APPENDIX A: DETAILED SUBMISSION ON OFFSHORE RENEWABLE ENERGY BILL

Clause		Submission	Relief sought
Part 1 - Preliminary provisions			
3	**Purpose** The purpose of this Act is to— (a) give greater certainty for developers to invest in ORE developments; and (b) allow the selection of ORE developments that best meet New Zealand's national interests; and (c) manage the risks to the Crown and the public from ORE developments.	**Key issue** We strongly support clause (a) of the purpose which relates to giving greater certainty for developers as the key driver for the legislation. However, the reference to 'greater' certainty is an unclear, relative measure and should be replaced with a reference to 'sufficient' certainty. We consider clause (c) should explicitly refer to both benefits and risks. In addition, we suggest that scope of the Bill is clarified in this section. The regime the Bill establishes will interact and overlap with other statutory regimes. The Bill should be amended to ensure its permitting regime clearly excludes duplication of processes provided under other regulatory regimes (such as the Resource Management Act 1991 or the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012)). The proposed public participation requirement for feasibility application rounds could result in significant duplication and litigation and risk inconsistent conditions being imposed. We believe the environmental consenting process under the RMA and EEZ Act will provide ensure adequate public involvement regarding environmental matters. While clause 35 provides some clarity, it is limited to how the Minister's determination on a permit application impacts other legislative requirements. We suggest the Bill is amended to ensure that submissions are focused on matters relevant to the permitting regime, and not matters that are already addressed under other existing legislation.	Amend the title of the section to relate to purpose and scope as follows and amend clause 3(c) and insert new clause 3(2) as proposed below: **3. Purpose and scope** (1) The purpose of this Act is to— (a) give ~~greater~~ sufficient certainty for developers to invest in ORE developments; and […] (c) manage the risks and benefits to the Crown and the public from ORE developments. (2) The scope of this Act relates to the processes, decisions and administration related to permits for ORE developments. For the avoidance of doubt, all persons performing and exercising functions, duties, and powers under this Act shall not take into account matters that are or will be addressed under the Resource Management Act 1991 or the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 unless expressly stated in this Act.

Clause		Submission	Relief sought
3A	**New section**	**Key issue** Clause 12 prohibits giving effect to resource consents and marine consents unless a party is the holder of a permit. It is important that the Bill clarifies that third party subcontractors can also be engaged by ORE developers to undertake ORE development activities under a permit. We suggest inserting a provision similar to section 3A of the Resource Management Act 1991 to ensure actions by such parties are not unintentionally made unlawful. This change is also reflected in clause 12 below.	**3A Persons acting under permits with permission** Subject to any specific conditions included in the permit, any reference in this Act to activities being allowed by a permit includes a reference to a person acting under a permit with the permission (including implied permission) of the permit holder as if the permit had been granted to that person as well as to the holder of the permit.
4	**Interpretation**		
	ORE generation infrastructure— (a) means any infrastructure, structure, or installation— (i) that is built or used (or is proposed to be built or used) in the territorial sea or exclusive economic zone for the purpose of generating energy from a renewable energy resource in that sea or zone; and (ii) that is (or is proposed to be) for commercial use (in accordance with a meaning of commercial use prescribed in the regulations (if any)); but (b) does not include ORE transmission infrastructure	The definition of ORE generation infrastructure, needs to anticipate and include ancillary infrastructure that does not directly generate energy, but supports the infrastructure that does.	Add clause (c): (c) includes any ancillary infrastructure, structure or installation that supports the infrastructure, structure, or installation referred to in clause (a).
	ORE generation infrastructure activities— (a) means— (i) the construction, installation, operation, maintenance, or decommissioning of ORE generation infrastructure; and (ii) all related or supporting activities related to those activities; but (b) does not include ORE transmission infrastructure activities or ORE feasibility activities	This definition needs to include ancillary activities that do not directly generate energy, but support the activities that do.	Add clause (c): (c) includes any ancillary activities that support the activities referred to in clause (a).

Clause		Submission	Relief sought
	ORE transmission infrastructure— (a) means any infrastructure, structure, or installation (including a cable, pipeline, or ORE substation) that— (i) is built or used (or is proposed to be built or used) for the purpose of storing, transmitting, transforming, or conveying energy from or though the territorial sea or exclusive economic zone; and (ii) is (or is proposed to be) for commercial use (in accordance with a meaning of commercial use prescribed in the regulations (if any)); and (iii) is (or is proposed to be) connected to ORE generation infrastructure; but (b) does not include— (i) ORE generation infrastructure; and (ii) electricity lines services within the meaning of section 54C(1) of the Commerce Act 1986	This definition needs to include ancillary infrastructure that does not directly generate energy, but supports the infrastructure that does.	Amend clause (a) to correct a minor typo and insert new subclause (c): (a)… (i) is built or used (or is proposed to be built or used) for the purpose of storing, transmitting, transforming, or conveying energy from or through the territorial sea or exclusive economic zone; and […] (c) includes any ancillary infrastructure, structure or installation that supports the infrastructure, structure, or installation referred to in clause (a).
	New definition	**Key issue** The Bill does not currently have a definition of person. See submission on clause 15 below which seeks to enable eligible permit applications from a broad range of incorporated and unincorporated corporate structures, which is consistent with the definition of person in s2 Crown Minerals Act 1991.	Insert new definition in clause 4: **person** includes the Crown, a corporation sole, and also a body of persons, whether corporate or unincorporate
Part 2 - Regime for offshore renewable energy permits and infrastructure protection			

Clause		Submission	Relief sought
12	**Prohibition on undertaking ORE generation infrastructure activities unless person is holder of commercial permit** A person must not give effect to a resource consent or marine consent by undertaking any ORE generation infrastructure activities in respect of a proposed ORE development unless they are a commercial permit holder in respect of the development.	**Key issue** We support the intent of this clause which is to ensure that ORE generation activities are not undertaken unless a commercial permit is held. However, as drafted this clause could prevent contractors engaged by a commercial permit holder from carrying out ORE generation activities. Persons acting with the permission of the permit holder should be explicitly excluded from this prohibition. See new section s3A suggested above which is consistent with the approach in the Resource Management Act 1991. Further, it is not clear to us why this provision prevents a person from giving effect to a resource consent or marine consent, rather than simply preventing a person from undertaking any ORE generation activity. This approach seems unnecessarily complicated and may have unintended consequences (for example, if no resource or marine consent was required for an activity).	Amend clause 12: **Prohibition on undertaking ORE generation infrastructure activities without a ~~unless person is holder of~~ commercial permit** A person must not ~~give effect to a resource consent or marine consent by~~ undertaki~~ng~~ any ORE generation infrastructure activities in respect of a proposed ORE development unless- (a) they are a commercial permit holder in respect of the development~~.~~; or (b) they are authorised under section 3A.

13	**Application round for feasibility permits** (1) An application for a feasibility permit may be made only during an application round. (2) The Minister may launch an application round by giving public notice that specifies— (a) the geographic area or areas in respect of which applications are invited (which may be in the territorial sea and the exclusive economic zone around the whole of New Zealand); and (b) if applicable, any limitations to which applications are subject (for example, as to the type of technology and generation capacity). (3) The public notice, or any guidance issued by the Minister, may specify any terms of the application round, including— (a) how applications may be made: (b) how public notice will be given, and consultation will be carried out, under section 17: (c) how applications will be considered under sections 18 to 20. (4) The public notice must specify any matters prescribed by the regulations and must be given in accordance with any requirements under the regulations. (5) The Minister may amend or revoke the notice, or any guidance, before the time by which applications must be received expires.	We support clause 13's provision for feasibility permits applications being limited to "application rounds". However, clause 13(2)(b) appears to anticipate application rounds constraining technologies and generation capacity. We oppose such limitations as they could constrain the ability for the Minister to consider more efficient and effective ORE developments. Clause 13(3) also allows the Minister to set out crucial details of the application process in "guidance". We consider that the listed matters are critical to the process and should be set out in the formal notices and/or regulations rather than guidance (which is potentially not subject to the same rigour). We suggest that the notice itself set out any additional terms. We also suggest that the notice should also identify relevant parties who are required to be consulted under clause 14 (such identification being a process already used by the EPA in fast-track consenting to identify relevant groups). This approach would ensure that all applicants have certainty over who they are required to consult with prior to making a feasibility permit application, and avoid the risk that applications will be deemed not to meet the statutory requirements. We suggest the powers in clause 13(5), which enable the amendment or revocation of a notice, be revised to avoid potentially prejudicial outcomes where applicants have too short a timeframe to respond to amendments. In the case of amendments, we consider the deadline for applications should be extended so that applicants can amend their documentation to appropriately address the amended notice.	Amend clause 13(2)(b): (b) if applicable, any limitations to which applications are subject ~~(for example, as to the type of technology and generation capacity)~~. Delete clause 13(3) and amend clause 13(4) as follows: (4) The public notice: (a) must specify any matters prescribed by the regulations and must be given in accordance with any requirements under the regulations; (b) may specify any terms of the application round additional to those prescribed by the regulations; and (c) must identify the relevant iwi authorities, hapū, Treaty settlement entities, relevant protected customary rights groups, customary marine title groups, and applicant groups that the applicant is required to consult with under section 14(1). Amend clause 13(5): (5) The Minister may amend or revoke the notice, ~~or any guidance,~~ before the time by which applications must be received expires. If amendments to the notice are made within 15 working days of the deadline, the deadline will be extended by an additional 20 working days.

Clause		Submission	Relief sought
14	**Pre-application consultation requirements for feasibility permit applications** (1) The person who intends to make an application for a feasibility permit must consult the following groups before making the application: (a) any relevant iwi authorities, hapū, and Treaty settlement entities, including— (i) iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements; and (ii) the tangata whenua of any area within the permit area that is a taiāpure-local fishery, a mātaitai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996; and (b) any relevant protected customary rights groups, customary marine title groups, and applicant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011; and (c) ngā hapū o Ngāti Porou, if the permit area is within or adjacent to, or the development would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou. (2) An applicant must include in their application a record of the consultation and a statement explaining how it has informed the proposed development.	We support clause 14's requirement to undertake pre-application consultation with relevant Māori groups and report on that consultation in the application. To ensure this is undertaken consistently, we suggest the notice specify those persons to be consulted (see comments on clause 13(4) above). We suggest consequential changes to clause 14 to require applicants to consult with those persons identified in the notice. We acknowledge this approach may be challenging if "application rounds" cover large swathes of the coastal marine area. An alternative approach would be to require applicants to use best endeavours to identify "*relevant iwi authorities, hapū, and Treaty settlement entities*".	Amend clause 14 as follows: (1) The person who intends to make an application for a feasibility permit must consult with the following groups before making the application: (a) any relevant iwi authorities, hapū, and Treaty settlement entities identified as parties to be consulted in the public notice issued under section 13(2), including— […] In the alternative, amend clause 14(1): (1) The person who intends to make an application for a feasibility permit must use best endeavours to consult the following groups before making the application: …

Clause		Submission	Relief sought
15	**Minimum eligibility criteria for applicants for feasibility permits** A person is eligible to apply to the Minister for a feasibility permit during an application round if— (a) the person has undertaken the consultation required by section 14 (which relates to consultation with Māori groups); and (b) the person is a single entity that is either a body corporate that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993; and (c) the person is not an applicant for another permit for the same type of technology in respect of the same region (where **region** has the same meaning as in section 2(1) of the Local Government Act 1974 and includes the adjacent area of the exclusive economic zone).	**Key issue** We support the concept of clear eligibility criteria for permit applicants but oppose the criteria in clause 15. In relation to the criteria requiring consultation with Māori groups under clause 15 (a), we consider the above changes to clause 14 are necessary for this to be a minimum eligibility criterion. We oppose the criteria set out in clause 15(b) as it unnecessarily limits applicants to single entity body corporates. We consider that unincorporated joint ventures should also capable of applying for a permit. The Crown Minerals Act 1991 allows applications by persons including corporates and bodies of persons whether corporate or unincorporate. We see no reason to take a different approach under the Bill and to do so may unnecessarily restrict investment in and efficient future ownership structures involving ORE infrastructure. We also oppose (c) which seems to restrict applicants to one application within a region. There is no clear reason for this limitation. If the concern relates to the capacity of a developer to undertake multiple developments, clause 19(d) already allows the Minister to consider the applicant's "technical and financial capability" to undertake the development. Further in the EEZ, it may be difficult to define "same region" given the lack of clear regional boundaries offshore. Finally, this provision could have unintended consequences by driving applicants to make one broad sweeping application, rather than more discrete applications.	In relation to clause 15(a), see changes to clause 14. Delete clause 15(b) and amend clause 4 to include definition of person (see above). Delete clause 15(c).

Clause		Submission	Relief sought
16	**Requirements for applications for feasibility permits** Every application for a feasibility permit must— (a) be in respect of a permit area— (i) that is wholly within the geographic area to which the application round applies; and (ii) that is a reasonable size for the proposed ORE generation infrastructure; and (b) contain, or be accompanied by, the information required by the terms of the application round as specified in section 13(3); and (c) include a development plan, which must contain the relevant information prescribed in the regulations to enable the application to be considered and measurable permit conditions to be applied; and (d) otherwise be made in the manner prescribed by the regulations.	**Key issue** We oppose the obligation in clause 16(a)(ii) that the application must be in respect of a permit area that is "a reasonable size" for the ORE development. The phrase "reasonable size" is highly uncertain. It is unclear what factors would influence whether the Minister considers an application to be a "reasonable size" and whether smaller or larger developments would be preferred. Without clear generation ratios/density expectations, this level of uncertainty is inappropriate for a requirement that must be satisfied for an application to be considered complete. As drafted, this requirement is a "gateway test" (that is, an application will not be considered at all if it does not meet the requirement). We suggest instead that such matters may be more suitable to be a relevant consideration contained in clause 19 and suggest instead that the efficient use of space for ORE activities is included as a relevant consideration under clause 19. We consider the reference to the information requirements from the public notice included in clause 16(b), should be more specific and refer only to those matters included in the notice. Noting our proposed changes above, that reference would be 13(4), or in the Bill as introduced should be to 13(3)(a) only (as 13(3)(b) and (c) do not relate to the form of applications).	Delete clause 16(a)(ii). Amend clause 16 as set out below. Amend clause 16(b) and (c): (b) contain, or be accompanied by, the information required by the terms of the application round as specified in ***[***section 13(4) ***OR*** 13(3)(a)***]***; and (c) include a development plan and draft permit conditions, which must contain the relevant information prescribed in the regulations to enable the application to be considered and measurable permit conditions to be applied; and Amend clause 23 as set out below.
17	**Minister's process before feasibility permits can be granted** Before granting any application for a feasibility permit in an application round, the Minister must— (a) give public notice of a summary of the proposed developments being considered, including the permit areas to which those applications relate; and (b) allow any person who wishes to make a submission about a proposed development a reasonable opportunity to do so; and	**Key issue** We suggest that more clarity is needed regarding the timing and the subject of the notice that the Minister is obliged to issued under clause 17(a). More specifically as drafted, there is no timeframe on the Minister's notice and it is unclear whether the notice must summarise all applications received or just a short list of applications being considered (e.g. excluding ineligible applications).	Amend clause 17 as follows: (1) Within [30] working days of the closing of any feasibility permit application round and b~~B~~efore granting any application for a feasibility permit ~~in an application round~~, the Minister must— (a) give public notice of a summary of the applications received ~~proposed developments being considered~~,

