. This is much akin to a shift from an exploration to a mining permit under the Crown Minerals Act 1991 (the 'CMA').

Remarks about the regulatory objectives

5. We support the need for a regulatory regime to manage the development of offshore renewable energy projects and support the initial focus on enabling feasibility studies.

6. However, this cannot be treated in isolation from the full development cycle. This is because investing in exploring resource feasibility requires that developers are secure in their subsequent rights and certain of their regulatory obligations prior to committing capital. Feasibility studies also offer the opportunity to gather environmental data that will inform subsequent regulatory processes.

7. The discussion document identifies four objectives for the regulatory settings in establishing an offshore renewable energy system. Given their strategic positioning we provide only high-level comments on these at this stage.

1 We have similarly advocated for an enabling regulatory regime for carbon capture, utilisation, and storage (CCUS), which alongside offshore renewable energy could play a central role in realising New Zealand's net zero commitment and would likewise leverage our existing energy infrastructure and workforce.

Objective 1: Enable selection of both the developer and the development to meet Aotearoa New Zealand's national interests, including appropriate safeguards and benefits for the environment.

8. The idea of the Crown controlling both the developer and the development suggests the Government prefers a proactive, predictive approach to managing offshore renewable energy resources. This also suggests the Crown is expecting a competitive bidding situation for prospective areas, much like the block offer allocation of permits under the CMA.

9. However, we consider that applying the broad and subjective concept of national interest at the feasibility study stage is premature. The discussion document – while not specifically defining 'national interest', suggests this would include the applicant's technical and financial competence; New Zealand's renewable energy objectives; the potential environmental impacts of the development; and the range of benefits that might be realised including jobs, skills, and innovation. In this context it is essential for project proponents that 'national interests' be defined.

10. We suggest that the test for a feasibility study is narrowed to the applicant's technical and financial competence, and the potential environmental impacts of the development. We recognise the wider factors above are important co-benefits and co-considerations but suggest they would become more relevant when an applicant proposes to proceed to construction.

11. We also suggest some of these factors can be taken as a given. Development of offshore renewable energy resources will, by definition, support New Zealand's renewable energy objectives; and we suggest that – provided environmental impacts are managed to the Crown's satisfaction – developments will be net contributors to economic wellbeing (including employment). Otherwise, their proponents would not advance them.

Objective 2: Enable Māori participation in offshore renewable energy development.

12. We agree developers should have regard for mātauranga Māori and Māori views/interests when undertaking feasibility studies (and subsequent developments). Meaningful consultation by applicants will be required to resolve competing interests in, and uses of, the marine area.

13. We generally consider development of offshore renewable energy can be significantly beneficial to Māori, including by enhancing knowledge about the marine environment and by providing employment and economic opportunities.

14. In our view, the principal responsibility for effective and meaningful engagement with Māori remains with the Crown as Treaty partner. We expect that allocation of rights to conduct feasibility studies (and any subsequent rights or permissions) will involve consultation with Māori, similar to what happens prior to offering blocks under the CMA.

Objective 3: Provide certainty for developers to invest in the short term.

15. We agree with this objective, but with some important qualifications. Risks are time weighted and have implications for price. Predictability in the short-term comes with a cost that is priced in.

16. The longer the time horizon over which risks can be managed, the better. Offshore renewable energy projects are long lived. Investors need to have security in their rights and obligations for the duration of the project, not only through the feasibility stage.

17. We agree that one of the best ways to achieve this aim is to ensure investors have line-of-sight to subsequent development permits. However, an expectation of certainty is unreasonable. Certainty is a subjective concept that implies the shedding of risks – either from the Crown to the developer or the reverse – to achieve it.

18. Rather, the regulatory system should aim to provide investors with a predictable, consistent regulatory framework in which to make their decisions as businesses are best placed to manage uncertainty.

Objective 4: Ensure New Zealand remains competitive and can secure access to offshore renewable energy technology in a timely way.

