MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Regulatory Impact Statement: Proposed changes to the Offshore Renewable Energy Bill

Decision sought	Analysis produced for the purpose of informing final Cabinet decisions on legislative change to address spatial conflict between prospecting, exploration and mining for minerals other than petroleum and potential offshore renewable energy development in New Zealand.
Agency responsible	Ministry of Business, Innovation and Employment
Proposing Ministers	Minister for Energy
Date finalised	2 September 2025

This proposal is intended to reduce investment uncertainty caused by the potential overlap of offshore renewable energy (ORE) activities and prospecting, exploration and mining for minerals other than petroleum ('seabed mining activities') in the same area, providing an opportunity for the activities to co-exist.

The preferred option is to amend the Offshore Renewable Energy Bill (ORE Bill) to create a power to prevent new prospecting, exploration and mining permits for minerals other than petroleum ('seabed mining permits') and land extensions of existing seabed mining permits under the Crown Minerals Act 1991 (CMA) for a temporary period in specified areas of the marine environment.

Summary: Problem definition and options

What is the policy problem?

The potential for future seabed mining permits to be issued in areas suitable for ORE, with no mechanism to resolve potential overlaps, is creating uncertainty and a significant risk that ORE developers will not invest in New Zealand. There are only a few areas[1] that are suitable for offshore wind[2] developments, including the South Taranaki Bight, which has shallow water depths and good wind-speeds, but also mineral-rich iron sands.

Seabed mining permits have already been granted and extended in areas of interest to offshore wind developers in the South Taranaki Bight. Seabed mining activities and offshore wind farms cannot locate in the same area at the same time.

[1] https://www.mbie.govt.nz/assets/wind-generation-stack-update.pdf
[2] Wind is the most developed offshore renewable energy technology.

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The ORE Bill will put in place a new regulatory regime for offshore renewable energy (ORE) that includes permits issued on a competitive basis, but it does not address competing uses. Seabed mining permits issued under the CMA can be able to be granted over the same area that ORE permits are granted, and have a faster path to environmental consent, which creates investment risks for ORE.

The proposal creates a pathway for ORE and seabed mining activities to co-exist in the same region, balancing the maintenance of existing seabed mining rights while improving the change ORE permits being granted.

What is the policy objective?

The objectives are to:

- find a pathway for ORE and seabed mining activities to co-exist and operate in the same region.
- give greater investment certainty for the development of ORE
- limit the impact on investment certainty in the seabed mining industry.

The success of the proposal will be demonstrated by ORE developers participating in the first ORE feasibility permit round.

What policy options have been considered, including any alternatives to regulation?

The status quo of the Bill passing unchanged is that ORE developers may apply for ORE feasibility permits with the risk of seabed mining permits being granted over the same space.

ORE developers potentially could try to negotiate a commercial solution with seabed mining operators where there are overlapping approvals under different legislation. However, we consider there are significant barriers to achieving a commercial solution and ORE developers have noted that potential commercial negotiations cannot resolve fundamental legal risks with the current policy.

The two options for legislative change are:

- amend the ORE Bill to create a power to designate an area or areas in which there are targeted and time-limited restrictions on seabed mining activities to enable ORE feasibility work; and
- develop and implement a longer-term and more comprehensive solution to resolve competition for space (e.g. introduce spatial planning through the current resource management reform programme). This could also deal with potential incompatibility between ORE and other activities such as petroleum exploration[3].

The Minister for Energy and Minister for Resources have indicated a wish to focus on a more targeted change focusing around the CMA, rather than through environmental consenting processes (e.g. by preventing environmental consenting for seabed mining activities) or options involving large changes (such as large-scale spatial planning) at this time. These broader options around consenting and/or spatial planning may be considered as part of the Government's resource management reform process.

[3] ORE developers have expressed a range of views over time regarding the extent to which new overlapping petroleum prospecting, exploration and mining permits granted under the CMA may create similar investment uncertainty. ORE developers generally see petroleum activities as more compatible with offshore wind than seabed mining.

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What consultation has been undertaken?

There has been broad consultation throughout the development of the new regulatory regime for ORE and the public had an opportunity to submit to the Select Committee on the ORE Bill.

There has been targeted consultation on the new proposal in this RIS since July 2025 including:

- Engagements with ORE developers that have investigated, or are investigating investment in New Zealand
- Consultation with iwi/ hapū in Taranaki, including to meet Treaty settlement obligations in relation to the CMA
- Engagement with Trans-Tasman Resources (TTR), which holds the only existing seabed mining permit in New Zealand for an area in the South Taranaki Bight.
- Relevant government agencies.

