



**West Lothian
Council**

COUNCIL EXECUTIVE

**SECURING THE BENEFITS OF SCOTLAND'S NEXT ENERGY REVOLUTION:
CONSULTATION RESPONSE**

REPORT BY HEAD OF PLANNING AND ECONOMIC DEVELOPMENT

A. PURPOSE OF REPORT

The purpose of this report is to provide the Council Executive with a draft response to the Scottish Government's consultation: *Securing the benefits of Scotland's next Energy Revolution*.

B. RECOMMENDATION

It is recommended that the Council Executive notes the content of the report and approves a response to the consultation for submission to the Scottish Government.

C. SUMMARY OF IMPLICATIONS

I Council Values	Being honest, open and accountable; working in partnership; making best use of our resources; and focusing on our customers' needs.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Responding to climate change is at the heart of Scottish Government policy to develop a sustainable economy in Scotland. It clearly links to the Council's Corporate Plan and West Lothian's Single Outcome Agreement.
III Resources - (Financial, Staffing and Property)	None.
IV Consultations	Due to the consultation deadline of 18 February, the report was unable to go to Environment PDSP. Consultation has taken place with officers from Planning & Economic Development and Finance & Estates.

D. TERMS OF REPORT

1.0 Background

This consultation is about the revolution of the low carbon economy and the potential of renewable energy to draw upon Scotland's natural resources and provide new economic activity and jobs, and help meet climate change targets.

The consultation focuses on having a structure in place to enable Scotland to receive a 'lasting legacy' from development of renewables on land and sea. Many bodies are involved in the existing structure including the Scottish Government, local authorities and, as a manager of the seabed, the Crown Estate Commissioners.

2.0 The Crown Estate Commissioners

The Crown Estate Commissioners manages the Crown Estate on a UK basis and are responsible to the UK Government. Surplus revenues are passed to HM Treasury. The consultation document indicates that Scotland will not directly receive a revenue stream from renewable off-shore energy resources as a result of this but will benefit indirectly.

3.0 Consultation Issues

The consultation seeks views on the following issues:

- In what ways can the legal framework, within which the Crown Estate Commissioners operate, be reformed to ensure greater accountability for the management of the Crown Estate in Scotland to the benefit of the people and the Government of Scotland?
- How can Scotland benefit fairly from the opportunities which will be created by the development of our renewable and low carbon energy sources?
- How can we enable local communities to enjoy substantial, long-term and tangible results?

4.0 Summary of actions proposed within the consultation

The consultation sets out five proposed actions as follows:

1. Bringing about a fundamental reform of the administration of the Crown Estate in Scotland so that it is more accountable to the views and wishes of the people and Government of Scotland and so that the revenues which the Crown Estate Commissioners receive from offshore low carbon energy projects benefit Scotland, in particular our coastal communities.
2. Setting up a Future Generations Fund to give all of Scotland a real stake in the development of renewable energy.

the development of renewable energy.

3. Ensuring communities benefit fairly from renewable energy developments by creating a publicly available register of community benefit. This would ensure greater transparency for land-based renewable development.
4. Enhancing community benefit within the planning system.
5. Maximising community benefit from renewables projects on property in Scotland owned by the public sector.

4.1 Summary of draft response

Officers have responded to relevant questions within the consultation on the proposed actions directed at the community benefit from any revenue gained as a result of renewable energy projects. The proposed response to these questions is attached in the appendix.

Questions 1(a), 1(b) and 1(c) have issues around the governance of the Crown Estate in Scotland. The current arrangements are noted in the response. Given the wider policy issues raised in these questions officers have not proposed a specific response.

In summary, officers agree that the creation of a Future Generations Fund would be beneficial where this is open to communities across Scotland and is based upon a guaranteed revenue stream over a long-term period. Officers also agree that a revenue stream from the Crown Estate to fund a Future Generations Fund would be desirable. Further to this officers agree that a 'register of community benefit' would create better transparency of the public benefits from renewable energy developments.

