

[REDACTED]  
Inch Cape Offshore Limited  
5<sup>th</sup> Floor, 40 Princes Street  
Edinburgh  
EH2 2BY

Our Reference: 048/OW/RRP-10

17 June 2019

Dear [REDACTED]

**THE ELECTRICITY ACT 1989 (AS AMENDED)**

**THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT)  
(SCOTLAND) REGULATIONS 2017 (AS AMENDED)**

**DECISION NOTICE FOR THE SECTION 36 CONSENT FOR THE CONSTRUCTION  
AND OPERATION OF THE INCH CAPE OFFSHORE WIND FARM,  
APPROXIMATELY 15-22KM EAST OFF THE ANGUS COASTLINE**

**DECLARATION UNDER SECTION 36A OF THE ELECTRICITY ACT 1989 (AS  
AMENDED) TO EXTINGUISH PUBLIC RIGHTS OF NAVIGATION SO FAR AS  
THEY PASS THROUGH THOSE PLACES WITHIN THE TERRITORIAL SEA  
WHERE STRUCTURES FORMING PART OF THE INCH CAPE OFFSHORE WIND  
FARM GENERATING STATION ARE TO BE LOCATED**

**1 Application and Description of the Development**

1.1 On 15 August 2018, Inch Cape Offshore Limited (Company Number SC373173) having its registered office at 5<sup>th</sup> Floor, 40 Princes Street, Edinburgh EH2 2BY (“ICOL” or “the Company”), submitted to the Scottish Ministers applications under the Electricity Act 1989 (as amended) (“the Electricity Act 1989”) for:

- A consent under section 36 (“s.36”) of the Electricity Act 1989 for the construction and operation of the Inch Cape Offshore Wind Farm, approximately 15-22km east off the Angus coastline; and

- A declaration under section 36A (“s.36A”) of the Electricity Act 1989 to extinguish public rights of navigation so far as they pass through those places within the Scottish marine area (essentially the territorial sea adjacent to Scotland) where structures forming part of the Inch Cape Offshore Wind Farm are to be located.

1.2 These applications are collectively referred to as “the Application”. The Application was accompanied by an Environmental Impact Assessment report (“EIA Report”) as required under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the 2017 EW Regulations”) and a Habitats Regulations Appraisal (“HRA Report”) as required under the Conservation (Natural Habitats, & c.) Regulations 1994 (as amended) and the Conservation of Habitats and Species Regulations 2017 (collectively referred to as “the Habitats Regulations”).

1.3 In addition to the Application, the Company has also applied for two marine licences (under the Marine (Scotland) Act 2010) to construct and operate the marine renewable energy works and offshore transmission infrastructure. Separate decision notices will be issued in respect of any marine licences granted.

1.4 The Application is for the construction and operation of an offshore energy generating station, with a maximum generating capacity of around 700 megawatts (“MW”). The offshore generating station shall be comprised of:

1. No more than 72 three-bladed horizontal axis Wind Turbine Generators (“WTGs”), each with:
  - a) A maximum height to blade tip of 291 metres (measured from Lowest Astronomical Tide (“LAT”));
  - b) A maximum rotor diameter of 250 metres;
  - c) A minimum blade tip clearance of 27.4 metres (measured from LAT);
  - d) A maximum blade width of 7.8 metres; and
  - e) A nominal turbine spacing of 1,278 metres.
2. No more than 72 substructures and foundations and ancillary equipment; and
3. No more than 190km of inter-array cabling.

All as described in the application.

1.5 The total area within the Development site boundary is 150km<sup>2</sup>. The location and boundary of the Development site is shown in Figure 1.

**This decision notice contains the Scottish Ministers’ decision to grant consent for the Development detailed above, in accordance with regulation 21 of the 2017 EW Regulations.**

## 2 Summary of environmental information

2.1 The environmental information provided was:

- An [EIA Report](#) that provided an assessment of the impact on a range of receptors; and
- An [HRA Report](#).

2.2 In April 2017, the Company submitted a [scoping report](#) and a request for a scoping opinion in respect of the Development to the Scottish Ministers. Following consultation with statutory and other consultees, a [scoping opinion](#) was issued by Scottish Ministers on 28 July 2017, advising on the scope of the impacts to be addressed and the methods of assessment to be used within the EIA Report. Separate addendums providing opinions on the marine mammals and ornithology aspects of the scoping report were issued on 3 August 2017 and 10 August 2017 respectively. [Further clarifications and updates](#) in relation to the advice contained in the ornithology scoping opinion addendum were issued between September and December 2017.