ORE developers consider the preferred option improves investment certainty in managing potential conflicts between ORE and seabed mining activities in the marine environment. ORE developers, however, did also advocate for more significant changes above and beyond the preferred option in this RIS that would further increase investment certainty.

TTR supports the preferred option in that it does not change its existing seabed mining permit but noted that close engagement between parties and regulators would be needed to work through issues such as buffer zones, ship passage, and service routes.

Taranaki iwi and hapū do not oppose the preferred option, but noted broader concerns that CMA permits that have already been awarded to TTR hinder offshore wind development.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?
Yes

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

The preferred option is expected to have the following costs (compared to the status quo):

- Potential lost opportunity from investments in new seabed mining permits. This is uncertain as we cannot quantify the seabed mining permit applications the Crown would have received and granted in marine space reserved for ORE, and the potential value of the minerals extracted.
- Potential lost opportunity of permit area extensions for an existing seabed mining permit. There is a high degree of uncertainty about the scale and degree of this lost opportunity as there are no limits on the area extension and the value of the mineable resource is unclear.
- Increase in real or perceived investor risk in the mining industry (not quantifiable).
- Increase in the cost of regulating as the option adds to existing regulator function and regulatory system, but this cost will be very marginal.

Benefits (Core information)

The preferred option is expected to have the following benefits (compared to the status quo):

- Greater certainty for investment for ORE developers.

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- Improves the probability (but does not guarantee) of realising the benefits of ORE development, particularly in the transition to net-zero carbon emissions by 2050.

Balance of benefits and costs (Core information)

The preferred option is expected to have a net benefit relative to the status quo because:

- It better enables the development of ORE while limiting the impact on the developing seabed mining industry, which gives New Zealand the best chance at capturing benefits from both industries.
- The impact on investment certainty for the seabed mining industry is limited as it will not affect existing minerals permit rights or TTR's existing fast-track application for marine consent, except for TTR's right to apply to extend its existing permit areas.
- It is expected to be the lowest cost option in terms of impact and implementation. Any opportunity cost from lost minerals development would be time and space limited and is counterbalanced against the fact that the status quo may restrict the ability to develop ORE in the South Taranaki Bight.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

The Ministry of Business, Innovation and Employment (MBIE) will be responsible for implementation as the responsible policy agency and regulator of seabed mining permits and (soon to be) ORE regulator.

There is a risk of creating real or perceived investor risk for the mining industry. This is mitigated by restricting the use of the power to prevent new seabed mining permits to specified areas and making the restriction time limited.

The creation of the new power may increase the risk of 'land-banking'. Prospective seabed miners could pre-emptively apply for permits for larger areas than they might otherwise have if they think there is a chance of a restriction being put in place. This would be mitigated through the above restrictions on the use of the power and transitional provisions.

The proposed Amendment Paper will be published after Cabinet decisions. After the ORE legislation passes into force any necessary secondary legislation to implement a restriction on seabed mining would be made concurrently with the first ORE feasibility permit round.

Limitations and Constraints on Analysis

This policy work has been undertaken in a short time frame. The ORE Bill is awaiting its second reading. The expectation is that the Bill passes by the end of 2025 and that New Zealand's first feasibility permit round opens shortly after.

There are limited options available to address the problem in a way that creates a greater probability of ORE developers participating in the first round while still maintaining existing seabed mining rights.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:
Daniel Brown
Manager Electrify NZ
2 September 2025

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Quality Assurance Statement	
Reviewing Agency: MBIE	**QA rating:** Meets
Panel Comment: The Regulatory Impact Analysis Review Panel at the Ministry of Business, Innovation and Employment (MBIE) has reviewed the Regulatory Impact Assessment *Proposed changes to the Offshore Renewable Energy Bill*, and we have determined that the paper meets the criteria.	

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. There is interest in development of ORE projects in New Zealand, primarily in offshore wind projects. Offshore wind is the most developed ORE technology and is common in other jurisdictions (especially Europe) but not yet developed here.

2. ORE could support New Zealand to meet its long-term energy needs, including contributing to the Government's commitment to double New Zealand's supply of renewable generation by 2050 (to support electrification of the economy).

3. A regulatory regime to enable ORE is being developed to address gaps in the current legislation. The main issue is that there is no robust process to allocate ORE project development rights. Different ORE developers could all apply to develop the same (or overlapping) areas – relying on a 'first in, first served' consenting process to allocate development rights. Other countries have systems to allocate exclusive use rights to developers – for example through tenders for space.