E. CONCLUSION

The move to a low carbon economy depends on the development of renewable energy within the UK and Scotland. The Scottish Government's consultation: *Securing the benefits of Scotland's next Energy Revolution*, seeks to consult on proposals relating to the development of renewable energy projects offshore and the associated revenue stream, which under existing structures, would benefit Scotland indirectly.

Officers agree with proposals in the consultation for a revenue stream from the Crown Estate, through renewable energy developments, to fund a Future Generations Fund and the benefits of this. Officers also agree with the proposal of a 'register of community benefit' which would better communicate to the public the community benefits of renewable energy developments.

F. BACKGROUND REFERENCES

Consultation: Securing the Benefits of Scotland's Next Energy Revolution
<http://www.scotland.gov.uk/Publications/2010/11/26094907/0>

Appendices/Attachments: one

Appendix 1 - Response to Consultation Questions

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Date: 8 February 2011

Securing The Benefits of Scotland's next energy revolution

West Lothian Council Response

Appendix 1: Response to consultation questions.

General Issues

The consultation seeks to answer the three questions below, and proposes Actions to address these. Officers answers are detailed under proposed Actions 1 - 5.

- How can Scotland benefit fairly from the opportunities which will be created by the development of our renewable and low carbon energy sources?
- How can we enable local communities to enjoy substantial, long-term and tangible returns?
- To what extent can these issues be addressed within the range of legislative powers currently held by the Scottish Parliament? Which changes to those powers are desirable if Scotland is to grasp the opportunity to the fullest extent possible?

Action 1: Reform of the administration of the Crown Estate in Scotland

Question 1a: In what ways can the legal framework within which the Crown Estate Commissioners operate be reformed to ensure greater accountability for the management of the Crown Estate in Scotland to the people and government of Scotland?

At present the Crown Estate Comissioners is manager of the seabed, and manages the Crown Estate on a UK basis and is responsible to the UK Government with surplus revenues passed to HM Treasury.

Question 1b: How could the administration of the Crown Estate in Scotland be made more accountable to Scotland's people, the Scottish Government and the Scottish Parliament?

The development of renewables draws on a collective resource and impacts on communities. It is important for communities to engage with, and benefit from, such developments.

Question 1c: Should the revenue stream enjoyed by the Crown Estate Commissioners as a result of offshore renewable energy and future Carbon Capture and Storage projects in Scottish waters be retained within Scotland?

Question 1d: Do you agree that the revenues from the Crown Estate in Scotland should be used to benefit Scotland at both a national and local level? How should the revenue be used to support local communities?

Answer: The revenue should be used to support a sustainability fund that communities can access.

Action 2: Creating a Future Generations Fund

Question 2a: Do you believe that the time is now right to create a Future Generations Fund?

Answer: Yes. The Climate Challenge Fund has offered communities in Scotland a start on projects that engage communities in supporting the low carbon economy, whether that is through behaviour change work or the installation of technology. A fund, such as the proposed Future Generations Fund, would provide a long-term funding stream which would be of benefit to communities in enabling positive environmental change to take place.

Question 2b: On what basis could the Future Generations Fund best be established?

Answer: Any fund should be a fund for long term investment. Assuming that a FGF achieves critical mass, then it could provide significant potential. The proposals cover immediate investment in areas like skills development relevant to the renewables sector, loans to community renewable projects, supply chain development and encouraging innovation. On most of these themes it is important that the fund is seen as benefiting the whole of Scotland and is not just focused on a limited number of geographic areas. Any training in renewables technology delivered via the fund for example should be available to a young person from anywhere in Scotland.

Question 2c: Should part of the revenues from the Crown Estate in Scotland be invested in the Future Generations Fund?

Answer: Revenues that are linked to renewable energy should be invested in the FGF as these will provide the long-term investment required. It is also beneficial as part of the cycle in a low carbon economy for low carbon revenue to support further low carbon opportunities.

Action 3: Creating a "register of community benefit"

Question 3a: Should a community benefit register, covering all renewables technologies, be placed on a statutory footing?