2.3 The Company currently holds a s.36 consent (“the Original Consent”) and marine licences (which the Scottish Ministers granted in October 2014) for an offshore wind farm development within the same boundary as the current Application. As the Company had substantial evidence from the previous [Environmental Statement](#) submitted on 1 July 2013 (“the 2013 ES”) for the application made for the Original Consent, it was possible to scope out a range of potential effects which were not found to be significant previously and where the baseline and assessment methodologies had not changed since 2013. A number of receptors were scoped out of the assessment completely, including: air quality, physical processes, geology and water quality. For the receptors which were scoped in, the assessment was limited to those effects which could be significant.

2.4 The EIA Report assessed the impact pathways identified in the scoping opinion and was prepared in accordance with the terms of the 2017 EW Regulations. As the request for a scoping opinion was made before 16 May 2017, the transitional arrangements within the 2017 EW Regulations applied.

2.5 A summary of the environmental information provided in the EIA Report is given below.

### 2.6 Fish and Shellfish ecology

2.6.1 Impacts on shellfish and salmon migration were scoped out of the EIA Report during the scoping phase and following further consultation on discussion papers produced by the Company in the period before it submitted its Application. These discussion papers (on particle motion, salmon migration behaviour and the impacts of suspended sediment and smothering on

scallops) were appended to the EIA Report for information only and were subject to consultation during 2017/18. Scottish Ministers confirmed that the findings of these discussion papers were valid and therefore further assessment of the effects on salmon migration behaviour, the impacts of suspended sediment and smothering on scallops and the effects of particle motion was not required in the EIA Report.

- 2.6.2 During the construction phase, the EIA Report identified potential impacts resulting from barrier effects, disturbance or physical injury associated with construction noise on hearing specialist fish species (herring, sprat, cod and shad). Within the EIA Report, the Company has committed to mitigation measures to reduce the potential noise impacts on fish species, through the incorporation of a soft-start procedure during piling operations. This procedure is likely to reduce mortality effects, as a result of fish leaving the affected area during the period of piling operations.
- 2.6.3 The residual effects of construction phase impacts, from the Development, both in isolation and in-combination with the other Forth and Tay Developments, were deemed to be not significant in EIA terms.

## 2.7 Marine mammals

- 2.7.1 Displacement and Permanent Threshold Shift (“PTS”) from piling operations and disturbance from increased noise from geophysical systems during the construction (and decommissioning) phase were assessed in the EIA Report. All other construction phase impacts and all operation and maintenance impacts were scoped out of the EIA Report.
- 2.7.2 The effects during the decommissioning phase (for both the offshore wind farm and offshore transmission infrastructure) were considered to be equivalent to, or potentially lower, than those associated with the construction phase as decommissioning will not involve piling activities. The use of geophysical surveys during the decommissioning phase were deemed to be equivalent to the impacts associated with the construction phase.
- 2.7.3 The Company committed to a range of mitigation measures in the EIA Report to reduce the effects on marine mammals including the implementation of marine mammal protection plans for pile driving and geophysical survey systems and the utilisation of a soft-start procedure during piling operations.
- 2.7.4 The potential residual effects of the Development were projected to be negligible in all cases, with the exception of the effect of pile driving noise upon harbour porpoise, bottlenose dolphin, minke whale and harbour seal, where minor adverse impacts were anticipated when considering the Development in isolation.

2.7.5 The assessment of cumulative impacts considered the potential effects of pile driving noise in relation to all offshore wind farm projects in the Firths of Forth and Tay, and in the Moray Firth, and concluded potential significant effects on bottlenose dolphin, minke whale and grey seal.

2.7.6 In addition to the EIA Report, the HRA Report considered the impacts of the Development on the Moray Firth Special Area of Conservation (“SAC”), the Firth of Tay and Eden Estuary SAC, Isle of May SAC and Berwickshire and Northumberland Coast SAC. The HRA Report concluded that the Development would not adversely affect the integrity of these protected sites alone or in-combination with other plans or projects.

## 2.8 Ornithology

2.8.1 Impacts during the construction, operational and decommissioning phases were assessed in the EIA Report. Impacts scoped into the EIA Report were disturbance from the offshore export cable installation; displacement, barrier and collision impacts during the operational phase; impacts during the decommissioning phase; and cumulative displacement, barrier and collision impacts.