Clause		Submission	Relief sought
	(c) consult the persons referred to in section 14 (which relates to consultation with Māori groups).	We support public participation within the feasibility permit regime. However, amendments are needed to ensure public submissions are timely and avoid unnecessarily duplicating the public participation under other statutory regimes (particularly environmental) or create unreasonable judicial review risks. Accordingly, we seek amendments to this clause to insert a timeframe for submissions and to clarify that submissions can only address matters relevant to the Bill's scope. See also changes to clause 3 above and clause 19 below which support this submission point.	including the permit areas to which those applications relate; and (b) allow any person who wishes to make a qualifying submission about a proposed development an ~~reasonable~~ opportunity to do so within a 20 working day period of the publication of the notice in (a); and (2) 'Qualifying submissions' for the purpose of this clause are submissions that only address matters within the scope of the mandatory considerations set out in Section 19 of this Act. Amend clause 19(2)(f) as set out below. Amend clause 3 to insert clause 3(2) as sought above.
18	**Determining applications for feasibility permits** (1) The Minister may— (a) grant an application for a feasibility permit, in whole or in part, and issue a permit; or (b) reject the application. (2) The Minister may reject an application if the Minister considers that the grant of a permit would or could pose a significant risk to national security or public order and that risk cannot be adequately avoided, mitigated, or managed. (3) This section does not limit the grounds on which the Minister may reject an application. (4) This section is subject to sections 17 and 19.	**Key issue** Clause 18 anticipates partial grants of applications for feasibility permits which may adversely impact the ability to implement an ORE development. We consider that an application should not be granted "in part" without the Minister first consulting with the applicant in relation to any commercial and practical implications of doing so. For example, there may be practical considerations that mean a reduced permit area would make the entire ORE commercially impracticable, which may be able to be mitigated with slight changes to boundaries. It would be more efficient to address these matters at the time of permitting, rather than requiring the applicant to seek a variation to the permit area, raising the risk of adjacent feasibility permits preventing such variation. In order to achieve the purpose of feasibility permits to provide exclusive rights to the permit holder (as set out in clause 11(a) and (b)), this clause should include a mandatory requirement for the Minister to reject any application that	Amend clause 18: (1) The Minister may— (a) grant an application for a feasibility permit, in whole or in part, and issue a permit; or (b) reject the application. (1A) If the Minister intends to grant an application for a feasibility permit in part, the Minister must first give notice to the applicant of their proposed decision and provide an opportunity for the applicant to respond to the proposed partial grant of the permit. Insert clause 18(2B): (2B) The Minister must reject an application if there is a current feasibility permit or commercial

Clause		Submission	Relief sought
		relates to an area where there is an existing feasibility or commercial permit. This provision will support clause 19(1)(b), which allows a feasibility permit to be granted where there is no other permit. It is unclear why clause (2) elevates "*national security and public order*" given the wide range of potential reasons for rejecting an application. Further, we are concerned that applicants will not have any certainty as to what might be deemed "*a significant risk to national security or public order*" by a Minister. We acknowledge this uncertainty likely cannot be resolved through the legislation given these risks may be unforeseeable and/or change over time. However, we request that clause (2) be deleted and instead state that the Minister may reject the application for any reason that is within the scope of the legislation (as clarified by the amendments to proposed clause 3 above).	permit in place in respect of the same proposed permit area. Amend clause 18(2) and delete clause 18(3): (2) The Minister may reject an application for any reason within the scope of this Act as set out in section 3 ~~if the Minister considers that the grant of a permit would or could pose a significant risk to national security or public order and that risk cannot be adequately avoided, mitigated, or managed.~~ ~~(3) This section does not limit the grounds on which the Minister may reject an application.~~
19	**Mandatory considerations for granting application for feasibility permits** (1) The Minister may grant an application for a feasibility permit if the Minister is satisfied that— *Development requirements* (a) the proposed development is likely to deliver benefits for New Zealand; and (b) no other feasibility permit or commercial permit is current in respect of the proposed permit area; and (c) the proposed development plan is consistent with the purpose of the proposed permit, the purpose of this Act, and good industry practice in respect of the proposed ORE generation activities; and *Permit holder suitability requirements* (d) the applicant has, or is likely to have, the technical and financial capability to install, operate, maintain, and decommission the proposed ORE generation infrastructure; and	**Key issue** We propose inclusion of an additional consideration (19(1)(ca) related to the efficient use of the permit area. This is inserted as a preferrable alternative to clause 16(a)(ii)'s reference to the permit area being a "reasonable size". While the requirement in clause 1(e) to consider an applicant's likelihood to comply is appropriate, we suggest that it may be difficult for the Minister to determine that an applicant is "*highly likely to comply*" with the Act and regulations. We consider it would be more certain if this clause referred to there being no history that suggests that the applicant is likely to breach the Act. In relation to the national security and public order risks which are relevant under clause (2)(a), as noted above, we are concerned about the uncertainty as to what might be deemed "*a significant risk to national security or public order*". We acknowledge this uncertainty cannot	Add clause 19(1)(ca): (ca) the proposed development is an efficient use of the permit area taking into account the total area and the expected generation output; Amend clause 19(1)(e): (e) the applicant does not have a compliance record that suggests that it is likely to breach the Act or regulations ~~is highly likely to comply, on an ongoing basis, with the requirements under this Act and the regulations.~~ Amend clause 19(2)(a): (a) whether the applicant poses any significant risks to national security

Clause		Submission	Relief sought
	(e) the applicant is highly likely to comply, on an ongoing basis, with the requirements under this Act and the regulations. (2) In determining an application, the Minister must have regard to the following additional considerations: (a) whether the applicant poses any significant risks to national security or public order; and (b) the applicant's compliance record in New Zealand and internationally; and (c) the applicant's consultation with the persons referred to in section 14 (which relates to consultation with Māori groups); and (d) the impact of granting the permit on Treaty settlements, protected customary rights areas, and any other Māori groups with relevant interests; and (e) the applicant's approach to identifying, engaging with, and managing existing rights and interests in the proposed permit area; and (f) any submissions made in relation to the application; and (g) any other considerations that are prescribed by the regulations or specified in the terms of the application round.	be resolved through the legislation given these risks may be unforeseeable and/or change over time. Nevertheless, we consider this clause should include the language "*and that risk cannot be adequately avoided, mitigated, or managed*" that is contained in clause 18(2) to enable applicants the opportunity to mitigate any risks identified. Clause 2(c) is not clear whether the Minister has to have regard to the fact of the consultation or the content of the feedback during consultation. We oppose in part clause (2)(e) as the applicant may not have any powers to "manage" existing rights and interests. However, the applicant may be able to "address" existing rights and interests so that the Minister can be satisfied that the potential conflicts will be appropriately managed. Finally, some developers have commenced feasibility activities in some locations. It is important that these early works do not detract from (and in fact help to support) an application for feasibility permit.	or public order and that risk cannot be adequately avoided, mitigated, or managed; and Amend clause 19(2)(c): (c) the outcome of the applicant's consultation with the persons referred to in section 14 (which relates to consultation with Māori groups); and Amend clause 19(2)(e): (e) the applicant's approach to identifying, engaging with, and/or addressing ~~managing~~ existing rights and interests in the proposed permit area; and Amend clause 19(2)(f): (f) any qualifying submissions (as that term is defined in section 17(2)) made in relation to the application; ~~and~~ Add new clause 19(2)(fa): (fa) any comments provided by the applicant under section 18(1A); and Add a new clause (3): (3) For the avoidance of doubt, the Minister must have regard to any ORE feasibility activities that were carried out prior to this Act entering into force. The commencement of any ORE feasibility activities prior to the grant of a feasibility permit shall not be a ground for rejecting a feasibility application but may be relevant to considerations under this section, including subsection (1)(d) and 2(b).

Clause		Submission	Relief sought
20	**Position if 2 or more competing applications** (1) If there are competing applications in an application round in respect of which the Minister may grant a feasibility permit, the Minister may do either or both of the following: (a) grant 1 or more permits on the basis of which applications have the most merit and which applicants are most suitable to hold a permit: (b) if there are 2 or more applications in an application round that relate to the same permit area, invite any of the applicants to revise their application to the extent needed to resolve the competition for the same permit area (subject to section 16(a)). (2) The Minister must determine an application— (a) in accordance with the ranking, priorities, or weighting of factors that are contained in the regulations or the terms of the application round as specified under section 13(3); and (b) in the manner, and within any time frame, prescribed by the regulations or those terms.	**Key issue** We support in principle clause (1)(a) which establishes that the application with the "most merit" and that is "most suitable" will be preferred, however these terms are uncertain and may be open to interpretation and potential challenge. We acknowledge that further detail as to how competing applications will be considered will be provided in regulations. It is very important that the regulatory regime provides a rigorous process for determining competing applications given the substantial rights that arise from the grant of feasibility permits. A competitive merit assessment should include adequate consideration of an applicant's understanding of development risks specific to New Zealand and the approach to prudently manage these risks. Based on our experience, where merit assessments have not rewarded prudent development, there is a risk that some applicants may "over promise and under deliver" at the feasibility stage or accelerate development before market conditions for successful development are established. New Zealand's ORE regime needs to provide measures to guard against these risks. Given the complexity and importance of this issue, we consider the "ranking, priorities, or weighting of factors" should be contained in regulations not the terms of the application round, as the regulation-making process is subject to more rigor. Regulations will also fix those considerations in place (unless amendments are made) and therefore provide greater certainty than the terms of an application round that might change at any time. In addition, in the event overlapping applications are considered of equal merit, the Bill provides the option for the Minister to invite applicants to revise their application to remove the overlap. Based our experience in Australia, to achieve the best	Amend clause 20(1): (1) If there are 2 or more applications in an application round that relate to the same permit area ("competing applications") ~~in an application round~~ in respect of which the Minister may grant a feasibility permit, the Minister may do either or both of the following: Amend clause 20(2): (2) The Minister must determine 2 or more applications in an application round that relate to the same permit area ~~an application~~— (a) in accordance with the ranking, priorities, or weighting of factors that are contained in the regulations ~~or the terms of the application round as specified under section 13(3)~~; and (b) ~~in the manner, and~~ within any time frame and in accordance with any process requirements~~,~~ prescribed by the regulations ~~or those terms~~.

Clause		Submission	Relief sought
		outcome for New Zealand and ensure each application remains viable, the resolution of an overlap is best achieved via negotiation between applicants. While we agree in principle with the intention of the clause, our experience in Australia has been that similar wording had the consequence of triggering competition law. Based on the Bill's current drafting, New Zealand's competition law (specifically section 27 and 30 of the Commerce Act 1986) is also likely to prevent such engagement. In Australia, the Australian Competition & Consumer Commission (ACCC) granted special authorisation for applicants to communicate to resolve an overlap. We suggest Government review this clause as it relates to competition law to ensure that it can be delivered as intended. To provide clarity, we consider the phrase "competing applications" should be defined as "2 or more applications that cover the same (in whole or part) permit area." This text is currently in (b), but should be included in the opening text of this clause. We oppose in part clause (2)(b) as the words "in the manner" suggests the decision-making tests contained in the legislation could be varied by the regulations or the terms for the application round. If those words are intended to relate to process requirements, rather than substantive requirements, that should be made clearer through the amendments we have requested.	
21	**What feasibility permits must specify** A feasibility permit must specify all of the following: (a) the name of the permit holder: (b) the proposed amount of power to be generated under a commercial permit, if granted: (c) the permit area:	**Key issue** We oppose in part clause (b) as the amount of power to be generated under a commercial permit may change within the envelope of design possibilities. While applicants can take a preliminary view on project generation capacity at feasibility permit stage, ultimately the size of the project at	Delete clause 21(b).

Clause		Submission	Relief sought
	(d) the start date and end date of the permit: (e) the conditions of the permit: (f) any other matters prescribed by the regulations.	commercial permit stage will be determined by a range of factors, including the current market demand for offshore wind generation. It is unclear how the Minister would assess changes to the forecast generation estimate when assessing Commercial Permit applications if this requirement remained in the Bill. We suggest removing the obligation to specify the "proposed amount of power to be generated" in the feasibility permit application. It is unlikely that a developer will have certainty over this amount at the feasibility permit stage. We suggest the Bill specifically enables developers to provide design parameters that include an anticipated generation capacity range at the feasibility permit stage, instead of a single, fixed design. This approach will enable proponents to accommodate technology advances, address environmental constraints/opportunities, allow for changing conditions and select the optimal design at the final stage. However, there is no reason why the feasibility permit needs to specify the proposed amount of power to be generated under a commercial permit.	
22	**Duration of feasibility permits** (1) A feasibility permit has a duration of 7 years starting on the start date. (2) However,— (a) *see* section 39 for the power of the Minister to extend the duration of a feasibility permit; and (b) a feasibility permit that is the subject of an application for a commercial permit continues in force until the Minister determines the application; and	**Key issue** We support in part clause (2)(b) as it ensures a feasibility permit will continue in force while commercial permit application is determined. However, we consider a process is required to provide some certainty that the feasibility permit remains valid during this process. We request that the legislation specify that a commercial permit must relate to all or part of the feasibility permit area and that the commercial permit must	Amend clause 22(2)(b): (b) where an applicant has applied for a commercial permit for some or all of a feasibility permit area at least one month prior to the expiration of the feasibility permit, the~~a~~ feasibility permit that is the subject of ~~an~~the application ~~for a commercial permit~~ continues in force until the Minister determines the application; and

Clause		Submission	Relief sought
	(c) if a commercial permit is granted in relation to a feasibility permit, then the feasibility permit ends and the start date of the commercial permit is the day after the end date of the feasibility permit.	be sought at least 1 month in advance of the expiry date of the feasibility permit. We oppose in part clause (2)(c) as there may be circumstances where a commercial permit is sought for part of an area covered by a feasibility permit, while feasibility activities continue in the remainder of the area covered by a feasibility permit. This clause is necessary to enable the staged transition of feasibility permits to commercial permits. The ability to stage projects may be necessary to support investment certainty by applicants.	Amend clause 22(2)(c): (c) if a commercial permit is granted in relation to the whole or part of a feasibility permit area, then the corresponding whole or part of the feasibility permit ends and the start date of the commercial permit is the day after the end date of the feasibility permit
23	**Minister may impose conditions of feasibility permits** The Minister may impose any conditions of a feasibility permit that the Minister considers are appropriate to give effect to the purpose of this Act or to enable effective administration of this Act.	Clause 16(c) requires a development plan to be submitted to "*enable … measurable permit conditions to be applied*". This requirement for permit conditions to be measurable should also be contained within clause 23, which should also refer to the purpose "and scope" of this Act (as provided for in our proposed amendments to clause 3). The conditions imposed on feasibility permits could significantly impact project deliverability if they are prepared without an understanding of commercial and practical implications. For this reason, we consider draft conditions should be provided to the applicant for comment before the Minister issues their decision. Otherwise, it is likely that the process for seeking amendments to conditions will need to be used more often (under clause 41), which would be much less efficient than ensuring workable conditions from the outset.	Amend clause 23: (1) The Minister may impose any measurable conditions of a feasibility permit that the Minister considers are appropriate to give effect to the purpose and scope of this Act or to enable effective administration of this Act. (2) Prior to imposing any conditions of a feasibility permit, the Minister shall- (a) provide draft conditions to the applicant for comment; (b) invite and provide a reasonable opportunity for the applicant to provide comments on the draft conditions; and (c) consider the applicant's comments on the draft conditions.

