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14 April 2023

Ministry of Business, Innovation, and Employment
15 Stout Street
PO Box 1473, Wellington 6140

Attention: Offshore Renewable Energy Submissions
Email: offshorerenewables@mbie.govt.nz

Dear Sir/Madam

Submission on Enabling Investment in Offshore Renewable Energy

Thank you for the opportunity to provide comment and answer questions on the Ministry of Business, Innovation, and Employment (MBIE's) Discussion Document relevant to Enabling Investment in Offshore Renewable Energy in New Zealand's territorial sea and Exclusive Economic Zone (EEZ) and West Coast waters (its territorial sea and EEZ).

The West Coast Regional Council's (WCRC or the Council) submission is attached.

The Council consulted with their iwi partners, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (Poutini Ngāi Tahu or PNT), who are mana whenua on the West Coast/Tai Poutini, in the development of this submission.

Investment in renewable energy is likely to have a significant impact on West Coast interests (including our social, cultural, environmental, and economic interests), and our delegated responsibilities under the Local Government Act (LGA), the Resource Management Act (RMA), NZ's Coastal Policy Statement, and relevant National Policy Statements (NPS), including the NPS for Renewable Electricity Generation and the NPS on Electricity Transmission.

In principle, the Council supports exploring economic investment and sustainable development opportunities in the territorial sea and EEZ on the West Coast of the South Island provided these opportunities are beneficial to the Region's people and communities and are within acceptable environmental limits.

The Council welcomes green job creation for the West Coast.

Moreover, energy security, including energy equity and energy resilience, are pivotal to the West Coast. While the Council supports regulating investment in offshore renewable energy in principle, it is concerned about regulations being rushed through in 2024 before formulating the energy strategy, which is due end 2024.

Developing regulations centred solely on climate change emissions reductions to artificially structure a new energy market for renewables may end up in rash decisions being made. Examples are given in the body of the submission. Instead, Council suggests that 'energy security' and 'net zero' be considered holistically.

By extension, Council also suggests that the proposed 2024 regulations for enabling investment in offshore renewable energy should be consistent with an overall national, regional, and local framework for 'energy security' (and include provisions for 'energy equity' and 'energy resilience'). In addition, Council suggests that a regulatory licensing, or permitting, framework need not be mutually exclusive from engagement with iwi. Council encourages a transparent regulatory framework as well as engagement with iwi.

Our contact details for service are:

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Please acknowledge receipt of our submission.

In addition, the West Coast Regional Council requests:

1. A formal written response to its request for Central Government to fund offshore renewable energy feasibility studies and activities (including but not limited to energy generation, transmission, and distribution) in and from West Coast waters (in the territorial sea and EEZ on the West Coast of the South Island) to shore and to consumers;
2. That Central Government's work include identifying and mapping uses, interests, and values of the West Coast's territorial sea and its EEZ (similar to the work done for Waikato, Taranaki and Southland and as highlighted in MBIE's discussion document); and
3. That central government provides opportunity and funding for the West Coast Regional Council, Mana Whenua, and Development West Coast to engage in the process where appropriate.

Please see the submission for detail.

Yours faithfully



Heather Mabin
Chief Executive Officer

Submission on Enabling Investment in Offshore Renewable Energy

Summary List of Feedback and Recommendations

Response to Question: Do you agree with the proposed policy objectives outlined in the discussion document? Why or why not?

Feedback 1:

In principle, the Council supports enabling investment and sustainable development opportunities in West Coast waters (its territorial sea and Exclusive Economic Zone (EEZ)) [South Island] provided the opportunities are beneficial to the Region's people, and communities, and are within acceptable environmental limits. Council suggests that renewables, including offshore renewables, are essential to meet both energy security and climate change (net zero) targets.

Feedback 2:

Rather than reside solely under a policy framework for climate change emissions reductions, Council maintains that enabling investment in energy markets, including renewables, would be strengthened by emphasising the importance of energy security and climate change (net zero), of which energy 'self-sufficiency' is one part. To formulate direction for enabling investment in 'energy security', and the share of offshore renewables in New Zealand's energy mix, significant work would be required to provide energy to meet forecasted peak demand per capita kWh supply loads, and consumption (kWh per capita) to 2050 (in detail), and over at least 100 years, under various energy security, energy equity, and energy resilience scenarios including, for example, in the event of flooding or when the alpine fault ruptures. If 'energy security' continues to be omitted from the development of energy markets then climate change emissions reductions may be met at the expense of other national interests, such as, the supply of affordable, reliable, and resilient energy. If planning is not in place then more frequent and intense flooding, the destruction of a single substation, or a cold winter, for example, could leave an entire community without electricity.

Feedback 3:

Council does not support climate change mitigation targets (emissions reductions) being the sole focus of New Zealand's pending energy policy and strategy, or the sole centrepiece for enabling investment in offshore renewable energy. Instead, a holistic approach is required, which connects 'Energy Security and Net Zero'. This holistic approach must find the right balance between energy security (including energy equity and energy resilience); Disaster Risk Reduction (DRR) to prevent new risk, reduce existing risk, and increase resilience; economic development without curbing industry; and climate change, amongst other.

Recommendation 1:

A comprehensive energy security strategy should be developed prior to, or in conjunction with, developing new laws and regulations to frame regulating investment in offshore renewable markets and investing in the associated feasibility activities.

1. The Energy Security Strategy, and its accompanying regulatory framework, should at least include:
 - a) Primary legislation (a new Act of Parliament) providing for an overarching vision, strategic directions, objectives, and targets for energy security, energy equity, and energy resilience in renewables (onshore and offshore) and non-renewables (onshore and offshore like coal mining and permitting exploration of offshore oil and gas in NZ waters);
 - b) Provisions and requirements for sustainability;

- c) Criteria for upholding Te Oranga o te Taiao and the social, cultural, economic and environmental well-being of all New Zealanders, including mana whenua, and local communities;
 - d) Provisions for fair competition policy and law, including due consideration of universal service and affordable prices for remote and rural communities (like those on the West Coast of the South Island);
 - e) Provision for diversification of renewable energy sources to include small or 'micro' energy developments, such as, land-based hydro-electricity generation, transmission, and distribution; and
 - f) The integration of indicators and targets for energy security, energy equity, energy resilience, disaster risk reduction, climate change, and enabling investment, amongst other.
2. And as to the regulations, to be made under the new Act of Parliament above, and in addition to provisions 1. a) to f) above, to enable investment in offshore renewable energy by developing:
- a) A framework for regulating feasibility activities and studies in offshore renewable energy consistent with the proposed Energy Security Strategy (above);
 - b) Policy to enhance, and not undermine, energy security, energy resilience, and energy equity, e.g., in more remote and rural areas on the West Coast of the South Island;
 - c) The opportunity for offshore wave, offshore wind, and, amongst other, hybrid (offshore wind-wave) feasibility and research activities and studies to be carried out, including on the West Coast of the South Island;
 - d) Criteria for national interest (including energy security, energy equity, and energy resilience criteria); criteria for regional and local interest (including criteria covering social, cultural, environmental and economic interests); criteria for developer viability (such as, complexity, route to market, estimated commercial and social return); criteria for legal, technical, and financial suitability of the candidate; and, amongst other, criteria for Environmental Impact Assessments to accompany 'permit' [or 'licence'] applications [details are in the submission];
 - e) In terms of climate change, but not limited to climate change, feasibility assessments of 'enabling investment in offshore renewable energy' markets should incorporate a risk mitigation and Dynamic Adaptive Policy Pathway (DAPP) process acceptable to central and local government; and
 - f) The developer, and investor, should have a viable management plan; financial security; a safety and protection zone plan; and, amongst other, a robust work health and safety plan.
3. Note that government will also need to amend relevant Acts, such as the Resource Management Act (RMA) and the EEZ and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act), and national instruments, such as, National Policy Statements.

Recommendation 2:

Council does not support MBIE's proposal that 'permitting' [or 'licensing'] feasibility activities into offshore renewable energy projects and 'dialogue' with Māori are mutually exclusive options. Instead, Council suggests integrating criteria into 'feasibility permits' [or licences] for enabling investment in offshore renewables. Evaluative assessments could also incorporate engagement with Māori, and threshold tests to be met, before a 'permit' [or licence] is issued.

Recommendation 3:

Provide for Environmental Impact Assessments (EIA's) to accompany 'permit' [or licence] feasibility applications:

- The EIA should be checked by the Environmental Protection Authority (EPA), the relevant regional and district councils, and other relevant organisations, like Maritime NZ, Worksafe NZ, and the Department of Conservation, where appropriate, for regulatory consistency, for any adverse social, cultural, environmental and economic effects in the territorial sea and EEZ (and beyond to land), and for any benefits and positive outcomes. (Each organization has particular competencies, and will be looking at different and overlapping matters, for example, Maritime NZ may assess whether navigation channel requirements are met; the Regional Council may assess whether potential disturbance of the seabed from installing cables cross-boundary, offshore to land, meets required threshold tests).
- A developer would still be required to meet the requirements of NZ's Coastal Policy Statement and relevant National Policy Statements (NPS), for example, the NPS for Renewable Electricity Generation and the NPS on Electricity Transmission (to be brought into consistency with the relevant Act of Parliament); and to obtain the necessary resource consents (or Certificate of Compliance) to show compliance with regional and local activity rules. For example, discretionary activity rules may cover seabed disturbance, cables, structures, noise, waste, vegetation, marine life, etc, as per Council's regional plans.
- Provision for the EIAs should be provided for within the new Act of Parliament governing energy security, energy equity and energy resilience; and sit alongside feasibility assessments.

Recommendation 4:

Include the following additional criteria for local and regional-level feasibility assessments to be addressed through a potential consent application:

- Whether an offshore renewable energy development could impact on an adjacent marine protected area, the blue economy, or ocean carbon sink; or
- Mātaitai reserve or Taiāpure (in the estuarine or coastal area, for instance); or
- Other site significant for mahinga kai, spiritual or cultural reasons.
- [Other criteria are suggested in the body of the submission].

Recommendation 5:

That the criteria should be considered holistically rather than pre-determining a hierarchical outcome.

Recommendation 6:

Consider providing for a 'Registrar' and for the 'Registrar of a 'Permit' [or 'Licence'] to make final decisions on granting a 'Permit' [or 'Licence'].

Feedback 4:

Council notes that MBIE uses the terms 'permit' and 'licence' interchangeably in parts of its Discussion Document and its supplementary template. It also notes that the Crown Minerals Act 1991 provides for 'prospecting' and 'exploration' 'permits'. Whatever the eventual decision, consistency is required.

Recommendation 7:

- That the authority to make regulations to enable investment in offshore renewable energy is set out in a relevant new Energy Security, Energy Equity, and Energy Resilience Act with supporting amendments to relevant legislation, including the RMA and EEZ Act, NZ's Coastal Policy Statement, and relevant National Policy Statements, including the National Policy Statement (NPS) for Renewable Electricity Generation and the NPS on Electricity Transmission.

- In consistency with the relevant Act, the Regulations should then deal with matters of detail, which are likely to require updating, those of a more technical and operational nature, and implementation.

Recommendation 8:

That energy supply and consumption on the West Coast must be secure, resilient, reliable, accessible, and affordable at all times.

Recommendation 9:

It is crucial that the proposed regulatory framework for offshore renewables is not developed in such a way as to deny the West Coast market entry to accessing and developing renewable sources; or to deny the West Coast from meeting required targets, including those already set for renewables under climate change law, and those for natural hazard management under the RMA.