2.8.2 All impacts assessed in respect of the Development alone were considered to be of negligible or minor significance in the EIA Report.

2.8.3 In respect of cumulative collision impacts, two scenarios were assessed:

i. Scenario 1: the Development alongside the 2014 consented designs for Seagreen Phase 1 (comprising two offshore wind generating stations, Seagreen Alpha and Seagreen Bravo Offshore Wind Farms, hereinafter known as (“Seagreen Phase 1”)) and Neart na Gaoithe Offshore Wind Farm Electricity Generating Station (“Neart na Gaoithe”); and

ii. Scenario 2: the Development alongside the 2017 designs for the revised Seagreen Alpha and Bravo offshore wind farms, (“the Optimised Seagreen Project”) and Neart na Gaoithe Offshore Windfarm (Revised Design).

2.8.4 In addition, during the breeding season, cumulative impacts with the European Offshore Wind Deployment Centre, Hywind Scotland Pilot Park Project, Kincardine Floating Offshore Wind Farm and Forthwind Offshore Wind Demonstration Project were considered. During the non-breeding season, impacts from additional North Sea wind farm developments were also considered for gannet and kittiwake.

- 2.8.5 During the operational phase, cumulative impacts predicted moderate effects on the regional breeding population of guillemot, razorbill (as a result of the impacts of displacement and barrier effects), kittiwake (when collision impacts were also included) and gannet (for collision only). These effects were not considered to be significant in EIA terms.
- 2.8.6 The Company considers it highly unlikely that Neart na Gaoithe and Seagreen Phase 1 will be built to the maximum extent of their 2014 consented envelopes, therefore the EIA Report concluded that the Scenario 1 outcome is underpinned by a precautionary approach. The Company committed to embedded mitigation, including an environmental clerk of works, to ensure compliance with mitigation and best practice to reduce disturbance to bird species during the construction phase of the works.
- 2.8.7 The EIA Report concluded that no ecologically significant residual effects as a result of the Development, either alone or cumulatively, for any ornithology receptor had been identified.
- 2.8.8 In addition to the EIA Report, the HRA Report considered the impacts of the Development on Forth Islands SPA, Fowlsheugh SPA, St Abbs Head to Fast Castle SPA, Buchan Ness to Collieston Coast SPA and the Outer Firth of Forth and St Andrews Bay Complex proposed SPA (“pSPA”). The HRA Report concluded that the Development would not adversely affect the integrity of these protected sites alone or in-combination with other plans or projects.

## 2.9 Commercial Fisheries

- 2.9.1 Impacts during the construction, operational, maintenance and decommissioning phases of the Development were considered within the EIA Report. The potential effects of decommissioning are considered to be equivalent to, or potentially lower than, the worst case effects assessed for the construction phase.
- 2.9.2 The EIA Report considered the worst case scenario as comprising the structures with the largest combined footprint, maximum duration of construction activities, associated safety zones and the highest number of WTGs (with smallest spacing) and maximum number of additional infrastructure. The EIA Report assessed a construction period of 24 months within a three year period, a total Development area of 150km<sup>2</sup> (with 4.24km<sup>2</sup> in total disturbed during construction) and progressive installation of WTGs and infrastructure.
- 2.9.3 The EIA Report states that commercial fishing will not be excluded from the Development site entirely during the construction phase, however, rolling safety zones of up to 500m will be implemented around major construction

vessels. Installed infrastructure may also result in safety zones of 50m (as appropriate).