19. This is a laudable objective, but we stress that achieving it may be beyond the scope of the discussion document's focus on the allocation of rights to conduct feasibility studies. This is because the right to conduct a feasibility study would likely be subject to additional permissions.

20. Permission (consent) is granted through the appropriate environmental effects and/or health and safety legislation, likely a different, independent decision-maker from the permit regulator discussed here. Unfortunately, consenting processes can be drawn out and expensive for applicants, often leading to unpredictable decisions and consent conditions.

21. The discussion document is unclear on whether officials consider a new Act is required to enable offshore renewable energy projects. If a new permitting regime is implemented, we assume it is likely to be similar in scope to the Crown Minerals permitting regime – in which case permits will grant the right, but not the permission, to undertake specified activities (e.g., feasibility studies) in a defined area. Permission would be subject to other (e.g., health and safety, environmental) regulatory requirements.

22. To be viewed as an attractive investment destination, it is important to ensure alignment of consenting processes with other policy goals across New Zealand's legislative system, such that the legislation works in a complementary, consistent, and efficient manner, across all sectors.

We support a developer-led approach to feasibility

23. It is important to recognise the primary public policy issue at play is not the efficient allocation of renewable energy resources, rather it is the efficient allocation of offshore areas (seabed) where renewable energy projects are the preferred use. The discussion document rightly recognises it is the government who ultimately decides on the preferences for use of these areas. However, as we point out in our submission on the Spatial Planning Bill, this requires a high evidential threshold as part of an open and transparent process.[2]

24. We support a developer-led approach to feasibility. In our view the Australian government approach, whereby broad 'declared areas' are identified as being suitable for offshore renewable energy projects, is the preferred approach.

25. The 'declared areas' approach will require the government to 'front-load' the consultation process with Māori and other affected stakeholders. This approach affords project proponents a higher level of predictability - prior to commencing feasibility studies - that the major objections or competing use issues have been surfaced and clarified. It also reflects the appropriate role of the Crown as Treaty partner. Renewable energy project studies would likely have permitted activity status, but only in the declared areas.

26. Regardless of the process selected, and therefore the level of government involvement, the allocation of offshore renewable energy resources is likely subject to new spatial planning considerations. This is discussed further below.

The Spatial Planning Act proposes to identify areas for resource extraction and development

27. Even for renewable energy projects in New Zealand's EEZ there will necessarily be some requirement to pass through territorial waters and onto land to connect to land-based infrastructure. Resource management reforms, currently before the Environment Select Committee as the Spatial Planning and Natural and Built Environment Bills, seek to proactively manage resource allocation and development in areas that are currently the remit of the Resource Management Act 1991 (the 'RMA'). Importantly this includes identifying infrastructure corridors and areas for natural resource development.

28. Clause 17 of the proposed Spatial Planning Act sets out the key matters a regional spatial strategy (the 'RSS') must contain. In the context of this discussion document there are two important considerations for the development of an RSS, these are:

> Clause 17(1)(d) *"areas that are appropriate for developing, using, or extracting natural resources, including generating power"; and*

[2] Our submission on the Spatial Planning Bill can be viewed on our website: https://www.energyresources.org.nz/publications/submissions/

Clause 17(1)(g) *"major existing, planned, or potential infrastructure or major infrastructure corridors, networks, or sites (including existing designations) that are required to meet current and future needs".*

29. It is important the development of offshore renewable energy resources be directed at the national level. Consistent, predictable, national legislation for the development of offshore renewable resources is required if we are to reach New Zealand's decarbonisation goals.

30. Resource management reforms envisage a Regional Planning Committee (an 'RPC') taking a proactive role in developing an RSS. An RPC is expected to be comprised of appointees from local and central government as well as representatives appointed by iwi and hapū. Therefore, due to the proactive determination of areas suitable for the development of natural resources, those areas identified for power generation (including wind, solar, and tidal resources) would have been necessarily subject to significant consultation and input from iwi and hapū. This consideration also becomes important when determining the selection criteria for assessing any applications.

