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**Beatrice Offshore Wind Farm and Offshore Transmission Works  
Application for Marine Licences and Section 36 and 36A Consents**

Beatrice Offshore Windfarm Limited ("BOWL") is a joint venture company with 75% of its share capital held by SSE Renewables Holdings (UK) Limited and 25% held by Repsol Beatrice Limited (a wholly owned subsidiary of Repsol Nuevas Energias UK Limited). BOWL hereby submits an application for marine licences pursuant to Section 20 of the Marine (Scotland) Act 2010 (the "2010 Act") and Sections 65 & 66 of the Marine and Coastal Access Act 2009 (the "2009 Act") for the deposit of substances and objects and the construction, alternation or improvement of works within the Scottish Marine Area and the Scottish Offshore Region ("Marine Licences") in relation to the Wind Farm and Offshore Transmission Works; and consent under Section 36 of the Electricity Act 1989 (the "1989 Act") for the construction and operation of a Generating Station ("Section 36 Consent"); and under Section 36A of the 1989 Act to extinguish public rights of navigation so far as they pass through those places within the Scottish Marine Area where structures (but not, for the avoidance of doubt, the areas of sea between those structures) forming part of the Wind Farm and Offshore Transmission Works are to be located ("Section 36A Consent") (together the "Application"). The Wind Farm, Offshore Transmission Works, scope of the Section 36 and Section 36A application and the construction works to which this Application relates are as described in the sections below.

The Onshore Transmission Works will be subject to a separate application for planning permission under the Town and Country Planning (Scotland) Act 1997.

**Subject of the Application**

1. Wind Farm

The proposed Wind Farm is situated approximately 13.5 km from the Caithness coastline, at its closest point, and lies entirely within the Scottish Marine Area (as such term is defined in the 2010 Act).

The Wind Farm comprises:

- a) up to 277 wind turbine generators sufficient to generate up to 1,000 MW, spaced no less than 600 m apart with a maximum height to blade tip of up to 198.4 m (from LAT) and a minimum blade clearance of 25.4 m (from LAT);
- b) inter-array cables;
- c) up to three meteorological masts;
- d) metocean equipment; and
- e) all foundations, substructures, fixtures, fittings, fixings, protections and cable crossings.

## 2. Offshore Transmission Works

The proposed Offshore Transmission Works comprise up to three subsea export power cables, depending on the final Wind Farm design, approximately 65 km in length. They will be either High Voltage Direct Current (HVDC) or High Voltage Alternating Current (HVAC). The cables will transmit the power produced by the Wind Farm to a new onshore substation at Blackhillock which is required to connect to the National Grid, where the cables reach Mean High Water Spring (MHWS) they become part of the Onshore Transmission Works. The proposed Offshore Transmission Works also include up to three offshore substations and all foundations, substructures, fixtures, fittings, fixings, protections and cable crossings.

The majority of the Offshore Transmission Works lie within the Scottish Marine Area however, a proportion lies beyond the 12 nm limit in the Scottish Offshore Region (as such term is defined in the 2009 Act) (see accompanying application form location plans).

## 3. Section 36 and Section 36A Applications

The Generating Station to which the Section 36 Consent application relates to comprises the wind turbine generators and inter-array cables forming part of the Wind Farm.

The structures to which the Section 36A Consent application relates comprise; the wind turbine generators, meteorological masts and metocean equipment (including foundations and substructures) forming part of the Wind Farm together with the offshore substations (including foundations and substructures) forming part of the Offshore Transmission Works.

Section 36 and 36A consents are required for the operational life of the Wind Farm and Offshore Transmission Works.

4. Construction Works

The proposed offshore construction works are associated with Items 1 and 2 above and include:

- a) excavation for foundations;
- b) transportation of construction materials;
- c) construction of foundations and turbine bases;
- d) transportation and erection of turbines;
- e) construction of substations;
- f) installation of inter array cables;
- g) installation of subsea export power cables;
- h) construction of meteorological masts; and
- i) installation of metocean equipment.

**Documentation Enclosed and Application Fee**

- 5. BOWL has been in correspondence with MS-LOT since October 2011 regarding compliance with MS-LOT's checklist for Submission. The below list is understood to be a complete list of all required submission documents.
- 6. Five hard copies of the following are enclosed:
  - a) Environmental Statement Volume 1: Main Text;
  - b) Environmental Statement Volume 2: Figures;
  - c) Environmental Statement Volume 3: SLVIA Figures;
  - d) Environmental Statement Volume 4: Technical Annexes; and
  - e) Environmental Statement Non Technical Summary (NTS).
- 7. One hard copy of the following are enclosed:
  - a) completed and signed Marine Licence application form for the Wind Farm;

- b) completed and signed Marine Licence application form for the Offshore Transmission Works;
  - c) project Location Plan for the Wind Farm (as per section 6 of Marine Licence application form) and list of coordinates;
  - d) project Location Plan for the Offshore Transmission Works (as per section 6 of Marine Licence application form) and list of coordinates;
  - e) Pre-Application Consultation (PAC) Report;
  - f) Planning Statement; and
  - g) Press Notice (hard copies of notices will be forwarded to MS-LOT once published).
8. We also enclose 10 DVDs which contain copies of the Application Forms, Location Plans, Coordinate Lists, Press Notice, Environmental Statement, PAC Report and Planning Statement.
9. Fees for the sum of £50,000 for Section 36 Consent for the Wind Farm; £30,000 for the Marine Licence for the Wind Farm and £30,000 for the Marine Licence for the Transmission Works have been submitted by cheque to the Scottish Government.

