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Dear Lorne

Consultation response on Good Practice Principles for Shared Ownership of Renewable Energy Developments

Scottish Renewables is the voice of Scotland's renewable energy industry, working to grow the sector and sustain its position at the forefront of the global clean energy industry. We represent around 250 organisations working across the full range of renewable energy technologies in Scotland and around the world, from large suppliers, operators and manufacturers to small developers, installers and community groups, and companies right across the supply chain. The commercial health of Scotland's renewables sector is fundamental to meeting Scotland's 2030 50% renewable energy target and 2032 carbon reduction targets.

Summary of key points:

- We support the guidance overall.
- The guidance should make a clear distinction between shared ownership and community benefit, while allowing both to be offered as part of a flexible package of benefits.
- The guidance should clearly state that the net economic effects of shared ownership can be a material consideration. Otherwise, it may be preferable to remove the relevant section the Good Practice Principles and rely on existing published guidance.

The Scottish Government reiterated its commitment to shared ownership in its Energy Strategy and Onshore Wind Policy Statement published in December 2017, aspiring to ensure that by 2020 at least half of newly consented renewable energy projects have an element of shared ownership. As stated in the Energy Strategy, "Shared ownership will form a key part in helping to meet our targets of 1 GW

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of community and locally owned energy by 2020, and 2 GW by 2030. We expect community involvement in onshore wind development to continue to play a vital role in reaching these targets.”¹

This must be delivered against an increasingly challenging policy landscape for projects in development, which currently face a very uncertain future. The majority of all shared ownership projects have been delivered under the Renewables Obligation (RO), Feed-in Tariff (FiT) and Renewable Heat Incentive (RHI). The closure of the RO, and future closures of the FiT (April 2019) and RHI (April 2021) including tariff reductions and deployment caps, bring development risks for smaller-scale renewable electricity and heat projects.

This challenging operational landscape for project development is being compounded by sweeping regulatory reform across electricity networks, with a series of Ofgem proposals around grid charging potentially adding significant cost onto renewable projects, threatening the viability of existing sites and the deliverability of future projects. Additionally, there is currently no commitment from the UK Government to hold a future allocation round for “established technologies” (onshore wind, large scale solar PV and hydropower) under the Contracts for Difference (CfD) mechanism. The timing and form of community involvement in a shared ownership project must therefore be reflective of these risks.

Flexibility is a key component of the deliverability of shared ownership projects. No two communities are the same, and equally no two projects are the same. Capacity, risk appetite, viability and community aspirations will vary on a case by case basis. It is essential that renewable energy developers and communities retain as much flexibility as possible to develop shared ownership models that work for both parties given their individual circumstances. This is increasingly important given the uncertainties introduced through changes to revenue support as outlined above.

It is important to ensure that the approach taken towards shared ownership is one which allows communities and renewable energy companies to pursue models best suited to their circumstances. Allowing communities and companies to pursue any shape of shared ownership model is crucial. We therefore support the approach proposed in the Good Practice Principles (GPPs) that does not prescribe a particular model to be adopted.

Scottish Renewables recognises the benefits of enabling shared ownership. The renewables industry has a strong track-record of working closely with communities and many of our members are pioneering the delivery of shared ownership projects.

If you have any questions on the comments set out in this response, please do not hesitate to get in touch.

Yours sincerely,

Stephanie Conesa
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¹ <https://www.gov.scot/binaries/content/documents/govscot/publications/publication/2017/12/scottish-energy-strategy-future-energy-scotland-9781788515276/documents/00529523-pdf/00529523-pdf/govscot%3Adocument>

Consultation Questions

Question 1: Do you consider that the revised Good Practice Principles (GPPs) offer clear and practical guidance that will support the delivery of successful shared ownership schemes in Scotland?

Overall the guidance is balanced and reasonable and emphasises that different models will suit different communities and projects. However, there are some fundamental issues which will need to be addressed as set out in the rest of our response.

Question 2: Do you consider that the revised GPPs include sufficient detail on the investment risk? If not, how could this been enhanced?

Reference should be made to the risks associated with communities raising finance for their investment stake and how finance is secured, as this could be a key barrier. It is understood that the Renewable Energy Investment Fund (REIF) is potentially able to support communities in addressing this and further information should be signposted within the document.

In addition to raising finance, there will also be risks associated with revenue as this will not be a guaranteed figure.