4. The ORE Bill (which is part of the Government's Electrify NZ policy) was introduced in December 2024 with the aims of:

    - giving developers greater certainty to invest
    - allowing the selection of developments that best meet New Zealand's national interests
    - managing the risks to the Crown and the public from ORE developments.

5. The Bill will apply to ORE development in New Zealand's territorial sea and Exclusive Economic Zone and creates the following two classes of ORE permits, which will be awarded by the Minister for Energy (the Minister):

    - **Feasibility permits (7-year duration)** awarded though competitive application rounds. These give the holder the exclusive ability to apply for a commercial permit in an area, as well as the right to apply for relevant resource or marine consents in the same area. A feasibility permit will give the holder certainty that no other ORE developers will be approved to develop the same site while they undertake feasibility studies.

    - **Commercial permits (duration of up to 40 years)** that must be obtained before construction begins. The Minister may impose conditions on the permit and it provides a mechanism for imposing, monitoring and enforcing key obligations on the permit holder for the operational life of the development.

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6. The Bill reflects key design decisions the Government announced in August 2024 [CBC-24-MIN-0041]. Those decisions were supported by a Regulatory Impact Statement dated 16 April 2024.[4] One of those design decisions was that the regime would not resolve overlaps with other users in the marine environment, such as seabed mining. This is because the regime is based on a **developer-led approach**, where developers will identify and apply for sites. Developers preferred this approach during consultation on the design of the regime.

7. The advice to Cabinet at the time outlined an alternative **government-led approach** where sites for ORE development are identified either through full marine spatial planning, or a 'designated area' approach like Australia. The advice did not recommend this approach as it would have taken substantial investment and time to identify the best use of different areas of the marine environment – this was inconsistent with a key policy objective of getting a regime in place as soon as possible.

8. The investment context has changed since consultation on the design of the regime. In particular, the listing of Trans-Tasman Resources' seabed mining project in the Fast-track legislation has created the potential for spatial clashes between seabed mining and ORE off the Taranaki coast. There is now a risk that credible offshore wind developers will either not apply for a feasibility permit or may be less likely to invest in feasibility studies if a permit is granted, as it is hard to secure investment funding for large ORE projects without a high degree of regulatory certainty.

9. The Government has also since released a Minerals Strategy to 2040 with the goal to double minerals exports by 2035.[5] Seabed mining activities and offshore wind farms cannot locate in the same area at the same time as they are incompatible, and seabed mining is highly likely to rule out future use of the seabed for ORE infrastructure. This issue is highlighted in the South Taranaki Bight[6], which has existing seabed mining permits and potential for ORE developments in the same marine space.

10. The Transport and Infrastructure Committee's (17 June 2025) report on the Bill[7] included comment on the need to resolve competition for marine space. The Committee considered options for amendments to other legislation to address this issue but did not recommend them in its report back as the majority considered that it would be best to allow Cabinet more time to discuss the matter.

What is the policy problem or opportunity?

11. There is a significant risk that ORE developers may not participate in any feasibility permit application rounds without changes to the Bill. Under the current policy, it is possible for seabed mining permits to be granted under the CMA 'over the top' of areas where ORE feasibility permits may be granted (and vice versa).

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

[5] https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/minerals-and-petroleum/strategies/a-minerals-strategy-to-2040

[6] A small area in the South Taranaki Bight, with shallow water depths, good wind-speeds and mineral-rich iron sands is a 'sweet spot' for both offshore wind development and seabed mining.

[7] https://selectcommittees.parliament.nz/v/SelectCommitteeReport/448ea31f-2ae9-4784-c443-08ddad262f57