Recommendation 10:

- a) The option analysis, that is, the 'permitting' and 'collaborative' options proposed in the Discussion Document, should be reviewed and alternative options explored that give investors assurance of a stable and predictable regulatory framework, and that provide an appropriate level of engagement between the developer, central and local government, and Māori. [Council does not consider the 'permitting' [or licensing] option and dialogue with Māori to be mutually exclusive].
- b) Amongst exploring options other than the mutually exclusive one proposed by MBIE, explore the option of developing only two overall 'permitting' [or licensing] regimes under one overarching set of regulations (with one 'permitting' [licensing] regime being applicable to the territorial sea, and the other applicable to the territorial sea and EEZ); and ensure that the regulations provide for the appropriate level of dialogue with the Crown, local government, the developer and Māori. Any 'permit' [or licence] in the territorial sea would most likely need to meet the requirements of the EEZ 'permit' [licence]. And the Environmental Protection Authority (EPA), for example, has expertise to give guidance on a broad range of issues, including relevant discharge and dumping regulations in the EEZ.

Feedback 5:

The Council does not support MBIE's proposed centralised laissez-faire developer-led approach of 'develop where you like', which may have fewer [short term] costs for central government and help meet New Zealand's climate change commitments, but it could potentially result in unintended social, cultural, economic, and environmental consequences at the local and regional levels. By excluding local and regional councils from the decision making framework, adverse environmental effects may not be provided for; obligations under the RMA, NZ's Coast Policy Statement, and NPSs for renewable electricity generation and electricity transmission, would not be met; and impacts on local communities are unlikely to be considered. This should not happen if, for example, at the local government level, local and regional government are engaged in assessing the significance of social, cultural, economic and environmental effects, such as, whether adverse environmental effects can be avoided, mitigated, or offset.

Feedback 6:

In addition, Council wants developers to be able to consider setting up on the West Coast (South Island) provided they can obtain a 'permit' [or licence] and the necessary resource consent, which amongst other should be subject to sound environmental management, including dealing with waste, for example, appropriate disposal of toxic waste and 'end of life' batteries.

Feedback 7:

Council supports a transparent regulated approach to gathering feasibility information, which also incorporates dialogue with Māori.

Recommendation 11:

A variety of monitoring mechanisms should be put in place, such as requiring Annual Reports and Audits to be delivered according to pre-specified criteria.

Recommendation 12:

- a) The West Coast Regional Council requests Central Government fund offshore renewable energy feasibility studies and activities (including but not limited to energy generation, transmission, and distribution) in and from West Coast waters (in the territorial sea and EEZ on the West Coast of the South Island) to shore and to consumers; that Central Government's work include identifying and mapping uses, interests, and values of the West Coast's territorial sea and its EEZ (similar to the work done for Waikato, Taranaki and Southland and as highlighted in MBIE's discussion document); and that central government provides opportunity and funding for the West Coast Regional Council, Mana Whenua, and Development West Coast to engage in the process where appropriate.
- b) The Council also requests a formal written response in this regard.

Introduction

Council acknowledges the importance of developing renewable energy as part of New Zealand meeting its climate change emissions reduction commitments insofar that Parliament and Central Government have committed to:

- i) reaching net zero for long-lived gases by 2050;
- ii) a set target that 50 per cent of total energy consumption will come from renewable sources by 2035; and
- iii) an aspirational target of 100 per cent renewable electricity by 2030.

However, in Council's view, meeting these climate change targets should not exclude due consideration of energy security. Energy security and 'net zero' interact and need to be considered holistically.

Meeting 'net zero' targets by renewables, whether onshore or offshore, will have implications for the West Coast's social, cultural, economic, and environmental well-being; and provisions under the Local Government Act (LGA), the Resource Management Act (RMA), and National Policy Statements, amongst other. Likewise, the Ministry of Business, Innovation and Employment (MBIE) Discussion Document on 'enabling investment in offshore renewable energy' in NZ's territorial sea and its Exclusive Economic Zone (EEZ), has implications for energy security and 'net zero'. Council suggests that energy security, including energy equity, energy resilience, and other relevant sustainability criteria, need to be elevated in the policy agenda so that energy security and climate change are considered strategically.

Timing, however, is an issue. The relevant Minister of Energy and Resources, Hon Dr Megan Woods says in the foreword to MBIE's discussion document "our first Emissions Reduction Plan [for climate change mitigation] commits to accelerating the development of new electricity generation technologies and ensuring that by 2024, we have regulatory settings in place to enable investment in offshore renewable energy". However, an 'energy strategy' won't be developed until December 2024. Meanwhile, MBIE is consulting on potential regulatory settings for feasibility studies and feasibility activities in offshore renewable energy markets in the absence of an overriding strategy for energy security and 'net zero'.

The West Coast Regional Council ['the Council'] supports in principle exploring investment and economic development opportunities, including renewables, in the West Coast of the South Island's territorial sea and EEZ provided they are beneficial to the Region's people and communities; and are within acceptable environmental limits. However, it does not agree with the overarching policy framework being limited to emissions reductions. Energy security, energy equity, and energy resilience are pivotal to New Zealand's national interests in general, and to the West Coast in particular.

The Council is concerned about several other issues raised in the Discussion Document, including central government's approach to its intervention in the structure of NZ's energy market; reference to central government having pre-empted sites and supported feasibility activities for offshore renewables prior to the regulatory framework being in place; and reference to central government having already facilitated offshore renewable energy feasibility assessments and activities in Waikato, Taranaki, and Southland seemingly without due regard to potential opportunities on the West Coast of the South Island. By taking this approach, central government appears, seemingly by omission, to have completely overlooked the potentially 'optimal' sites on the West Coast of the South Island for a just transition to renewable energy, including offshore renewable energy, such as wave energy, wind energy, and hybrid energy feasibility activities. In addition, by intervening in the structure, conduct, and performance of the energy market to establish these 'first mover', and potentially 'dominant' and more favourable positions for a pre-selected few, there has seemingly been no adequate consideration of meeting criteria for energy security, energy equity, or energy resilience. In turn, these decisions will have implications for reliability, resilience, and affordability of supplying renewables on the West Coast. (Examples are given in the submission).

The Council recognises that MBIE considers most enabling investment for offshore renewables is likely to be in the EEZ, which is, roughly speaking, 12-200 nautical miles from shore. While electricity generation may originate in the EEZ (once authorised and constructed), transmission and distribution will still require interconnection to shore. Cross-boundary issues thereby require careful consideration. For example, drilling and the fitting of cables on the seabed, and build out in the Coastal Marine Area and on land, will most likely be required to reach the national grid, distributors, and the end consumer on shore. Many activities in the coastal environment (including the Coastal Marine Area), such as, seabed disturbance, vegetation clearance, and certain environmental effects, are likely to require appropriate authorisations, such as, a resource consent from the relevant local authority. 'On land' build out of the grid will also be required for connection purposes. And, as elsewhere, transmission and distribution over land will also need to comply with relevant regional and district plans. In this sense, offshore renewable energy generation in the territorial sea, and in the EEZ with transmission to shore via the territorial sea, in the vicinity of the West Coast will have other implications for the Region and its local communities.

Some of the primary environmental concerns with transmitting offshore wind, offshore wave, offshore hybrid wind-wave, and other offshore energy generating products to shore include, but are not limited to, consideration of the full impacts to the seafloor, the protection and repair of cables, sensitive coastal environments, marine and bird life, avoidance of sensitive habitats, cultural concerns, safety around HVDC (High voltage DC) if used, and the potential conflict [or collaboration] with other ocean uses including fishing interests, navigation channels, ocean carbon sinks, and other existing and potential opportunities of NZ's waters. For example, the potential for further oil and petroleum mining exploration may be in the nation's interests, and another essential component of energy security and 'self-sufficiency', particularly in the face of external shocks, e.g., the cut off of international shipping routes; and internal shocks, such as, flooding or an alpine fault rupture.

Shared transmission facilities could reduce the number of offshore cables, the number of beach landings, and the extent of interconnection and distribution build outs, i.e., reduce cost; but energy security, energy equity, and energy resilience remain crucial. There are other implications as well with respect to social, cultural, environmental, and economic effects, including 'green job' creation, which the West Coast favours.

No issues were raised by Council's iwi partners, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (Poutini Ngāi Tahu or PNT).

In addition to commenting on MBIE's Discussion Document's questions about objectives, policies, and criteria for managing investment in enabling offshore renewable energy, Council has also responded to MBIE's questions which explore approaches to managing feasibility activities for offshore renewable energy.

The requested supplementary template has been completed and is appended.

About the Submitter

The West Coast Regional Council (WCRC) is the local authority for a region covering a vast area with a sparse population. The distance from Kahurangi Point in the north to Awarua Point in the south is the approximate distance from Auckland to Wellington.



The West Coast region stretches the equivalent distance of that between Auckland and Wellington

Figure 1: Map of New Zealand to highlight the 600km length of the West Coast Region compared to the distance between Auckland and Wellington.

The West Coast coastline is approximately 600km in length, with relatively little development in the territorial sea or Coastal Marine Area, over which the council has certain delegated responsibilities under the Resource Management Act, or in its Exclusive Economic Zone (EEZ).

The West Coast Regional Council works closely with the regions' three territorial authorities (the Buller, Grey, and Westland District Councils). The main towns are Westport, Greymouth, Reefton, and Hokitika. The region's relatively low population of approximately 32,600 is spread across small towns, settlements, and rural communities.

Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (of Poutini Ngāi Tahu – PNT) are mana whenua of Te Tai o Poutini (the West Coast). The 'Paetae Kotahitanga ki Te Tai Poutini Partnership Protocol, Whakahono ā Rohe Resource Management Act Iwi Participation Agreement; A Protocol and Arrangement between Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio, Te Rūnanga o Ngāi Tahu and the West Coast Regional Council of October 2020' captures the intent of WCRC and its partners to progress our relationship in accordance with the Treaty of Waitangi partnership between iwi and the Crown.

The West Coast is predominantly rural.

The Conservation Estate comprises 84.17% of the West Coast land area, with an additional 1.55% administered by Land Information New Zealand (LINZ). This leaves 14.28% of land available for private ownership. The land in the Conservation estate and Crown ownership is not rateable by local authorities.

As to the structure of the West Coast Region's Economy, and according to Infometrics 'Filled jobs by 54 industry categories list', the percentage contribution of various sectors to the regional economy, as at 2022, was:

- Health Care and Social Assistance - 11.1%;
- Accommodation and Food Services - 9%;
- Dairy Cattle Farming - 6.1% (and dairy product manufacturing 3%);
- Education and Training - 6.1%; and
- Construction Services - 4.4%.¹

Infometrics 'Contribution to employment by broad sector, 2022' data shows the following sectors contribution to the West Coast Region's economy:

- 'Other services' accounted for 40%;
- 'High value services' 23.2%;
- 'Goods-producing industries' 22.1%; and
- 'Primary industries' made a 14.8% contribution.

¹ Structure of West Coast Region's Economy; Source Infometrics at <https://ecoprofile.infometrics.co.nz/West%20Coast%20Region/Employment/Structure>, last viewed 30 March 2023.

Consultation: Enabling investment in offshore renewable energy

Submission template

Submission on approaches to managing feasibility activities for offshore renewable energy

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Release of information

Please let us know if you would like any part of your submission to be kept confidential.

I would like to be contacted before the release or use of my submission in the summary of submissions that will be published by MBIE after the consultation.

