

19-21 Broad Street | St Helier
Jersey | JE2 4WE

Connétable Mike Jackson
Chairman
EH&I Scrutiny Panel
BY EMAIL

22 January 2021

Dear Mike

Re: Draft Wildlife (Jersey) Law 202- [P.110/2020]

Thank you for your letter dated 13 January 2021 in relation to my response dated 8 January 2021 on the same topic.

Since my last letter, my Assistant Minister, Deputy Gregory Guida and officers from Natural Environment have continued to meet with representatives of the farming industry. Following our discussions, these representatives are now in agreement with all the points that the Panel raised in your previous letter, being the proposed amendments to the Draft Wildlife (Jersey) Law 202- (the Law), clarity and changes to the Branchage guidance¹ and other concerns that the Panel raised. I thank you for bringing these to my attention and giving me the opportunity to bring clarity and resolution.

I note from your letter that that you further suggest that all the guidance is available for States Members to review before the debate on 9 February. There are several considerations that will prevent us doing this and it would be helpful to explain these;

1. The list of guidance documents is numerous and extends from bats, marine species through to birds and invertebrates. Producing these prior to the debate would delay this much needed law and our ability to protect the island's wildlife by at least 12 months.
2. It would not be beneficial to fast track the guidance in that a detailed process is already underway and it is important to provide enough time for proper consultation with stakeholders etc., as required by the Law, and critically the sequential publication of Tier 1 to 4 guidance as outlined in my previous letter.
3. Art 51 (1) states that the Minister may from time to time issue guidance. There is no requirement under the draft law for these to be issued at the time of debate or indeed at all. Guidance under the law is usually issued through a Ministerial Decision and does not usually form part of any paperwork accompanying the debate of principal legislation.
4. The Law allows for the Minister to amend or revoke guidance at any time being that guidance will change given best practise and pressures on our wildlife. Thus, the guidance that could be made available to States Members could become quickly outdated.

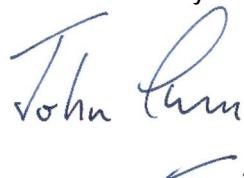
¹ The changes to Branchage Guidance has been forwarded to the Branchage Group for comment being that they represent a wide range of stakeholders and they drafted the original document.

5. The Law requires that the Minister must consult with such persons as appear to the Minister to be appropriate. The views of such persons will take place then.
6. Guidance is not in itself legally binding. Compliance with the guidance however will constitute a defence of 'due diligence' in circumstances that may otherwise amount to an offence under the Law.

As mentioned in my previous letter, I support your views that practical guidance to promote good practices towards the aim as set out in the law is important. Given the above, I would like to suggest a compromise in that all of Tier 1 guidance and priority Tier 2 guidance will be finalised by the time the law is enacted (expected August 2021 after Privy Council review etc). I am also pleased the agreement on the draft branchage guidance has been achieved by farmers, although this is rightly subject to review by the stakeholders in the Branchage Group.

I hope this response is of some assistance.

Yours sincerely



Deputy John Young
Minister for the Environment

D +44 (0)1534 440540
E j.young@gov.je