

10 June 2024

Lodged via email to offshorerenewables@dcceew.gov.au

Submission in response the *Guideline: Offshore Electricity Infrastructure Licence Administration – Feasibility Licences and Transmission & Infrastructure Licences*

The Clean Energy Council (CEC) welcomes the opportunity to make a submission to the Department of Climate Change, Energy, the Environment and Water (the Department) on the *Guideline: Offshore Electricity Infrastructure Licence Administration – Feasibility Licences and Transmission & Infrastructure Licences* (the Guidelines) and the *Application Content Guide: Transmission & Infrastructure Licences* (the Content Guide).

The CEC is the peak body for the clean energy industry in Australia, working with close to 1,000 of the leading businesses operating in renewable energy and energy storage. As the peak industry body for offshore wind, we represent 67 companies that are actively contributing to developing offshore wind in Australia, including many of the companies recently awarded Feasibility Licences in the Gippsland region.

We are committed to accelerating Australia's clean energy transformation and recognise the critical role offshore wind will play in decarbonising the nation's electricity network. Offshore wind also creates a significant opportunity for investment and economic development: benefits will flow directly from the construction and operation of projects that feed electricity into Australian grids, while also supporting the growth of a hydrogen export industry, which has the potential to contribute to significant amounts of export revenue as our exports of coal and gas decline.

This submission will provide feedback on key areas of concern with the Guidelines and the Content Guide as well as some supporting recommendations for consideration by the Department.

Guideline: Offshore Electricity Infrastructure Licence Administration – Feasibility Licences and Transmission & Infrastructure Licences

Firstly, we would like to acknowledge volume of work the Department and the Offshore Infrastructure Regulator (OIR) are producing to support the development of the offshore wind industry in Australia. The depth and complexity of establishing a new industry is immense, and we welcome all opportunities to support the development of necessary guidelines and regulations.

We also recognise the importance of diligent and rigorous planning and approvals processes. As in any good process there will be some projects rejected or delayed on environmental grounds, which is all part of a robust planning system.

We feel confident that Australian offshore wind proponents recognise their obligations to comply and act in accordance with these Guidelines, as with all sections of the Offshore Electricity Infrastructure (OEI) Act. However, to support this, we need to ensure that the Guidelines are free of ambiguity and fit for purpose and structured to work in alignment with the industry.

In relation to the Guidelines and supporting Content Guide, we are however concerned with several instances of repetition of work and the process being a close loop that, making the Transmission and Infrastructure Licence (TIL) process infeasible for the delivery of the offshore wind industry.

Feasibility requirements and the TIL Application process

A key concern in the Guidelines is with the requirements that must be met, or actions completed before a successful application of a TIL. We have interpreted this process to be a closed loop, meaning that in order to satisfy the criteria in the application for a TIL, you first need a TIL to enable you to complete the necessary works (e.g., survey works of the seabed to determine suitable corridor).

Similarly, we also have concern with the timing and structure of the application process for the TIL and Commercial Licence. We see the current requirement of having a TIL prior to submitting a design notification and management plan, and the subsequent Commercial Licence, means that a TIL application – as the final and only hurdle for transmission and infrastructure licencing – is done in advance of the project reaching suitability to apply for a Commercial Licence.

Section 7.5.4 details that a minimum, proponents 'should provide the following information in relation to the description of the offshore infrastructure project for the TIL', which includes design voltage, burial depth, cable system and placement, and design, construction and operating standards to be applied for the transmission and supporting infrastructure. However, it is our understanding from the Guidelines that the TIL is first required to complete necessary feasibility works to determine many of these requirements listed under section 7.5.4.

We also note that given the specialised vessels and technical experts required for geotechnical and geophysical surveys for both the area of the offshore wind farm area and the transmission corridors, surveys for both areas must be completed in unison. With the requirements detailed in the Guidelines, it is very difficult if proponents must receive their TIL before completing these works and thus unable to complete these works in unison.

We see this specific issue with the Guidelines as critical to overcome to enable the TIL process to be rectified – essentially the Department must determine how to open the loop and make the TIL process a linear one.

One recommendation is that there is an interim process considered to support proponents to complete feasibility works for transmission corridors, ahead of application for a TIL – such as seen with the application for a Feasibility Licence followed by application ahead of a Commercial Licence. For example, in the USA, licences are not required for completion of these early survey works, following approval of a management plan.

The CEC and our Members would welcome any opportunity to collegiately work with the Department and the OIR to resolve this.

It is not feasible for proponents to submit a comprehensive design for their transmission and infrastructure without having first completed necessary geotechnical and geophysical surveys of the area. While we are hesitant to introduce more stage gates to this process, it does seem necessary to have permits granted for feasibility works in early-stage transmission corridors granted ahead of the final FIL application process.