I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because...
[\[Insert text\]](#)

[To check the boxes above: Double click on box, then select 'checked']

Chapter 3: Why does the government need to enable feasibility activity now?

Do you agree with the proposed policy objectives outlined in the discussion document? Why or why not?

The overriding policy objective of these proposed regulations for enabling investment in offshore renewables by 2024 is set within the Discussion Document's 'context', which is "to reach net zero for long-lived gases by 2050, set a target that 50 per cent of total energy consumption will come from renewable sources by 2035, and have an aspirational target of 100 per cent renewable electricity by 2030". Council does not support this omnibus policy objective for both 'climate change' and the 'energy strategy' due December 2024.²

Governing climate change and energy policy and law are related; but they need to sit alongside each other and interact in a holistic way rather than having the overriding climate change policy agenda and objective dictate 'energy security', 'energy equity' and 'energy resilience'. In other words, Council supports an overriding framework for 'energy security' and 'net zero'.

1 Meeting central government's targets for renewable energy (100% renewable electricity in seven-years' time (by 2030), 50% total energy consumption from renewables by 2035, and net zero by 2050), by accelerating the transition from fossil fuels, will depend in large on international imports (provided they remain an acceptable accounting unit), and how quickly New Zealand can roll out renewables to consumers. But if, for example, carbon leakage and emissions from shipping and aviation import-export supply chains were accounted for; and implications of net accounting were taken into account, for example, not being able to use wood pellets for process heat in milk power manufacturing due to harvesting of forests creating excess emissions rather than reducing net emissions, then there would be serious implications for the West Coast.

In Council's view, renewables could be strengthened by emphasising the importance of energy security, of which 'self-sufficiency' is one part, as well as 'net zero'. Significant work is required to formulate direction for enabling investment in 'energy security'; investing in the required electricity generation, transmission, and distribution infrastructure required; and determining the optimal share of domestic and 'offshore' renewables in New Zealand's energy mix. Under a 'energy security strategy' a diversified portfolio mix, rather than, for example, reliance on hydro from Lake Onslow, should include consideration of developments in wind, wave, hybrid wind/wave, tidal, hydro (and 'pumped hydro'), hydrogen, carbon capture and storage, amongst other renewables, and 'non-renewables' like oil and gas.

Another input to this approach includes determining how many gigawatts New Zealand would need (at local, regional, and national levels) to supply all consumers equitably, and at affordable prices, and to plan the energy mix accordingly in line with enabling investment. Significant policy planning would be required for NZ to forecast and meet peak demand per capita kWh supply loads, and consumption (kWh per capita) to 2050

² <https://www.mbie.govt.nz/dmsdocument/25373-terms-of-reference-new-zealand-energy-strategy>; last viewed 30 March 2023.

(in detail), and over at least 100 years, under various energy security, energy equity, and energy resilience scenarios including, for example, in the event of more intense and frequent flooding or when the alpine fault ruptures.

If energy security and net zero are not considered holistically then emissions reductions may be met; but the country may be absent affordable and sufficient electricity. More intense and frequent flooding, the destruction of a single substation, or another cold winter could leave an entire community without energy.

In terms of fitting developments in offshore renewable energy into the mix, offshore wind developments may be commercially cheaper than offshore wave development in the short run, say 3 to 5 years, but technology is continually evolving and developments in wave energy and innovation, amongst other, are rapidly taking place. The regulatory framework for enabling investment in offshore renewables should not be limited to wind feasibility activities. Instead, it should facilitate the opportunity for development in new technologies as well, such as, wave energy and hybrid (wind-wave) feasibility and research work, amongst other, to be carried out.

Diversification in due consideration of various factors, such as, seasonal variations, is particularly relevant when there is insufficient wind, insufficient sun (for solar), or insufficient water (dry rivers, lakes, and glaciers). Diversification and neighbourly demand response, which does not curtail business or the economy, is another policy consideration in light of 'energy resilience'.

In terms of 'energy equity', economic development opportunities, 'green job' creation, universal service, affordable prices, and 'just transition' in remote rural areas, like on the West Coast of the South Island, are also potential policy objectives.

In Council's view, offshore renewables are essential to meet both climate change and energy security (energy equity and energy resilience) targets. Consistent with an overarching strategy and plan for energy security, energy equity, and energy resilience, energy deployment needs to be accelerated while meeting marine environmental limits, and providing offsetting or compensation where adverse effects on marine habitats and species cannot be avoided, remedied, or mitigated. In addition to its omnibus climate change emissions reduction target, energy security should inform MBIE's reference to 'national interests' when setting policy objectives for enabling investment in energy markets, and offshore renewable energy.

Besides its omnibus emissions reduction policy objective, another policy objective set out in the Discussion Document is to "provide certainty for developers to invest in the short term [3-5 years]". Council agrees that developers and investors require a degree of certainty and that a transparent regulatory framework would assist in this regard. But, subject to merit, it would also like to see feasibility studies and activities turn into real electricity generation, transmission, and distribution projects, which would generally, in terms of resilience, involve a long-term commitment going beyond 3-5 years.

There are no overriding policy objectives or pathways, however, for energy security, energy equity, or energy resilience in the Discussion Document. And in Council's view, rather than develop the regulations, and then the national energy strategy subject to climate change policy, that a 'first order principles' or a Kaupapa approach needs to inform objectives, policies, and the regulatory settings.

The Discussion Document refers to the 'development of a New Zealand Energy Strategy, due to be completed by the end of 2024, which will help set pathways to

achieve our objectives and provide certainty for the sector, consumers, and industry'. The First Emissions Reduction Plan (rev. June 2022) also states that Central Government doesn't yet have an Energy Strategy but that "The Government's 2050 vision for energy and industry is for Aotearoa New Zealand to have a highly renewable, sustainable and efficient energy system supporting a low-emissions economy". And that: "Energy will be accessible and affordable and will support the wellbeing of all New Zealanders. Energy supply will be secure, reliable and resilient, including in the face of global shocks. Energy systems will support economic development and an equitable transition to a low-emissions economy."

Council agrees with the components set forth in this vision. However, there is no certainty that 'energy security', 'energy equity' and 'energy resilience' will sit on a par with 'climate change' emissions reduction targets in the pending NZ Energy Strategy; and there is no provision for them to inform the proposed regulations for regulating enabling investment in renewables or in offshore renewables.

Despite this, New Zealand has already made other relevant commitments. In terms of setting policy objectives for energy equity, for example, New Zealand has already committed, amongst other, to Sustainable Development Goal 7 (affordable and clean energy); to 'ensure access to affordable, reliable, sustainable and modern energy for all'; to meet relevant targets, including to ensure universal access to affordable, reliable, and modern energy services for all [including the West Coast] by 2030; and to increase the share of renewable energy substantially by measure of total final energy consumption.

By virtue of the National Policy Statement (NPS) for Renewable Electricity Generation, NPSREG, "Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation by existing and prospective generators" (NPSREG Policy G). Regional Councils also have other relevant obligations. For example, "as part of giving effect to policies incorporating provisions for renewable electricity generation activities into regional policy statements and regional and district plans" (Policies E1 to E4), "regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance and upgrading of small and community-scale distributed renewable electricity generation from any renewable energy source to the extent applicable to the region or district" (NPSREG Policy F). Any pending regulations for renewables, including offshore energy renewables in West Coast waters, will therefore need to ensure that barriers to entry are not put up to deter small and community-scale generation, transmission, and distribution of renewables. In Council's views, the policies and objectives set out in the NPSREG are thereby important policy objectives and both central and local governments have pivotal roles to play.

Further, sustainable progress indicators should not only be a matter of total energy supply; but also of total final energy consumption (consistent with Sustainable Development Goal 7 above, and broken down by relevant areas, including commercial and household provisions for remote and rural areas). This policy objective also concerns how electricity gets to and from the grid to consumers, which in Council's view is not adequately provided for by the National Policy Statement (NPS) on Electricity Transmission (NPSET). Despite this, the NPSET directs that "Regional councils must include objectives, policies and methods to facilitate long-term planning for investment in transmission infrastructure and its integration with land uses". The Discussion Document is relevant to Council in this regard because offshore

renewables, even energy generated in and coming from the EEZ, will have to connect to land and be distributed.

Policy objectives should also be for the 'long-term' not only the 'short-term' as proposed in the Discussion Document.

While policy objectives for 'energy equity' and 'energy resilience' would clearly inform investor criteria, they are not, however, reflected in the Discussion Document. By extension, there are no associated regulations proposed to regulate 'energy equity' and 'energy resilience' in the context of enabling investment in offshore renewable energy.

'Energy resilience' is often about ensuring consumers and businesses have a reliable and regular supply of energy, that redundancy is built into the network, and that contingency plans, measures, and methods are in place in the event of failure, such as, power failure, and fuel supply disruption.

Amongst other, 'energy resilience' is also relevant to the NPS for Renewable Electricity Generation (NPSREG). For example, the NPSREG requires decision-makers to "avoid reliance on imported fuels for the purposes of generating electricity" (NPSREG Policy A(e)). The NPSREG therefore supports energy security, resilience, and self-sufficiency.

As another example with respect to 'energy equity', the NPSREG provides that "When considering any residual environmental effects of renewable electricity generation activities that cannot be avoided, remedied or mitigated, decision-makers [including regional councils] shall have regard to offsetting measures or environmental compensation including measures or compensation which benefit the local environment and community affected" (NPSREG Policy C7). However, if all decisions for regulating offshore renewable energy, and the associated feasibility activities, reside at the central government level, there is no clear indication that the local environment and community affected will be provided for.

In addition, the NPS on Electricity Transmission (NPSET) is relevant. The NPSET, for example, provides that "In achieving the purpose of the Act [the Resource Management Act, RMA, 1991], decision-makers must recognise and provide for the national, regional, and local benefits of sustainable, secure, and efficient electricity transmission. The benefits relevant to any particular project or development of the electricity transmission network may include: i) maintained or improved security of supply of electricity" (NPSET, Policy 1); and "Regional councils must include objectives, policies and methods to facilitate long-term planning for investment in transmission infrastructure and its integration with land uses" (NPSET, Policy 14). In Council's view, enabling investment in renewables should be consistent with these provisions, e.g., enabling investment in offshore renewables should maintain or improve security of supply of electricity; and facilitate long-term planning for investment infrastructure and its integration with land uses.

Likewise, and in a similar way, 'energy equity' is a sub-principle, a normative component, of 'energy' and 'equity'; and it is often about 'Ensuring access to affordable, reliable, sustainable and modern energy for all [at all times]', so it encompasses the reintroduction of 'universal service obligations', a 'just transition', affordable prices for consumers, and meeting relevant sustainable development goals, for example, that "by 2030, [government] ensures universal access to affordable, reliable and modern energy services", and that measures for durable energy consumption are in place.

In essence, some economists may refer to this approach as optimizing 'energy security' by optimizing supply (resilience) and demand (equity); both 'energy resilience' and 'energy equity' are normative components of 'energy security' but again they should be considered holistically and interactively rather than operating in silos. One of the crucial points here is that they are not necessarily components of NZ's 'energy strategy', which is seemingly being centred on climate change mitigation targets, i.e., emissions reductions and "for a net-zero carbon economy in 2050" to come before strategic direction and cohesive policy for "energy security", energy equity, energy resilience; and 'net zero'.

Going forward, Council supports a 'first principles', or kaupapa' approach, to formulating policy objectives that regulate enabling investment in renewables, including offshore renewable energy. In other words, higher order policy objectives should be clearly defined and inform operational goals and targets. And, in addition to achieving climate change mitigation targets, energy security, energy equity, and energy resilience, should be at the heart of regulating energy markets, regulating enabling investment in offshore renewable energy, and regulating the associated feasibility activities and studies.