Clause		Submission	Relief sought
24	**Pre-application consultation requirements for commercial permit applications** (1) The person who intends to make an application for a commercial permit must consult the following groups before making the application: (a) any relevant iwi authorities, hapū, and Treaty settlement entities, including— (i) iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements; and (ii) the tangata whenua of any area within the permit area that is a taiāpure-local fishery, a mātaitai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996; and (b) any relevant protected customary rights groups, customary marine title groups, and applicant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011; and (c) ngā hapū o Ngāti Porou, if the permit area is within or adjacent to, or the development would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou. (2) An applicant must include in their application a record of the consultation and a statement explaining how it has informed the proposed development.	See submission on clause 14 above.	Amend clause 24 as follows: (1) The person who intends to make an application for a commercial permit must consult with the following groups before making the application: (a) any relevant iwi authorities, hapū, and Treaty settlement entities identified as parties to be consulted in the public notice issued under section 13(2), including— […] In the alternative, amend clause 24(1): (1) The person who intends to make an application for a commercial permit must use best endeavours to consult the following groups before making the application: …
26	**Requirements for applications for commercial permits** Every application for a commercial permit must— (a) be in respect of a permit area that is a reasonable size for the proposed development; and (b) include a development plan, which must contain the relevant information prescribed in the regulations to enable the application to be considered and measurable permit conditions to be applied; and (c) include a decommissioning proposal and a decommissioning cost estimate in respect of the ORE generation infrastructure	**Key issue** We oppose clause (a) for the reasons set out in relation to clause 16(a)(ii) above. We support the reference in (b) to "*measurable* permit conditions". To provide greater certainty that the permit conditions will be appropriate, we recommend that the commercial permit applications be required to provide draft permit conditions. See also our submission on clause 32 below relating to permit conditions.	Delete clause 26(a). Amend clause 26(b): (b) include a development plan and draft conditions, which must contain the relevant information prescribed in the regulations to enable the application to be

Clause		Submission	Relief sought
	that will be attributable to ORE generation infrastructure activities under the permit (*see* subpart 2 of Part 3); and (d) include proposals for a financial security arrangement (*see* subpart 3 of Part 3); and (e) contain, or be accompanied by, any information prescribed by the regulations; and (f) otherwise be made in the manner prescribed by the regulations.		considered and measurable permit conditions to be applied; and
28	**Determining applications for commercial permits** (1) The Minister may— (a) grant an application for a commercial permit, in whole or in part, and issue a permit; or (b) reject the application. (2) The Minister may reject an application if the Minister considers that the grant of a permit would or could pose a significant risk to national security or public order and that risk cannot be adequately avoided, mitigated, or managed. (3) This section does not limit the grounds on which the Minister may reject an application. (4) This section is subject to section 27 and 29.	**Key issue** See submission on clause 18.	Amend clause 28: (1) The Minister may— (a) grant an application for a feasibility permit, in whole or in part, and issue a permit; or (b) reject the application. (1A) If the Minister intends to grant an application for a commercial permit in part, the Minister must first give notice to the applicant of their proposed decision and provide an opportunity for the applicant to respond to the proposed partial grant of the permit. Insert clause 28(2B): (2B) The Minister must reject an application if there is a current feasibility permit or commercial permit held by a different person to the applicant that is in place in respect of the same proposed permit area. Amend clause 28(2): (2) The Minister may reject an application for any reason within the scope of this Act as set out in section 3. ~~if the Minister considers that the grant of a permit would or~~

Clause		Submission	Relief sought
			~~could pose a significant risk to national security or public order and that risk cannot be adequately avoided, mitigated, or managed.~~
			Delete clause 28(3).
29	**Mandatory considerations for granting application for commercial permit** (1) The Minister may grant an application for a commercial permit if the Minister is satisfied that— *Development requirements* (a) the proposed development plan is consistent with the purpose of the proposed permit, the purpose of this Act, and good industry practice in respect of the proposed ORE generation infrastructure activities; and *Permit holder suitability considerations* (b) the applicant has the technical and financial capability to install, operate, maintain, and decommission the proposed ORE generation infrastructure; and (c) the applicant is ready to carry out the proposed development plan; and (d) the applicant has complied with the requirements under this Act and the regulations and the conditions of their feasibility permit; and (e) the applicant is highly likely to comply, on an ongoing basis, with— (i) their decommissioning obligation and financial security obligation; and (ii) the other requirements under this Act and the regulations; and (f) the applicant has, or will be able to, put in place an acceptable financial security arrangement that complies with subpart 3 of Part 3. (2) In determining an application, the Minister must have regard to the following additional considerations:	Clause (1)(b) needs to be amended to recognize that applicants may not have signed contracts with all suppliers at the time it seeks a commercial permit and it is unclear whether clause (1)(b) would be satisfied in that circumstance. Accordingly, we consider clause (1)(b) should be amended to require that "*the applicant has or will have*" the technical and financial capability to undertake the development. Similarly, we oppose in part clause (1)(c) as the language "ready to carry out" might be interpreted as requiring the applicant to already have resource and/or marine consents, finance, contracts, etc in place before seeking a commercial permit. Resource and/or marine consents should be able to be sought at the same time or after a commercial permit is obtained, given the significant investment that is required to seek those consents. Other arrangements (such as contracts) may not be able to be finalised until a commercial permit has been obtained and the parameters of a development are confirmed. We support in principle clause (1)(d) however it may have the unintended consequence of creating a bar to the grant of a commercial permit if there has been a minor non-compliance that has been resolved. We therefore request that this matter is a matter to be considered under clause (2), rather than a requirement that must be satisfied under (1). We also suggest that clause refer to compliance "in all material respects" to exclude immaterial or administrative issues that should not impact the determination of an application.	Amend clause 29(1)(b): (b) the applicant has or will have the technical and financial capability to install, operate, maintain, and decommission the proposed ORE generation infrastructure; and Amend clause 29(1)(c): (c) the applicant is or will be ready to carry out the proposed development plan; and Delete clause 29(1)(d) and add (2)(ba): (ba) whether the applicant has complied in all material respects with the requirements under this Act and the regulations and the conditions of their feasibility permit; Amend clause 29(1)(e): (e) the applicant does not have a compliance or financial record that indicates the applicant is unlikely ~~is highly likely~~ to comply, on an ongoing basis, with— (i) their decommissioning obligation and financial security obligation; and (ii) the other requirements under this Act and the regulations; and Amend clause (2)(c): (c) the outcome of the applicant's consultation with the persons

Clause		Submission	Relief sought
	Development requirements (a) whether there are changes to the proposed development that are material to the benefits that were assessed as part of the applicant's feasibility permit application; and *Permit holder suitability considerations* (b) whether the applicant poses any significant risks to national security or public order; and *Other considerations* (c) the applicant's consultation with the persons referred to in section 24 (which relates to consultation with Māori groups); and (d) the impact of granting the permit on Treaty settlements, protected customary rights areas, and any other Māori groups with relevant interests; and (e) any other considerations that are prescribed by the regulations.	We oppose in part clause 1(e) as it will be difficult for the Minister to positively determine that an applicant is "*highly likely to comply*" with the Act and regulations. We consider it would be more certain if this clause referred to there being no history that suggests that the applicant is likely to breach the Act. Clause 2(c) is not clear whether the Minister has to have regard to the fact of the consultation or the content of the feedback during consultation. We suggest that the outcome is a more relevant consideration.	referred to in section 24 (which relates to consultation with Māori groups); and
32	**Minister may impose conditions of commercial permits** The Minister may impose any conditions of a commercial permit that the Minister considers are appropriate to give effect to the purpose of this Act or enable the effective administration of this Act.	See submission on *clause 23 – Minister may impose conditions of feasibility permits* above.	Amend clause 32: (1) The Minister may impose any measurable conditions of a commercial permit that the Minister considers are appropriate to give effect to the purpose and scope of this Act or to enable effective administration of this Act. (2) Prior to imposing any conditions of a commercial permit, the Minister shall- (a) provide draft conditions to the applicant for comment; (b) invite and provide reasonable opportunity for the applicant provide comments on the draft conditions; and (c) consider the applicant's comments on the draft conditions.

Clause		Submission	Relief sought
33	**Requirements of permit holders** Every permit holder, whether or not it is stated in their permit, must— *Feasibility permits* (a) commence ORE feasibility activities within 12 months of the permit's start date; and (b) disclose the data that is obtained from their ORE feasibility activities to the chief executive by the end date of their feasibility permit; and	**Key issue** The Bill does not clearly define which ORE feasibility activities are required to commence in the first 12 months of a feasibility permit. Developers will have a substantial commercial driver to progress feasibility activities as soon as possible but it is expected that the type of feasibility activities that are commenced will be aligned to the wider investment risk profile that applies to the ORE development. More specifically, while a feasibility permit is a critical step in the delivery of offshore wind, material investment risks may remain and will influence the scheduling of investments in specific types of ORE feasibility activities. Examples of those wider investment risk factors include the progress towards developing port infrastructure to accommodate offshore wind construction and operations, the extent to which the strengthening of transmission planning to ensure efficient grid integration has been advanced, and pathway to achieving a bankable offtake. Depending on the investment risk profile at the time of achieving a feasibility permit and during the first 12 months, ORE developers will require flexibility to manage the investment risk of delivering projects in new offshore wind markets such as New Zealand. This includes maintaining autonomy to determine the appropriate time to deploy high-cost feasibility activities, including environmental surveys and geotechnical campaigns. We suggest the Bill is amended to include a requirement that permit holders demonstrate "reasonable progress or effort" towards implementing ORE feasibility activities within the first 12-months of the permit's start date. This would recognise the significant planning, engagement and desktop activities required to progress first projects in new markets. The amendment will support the delivery of offshore	Amend clause 33(a): (a) commence, or make reasonable progress or effort towards commencing, ORE feasibility activities within 12 months of the permit's start date; and Amend clause 33(b): (b) ~~disclose~~ provide the data that is obtained from their ORE feasibility activities to the chief executive by a date agreed with the Minister or (at the latest) within one year of the end date of their feasibility permit; and

Clause		Submission	Relief sought
		wind in New Zealand by ensuring projects can effectively implement their investment risk management approaches during the 7-year feasibility period. The amendments we have proposed are analogous to those applying to the lapse of resource consents under the Resource Management Act 1991. The use of common terminology will provide greater certainty for both developers and the regulator. We oppose clause (b) as the use of "disclose" in the drafting suggests that clause 116 does not apply and there will be no protection for any commercially sensitive information within the data. We also consider this requirement should trigger one year following the end date of the feasibility permit, so that the provision of the data does not prejudice any commercial permit application (noting that a feasibility permit might extend beyond its end date where a commercial permit application is still under consideration).	
	Commercial permits (c) inform the chief executive within 30 working days of entering into any contract with another person to build or operate any ORE transmission infrastructure or to transfer ownership of any ORE transmission infrastructure, including details about the proposed transfer, transferee, and any other information the chief executive may require; and (d) not transfer ownership of any ORE transmission infrastructure otherwise than to a single entity that is either a body corporate that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993; and	We oppose in part clause (c). The information requirements for transferring ownership of infrastructure should be more explicit than "*any other information the chief executive may require*". That said, it is also not necessary for this clause to set out information requirements given clause 42 more explicitly addresses the transfer of a permit. We oppose clause (d) for the reasons set out in relation to clause 15(b) above.	Amend clause 33(c): (c) inform the chief executive within 30 working days of entering into any contract with another person to build or operate any ORE transmission infrastructure or to transfer ownership of any ORE transmission infrastructure~~, including details about the proposed transfer, transferee, and any other information the chief executive may require~~; and Delete clause 33(d).
34	*All permits* (e) comply with any milestones in the applicable development plan, unless compliance should reasonably be excused; and	We oppose clause (e) as it locks in milestones contained in the development plan lodged with the application, which may become out of date. Although clause (e) envisages compliance being excused in some circumstances, there is no	Delete clause 34(e).

Clause		Submission	Relief sought
	(f) pay any fees or levies prescribed by the regulations; and (g) provide reports or any information requested by the Minister, the chief executive, or an enforcement officer; and (h) provide to the chief executive a copy of any application for a marine consent or a resource consent for ORE infrastructure activities in respect of the development, as soon as reasonably practicable after lodging the application.	process set out for the permit holder to seek to be excused. Instead, the necessary requirements should be set out in the permit conditions, which will allow the permit holder to seek to vary those conditions if circumstances change. We oppose in part clause (g) as it creates a broad discretion for information to be requested and therefore could be quite onerous. The discretion should be limited to requests that are reasonably relevant to a particular permit, and not any matters outside the scope of the permitting regime.	Amend clause 34(g): (g) provide reports or any information at the request~~ed~~ of ~~by~~ the Minister, the chief executive, or an enforcement officer that are reasonably relevant to the feasibility or commercial permit; and
35	**Minister's assessment has no bearing on other legislative requirements** To avoid doubt, the Minister's determination on a permit application under subpart 2 or 3 does not limit or have any effect on— (a) whether the applicant is required to obtain any permit, consent, or other permission under any other legislation: (b) the granting to the applicant of any permit, consent, or other permission necessary under any other legislation by any government agency, consent authority, or Minister responsible for the administration of that legislation. Compare: 1991 No 70 s 29A(4)	**Key issue** While we support clause (b) in principle, we are concerned that it may be interpreted as barring consideration of the fact that an applicant has a feasibility permit (or to the contrary that an applicant does not have permit) during resource consenting and marine consenting. There are a range of reasons that the existence of a permit could be relevant to consenting processes. By way of example, the existence of a commercial permit and related financial security may be relevant to establish that financial bonds under the EEZ Act and RMA are unnecessary.	Amend clause 35: (1) To avoid doubt, the Minister's determination on a permit application under subpart 2 or 3 does not… (2) However, a permit may be produced as part of the application for any permit, consent, or other permission necessary under any other legislation, and that decision maker is entitled to take into account any obligations on the permit holder when considering the efficient and effects administration of activities under other legislation.
36	**Minister may vary permit** (1) The Minister may, at any time, vary a permit— (a) on the initiative of the Minister in accordance with subsection (3); or (b) on the application of the permit holder. (2) A variation to a permit may do any 1 or more of the following: (a) make a minor extension to the permit area: (b) extend the duration of the permit: (c) amend the conditions of the permit.	**Key issue** We support the inclusion of processes for varying a permit, including to extend a permit area or duration of a permit. However, clause 36 does not appear necessary to support appropriate variations. Under clauses (1)(a) and (3) the Minister may vary a permit on their own initiative *only* with the written consent of the permit holder. It is unclear how this situation would arise and this provision seems unnecessary given a variation can be sought by a permit holder in any event under clauses 37 - 41. We suggest clauses 37-41 are	Delete clause 36 in its entirety with variations provided for under the processes set out in clause 37-41.

Clause		Submission	Relief sought
	(3) The Minister may vary a permit on the Minister's initiative only— (a) with the prior written consent of the permit holder; and (b) if the Minister is satisfied that the variation is consistent with the purpose of this Act; and (c) in the case of a minor extension to a permit area, if— (i) the Minister is satisfied that it is a minor extension having regard to the matters set out in section 37(3); and (ii) no other permit is current in respect of the extension area; and (iii) the Minister has consulted in accordance with section 38; and (d) in the case of an extension to the duration of a feasibility permit, if the extension would not cause the permit to exceed 14 years total duration; and (e) in the case of an extension to the duration of a commercial permit, if the extension would not cause the permit to exceed 80 years total duration.	preferred to clause 36 and that clause 36 is deleted. We also oppose clauses (3)(d) and (e) setting a maximum total duration of 14 years for a feasibility permit and 80 years for a commercial permit, including all extensions. There is no clear policy reason why the permitting process would need to be commenced afresh at those points in time. Further applications for extensions would allow all relevant matters to be considered. We suggest deleting the proposed maximum permit durations of 14 years for feasibility permits (with extensions). These amendments ensure a feasibility permit does not automatically expire on granting of a commercial permit. The maximum total duration for a feasibility permit may preclude staging of projects. For example, it is possible that a commercial permit will be obtained for part of an area subject to a feasibility permit, with feasibility work continuing in the remaining area. In this case, feasibility work may continue for more than 14 years across a permit area. The maximum total duration for a commercial permit creates inefficiencies. At 80 years, there would be no commercial permit, so the developer would need to apply for a new feasibility permit (and may have to compete with other applications) despite the fact that infrastructure is already established. It would be highly inefficient to require infrastructure to be removed at this time if it could be maintained and continue to produce renewable energy. We note that the Australian regime does not include maximum total durations, and instead contemplates the ability to seek and scrutinize ongoing extensions applications. For all of these reasons, we seek deletion of clauses (3)(d) and (e).	