### **Application Requirements**

10. The Application seeks Consent and Licences for the development described above and in full in Section 7 of the Environmental Statement titled "Project Description".
11. Once constructed, all or most of the Offshore Transmission Works will be transferred to a new Offshore Transmission Networks Owner, which will be appointed in a process which normally takes over 12 months and is likely to run in parallel to the construction of the Project. It is not yet clear exactly which assets will be transferred to the Offshore Transmission Networks Owner.

The following matters are relevant to the Scottish Ministers' determination of the Application.

### **Environmental Impact Assessment**

12. Regulation 10(1)(b) of the Marine Works (Environmental Impact Assessment) Regulations 2007 (the "2007 Regulations") allows the Scottish Ministers to determine that an EIA is not required under those regulations where an EIA is being, or has been, carried out under other regulations which is sufficient to meet the requirements of the EIA Directive. Following MS-LOT's letter of 4 November 2011, BOWL has decided to carry out an EIA which covers all parts of the Wind Farm and Offshore Transmission Works pursuant to both the Electricity

Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (the “2000 Regulations”) and the 2007 Regulations.

13. The 2000 Regulations prohibit consent from being granted unless the environmental information, as defined in those Regulations, has first been taken into consideration. In particular, Regulation 4(2) requires that the Scottish Ministers may not grant a Section 36 consent unless they have taken into consideration the environmental information and state in their decision that they have done so.
14. Under the 2007 Regulations, the Scottish Ministers, in reaching their decision on the application for Marine Licences, must do so on the basis of, *inter alia*, the Environmental Statement and must take into account the direct and indirect effects of the project on:
- a) human beings, fauna and flora;
  - b) soil, water air, climate and the landscape;
  - c) material assets and the cultural heritage; and
  - d) the interaction between any two or more of the items listed above in 12 (a), (b) and (c).
15. When providing written confirmation of their decision on the Marine Licences application, the Scottish Ministers must also include a reference to the environmental information that they took into consideration and, if giving consent, must describe any measures that must be taken in consequence of the decision:
- a) to avoid, reduce and, if possible, offset the principal adverse effects of the Wind Farm and Offshore Transmission Works; and
  - b) to monitor the risk of the Wind Farm and Offshore Transmission Works having any such effects, the extent of any such effects, or the effectiveness of any measures for the purposes in 13 (a).

#### Habitats Regulations Assessment

16. The Conservation of Habitats and Species Regulations 2010, the Conservation (Natural Habitats, &c.) Regulations 1994 and in relation to the Scottish Offshore Region, the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 require a consideration of whether the Wind Farm or Offshore Transmission Works would be likely to have a significant effect on a European site or a European Offshore site, as defined therein (i.e. Habitats Regulation Assessment) and, if yes, then an Appropriate Assessment is required.

17. A separate study to support the Habitat Regulations Assessment is being undertaken by BOWL and will be submitted separately to the Environmental Statement (A Report to Inform an Appropriate Assessment). This study will identify all relevant European sites and consider the potential impact of the Project on the integrity of these European sites. The information to inform an Appropriate Assessments is set out in the study, together with the information and analysis necessary to confirm that these are the only Appropriate Assessments required.

#### Navigational Risk Assessment

18. Section 36B(1) and (2) of the 1989 Act requires that the Scottish Ministers undertake a two stage consideration of certain matters in relation to navigational safety before granting consent for an offshore wind farm.

19. As a first stage 36B(1) must be considered. This sub-section requires the Scottish Ministers to refuse to grant Section 36 consent in relation to “offshore generating activities” if they consider that interference with the use of recognised sea-lanes essential to international navigation is likely to be caused by the carrying on of those activities or likely to result from their having been carried on. The effects of “offshore generating activities” include those arising from the Development, as well as the effects of extinguishment of rights of navigation, declaration of safety zones and requirement for decommissioning plans. Assessment of impacts from these “offshore generating activities” upon recognised sea-lanes needs to take into account those impacts arising from nearby wind farm developments. In this case, the effects of such activities carried out or proposed at [Moray Round 3 Zone] also need to be taken into account.

20. The second stage 36B(2) imposes a duty upon the Scottish Ministers to have regard to the nature and extent of any obstruction of or danger to navigation which (without amounting to interference with use of recognised sea-lanes) is likely to be caused by the carrying on of the offshore generating activities listed above in Items 1 and 2 (or is likely to result from their having been carried on) in determining:

- a) whether to consent a particular offshore generating activity; and
- b) what conditions to attach to such a consent.

Assessment of the nature and extent of any obstruction or danger to navigation, likely to be caused by carrying on these “offshore generating activities”, needs to take into account those arising from the same nearby wind farm developments as identified at the first stage.

