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ALDERNEY COMMISSION FOR RENEWABLE ENERGY

Guide to the Consents Process for obtaining a Licence in relation to marine renewable energy systems under the Renewable Energy (Alderney) Law 2007

MARINE

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Alderney Commission for Renewable Energy

Introduction

The Alderney Commission for Renewable Energy was established by the States of Alderney under the Renewable Energy (Alderney) Law 2007 to provide an independent body to licence and control the deployment, management, operation and use of renewable energy systems in the island of Alderney and its Territorial Waters. The Commission is the licensing and civil enforcing authority for any renewable energy activities in the Island and its Territorial Waters.

The Commission wishes to take a positive role in the development of Alderney's renewable energy resources, particularly those from tidal, whilst ensuring that such developments are sustainable and of long term benefit to the Island and its people. To this end the Commission has developed a clear and simple consents process that is consistent with best practice in the UK. This consents process reflects the requirements under the Renewable Energy (Alderney) Law 2007 (the 'Law') and the Renewable Energy (Alderney) Ordinance 2008 as amended (the 'Ordinance'). The Commission will update its consents procedures in line with developing best practice, on a regular basis and to reflect any future amendments to future legislation.

This document is a guide to the consents process for obtaining a licence in relation to marine renewable energy systems. Of necessity it can only be a general guide, since the circumstances of each application will differ. The starting point for any applicant for a Licence are Sections 4-17 of the Ordinance and the Renewable Energy (Alderney) (Fees) Regulations, 2010. The Commission is also available for informal consultation and guidance if required, although in relation to decisions before it, the Commission must keep its mind open until it has considered all relevant information.

Stage 1 – Application for Licence

The applicant must submit an application for a Licence in accordance with the provisions of Section 4 of the Ordinance. Under Section 11(2)(a) of the Ordinance the Commission may also where it considers it appropriate to do so issue a Licence subject to a condition to obtain the further consent of the Commission in relation to a particular renewable energy activity. This Guide should also therefore be used in respect of the satisfaction of a Licence condition and the applicant will be required to submit any further request for consent and supporting information within the timeframe specified in his Licence. The application to the Commission must contain those matters specifically set out in Section 4 of the Ordinance and should also include:

- Non-technical overview
- Full details of the developer and any associates and/or partners including its Company or Limited Partnership number, registered office, a list of current directors and an address for service within Alderney
- Full details of the work to be carried out in the block, contractors and vessels to be used, and timelines
- Details of the foundations, proposed cable type and route
- Full details of all equipment and materials to be deployed
- The developer's Health and Safety (H&S) Policy and any other relevant certification including quality e.g. accreditation to ISO standards. Please note that the Commission must have particular regard to ensure that the operation of the renewable energy system is not a danger to human life, and must have regard to the need to protect human health. Accordingly applications should include health and safety statements, working methodology, and identify who will be the responsible person for health and safety requirements and how the applicant intends to comply with the Health and Safety at Work (Alderney) Ordinance 2003, both in relation to land based and marine based activities.
- The developer's H&S programme for planning, designing, installing, operating and decommissioning the project ; which also needs submitting to an Inspector appointed under the Health and Safety at Work (Alderney) Ordinance 2003 for their approval. Inspectors are currently appointed from the Guernsey Health and Safety Executive (HSE).
- Full operations and maintenance plan

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- Full decommissioning programme; see Section 4 and schedule 2 to The Renewable Energy Ordinance (Alderney) 2008. In addition applicants should consider and include within this programme options for recommissioning deployed technology at the end of its current life or the Licence period.
- Details of engineering and process certification (see stage 2)
- Details of any effects on navigation, including fisheries, recreational, anchorages or other use of the marine environment;
- An Environmental Statement which satisfies Section 4 and schedule 1 to The Renewable Energy Ordinance (Alderney) 2008, including an assessment of the potential impacts to the marine, air, land environment and to ecosystems and appropriate mitigation measures
- Information to provide sufficient evidence of the developer's operational and financial ability to complete the project
- Information to provide sufficient evidence of the developer's operational and financial ability to decommission the project; together with details of the appropriate financial instrument offered in support of the decommissioning programme.
- Proof of insurance satisfying the requirements of Section 9(5)(c) of the Ordinance. The Commission will require that both the Commission and the States of Alderney are named as co-insured.
- The appropriate application fee under the Renewable Energy (Alderney) (Fees) Regulations, 2010.