Are there other objectives that we should consider that are not captured above? If so, what are they and why are they important?

Yes, in addition to the suggestions given above, Council suggests there are other objectives to be considered and captured, which are not provided for in MBIE's Discussion Document.

Besides having a cohesive approach between strategic direction, policy, and emissions reduction targets (see above), a national energy security strategy is needed to frame regulating investment in offshore renewable markets and the associated feasibility activities. In other words, feasibility studies and activities should not be of a 'higher order' than strategic direction and overarching policies for 'energy security' and 'net zero'.

Instead, Council suggests that feasibility studies of offshore renewable energy development in NZ waters (its territorial sea and Exclusive Economic Zone (EEZ)) should fit with an overarching framework and roadmap for energy security, ensuring that energy supply is secure, resilient, reliable, accessible, and affordable and supports the wellbeing of all New Zealanders. A comprehensive energy strategy will also become increasingly important as natural disasters and extreme weather events become more frequent and intense. By extension, disaster risk reduction and resilience will require improved backup energy facilities for Auckland and the North Island (e.g., post cyclone or tsunami) as well as for the South Island (including the West Coast); and this will have implications for where and how investments are enabled in offshore renewable energy in NZ's territorial sea and its EEZ.

Energy equity should also be at the heart of enabling investment in renewable energy. Those living in remote or rural areas should be assured of secure, resilient, reliable, accessible, and affordable supply.

Local economic development should also be supported. Along with the requirement for energy security on the West Coast, energy systems need to support economic development, productivity growth, and 'green jobs' for present and future generations.

Competition law and policy is another important consideration in managing feasibility activities for offshore renewable energy and framing the associated policy objectives.

2

It is crucial that the proposed regulatory framework is not developed in such a way as to deny the West Coast market entry or to develop regulations that would put the West Coast at a disadvantage.

For example, it will be important for the regulations not to impose restrictive trade practices, which could divert potential investor funding either directly or indirectly away from the West Coast; or cause a cumulative effect of an abuse of a dominant market position. As highlighted in the discussion document, for instance, pre-emptive feasibility studies are already underway, and being funded, to assess the potential of offshore wind energy infrastructure developments in Waikato, Taranaki, and Southland. One issue here though is that intentional diversion of enabling investment into one area for feasibility assessment because it may, for instance, have received the 'highest financial offer', or has been identified by the International Energy Agency (IEA) as being in the closest proximity to transmission and population, can prohibit enabling investment elsewhere. And intentionally guiding an investor to invest in offshore wind in Waikato, Taranaki, or Southland, could stop that same investor, and other investors, considering the feasibility of investing either in a different product (like exploring the feasibility of optimal offshore wave energy or 'hybrid' energy) or a different geography (like the West Coast of the South Island).

As another example, enabling investment in large enterprise endeavours can impinge on the development of small or 'micro' energy developments, such as, hydro-electricity generation and transmission, which could be feasible on the West Coast. These matters concern developing the right interactions between competition law and policy in regulating energy markets, transfer prices and offshore renewables included. And in addition to social equity and universal energy provision on the West Coast, energy security requires reliable supply and back up at a national level when disaster strikes the rest of New Zealand, e.g., when power is down in Auckland, Wellington, or Christchurch.

In other words, fair competition law and policy have a pivotal role to play in enabling feasibility assessments, which will structure a market for onshore and offshore renewables.

As a further example, it will be crucial to ensure that West Coast interests are not excluded from investing in offshore renewable energy because MBIE, through the International Energy Agency, IEA, or elsewhere, has identified three key offshore wind sites for feasibility assessments (these being Waikato, Taranaki, and Southland). The degree to which New Zealand can sustain further offshore wind, wave, and hybrid (wind/wave) sites, amongst other, is yet to be determined.

In Council's view, feasibility criteria for enabling investment in offshore renewables should not be limited to size or economies of scale or a first mover being the highest financial bidder. Energy security, energy equity, and energy resilience are also crucial. For example, enabling investment in small-medium hydroelectricity development on the West Coast is likely to support certain parts of the West Coast to attain a degree of energy security, energy equity, improved availability, and stability of power supply, and support local economic development. (But concerns over rising power prices on the West Coast, transfer prices, and resilience especially in the face of natural disasters, also need to be factored in). Other solutions are also required to ensure secure, resilient, reliable, accessible, and affordable supply, such as, in the event of an Alpine Fault rupture, flash flooding, slips and blocked transport routes, and earthquakes. In this regard, energy resilience is crucial.

As mentioned, offshore feasibility activities should not be restricted to pre-selected 'offshore wind' initiatives. Other opportunities for development may exist and policy objectives should make provision for these developments within the broader context of 'energy security'. International comparisons are helpful but New Zealand has its own unique geography and is highly susceptible to natural hazards and external shocks.

Renewable energy is likely to have a significant impact on West Coast interests (including our social, cultural, environmental, and economic interests) and therefore our mandate under the Local Government Act (LGA), the RMA, NZ's Coastal Policy Statement, and relevant NPSs, such as, the NPS for Renewable Electricity Generation and NPS on Electricity Transmission. Council supports investment and development opportunities in the West Coast's territorial sea and EEZ (South Island) in principle provided they are beneficial to the Region's people, and communities, and are within acceptable environmental limits.

The importance of developing renewable energy as part of NZ meeting its climate change commitments is acknowledged. However, the Council does not support climate change targets being the centrepiece of NZ's renewable energy policy. Instead, a holistic approach is required, which finds the right balance between energy security, energy equity, and energy resilience; Disaster Risk Reduction (DRR) to prevent new risk, reduce existing risk, and increase resilience; economic development; and climate change, amongst other. In brief, it is essential that the West Coast has robust energy security, i.e., energy supply needs to be secure, resilient, reliable, accessible, and affordable.

Balancing renewable generation and managing frequency fluctuations will continue to play an increasingly important role in managing Distributed Energy Resources (DER) at the local, regional, and national levels. At the local level, these developments, especially those in DER, could also open real opportunities for the West Coast in terms of growing skills and capabilities in the local workforce.

Growing jobs, skills and capabilities is particularly important for a regional economy dominated by health care and social assistance services, and dairy farming. These regulations will have a key bearing on the generation of 'green jobs' and where highly skilled 'green jobs' will develop. Targets should be set for creating high wage skilled jobs by using the regulations to grow the sector.

Developments of floating offshore wind farms in remote Aberdeenshire are an example of enabling investment in offshore renewable energy. Recent research indicates the West Coast (South Island) also has optimal sites for offshore renewable energy generation, making it a prime location for development over and above large urban centres or locations in the North Island, or along the East Coast of the South Island. According to a study by Dr. Bertram, these latter marine areas have very busy shipping lanes; cable buffer zones; military training zones; more wahi tapu and marine reserves; significant marine mammal sanctuaries (the West Coast North Island Marine Mammal Sanctuary for example); extensive submarine archaeology (there are many shipwrecks along the West Coast of the North Island); and large marine parks (Hauraki Gulf).³ It is important that feasibility assessments, and the associated regulations, reflect these criteria and factors. Not all adverse effects will be able to be avoided, remedied,

³ For analysis of potential criteria for the regulatory framework see Bertram, D. V. (2021). An integrated site and device selection methodology for the ocean wave energy sector. [Doctoral thesis, University of Waikato].

mitigated against or compensated for. Instead, tough decisions will need to be made, if not already made, about site and investor selection.

For analysis of potential criteria for the regulatory framework see Bertram, D. V. (2021). An integrated site and device selection methodology for the ocean wave energy sector. [Doctoral thesis, University of Waikato].

Council recognises that checks need to be in place for any offshore renewable energy development. MBIE's proposed laissez-faire developer-led approach of 'develop where you like' may have fewer [short term] costs for central government and meet New Zealand's climate change commitments, but it could also potentially result in unintended social, cultural, economic, and environmental consequences at the local and regional levels. This option is not supported.

A further consideration when formulating policy objectives is that the whole country is prone to natural hazards and natural disasters so advance energy planning, such as through Dynamic Adaptive Policy Pathways (DAPP), will become more important as storms and flooding become more frequent and intense. The risk may be mitigated against but the hazard (probability of disaster) is unlikely to go away.

As illustrated by the recent Cyclone Gabrielle and the energy crisis in Auckland and the Hawkes Bay/East Coast, the entire country urgently needs clear direction on 'energy security' and 'energy resilience', e.g., redundancy needs to be built in and a backup system is required. The feasibility of offshore renewable energy development on the West Coast, like some of the original thinking into an economic stimulus package for Scotland's offshore renewables, may be far away, but modern transmission systems may facilitate energy to be transported north when storms become more frequent and intense; or over to Christchurch in case of another significant earthquake there; or along the Golden Bay offshore fault, through Ruby Bay – Moutere line, and into Nelson. Market access is already in existence via the distribution of electricity imports from Nelson via Inangahua and Dobson; and via the Canterbury-Lake Coleridge route. And these pathways, amongst others, could be used as neighbourly 'demand-response' for domestic 'exports'.

Inclusion of these options in the analysis would also be consistent with central government, and the Council's, obligations under the NPS for Renewable Electricity Generation. Amongst other, "Decision-makers shall recognise and provide for the national significance of renewable electricity generation activities, including the national, regional and local benefits relevant to renewable electricity generation activities". And, "regional policy statements and regional and district plans shall include objectives, policies and methods (including rules within plans) to provide for the development, operation, maintenance, and upgrading of new and existing renewable electricity generation activities using solar, biomass, tidal, wave and ocean current energy resources, hydro-electricity generation activities, and wind generation activities, and geothermal resources, to the extent applicable to the region or district."

Coastal hazards are also likely to become more frequent and intense, and so any feasibility of 'enabling investment in offshore renewable energy' markets should incorporate a risk mitigation and Dynamic Adaptive Policy Pathway (DAPP) process, or similar. Regulatory objectives for 'energy security and net zero' should consider these implications as well. Indeed, the adaptive pathways approach could provide for both pre-emptive (ex ante) planning and post disaster (ex post) policy planning with respect to climate change related issues, such as, advancing the line, maintaining the line, raising the line, or withdrawing the line through managed retreat.

As to economic development and the associated regulations, development of offshore renewable energy needs to ensure that energy markets remain open and that investing in potentially 'dominant' large scale renewable energy systems does not undermine energy security and resilience in more remote and rural areas, e.g., on the West Coast. For example, it is important that an enabling investment environment in energy markets, such as land-based micro hydroelectricity developments, which are often ideally suited to rural remote areas, and as a backup energy supply, especially for disaster risk management, remain a viable option for the West Coast. They too have their fragilities. However, time, resource, and effort needs to go into assessing these developments; and fair competition and equitable universal service provisions should be considered in investment feasibility assessments.

Within the context of energy security, energy equity, and energy resilience, sustainability is another important policy objective, which would also be consistent with both the Local Government Act (LGA) and Resource Management Act (RMA). Furthermore, "New Zealand recorded its sixth highest electricity consumption peaks in the Winter of 2022, and a number of warning notices were issued by Transpower because of a lack of generation. 2023 could be very tight in terms of the supply and demand balance. This underpins the urgent need to develop new generation projects." [Ref "Te Tai Poutini West Coast Renewable Energy Strategy" (EnviroStrat, Nov 22)].