The information BOWL considers necessary to carry out this navigational risk assessment is contained in ES Annexes 18A and 28A.



### Amenity Duties under the Electricity Act 1989

21. BOWL is applying to be a licence holder under the 1989 Act. Paragraph 3(1)(a) of Schedule 9 to the 1989 Act places a duty on licence holders to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest in forming proposals for the construction and operation of a Generating Station. Paragraph 3(1)(b) of Schedule 9 to the 1989 Act places a duty on licence holders to do what they reasonably can to mitigate the effect that the development would have on the aforesaid features. Paragraph 3(2)(a) and (b) of Schedule 9 to the 1989 Act requires that, before granting consent under Section 36 of the 1989 Act, the Scottish Ministers must have regard to the desirability of preserving the aforesaid features and the extent to which the licence holder has complied with its duties in respect of them.

The effects on the matters referred to in Schedule 9 are contained in the Environmental Statement and BOWL has had regard to these in preparing the Application. The mitigation measures identified by BOWL are also contained in the Environmental Statement.

### Water Framework Directive

22. Under Section 2(1) of the Water Environment and Water Services (Scotland) Act 2003 and Schedule 1(1) of the Water Environment (Relevant Enactments and Designation of Responsible Authorities and Functions) (Scotland) Order 2011, the Scottish Ministers must exercise their functions under the 2010 Act so as to secure compliance with the Water Framework Directive (2000/60/EC) (the "WFD"). The requirements of the WFD extend to 3 nm offshore in Scotland. There are a number of requirements in the WFD although Article 4, which requires Member States to prevent deterioration in the status of bodies of water (subject to certain exceptions), is of particular relevance in the context of the Application. Information on the effects of the Project on the water environment is contained in the Environmental Statement.

### Material/Relevant Considerations

23. The Scottish Ministers are required to take into account all material considerations in determining a Section 36 consent application.

24. Section 15 of the 2010 Act requires that the Scottish Ministers make their decision on the Application insofar as it relates to the Scottish Marine Area in accordance with the appropriate marine plans (as therein defined), unless relevant considerations indicate otherwise and, in relation to the Scottish Offshore Region, Section 58 of the 2009 Act, requires that the Scottish Ministers make their decision on the Application insofar as it

relates to Scottish Offshore Region in accordance with the appropriate marine policy documents (as therein defined), unless relevant considerations indicate otherwise.

25. Section 27 of the 2010 Act and, in relation to the Scottish Offshore Region, Section 69 of the 2009 Act, requires that in determining an application for a Marine Licence (including the terms on which it is to be granted and what conditions, if any, are to be attached to it), the Scottish Ministers must have regard to: the need to protect the environment, the need to protect human health, the need to prevent interference with legitimate uses of the sea; to the effects of any use intended to be made of the works in question when constructed, altered or improved; and to any representations made by anyone with an interest in the outcome of the Application and such other matters as the Scottish Ministers consider relevant.
26. The specific matters referred to above to which the Scottish Ministers must have regard are each considered in the Environmental Statement and an assessment of the proposed Wind Farm and Offshore Transmission Works in the context of the appropriate marine plans and appropriate marine policy documents is contained in the Planning Statement. In the Planning Statement BOWL has also identified what it considers to be the considerations material/relevant to the Scottish Ministers decision on the Application.

#### Public Inquiry

27. Paragraph 3(2) of Schedule 8 to the 1989 Act requires that the Scottish Ministers consider objections made under The Electricity (Application for Consent) Regulations 1990 and other material considerations to determine whether a public inquiry should be held.
28. Section 28 of the 2010 Act and, in relation to the Scottish Offshore Region, Section 70 of the 2009 Act, permits the Scottish Ministers to cause an inquiry to be held in connection with their determination of an application for a Marine Licence

#### **Other Consents**

29. Details of other consents which may be required for the development of the Offshore Project are detailed in the accompanying application forms. In addition, a separate consent will be required for the onshore transmission works under the Town and Country Planning (Scotland) Act 1997.
30. Where appropriate, the Applications will be progressed in parallel with the consideration of the Marine Licence and Sections 36 and 36A Consents by Marine Scotland.
31. With regard to the electricity consenting regime, an application has already been made to National Grid for permission to connect to the grid, and a grid connection offer has been secured and accepted by the applicant for up to 1,000 MW at Blackhillock.




## Consultation

32. Although not a legal requirement BOWL has carried out pre-application consultation. Consultation on the Application and the ES will also be required pursuant to the 2010 Act, the 2009 Act and the 1989 Act as well as pursuant to the 2000 Regulations and the 2007 Regulation.

33. The Application is accompanied by a Pre-Application Consultation (PAC) Report as per 24 of the Application Form, which provides details of BOWL's compliance with Sections 22, 23 and 24 of the 2010 Act. The responses of statutory and non-statutory consultees are listed and summarised in the PAC and these have informed the evolution of the Application and the project overall.

We look forward to hearing from you in relation to the formal acceptance of the Application. If we can be of any assistance in that regard, please do not hesitate to contact us.

Yours faithfully,



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