31. Due to the potential sterilisation of other resources – such as petroleum, minerals, and fish stocks – the process to identify preferred areas for renewable energy resources development have a high evidential threshold.

32. We note at the time of this submission the Environment Select Committee report back to the House is due 23 May 2023. It is unclear what, if any, changes may be proposed at the Committee stage.

Permit system considerations

33. We support an enabling regime whereby permit holders have an exclusive right to undertake activities related to the study of offshore renewable energy resources (and development feasibility studies). However, this exclusivity is meaningless unless there is some surety of converting this 'feasibility permit' into a 'construction/operation permit' (shaped by the outcomes of the feasibility studies).

34. These considerations will shape the approach of the Crown in determining which areas are preferred for offshore renewable energy project proponents. The allocation process should be used to set public expectations that the areas being investigated for offshore renewable energy projects are likely to become restricted areas, possibly for multiple decades, in the event of development going ahead.

35. While parallels can be drawn with the Crown Minerals permitting regime, there is the important distinction of ownership. Crown owned minerals are nationalised resources, whilst for offshore renewable energy resources are not. Therefore, any allocation regime is primarily about identifying the preferred use of a

specified offshore area. Importantly this will likely be to the exclusion of other uses and users, and so requires a high evidential threshold.

Attracting applications for permits

36. Having established our preference for the government to proactively identify broad areas preferred for offshore renewable energy projects, it is important to consider how to attract potential investors.

37. The dual policy objective of wanting to be able to select both the development *and* the developer suggests a competitive bidding process. This can best be achieved through a process whereby the government invites tenders from suitably qualified applicants to develop project proposals.

38. Should the Crown decide to proceed with a competitive permitting approach to allocate offshore renewable energy resources – and we believe it should – we agree the criteria for selecting developers requires a robust examination of their technical, environmental, and financial credentials.

39. However, the objective of selecting the development may remain problematic. The regulator needs to be realistic about what can be realistically adjudged at the prefeasibility stage. Indeed, the primary purpose of feasibility studies is to determine the quality and the best, most efficient way to exploit those resources.

40. The Crown, as the regulator, will have some opportunity to select the development where an application for a subsequent construction/operation permit is made.

41. Another interpretation may be the desire of the Crown to select the operator/developer of a specific project. In this case the government may call for tenders to meet a specific type and capacity requirements, tailoring the availability of prospective areas to a perceived market need. We caution against this approach as this would have the effect of distorting the electricity market, chilling investment in other forms of generation.

Consideration of "use or lose it" provisions and feasibility permit durations

42. We assume the allocation of offshore renewable energy permits will be complementary to environmental protection and resource management legislation, like the Crown minerals regime – i.e., it will not include specific effects-based management provisions.

43. Therefore, the permit will largely grant the right, but not the permission to undertake activities related to the specific resource identified for the permit. This means permissions will be governed by resource management and environmental effects-based legislation and regulators.

44. A common criticism of environmental legislation is the disconnect between the consenting processes and the lifecycle of a project. This separation is largely the result of requiring different decision-makers to assess and environmental effects (and mitigations) of an activity on one hand, and the economic and social benefits on the other.

45. The discussion document recognises four phases of an offshore renewable energy project: feasibility; construction; operation and maintenance; and decommissioning. Each of these phases have different economic and commercial drivers, as well as different impacts and effects on the environment.

46. Ensuring alignment between the consenting processes and permit conditions will be vital to ensuring New Zealand can compete for offshore renewable energy investments. Given the likely separation of decision-making powers outlined above, the permit system regulator should have some flexibility to consider external factors – such as extended consenting processes – when considering any use-it-or-lose-it provisions.

Ensuring Māori participation

47. How offshore renewable energy proponents engage with relevant iwi and hapū will largely depend on how permits are allocated. We submit the Crown, as Treaty partner, should already have undertaken significant engagement with relevant iwi and hapū, prior to offshore areas being made available to prospective developers.

48. Any acreage identified and offered up for development should have been part of a process to identify any constraints, such as treaty settlement conditions, and should already incorporate, to the extent that it is possible, cultural considerations and mātauranga Māori. This may be through a spatial process or by the identification of 'declared areas'.

