

[REDACTED]

From: Palmer MR (Mike)
Sent: 10 April 2021 10:26
To: [REDACTED]
Subject: FW: ScotWind Portal message to registered applicants

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email: [REDACTED]@gov.scot
w: <http://www.gov.scot/marinescotland>

From: Palmer MR (Mike)
Sent: 19 February 2021 11:26
To: [REDACTED]@crownstatescotland.com>; [REDACTED] gov.scot>; Hogg A (Andrew) <Andrew.Hogg@gov.scot>
Cc: [REDACTED] gov.scot>; [REDACTED] gov.scot>; [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; Simon Hodge <simon.hodge@crownstatescotland.com>; [REDACTED]@crownstatescotland.com>; [REDACTED]@crownstatescotland.com>
Subject: RE: ScotWind Portal message to registered applicants

Thanks [REDACTED] I think this looks reasonable. We are not binding ourselves to a timeframe (which is important) but providing a guide of what we expect on current knowledge. If we were then able to apply a closing date before 30 May would that be seen as a positive by the sector or possibly viewed as moving the goalposts again because they had then all re-scheduled to complete after May? I guess we can judge that when setting a new date (and of course it's only a consideration if CES were able to set a date before the end of May.)

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From: [REDACTED] <[\[REDACTED\]@crownstatescotland.com](mailto:[REDACTED]@crownstatescotland.com)>
Sent: 19 February 2021 10:25
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Palmer MR (Mike) <Mike.Palmer@gov.scot>; Hogg A (Andrew) <Andrew.Hogg@gov.scot>
Cc: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Simon Hodge <simon.hodge@crownstatescotland.com>; [REDACTED] <[\[REDACTED\]@crownstatescotland.com](mailto:[REDACTED]@crownstatescotland.com)>; [REDACTED] <[\[REDACTED\]@crownstatescotland.com](mailto:[REDACTED]@crownstatescotland.com)>
Subject: ScotWind Portal message to registered applicants

Hi all

Please see below a message that we intend to send to SWL registered applicants via the ScotWind portal on Monday. It is in direct response to a number of concerns which have been raised by applicants regarding the uncertainty around the potential length of delay to the deadline for applications. Although we are not able to confirm a new closing date until after the review is completed, we feel we have to let them know that it is highly unlikely the new date will be either April or May. This is to help them with workforce planning and specifically with the management of teams and resources that developers are continuing to have in place focused purely on finalising SWL applications.

As planned, we will send round a further update to applicants as soon as we are able to confirm what the new deadline will be.

Any questions let us know.

Thanks

[REDACTED]

Following our decision to review the option structure for ScotWind Leasing, we have already confirmed that the deadline for applications will now be later than the original date of 31 March 2021 and have committed to confirming the new closing date on completion of the review , which is targeted for 24 March 2021. Although we are not able to confirm the new closing date until then, we are also aware of the need to ensure applicants are able to plan activities and resource allocation, and as such, we wish to confirm that we do not currently envisage the new closing date being during either April or May 2021.

As soon as we are able to provide more detail as to the exact date of the new deadline, we will do so.

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[REDACTED]

From: Palmer MR (Mike)
Sent: 10 April 2021 11:01
To: [REDACTED]
Subject: FW: Advice to Ministers: CES Board Position on Scotwind
Attachments: Advice to Scottish Ministers CES Board Final ScotWind Position 080321.pdf

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email: mike.palmer@gov.scot
w: <http://www.gov.scot/marinescotland>

From: Palmer MR (Mike)
Sent: 08 March 2021 09:00
To: [REDACTED]@gov.scot>; Hogg A (Andrew) <Andrew.Hogg@gov.scot>
Subject: FW: Advice to Ministers: CES Board Position on Scotwind

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email: mike.palmer@gov.scot
w: <http://www.gov.scot/marinescotland>

From: [REDACTED]@crownstatescotland.com>
Sent: 08 March 2021 08:58
To: Director of Marine Scotland Mailbox <Directormarinescotland@gov.scot>

Cc: Palmer MR (Mike) <Mike.Palmer@gov.scot>; Simon Hodge <simon.hodge@crownestatescotland.com>
Subject: Advice to Ministers: CES Board Position on Scotwind

Annabel

As promised, I now attach the CES Board position in relation to the ScotWind Rapid Review. We would wish that our position in full is provided to Ministers as it is important that Ministers are fully informed of our thinking. Can you please confirm that this will be the case, thank you?

Should you, your colleagues or indeed Ministers wish to speak to myself or any of the team for clarification in any of the points raise please do not hesitate to contact me.

Best

[REDACTED]

[REDACTED]

Chair, Crown Estate Scotland

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[Redacted]

From: Palmer MR (Mike)
Sent: 10 April 2021 10:55
To: [Redacted]
Subject: FW: ScotWind: legal questions

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From: Palmer MR (Mike)
Sent: 05 March 2021 09:13
To: 'Simon Hodge' <simon.hodge@crownestatescotland.com>
Cc: [Redacted]@crownestatescotland.com>; [Redacted]@gov.scot>
Subject: ScotWind: legal questions

Hi Simon,

With regard to legal risks, we've put together some questions below for your consideration which reflect our key concerns regarding legal risk in relation to ScotWind. Our intention here is to share with you the questions which arise for us around legal risk and ensure you can take them fully into account in your considerations.

As you know, we'll be finalising the cabinet paper this weekend for circulation to Ms Cunningham on Monday so it would be great to receive before Monday any legal views that CES has in relation to these questions or other legal aspects which you feel should be reflected in that paper.