Schedule 1 of the Ordinance contains the detailed requirements for the Environmental Statement and must be complied with. The level of environmental assessment required will be proportionate to the size and location of the particular development envisaged in the application.

The Commission will normally require an Environmental Impact Assessment (EIA). The Environmental Statement (ES) should include a detailed description of the overall project including concept, design, development, deployment area, offshore infrastructure, onshore infrastructure, cable type and route, construction and installation, operation and maintenance, how the project will be decommissioned and the decommissioning cost.

The ES must include the main alternatives to the proposed development studied by the applicant and an indication of the main reasons for the choice of the development taking into account the environmental effects listed in Schedule 1 of the Ordinance. A description of the likely significant adverse effects on these listed items, together with the measures envisaged to prevent, reduce and where possible, offset any significant adverse effects on the environment should be part of the ES.

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Important content will cover the anticipated significant impacts of the proposed development on some or all of the following as appropriate (further information is given in the reference below). The effects should be assessed on a suitable scale (see appendix 1), together with appropriate mitigation measures, using the approach specified in Appendix 2.

- coastal processes (including sediment transition);
- geophysical assessment of the seabed;
- water, sediment and soil quality;
- terrestrial ecology;
- marine ornithology;
- marine mammals, cetaceans, elasmobranchs;
- marine ecology (benthic, pelagic & inter-tidal);
- fish resources;
- seascape;
- landscape and visual impact;
- cultural heritage and archaeology (marine and coastal);
- protected sites and species (e.g. RAMSAR site);
- noise and air quality;
- electric and magnetic fields;
- socio-economics and cumulative impacts;
- monitoring;
- electricity generation;
- transboundary environmental effects (for example affecting France or French waters); and
- cumulative impacts (relating to other and existing offshore projects in the wider area).

Other important content will cover the anticipated significant impacts of the proposed development on some or all of the following as appropriate, assessed on a suitable scale (see appendix 1), together with appropriate mitigation measures, using the approach specified in Appendix 2.

- shipping and navigation including leisure and fishing vessels;
- commercial and leisure fisheries
- cables and pipelines
- disposal areas (e.g. munitions);
- road traffic and access
- tourism, recreation and education

Reference : Consenting, EIA and HRA Guidance for Marine Renewable Energy Developments in Scotland, PART FOUR – WAVE & TIDAL ANNEX, EMEC and Xodus AURORA, Marine Scotland, April 2010

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A separate application for a licence under the Food and Environment Protection Act 1985 (FEPA) is required¹. This application should be made to the Health and Social Services Department in Guernsey, Office of Environmental Health & Pollution Regulation, Longue Rue, St Martin's, Guernsey GY4 6LD. An application form is available from the above Department together with a set of Explanatory Notes.

¹ This Act was extended to the Bailiwick of Guernsey and its Territorial Waters by the Food and Environment Protection Act 1985 (Guernsey) Order 1987

Stage 2 – Engineering, Technical Assessment and Certification

The Commission will want to understand and approve the technology to be used and the means to deploy that technology being subject to a duty under the Ordinance to have regard to the technical quality of the renewable energy system. To this end the developer will be expected to seek certification from a suitable organisation.

Guidelines for Certification of Marine Energy Convertors have been published by EMEC*. Det Norske Veritas (DNV) has been accepted by the Commission as a suitable Certification Body (assuming there is no conflict of interest) but other bodies may be acceptable if they can meet the criteria for acceptance in the EMEC Guidelines. Both a Type and Project Certificate from the Certification Body (together with any conditions) will be required by the Commission as part of the application process. A Conditioned type Certificate, as specified in the EMEC Guidelines, may be appropriate for a first commercial model production.

In exceptional circumstances (to be agreed with the Commission) a prototype certificate, as detailed in the EMEC Guidelines, may be acceptable for a limited period. However, the case for this would need to be made based on the state of development of the selected device and the Commission would need to be kept informed by either the developer or the Certification Body of the steps in the process of obtaining a prototype certificate and any restrictions to be implemented as part of this certification.