49. We support providing clear guidance and opportunity for affected iwi and hapū to participate in the feasibility process, but not as a decision maker.

Summary

50. New Zealand (particularly Taranaki) has a combination of both accessible offshore resources (wind, solar, etc) and the capital, infrastructure, and skilled workforce (based on the oil and gas and broader energy sector) needed to harness it. We strongly support efforts to diversify and grow our energy mix.

51. As new technologies emerge to meet our growing energy needs through and beyond the transition to a low emissions economy, the first best role of government is ensuring that a regulatory framework enables these technologies to be deployed on a commercial basis so long as any adverse effects are effectively managed.

52. Energy Resources Aotearoa supports the need for an efficient allocation process of areas to study the feasibility of offshore renewable energy projects. This enabling regime should ensure holders of a feasibility permit have the right to apply for a subsequent development permit (the shape of which will be dependent on the outcomes of the feasibility studies).

53. Our overarching recommendation is that any permitting regime to enable feasibility needs to provide applicants with security in their exclusive right to apply for a subsequent development permit.

Appendix 1

Question	Energy Resources Aotearoa response
1. Do you agree with the proposed objectives outlined above? Why or why not?	The proposed regulatory objectives are an ambitious and broad collection of policy outcomes. We believe they could be narrowed to focus decision-making on the core issue of reconciling competing uses for areas and managing the adverse impacts of economic activity. We refer the reader to our more detailed comments on the regulatory outcomes in our submission.
2. Are there other objectives that we should consider that are not captured above? If so, what are they are why are they important?	Fair, consistent treatment of all energy projects should be a necessary and overarching goal, regardless of the preferences of the government of the day. Where private capital is being deployed, care should be taken not to distort the necessary market signals that help inform investment decisions.

Question	Energy Resources Aotearoa response
3. Do you agree with the proposed criteria for assessing the proposals for regulating offshore renewable energy? Why or why not?	Prima facie the assessment criteria appear appropriate. However, we are concerned at the lack of prioritisation of public consultation and other stakeholders by the government. This is an essential consideration for the timeliness criteria. In our view enabling the development of offshore renewable energy resources is not about the efficient (economic) allocation of known resources, it is about the allocation of offshore areas (seabed) for specific use – likely to the exclusion of other uses and public amenity. It is important therefore that the Crown undertakes a sufficient and robust consultation process before offering areas for offshore renewable energy development. We also note the tension between the criteria of 'effectiveness' and 'timeliness'. Managing the investigation of offshore renewable energy resources in a timely manner cannot be achieved solely through an allocation process. Permit holders are also subject to other consenting processes – which, by their nature, favour caution in the management of adverse effects. Drawn-out and costly public consultation and hearing processes conducted under the Resource Management Act 1991 and Exclusive Economic Zone (Environmental Effects) Act 2012 are evidence of this.

Question	Energy Resources Aotearoa response
4. Are there other criteria that we should consider that are not captured above? If so, what are they are why are they important?	Policies for enabling offshore renewable energy development should be neutral and not favour one form of generation over any other. We suggest a criterion that captures this idea – say, 'consistency' – be included. This discussion document is about enabling offshore renewable energy projects but should not stray into promoting these projects (picking winners) over other forms of generation (such as onshore generation). In our view all forms of generation should compete on a level playing field. This is especially important for offshore projects which, where the high costs of the offshore environment require significant scale to be economically viable. It is likely this scale will be highly disruptive in the electricity markets.
5. Do you agree that the criteria should be equally weighted? Why or why not?	Yes. Regulatory outcomes should seek to achieve balance between competing priorities. The three criteria listed in the discussion document are a mix of regulatory objectives balanced against commercial and competitive considerations. We believe equally weighting is appropriate in this case.

