

Consultation Response Paper

The Guernsey Renewable Energy Ordinance Consultation

June 2015

Executive Summary

1. Summary of Consultation Details

Guernsey is looking to implement legislation that will regulate macro renewable energy developments (such as offshore wind, tidal and wave energy), and all associated works, in the marine environment. This will cover all development within the territorial limits of Guernsey. The States of Guernsey prepared a draft secondary legislation (an Ordinance) for public consultation under the Renewable Energy (Guernsey) Law, 2010 (the Law).

The Consultation ran from 23rd October 2014 to the 20th January 2015, and was a full public consultation with the documents available for download from the States of Guernsey's website and the Renewable Energy Teams (RET) website and was sent to various specific parties. There were also had copies available for viewing at the Commerce and Employment Offices. In addition information regarding the consultation was sent to a number of recognised interested parties, ranging from those identified as having a specific interest (users of the sea) to UK bodies that already have an active licensing regime. Seven responses were received and the Commerce & Employment Department and RET would like to thank all those who took the time to comment.

2. Summary of Consultation Responses

In response to the consultation the Renewable Energy Team (RET) received 7 direct responses to the consultation from a variety of consultees. The responses are summarised in this document and outlines all of the issues raised. Where section numbers are raised they refer to the Ordinance that was released at the start of the consultation. The project questions relate to those outlined in the Consultation document.

The responses were broadly positive towards the legislation and the reasons for it. There were some potential oversights highlighted that will be investigated further prior to the final draft of the Ordinance.

In general it is felt that the environmental issues are well covered, although a recurring theme was that independent monitoring is not covered and that this is something that should be considered in the final draft of the Ordinance.

One apparent oversight highlighted was that there is no compulsory consultee on aviation, and that this differs to the UK where aviation is considered for all renewable projects. With the potential for offshore wind to be developed in Guernsey's waters in the future, aviation would need to be a consideration.

There was general agreement that the legislation meets its stated aim of effective development of offshore renewables and to provide robust environmental protection while still keeping the process of licensing offshore renewable energy systems as straight forward and streamlined as possible, given the potential complexity of the industry.

The responses to the specific questions are summarised below.

Specific Consultation Questions

1. Does the Ordinance meet our stated aim of offering a straight forward, engaging licensing system for developers while maintaining a balanced approach taking account of effects on the environment and other uses of the sea?
 - As stated above, generally it was felt that the ordinance provided the robustness required of a regime, however there were concerns that it may be onerously long. Due to the complexity of the legislation it is difficult to make the Ordinance more concise. However, it is anticipated that there will be Guidance Notes issued by the commission which will provide the clarity and simplicity sought.
2. Do the environmental and other constraints appear overly onerous or relaxed?
If so what needs to be changed, how and why?
 - There was consensus that the environmental constraints were suitably robust, and that they were not overly restrictive. However it was noted that the ordinance did not make clear the requirement for independent verification of environmental monitoring.
3. Does the legislation provide a straight forward and streamlined consent process for developers? Section 46 aims to facilitate a streamlined process by giving the Renewable Energy Commission powers to act as a contact point for developers for any necessary consents.
If it does not provide a streamlined process, what needs to be changed and why?
 - There was a mixed response, with some respondents feeling that it met the stated aim of being straight forward and streamlined, while others felt that the Ordinance is overly long and complex. As the Ordinance outlines the requirements under the Law it is important that this is done in detail to remove ambiguity. Subsequent

Guidance Notes issued by the commission which will provide the clarity and simplicity sought.

4. How does this Ordinance compare to any similar regimes in other jurisdictions?

- It was highlighted that, unlike in the UK, there was no specific consideration given to aviation issues. These were covered generally in the requirement to consult, however upon review the ordinance has been modified to explicitly state the requirement to consult on aviation.

5. Are there any material issues that have not been covered?

- The general consensus was that all major issues are covered under the Ordinance, which further supports the support that it is a robust licensing regime.

6. Are there any overly confusing issues that require guidance?

There is provision for guidance at section 49; should anything be added/omitted?

- There was one comment received on this, and it suggests that guidance is required to explain precisely what a potential developer is expected to fund. In the UK the onus is on the developer to fund all research and mitigation costs; and the same should apply in Guernsey.

7. Does the Ordinance deal adequately with the effects of renewables on any other activities in the marine environment?

If not, why not and what needs to change?

- There was agreement that the ordinance adequately covers the potential effects that renewable activities have on other activities in the marine environment.

Other Consultation Responses

The following aspects were also raised in response to the consultation but did not relate to the specific consultation questions:

1. The Ordinance does not consider the implied environmental cost of renewable energy vs on island development. There should be consideration of “utility value” of energy and the environment in Guernsey, including health consequences, island independence, access to public services, civic pride, public confidence, climate change adherence etc.
2. Supportive of offshore renewable energy development, however feel that development may still be some years off.
3. Do not believe Government should have a direct financial interest in the development of offshore renewables.

4. With regards to safety at sea - Section 29 – Stop Notices. There was a comment about potential conflict if the commission and harbour master did not agree on whether something was a ‘serious interference with shipping, fishing or other lawful activities within Guernsey waters’. It is important that the commission gives due regard to expert opinion and this will be clarified within the ordinance.
5. Conditions of Licence –
 - Section 9, conditions of licence - does not specify any conditions relating to the "installation phase"
 - Is it clear that where someone is granted a licence we will require a bond/guarantee?
 - We need to be able to limit whether a licence can be traded/transferred
6. The Term “deployment” is not defined within the Ordinance, although it is used throughout. As it is not defined it takes its natural meaning, so this is considered adequate.

The Department is grateful for the comprehensive and detailed contributions.

Conclusion

The above comments outline that the Ordinance reflects the need to be robust in terms of protection of the environment, but also attractive through creating a single point of contact for the licensing regime. There are a number of specific points which have been taken on board including the need for consultation with aviation. The relevant sections will be amended, leading to the finalised Ordinance which will be taken to the States of Deliberation for formal approval. It should be noted that the finalisation of this Ordinance does not indicate that local renewable developments are immediately forthcoming but it does mean that this important and time consuming step of preparing the legislation has been taken so that when the time is right for renewable developments the legislation is ready.