Duty to Obtain Market Value

[Redacted]

[Redacted]

[REDACTED]

Comment is made in the submission that leasing revenues from the longer term rental agreements broadly aligned in both R4 and ScotWind at around 2% of generating incomes so the rental to be paid under the future leasing agreements does not seem to be in question at present, [REDACTED]

Question one – [REDACTED]

[REDACTED]

Question two – [REDACTED]

Section 11(2) allows a manager to exercise discretion to depart from the duty in section 11(1) and make a relevant transaction for consideration of less than market value or no consideration when it is likely to contribute to the promotion or improvement in Scotland of specified socio-economic or environmental factors:- (a) economic development, (b) regeneration, (c) social wellbeing, (d) environmental wellbeing, or (e) sustainable development. [REDACTED]

[REDACTED]

Question three –

3(i) [REDACTED]

3(ii) [REDACTED]

3(iii) [REDACTED]

Question four - [REDACTED]

In complying with this general duty, the manager must:

- (a) act in the way best calculated to further the achievement of sustainable development in Scotland, and
- (b) seek to manage the assets in a way that is likely to contribute to the promotion or the improvement in Scotland of (i) economic development, (ii) regeneration, (iii) social wellbeing, (iv) environmental wellbeing.

Question 5 - [REDACTED]

The Round 4 process resulted in bids at unexpectedly high levels on an open market basis. The market value of any asset can reasonably be taken to be the price that a willing seller would be prepared to pay for that asset in an open, unconditional process. [REDACTED]

Question six -

6(i) [REDACTED]

6(ii) [REDACTED]

6(iii) [REDACTED]

Many thanks.

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[REDACTED]

From: Palmer MR (Mike)
Sent: 10 April 2021 11:02
To: [REDACTED]
Subject: FW: Advice to Ministers: CES Board Position on Scotwind

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email: mike.palmer@gov.scot
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From: Palmer MR (Mike)
Sent: 08 March 2021 10:33
To: Director of Marine Scotland Mailbox <Directormarinescotland@gov.scot>; [REDACTED]
[REDACTED]@gov.scot>
Subject: RE: Advice to Ministers: CES Board Position on Scotwind

Yes we'll put it in as an annex. Just to note that it assumes Ministers are taking the decision here, not CES. It's a slightly moot point given the power of direction but formally the decision lies with CES *unless* Ministers use their power of direction, so we'll want to clarify that with them when we respond.

NB: We've asked SGLD for their view on the legal points it makes.

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email: mike.palmer@gov.scot
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From: Director of Marine Scotland Mailbox <Directormarinescotland@gov.scot>
Sent: 08 March 2021 10:25
To: Palmer MR (Mike) <Mike.Palmer@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>
Subject: FW: Advice to Ministers: CES Board Position on Scotwind

Can we confirm to [REDACTED]? I haven't had a chance to look yet but I think it seems reasonable.

From: [REDACTED] <[REDACTED]@crownstatescotland.com>
Sent: 08 March 2021 08:58
To: Director of Marine Scotland Mailbox <Directormarinescotland@gov.scot>
Cc: Palmer MR (Mike) <Mike.Palmer@gov.scot>; Simon Hodge <simon.hodge@crownstatescotland.com>
Subject: Advice to Ministers: CES Board Position on Scotwind

Annabel

As promised, I now attach the CES Board position in relation to the ScotWind Rapid Review. We would wish that our position in full is provided to Ministers as it is important that Ministers are fully informed of our thinking. Can you please confirm that this will be the case, thank you?

Should you, your colleagues or indeed Ministers wish to speak to myself or any of the team for clarification in any of the points raise please do not hesitate to contact me.

Best

[REDACTED]

[REDACTED]

Chair, Crown Estate Scotland

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[REDACTED]

From: Palmer MR (Mike)
Sent: 10 April 2021 11:09
To: [REDACTED]
Subject: FW: Advice to Ministers: CES Board Position on Scotwind

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email: mike.palmer@gov.scot
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From: Palmer MR (Mike)
Sent: 08 March 2021 14:22
To: [REDACTED]@crownstatescotland.com>; Director of Marine Scotland Mailbox <Directormarinescotland@gov.scot>
Cc: Simon Hodge <simon.hodge@crownstatescotland.com>
Subject: RE: Advice to Ministers: CES Board Position on Scotwind

Hi [REDACTED]

My apologies for not responding before now. Thank you very much for sending this through. I can confirm that it will form part of the advice to the Cabinet and will be included in its entirety.

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From: [REDACTED] <[REDACTED]@crownestatescotland.com>
Sent: 08 March 2021 08:58
To: Director of Marine Scotland Mailbox <Directormarinescotland@gov.scot>
Cc: Palmer MR (Mike) <Mike.Palmer@gov.scot>; Simon Hodge <simon.hodge@crownestatescotland.com>
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[REDACTED]

[REDACTED]

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[redacted]@gov.scot>; [redacted]@gov.scot>; [redacted]
[redacted]@gov.scot>

Subject: IMMEDIATE: draft letter to CES Chair

Cabinet Secretary,

I attach for your clearance a draft letter for you to send to the Chair of Crown Estate Scotland (CES) with regard to the conclusion of the ScotWind rapid review, which we expect will be announced by CES at around 3pm this afternoon. This letter is for issue at or before the point of announcement.

I note comms colleagues have submitted a draft quote for insertion into the CES press release.

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