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05 October 2018

Dear [REDACTED],

Thank you for your letter dated 28 August 2018 formally requesting an opinion from Marine Scotland, on whether the Forthwind Offshore Wind Demonstration Project (“Forthwind”) Section 36 (“s.36”) consent can be varied to change the project description or whether an application for a new consent will be required.

Scottish Ministers understand that Forthwind Ltd now wish to apply under s36C of the Electricity Act 1989 (“the 1989 Act”) to vary the Forthwind s.36.

Under s36C of the 1989 Act, Scottish Ministers have the power to grant variations to s.36 consents. The process for considering applications to vary s.36 consent is contained within the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 (as amended) (“2013 Variation Regulations”). Also relevant are the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“2017 EIA Regulations”), which contain the EIA process for generating stations (including in respect of variations of consent).

The consenting variation proposal you submitted detailed the main changes required between the existing consent and the project as varied. Some of the main differences are as follows:

- Not more than one Wind Turbine Generator (“WTG”) with up to 3 blades with:
 - Either a lattice or tower structure;
 - A maximum blade tip height of 260 meters (measured from Lowest Astronomical Tide (“LAT”))
 - A maximum rotor diameter of 220 meters; and
 - A maximum hub height of 160 meters (measured from LAT)

[Scottish Government guidance on section 36 variations](#) provides that “the variation procedure is not intended as a way of authorising any change in a developer’s plans that would result in development that would be fundamentally different in terms of character, scale or environmental impacts from what is authorised by the existing consent.”

Scottish Ministers have consulted with Scottish Natural Heritage (“SNH”), East Lothian Council, City of Edinburgh Council and Fife Council and also sought advice from Marine Scotland Science (“MSS”) to help understand the proposed changes in terms of scale, character and environmental impacts.

SNH considered that the proposed changes were fundamentally different in terms of character and scale from what is currently consented and confirmed that in its view a new application is required. SNH stated that the ornithological impact assessment also requires reconsideration.

In addition SNH raised concerns regarding the nature of the development as a demonstration project.

‘The purpose of Forthwind as described in the original application and Environment Statement was to provide a facility “to demonstrate a new model of offshore wind turbine, which will be used to generate clean electricity from a renewable source of energy, the wind”. The technology demonstration character of the project is also reinforced by the limitations of the Forthwind seabed Agreement for Lease granted by the Crown Estate Scotland specifically for technology demonstration. This restricts Forthwind to only deploying offshore wind technology for demonstration purposes as defined within the lease.

Within the design envelope, the proposed changes include a more conventional large 3 bladed turbine with a standard tower design as an alternative to a lattice tower. This design is consistent with design / parameters for turbines currently being deployed in commercial offshore wind farm schemes. Should this design option be deployed, we would not consider that the proposed Forthwind project includes any particularly innovative approaches that may accord with its current status as a demonstration project.’

The main reservation East Lothian Council had was with regard to the alteration of scale being considerable and affecting both the landscape and visual impacts. East Lothian Council and Fife Council stated that if this was a planning application, due to the nature and scale of the potential alterations, a new application would be required.

City of Edinburgh Council advised that they would be unable to offer an opinion regarding the proposal without receiving information depicting the scheme as it would be seen from Calton Hill.


MSS advised that the proposed single larger WTG would be expected to have a greater effect than the originally consented WTGs if they were considered individually. However, the combined impact of the two consented WTGs would likely be greater than the variation designs. However, MSS also highlighted that the age and quality of the data would need to be reviewed to assess whether it is still adequate which could be done on receipt of a new application.

Having considered this advice and bearing in mind the location of the Forthwind Offshore Wind Demonstration Project site (approximately 1.5km off the coast of Methil), Scottish Ministers consider that the proposed changes will result in a project that is fundamentally different in terms of character and scale from that which is already consented. **Therefore the Scottish**

Ministers advise that it is not appropriate for Forthwind Ltd to apply to vary the Forthwind Offshore Wind Demonstration Project consent.

I trust that this clarifies the points raised in the Forthwind Ltd variation proposal letter, please contact me if you would like to discuss any of the points further.

Kind Regards


Marine Scotland Licensing Operations Team