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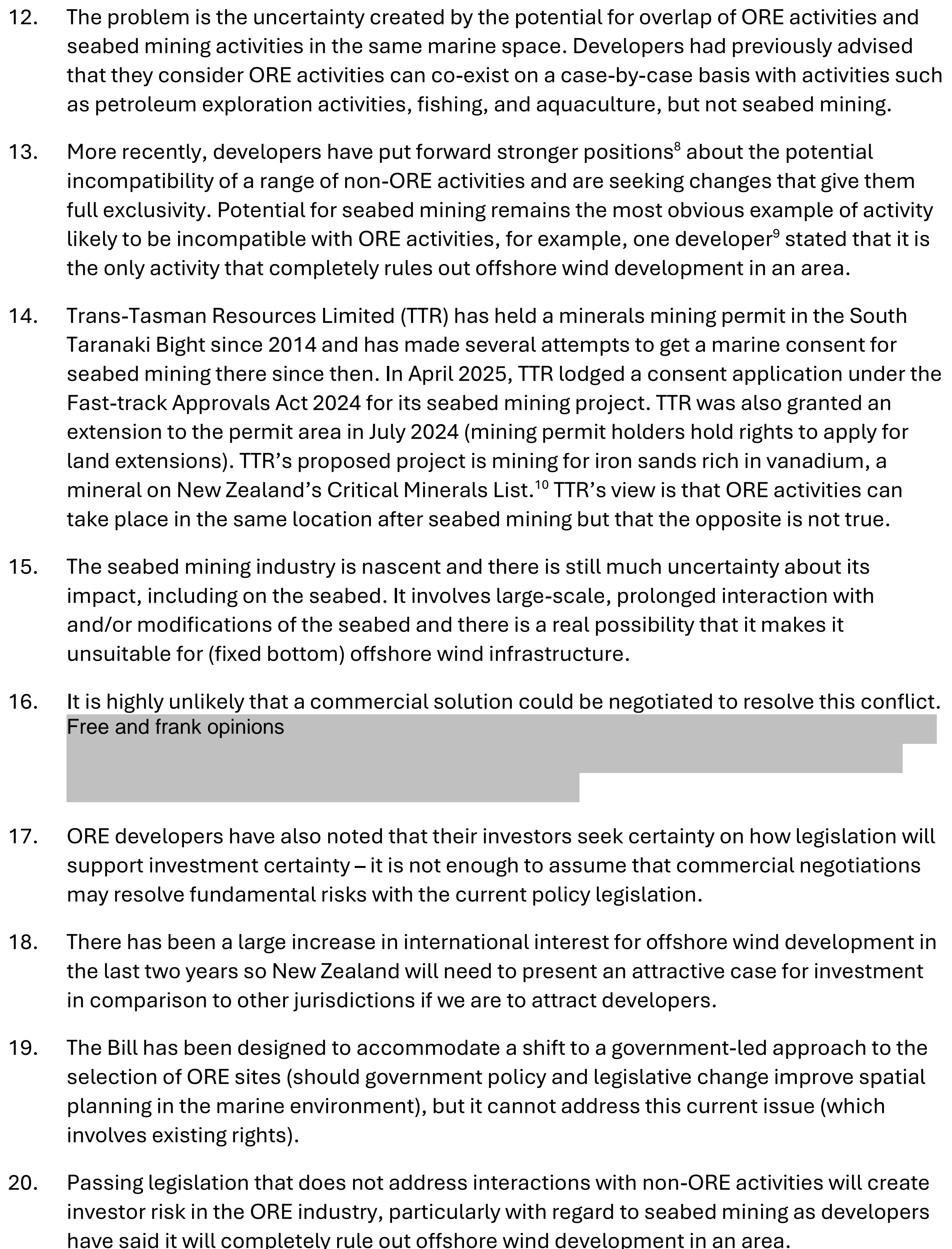

12. The problem is the uncertainty created by the potential for overlap of ORE activities and seabed mining activities in the same marine space. Developers had previously advised that they consider ORE activities can co-exist on a case-by-case basis with activities such as petroleum exploration activities, fishing, and aquaculture, but not seabed mining.

13. More recently, developers have put forward stronger positions[8] about the potential incompatibility of a range of non-ORE activities and are seeking changes that give them full exclusivity. Potential for seabed mining remains the most obvious example of activity likely to be incompatible with ORE activities, for example, one developer[9] stated that it is the only activity that completely rules out offshore wind development in an area.

14. Trans-Tasman Resources Limited (TTR) has held a minerals mining permit in the South Taranaki Bight since 2014 and has made several attempts to get a marine consent for seabed mining there since then. In April 2025, TTR lodged a consent application under the Fast-track Approvals Act 2024 for its seabed mining project. TTR was also granted an extension to the permit area in July 2024 (mining permit holders hold rights to apply for land extensions). TTR's proposed project is mining for iron sands rich in vanadium, a mineral on New Zealand's Critical Minerals List.[10] TTR's view is that ORE activities can take place in the same location after seabed mining but that the opposite is not true.

15. The seabed mining industry is nascent and there is still much uncertainty about its impact, including on the seabed. It involves large-scale, prolonged interaction with and/or modifications of the seabed and there is a real possibility that it makes it unsuitable for (fixed bottom) offshore wind infrastructure.