Clause		Submission	Relief sought
37	**Application for minor extension to permit area** (1) A permit holder may apply to the Minister for a minor extension to the permit area. (2) The Minister may grant the application, in whole or in part, if— (a) the Minister is satisfied that it is a minor extension, having regard to the matters set out in subsection (3); and (b) no other permit is current in respect of the extension area; and (c) the Minister has consulted in accordance with section 38; and (d) the Minister has no cause to believe that the permit holder or the development no longer meets the requirements in section 19(1) (in the case of a feasibility permit) or section 29(1) (in the case of a commercial permit). (3) The matters the Minister must have regard to when deciding whether a proposed extension is a minor extension are— (a) whether the extension could materially alter— (i) the amount of power that was proposed to be generated; or (ii) the benefits for New Zealand that were assessed under section 19(1)(a); and (b) whether the extension could adversely impact any existing rights or interests; and (c) whether, given the extension, the permit area would continue to be a reasonable size for the development; and (d) whether the extension involves an area that is or has been the subject of a feasibility permit application by another person; and (e) whether the extension is necessary for the permit holder to undertake activities in accordance with a resource consent or marine consent; and (f) any other matters the Minister considers relevant.	**Key issue** We oppose in part clause (3)(b) as it is not clear why this test is different to that contained in clause 19(2)(e) ("the applicant's approach to identifying, engaging with, and managing existing rights and interests in the proposed permit area"). We suggest the latter provides for adequate consideration of impacts. We oppose clause (3)(c) for reasons set out in relation to clause 16(a)(ii) above. We oppose clause (3)(d) as an extension cannot be granted if there is a current permit in the extension area. If there are competing applications for an extension and new feasibility permit, then clause 20 should apply. We note that the following consideration applying to permits in the first instance is not listed as a matter to be considered in relation to applications for extensions: "*the impact of granting the permit on Treaty settlements, protected customary rights areas, and any other Māori groups with relevant interests*". We consider this matter should be added to clause (3).	Replace clause 37(3)(b) with: (b) the applicant's approach to identifying, engaging with, and addressing existing rights and interests in the proposed extension area Delete clause 37(3)(c). Delete clause 37(3)(d) and add new clause (2A): (2A) If the extension involves an area that is subject of a feasibility permit application by another person, then section 20 applies to the application for minor extension and application for feasibility permit. Add clause 37(3)(ea): (ea) the impact of granting the permit on Treaty settlements, protected customary rights areas, and any other Māori groups with relevant interests; and

Clause		Submission	Relief sought
	Guidance note For a more than minor extension, *see* instead subparts 2 and 3 (which relate to applications for new permits). For a reduction in permit area, *see* section 57 (which relates to applications for full or partial surrender of permits).		
39	**Application to extend duration of feasibility permit** (1) A permit holder may apply to the Minister to extend the duration of a feasibility permit. (2) The application must— (a) be made at least 90 working days before the permit ceases to be current (but *see* section 59); and (b) specify the proposed new end date; and (c) include a revised development plan; and (d) set out how the permit holder considers the requirements in subsection (3)(b) are met. (3) The Minister may grant the application, in whole or in part, if— (a) the extension would not cause the permit to exceed 14 years total duration; and (b) the Minister is satisfied that— (i) 1 or both of the following applies: (A) events outside of the permit holder's control are highly likely to prevent the permit holder from applying for a commercial permit before the feasibility permit ceases to be current: (B) a circumstance prescribed by the regulations; and (ii) the extension is necessary to enable the permit holder to obtain a commercial permit; and (b) the Minister has no cause to believe that the permit holder or the development no longer meets the requirements in section 19(1).	**Key issue** We oppose the maximum total duration of 14 years for a feasibility permit set in clause 3(a). There is no clear policy reason why the permitting process would need to be commenced afresh at this point in time, rather than further extension processes applying. Further applications for extensions would allow all relevant matters to be considered. The maximum total duration for a feasibility permit may preclude staging of projects. For example, it is possible that a commercial permit will be obtained for part of an area subject to a feasibility permit, with feasibility work continuing in the remaining area. In this case, feasibility work may continue for more than 14 years across a permit area. we note that the Australian regime does not include maximum total durations, and instead contemplates ongoing extensions. For all of these reasons, we seek deletion of clauses (3)(a). We oppose in part (3)(b)(ii) as the extension of a feasibility permit would likely be required to inform an application for a commercial permit, as opposed to obtaining a commercial permit.	Delete clause 39(3)(a). Amend clause 39(3)(b)(ii): (ii) the extension is necessary to enable the permit holder to ~~obtain~~ apply for a commercial permit; and

Clause		Submission	Relief sought
40	**Application to extend duration of commercial permit** (1) A permit holder may apply to the Minister to extend the duration of a commercial permit. (2) The application must— (a) be made at least 5 years before the permit ceases to be current (but *see* section 59); and (b) specify the proposed new end date; and (c) include a revised development plan; and (d) set out how the permit holder considers that subsection (3)(b) applies. (3) The Minister may grant the application, in whole or in part, if— (a) the extension would not cause the permit to exceed 80 years total duration; and (b) the Minister is satisfied that 1 or more of the following applies: (i) the operational life of the ORE infrastructure is likely to extend beyond the permit end date and the development is likely to continue to deliver benefits for New Zealand beyond the permit end date: (ii) due to events outside of the permit holder's control, the extension is necessary to enable the permit holder to comply with their decommissioning obligation: (iii) a circumstance prescribed by the regulations; and (c) the Minister has no cause to believe that the permit holder or the development no longer meets the requirements in section 29(1).	We oppose in part clause (2)(a) as there is no clear policy reason why the application needs to be made 5 years prior to expiry. Such a requirement might bar valid applications for extension i.e. where circumstances change within 5 years of the expiry date of a permit. We request that the requirement is amended to require the application to be made at least 6 months prior to the expiry date. We oppose clause (3)(a) setting a maximum total duration of 80 years for a commercial permit, including all extensions. There is no clear policy reason why the permitting process would need to be commenced afresh at this point in time, rather than further extension processes applying. Further applications for extensions would allow all relevant matters to be considered. The maximum total duration for a commercial permit creates inefficiencies. At 80 years, there would be no commercial permit, so the developer would need to apply for a new feasibility permit (and may have to compete with other applications) despite the fact that infrastructure is already established. It would be highly inefficient to require infrastructure to be removed at this time if it could be maintained and continue to produce renewable energy. We note that the Australian regime does not include maximum total durations, and instead contemplates ongoing extensions. For all of these reasons, we seek deletion of clause (3)(a).	Amend clause 40(2)(a): (2) The application must— (a) be made at least ~~5 years~~ 6 months before the permit ceases to be current (but *see* section 59); and Delete clause 40(3)(a).

Clause		Submission	Relief sought
41	**Application to amend permit conditions** (1) A permit holder may apply to the Minister to amend the conditions of the permit. (2) The application must be made at least 90 working days before the relevant date for meeting the condition that is proposed to be amended (but *see* section 59). (3) The Minister may grant the application if the Minister has no cause to believe that the permit holder or the development no longer meet the requirements in section 19(1) (in the case of a feasibility permit) or section 29(1) (in the case of a commercial permit).	This clause should be amended to apply the tests in clauses 23 and 32 that apply to conditions on permits in the first instance to amendments to conditions. We oppose the requirement for the application to be made at least 90 working days prior to the condition applying. There is no good policy reason for this requirement as the non-compliance risk sits with the applicant if the application is not granted in time.	Delete clause 41(2). Add a new clause 41(2): (2) The Minister must apply section 23 (for a feasibility permit) or section 32 (for a commercial permit) with all necessary modifications to the application to amend permit conditions.
42	**Transfer of permit requires Minister's approval** (1) The transfer of a permit requires the prior approval of the Minister under this section. (2) An application for approval must— (a) be made jointly by the permit holder and the proposed transferee; and (b) be made within 90 working days after the date of the agreement that contains the transfer (but *see* section 59); and (c) be accompanied by a copy of the agreement that contains the transfer; and (d) in the case of a commercial permit, include proposals for a financial security arrangement (*see* subpart 3 of Part 3). (3) The Minister may give approval for a transfer if— (a) the proposed transferee is a single entity that is either a body corporate that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993; and (b) in the case of a feasibility permit, the Minister is satisfied that the proposed transferee meets the permit holder suitability requirements in section 19(1)(d) and (e); and (c) in the case of a commercial permit,—	We oppose in part clause 2(c) as it requires commercially sensitive information to be provided to the Minister and much of that information might not be relevant to the transfer of the permit. Clause 116 addresses commercially sensitive information, but the Minister determines what information is commercially sensitive. Accordingly, clause 2(c) should allow the applicant to redact parts of the agreement that are not relevant to the transfer of the permit and commercially sensitive. We support in principle 2(d) and (3)(c)(ii) and (iii) addressing financial security arrangements as we acknowledge that the Minister requires a degree of certainty that the transferee is likely to comply with their decommissioning and financial security obligations. However, for a permit to be transferred, an application must be submitted for approval after the relevant transaction (that transaction would have to be conditional on the transfer of permit being approved by the Minister). We are concerned about the approval of a transfer of permit application requiring an acceptable financial security arrangement be put in place, given the lack of clarity around what an acceptable "financial security arrangement" is (discussed further at section 83). This creates a large degree of uncertainty for parties involved in the transfer of a permit which we expect will be a deterrent for investors. It is therefore vital the	Amend clause 42(2)(c): (c) be accompanied by a copy of the agreement that contains the transfer, subject to any reasonable redactions made by the applicant to parts of the agreement that are not relevant to the transfer of the permit and are commercially sensitive; and Delete clause 42(3)(a). Delete section 42(4)(a).

Clause		Submission	Relief sought
	(i) the Minister is satisfied that the proposed transferee meets the permit holder suitability requirements in section 29(1)(b) and (c) (in respect of the remaining life of the permit) and section 29(1)(e); and (ii) the Minister has, in accordance with subpart 3 of Part 3, determined an acceptable financial security arrangement to be put in place by the proposed transferee; and (iii) the Minister is satisfied that the proposed transferee will be able to put that acceptable financial security arrangement in place before the transfer takes effect; and (d) any other requirements under the regulations are met. (4) Before giving approval for a transfer the Minister must have regard to— (a) whether the proposed transferee poses any significant risks to national security or public order; and (b) the proposed transferee's compliance record in New Zealand and internationally. Guidance note A person who transfers their permit will also need to transfer any marine consent under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or resource consent under the Resource Management Act 1991 that relates to the same ORE infrastructure activities.	Government provides further detail on the types of security arrangement that are likely to be accepted either in the financial security arrangement provisions of the Act or in the regulations (provided the regulations are released concurrently to this Act). A clear framework would give more certainty to potential transferees. We oppose 3(a) for the reasons given at section 15(b). We oppose (4)(a) concerning consideration of the proposed transferee's compliance record as we consider the inclusion of "national security or public order" as a consideration for transfers of a permit creates a potential overlap with the requirements under the Overseas Investment Act 2005 which also assesses national security and public order under the national interest assessment. The duplication of this assessment may result in unnecessary regulatory burden for overseas investors applying for a transfer of permit if there is no co-ordination between Overseas Investment Office and the Minister. We request that (4)(a) is removed or alternatively, that the Minister ensures that it communicates with the Overseas Investment Office when considering "national security or public order" under this section to streamline the process for a transfer of permit.	
43	**When transfer takes effect** (1) A transfer takes effect on the date specified by the Minister by written notice to the applicant, provided that the proposed transferee has put in place the acceptable financial security arrangement referred to in section 42(3)(c)(ii). (2) The transferor is released from their financial security obligation once the transfer takes effect.	We oppose the transfer taking effect on a date specified by the Minister as set out in clause (1) as a transfer should take effect on completion of the relevant transaction (after Ministerial approval) rather than on the date specified by the Minister.	Amend clause 43(1): (1) A transfer takes effect on the date of completion of the relevant transaction ~~specified by the Minister by written notice to the applicant~~, provided that the proposed transferee has put in place the acceptable financial security arrangement referred to in section 42(3)(c)(ii).

Clause		Submission	Relief sought
44	**Meaning of change in significant influence** (1) A **change in significant influence** over a permit holder means that, after the permit is granted, a person (**person A**)— (a) obtains significant influence over the permit holder; or (b) ceases to have significant influence over the permit holder. (2) Person A has **significant influence** over a permit holder if— (a) person A has the power (whether directly or indirectly) to— (i) control the composition of more than 25% of the governing body of the permit holder; or (ii) exercise, or control the exercise of, more than 25% of the voting rights in the permit holder: (b) person A has, together with 1 or more specified persons, the power (whether directly or indirectly) to— (i) control the composition of more than 25% of the governing body of the permit holder; or (ii) exercise, or control the exercise of, more than 25% of the voting rights in the permit holder. (3) In this section, **specified person**, in relation to person A, means— (a) a person who is acting or will act jointly or in concert with person A in respect of exercising, or controlling the exercise of, a power referred to in subsection (2); or (b) a person who acts, or is accustomed to acting, in accordance with the wishes of person A.	We oppose the description of when Person A has significance influence over a permit holder in (2) as we consider 25% in the definition of "significant influence" to be unusually low. Requiring the Minister's written approval for any change of control (both indirectly and directly) of more than 25% of a permit holder would introduce a large degree of uncertainty to even more minor transactions involving permit holders. We expect this uncertainty will reduce the attractiveness of investing in the NZ offshore energy market. We also see no reason why this provision differs from the adjacent provisions in the Crown Minerals Act which define a change of control as 50% or more of the voting rights or government body of the permit holder. Accordingly, we request this section is amended to align with section 41AA of the Crown Minerals Act.	Amend section 44(2): (a) person A has the power (whether directly or indirectly) to— (i) control the composition of more than 50% ~~25%~~ of the governing body of the permit holder; or (ii) exercise, or control the exercise of, more than 50% ~~25%~~ of the voting rights in the permit holder: (b) person A has, together with 1 or more specified persons, the power (whether directly or indirectly) to— (i) control the composition of more than 50% ~~25%~~ of the governing body of the permit holder; or (ii) exercise, or control the exercise of, more than 50% ~~25%~~ of the voting rights in the permit holder.
53	**When permit may be revoked** The Minister may revoke a permit if the Minister is satisfied that 1 or more of the following apply: (a) the permit holder has failed to comply with a requirement under this Act or the regulations or a condition of the permit:	**Key issue** We **oppose** clause 53. As drafted, this provision provides the Minister with significant discretion to revoke permits for any non-compliance (no matter how minor or quickly resolved) without sufficient process rigor, particularly given the open-ended powers in (c) and (f). Given the	Amend clause 53: *The Minister may revoke a permit if:* *(1) the Minister is satisfied that 1 or more of the following apply:*

Clause		Submission	Relief sought
	(b) in the case of a feasibility permit, the permit holder has failed to begin ORE feasibility activities within 12 months of the permit start date: (c) in the case of a commercial permit, the permit holder has failed to begin ORE generation infrastructure activities within a reasonable time following the permit start date: (d) a person has failed to comply with section 46(1) or 50(2): (e) the permit holder or the development no longer meet the requirements of section 19(1) (in the case of a feasibility permit) or section 29(1) (in the case of a commercial permit): (f) the permit holder is no longer suitable to hold the permit for any other reason.	investment size associated with ORE developments, this unilateral revocation power could erode investor confidence and undermine the purpose of the ORE renewable energy regime. As drafted the power is not proportional to the scale of any non-compliance as it could apply to any non-compliance, no matter how minor or quickly resolved. Given the significant commercial consequences of revocation, permits should only be able to be revoked following a robust process and significant offences. This process will ensure that permit holders receive clear, timely notice and a reasonable opportunity to address any non-fundamental requirements before any action is taken. Generally, we seek that the regulations provide more comprehensive guidance as to the revocation of permits. TOP looks forward to engaging with MBIE on those regulations. We have proposed amendments to clause 53 to remove (where possible and appropriate) discretionary or subjective considerations as a trigger for revocation. References to "reasonable time" are uncertain and may unnecessarily undermine investment certainty. We suggest that such reference is replaced by a minimum timeframe for commencement of generation in the Act and/or the commercial permit itself. We acknowledge that clause 53 is likely based on section 39 of the Crown Minerals Act 1991. However, as this is a new regime it must take into account current expectations around investment certainty and avoid provisions such as this which are likely to prevent and hinder ORE investment in New Zealand.	*(a) the permit holder has failed to comply with a requirement under this Act or the regulations or a condition of the permit:* *(b) in the case of a feasibility permit, the permit holder has failed to ~~begin~~ commence, or make reasonable progress or effort towards commencing, ORE feasibility activities within 12 months of the permit start date:* *(c) in the case of a commercial permit, the permit holder has failed to begin ORE generation infrastructure activities within 5 years ~~a reasonable time~~ following the permit start date or such other timeframe for the commencement of ORE generation infrastructure activities as may be specified in the commercial permit conditions* *(d) a person has failed to comply with section 46(1) or 50(2):* *(e) the permit holder or the development no longer meet the requirements of section 19(1) (in the case of a feasibility permit) or section 29(1) (in the case of a commercial permit):* *~~(f) the permit holder is no longer suitable to hold the permit for any other reason.~~ and* *(2) The Minister has:* *(a) provided a written warning to the permit holder that specifies:* *(i) the relevant non-compliance in subsection (1);* *(ii) a reasonable timeframe within which the permit holder*