The guidance should make clear that, given that the structure of shared ownership can widely vary, the risk profile of the investment can also vary. The risk profile of a project also varies throughout the development process and hence the timing of the investment is a key indicator of risk level. A few examples are set out as follows:

- If a community were to invest at the pre-planning stage, then it would carry consenting risk alongside the developer. However, the project value is likely to be lower (accounting for that risk) and therefore potentially more accessible to the community.
- If a community invested post-consent but pre-construction, it would carry construction risk alongside the developer. However, the community might be expected to pay a premium, given that a significant element of risk (i.e. consenting) has been removed.
- If a community were to invest post construction and during operation there would be significantly less risk. However, the developer could justifiably ask the community to pay on the basis of the full market value of the project, on the same basis as any other investor.

It may be useful to include some of these points in the guidance to manage community expectations and help clarify the risk profile vs value of a project. It would then be for communities and developers to work around that risk profile and “normal” financial practice, to establish an investment which works for both parties based on the timing of the investment opportunity, the community’s appetite for risk and the structure of the investment opportunity.

Advice on risk could also be clearer for developers by outlining the implications of not following Financial Conduct Authority (FCA) regulations. Developers should not be encouraged to provide financial information earlier than they are able to, particularly as it is a criminal offence to provide “bad” advice or incorrectly influence a community’s decision to invest.

Question 3: The revised GPPs now include a section on a Typical Shared Ownership Journey. Are there any additional details that you consider should be included?

Typical shared ownership journey

The example set out in the GPPs is not necessarily a “typical” shared ownership journey.

It would be useful to indicate the types of timescales that projects can take from initiation to commissioning. From our members’ experiences, it is not unusual for this process to be in excess of 10 years. It is important to note that timescales may not be concrete at the outset and may change at short notice or be delayed due to external factors (e.g. planning). Such delays may have an impact on community appetite to invest. This may particularly be pertinent if any delays overlap with change of personnel within a relevant community group.

The diagram in section 3.2 “Typical Shared Ownership Journey,” should be revised to show the project’s key development milestones alongside the engagement milestones (i.e. as parallel activities rather than as sequential with the community’s activities).

To avoid confusion for those unfamiliar with the planning system, the wording of key milestones on graphics on pages 12 and 17 should align. For example, there should be consistent terminology between “Planning Application Submitted” on page 12 and “Planning Submission” on page 17, as well as “Financial Close” on page 12 and “Financial Investment Decision” on page 17. We would suggest one graphic should be created to show the milestones and that it be consistently used throughout this document as well as the Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments.

Roles and responsibilities

Our comments on the table in section 3.3 are as follows:

- Different investment models will also suit different renewable energy developers. For example, a larger/ multi-national developer may be less likely to have flexibility on this.
- It is critical that the community appoint a project manager, as resourcing is likely to be challenging for a community except in extremely well-resourced communities.
- It should be made clear that the community can withdraw at any point from an option to invest, or any investment discussions, until the investment is made.
- If the community has control over the geographic area within which the shared ownership offer is made, then companies could face challenges if a net economic impact assessment is undertaken.

- It is unclear whether the geographical boundary is intended to be specific to discussions on community ownership or if it should be the same area as the consultation area for project engagement (we suggest both).
- The guidance suggesting holding a community ballot “to determine support for/ against proposal” should clearly state it refers to the proposal of shared ownership, not the development. At pre-planning stage it is too early to do either, except on the basic concepts
 - We question whether the local community should be holding such a ballot and suggest it may be preferable to hold this with the developer to gain trust from all sides. There have been many examples of outcomes being challenged due to lack of process.
- We would argue that the guidance that the offer “must comply with all relevant Financial Conduct Authority (FCA) rules and regulations” would be more relevant at Financial Close.
- The guidance that commercially sensitive information be given to communities by renewable energy companies should not be publicised on any public platforms should be removed. Communities should not expect any commercially sensitive information to be provided at the pre-planning application stage.
- We would argue against the suggestion that renewable energy companies should provide support to the community in forming a community action plan. Instead, communities should access the dedicated funding sources available to support this type of activity. Companies’ core business and skills are in renewable energy; therefore they are not best placed to provide the practical support required to develop a community action plan.
- Any community action planning should also link to the community benefit activity.

Timing of investment

Section 3.4 could be more specific in indicating the points in the development process when investment could take place. Renewable energy companies may be able to offer communities an “Option” to invest in a project at any time before the Final Investment Decision (FID). The community will not be able to make the actual investment until FID when the capital costs for the project have been finalised. Generally, it would be favourable for the community to do this later in the process as the risk for the community is lower, the finance is less costly and there is less of a resource burden. Not having to be involved as a percentage stakeholder during the pre-construction phase may lift the responsibility of becoming familiar with the complexity of renewable energy projects at an early stage. This should be set out in the guidance.