16. It is highly unlikely that a commercial solution could be negotiated to resolve this conflict. Free and frank opinions

17. ORE developers have also noted that their investors seek certainty on how legislation will support investment certainty – it is not enough to assume that commercial negotiations may resolve fundamental risks with the current policy legislation.

18. There has been a large increase in international interest for offshore wind development in the last two years so New Zealand will need to present an attractive case for investment in comparison to other jurisdictions if we are to attract developers.

19. The Bill has been designed to accommodate a shift to a government-led approach to the selection of ORE sites (should government policy and legislative change improve spatial planning in the marine environment), but it cannot address this current issue (which involves existing rights).

20. Passing legislation that does not address interactions with non-ORE activities will create investor risk in the ORE industry, particularly with regard to seabed mining as developers have said it will completely rule out offshore wind development in an area.

[8] Some also note that with appropriate management, ORE activities can co-locate with these other activities
[9] New Zealand Offshore Wind (previously Elemental)
[10] https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/minerals-and-petroleum/critical-minerals-list/critical-minerals-list-2025

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What objectives are sought in relation to the policy problem?

21. The objectives are to:

    - find a pathway for ORE and seabed mining activities to co-exist and operate in the same region.
    - give greater investment certainty for the development of ORE
    - limit the impact on investment certainty in the seabed mining industry.

22. Achieving these objectives will require balance and trade-offs across the ORE and seabed mining industries. Achieving the objective of finding a pathway for co-existence between the industries involves a trade-off with existing and/or future rights given the status quo for developments is a 'first in, first served' basis. Any impact on existing or future rights could be expected to have a negative effect on investment certainty.

23. Achieving the objective of giving greater investment certainty for ORE developers requires a trade-off with investment certainty in the seabed mining industry but this can be balanced with the objective of limiting the impact.

What consultation has been undertaken?

24. There has been broad consultation throughout the development of the new regulatory regime for ORE. This is outlined in the April 2024 Regulatory Impact Statement: ORE Regime.

25. Public submissions were also made to the Select Committee that considered the ORE Bill ahead of its report back on 17 June 2025.

26. There has been targeted consultation since July 2025 when the Minister for Energy and Minister for Resources agreed to progress policy work to resolve spatial conflict between seabed mining and potential offshore wind development in the South Taranaki Bight.

27. This targeted consultation has included:

    - Engagements with five ORE developers that have investigated, or are investigating investment in New Zealand
    - Consultation with iwi/hapū in Taranaki, including to meet Treaty settlement obligations in relation to the CMA
    - Engagement with TTR
    - Relevant government agencies (Ministry for the Environment, Department of Conservation, Ministry of Foreign Affairs).

28. Feedback from this consultation has informed this analysis and is summarised below:

29. **ORE developers** are supportive of the preferred option as a way to manage potential conflicts between ORE and seabed mining activities in the marine environment. While initially being very positive in early engagements, written feedback from four ORE developers remained positive but was caveated, describing the preferred option as a "compromise", a "proposal with some merit", and a "good starting point".

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30. ORE developers took the opportunity to advocate for more significant changes to provide even more investment certainty. This included highlighting that there are also potential conflicts with petroleum prospecting, exploration and mining activities, along with other non-ORE activities such as aquaculture.

31. Developers have consistently and universally described seabed mining as more problematic than petroleum activities.

32. All four written submissions expressed their (more recent) views that there should be a government-led approach where exclusive ORE sites are 'designated' or identified through full marine spatial planning.

Confidential information entrusted to the Government

35. **Taranaki iwi and hapū** remain opposed to seabed mining. They do not oppose the preferred option, but some have broader concerns that the CMA permits that have already been awarded to TTR will hinder offshore wind development in the region.

36. **Relevant government agencies** had no substantive comments.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

37. The criteria are:

- **Efficient**– how quickly can the option be implemented? New Zealand's first ORE feasibility permit round is expected to open shortly after the passing of the ORE Bill. Developers that have been investigating opportunities are due to make decisions about whether to apply. A rapid solution provides the best chance of capturing future benefits of ORE (create skilled regional jobs and wider economic activity, contribute to and increased renewable energy and energy security).

- **Effective –** how practical and realistic is the option? The problem to be solved involves trade-offs between existing rights and enabling the development of ORE in specific areas. It spans regulatory systems and is in the absence of spatial planning in the marine environment to create a pathway for co-existence. A complex solution will impose extra costs and could result in unintended consequences.