Answer: Yes. Publication of the community benefit levels that renewable energy developers offer, have offered or will offer is beneficial for local communities and will ensure greater transparency in such developments.

Question 3b: Which specific aspects of a development should it make reference to?

Answer: The initial establishment and the long-term nature of a development.

3c: Should information on existing community benefits flowing from operational onshore wind-farms be covered by these proposals for a register?

Answer: Yes.

Action 4: Enhancing community benefit within the planning system

Question 4a: Can the present arrangements within the planning system be developed to secure the benefits of Scotland's next energy revolution in a more creative way whilst maintaining the impartial and legal requirement for sound planning decision-making?

Answer: Yes in principle. The council could use Section 69 Agreements under the the Local Government (Scotland) Act 1973, that empowers local authorities to enter into agreements, which assists them in undertaking their statutory functions including restricting and regulating the use of land and buildings. However it is mostly applied in situations where a one-off obligation is required involving a single third party.

There could also be non monetary benefits accrued, for example, the West Lothian Local Plan in Paragraph 11.87 states that "Applications will require to be accompanied by method statements setting out the means of land management that will secure biodiversity objectives." This could lead to significant non financial benefits from a development, i.e. in the form improved biodiversity to an area.

There is also scope to secure some community benefits, but at the appropriate time in the application process i.e. after consent is granted. Some authorities have developed a policy to secure contributions from renewable energy development through a 'Renewable Energy Fund' (REF).

Question 4b: Is there merit in seeking to introduce a Statement of Community Benefit to accompany planning applications for wind-farm developments?

Answer: Yes, however, as with community benefits regarding opencast coal, this would not be a material planning consideration in the determination of a planning application, but would be a separate issue which should in no way influence the policy assessment of a case and its planning policy merits and assessment against other material planning considerations.

Action 5: Maximising community benefit opportunities from renewables project on Scottish property owned by the public sector.

Question 5: How can the public estate better be exploited to ensure greater community benefit from renewables? How best can this process be taken forward?

Answer: Although perhaps not a direct benefit to a community, nevertheless the council in the local plan also requires that a developer contributes monies to provide for an officer to help monitor such applications as set out below, to ensure developers proceed appropriately to the benefit of the community in general:

Monitoring of conditions

11.93 When planning permission is granted for a renewable energy project it is essential that the conditions imposed by the council or Scottish Ministers are met. As with the case for mineral and waste development, the council will require that renewable energy operators to finance the appointment by the council of a compliance assessor whose role will be to monitor the site and ensure that the terms of the planning permission and any agreement are met and that any complaint against the operations at the site is investigated.

Policy NWR 28:

The council will require the operators of a renewable energy development to finance the appointment, by the council, of a compliance officer to monitor the site during the currency of the planning permission.

However, there may be scope to introduce specific guidance on funding that any developer (even in public owned land) would require to contribute to. This could be agreed to come off the value of the land up front, or could be in the form of an ongoing tariff perhaps for the lifetime a wind farm is in operation, all secured by a legal agreement.

It would be helpful if all councils had SPG that made it clear to developers what they would be expecting to have to contribute to by way of community benefit contributions up front. Government guidance on this would also be helpful. Paragraph 186 in the Consolidated Scottish Planning Policy document provides some advice on this:

"186. A range of benefits are often voluntarily provided by developers to communities in the vicinity of renewable energy developments. These can include community trust funds. Such benefit should not be treated as a material consideration unless it meets the tests set out in Circular 1/2010 Planning Agreements."

Encouraging debate

Question 6: What other options are there for securing community benefit from renewables and other low carbon energy developments? Where should the revenue generated be directed and how should it be used?

Answer: The benefits should be directed through perhaps local community councils or other local groups such as community groups /sports groups / social groups etc, where benefits could be maximised to parties in the community affected by the development. Funding mechanisms should be accrued through for example set procedures set out in approved council

supplementary planning guidance where possible. There should be a party in the council who acts as the party who secures and disseminates the funding to community organisations to ensure fairness in the system of funding.