We agree with the guidance stating that “if the community intends to invest post-planning, an agreement of intent should be signed in advance of submission of a planning application (where appropriate).” The revised GPPs should advise that communities that do not make their interest in investment clear prior to consent (noting that commitment could be made later and agreement will not come into force until FID) may not be able to do so at a later stage; it should be recognised that the developer may have entered into other commitments that do not allow for shared ownership, or the terms may be less favourable.

We suggest that this section be titled “Timing of investment offer.”

Question 4: It is the intention to amend the guidance on a regular basis to ensure it reflects changes to policy and/or other relevant issues. How frequently do you consider this should happen – annually, every 2 years or other time period?

A stable policy framework is needed to provide confidence for developers and communities, therefore it should not be necessary to make significant amendments to the guidance “on a regular basis.” Instead, the guidance should be flexible enough to adapt to changing circumstances. Reviewing the guidance may be useful and should not be needed too frequently if it is flexible enough, but amendments should only be made if there is a significant shift in policy or other relevant issues.

We suggest the revised GPPs should be reviewed—not amended— annually to begin with whilst the updated guidance is explored and tested. Thereafter it would be appropriate to review the guidance every two years.

Question 5: Do you have any other views on the revised GPPs?

Rationale for shared ownership

Section 2.1 on Rationale is strong for all parties except developers. The benefits for developers in planning terms have been considerably diluted from the previous version of the GPPs. We would argue that the reasons for taking on shared ownership set out in the diagram at 2.1 are met through community benefit funding, and none form a compelling business case for additional investment in money and time in the economically challenging environment that renewable energy companies are currently operating in.

The GPPs state that shared ownership “opportunities are additional to community benefit provisions.” The guidance should clearly state that while community benefit is a voluntary offering, shared ownership is a risk-based investment that requires a legal agreement and an administrative body to be established within the community.

We would like to see the guidance developed such that community benefit and shared ownership can be offered as one voluntary package. There is a cost associated with delivering both models of benefits packages and being flexible in offering a combination would be welcome.

Establishing the geographical boundary and applicable community

We support the proposal that shared ownership could be made available to communities geographically further than the immediate project area, particularly where there is insufficient capacity in the local community to justify the establishment of shared ownership structures or where there is strong appetite to co-invest from a wider geographic area or by a community of common interest. However, there should not be an obligation on developers to offer this and we welcome this being stated clearly in the guidance. Where the shared ownership package is limited in size, it would be good practice to give a priority opportunity to local communities.

The draft guidance defines communities and community groups as follows (2018, pg. 29):

- Community of place: A community of people who are bound together because of where they reside, work, visit or otherwise spend a continuous portion of their time. Such a community can be a neighbourhood, town, work place, gathering place, public space or any other geographically specific place that a number of people share, have in common or visit frequently.
- A “community group” may refer to any number of member-led organisation types, and may not always be formally constituted, however to be a partner in a shared ownership project, a community group will have to take on a formal structure.
- The “community” is understood to include this range of views and opinions. The “community group” is used to refer to an organisation or entity which is actively engaged in discussions with a developer and exploring the opportunity for investment.

We propose including an additional “community of interest” category, which may have little or no geographical specification.

Community capacity

The guidance fails to address the availability of personnel to undertake the work on behalf of the community, in addition to skills and expertise, and that this resource is generally voluntary and limited as a result. Success is heavily dependent on the organisation and capabilities within a community. The pre-existence of a community council and community action plan is beneficial, but it is crucial that a wider range of local groups are encouraged and empowered to become active in the process. The guidance also fails to recognise the challenges faced by communities in receiving multiple offers of shared ownership, and practical steps for how this should be dealt with.

Roles and responsibilities

As set out in section 2.3, “communities should be aware that some of the detail may not be available pre-consent”. We suggest the document should emphasise the option to keep discussions at the pre-planning phase fairly high-level, with an overarching agreement of intent to use as a framework for more detailed discussions at later stages of project development. It would be helpful to include a short list of the typical type of information that could be expected to be available.

It should be set out clearly that the amount of information that a developer can share at a pre-planning stage is extremely limited. This should also include rationale setting out that developers are not able to share sensitive commercial information for several reasons. Commercial figures fluctuate throughout this period right up until contracts are in place for financing and commercial supply.

It is important that the GPPs help to manage expectations for the community as mistrust can arise when developers do not have the information requested, and communities may interpret this as withholding information.