Decisions should be made now about what to do when a local community and its energy providers are unable to cover the costs of providing alternative energy supplies, and about what to do when local natural disasters damage the usual electricity sources and infrastructure (removing, for instance, lighting and warmth from homes, families, farms, and businesses). Decisions also need to be made about a 'whole of country' energy security, energy equity, and energy resilience plan.

At the broader level, the object or purpose of a relevant new Act to regulate offshore renewable energy in NZ's territorial sea and EEZ, along with amendments to existing Acts, could be to authorise both central and regional government to regulate an effective regulatory framework for enabling investment in offshore renewable energy. Regional councils have a critical role to play in making decisions about enabling investment, assessing associated sustainability criteria (social, cultural, environmental, and economic criteria), and determining suitable areas for development. They also have additional responsibilities under the relevant NPSs, for example, in terms of electricity generation and offshore-onshore transmission build out to land.

Do you agree with the proposed criteria for assessing the proposals for regulating offshore renewable energy? Why or why not?

MBIE's Discussion Document proposes three criteria for assessing proposals for regulating offshore renewable energy; these being: effectiveness, certainty, and timeliness. It states,

3

"Effectiveness: Will the proposals effectively meet the policy objectives described above, especially around selecting developers and developments and enabling Māori participation?

Certainty: Do the proposals provide sufficient certainty for developers to invest in Aotearoa New Zealand?

Timeliness: Can the proposals be implemented in a timely manner so that Aotearoa New Zealand remains competitive internationally?"

Council considers that these 'labels' and associated questions are far too broad and need refining. For example, specific criteria should be developed for 'permitting' [or licensing] processes.

Further, MBIE's proposed 'permitting' option would not meet the effectiveness test; and MBIE does not support the 'collaboration' option.

Are there other criteria that we should consider that are not captured above? If so, what are they and why are they important?

Yes, there are other criteria to consider; for example, criteria for national interest (including energy security, energy equity, and energy resilience criteria); criteria for regional and local interest (including criteria covering social, cultural, environmental and economic interests); criteria for developer viability (such as, complexity, route to market, estimated commercial and social return); criteria for legal, technical, and financial suitability of the candidate; and, amongst other, criteria for Environmental Impact Assessments to accompany 'permit' [or licence] applications.

Criteria for upholding Te Oranga o te Taiao and the social, cultural, economic and environmental well-being of all New Zealanders, including mana whenua, and local communities should also be considered.

The following additional criteria for local and regional-level feasibility assessments to be addressed through a potential consent application could also be included:

- Whether an offshore renewable energy development could impact on an adjacent marine protected area or ocean carbon sink; or
- Mātaitai reserve or Taiāpure (in the estuarine or coastal area, for instance); or
- Other site significant for mahinga kai, spiritual or cultural reasons.

4 Australia's Offshore Electricity Infrastructure Regulations 2022 refer to some of these criteria as 'merit criteria'.

The appropriate criteria could be integrated into 'feasibility 'permits'' [or licences] and evaluative assessments could incorporate dialogue with Māori.

For example, whether an offshore renewable energy development could impact on an adjacent marine protected area, Mātaitai reserve or Taiāpure (in the estuarine or coastal area, for instance), or other site significant for mahinga kai, spiritual or cultural reasons, or area of 'customary marine title', could be incorporated within the feasibility assessment, and threshold tests passed, before a 'feasibility 'permit'' [or 'licence'] is issued.

Additional criteria may require the investor to have a viable management and environmental plan; financial security; safety and protection zones; and robust work health and safety plan.

Explicit criteria should be incorporated within the regulations because, amongst other, this would make the requirements transparent to the investor and regulator.

The regulations may also consider providing for a 'Registrar' and for the 'Registrar of a Permit' [or 'licence'] to make final decisions on granting a 'Permit'. As a 'fail-safe' mechanism, 'Anything else the Registrar considers relevant' could be added as the last criteria.

In brief, Council suggests that a detailed listing of criteria is worthwhile for transparency, predictability, and as a means of informing potential investors, amongst others, of the requirements.

Do you agree that the criteria should be equally weighted? Why or why not?

5

No, Council does not agree that the criteria should be equally weighted. If a proposed activity is not technically or environmentally sound then, in certain circumstances, it should not proceed. Some criteria like meeting the provisions for a Mātaitai reserve or Taiāpure, are likely to be non-negotiable. Council suggests that the criteria be considered individually and holistically (as a whole and in terms of their various overlaps and interactions). Further, and as above, decisions will need to be made to balance climate change and energy security targets.

Chapter 4: Proposals for managing feasibility activities

What role do you think government should have in gathering feasibility information for offshore renewable energy development?

In Council's view, there is a role for central and local government, other relevant organisations (including Maritime NZ, the Department of Conservation, Worksafe NZ), and the developer, in gathering feasibility information.

Central government has already been active gathering feasibility information for Waikato, Taranaki, and Southland; and the West Coast Regional Council requests a like level of support subject to due care and diligence. (Please see the cover letter and supplement above to this submission).

Assessing the criteria above will require gathering feasibility information for offshore renewable energy development.

Government should have a regulatory role in ensuring that feasibility information fits with national objectives, and with an overall energy security, energy equity, and energy resilient strategy along with the appropriate regulations.

6

Council also proposes evaluating the introduction of Environmental Impact Assessments. For example, everyone applying for a feasibility 'permit' [or licence] in the territorial sea or EEZ must provide an EIA (Environmental Impact Assessment) with their application. The size and amount of detail required in the EIA will depend on the size and scale of the activity; its potential adverse and sustainability effects on social, cultural, economic, and environmental values; and consistency with the relevant legislation, regulations, and regional and local plans.

The EIA should be checked by the Environmental Protection Authority (EPA), the relevant regional and district councils, and other relevant organisations, like Maritime NZ, Worksafe NZ, and the Department of Conservation, where appropriate, for regulatory consistency, for any adverse social, cultural, environmental and economic effects in the territorial sea and EEZ (and beyond to land), and for any benefits and positive outcomes. (Each organization has particular competencies, and will be looking at different and overlapping matters, for example, Maritime NZ may assess whether navigation channel requirements are met; the Regional Council may assess whether potential disturbance of the seabed from installing cables offshore to land meets required threshold tests).

A developer would still be required to meet the requirements of NZ's Coastal Policy Statement, and the relevant National Policy Statements, for example, the NPS for Renewable Electricity Generation and the NPS on Electricity Transmission (to be brought into consistency with the relevant Act of Parliament); and to obtain the necessary resource consents (or Certificate of Compliance) to show compliance with regional and local activity rules, for example, those discretionary activity rules covering seabed disturbance, cables, structures, noise, waste, vegetation, marine life, etc, as per Council's regional plans.

Provision for the EIAs should be within a new Act of Parliament governing energy security, energy equity and energy resilience; and sit alongside feasibility assessments.

An EIA would then form an integral part of each application for a feasibility 'permit' [or licence]. The EIA would help determine whether a 'permit' [or licence] may be granted and what type of rules, conditions and monitoring are relevant at a national, regional and local council level. This approach and process could improve investor confidence and provide for local community interest. Regional and district council consenting processes would still have to meet the required level of compliance.

Independent experts with appropriate knowledge should also be used, including experts acting independently of political parties or commercial interests.

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?

No, Council does not agree that a developer-led approach to gathering feasibility information as set out in the discussion document is appropriate for Aotearoa New Zealand.

7

The Council does not support MBIE's proposed laissez-faire developer-led approach of 'develop where you like', which may have fewer [short-to-medium term] costs for central government; meet the Discussion Document's focus on the short-term; and help meet New Zealand's climate change commitments on time; but a laissez-faire developer-led approach could potentially result in unintended social, cultural, economic, and environmental consequences at the local and regional levels, such as, the diversion of jobs, high electricity prices, and an inflamed standard of living crisis; and there is no guarantee that climate change mitigation targets will actually be met.

By excluding local and regional councils from the decision-making framework adverse environmental effects may not be provided for either. This would not happen if, at the local government level, local and regional government were engaged in assessing whether environmental effects are significant and couldn't be avoided, mitigated, or offset.

In addition, Council wants developers to be able to consider setting up on the West Coast (South Island) provided they meet the requirements, such as, getting the relevant 'permit' [or 'licence'] and resource consent, which amongst other should be subject to sound environmental management, including appropriate dealing with waste, such as batteries. Marine dumping consents, issued by the EPA for example, could still apply.

In brief, a centralised developer-led approach is not supported. Both government and the developer have a role to play in gathering feasibility information.

Is there another approach not considered above that may be more suitable?

Council supports a transparent regulated approach to gathering feasibility information, which also incorporates dialogue with Māori.

Achieving net zero is important (because Parliament and Central government have made commitments in this area) but having an energy security strategy which provides for equitable provision and resilience, including resilience in the event of disasters (natural, biological, and other), is pivotal. In other words, climate change (including the emissions reduction programme), disaster response and energy security need to be considered holistically.

8 Investing in, and placing renewable energy structures, in NZ's sovereign territorial sea, and its EEZ, in the wake of increased and more intense hydrological and meteorological disasters (extreme weather, tsunamis, cyclones, etc) should be carefully thought through in consideration of national interests (see above) and an overall energy strategy, which may include a portfolio pathway approach to diversification and include wind, wave, hybrid (wind-wave), small scale hydro schemes and low carbon hydrogen, amongst other. Council does not believe that these decisions concerning national security and national interests should be made by private offshore investors. It also considers that local and regional government have a pivotal role to play.

Energy developments on the West Coast could also be used in the rural farming area and help create a value-added export sector, which generates jobs for skilled labour and helps promote food security, which is desperately needed in times of natural disasters. (Supermarket shelves should not be bare). In the cases of fluvial, river flooding, or an Alpine fault rupture, for instance, shelter, food, and warmth (energy) are going to be the priority for the West Coast and affordable alternative supply routes will need to be in place. The regulatory framework, and regulations, need to provide for this now.

Rather than a developer-led approach to 'net zero', Council supports a national public good portfolio approach to energy security, which also provides for energy equity and energy resilience, e.g., affordable provision, a just transition, and solidarity (kotahitanga, unity, collective action), which brings 'green job' creation and opportunity to the West Coast. For example, the policy objectives framing the regulations should have specific new 'green job' targets for the West Coast (South Island) and provide for resilience in the event of natural hazards amongst other.

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?

9 Council sees some strengths and some areas for improvement in the two regulatory options proposed (these being the 'permitting' approach; and the 'collaboration with the developer, Crown and Māori approach'). But Council does not support either option outright; and suggests that Central Government needs to do far more work on option analysis.

Council does not agree with a 'permitting' [licensing] regime and dialogue with Māori being 'mutually exclusive'. In Council's view, alternative regulatory options could be explored for enabling investment in offshore renewables in NZ's waters, which give potential investors assurance of a stable and predictable rule of law subject to relevant legislation. One suggestion is for the promulgation of a new Act; the amendment of associated Acts, such as, the Resource Management Act (RMA) 1991 and EEZ and

Continental Shelf (Environmental Effects) Act 2012 to sit alongside the new Act; amendments to relevant NPS's setting out Council's existing obligations, for example, in terms of renewable energy and managing adverse effects of electricity generation and transmission (reference the NPSREG and NPSET above); and including dialogue between the Crown and local government (where applicable) and Māori.