Question	Energy Resources Aotearoa response
6. What role do you think government should have in gathering feasibility information for offshore renewable energy development?	We favour a developer-led system wherein the government proactively identifies areas preferred for offshore renewable resource development, similar to the 'declared areas' process adopted in Australia. This could be done in collaboration with project proponents in a manner similar to the 'nominations' process for petroleum block offers. The key role the government plays in this case would be to undertake an extensive consultation process with affected iwi, hapū and regional stakeholders to determine which broad areas to offer for bids. This will surface the key issues in terms of competing use and any other considerations before making areas available for allocation. As the discussion document notes, the government must ultimately decide on the preferred use of available space in the offshore environment. Therefore, it is important areas identified for feasibility studies should carry the presumption of future development. This can only be achieved by the government front-loading the identification of suitable offshore areas. At the end of the feasibility period, where the rights for subsequent permits are not exercised, information gathered should become public domain (as it does in the Crown minerals regime).

Question	Energy Resources Aotearoa response
7. Do you agree that, at least in the short-to-medium term, a developer-led approach to gathering feasibility information is appropriate for Aotearoa New Zealand? Why or why not?	For a developer-led approach to work effectively offshore renewable energy projects should be considered a 'permitted activity'. This will allow the developer to focus on feasibility studies and establishing environmental baselines without being drawn into lengthy and uncertain public consultation processes. Permitted activity status does not remove the requirement for marine consents and input from iwi, hapū, and stakeholders as part of any feasibility studies. This approach requires the government to have undertaken sufficient planning (including input into a new regional spatial strategy (RSS) if required by resource management reforms) and sufficient consultation with iwi, hapū, and stakeholders.
8. Is there another approach not considered above that may be more suitable?	No – we think this approach strikes the right balance. Should the government opt for a more hands-off approach, it is likely the permitting of feasibility studies, and any subsequent development permits would be subject to lengthy and expensive public consultation processes. A more hands-on approach from government would involve significant public resources, and likely result in delays of up to a decade.
9. Do you agree with the two shortlisted options (permitting and collaborative) that we have identified? If not, what other viable options might we be looking at?	We agree with Option 1: Establish a feasibility permit with rights to apply. We do not agree with Option 2: Enabling collaboration among developers. Due to the commercial competition involved, we do not see a collaborative process working in practice. Any collaboration would be done as a coalition of partners, with complementary skills and contributions for the project. We do not believe imposed collaboration to be a viable option.

Question	Energy Resources Aotearoa response
10. Assuming a developer-led process to propose sites and assess feasibility, do you think the permitting approach, or the collaborative approach would deliver a better outcome for Aotearoa New Zealand and why?	As noted in our response to questions 6 and 9, we prefer the permitting approach.
11. How could a collaborative approach be designed to enable the objectives set out above, and what could the government do to support collaboration?	We do not agree the collaborative approach will achieve the desired regulatory outcomes. Due to the high cost of offshore projects, and flexible use ('power-to-X' and exports) for excess power, it is likely these projects will be developed by consortia of companies. These types of commercial structures, such as unincorporated joint-ventures, are common in the oil and gas sector to manage commercial and business risks. The design of the permitting system should be flexible enough to cater to different business models and structures, while retaining the predictability necessary to encourage investment.
12. Have we captured a complete list of trade-offs between the two shortlisted options? What else, if anything, should we be considering?	No further comments in addition to our responses to questions 9-11.

Question	Energy Resources Aotearoa response
13. What broad opportunities do you see for iwi, hapū, and/or whānau to be involved in the feasibility stage of development (both before and during feasibility activities)?	As noted, our preferred pathway is through a declared areas process (or similar). In this situation the government should be required to undertake extensive consultation with affected iwi, hapū, and regional stakeholders prior to declaring an area open for feasibility studies. We note the proposals in the Natural and Built Environment and Spatial Planning Bills, currently before select committee, will likely require areas for offshore renewable energy development to be identified in the regional spatial strategies (RSS), at least in New Zealand's territorial waters. We believe this would be better managed at the national level through the national planning framework or new legislation. These spatial strategies are to be developed by a regional planning committee (RPC), whose membership will include iwi and hapū members. The Bills also set out requirements for the consideration of mātauranga Māori and recognise and uphold te Oranga o te Taiao. Other opportunities for involvement include input during feasibility studies. In particular, the process of establishing environmental baselines and the identification and mitigation of adverse effects. We would encourage prospective applicants to develop constructive relationships with Māori, as they should with all interested stakeholders. Ultimately the primary relationship is between Treaty partners (the Crown and Māori).