Decision making

The guidance is clear that a scheme should be capable of achieving planning permission without a shared ownership offering. However, the explanation on net economic benefits as a material consideration is unclear.

The identity and commercial status of an applicant cannot be a factor in the determination of any planning application.² Shared ownership, therefore, is not and cannot be a material planning consideration. Under the same principle, shared ownership can also not be conditioned on any development through its consent. However, the ensuing socio-economic benefits of any development may be a material planning consideration.

Scottish Planning Policy (SPP) paragraph 28 states that “The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.”³ Paragraph 29 goes on to state that planning decisions should be guided by a number of principles including “giving due weight to net economic benefit.” This is a balancing exercise for the decision-maker and this guidance document should not seek to influence the weight to be attached to this one way or another.

Specifically in relation to energy infrastructure, paragraph 169 of SPP acknowledges that considerations will vary relative to the scale of the proposal and area characteristics but are likely to include “net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities”. Again, we suggest that the materiality of the net economic benefits of shared ownership is a consideration for the decision-maker and not a guidance document.

Section 4.2 of the guidance suggests that net economic benefit should be demonstrated where the planning decision is likely to be finely balanced. In our view most, if not all, renewable energy projects will meet this criterion.

As the materiality of net economic benefits of shared ownership has been considerably diluted from the previous version of the GPPs, renewable energy companies may now take a view that the minimal benefits to offering shared ownership are not worth the costs. There may be a reduction in shared ownership offerings as a result or lower percentage investment stakes offered instead.

The guidance should therefore explicitly state that the net economic effects of shared ownership can be a material consideration. National policy and advice from the Chief Planner are clear in this regard.^{4 5} As it is currently drafted, the guidance describes an interpretation of this advice whereby, if read in isolation, a decision maker could attribute little or no weight to the value of the net economic benefits of shared ownership when determining a development proposal.

² [Scottish Government Planning Circular 4/1998](#) paragraphs 91 and 92

³ <https://www.gov.scot/binaries/content/documents/govscot/publications/publication/2014/06/scottish-planning-policy/documents/00453827-pdf/00453827-pdf/govscot%3Adocument>

⁴ NPF para. 3.24, SPP para. 169 and the Onshore Wind Energy Policy Statement, Chapter 7.

⁵ Letter to Heads of Planning, dated 11th November 2015

Furthermore, while the section relates to decisions under the planning system, it makes no comment on developments being considered under Section 36 of the Electricity Act 1989. The decision-making framework and tests under the Section 36 process are quite different to the planning system and decision makers are not necessarily bound by the same legal constraints which they are in taking a decision under the planning system. The GPPs should recognise this distinction and provide advice to decision makers on how to treat developments which have an element of shared ownership under the Section 36 process.

It may be preferable to remove section 4 of the guidance in its entirety and rely on existing published guidance unless this section can be substantially rewritten.

At section 4.5 we suggest this section should apply to the “Decision Maker” rather than the “Planning Authorities.”

Commerciality

Section 5.1 states that "including an element of shared ownership in a renewable energy project should not reduce the economic viability of the overall project."

Increased administrative costs and reduced revenues associated with offering shared ownership do have an impact on project viability. In light of the current challenging economic climate that developers are working within, and the likely requirement for projects to be built on a merchant basis, the marginal nature of projects mean that additional costs do have an impact. Broad costs noted are as follows:

- Staff costs for increased community engagement, facilitating community meetings, progression of a shared ownership offering, financial modelling, administration, etc.
- Legal fees for a shared ownership agreement
- Full development costs (depending on whether the community pays a proportionate share)
- Most importantly, a reduction in the overall percentage investment opportunity and resulting revenues received.

Taller turbines

The guidance should make the point that larger wind farms and wind turbines will provide more generating potential and therefore greater potential profits for both the developer and community. As in the Scottish Government’s Onshore Wind Policy Statement (2017, pg. 5):

Improved efficiency benefits the consumer and provides a better basis on which to base a sustainable future for the industry. Efficiency is achieved through well-sited wind developments, harnessing energy where there is good wind resource – and using the latest technologies, including larger turbines where these are appropriate.⁶

In an environment where projects are competing with each other to provide the lowest cost energy and maximum returns, the ability to deploy taller turbines will play a significant role in determining the

⁶ <https://www.gov.scot/binaries/content/documents/govscot/publications/consultation-paper/2017/01/onshore-wind-policy-statement/documents/00513263-pdf/00513263-pdf/govscot%3Adocument>

success of any given project. If shared ownership is to work well for communities, their interests should be aligned with the developer and they should be seeking to maximise profits from the site.