Amongst exploring options other than the mutually exclusive one proposed by MBIE, an alternative option to be explored, for example, could be to explore the option of developing only two overall 'permitting' [or 'licensing'] regimes under one overarching set of regulations (with one 'permitting' [or 'licensing'] regime being applicable to the territorial sea, and the other applicable to the territorial sea and EEZ); and, where appropriate, ensure that the regulations provide for the appropriate level of dialogue with the Crown, local government, the developer and Māori. Any 'permit' [or 'licence'] in the territorial sea would most likely need to meet the requirements of the EEZ 'permit' [or 'licence']. And the Environmental Protection Authority (EPA), for example, has expertise to give guidance on a broad range of issues, including relevant discharge and dumping regulations in the EEZ. Both regimes would reside under a single set of regulations and a new Act of Parliament, which would sit alongside an Amended RMA and Amended EEZ and Continental Shelf Act. This latter option may also be more consistent with Council's Mana Whakahono ā Rohe Partnership.

Other options should also be explored once an overall understanding of what is required for energy security, energy equity, and energy resilience are known; and the detailed option analysis needs to be framed by the Kaupapa.

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?

10

In Council's view, neither the 'permitting' approach or so-called 'collaborative' approach as proposed in the Discussion Document would deliver a good outcome for Aotearoa New Zealand. There are good suggestions within each approach. However, certain components within the two proposed approaches should not be mutually exclusive. The permitting approach forfeits the benefit of dialogue with Māori (iwi and hapū); and the so-called 'collaborative approach' forfeits the benefit of having a clear and transparent regulatory system for investors, government, and national, regional, and local interests. Many investors (both offshore and onshore) are looking for a stable and transparent rule of law within which to operate. If New Zealand does not offer a clear framework they may go elsewhere. In the absence of a stable and transparent rule of law risks and costs would escalate, which would in turn impinge on electricity prices, the cost of living crisis, and new job creation, amongst other. Furthermore, iwi want to ensure their interests, knowledge, and aspirations are given effect to throughout the feasibility process in a meaningful and considered way; and Council believes that this is possible within a 'permitting' [or 'licensing'] 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?

The West Coast Regional Council and Poutini Ngāi Tahu reached a significant milestone with New Zealand's first signing of a Mana Whakahono ā Rohe - Iwi Participation Arrangement; and this could be a model for partnership. Engagement (including dialogue and discussion) with iwi partners and public and private stakeholders is encouraged.

Have we captured a complete list of trade-offs between the two shortlisted options? What else, if anything, should we be considering?

No, Council does not believe that MBIE has captured a complete list of trade-offs between the 'permitting' and 'collaborative' approaches.

As above, in Council's view, the permitting approach forfeits the benefit of dialogue with Māori (iwi and hapū); and the so-called 'collaborative approach' forfeits the benefit of having a clear and transparent regulatory system for investors (and government). The 'permitting' ['licensing'] approach would also provide helpful guidance on the potential for discovery and production. Many investors are looking for a stable and transparent rule of law within which to operate; and 'giving effect' to the Treaty of Waitangi, rather than only 'taking it into account' has been suggested as a revised formulation for resource management. [See the Natural and Built Environment Bill; and Spatial Planning Bill]. However, given the inherent structure of energy markets, if policy choices were left entirely to potential investors to resolve then there may be no incentive to optimise consumer welfare (energy security, energy equity, and energy resilience). In the absence of a strategy for 'energy security', decisions taken now on regulating enabling investment in renewable energy could have devastating, and unintended consequences, on social, cultural, economic and environmental well-being.

As to answering the second part of the question [What else, if anything, should we be considering?], Council suggests that developing a strategic framework for regulating enabling investment renewable energy (offshore and onshore) should be a strategic priority. Furthermore, the pre-emptive regulatory focus on enabling investment in 'offshore wind' feasibility, with the presumption of merit to the highest bidder, and in the absence of appropriate criteria being met, may not only curtail energy security; it may also curtail development of new energy technologies. The concern is one not only for the West Coast's security; but also for national security. New Zealand must find clean, affordable, and durable energy solutions, other than nuclear, for the long term. This means that our energy mix will be very different to many others; and it should reflect our hazard prone remote island geography.

As to the West Coast, in addition to hydro-electricity generation, sites on the West Coast may have potential for wave, wind, and hybrid (wave-wind) energy development; and, in Council's view, the legal framework should facilitate a portfolio of offshore renewable energy initiatives to enable investment opportunities rather than curtail them. This is not to say that central government avoid developing specific regulations to regulate 'offshore wind' but rather that the regulatory framework requires an overarching vision, strategic objectives and direction for energy security, energy equity, energy resilience, disaster risk reduction, and climate change targets overall. [In other words, the cart should not be put before the horse].

In brief, Council is concerned that pre-empting feasibility activities, followed by ad hoc regulation of energy markets, in the absence of an energy security strategy, will result in poor outcomes. Social, cultural, economic and environmental well-being of New Zealanders, and in particular, those on the West Coast will not be enhanced. Significant investment will be required in New Zealand's energy markets, including its electricity infrastructure over the coming decade and a coherent approach is required to achieve optimal outcomes.

Meeting climate change mitigation (emissions reduction) targets by reliance on imports from global markets also has other trade-offs and other implications for energy security.

(To achieve local emissions reductions by, for example, curtailing local coal for domestic use and encouraging its international export instead, and importing offshore coal, other minerals, oil, petroleum, and batteries from unregulated markets, which may not meet recognisable labour standards or may be reliant on child slavery, are of concern and need to be addressed).

In 2021, New Zealand's energy 'self-sufficiency' (the ability of New Zealand to meet its own energy supply requirements), which is a component of energy security, was the lowest it has been since reporting started in 1990.⁴ Increasing coal imports (with New Zealand becoming a net importer of coal) have, in addition to aiming to make a contribution to meet New Zealand's emissions reduction targets, been a response to increasingly poor hydro conditions, which are expected to become worse. And these challenges are occurring in the context of a low natural gas supply. Resolving the dry-year hydro risk is critical and will require extensive, and optimal, investment in electricity generation. In addition, the concomitant investment in new and upgraded electricity transmission and distribution networks needs to be carefully considered as it will not only be costly; it will also have significant long-term consequences.

Meeting the domestic use of oil by imports is also likely to be reducing due to the increased import of coal. And there are pressures on NZ's natural gas reserves, which are forecasted to last to 2030 (at current consumption levels and excluding unproven reserves).

Council recognises that central government decision making on the long term nature of energy portfolio investment (enabling investment in existing, new and emerging technologies over the short term out to the next 10 years and throughout the longer term horizon, over at least 100 years), and its connected implications, requires time. It also recognises that a December 2024 target date for the pending energy strategy is ambitious, given NZ's starting point (low self-sufficiency; and no consolidated strategic direction for energy security, energy equity, or energy resilience etc). In Council's view, a comprehensive energy security strategy should be developed prior to, or in conjunction with, developing new laws and regulations to frame regulating investment in offshore renewable markets and investing in the associated feasibility activities. And as to the proposed regulations, these should be made under primary legislation and a new Act of Parliament consistent with the above. Whereas, a decision to 'retro-fit' the regulations later in due consideration of social, cultural, economic and environmental criteria; and once the structure, conduct, and performance of the market has been pre-empted, is a concern for local communities.

This said, Council supports a certain degree of triggering enabling investment in offshore renewable energy feasibility activities now; but in Council's view, central government's directive to make regulatory decisions now in the absence of a strategy for energy security and self-sufficiency under the premise that there is no 'likelihood' of external shocks, is implausible. Such decisions not only impinge on obligations under relevant NPS's for generation and transmission but are likely to have devastating consequences in times of internal shocks, such as natural disasters. In Council's view, history shows that external shocks are likely to occur again. The conflict in Ukraine could deepen and put pressure on prices, there could be another OPEC and Middle Eastern crises (reference the 1973 and 1979 shocks), there could be a potential crisis

⁴ 'Energy in New Zealand 2022', provides annual information on and analysis of New Zealand's energy sector. It is part of the suite of publications produced by the Markets team in the Ministry of Business, Innovation & Employment (MBIE). The 2022 edition includes information up to the end of the 2021 calendar year.

in Hong Kong or Taiwan, Asian monetary contagion, a cyber-attack, AI (Artificial Intelligence) terrorist control of shipping and aviation routes (even sophisticated free domestic AI apps like ChatGPT will change our livelihoods), backpay of shipping and aviation emissions for imports of emissions, or something totally unexpected. Furthermore, natural disasters like flash floods and storms are expected to become more frequent and more intense. The repercussions of insufficient contingency planning as highlighted by the recent Cyclone Gabrielle was that thousands of Aucklanders were without power for near on a week. Napier reported close to 32,000 people were without power for days, and some reports indicate that more than 200,000 people, homes, and businesses were without power for days, if not weeks, through the flooding of a single substation and while a restoration plan was thought through. In the absence of generation and connection, entire communities were left with no energy, no fuel for cars, limited medical and hospital facilities due to blackouts, commercial and business downtime, an inability to cook food, and absence of warmth, which would be even more catastrophic in winter.

Council also refers to the recent study done by Boston Consulting Group (BCG),⁵ which states that “Deep, rapid decarbonisation at the lowest cost to consumers relies on a swift build of renewable generation. It will see demand peaks and dry years (when less hydroelectric generation is available) supported by batteries, demand response, some renewable generation overbuild (building more wind and solar generation than is ordinarily needed), and a small amount of fossil fuel generation (2% of total generation) in 2030. It will require an investment of \$42 billion in the 2020s, including increased spend across generation, transmission, and distribution.” BCG also suggests that consenting frameworks need to attain rapid renewable deployment through RMA reform between 2022-2025. However, Council believes that the right energy and capacity mix needs to be determined before making this ‘unprecedented investment of \$42 billion’.⁶ And in addition to considering the 5 pathways proposed by BCG for climate change mitigation, which don’t actually meet NZ’s emission reduction commitments anyhow, Council suggests Central Government needs to consider a pathway for energy security, energy equity, and energy resilience.

Note that the 5 pathways proposed by BCG are:

1. ‘Business as usual with reliance on thermal peaks’, which BCG confirms will not meet NZ’s climate change commitments; or
2. ‘Smart system evolution’ including the use of [presumably imported] batteries to drive 100% electrification by 2030 [but with no provision as to where used batteries, or associated toxic waste, will be stored, ‘dumped’, or ‘cleaned up’ in NZ’s whenua or waters; or whether there will be a reliance on trade with China or elsewhere for disposal; or ‘multi-week’ storage options which would be extra costs to factor in]. But then BCG indicates later in the report that this pathway will not fully meet NZ’s climate change emission reduction commitments either; or
3. Being a ‘renewable energy pioneer’ by using ‘batteries and demand response [such as, industrial and distributed demand response] to meet 100% renewables by 2030. [But as above, no consideration is given to where batteries to power the country will come from and where will they be dumped; how is ‘demand response’ is defined and what energy is to be generated to provide for ‘demand response’; or that using demand response to curb emissions through an ‘energy cap’ has all the negative flow through effects of subsidies and will curb industry and slow down the economy]’]; or

⁵ Boston Consulting Group, BCG, Climate Change in New Zealand: The Future is Electric, October 25, 2022.

⁶ Boston Consulting Group, BCG, The Future Is Electric, A Decarbonisation Roadmap for New Zealand’s Electricity Sector, 2022.