Question	Energy Resources Aotearoa response
14. Are the above requirements sufficient to achieve this? How can the requirements be implemented to reduce undue burden on mana moana or developers?	In our submission on the Spatial Planning Bill, we recommended any agreements and funding to ensure a more fulsome participation of affected iwi and hapū should be the responsibility of central government.[3] Project proponents should not be responsible for entering into so-called 'capacity agreements' with iwi or hapū, as this creates the potential to affect the independence of any review and input into declared areas or feasibility studies.
15. What information/mātauranga Māori and process/tikanga will be important for developers to incorporate into their feasibility plans, and how should iwi, hapū, and/or whānau be involved in gathering this information?	It is not clear if the intent of this question is to enable the gathering or distilling of the information by Māori, which presumes knowledge is held broadly, or to provide for some form of comment or review of the proposals being taken forward in a subsequent application to build and operate an offshore renewable energy project. We note in our answer to question 14 that our preference is for the government to ensure iwi and hapū have sufficient resources to meaningfully contribute to the development of feasibility plans. Our view is it is the responsibility of the Crown, as Treaty partner, to ensure applicants have sufficient information available at the outset to begin any feasibility studies. This is the starting point in developing long-term relationships and sharing of knowledge through the term of the feasibility permit.

[3] Our submission on the Spatial Planning Bill is available at https://www.energyresources.org.nz/publications/submissions/

Question	Energy Resources Aotearoa response
16. What mechanisms for monitoring and enforcing these requirements are appropriate (regular reporting by developers that is reviewed by iwi etc)?	We are concerned about the policy direction suggested by this question. We see no issue with permit holders (or project proponents) reporting and demonstrating how they are engaging with affected parties and how they are looking to accommodate mātauranga Māori into their feasibility studies. However, the proposal to introduce an enforcement and penalty regime with iwi and hapū involvement – particularly on such subjective matters – is concerning. It is the responsibility of the Crown, as the regulator, to monitor and ensure and ensure compliance with relevant legislation. We do not support this approach.
17. How should the adequacy of iwi involvement be assessed? What does good faith and meaningful participation look like?	This is for the Crown, as Treaty partner, to determine.
Criteria for permits	
18. Do you agree that developers should be required to meet prequalification criteria to be eligible for exclusive feasibility rights?	Yes. Given the complexity and cost in executing offshore projects it is appropriate to have screening criteria for permit holders, where these screening criteria are proportionate, and relevant to the proposed activity. This proposed approach has direct parallels with the petroleum block offer process managed by MBIE.

Question	Energy Resources Aotearoa response
19. Are our proposed criteria appropriate? Are they complete? If not, what are we missing?	The proposed criteria appear to lack the requirement for a specific work programme. In a competitive tender process, a key differentiator between applicants will be their proposed work programmes. These work programmes will necessarily identify the key project risks and mitigations, and how information will be collected to address these issues. This is partially addressed in the criteria but should be more explicit. It is unclear how a national interest test will help in achieving the policy objectives described in the discussion document. In particular, it is not clear how an application will demonstrate that it supports the goal of ensuring New Zealand is an attractive destination for investors. Overall, applying a broad national interest test to what is likely to be relatively undisruptive feasibility activities introduces unnecessary uncertainty for project proponents. A national interest test is subjective, and these interests will change over time. Such uncertainty will likely be a red flag for potential investors. This further supports the need to define what is meant by the term 'national interests'. The only way we can see this working in practice is through a tender process to deliver a specific project identified by the government. However, we do not support this approach as this is tantamount to interference in the electricity market. A real example of this is the chilling effect on investment in new generation we are seeing as a result of the uncertainty surrounding the proposed New Zealand Battery Project (Lake Onslow).