Clause		Submission	Relief sought
			must remedy the relevant non-compliance in subsection (1); and *(b) the permit holder has not remedied the relevant non-compliance in subsection (1).* *Alternatively, revocation of permit could be included as a penalty for relevant significant offences that are set out in Part 4 sub-part 2.*
54	**Notice of intention to revoke permit** (1) Before revoking a permit, the Minister must give written notice to the permit holder of the Minister's intention to revoke the permit. (2) The notice must— (a) set out the reasons why the Minister intends to revoke the permit; and (b) invite the permit holder to make a written submission to the Minister about the proposed revocation; and (c) specify the date by which the permit holder must deliver any submission to the Minister (which must be not less than 40 working days after the date of the notice).	**Key issue** This process is not robust, transparent or independent and is insufficient given the significant consequences of revocation. As set out above, revocation should only be available as a penalty where a relevant offence has been proven.	-
55	**Decision to revoke permit** (1) The Minister must have regard to the matters set out in subsection (2) in deciding— (a) whether to revoke a permit; and (b) what date a revocation will have effect. (2) The matters are— (a) any submission made by the permit holder under section 54; and (b) the surrounding circumstances that have led, or contributed, to the ground for revocation; and		Add clause 55(2)(e) & (f): *(1) The Minister must have regard to the matters set out in subsection (2) in deciding—* *(a) whether to revoke a permit; and* *(b) what date a revocation will have effect.* *(2) The matters are—*

Clause		Submission	Relief sought
	(c) any action taken by the permit holder to remedy, or prevent recurrence of, the circumstances giving rise to the ground for revocation; and (d) the potential impact revoking the permit may have on— (i) the permit holder; and (ii) New Zealand's energy system; and (e) any other matters that are prescribed by the regulations.		*(a) any submission made by the permit holder under section 54; and* *(b) the surrounding circumstances that have led, or contributed, to the ground for revocation; and* *(c) any action taken by the permit holder to remedy, or prevent recurrence of, the circumstances giving rise to the ground for revocation; and* *(d) the potential impact revoking the permit may have on—* *(i) the permit holder; and* *(ii) New Zealand's energy system;* *(e) whether, on the balance of probabilities, the revocation is in the best interests of New Zealand; and* *(f) the steps the permit holder has undertaken to remedy the non-compliance in section 53(a)-(e), and prevent that non-compliance from reoccurring; and* *(ge) any other matters that are prescribed by the regulations.*
56	**Notice of revocation** If the Minister decides to revoke a permit, the Minister must give written notice to the permit holder of the decision and the date the revocation takes effect.		-

Clause		Submission	Relief sought
58	**Minister's decision on surrender** (1) The Minister must grant a surrender application if— (a) the permit holder is in compliance with all requirements under this Act and the regulations and the conditions of the permit in respect of the surrender area; and (b) in the case of partial surrender, the remaining permit area would still be a reasonable size for the development; and (c) in the case of a commercial permit, the decommissioning obligation in respect of the surrender area is complete; and (d) any other requirements prescribed by the regulations are met. (2) The Minister may provisionally grant a surrender application if the Minister is satisfied that the requirements in subsection (1) will be met by the permit holder before the proposed surrender date, in which case the Minister must give written notice to the permit holder of what requirements under subsection (1) are outstanding. (3) The Minister must reject a surrender application if the permit holder has not completed their decommissioning obligation, or has not submitted a decommissioning completion report, in respect of all ORE generation infrastructure in the relevant permit area. (4) Subsection (3) does not limit the grounds on which the Minister may reject a surrender application. (5) A surrender takes effect on the date specified by the Minister by written notice to the permit holder. (6) However, a surrender under a provisional grant cannot take effect before the permit holder has given written notice to the Minister that the outstanding requirements have been met.	**Key issue** We oppose in part clause (1)(b) as "reasonable size" is not an objective test. It is not clear why Minister requires oversight of this point, as the applicant will be commercially motivated to ensure this outcome is maintained. It is currently unclear what factors would influence whether the Minister considers an application area to be a "reasonable size" as no clear generation ratios/density expectations have been provided. Clause 58 does not ensure that the permit conditions will remain appropriate and can continue to be met for the remaining permit area after a partial surrender. We consider this consideration should be added to clause (3).	Delete 58(1)(b). Amend clause 58(3): (3) The Minister must reject a surrender application if- (a) the permit holder has not completed their decommissioning obligation, or has not submitted a decommissioning completion report, in respect of all ORE generation infrastructure in the relevant permit area; or (b) the permit conditions that will continue to apply to the remaining permit area after partial surrender will not be appropriate or are unlikely to continue to be met by the permit holder after surrender.
64	**Eligibility criteria for applications for safety zones for ORE developments**	We oppose in part clause 64(1)(a). We accept there is no need to have a safety zone in advance of works. However, it may be more efficient for a permit holder to seek a safety zone prior to or at the same time as applying for resource/marine	Delete clause 64(1)(a). Amend clause 64(4)(a): (a) persons with an interest in a lawfully established existing activity

Clause		Submission	Relief sought
	(1) A permit holder in respect of an ORE development may apply to the Minister for an area to be declared a safety zone in relation to that development if— (a) they hold any relevant marine consent or resource consent required for the development; and (b) they have consulted Maritime New Zealand and any persons, or representatives of persons, likely to be affected by the proposed safety zone. (2) The permit holder must include in their application a record of the consultation and a statement explaining how it has informed the application. (3) The permit holder may apply for a safety zone at the time that they apply for a commercial permit in respect of the development or after that date. (4) For the purposes of this section and section 65, **persons likely to be affected by a safety zone** include, but are not limited to, the following: (a) persons with an interest in a lawfully established existing activity, whether or not authorised under any legislation, involving rights of access, navigation, and fishing (for example, fishing operators and members of the freight and shipping industries); and (b) persons who hold a current marine consent or resource consent, or another relevant permit or consent, in relation to the area; and (c) relevant local authorities; and (d) any relevant iwi authorities, hapū, and Treaty settlement entities, including— (i) iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements; and (ii) the tangata whenua of any area within the permit area that is a taiāpure-local fishery, a mātaitai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996; and (e) any relevant protected customary rights groups, customary marine title groups, and applicant groups	consents. Further, works might not commence for some time after resource/marine consents are obtained, so we do not consider clause (1)(a) achieves (what we assume to be) its intent. Instead, a more practical outcome would be for the Minister's decision to specify that the safety zone only comes into force from a date on which the permit holder notifies that works will commence. We oppose in part clause 64(4)(a) to the extent that it includes persons with interests adjacent or nearby to a safety zone as 'affected persons'. Including such persons as affected persons would be significantly onerous on applicants given those persons unlikely to be affected by the safety zone. We seek that clause 64(4)(c) be amended to include the word "any" as there may not be relevant local authorities for some applications in the EEZ.	within the safety zone being sought, whether or not authorised under any legislation, involving rights of access, navigation, and fishing (for example, fishing operators and members of the freight and shipping industries); and Amend clause 64(4)(c): (c) any relevant local authorities; and

Clause		Submission	Relief sought
	with applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011; and (f) ngā hapū o Ngāti Porou, if the proposed safety zone is within or adjacent to, or would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou.		
67	**Determining applications for safety zones** (1) The Minister may— (a) grant an application (whether by approving the details of the safety zone proposed by the applicant or by determining alternative arrangements) and declare a safety zone in accordance with section 63; or (b) reject the application. (2) The Minister may grant an application if the Minister is satisfied that a safety zone is necessary for the safety of— (a) ORE infrastructure or ORE infrastructure activities, or both; or (b) any other infrastructure, structure, or installation in the vicinity of the ORE infrastructure; or (c) ships; or (d) persons. (3) In determining an application, the Minister must take into account the following: (a) the nature of the ORE infrastructure activities: (b) the size and layout of the ORE infrastructure: (c) the impact of the development on existing activities in the area of the proposed safety zone. (4) Before declaring a safety zone that differs in location, size, or duration from that proposed by the applicant, the Minister must— (a) notify the applicant of the details of the proposed safety zone that the Minister intends to declare; and	We oppose in part clause 67(2) as the term "necessary" creates a very high threshold to be met in order for a safety zone to be granted.	Amend clause 67(2): (2) The Minister may grant an application if the Minister is satisfied that a safety zone is ~~necessary~~ appropriate for the safety of— (a) …

Clause		Submission	Relief sought
	(b) invite the applicant to submit further information if the applicant disagrees with the proposed safety zone.		
68	**Minister may vary or cancel safety zone notice** The Minister may, at any time, vary or cancel a notice declaring a safety zone— (a) on the initiative of the Minister; or (b) at the request of the permit holder or the person who builds, owns, or operates an ORE substation.	We support the inclusion of processes for varying or cancelling a safety zone. However, clause 68 provides no process for seeking, considering and granting variations to safety zone notices. We consider the same criteria that apply to an application for a safety zone in the first instance should apply with all necessary modifications. We oppose clause 68(a) to the extent that it provides the Minister with complete discretion to vary or cancel a notice declaring a safety zone on any grounds. Applicants therefore will not have certainty as to the circumstances that would allow them to obtain a variation or cancellation of a safety zone.	Amend clause 68: (1) The Minister may, at any time, vary or cancel a notice declaring a safety zone— (a) on the initiative of the Minister; or (b) at the request of the permit holder or the person who builds, owns, or operates an ORE substation. (2) Before varying or cancelling a notice declaring a safety zone, the Minister must consider the matters set out in Section 67 with all necessary modifications.
Part 3 Decommissioning of ORE infrastructure			
73	**Standard of decommissioning required** (1) In this Act, unless the context otherwise requires, **decommissioning**, in relation to any ORE infrastructure,— (a) means an activity undertaken under any enactment (for example, the Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, or the Health and Safety at Work Act 2015), and in accordance with any requirements or standards set by or under that enactment or imposed by a regulatory agency, to take infrastructure out of service permanently; and (b) includes undertaking site restoration when ORE infrastructure activities cease (for whatever reason); and (c) includes any other activity prescribed by the regulations in relation to the infrastructure. (2) However, if in relation to ORE infrastructure, no other enactment, relevant standard, or requirement by a regulatory	**Key issue** We support clear provisions that set out the expectations for decommissioning ORE infrastructure. However, we oppose in part clause 73 to the extent that it requires removal of *all* ORE infrastructure. The legislation should not include such an inflexible standard as there may circumstances where leaving some of the infrastructure in place may also be better for the seabed and the environment generally. For example, the full removal of export cable could potentially cause more disturbance to the seabed and marine flora and fauna than leaving the cable in situ. We acknowledge that clause 73 is likely based on section 89E of the Crown Minerals Act 1991. However, ORE activities are very different to the	Amend clause 73(2) and (3): (2) However, if in relation to ORE infrastructure, no other enactment, relevant standard, or requirement by a regulatory agency contains any requirements or standards relating to the method of decommissioning a particular item of ORE infrastructure, that ORE infrastructure must be decommissioned by totally removing it, except where — (a) Removing the ORE infrastructure is likely to have a greater impact on the environment than not

Clause		Submission	Relief sought
	agency contains any requirements or standards relating to the method of decommissioning a particular item of ORE infrastructure, that ORE infrastructure must be decommissioned by totally removing it. (3) Despite subsection (2), an item of infrastructure left in place in accordance with a marine consent, or a coastal permit under the Resource Management Act 1991, must be treated as having been decommissioned. Guidance note A person must carry out the decommissioning in accordance with the decommissioning plans accepted under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012. The standard of decommissioning in this section applies for the purposes of determining an acceptable financial security arrangement and whether a person contravenes their decommissioning obligation under this Act. Compare: 1991 No 70 s 89E	types of activities that are managed under the Crown Minerals Act.	removing the ORE infrastructure. (3) ~~Despite subsection (2),~~ A~~a~~n item of infrastructure left in place in accordance with a marine consent, or a coastal permit under the Resource Management Act 1991, must be treated as having been decommissioned.
74	**When decommissioning obligation must be carried out** (1) Any person who is liable to carry out, or meet the costs of, decommissioning ORE infrastructure, or both, under this Part must carry out their decommissioning obligation before the earliest of the following: *ORE generation infrastructure* (a) in a case where ORE generation infrastructure permanently ceases to be used for the purpose of generating energy in a permit area before the commercial permit expires, by a time agreed with the Minister: (b) by a time required by the regulations: (c) by the expiry or surrender of the commercial permit under which the ORE generation infrastructure activities were carried out: *ORE transmission infrastructure* (d) in a case where ORE transmission infrastructure permanently ceases to be used for the purpose of	We oppose section 74 in part, as decommissioning activities may take a significant period of time to undertake, due to, for example, limited vessel availability, supply chain issues and lack of experienced personnel. We request that the Minister considers specific criteria when setting a time frame for decommissioning dates to ensure the Minister has regard to the practicalities of decommissioning for each permit holder and site. Section 89O of the Crown Minerals Act sets out criteria to guide the Minister where dates are to be agreed with the Minister, and provides clear and useful criteria to assist in decisions with respect to decommissioning timeframes. We consider this list of criteria should be replicated in the Bill, with the addition of a criterion concerning the availability of goods and services required to undertake decommissioning activities.	Insert clause 74A: **Criteria for agreeing or setting time frames for decommissioning** When considering under section 74 what date or dates for decommissioning are to be agreed, or specified, by the Minister, the Minister must consider— (a) the size of the ORE infrastructure to be decommissioned: (b) the complexity of the required decommissioning: (c) the decommissioning proposal: (d) the decommissioning cost estimate: (e) the estimated date on which operation of the ORE infrastructure will cease: (f) the time required to comply with requirements under other enactments before decommissioning can commence or be completed:

Clause		Submission	Relief sought
	storing, transmitting, or conveying energy, by a time agreed with the Minister: (e) by a time required by the regulations. (2) However, if a commercial permit is revoked, the person who held the permit immediately before it was revoked must carry out their decommissioning obligation of the ORE generation infrastructure by a time agreed with, or specified by, the Minister. (3) The regulations may specify further requirements for when decommissioning must be carried out, including the criteria for agreeing or setting time frames for decommissioning for the purpose of subsection (1). Compare: 1991 No 70 s 89N(1), (2)		(g) the availability of goods and services required to undertake decommissioning activities: (h) any other matters the Minister considers relevant.
75	**Decommissioning proposals** (1) A person who has a decommissioning obligation in respect of any ORE infrastructure must submit a decommissioning proposal to the Minister,— (a) if they are the applicant for a commercial permit, as part of the application (*see* section 26(c)); and (b) at the times, or within a period after the occurrence of any events, that are prescribed by the regulations (if any); and (c) on request from the Minister, within any reasonable time specified in the request. (2) A decommissioning proposal must— (a) describe the proposed decommissioning activities and the processes to be used to carry out those activities, and set out a proposed schedule for those activities; and (b) be accurate as at the date of submission to the Minister; and (c) contain the information prescribed by the regulations (if any); and (d) meet any further requirements prescribed by the regulations.	We expect that the decommissioning proposal submitted with an application will need to be refined throughout the life of the ORE infrastructure and particularly as the date of decommissioning gets closer. The need for these updates to the decommissioning proposal could be specified in permit conditions. We have therefore proposed new clause 75(1)(ab). We oppose in part clause 75(1)(c) as it provides a very broad discretion for the Minister to request a decommissioning proposal from a permit holder at any time. Given the regulations and/or permit conditions should specify when an updated decommissioning proposal needs to be submitted, we consider that there must be an unforeseen change in circumstance that triggers the Minister to make a request. We submit that the level of detail to be provided by the permit holder in a decommissioning proposal should be commensurate to the stage of the ORE activity. We expect that decommissioning proposals will be refined closer to the actual date of decommissioning, accounting for advances in approach.	Amend clause 75(1): (1) A person who has a decommissioning obligation in respect of any ORE infrastructure must submit a decommissioning proposal to the Minister,— (a) if they are the applicant for a commercial permit, as part of the application (*see* section 26(c)); and (ab) if they are a commercial permit holder, at any time specified in the conditions of the commercial permit; (b) at the times, or within a period after the occurrence of any events, that are prescribed by the regulations (if any); and (c) on request from the Minister, where there is a change in circumstance relevant to the decommissioning obligation that could not reasonably have been foreseen when the commercial permit was granted, within any reasonable time specified in the request. Add clause 75(2)(ab):

Clause		Submission	Relief sought
	Compare: 1991 No 70 s 89ZB		(ab) provide a level of detail that is commensurate to the length of time until the ORE infrastructure will be decommissioned; and
76	**Decommissioning cost estimates** (1) A person who has a decommissioning obligation in respect of any infrastructure must submit a cost estimate of all proposed decommissioning activities (the **decommissioning cost estimate**) to the Minister— (a) if they are the applicant for a commercial permit, as part of the application (*see* section 26(c)); and (b) at the times, or within a period after the occurrence of any events, that are prescribed by the regulations (if any); and (c) on request from the Minister, within any reasonable time specified in the request. (2) The decommissioning cost estimate must— (a) estimate what the cost to the Crown would be if the Crown were to carry out all proposed decommissioning activities that are specified in the decommissioning proposal; and (b) be based on totally removing the infrastructure, except to the extent that section 73(2) will not apply (that is, because another enactment, relevant standard, or requirement by a regulatory agency contains requirements or standards relating to the method of decommissioning a particular item of infrastructure); and (c) comply with the standards prescribed by the regulations (if any) for developing that estimate; and (d) meet any further requirements prescribed by the regulations (if any). (3) The Minister may require any person who submits a decommissioning cost estimate to supply further information relating to the cost estimate, in which case, *see* section 116 (which relates to the use and disclosure of information). Compare: 1991 No 70 s 89ZC	We seek amendments to clause 76 for the same reasons as set out above with respect to clause 75.	Amend clause 76: (1) A person who has a decommissioning obligation in respect of any infrastructure must submit a cost estimate of all proposed decommissioning activities (the **decommissioning cost estimate**) to the Minister— (a) if they are the applicant for a commercial permit, as part of the application (see section 26(c)); and (ab) if they are a commercial permit holder, at any time specified in the conditions of the commercial permit; (b) at the times, or within a period after the occurrence of any events, that are prescribed by the regulations (if any); and (c) on request from the Minister, where there is a change in circumstance relevant to the decommissioning obligation that could not reasonably have been foreseen when the commercial permit was granted, within any reasonable time specified in the request. Add clause 72(2)(ab): (ab) provide a level of detail that is commensurate to the length of time until the ORE infrastructure will be decommissioned; and

Clause		Submission	Relief sought
83	**Minister's determination on acceptable financial security arrangement** (1) After following the process in sections 81 and 82, the Minister must— (a) determine the acceptable financial security arrangement that must be put in place and maintained by or on behalf of the relevant person, including— (i) the total amount that must be secured by the financial security arrangement: (ii) the amount secured by each security that comprises the financial security arrangement: (iii) the kind or kinds of securities that comprise the acceptable financial security arrangement: (iv) the time by which the financial security arrangement must be in place (including, if applicable, the times when different securities that comprise the financial security arrangement must or may be in place): (v) if applicable, how the securities that comprise the financial security arrangement must be held: (vi) the circumstances in which the person may be released from their obligation to maintain all or any of the securities that comprise the acceptable financial security arrangement; and (b) impose any conditions of the financial security arrangement that the Minister considers appropriate. (2) The Minister may also direct how the financial security arrangement must operate, in accordance with the requirements prescribed by the regulations (if any). (3) The Minister must give the relevant person a notice of the Minister's determination specifying— (a) the matters determined under subsections (1)(a) and (b) and (2); and (b) a summary of the reasons for the Minister's decision.	**Key issue** We support the requirement to maintain a form of financial security during certain periods of a project's life to provide assurance that the permit holder will undertake its decommissioning obligations. The necessity of bonding for large-scale and complex infrastructure projects is well-understood by market participants and developers. The Bill includes no guidance, cap, or calculation regarding the amount, nature or term of financial security that must be provided by the proponent. These will be important matters for the industry. We request a clear and consistent framework is provided in Subpart 3 of the Act or in the relevant regulations (provided the regulations are released at the same time as the Act). We oppose (1)(a) addressing the Minister's determination of an acceptable financial security arrangement. This section should set out in more detail the forms of security the Minister will accept rather than the acceptability of the financial security arrangement being determinable solely at the Minister's discretion. Alternatively, if the Government prefers to include this detail in the Act's regulations, then we request the regulations be released imminently to provide certainty to investors. If this approach is taken, we also request a new section 83A be included to mirror section 117(3) in the AU Offshore Infrastructure Act 2021 to provide additional assurance that regulations relating to acceptable financial security will be developed. Where financial security is required to be held and maintained, guidance should be provided as to which forms of securities will be accepted. We request that the following types of security be prescribed as acceptable financial security arrangements (similar to the acceptable financial security arrangements prescribed in the AU	Include new section 83A: The regulations may prescribe (a) Arrangements that may be treated as acceptable financial security. (b) Arrangements not to be treated as acceptable financial security. (c) Methods for working out the amount of financial security that a permit holder must provide. (d) Circumstances in which the Minister may release a person from their obligation to maintain all or any of the securities that comprise the acceptable financial security arrangement.

Clause		Submission	Relief sought
	(4) The Minister must comply with this section before the commercial permit is granted if the financial security arrangement relates to ORE generation infrastructure and the relevant person is an applicant for a commercial permit. (5) The Minister must comply with this section before giving approval for a transfer of a commercial permit if the financial security arrangement relates to ORE generation infrastructure and the relevant person is the proposed transferee. Compare: 1991 No 70 s 89ZN	regime (section 109 of the Offshore Electricity Infrastructure Regulations 2024): (a) Parent company guarantees (including from related persons) (b) Self-insurance (c) A cash deposit held by a financial institution (d) A credit facility with a financial institution (e) A guarantee from a financial institution (f) An insurance policy with a general insurer A specific time period should be set out by which the financial security arrangement should be in place. We suggest the value of the financial security is commensurate with the various stages of the development of a project. The timing of the security is likely to have the greatest impact on the cost of the project and should be considered closely. In recognition of 30 - 35 year lifetime of offshore wind projects, we suggest the financial security is posted after the 15th year of operations. This position: • reflects global industry practice; • ensures that security is timed to coincide with a period of heightened operational and liquidity risks, as revenue contracts and the protection of lender step-in rights from third party financings start to fall away; and • most fairly balances the significant cost of procuring security against the need to protect taxpayers from a developer failing to decommission an asset. In the early feasibility stages of a project, there is effectively no decommissioning liability given construction would not have commenced and a limited nature of offshore activities would be undertaken. Whereas at the end of a project's operational life (around 30-35 years post commissioning) a project will have significant	

Clause		Submission	Relief sought
		decommissioning liabilities. Requiring the lodgement of a financial security at too early a stage in the life of a project would create a significant debt on a permit holder's balance sheet and reduce the attractiveness of the NZ market for investors.	
84	**Alteration of acceptable financial security arrangement** (1) The Minister may, at any time, do any 1 or more of the following: (a) require a person that has a financial security obligation (**person A**) to increase the total amount secured by the acceptable financial security arrangement: (b) allow person A to reduce the total amount secured by the acceptable financial security arrangement: (c) require or permit person A to otherwise alter the acceptable financial security arrangement (for example, by changing the kind of securities) that is put in place and maintained: (d) allow person A to vary the conditions of the acceptable financial security arrangement (for example, vary the rate at which financial securities must build up over time). (2) Sections 80 to 82 apply to the Minister when exercising a power in subsection (1). (3) In addition to the matters listed in section 82, the Minister may take into account the results of the most recent financial capability assessment (if any). Compare: 1991 No 70 s 89ZO	We oppose in part (1)(a) and (d) as we consider that the ability for a Minister to require a permit holder to increase the total amount secured and/or the kind of security should be limited to exceptional circumstances only (for example, where there is a material change to the financial standing of the developer or its parent company, such as a credit down grading). We think that if the Minister could alter the type of security at any time, even if person A has already provided approved, financial security, would lead to significant knock-on impacts on financing arrangements putting the entire project at risk.	Amend section 84(1): (1) The Minister may in exceptional circumstances require ~~do any 1 or more of the following~~ a person that has a financial security obligation (**person A**) to: (a) increase the total amount secured by the acceptable financial security arrangement; or (b) ~~require or permit person A to~~ otherwise alter the acceptable financial security arrangement (for example, by changing the kind of securities) that is put in place and maintained. (2) The Minister may at any time allow person A to: (a) ~~allow person A to~~ reduce the total amount secured by the acceptable financial security arrangement; or (b) otherwise alter the acceptable financial security arrangement (for example, by changing the kind of securities) that is put in place and maintained: (c) ~~allow person A to~~ vary the conditions of the acceptable financial security arrangement (for example, vary the rate at which financial securities must build up over time).

Clause		Submission	Relief sought
93	**Ownership requirements for transmission infrastructure** (1) The owner of ORE transmission infrastructure must be a single entity that is either a body corporate that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993. (2) The owner of ORE transmission infrastructure must inform the chief executive within 30 working days of entering into any contract with another person to build or operate any ORE transmission infrastructure or to transfer ownership of any ORE transmission infrastructure, including details about the proposed transfer, transferee, and any other information the chief executive may require.	We oppose clause 93(1) for the reasons set out in relation to clause 15(b) above.	Delete clause 93(1).
95	**Minister's assessment has no bearing on other legislative requirements** (1) This Part does not limit or affect any person's obligations under another enactment (for example, the Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, or the Health and Safety at Work Act 2015). (2) Any requirement under this Part for a person to supply information does not replace or limit any requirement for that person to supply information under other provisions in this Act or another enactment. Compare: 1991 No 70 s 89B	We oppose in part clause (1) as the decommissioning obligations imposed in the commercial permit conditions is likely to be relevant to resource/marine consenting. Those obligations may be sufficient to address environmental matters regulated under other enactments, but the decision-maker will need to have information to reach that view. Alternatively, if further decommissioning obligations are imposed in resource/marine consent conditions, it will be essential that they align with the obligations imposed as part of the regime established by the Bill.	Amend clause 95(1): (1) This Part does not limit or affect any person's obligations under another enactment (for example, the Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, or the Health and Safety at Work Act 2015). (2) However, a decommissioning proposal or commercial permit conditions may be produced as part of the application for any permit, consent, or other permission necessary under any other legislation.
104	**Power to require information** (1) The Minister or an enforcement officer may, by written notice, require any person to provide any information that the person giving the notice considers is necessary for any purpose relating to that person's functions, duties, or powers under this Act or for the administration or enforcement of this Act. (2) The information specified in the notice may relate to— (a) any aspect of the operation of a permit; and (b) any commercial agreements or arrangements—	We acknowledge that clause 104 is likely based on section 99F of the Crown Minerals Act 1991. However, this clause gives the Minister and an enforcement officer a very broad power to request information on top of the specific powers in other provisions, including in relation to commercial agreements or arrangements, and full discretion for the Minister or enforcement officer to determine whether the information can be disclosed in confidence or not. It is unclear why this provision addresses disclosure, when the matter is dealt with generally under clause 116. We consider disclosure of information should be dealt with consistently under this permitting	Delete clause 104(3) and amend clause 104(4): ~~(3) Information may be disclosed to the Minister or an enforcement officer in confidence if—~~ ~~(a) a person who is required to provide information under subsection (1) so requests; and~~ ~~(b) the Minister or enforcement officer agrees to that request in writing.~~

Clause		Submission	Relief sought
	(i) that relate to a permit or to an ORE development in respect of which a permit is held; and (ii) in which a person who holds an interest in the permit is a party; and (c) any ORE transmission infrastructure activities. (3) Information may be disclosed to the Minister or an enforcement officer in confidence if— (a) a person who is required to provide information under subsection (1) so requests; and (b) the Minister or enforcement officer agrees to that request in writing. (4) A person required to provide any information under this section must provide the information— (a) in the form and in the manner set out in the notice; and (b) within any reasonable time specified in the notice requiring the information; and (c) free of charge; and (d) regardless of whether the Minister or enforcement officer agrees to the information being disclosed in confidence. Compare: 1991 No 70 s 99F	regime, and therefore have proposed amendments to clause 116 below rather than this clause.	… (4) A person required to provide any information under this section must provide the information— … ~~(d) regardless of whether the Minister or enforcement officer agrees to the information being disclosed in confidence~~.
115	**Permit holder must keep records** (1) A permit holder must keep the following records in relation to ORE infrastructure activities conducted by or on behalf of the permit holder under the permit: (a) financial records, including any financial records required to be kept and retained under the Tax Administration Act 1994: (b) commercial records, including any feasibility studies: (c) scientific and technical records: (d) any calculations made in support of the above records:	Clause 115 appears to be based on section 90 of the Crown Minerals Act 1991. Section 90(1)(a) of that Act also requires the permit holder to keep records as required by the conditions of the permit. We seek inclusion of a similar requirement for completeness. Clause 115(2)(a) requires records to be kept for 7 years after the year they relate to, or 2 years after the permit they relate to ceases to be current – whichever is the *later*. This means information relating to the first year of a commercial permit would need to be stored for up to 82 years (based on the proposed maximum	Amend clause 115(1)(f): (f) any other records <u>required by the conditions of the permit or</u> prescribed by the regulations. Amend clause 115(2): (2) The records must be kept— (a) for at least 7 years after the year to which they relate ~~or for at least 2 years after the permit to which they relate~~

Clause		Submission	Relief sought
	(e) records, reports, statements, or any other documentation or information required under other legislation, if regulations made under this Act prescribe that they must be retained for the purposes of this Act: (f) any other records prescribed by the regulations. (2) The records must be kept— (a) for at least 7 years after the year to which they relate or for at least 2 years after the permit to which they relate ceases to be current, whichever is the later; and (b) in a form that ensures that they can be readily provided in accordance with this section; and (c) in the manner prescribed by the regulations. (3) A permit holder must provide copies of the records to the chief executive— (a) at any time if requested to do so by the chief executive; and (b) as required by a condition of the permit; and (c) as may be prescribed by the regulations. (4) In addition, a permit holder must provide copies of all records kept under this section before the date that a permit is transferred, surrendered in full, revoked, or otherwise ceases to be current.	expiry date). The equivalent Australian legislation for ORE development requires records to be stored for 7 years after they are created, which we consider is sufficient to ensure compliance with the permitting regime as well as a more reasonable requirement for permit holders.	~~ceases to be current, whichever is the later~~; and …
116	**Use and disclosure of information** (1) The Minister, the chief executive, or any enforcement officer may use any information supplied under this Act for the purpose of performing or exercising any function, duty, or power conferred on a person under this Act. (2) However, if the Minister, the chief executive, or any enforcement officer considers that any information, in relation to any person, is commercially sensitive information or personal information, the Minister, chief executive, or enforcement officer must not disclose that information unless— (a) the disclosure is for the purposes of, or in connection with, the performance or exercise of any function,	We support clause 116 in principle as it provides protection for the commercially sensitive information that permit holders will be required to provide to Government as part of the regime created by the Bill. However, we do not consider this clause provides adequate protection given the significant commercial implications that disclosure of information might have. Clause 116(2) closely mirrors section 90A of the Crown Minerals Act 1991. However, even if that regime has operated without such commercial implications (and it is not known if it has), that is not sufficient to give investors confidence that	Amend clause 116(2): (2) However, sub-section (3) applies if any of the following persons identify information as commercially sensitive information: (a) an applicant in relation to information they have provided under this Act; or (b) a permit holder in relation to information they have provided under this Act; (c) the Minister, the chief executive, or any enforcement officer ~~considers that any~~