4. A 'mega infrastructure build' to meet 100% renewables by 2030 with reliance on pumped hydro from Lake Onslow [with energy supply perhaps being disrupted, and non-existent, in the case of the pending Alpine Fault rupture, earthquake, etc. reliance on hydro from Lake Onslow may be risky]; or
5. Being a 'green export powerhouse' (under this pathway, BCG suggests that 'Up to double New Zealand's electricity needs are generated by renewables, with excess electricity used to generate hydrogen for export or green products (i.e., green aluminium)' [but with no indication to meeting the 2030 target, or how NZ will be a major exporter of hydrogen within seven years (by 2030), and with no acknowledgement that feasibility studies in even mature renewable markets can take at least 3-5 years]. BCG also indicates in its report that this pathway will not meet NZ's climate change emission reduction commitments either.

While the proposed pathways for Government to explore set out worthwhile options for scenario analysis, not a single pathway considers the implications for energy security, energy equity, or energy resilience. Further, time is seemingly not of the essence because not a single pathway being explored will actually meet NZ's emission reduction commitments; or energy requirements, such as providing for periods of low hydrology and grid instability; and there is no consideration as to how New Zealand's often poorly insulated homes, or businesses and farms, will cope with another cold winter in 2023. Council therefore suggests that both 'energy security and net zero' are important.

In Council's view, industrial demand response within the context of energy security is another relevant option when provisions haven't been made for the short or long term. For example, Meridian Energy Ltd. recently announced that it has entered into a conditional agreement with New Zealand Aluminium Smelters Ltd. (NZAS) for NZAS to "reduce its consumption of electricity at the Tiwai Point smelter by up to 50MW and provide demand response flexibility during 2023 and 2024."⁷ The 'NZAS Demand Response Agreement 2023-2024,'⁸ between Meridian and NZAS provides "The Parties have agreed to enter into this Agreement with the intention to provide support in managing periods of low hydrology and grid instability in New Zealand, and it is the parties' intention that when an Option is called by Meridian under this Agreement, NZAS will reduce Consumption accordingly" [underlining for emphasis]. Instead of an intention to reduce emissions, the intention seems to focus on 'energy security'.

In Council's view, and from a regulatory perspective, an industrial 'energy cap' may be in the 'national interest' in the short term and such a safeguard would be consistent with an 'energy security' strategy if New Zealand were to develop one. But in the long-term, business and economic development needs to advance and develop.

Regulatory safeguards should also be consistent with strategic and operational directions for 'energy equity', such as, affordable consumer prices, affordable transfer prices, reliable and universal supply, a just transition; and 'energy resilience', such as, keeping the system stable under all conditions, including being able to respond to natural hazards and periods of low hydrology.

⁷ [https://www.meridianenergy.co.nz/news-and-events/meridian-and-nzas-demand-response-agreement#:~:text=Meridian%20Energy%20Limited%20\(Meridian\)%20and,flexibility%20during%202023%20and%202024](https://www.meridianenergy.co.nz/news-and-events/meridian-and-nzas-demand-response-agreement#:~:text=Meridian%20Energy%20Limited%20(Meridian)%20and,flexibility%20during%202023%20and%202024), announced in Investor News on 5 April 2023; last viewed 6 April 2023.

⁸ https://www.meridianenergy.co.nz/public/Investors/Reports-and-presentations/NZAS-contract/NZAS-docs/2023_2024-Demand-Response-Agreement.pdf; last viewed 6 April 2023.

In brief, Council suggests that central government provide strategic direction for energy security, energy equity, and energy resilience; and, within this context, Council urges a careful reconsideration about enabling investment in renewable energy that, amongst other, will sustain and develop business.

Council also highlights the important potential of energy reserves in West Coast waters (its territorial sea and EEZ), and the need for an economic stimulus package to enable investment in renewable energy generation and transmission on and via the West Coast. The “Te Tai Poutini West Coast Renewable Energy Strategy” (EnviroStrat, November 2022) makes the following points about the West Coast: “Much of the West Coast has potential for wave power developments, and sites near Greymouth and Hokitika have been identified as having ‘optimal locations’ [2008 date cited] (pg 25). Further, “the green growth scenario in the longer term enables the West Coast to develop a significant export industry mainly based on its renewable marine energy resources such as offshore wind, tidal, and wave power for the production and export of low-carbon fuels and chemicals such as hydrogen and ammonia” (pg 26).

“Enabling the identification of renewable electricity generation possibilities” is consistent with the Council’s obligations under the NPS for Renewable Electricity Generation (NPSREG). Policy G NPSREG, for example, provides that “Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation by existing and prospective generators”.

The question arises when local and central government decisions for offshore generation in the territorial sea and EEZ are replaced by the newly proposed standalone and so-called ‘developer-led’ approach. The relevant Cabinet paper points out that local (and regional) government may be able to pick up these responsibilities in the mid to long term, [once development is in place], and through developing Regional Spatial Strategies under the proposed Spatial Planning Act [to reflect the decisions made by central government]. The dangers in forfeiting local government responsibilities at the feasibility stage however are several. They include the potential to overlook enabling investment in West Coast waters, by providing subsidies from green job growth or natural hazard resilience elsewhere; or to overlook adverse environmental and marine effects that could flow through the EEZ to the territorial sea and to land; or to have inadequate or insufficient engagement with mana moana. Council does not agree with these obligations being entirely forfeited to a national body.

Council has also undertaken further research into the potential for offshore renewable energy in West Coast waters (its territorial sea and EEZ). From this preliminary research, it would seem that West Coast waters have optimal sites for feasibility studies and activities to merit commencement of these studies and activities now.

Wave Energy Feasibility on the West Coast (South Island).

Resource Availability. NZ is in a prime position to develop wave energy projects as its shores are exposed to high energy wave conditions (Figure 2), approximately 25 kW/m.⁹ As seen below, the high wave energy resource is predominately available along the west- and south-facing coasts of the North and South Islands. So, according to correspondence with Dr. Danielle Bertram (Waikato) “if only taking into consideration the availability of resources, the entirety of NZ’s west coast would be optimal for wave energy projects”.

⁹ Stevens, C., Smith, M., & Gorman, R. (2005). Ocean bounty: energy from waves and tides. *Water & Atmosphere*, 13(4).

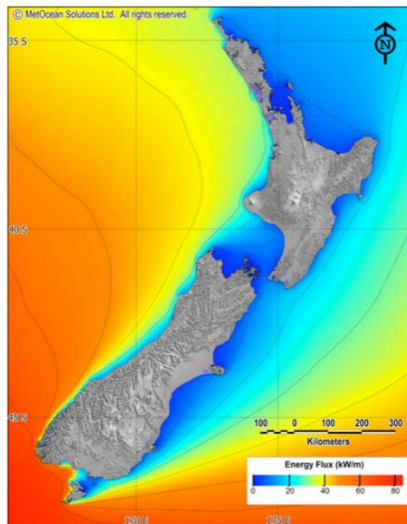


Figure 1. Distribution of mean wave power in NZ, from 1998–2007.¹⁰

Optimal Locations for Wave Energy Projects. Furthermore Dr. Bertram who has undertaken recent and credible (internationally peer-reviewed work) in this area states, “However, it is not appropriate to select locations for renewable energy installations based solely on resource availability. Sites should be selected by taking into consideration social, economic, cultural, and environmental factors (i.e. the main pillars of sustainability) in conjunction with the technical requirements (i.e., proximity to the grid and ports, resource availability, and the operating depth of the technology). When taking all these factors into consideration, the most optimal locations for wave energy projects in New Zealand are areas such as Greymouth and Southland (close to Invercargill and perhaps Tiwai Point, which uses significant energy) (Figure [3]).”

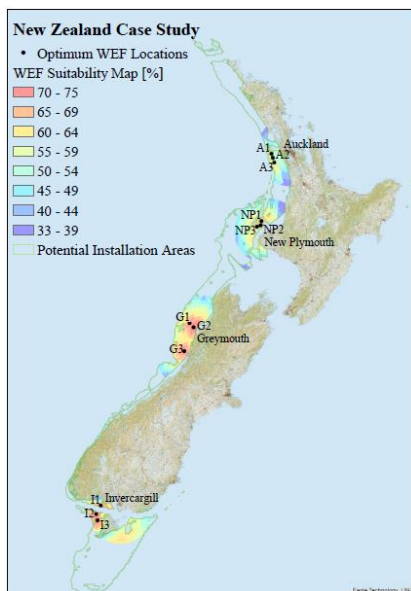


Figure 2. “The most suitable areas for wave energy installations based on the pillars of sustainability [2021]”¹¹

¹⁰ Huckerby, J., & Johnson, D. (2008). New Zealand’s wave and tidal energy resources and their timetable for development International Conference on Ocean Energy, Brest, France. Power Projects Limited. (2008). Development of marine energy in New Zealand.

¹¹ Bertram, D. V. (2021). An integrated site and device selection methodology for the ocean wave energy sector. [Doctoral thesis, University of Waikato]. “The datasets were collected within four years of the publication of the thesis and were collated from databases such as

Wind Energy. MBIE’s 2020 report on wind generation stacks only identifies 3 offshore wind generation potentials (Auckland, Waikato, Taranaki); but its source is seemingly from the International Energy Agency (IEA) whose data and processes considered wind feasibility and transmission access close to larger populations rather than the broader context of sustainability criteria (referred to by Dr. Bertram above), energy security (the national, regional, and local interest agenda), energy equity (including universally affordable prices), or energy resilience (including hedging for natural hazards, i.e., ensuring back up when a cyclone hits). According to IEA’s website this year (2023), “Onshore wind is a developed technology, present in 115 countries around the world, while offshore wind is at the early stage of expansion, with capacity present in just 19 countries. However, offshore research is expected to increase in the coming years as more countries are developing or planning to develop their first offshore wind farms.” MBIE’s Discussion Document guiding this consultation identifies central government’s investment into offshore wind development (feasibility activities and green job creation) in Waikato, Taranaki, and Southland.

Hybrid (Wave/Wind/Heatwaves) Energy: Significant opportunities for enabling investment in offshore hybrid (wave/wind) renewable energy may also be valuable for the West Coast (South Island). The sustainability criteria applied by Dr. Bertram to wave feasibility (above) may equally apply to assessing offshore wind feasibility activities. Apparently, stability of wind supply is also crucial and while the West Coast may be remote it may have ideal optimal conditions for feasibility assessments. It is noted that the West Coast may suffer from seasonal variations. Wind capture in summer is potentially challenging on the West Coast (because there is less wind and increased sea warming); but then again, as Dr. Bertram pointed out, energy supply peaks in winter, which is precisely when needed, and the West Coast has several optimal sites for feasibility activities. Capturing energy from heatwaves, while not on the current radar of analysis may also be an area for feasibility, especially if heatwaves, like those unexpectedly seen in summer this year, are recurrent along the West Coast of the South Island.

Chapter 5: Māori involvement in the assessment of feasibility

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 studies)?

14 Are the above requirements sufficient to achieve this? How can the requirements be implemented to reduce undue burden on mana moana or developers?

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?

16 What mechanisms for monitoring and enforcing these requirements are appropriate (regular reporting by developers that is reviewed by iwi etc)?

LINZ, Ministry for the Environment, Ministry for Primary Industries, New Zealand Petroleum and Minerals, New Zealand Hydrographic Authority, and NIWA, to name a few”.

17 **How should the adequacy of iwi involvement be assessed? What does good faith and meaningful participation look like?**

Chapter 6: Considerations for a permitting framework

18 **Do you agree that developers should be required to meet prequalification criteria to be eligible for exclusive feasibility rights?**

Yes. Please see above for sample criteria, including merit criteria to be met.

Are our proposed criteria appropriate? Are they complete? If not, what are we missing?