- **Flexible –** is it a fit-for-purpose option that can address investor uncertainty in a targeted way? A flexible solution is needed so that the known issue in the South Taranaki Bight can be addressed, as well as potentially other areas in future (such as the Waikato where there is also minerals potential).

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38. Finding the most efficient, effective and flexible option will contribute to the objectives of finding a pathway for ORE and seabed mining activities to co-exist and operate in the same region, giving greater investment certainty for ORE, and limiting the impact on investment certainty in the seabed mining industry.

What scope will options be considered within?

39. In July 2025, the Minister for Energy and Minister for Resources agreed that officials should develop options that would restrict seabed mining for a temporary period in specified areas (not including the area currently sought by TTR under its consent application) to create a greater probability of offshore wind developers participating in the first feasibility permit round.

40. The levers agreed by Ministers were amendments to the ORE Bill and/or amendments to the CMA to prevent the granting of new seabed mining permits and restrict extensions of permit areas under existing seabed mining permits for a temporary period in specified areas.

41. The Ministers did not wish to pursue options related to environmental consenting (such as spatial planning) as this would involve more complex changes to legislation in other portfolios that would take longer and to develop and implement.

42. These decisions on scope were informed by submissions to Select Committee on the ORE Bill and ORE developer feedback.

What options are being considered?

Option 1 – Status Quo / Counterfactual

43. The status quo is that a seabed mining permit and environmental consents can be granted ‘over the top’ of areas where ORE feasibility permits may be granted (and vice versa) once the ORE Bill passes.

44. This option leaves early resolution of concerns over competing uses to non-statutory means, ahead of marine consents ultimately providing the exclusive use of an area on the current ‘first in, first served’ basis.

45. The key non-statutory means is commercial negotiations and agreements between offshore renewable and seabed mining developers on how space might be shared between them. There is a high level of uncertainty about whether achieving an agreement is feasible and ORE developers note that it is not enough to assume that commercial negotiations may resolve fundamental legal risks with the current policy.

Option 2 – Temporary restriction on seabed mining approvals to preserve marine space for potential ORE

46. There are two ways to achieve this option:

- **A** - preventing seabed mining permits under the CMA (**preferred option**)
- **B** - preventing environmental consenting for seabed mining activities (Ministers did not want to pursue this option).

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47. The preferred option would create a new power to designate an area or areas in which there are targeted and time-limited restrictions to enable ORE feasibility activities by preventing new seabed mining activities.

48. This option would restrict the ability to develop offshore non-petroleum minerals resources for a set time in a localised area by preventing new seabed mining permits and land area extensions to existing seabed mining permits. For example, a specific area could be preserved until the first ORE feasibility permit round is complete (e.g. 1–2 years).

49. This option would be implemented through an amendment to the ORE Bill and consequential changes to the CMA (via an Amendment Paper), and the (subsequent) making of secondary legislation. It would include transitional provisions to manage seabed mining permit applications received in areas but not decided before the restriction is put in place.

50. This option will not prevent the granting of a marine or resource consent for a non-ORE activity over the ORE feasibility permit area. This means that, in theory, a person could receive consent for an activity that is incompatible with ORE development (e.g. development of a marine farm). Dealing this this issue would require larger-scale marine spatial planning as presented in Option 3 below.

Option 3 – Longer-term solution to resolve competition for marine space

51. The current resource management reform programme offers future opportunities for improved spatial planning in the marine environment.

52. For example, spatial plans could identify suitable zones for ORE and its associated infrastructure, which could assist in identifying areas of conflict with other competing marine uses.

53. This is a longer-term option to address the issue – new resource management legislation will not be in place until at least the second half of 2026, and spatial planning would take time to implement.

54. The current drafting of the ORE Bill accommodates a shift to this approach – effectively it would shift decisions on allocation of space to a spatial planning process outside of the ORE legislation, meaning that the ORE legislation could focus more on picking the best developers for any available space.

55. Most countries with a mature ORE industry have marine spatial planning and it may make sense for New Zealand to adopt this approach in the future to align internationally. Implementation of Option 2A (the preferred option) would not preclude Option 3 being implemented in future and it may be considered as part of the Government's resource management reform process

How do the options compare to the status quo/counterfactual?

56. The table below sets out how Options 2 (A and B) and 3 compare to Option 1 (the status quo/counterfactual) in terms of the criteria.

57. Option 2A best meets the criteria relative to the status quo (more explanation is in the next section).

58. Option 2B is no better than the status quo in terms of the meeting the 'efficient' criteria as it cannot be implemented in a timely manner (it involves changes to legislation outside

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the Energy and Resources portfolios, and there is no suitable legislative vehicle at this time).