During the operation of the licence the developer will also be expected to maintain the certification through regular surveys of the operating system to meet the Certification Body's requirements. Withdrawal of the Certificate by the Certification Body and the reasons for withdrawal, together with the proposed corrective actions will need to be reported to the Commission within a period of not greater than 5 working days.

*"Guidelines for Marine Energy Convertor Certification Schemes", European Marine Energy Centre Ltd, 2009

Stage 3 – Publicity, Consultation

This is the formal publicity and consultation process for the Application. Applicants are referred to Sections 5, 7 and 8 of the Ordinance and the importance of the publicity and consultation Process. The list of those to be consulted is set out below. The developer will be required to place a notice publicising the application and inviting comments and feedback from all stakeholders and the general public, giving a period of twenty one days for comments to be made. The application and any accompanying Environmental Statement and Decommissioning Programme, must also be made available for public inspection at the Commission's offices.

The process is as follows:

- The developer places a notice in the Alderney Gazette of the making of the application, the proposed operation, the opportunity to inspect the application and accompanying documents. The notice must state the date (twenty one days after the date of the notice) by which representations in respect of the project must be received, and the address to which they must be sent. The developer is also required to publish the notice in such other way as the Commission considers will bring to the attention of those likely to be affected.
- The representations will be considered by the Commission and objectors given the opportunity to make oral representations at a hearing before the Commission in accordance with the procedure in section 8 of the Ordinance. The hearing will be held in public unless the Commission directs otherwise.
- The Commission must consider all representations made in response to the above publicity, including those made at any hearing, and any other material considerations it is required to consider under the renewable energy legislation in reaching its eventual decision on an application.
- The final decision on a particular relevant consideration will rest with the Commission. In doing so, it will act in accordance with the Ordinance, in particular Sections 6 and 8.

The Commission has defined the following stakeholders as Consultees with whom the developer should engage throughout the consents process, including submission of the completed Environmental Statement for comment:

- Alderney Harbour Officer
- Alderney Fisheries Officer
- Alderney Sailing Club
- Alderney Licensed Fishing Vessel Owners Association
- Alderney Diving Club
- Alderney Wildlife Trust
- Alderney Maritime Trust

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- The Alderney Society
- Alderney Electricity Ltd
- Guernsey Health and Social Services Department (HSSD)
- Inspectors appointed under the Health and Safety at Work (Alderney) Ordinance 2003
- Guernsey Harbour Master
- Sark Harbour Master
- Guernsey Sea Fisheries
- Maritime and Coastguard Agency (UK)
- Trinity House
- Royal Yachting Association [and its equivalent French Counterpart]
- UK Hydrographic Office
- French Affaires Maritime and Cross Joburg
- Joburg Traffic
- All Shipping Companies operating to the Channel Islands and St Malo

In addition it will be necessary to make an application to the States of Alderney Building and Development Control Committee in respect of any related works on land including the foreshore requiring planning permission or any building work for which a licence is required under the Building (Alderney) Regulations 1978.

Other stakeholders may be added to the above list where appropriate. The Commission will advise and assist the developer to ensure that all requirements are satisfied.

The Commission is also required to consult Statutory Consultees and may consult other bodies as set out in s7 of The Renewable Energy (Alderney) Ordinance 2008. The applicant must be given the opportunity to respond to comments made by the statutory consultees. Where any such consultees make objections they will also have the opportunity to make oral representations at a hearing under section 8 of the Ordinance.

Stage 4 – Determination of Application

The Commission will consider all the information and documentation submitted by the developer, any statutory consultees and other representations made in response to the publicity described above. Engineering, technical or environmental reports sent to the Commission may be submitted for independent review depending on the scale and environmental sensitivity of the proposed development. However, the Commission will ensure that any independent reviews required will respect any commercially confidential information submitted by the developer.

The Commission will satisfy itself that all representations from stakeholders, including the public have been considered (see section 9(3) and (4) of the Ordinance); that information has been provided on how any adverse impacts have been minimised; and that mitigation measures have been identified. The final weighing of relevant considerations including objections and other representations will rest with the Commission. The Commission will need to be satisfied as to those matters set out in Section 9(5) of the Ordinance before granting the Licence or approval to Conditions.

The Commission will also consider the details required (as noted above) and take into account the response from health and safety inspectors appointed under the Health and Safety at Work (Alderney) Ordinance 2003 on the health and safety aspects of the proposed development.