Question	Energy Resources Aotearoa response
Change in status	
20. How should we consider material changes to permit holders' status and capability? Do you think mechanisms to review permit criteria would be appropriate?	At the feasibility stage it is unlikely any material changes to a permit holder (or permit participant) will have a large, detrimental effect on the holder's ability to complete the studies. We note at this early stage it is unlikely any significant decommissioning or recovery activities required for deployed equipment compared to say the decommissioning of an offshore windfarm. However, the government should retain the capacity to revoke, and reassign, a permit in the event that work programme commitments are not being fulfilled by the holder. The government could then offer the permit to other applicants through a competitive tender process.
Duration of permits	
21. Do you agree that a feasibility licence should last for five years with an option to extend for a further two years?	This approach seems reasonable to ensure areas for renewable energy resource potential are returned in a timely manner. As we have noted, permit holders will be subject to marine consenting processes, and therefore other decision-making processes. It is important applicants are provided a pathway to a timely, predictable consenting process to meet work programme commitments.
22. Do you agree that a feasibility licence should be subject to 'use-it or lose-it' provisions, with permits not exercised within 12-months lapsing? What circumstances would trigger the use it or lose it provisions?	We agree a 'use-it or lose-it' is reasonable approach for feasibility studies. Permit holders should be encouraged to undertake feasibility studies in a timely manner, minimising the potential for land banking. However, the regulator should also be able to exercise some discretion. This flexibility would recognise where externalities, beyond the control of the holders (such as vessel markets, availability of equipment, and lengthy approvals processes) impact the ability of the holders to exercise their rights.

Question	Energy Resources Aotearoa response
Managing overlapping applications	
23. How should government best deal with the issue of overlapping applications?	Issues where there is competition to use the area for other purposes, such as seabed or petroleum exploration and mining, the government will have to decide on which opportunity best meets the national interest. Of course, this may also have the effect of sterilising other potential resources, including Crown-owned resources which are held for the benefit of all New Zealanders. Our preferred approach is using 'declared areas' for renewable energy project development. How the government decides to make those areas available will largely determine how any issues manifest and are resolved. Careful design of the allocation process, such as accepting tenders for defined areas, will avoid these issues. We also note competition to develop an area will have a first-mover advantage, establishing, owning, and controlling access to support and land-based infrastructure. Due to the size and scale required for offshore projects to be economically viable, any development will have both a profound effect on the domestic electricity market and regionally to establish a base of operations and offshore service operations. While establishing the necessary support infrastructure and services has the potential to lower barriers for new entrants and the incremental development of existing operations, cooperative commercial behaviours are not a given. We suggest the Crown may wish to consider how to manage access to infrastructure as part of its permitting regime.

Question	Energy Resources Aotearoa response
Managing and funding the offer and application process	
24. Do you agree that a single national entity should hold responsibility for inviting and assessing applications?	Yes. We believe this is the best approach to ensure predictability for allocating areas and assessing permit applications.
25. Do you agree that the Minister of Energy and Resources, acting on advice from officials, should make the final decision on applications for permits?	Yes. This is appropriate as it is consistent with other legislation (including the Crown Minerals Act 1991) where there is separation of the benefits of an activity from the identification and management of effects.
26. Do you agree with charging fees sufficient to recover the costs of inviting, and assessing feasibility permit applications, and monitoring permit holders?	Yes. However, we submit that a fixed fee approach should be adopted and should not be charged on a cost recovery basis.
27. What other steps would ensure that processes are transparent and fair for developers? Ensuring wider consultation	We have no additional comments.
Ensuring wider consultation	
28. Do you think that public submissions should be sought on permit applications? What other steps would ensure sufficient opportunity for iwi, hapū, whānau, and stakeholders to inform decision-making?	No. Our preferred approach is for the government to declare areas for offshore renewable energy resource investigation and feasibility studies. Before declaring these areas, the government should have undertaken an extensive consultation process to decide the best (preferred) use of the offshore area.