59. Option 2B meets the ‘effective’ criteria better than the status quo, but to a lesser extent than Option 2A because it would place the restriction at a later point in time . That is, a party could obtain a seabed mining permit (creating an existing right) that overlaps with an ORE permit area, albeit that they would be unable to progress with environmental consenting while any restriction is in place. This does not increase ORE investor certainty as much as Option 2A, and also could result in sunk costs for developers of seabed mining developers who could gain CMA permits they then could not develop.

60. Option 2B could provide a flexible solution, but it does so to a lesser extent than Option 2A because implementation is likely to be more complex and costly. It will involve an additional policy agency (Ministry for the Environment) and regulator (the Environmental Protection Authority), whereas Option 2A will sit within MBIE as part of implementation of the ORE and CMA regimes.

61. Option 3 is no better than the status quo in terms of meeting the ‘efficient’ criteria as it cannot be implemented in a timely manner and therefore cannot realistically solve the current problem.

62. Option 3 meets the other two criteria better than the status quo, but to a lesser extent than Option 2A. This is because it has the potential to deliver an effective and flexible solution (compared to no potential under the status quo), but the extent to which it would meet the criteria is unknown given the policy work has not been done.

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Table One: Comparison of how options met criteria against the Status Quo

	Option 1 – Status Quo / Counterfactual	Option 2A – Temporary restriction on new seabed mining permits to preserve marine space for potential ORE	Option 2B – Temporary restriction on environmental consenting for seabed mining activities to preserve marine space for potential ORE	Option 3 – Longer-term solution to resolve competition for marine space
Efficient	0	++	0	0
Effective	0	++	+	+
Flexible	0	++	+	+
Overall assessment	0	++	+	+

Key

++ much better than the status quo/counterfactual

\+ better than the status quo/counterfactual

0 about the same as the status quo/counterfactual

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What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

63. Option 2A – Temporary restriction on new seabed mining permits to preserve marine space for potential ORE is the preferred option to address the issue.

64. Option 2A will best meet the policy objectives of finding a pathway for ORE and seabed mining to co-exist and operate in the same region, giving greater investment certainty for ORE and limiting the impact on investment certainty for seabed mining.

65. In terms of meeting the criteria that contribute to the policy objective, it is the best option because:

- **Efficient:** Option 2A can be implemented in a timely manner through an Amendment Paper (and subsequent secondary legislation) to a Bill that is already in the House. This means it will be in place before the opening of the first feasibility permit round.
- **Effective**: Option 2A can deliver a pragmatic solution that balances the need to maintain existing rights (except the right to apply to further extend the permit area) while enabling development of ORE. Any restriction under this option will be for a set time in a localised area.
- **Flexible**: Option 2A puts in place a legislative power that enables the details of any restriction to be developed and set out in secondary legislation to ensure it addresses the problem. The power will be available for use in future should a similar issue arise.

66. By best meeting the criteria, Option 2A is considered to be the option with the highest net benefit because:

- Enabling the development of ORE gives New Zealand the best chance at capturing its benefits. ORE is expected to help meet our long-term energy needs, including the transition to net-zero carbon emissions by 2050.
- It is expected to be the lowest cost option (being the most effective and flexible option).

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

67. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	Existing minerals exploration and mining permit holders – lost opportunity to apply for a permit area extension in the temporary ORE reservation area.	Unknown	Low

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	In terms of the South Taranaki Bight, there is a high degree of uncertainty as to whether TTR wants to exercise the right to apply to extend the area of their permit, and whether the permit would be granted. It is therefore very difficult to estimate the associated impact.		
	Mining industry – real or perceived investment risk. Previous policy changes that restricted new exploration permits for petroleum led to perceived investment risk and contributed to decreased international investment interest in New Zealand's petroleum mining sector. This proposal affects a right under an existing permit.	Medium	Medium
Regulators	Very marginal increase in the cost of regulating as the option adds to existing regulator function and regulatory system.	Low	High
Others (eg, wider govt, consumers, etc.)	None identified.	N/A	
Total monetised costs		Unknown	N/A
Non-monetised costs		Low	Medium
Additional benefits of the preferred option compared to taking no action			
Regulated groups	ORE developers – greater certainty for investment.	High	Medium
Regulators	None identified.	N/A	
Others (eg, wider govt, consumers, etc.)	Improves the probability (but does not guarantee) of realising the benefits of ORE developments, particularly in the transition to net-zero carbon emissions by 2050. It is not possible to quantify the benefit.	Unknown	Low
Total monetised benefits		Unknown	Low
Non-monetised benefits		High	Low

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Section 3: Delivering an option

How will the proposal be implemented?