Repetition of Merit Criteria

In the Guidelines, section 7.6.1 outlines the merit criteria that must be met to be granted a TIL, however there is no consideration for the merit already proved by holders of a Feasibility Licence which included transmission and infrastructure requirements for the **whole of project** application. We would recommend consideration for proponents applying for a TIL who have already been granted a Feasibility Licence and thus merit has been proved for transmission and infrastructure requirements (requirements as outlined in sections 7.6.4 to 7.6.10).

We also note section 7.2.1, that outlines that if the licence holder intends to transmit electricity generated from an offshore infrastructure project, then TIL applications should only be submitted once a Feasibility Licence has been granted, as otherwise the TIL application may fail the merit criteria. Given this consideration, we would see then that there should be an additional provision for approval of a TIL when submitted in conjunction with an already approved – and merit proven – Feasibility Licence application given proponents consider their projects to be one single project, not segregated by the wind farm and the transmission.

Furthermore, we see with relation to the merit criteria requirement for a TIL there are multiple instances of double counting and repetition in the Guidelines. For example, section 7.6.8 lists merit-based criteria which requires proponents to detail route-to-market and estimated commercial return to the licence holder, and section 7.6.10 in relation to the licence being in the national interest.

For consideration with the previously raised issue of the closed loop process, any additional process should ensure it works in conjunction with the Feasibility Licence and merit proven to streamline the approvals process.

While we appreciate the TILs and the supporting legislation is designed to support not just offshore wind projects, when a TIL is linked to an existing Feasibility Licence, the merit already proven is considered as satisfactory. In order to support this industry to grow, removing any green-tape and delays to the process is imperative.

Financial Capability

The requirement for a conditional deed of guarantee of 150% of the estimated costs of the proposed works for the next 12 months of the licence term will see a double counting of costs, as when applying for a Feasibility Licence, proponents have and will consider the whole of project development costs, including transmission and infrastructure.

For proponents who hold a Feasibility Licence, there should not be a requirement for an additional conditional deed of guarantee of 150%, other than what has already been considered through the Feasibility Licence deed itself.

Licence Area

As outlined in Section 7.5.7 of the Guidelines, the proposed licence area must include any proposed corridor or spacing around a cable with the corridor or spacing should not exceeding 3 x water depth on either side of a cable.

This area (3 x water depth either side) is quite narrow comparative to other markets and is not suitable for all use cases. For example, during decommissioning where larger corridors are required than the installation period.

It is also restricting to define the corridor without having first completed geophysical surveys. Similarly, the Guidelines do not provide mitigations for when unexpected rerouting is required around areas not suitable for cable laying. For example, reefs, unmoveable obstacles or unexpected significant discoveries. Therefore, larger corridor areas to accommodate in the first instances and/or variation of corridor widths throughout the project development phases would be recommended, as well as allowance for larger areas to be initially granted with expectation these will narrow following necessary survey works.

Additionally, it is also unclear how the depth is measured (from which point, noting closer to shore the depth will reduce) and we would ask for clarification on this measure. We would note that for oil and gas pipeline corridors, the width of corridors is maintained regardless of water depth.

Award of multiple FILs and overlaps

Following on from the above, we would recommend consideration on how proponents who have successfully applied for more than one FIL return unused corridors, once it's determined their project will not be requiring that area of seabed. We foresee instances where proponents may apply for several FILs – for example, if they are yet to determine if they will connect their windfarm to shore via several HVAC transmission cables or a single HVDC cable, which would see them either needing several corridors or just the single one.

If this was the case, proponents may be granted several FILs, and then determine only one is required but choose to withhold the licences areas of seabed they are not using from others. We would recommend considerations for ensuring this does not occur, and proponents being required to relinquish their unused FILs to avoid land banking.

We would also welcome further guidance regarding overlapping and proximity of corridors between proponents.

Impact on auction on timeframes

Given the concerns with the circularity of this process (requirement to have certain data before applying for FIL, however, cannot obtain data without FIL) we are concerned that this process has the strong potential to negatively impact on timing for proponents participating in auction processes.

This concern is most specifically for proponents in the Gippsland region, with the Victorian Government planning intending to open expressions of interest for procurement of their 2GW of offshore generation from the Gippsland offshore wind region in quarter 4 this year.

To enable proponents to be provide the most comprehensive and competitive bids in this process, clarify on the licensing and survey processes is essential.

General feedback

Further to the above feedback, some of the language and phrases through the Guidelines are subjective and open to interpretation, such as 'reasonable', 'sufficient' and 'adequate'. Further guidance would be welcomed to ensure compliance, reduce consultancy fatigue and support TIL Applications to be successful and reduce need for revisions.

We appreciate that, as done previously, the Department and the Regulator may provide further guidance through explanatory memorandums, and welcome clarification on the points raised throughout this paper.

As always, the CEC welcomes further engagement from the Department to discuss any of the information presented in this submission. Further queries can be directed to Morgan Rossiter at the CEC.

Kind regards,

Morgan Rossiter

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