Question	Energy Resources Aotearoa response
Ongoing reporting obligations	
29. Do you agree that permit-holders should regularly report on the progress of their feasibility activities? How frequently should the reporting be?	Reporting obligations will depend on the permitting approach. For example, a petroleum exploration permit has work programme commitments (as conditions) as well as legislative reporting requirements. We consider a similar approach would strike a reasonable balance for both permit holders investigating the feasibility of offshore renewable energy resources and projects, and for the Crown to ensure allocated land is being used effectively.
30. What reporting standards should the Government set to make the disclosures meaningful?	Energy Resources does not have a specific position on an appropriate standard for disclosures. However, we remind the reader that reporting is not costless. Any reporting requirements should not be overly burdensome and should be set at an appropriate level to ensure the work the requirements of the work programme are being met. We suggest the annual summary reporting requirements for petroleum exploration permits provides appropriate guidance on the level of reporting required for regulators to assess compliance.
31. Who should have access to this information? How should it be shared?	Information disclosed as part of reporting requirements should be treated as commercial in confidence, and should not be generally available, particularly while the permit is in effect. Again, we note the potential parallels with Crown Minerals Act 1991 in the collection, storage, and availability of data during the lifecycle of a permit.

Question	Energy Resources Aotearoa response
Ensuring compliance	
32. Do you agree that developers not complying with obligations could face compliance actions, with risk loss of rights to conduct feasibility activities as a last resort? What sorts of could lead to the loss of these rights? noncompliance	Yes. Provided any obligations and permit conditions are clearly defined and understood by both the permit holder and the regulator compliance actions are appropriate. We suggest the regulator should consider adopting the VADE model as an approach to compliance, similar to that adopted by the Crown minerals regulator. We note this approach will require the development of specific sanctions regime and compliance measures to work.
33. Are there other uses, interests, and values not covered above that can be readily mapped? What are they?	The government needs to seriously consider any minerals resources (petroleum and other) that will potentially be sterilised by the allocation of areas for offshore renewable energy projects. Such resources could potentially have significant yet-unrealised economic value and it is important this is done in an informed, evidence-based way. Other considerations should include land-based assets, such as shore-crossings and onshore connections, and any other relevant energy assets.

Question	Energy Resources Aotearoa response
34. Of the uses, interests, and values identified above, which ones do you consider should be prohibitive, i.e., the existence of those uses, interests, and values in a given area should exclude an area from consideration for offshore renewable energy generation? Why?	Other than areas subject to Treaty settlements, we consider the following should act to exclude an area for consideration in the development of offshore renewable energy projects; • existing (and future) oil and gas permits • established marine reserves; • closed sea mounts; • areas where there are high volumes of marine traffic; • NZDF firing practice areas; and • protected areas around existing offshore infrastructure including platforms, pipelines, and cables. We note however, it is possible for pipelines and cable easements to cross submerged lands and for infrastructure to coexist in these cases.
35. What opportunities do you envisage for offshore renewable energy developments and other uses, interests, and values to co-exist, or be co-located in the same space?	This would depend on the health, safety, and environmental considerations and constraints of the overlapping activities. Therefore, these should be considered on a case-by-case basis.
36. How could conflicts with existing uses, interests and values be managed?	Our preference is for the government to declare certain offshore areas suitable for the investigation and development of renewable energy resources. Potential existing use conflicts and values should be identified and managed as part of a government-led process. We believe this is an appropriate role for government in enabling investment in offshore renewable energy projects. It is also consistent with the role of government as steward of New Zealand's territorial waters and exclusive economic zone.

Question	Energy Resources Aotearoa response
37. What uses, interests and values cannot readily be mapped? How should these be taken into account when considering the feasibility of establishing offshore wind farms?	The process of declaring an area as preferred for offshore renewable energy resources should surface these issues. We submit this is where the government should be most involved, by ensuring these matters are considered as part of determining which areas are available for investigation.