68. The proposed Amendment Paper will create a power to make secondary legislation to prevent new seabed mining permits for a temporary period in specified areas. This would preserve parts of the marine environment for potential ORE activities.

69. For example, in the case of the South Taranaki Bight, the empowering provision would enable secondary legislation to:

    - Prevent new seabed mining permits in an initial area until the first ORE feasibility permit round is complete (eg 1–2 years), then
    - If ORE feasibility permits are granted, prevent new seabed mining permits in the smaller ORE permit area/s (with the remainder open again for seabed mining permits).

70. Cabinet would need to agree the secondary legislation instrument before it can be implemented. The sequence of decisions to delivering this option alongside the first ORE feasibility permit round is set out below – the exact timing depends on Parliamentary timeframes to pass the ORE Bill through the House:

    - Amendment Paper drafted and published
    - ORE Bill 2025 second reading, Committee of the whole and third reading
    - ORE Bill 2025 enacted
    - Regulations to implement first feasibility round passed – e.g. cost recovery regulations
    - Secondary legislation instrument to prevent new mining approvals agreed alongside first ORE round notice (which sets out the areas where ORE permits may be applied for)
    - First feasibility permit round opens

71. MBIE will be responsible for implementation of this proposal. MBIE is already the regulator of seabed mining permits and will be the ORE regulator once the ORE Bill passes. Implementation of this proposal will involve:

    - policy work to develop and advise on the secondary legislation instrument to both the Minister for Energy and the Minister for Resources
    - updating communications with existing (TTR) and potential seabed mining permit applicants and the public regarding the policy
    - operational work including sorting out mapping differences between CMA and ORE to properly set out an exclusion area and related system changes

72. There is not expected to be any issue with funding once the ORE Bill has passed as the ORE regulator will operate under a cost recovery model and the additional work in relation to seabed mining permits will be marginal. Cabinet has already agreed that the

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feasibility permit application fee will be of $130,000 (GST exclusive) and the design features of a levy for cost recovery from ORE developers (EXP-25-MIN-0022 refers) for the ORE regime as a whole. Cost recovery regulations setting out the fees and levies will be considered by Cabinet once the ORE Bill has passed.

73. There may be some (relatively small) cost pressure in the interim, but this will be meet through re-prioritisation of existing funding.

74. Affected parties have been consulted on the changes and will be notified of changes that impact them directly.

75. There is a risk that implementation of the preferred option creates perceived or real investor risk for the mining industry. This will be managed by communicating that the proposed policy change balances the need to maintain existing rights and that any restriction will be for a set time in a localised area.

76. There is also a risk that awareness of a pending restriction on seabed mining permits would result in pre-emptive mining permit applications. This 'land-banking' risk will be mitigated by the inclusion of transitional provisions in the legislation to place a 'stay' on any seabed mining permit applications so that they cannot be granted while the restriction is in place.

How will the proposal be monitored, evaluated, and reviewed?

77. These ORE proposals will establish a new regulatory system and become part of MBIE's regulatory stewardship obligations.

78. In line with MBIE's regulatory stewardship obligations, MBIE intends to monitor, evaluate and review the regulatory framework in response to emerging issues and trends. Information will be both qualitative (eg anecdotal information from stakeholder engagement) and quantitative (eg information of number of permits applied for, time sheeted implementation costs for the regulator) in nature.

79. The impact of these proposals will take a number of years to materialise. In the short term, MBIE will evaluate the operation of the feasibility permit rounds and their effectiveness and efficiency in allocating permits. Longer-term, MBIE will evaluate the progress of permit holders to the commercial permit stage and to construction and operation to determine if the regime is meeting its objectives.

80. MBIE takes a proactive approach to identifying any issues by periodically consulting with key stakeholders on the impacts of the proposals and monitoring overseas developments.

81. The regulatory and policy functions will both sit within MBIE there will be opportunities for any implementation issues and unintended consequences of the system to be raised and addressed, through reporting and engagement with iwi and industry stakeholders. This offers a more flexible and pragmatic approach, compared to any planned or fixed review requirements – although permit rounds will offer a natural point for evaluation. MBIE will also be responsible for alerting relevant Ministers to any issues requiring a review of the legislation.

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