All relevant consents required under any statute including the Law, Ordinance and a FEPA licence should be obtained before a Licence is granted or a Condition is approved.

The terms and conditions of the consent may, in accordance with sections 9 and 11 of the Ordinance:

- Require developers to provide monitoring information linked to the Environmental Statement and the Environmental Impact Assessment which the ES documented
- Require ongoing stakeholder engagement throughout the life of the project
- Include review clauses
- Require that data acquired during survey and operations are shared with the Commission, with appropriate safeguards for commercially sensitive data

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Appendix 1 - Criteria to be used to assess environmental impact *

	Ecological Effects	Socio-economic effects	Stakeholder concerns	Consequence for developers
MAJOR	Degradation to the quality or availability of habitats and/or wildlife with recovery taking more than 2 years <i>(e.g. widespread seabed excavations, erosion)</i>	Change to commercial activity leading to a loss of income or opportunity beyond normal business variability/risk Potential short term effect upon public health / well-being. Real risk of injury <i>(e.g. loss of important fishery area, dive site, creation of seabed or floating debris)</i>	Concern leading to active campaigning locally or wider a field (assessed against objective criteria) <i>(e.g. current national wind farm applications)</i>	Introduce measures to avoid these impacts wherever possible, closely monitor and control areas of residual impact
MODERATE	Change in habitats or species beyond natural variability with recovery potentially within 2 years <i>(e.g. seabed excavations in a small area)</i>	Change to commercial activity leading to loss of income or opportunity within normal business variability/risk Possible but unlikely effect upon public health/well-being. Remote risk of injury <i>(e.g. small exclusion area away from or small part of actively used areas)</i>	Widespread concern, some press coverage, no campaigning <i>(e.g. local small scale wind developments)</i>	Actively work to minimise scale of impacts
MINOR	Change in habitats or species which can be seen and measured but is at same scale as natural variability <i>(e.g. low level noise from devices)</i>	Possible interference with other activities and some minor influence on income or opportunity. Interference but no harm to public <i>(e.g. short term congestion at harbours)</i>	Specific concern within a limited group <i>(e.g. underwater noise affects on cetaceans)</i>	Be aware of potential impacts, manage operations to minimise interactions
NEGLIGIBLE	Change in habitats or species within scope of existing variability and difficult to measure or observe <i>(e.g. localised avoidance of structures by wildlife)</i>	Noticed by, but not interfering with other commercial activities. Noticed by but no effects upon the health and well-being of the public <i>(e.g. additional shipping at sea)</i>	An awareness but no concerns <i>(e.g. exclusion of sea user groups from non-critical sea areas)</i>	No positive intervention needed but ensure they do not escalate in importance
NO INTERACTION	None	None	None	Ensure changes to activities do not lead to new impacts
POSITIVE	An enhancement of ecosystem or popular parameter <i>(e.g. enhance biodiversity, save in CO2 emissions)</i>	Benefits to local community <i>(e.g. contract to use local skills and expertise on a project)</i>	Benefit to stakeholder issues and interests <i>(e.g. prospects of new jobs and local spending)</i>	Actively work to maximise specific benefits

*"Environmental Impact Assessment – Guidance for Developers at the European Marine Energy Centre", 2008

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APPENDIX 2

Impact Evaluation

1. Developers should identify which activities have the potential to cause impacts (column 1 in table below).
2. The basis for these impacts, including the mechanism involved and the environmental component affected should be described in column 2 of the table .
3. The significance of the impact based on the criteria in appendix 1, assuming a worst case impact i.e. with no mitigation or management measures in place, should be entered into column 3 of the table. Where there are uncertainties in the significance of the impact these should be noted.
4. Developers should identify management and mitigation measures that will be employed against each issue and list these in column 4 of the table.
5. The measures listed will allow assessment of the residual impacts that are anticipated to arise following implementation of the mitigation and management measures. Residual impacts should be rated using the criteria in Appendix 1 and entered into column 5 of the table.
6. Any residual impacts, ranked as moderate or major should be discussed in more detail in the main text of the ES document.
7. For any potentially significant impacts there will be a requirement to develop and implement appropriate monitoring programmes.

1	2	3	4	5
Identified activity	Prediction of potential impact	Potential impact significance	Proposed management and mitigation measures	Residual impact significance