Clause			Submission	Relief sought
		duty, or power conferred or imposed by or under this Act on the Minister, the chief executive, or any enforcement officer; or (b) the information is publicly available; or (c) the disclosure is with the consent of the person to whom the information relates, or to whom the information is confidential; or (d) the disclosure is in connection with proceedings, or any investigation or inquiry for proceedings, for an offence against this Act or any other legislation; or (e) disclosure is required by other legislation; or (f) disclosure is authorised under this Act; or (g) disclosure is required by a court of competent jurisdiction; or (h) the information is disclosed to an agency under section 118. (3) In this section,— **commercially sensitive information** means information to which section 9(2)(b)(ii) of the Official Information Act 1982 refers **personal information** has the meaning set out in section 7(1) of the Privacy Act 2020.	clause 116 would be implemented appropriately as part of this new regime. We therefore seek amendments to clause 116 to: - Enable the person that provides information to identify it as commercially sensitive information, so that the discretion to make that identification does not only sit with the Minister, chief executive or any enforcement officer; - Ensure a robust process is followed if the Minister, chief executive or any enforcement officer intends to disclose commercially sensitive information. - Elevate decision-making to the Minister (i.e. not an enforcement officer) in the event that there is opposition from any person to the disclosure of information. We also seek a minor amendment to clarify that this provision applies to all information requirements the Bill (i.e. the information requirements in Part 2 as well as the general information requirements in Part 4 of the Bill).	~~information,~~ in relation to information provided by any person under this Act.~~, is commercially sensitive information or personal information,~~ (3) T~~t~~he Minister, chief executive, or enforcement officer must not disclose that information unless— (a) the disclosure is for the purposes of, or in connection with, the performance or exercise of any function, duty, or power conferred or imposed by or under this Act on the Minister, the chief executive, or any enforcement officer; … (4) If the Minister, chief executive, or enforcement officer intend to disclose information under clause (3), they must first: (a) provide the person that provided the information with notice detailing the information to be disclosed and the person(s) the information is to be disclosed to; and (b) provide reasonable opportunity for the person that provided the information to respond to the notice and provide reasons for the information to not be disclosed; and (c) the Minister must then consider whether disclosure is appropriate under subsection (3) having regard to any response provided under subsection 3(b). Insert clause 116(2A): (5) For the avoidance of doubt, this section applies to any information required to be submitted in any form to any person under this Act.

Clause		Submission	Relief sought
118	**Sharing of information with agencies** (1) Subject to any legislation,— (a) the Minister or the chief executive may provide an agency referred to in subsection (2) with any information, or a copy of any document, that the Minister or chief executive— (i) holds in relation to the performance or exercise of the Minister's or chief executive's functions, duties, or powers under this Act; and (ii) considers may assist the agency in the performance or exercise of the agency's functions, duties, or powers under any legislation; and (b) an agency referred to in subsection (2) may provide the Minister or chief executive with any information, or a copy of any document, that it— (i) holds in relation to the performance or exercise of its functions, duties, or powers under or in relation to any legislation; and (ii) considers may assist the Minister or the chief executive in the performance or exercise of its functions, duties, or powers under this Act. (2) The agencies for the purpose of subsection (1) are the following: (a) WorkSafe New Zealand: (b) the Environmental Protection Authority: (c) Maritime New Zealand: (d) the Department of Conservation: (e) the Ministry for the Environment: (f) the Government Communications Security Bureau: (g) the New Zealand Police: (h) the New Zealand Security Intelligence Service: (i) a consent authority:	Clause 118 closely mirrors section 90E of the Crown Minerals Act 1991. However, clause 118 does not include the protection against disclosure of information that is contained in clause 116(2) above or in section 90E(5) of the Crown Minerals Act. We consider that these protections are just as pertinent where information is to be shared with agencies as when it is to be publicly disclosed. We therefore seek the insertion of subclause 116(2), subject to the amendments proposed to that subclause as set out above.	Insert clause 118(1A): (1A) Section 116(2) – (4) applying to any information that is intended to be shared under this Section.

Clause		Submission	Relief sought
	(j) the Electricity Authority: (k) the New Zealand Defence Force: (l) any other agency in New Zealand that holds information that relates to activities to which this Act applies. (3) If subsection (1) applies, the Minister, chief executive, or agency (as the case may be) may impose conditions relating to the provision of any information or document, including conditions relating to— (a) the storage and use of, or access to, anything provided: (b) the copying, returning, or disposing of copies of any documents provided. (4) Nothing in this section limits the Privacy Act 2020. (5) This section applies despite anything to the contrary in any contract, deed, or document. Compare: 2017 No 29 s 85		
120	**Minister may request further information** (1) The Minister may request an applicant to provide any further information the Minister considers will assist the Minister in assessing the application. (2) The Minister's request must— (a) be made in writing; and (b) set out the date by which it must be complied with (which must allow the applicant a reasonable time to comply). (3) After making a request, the Minister may defer consideration of the application until the request is complied with.	We oppose in part clause 120 as it does not allow the applicant to decline to provide further information sought (with reasons) and request the application be considered based on the original application. There may be circumstances where the applicant is unable to provide requested information or considers it is unnecessary to inform the decision sought. We therefore seek the opportunity to respond to an information request from the Minister, and amendments to require the Minister proceed with consideration of an application in circumstances where provision of the information is not possible, and the Minister is able to reasonably proceed with considering the application. We note that this clause does not provide a process for requesting information that is specific to the competitive application rounds for feasibility permits. In that context, it is important	Amend clause 120(2): (2) The Minister's request must— (a) be made in writing; and (b) set out the date by which it must be complied with (which must allow the applicant a reasonable time to comply but must not unduly delay any application round for feasibility permits). Amend clause 120(3): (3) After making a request, the Minister may defer consideration of the application until the request is complied with or the applicant advises that it will not provide the information requested (with reasons).

Clause		Submission	Relief sought
		that complete applications are not inappropriately delayed or impacted by deficient applications.	
121	**Rejection of non-complying application** The Minister may reject an application without considering its merits if the application does not comply with the requirements of this Act.	Given the large number of "requirements of this Act", we seek amendments to clause 121 to specify exactly which requirements must be met for each application type to be deemed complete and therefore not able to be rejected under this clause.	Amend clause 121 to specify the requirements that must be satisfied for each type of application to be deemed complete, for example clauses 15 and 16 for feasibility permit applications.
122	**Applicant must notify of change in circumstances** An applicant must notify the Minister as soon as reasonably practicable if, before an application is decided, the applicant becomes aware of any change in their circumstance that may materially affect the Minister's consideration of the application.	We seek amendments to provide certainty to applicants that they only have to notify the Minister of changes that are material/pertinent to the Minister's consideration of the application as prescribed by this Act or the regulations.	Amend clause 122: **Applicant must notify of material change in circumstances** An applicant must notify the Minister as soon as reasonably practicable if, before an application is decided, the applicant becomes aware of any change in their circumstance that is relevant to and may materially affect the Minister's consideration of the application.
124	**Minister must notify applicant of decision** (1) As soon as practicable after making a decision on an application, the Minister must give written notice to the applicant of the decision. (2) The notice must include reasons for the decision if the decision is to reject an application. (3) If the Minister grants an application for a variation to the permit under section 37 or sections 39 to 41, the notice must state the date the variation takes effect. (4) If the Minister gives approval for a transfer under section 42, the notice must state the date the transfer takes effect.	We seek amendments to require the Minister to provide reasons for a decision to reject in part an application, as well as to reject in full an application so that applicants are able to consider those reasons, remedy them and re-apply. We oppose sub clause 124(4) as a transfer should take effect on completion of the relevant transaction (after Ministerial approval) rather than on the date specified by the Minister. We seek amendments consistent with those sought in respect of clause 43(1) to clarify this point.	Amend clause 124(2): (2) The notice must include reasons for the decision if the decision is to reject an application (in part or in full). Amend clause 124(4): (4) If the Minister gives approval for a transfer under section 42, the notice must state the date the transfer takes effect, being the date of completion of the relevant transaction, provided that the proposed transferee has put in place the acceptable financial security arrangement referred to in section 42(3)(c)(ii).
146	**Offence for failing to notify Minister of change in circumstance** (1) A person commits an offence if they contravene, or permit a contravention of,—	There may be scenarios where there is a change of circumstance but the relevant person does not know, or could not reasonably have known that	Insert clause 146(1A): (1A) In a prosecution of a person for an offence against this section, it is a defence if the defendant proves that they did not

Clause		Submission	Relief sought
	(a) section 49 (which relates to the requirement to notify the Minister of a change in circumstances that may materially affect the Minister's decision on an approval for a change in significant influence over a permit holder); or (b) section 122 (which relates to the requirement to notify the Minister of a change in circumstances that may materially affect the Minister's consideration of an application). (2) A person who commits an offence against this section is liable on conviction to a fine not exceeding $200,000.	the change could affect the Minister's decision on approval. We seek that a defence be added to clause 146, where a defendant can prove they did not know, or could not reasonably be expected to have known that they were required to notify the Minister of a change of circumstance (similar to clause 145(3)).	know, and could not reasonably be expected to have known, that the change of circumstance either: (a) had occurred; or (b) may materially affect the Minister's decision on an approval for a change in significant influence over a permit holder or consideration of an application.
149	**Offence for knowingly failing to meet decommissioning obligation or financial security obligation** (1) A person commits an offence if— (a) they do any of the following: (i) contravene, or permit a contravention of, section 70 or 71 by failing to carry out or meet the costs of (or both) the decommissioning of any ORE infrastructure as required by subpart 2 of Part 3: (ii) act, fail to act, or engage in a course of conduct that results in the person not being able to meet all or part of their decommissioning obligation by the time the person is required to do so under section 74: (iii) contravene, or permit a contravention of, section 79 by failing to put in place, or maintain (or both), an acceptable security arrangement as required by subpart 3 of Part 3; and (b) they do so knowing that the failure, act, or course of conduct will have that result. Guidance note *See* also section 157, which provides that a person may be liable for a pecuniary penalty for contravening their decommissioning obligation or their financial security obligation.	We oppose clause 149 (2),(4) as we consider the scope of the current criminal liability for directors to be very wide. We think this provision, (which intends to provide the Crown with assurance that a permitholder will undertake its decommissioning obligations) inadvertently increases the risk to the Crown because of the wide scope of the criminal liability regime. We consider the presumptive personal criminal liability of directors coupled with the high bar for proving a defence ("taking all reasonable steps") may disincentivise individuals from taking on directorship positions for permitholders, reducing the overall quality/experience of governance in the offshore energy sector. We expect this would increase the risk to the Crown of permitholder's failing to meet all or part of their decommissioning obligations as a result. We think the below amendments strike a more appropriate balance between providing the Crown with assurance a permitholder will undertake their decommissioning obligations while still incentivising investment in the NZ offshore renewable energy market. • Sub-clause (2) deems a director of a body corporate to be responsible for a body corporate breach irrespective of whether the director has actual knowledge of the body corporate's breach. We request that sub-clause (2)	Amend clause (2): If a body corporate commits an offence under this section a person who is a director of that body corporate at the time the offence was committed also commits the offence~~.~~ if they: (a) had actual knowledge of the body corporate's offence at the time the offence was committed; and (b) failed to exercise due diligence to ensure the body corporate complied with their decommissioning or financial security obligations. Add sub-clause (4)(e): (e) The director exercised the care, diligence and skill that a reasonable director would exercise to ensure that person A would meet person A's obligations. Alternatively, amend sub-clause 4(b): (b) the director ~~took all reasonable steps~~ exercised due diligence to ensure that person A would meet person A's obligation; or

Clause		Submission	Relief sought
	(2) If a body corporate commits an offence under this section, a person who is a director of that body corporate at the time the offence was committed also commits the offence. (3) A person who commits an offence under this section is liable on conviction,— (a) if they are an individual (including an individual director), to imprisonment for a term not exceeding 2 years or to a fine not exceeding $1 million, or both; or (b) in any other case, the greater of— (i) a fine not exceeding $10 million; and (ii) a fine not exceeding 3 times the cost of decommissioning or, in the case of a contravention of the financial security obligation, 3 times the amount by which the contravention reduced the required amount of the security (*see* section 80(2)(a) for how that amount is to be determined). (4) In a prosecution of a director for an offence against this section, it is a defence if the director proves that— (a) the person liable for carrying out the decommissioning obligation or financial security obligation (**person A**) took all reasonable steps to ensure that person A would meet person A's obligation; or (b) the director took all reasonable steps to ensure that person A would meet person A's obligation; or (c) in the circumstances, the director could not reasonably have been expected to take steps to ensure that person A would meet person A's decommissioning obligation or financial security obligation. (5) Proceedings under this section may be commenced within 3 years after the matter giving rise to the offence was discovered or ought reasonably to have been discovered.	be amended to include an actual knowledge requirement for a director to also commit an offence under this section. We also request this provision be amended to require a director to fail to exercise due diligence to ensure the body corporate complies with their decommissioning or financial security obligations. This would align with the criminal liability for directors under existing health and safety legislation (see section 44 and 49 of the Health and Safety at Work Act 2015). • *Sub-clause (4) also sets a lower bar for criminal liability for directors than under existing health and safety legislation. We request that sub-clause (4) be amended so a requirement to exercise due diligence similar to that in section 44 of the Health and Safety at Work Act be adopted.*	
151	**Offence for failing to provide information** (1) A person commits an offence if they contravene, or permit the contravention of, section 104 (which relates to the	We support in part clause 151, however seeks that it includes defences where the defendant proves they did not know of the information requirement or had a reasonable excuse for the contravention.	Insert clause 151(3): (3) In a prosecution of a person for an offence against this section, it is a defence if the defendant proves that they:

Clause		Submission	Relief sought
	requirement to provide information to the Minister or an enforcement officer). (2) A person who commits an offence against this section is liable on conviction to a fine not exceeding $20,000.		(a) had a reasonable excuse for the contravention; or (b) did not know, and could not reasonably be expected to have known, of the information requirement.
160	**Maximum pecuniary penalty** (1) The maximum pecuniary penalty that a person can be ordered to pay is,— (a) in the case of an individual, $500,000; or (b) in the case of a body corporate, the greater of— (i) $10 million; and (ii) if the court is satisfied that the contravention resulted in a remedial cost, 3 times the remedial cost (if it can be readily ascertained); and (iii) if the remedial cost cannot be readily ascertained, 10% of the turnover of the person and all its interconnected bodies corporate (if any) in each accounting period during which the contravention occurred. (2) In this section, **remedial cost** means a cost to the Crown or another person in order to remedy the effects of the contravention.	We oppose the reference to "turnover" in clause (1)(b)(iii) as there is no link between a pecuniary penalty contravention and an organisation's turnover. Instead, we consider the penalty should be linked to commercial gain as a result of the contravention. We are also concerned that the phrase "interconnected bodies corporate" is uncertain and might be interpreted as extending beyond directly connected parties. A definition of "interconnected" should be added to the clause to reduce this uncertainty and ensure, for example, that a small minority investor is not captured. Drafting could be based on s2(7) of the Commerce Act 1986. We acknowledge this phrase is used in s89ZZV of the Crown Minerals Act 1991. However, as this is a new regime it must take into account current expectations around investment certainty and avoid provisions such as this which are likely to prevent and hinder ORE investment in New Zealand.	Amend clause 160(1)(b)(iii): (iii) if the remedial cost cannot be readily ascertained, an amount not exceeding 3 times the value of any commercial gain resulting from the commission of the pecuniary penalty contravention ~~of the turnover~~ of the person and all its interconnected bodies corporate (if any) in each accounting period during which the contravention occurred. Add clause 160(3) to define what is meant by "interconnected bodies corporate".
165	**Right of appeal to High Court on question of law** (1) A person may appeal to the High Court against the following decisions of the Minister if the person is a person in respect of whom the decision was made: (a) rejecting an application for a commercial permit under section 28: (b) rejecting an application to make a minor extension to the permit area under section 37: (c) rejecting an application to extend the duration of a permit under section 39 or 40:	**Key issue** There are a number of decisions within the scope of the Bill that are excluded from this right of appeal, including: - The conditions imposed on feasibility permits (cl 23) or commercial permits (cl 32); - A decision on an application to amend permit conditions (cl 41); - A decision on a surrender application (cl 58);	Amend clause 165(1): (1) A person may appeal to the High Court against the following decisions of the Minister if the person is a person in respect of whom the decision was made: (a) rejecting an application for a commercial permit under section 28: (ab) imposing conditions of feasibility permits under section 23 or conditions of

Clause		Submission	Relief sought
	(d) declining to give approval for a transfer under section 42: (e) declining to give approval for a change in significant influence under section 48: (f) revoking an approval for a change in significant influence under section 49: (g) revoking a permit under section 55. (2) An appeal under this section may only be on a question of law. (3) An appeal must be made within 20 working days after the date on which notice of the decision was communicated to the appellant or any further time that the High Court may allow. (4) The High Court may confirm, reverse, or modify the decision. (5) Nothing in this section affects the right of any person to apply for judicial review.	- A decision on an application for, or to vary or cancel, a safety zone (cl 63 and 68). These decisions relate to critical parts of the regime the Bill will establish and are similar in nature to the decisions that are listed in clause 165. There is no clear policy reason for excluding these decisions from the right of appeal.	commercial permits under clause 32: (b) rejecting an application to make a minor extension to the permit area under section 37: (c) rejecting an application to extend the duration of a permit under section 39 or 40: (ca) rejecting an application to amend permit conditions under clause 41: (d) declining to give approval for a transfer under section 42: (e) declining to give approval for a change in significant influence under section 48: (f) revoking an approval for a change in significant influence under section 49: (g) revoking a permit under section 55: (ga) declining a surrender application under clause 58; (gb) declining an application for a safety zone under section 63 or an application to vary or cancel a safety zone under section 68.
166	**Consequences of appeal to High Court** If an appeal to the High Court is lodged under section 165, pending the determination of the appeal,—	We oppose in part clause 166 as it could have disproportionate impacts depending on the decision appealed. For example, if a rejection of an application for a commercial permit continues in force, then a feasibility permit might expire in the meantime, and the right of the permit holder	Amend clause 166: If an appeal to the High Court is lodged under section 165, pending the determination of the appeal,—

Clause		Submission	Relief sought
	(a) every decision of the Minister appealed against continues in force; and (b) no person is excused from complying with any of the provisions of this Act on the ground that an appeal is pending.	to re-apply for a commercial permit would be lost. Similarly, if a permit is revoked, works would need to cease immediately. We seek that clause 166 be amended to enable the High Court to determine if a stay is appropriate or not in the circumstances.	(a) The High Court must determine whether it is appropriate in the circumstances for each ~~every~~ decision of the Minister appealed against to— (i) continue~~s~~ in force; ~~and~~ or (ii) be subject to an order to stay the Minister's decision appealed against until the High Court has determined the appeal. (b) no person is excused from complying with any of the provisions of this Act on the ground that an appeal is pending.
168	**Regulations relating to fees and levies** (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations— (a) imposing a levy on permit holders under this Act for the purpose of recovering all or part of the reasonable direct and indirect costs of administering this Act: (b) specifying the permit holders, or classes of permit holders, who are liable to pay the levy: (c) imposing a levy on ORE transmission infrastructure owners for the purpose of recovering all or part of the reasonable direct and indirect costs of administering this Act as it relates to decommissioning of ORE transmission infrastructure: (d) specifying the ORE transmission infrastructure owners, or classes of ORE transmission infrastructure owners, who are liable to pay the levy: (e) specifying the levy, or how the levy or rates of levy are calculated: (f) specifying when and how the levy is to be paid: (g) including in the levy, or providing for the inclusion in the levy, any shortfall in recovering the actual costs:	**Key issue** We support a cost recovery regime as is proposed in clause 168, and notes the importance of setting fees to the appropriate level for each stage of development. We consider that the following factors should be considered when establishing regulations relating to fees and levies: • Fees should be reasonable, transparent and related to the regulator's effort/expenditure. Therefore, fees need not be proportional to the size of the site or permitting (feasibility / commercial) stage, but rather the administrative effort needed to process the application (that is, they should fairly reflect the service provided to operators and not cross-subsidise others who do not get those services). • Fees may need to recognise the substantial additional application and processing payments that may be payable to other authorities under other regimes. • Appropriate annual fees focused on administrative cost recovery should be payable after a permit has been granted.	Insert clause 168(1A): (2) The Minister may recommend regulations under subsection (1) only if— (a) the Minister has consulted any persons that the Minister considers are likely to be directly affected by the regulations; and (b) the Minister is satisfied that the regulations are necessary or desirable after having regard to the purpose of this Act and to the relevant costs and benefits.

Clause		Submission	Relief sought
	(h) to refund, or provide for refunds of, any over-recovery of the actual costs: (i) requiring the payment to the chief executive of fees in connection with— (i) an application or request to the Minister or chief executive to perform or exercise any function, duty, or power under this Act: (ii) the performance or exercise of any other function, duty, or power under this Act: (j) prescribing the amounts of the fees referred to in paragraph (i) or the manner in which those fees are to be ascertained: (k) providing for waivers, discounts, or refunds of the whole or any part of a levy or fee for any case or class of cases. (2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).	We seek amendments to require the Minister to consult with persons that are likely to be directly affected by fees and levies regulations prior to recommending those regulations, as is provided for in clause 167. We consider that this consultation will provide an additional check that proposed regulations are appropriate, and have considered the factors set out above.	
175	**New sections 38A to 38C inserted** After section 38, insert:		
	38A Applicants for marine consents related to ORE generation infrastructure activities must hold permit under Offshore Renewable Energy Act 2024 (1) This section applies to an applicant for a marine consent for any ORE generation infrastructure activities within the meaning of the Offshore Renewable Energy Act 2024. (2) The applicant must be the permit holder of a current feasibility permit or commercial permit granted under the Offshore Renewable Energy Act 2024 that applies to the area to which the consent applies, and the details of the feasibility or commercial permit must be provided in the application. (3) A consent authority may, at any time, determine that the application is incomplete if the applicant does not comply with subsection (2). Guidance note *See* also sections 12 and 144 of the Offshore Renewable Energy Act	We support in principle the insertion of proposed section 38A into the EEZ Act, and in particular that it refers to a feasibility permit *or* commercial permit, as it will not always be appropriate or necessary for an applicant for marine consent to hold a commercial permit. We seek an amendment to subclause (3) so that the consent authority *must* determine the application to be incomplete if the applicant is not a feasibility or commercial permit holder, and that any process regardless of stage will be at an end upon such determination. Applications for marine consent should not be considered if the applicant does not hold a feasibility or commercial permit, as those applicants will not have complied with the regime established by the Bill and will not	Amend new section 38A(3): (3) A consent authority must ~~may, at any time,~~ determine that the application is incomplete if the applicant does not comply with subsection (2).

Clause		Submission	Relief sought
	2024, which prohibit a person from giving effect to a marine consent by undertaking ORE generation infrastructure activities unless the person is a holder of a commercial permit under that Act.	have the rights to implement any marine consent if granted.	
	38B Marine consents related to ORE generation infrastructure activities cancelled if commercial permit under Offshore Renewable Energy Act 2024 expires or is revoked or surrendered in full (1) This section applies to a marine consent for any ORE generation infrastructure activities within the meaning of the Offshore Renewable Energy Act 2024. (2) The consent is automatically cancelled if and when the holder of the consent ceases to be the permit holder of a current commercial permit granted under the Offshore Renewable Energy Act 2024 that relates to the area subject to the consent by reason of the expiry or revocation or surrender in full of the commercial permit.	We support in part new section 38B. However, we seek an amendment to clarify that this clause does not apply to any revocation decision that is under appeal until that appeal is determined.	Insert new section 38B(3): (3) This section does not apply where a notice to revoke a commercial permit has been appealed, until that appeal has been determined and the revocation is confirmed by the Court.
177	**Schedule 1 amended** In Schedule 1,— (a) insert the Part set out in Schedule 2 of this Act as the last Part; and (b) make all necessary consequential amendments.		
	Schedule 2 **Part 3 Provisions relating to Offshore Renewable Energy Act 2024** 4 Stay on applications made before permit granted under Offshore Renewable Energy Act 2024 (1) This clause applies to an application for a marine consent in respect of any offshore renewable energy generation infrastructure activities, within the meaning of the Offshore Renewable Energy Act 2024, that is made before the commencement of that Act.	We support a stay on applications for marine consent that were made before the commencement of the Act. The Bill has been well signalled, and the Government also made clear statements[1] that offshore renewable energy projects should not commence in advance of the regime being in place. This clause therefore should not come as a surprise to any impacted marine consent applicants. Further, this provision has limited retrospective effect as the application for marine consent will continue to be processed as soon as a feasibility or commercial permit is obtained and the provision only applies to	Retain.

[1] See in particular Cabinet Paper 'Offshore Renewable Energy Regulatory Regime Offshore Renewable Energy: Approval for Introduction' dated 20 December 2024, at [27] - [30].

Clause		Submission	Relief sought
	(2) The application is stayed, and cannot be granted, until the applicant is the holder of a current feasibility permit or commercial permit that has been granted under that Act in respect of those activities.	applications for marine consent (not granted consents). We therefore consider this provision is very important to achieve the purpose of the Act.	
179	**New sections 88AA and 88AB inserted** After section 88, insert:		
	88AA Applicants for resource consents related to ORE generation infrastructure activities must hold permit under Offshore Renewable Energy Act 2024 (1) This section applies to an applicant for a resource consent for any ORE generation infrastructure activities within the meaning of the Offshore Renewable Energy Act 2024. (2) The applicant must be the permit holder of a current feasibility permit or commercial permit Act granted under the Offshore Renewable Energy Act 2024 that applies to the area to which the consent applies, and the details of the feasibility or commercial permit must be provided in the application. (3) A consent authority may, at any time, determine that the application is incomplete if the applicant does not comply with subsection (2). Guidance note *See* also sections 12 and 144 of the Offshore Renewable Energy Act 2024, which prohibit a person from giving effect to a resource consent by undertaking ORE generation infrastructure activities unless the person is a holder of a commercial permit under that Act.	We support in principle the insertion of proposed section 88AA into the RMA, and in particular that it refers to a feasibility permit *or* commercial permit, as it will not always be appropriate or necessary for an applicant for marine consent to hold a commercial permit. We seek an amendment to subclause (3) so that the consent authority *must* determine the application to be incomplete if the applicant is not a feasibility or commercial permit holder, and that any process regardless of stage will be at an end upon such determination. Applications for resource consent should not be considered if the applicant does not hold a feasibility or commercial permit, as those applicants will not have complied with the regime established by the Bill and will not have the rights to implement any resource consent if granted.	Amend new section 88A(3): (3) A consent authority must ~~may, at any time,~~ determine that the application is incomplete if the applicant does not comply with subsection (2).
	88AB Resource consents related to ORE generation infrastructure activities cancelled if commercial permit under Offshore Renewable Energy Act 2024 expires or is revoked or surrendered in full (1) This section applies to a resource consent for any ORE generation infrastructure activities within the meaning of the Offshore Renewable Energy Act 2024. (2) The consent is automatically cancelled if and when the holder of the consent ceases to be the permit holder of a current commercial permit granted under the Offshore Renewable Energy Act 2024 that relates to the area subject to the	We support in part new section 88AB. However, we seek an amendment to clarify that this clause does not apply to any revocation decision that is under appeal until that appeal is determined.	Insert new section 88AB(3): (3) This section does not apply where a notice to revoke a commercial permit has been appealed, until that appeal has been determined and the revocation is confirmed by the Court.

Clause		Submission	Relief sought
	consent by reason of the expiry or revocation or surrender in full of the commercial permit.		
180	**Schedule 12 amended** In Schedule 12,— (a) insert the Part set out in Schedule 3 of this Act as the last Part; and (b) make all necessary consequential amendments.		
	Schedule 3 **Part 8 – Provisions relating to Offshore Renewable Energy Act 2024** 48 Stay on applications made before permit granted under Offshore Renewable Energy Act 2024 (1) This clause applies to an application for a resource consent in respect of any offshore renewable energy generation infrastructure activities, within the meaning of the Offshore Renewable Energy Act 2024, that is made before the commencement of that Act. (2) The application is stayed, and cannot be granted, until the applicant is the holder of a current feasibility permit or commercial permit that has been granted under that Act in respect of those activities.	We support a stay on applications for resource consent that were made before the commencement of the Act. The Bill has been well signalled, and the Government also made clear statements[2] that offshore renewable energy projects should not commence in advance of the regime being in place. This clause therefore should not come as a surprise to any impacted resource consent applicants. Further, this provision has limited retrospective effect as the application for resource consent will continue to be processed as soon as a feasibility or commercial permit is obtained and the provision only applies to applications for resource consent (not granted consents). We therefore consider this provision is very important to achieve the purpose of the Act.	Retain
Part 5			
	New Sections	We are committed to upholding high environmental, social and governance (ESG) standards in the delivery of offshore wind. This includes maintaining a high standard for stakeholder engagement and environmental approval processes.	*Within Part 5 – Amendments to other Acts, insert new Subpart 3 and sections 181 and 182:* ***Subpart 3 – Amendment to Fast-track Approvals Act 2024*** ***181 Principal Act***

[2] See above, n1.

Clause		Submission	Relief sought
		We consider it appropriate that the fast-track consenting pathway is unavailable while the permitting regime is established. However, offshore renewable energy activities are likely to provide 'significant regional and national benefits', and providing access to an appropriately designed streamlined consenting pathway for those activities would therefore be consistent with the purpose of the FTAA. Any decision to access would be contingent on review of the final permitting regime. We therefore support the Government's intention[1] to amend the Fast-track Approvals Act 2024 (FTAA) via the ORE Bill to allow permit holders to seek referral to the fast-track consenting pathway for an offshore renewable energy project. TOP seeks the insertion of a Subpart 3 into Part 5 to amend the FTAA upon enactment of the ORE Bill, so that offshore renewable energy projects are only 'ineligible' activities within the FTAA if the applicant does not hold a feasibility or commercial permit.	*This subpart amends the Fast-track Approvals Act 2024.* ***182 Section 5 amended (Meaning of ineligible activity)*** *In section 5(1), meaning of* ***ineligible activity****, paragraph (n), after "an activity undertaken for the purpose of an offshore renewable energy project", insert "unless the applicant holds a feasibility or commercial permit granted under the Offshore Renewable Energy Act 2025".*

[1] As stated on the MBIE website (accessed 31 January 2025). See also Minute of Decision of the Cabinet Economic Policy Committee (ECO-24-MIN-0062) here at [9.2], and Cabinet Paper (Offshore Renewable Energy Regulatory Regime: Offshore Renewable Energy Bill: Approval for Introduction – 20 December 2024) here at [9] of Appendix One.