MBIE's Discussion Document suggests it is considering the following criteria to obtain permits:

"We are considering the following criteria:

- technical, financial and commercial capability of the developer, and
- whether the proposed development is not contrary to Aotearoa New Zealand's national interest."

Council agrees with the proposed criteria but considers the criteria above to be too broad, i.e., requires explanation. It also suggests that the criteria Council suggests earlier in our submission is also relevant. Please see our cover letter and introduction to this submission, and above, for the detail. In addition, portfolio criteria should be considered. Being a small market, only a certain number of suppliers may be able to be accommodated so pre-empting market structure will have significant implications.

How should we consider material changes to permit holders' status and capability? Do you think mechanisms to review permit criteria would be appropriate?

If permit holder's material status and capability changes according to certain limits then the permit [or licence] should be revoked.

A variety of monitoring mechanisms can be put in place, such as, requiring Annual Reports and Audits to be delivered according to pre-specified criteria.

Central and local government mechanisms to review permit [or 'licence'] criteria, regulations, and consenting conditions is an appropriate consideration. Environments change and the parliamentary process needs to keep up to speed with these changes. However, the regulatory system, and criteria for granting permits, also needs to have some degree of stability and predictability. Stability and predictability gives investors confidence and reduces administrative and transaction costs and charges.

Do you agree that a feasibility licence should last for five years with an option to extend for a further two years?

As to the 'duration of a permit' [licence] the Discussion Document for instance, states "In Scotland, Option Agreements (an equivalent to permits) are valid for up to 10 years. In Australia, feasibility licences are valid for up to seven years.

The Crown minerals permitting regime in Aotearoa New Zealand awards minerals exploration permits for 10 years”; and is therefore asking whether five years with an option to extend for a further two years is feasible in NZ.

Council would need to do specific secondary and primary research (review studies and ask people) to answer this question. Council notes that MBIE has identified some international time limits in the discussion document but the rationale for making these decisions is not known, requires answers, and would require comparative research and ‘normalisation’ to NZ’s specific environment and energy portfolio mix. It would, for example, be interesting to see not only the time frame other countries have decided on but their rationale for making decisions about the duration of feasibility ‘permits’ [licences] given their respective strategic direction and energy portfolio mix. (MBIE also needs to decide on the wording: ‘licence’ or ‘permit’).

In addition, the licence [or ‘permit’] period could depend on the nature of the feasibility licence. Is it a feasibility licence to research, to explore, .e.g. run a test bed or ‘pilot’ site, or to economically exploit investment in offshore renewable energy?

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?

What it means to ‘not exercise’ a ‘permit’ [licence] would need to be defined in order to answer this question. In principle, Council does not agree with a blanket ‘use it or lose it’ provision. Feasibility activities and studies can take 3-5 years (in the most mature offshore renewable energy markets) if not longer. Narrowing them down to 12 months in NZ and taking short cuts may result in adverse effects.

- 22 Council supports recognised filings. Annual Reporting and Auditing filing requirements could be established, and if not met, then the licence, or permit, could automatically forfeit, and the company (if a company vehicle is used) as well.

Conditions of marine and resource consents would also have to be met within the due timeframes.

Council also suggests work be explored on the relevant feasibility licence [‘permit’] conditions. Meeting criteria for resource management consent conditions, mineral exploration, and oil and petroleum exploration permits, are potential ‘like processes’ that could also be examined for relevance.

How should government best deal with the issue of overlapping applications?

- 23 There is a reference to managing overlapping applications in the Discussion Document but “Overlapping applications” would need to be explained. ‘Overlapping applications’ could mean for instance that two developers apply for a ‘permit’ [licence] in the same area. For example, say there are three unique wave energy feasibility (WEF) sites off Greymouth and four developers make individual applications to develop all three sites. Is this an overlapping application? Should only one developer be selected based on achieving the highest ranking against selected criteria? Or should, as the Discussion Document infers, the area be split and to give each developer a share in the pie? (But if the area is split and any interested private sector developer is allowed to construct a wind or wave farm in a specific area then the optimal solution may not be found, which would trigger far higher energy prices for consumers; and prohibit diversification into other areas, such as, where resilience is required).

In Council's view, these are precisely the sort of questions that need to be asked and which can only be appropriately answered by reference to an overall energy security, energy equity and energy resilience strategy for the country; and with due regard to the regions and the local communities, farms, and businesses which reside therein.

Do you agree that a single national entity should hold responsibility for inviting and assessing applications?

Council does not support a single national entity holding responsibility for inviting and assessing applications, presumably for feasibility 'permits' [licences]. As above, councils have a fundamental role to play, e.g., in assessing adverse environmental effects.

24 And Environmental Impact Assessment (EIA) should be checked by the Environmental Protection Authority (EPA), the relevant regional and district councils, and other relevant organisations, like Maritime NZ, Worksafe NZ, and the Department of Conservation, where appropriate, for regulatory consistency, for any adverse social, cultural, environmental and economic effects in the territorial sea and EEZ (and beyond to land), and for any benefits and positive outcomes. (Each organization has particular competencies, and will be looking at different and overlapping matters, for example, Maritime NZ may assess whether navigation channel requirements are met; the Regional Council may assess whether potential disturbance of the seabed from installing cables offshore to land meets required threshold tests).

The regulations may also consider providing for a 'Registrar' and for the 'Registrar of a Permit' [licence] to make final decisions on granting a 'Permit'. As a 'fail-safe' mechanism, 'Anything else the Registrar considers relevant' could be added as the last criteria.

Council suggests that institutional arrangements for inviting and assessing 'permitting' [or 'licencing'] applications should be decided once the overall framework provisions for 'energy security' have been decided; or be done partially in collaboration with developing an energy security strategy.

Do you agree that the Minister of Energy and Resources, acting on advice from officials, should make the final decision on applications for permits?

25 In consistency with a national energy security, energy equity, and energy resilience strategy and associated primary legislation (new Act of Parliament); Council agrees responsibility should reside with the relevant Minister. A decision would need to be made as to whether this is just the Minister of Energy and Resources or whether local government, and other Ministers, would also have a role.

As above, the underpinning regulations may also consider providing for a 'Registrar' and for the 'Registrar of a Permit' [licence] to make final decisions on granting a 'Permit'.

Do you agree with charging fees sufficient to recover the costs of inviting, and assessing feasibility permit applications, and monitoring permit holders?

26 In principle, Council agrees with the principle of cost recovery.

What other steps would ensure that processes are transparent and fair for developers?

27 See above. A transparent legal, regulatory, and ethical framework is key. And an effective communication and media plan should be in place at global, national and local levels subject to an energy security strategy. New Zealand Trade and Enterprise, for example, could help connect international businesses and investors with investment opportunities on the West Coast.

An assessment of 'best practice' in this area would also be helpful.

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?

28 Whether public submissions should be sought on permit applications needs to be explored. The answer may depend on the scope of the permit application being sought and the relevant location. For instance, if not otherwise provided for in the pending regulations, the public may urge a say if development were along the boundaries of the North Island's Marine Mammal Sanctuary; or Hauraki Gulf; or where there is extensive submarine archaeology (shipwrecks) and defence flight zones.

As to engagement with iwi, hapū, whānau, and stakeholders to inform decision-making, appropriate dialogue and conversation would be required with our partners, and with and relevant stakeholders, to define the nature of this engagement.

Do you agree that permit-holders should regularly report on the progress of their feasibility studies? How frequently should the reporting be?

29 Yes. Council agrees that permit-holders should report on the progress of their feasibility studies. Progress on feasibility studies will provide crucial indicators as to how energy markets may evolve. The frequency of reporting would depend on the nature of the feasibility study and associated regulation. It would also be worthwhile exploring whether there are any provisions governing comparative permits in this regard. For administrative planning purposes, reporting could link into company reporting deadlines.

What reporting standards should the Government set to make the disclosures meaningful?

30 Reporting standards should be transparent if public disclosures are to be meaningful. Decisions will also need to be made on the treatment of confidential or sensitive commercial information.

Who should have access to this information? How should it be shared?

31 Answering this question depends on the type and nature of information. According to the circumstance, appropriate information and data protections would need to be in place.

Do you agree that developers not complying with obligations could face compliance actions, with risk loss of rights to conduct feasibility studies as a last resort? What sorts of non-compliance could lead to the loss of these rights?

32 Yes. Council agrees that developers not complying with obligations could face compliance actions, with risk loss of rights to conduct feasibility studies as a last resort; but planning work is required to determine how this process will work.

Non-compliance with pre-specified environmental standards, for example, could lead to compliance action. A reckless oil spill from an offshore floating platform in NZ's waters, the West Coast's territorial sea or EEZ, for example, would be a concern for Council. But issues of fault need to be carefully assessed and due process should be followed.

How could a collaborative approach be designed to enable the objectives set out above, and what could the government do to support collaboration?

33 Council suggests that central government would need to do some primary research in this regard, such as, facilitating focus groups with relevant parties and engaging in dialogue and conversation. Design work is also required.

Chapter 7: Information on existing uses, interests, and values

Are there other uses, interests, and values not covered above that can be readily mapped? What are they?

34 Yes, there will be other uses, interests, and values in NZ's territorial sea and EEZ, not covered in chapter 7 of the Discussion Document and which should be addressed in local authority consent application processes rather than being duplicated at central government level. Mahinga kai, and fisheries, for instance, could be a compulsory value. Amongst other, effects on mahinga kai, and fisheries, should be assessed at a local level before a feasibility 'permit' [licence] is granted. Other values are suggested by review of the criteria above. A work programme would need to be put in place to identify uses, interests, and values, and then decide whether they can be readily mapped.

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?

35 As above. Work is required to identify uses, interests, and values in West Coast waters (its territorial sea and EEZ).

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?

36 A work programme would need to be put in place to identify uses, interests, and values, and then decide whether they can be readily mapped. As mentioned above, opportunities may exist for hybrid developments, such as, offshore wind-wave developments.

Shared transmission facilities could reduce the number of offshore cables, the number of beach landings, and the extent of interconnection and distribution build outs, i.e., reduce cost; but energy security, energy equity, and energy resilience remain crucial in the analysis.

There are other implications as well with respect to social, cultural, environmental, and economic effects, including creating a 'green job' industry on the West Coast, which the West Coast Regional Council favours.

In sum, work would need to be commissioned and analysis required to answer this question.

How could conflicts with existing uses, interests and values be managed?

37

The preceding work would be required to first identify existing and potential uses, interests, and values to be managed.

Conflict resolution in terms of the regulations should be through due legal process (such as, dialogue and engagement with the relevant organisation (such as, Council), consultation, mediation, arbitration, and court processes) where applicable.

38

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?

Uses, interests, and values would first need to be identified; and the preceding work would be required.

Any other comments?

Council notes from the discussion document that amongst other support, Central government and MBIE have mapped "a non-exhaustive range of identified existing uses, interests and values in the three regions currently being explored for offshore renewable energy potential", these being Waikato, Taranaki, and Southland. The Council thereby requests central government and MBIE undertake similar feasibility activities in West Coast waters.

The West Coast Regional Council requests Central Government fund offshore renewable energy feasibility studies and activities (including but not limited to energy generation, transmission, and distribution) in and from West Coast waters (in the territorial sea and EEZ on the West Coast of the South Island) to shore and to consumers; that Central Government's work include identifying and mapping uses, interests, and values of the West Coast's territorial sea and its EEZ (similar to the work done for Waikato, Taranaki and Southland and as highlighted in MBIE's discussion document); and that central government provides opportunity and funding for the West Coast Regional Council, Mana Whenua, and Development West Coast to engage in the process where appropriate.