- 2.9.4 During the construction (and decommissioning) phase, impacts resulting from temporary loss or restricted access to fishing grounds were deemed to be of moderate residual significance for the scallop fishery. Impacts resulting from increased steaming times to fishing grounds were deemed to be of minor significance for all fisheries. Displacement of fishing activity was deemed to be of minor/moderate significance for all fisheries.
- 2.9.5 Operational phase impacts included the impacts arising from the physical presence of infrastructure leading to: reduction in access to, or exclusion from, established fishing grounds, gear snagging, additional steaming times to alternative fishing grounds for vessels and increased vessel traffic within fishing grounds (arising from changes to shipping routes and maintenance vessel traffic from the Development). The EIA Report states that it is expected that fishing activities will be able to be resumed to some degree within the Development site, recognising that certain fishing methods may be restricted in their ability to operate as normal.
- 2.9.6 During the operation and maintenance phase of the Development, impacts arising from complete loss or restricted access to fishing grounds were deemed to be of moderate significance for scallop fisheries and of minor/moderate significance for creel fishing and squid fisheries. Displacement of fishing activity into other areas was deemed to be of moderate significance for the scallop fisheries and of minor/moderate significance for creel fishing and squid fisheries.
- 2.9.7 A cumulative impact assessment was presented in the EIA Report. During the construction phase, the residual cumulative effects resulting from the impacts of temporary loss or restricted access to fishing grounds were reported as being of moderate significance for nephrops and scallop fisheries and of minor/moderate significance for squid and creel fisheries. The effects of increased steaming times were reported as being of minor/moderate significance for all four fisheries and displacement effects were reported as being of minor/moderate significance for squid and creel fisheries and moderate for nephrops and scallop fisheries.
- 2.9.8 During the operation and maintenance phase, the residual cumulative effects arising from complete loss or restricted access to fishing grounds were assessed as being of minor/moderate significance for squid and creel fisheries and of moderate/major significance for scallop fisheries. The EIA Report stated that the assessment of moderate/major impacts for scallop fisheries was based on a worst case scenario without the appliance of mitigation measures and on the assumption that scallop fishing does not return to the Development site. Should fishing activity return, the EIA Report assessed that the residual effects will be reduced in significance from

moderate/major to non-significant. Impacts from increased steaming times were deemed to be of minor significance. Impacts resulting from displacement of activity were deemed to be of minor/moderate significance for squid and creel fisheries and of moderate impact for scallop fisheries.

## 2.10 Shipping and Navigation

2.10.1 The impacts of the Development on shipping and navigation receptors during the operational phase were assessed within the EIA Report. Potential impacts were assessed resulting from increased vessel to vessel collision risk, creation of vessel to structure allision risk, and effects on anchoring operations and fishing gear snagging risk (navigational safety). In addition, the cumulative impact assessment presented in the EIA Report also considered the impacts of increased transit times and distances for commercial vessels, increase of visual confusion when navigating and deviations to avoid wind farm areas.

2.10.2 All effects were assessed as being of negligible/minor significance in EIA terms, with the exception of cumulative impacts. Following the application of mitigation measures, effects on commercial vessels as a result of increased transit times and distances, vessel to vessel collision risk, vessel to structure allision risk and increased visual confusion when navigating were assessed as being of moderate residual significance. For commercial fishing vessels, the impact of deviations to avoid the wind farm areas and creation of vessel to structure allision risk were assessed as being of minor/moderate residual significance. For recreational vessels, the impact of the creation of vessel to structure allision risk was identified as being of negligible/moderate significance. The Company committed to mitigation measures regarding lighting and marking requirements, keel clearance, marine co-ordination, communication and monitoring for the offshore export cables to address the impacts identified within the EIA Report.

2.10.3 Construction and decommissioning phase impacts were scoped out of the EIA Report, as the worst case parameters for these impacts have already been considered within the 2013 ES. The 2013 ES concluded that all construction phase impacts could be reduced to a negligible/low level following the implementation of additional mitigation measures.

## 2.11 Military and Aviation

2.11.1 The following potential impacts were considered in respect of the Development alone during its operational phase: wind turbines causing persistent interference to the Leuchers Station Primary Surveillance Radar ("PSR") from reflected turbine signals; wind turbines causing persistent interference to the Leuchers Station Precision Approach Radar ("PAR") from reflected turbine signals; wind turbines causing persistent interference to Remote Radar Head ("RRH") Brizlee Wood and RRH Buchan Air Defence



Radar (“ADR”) from reflected turbine signals; effects on activities carried out in military Practice and Exercise Areas (“PEXA”); and the use of helicopters for operation and maintenance of the Development area.

2.11.2 The cumulative effects of wind turbines causing persistent interference to the Leuchars Station PSR from reflected turbine signals and of wind turbines causing persistent interference to RRH Brizlee Wood and RRH Buchan ADR from reflected turbine signals were also considered.

2.11.3 With the exception of those effects relating to the use of helicopters for operation and maintenance (the residual effect of which is minor and not significant), all effects were considered to be major adverse, which is significant in EIA terms. However, a range of mitigation measures have been identified, some of which are temporary measures pending agreement of a long-term technical solution. Following the implementation of these additional mitigation measures, the residual effects of all impacts previously classified as of major adverse impact is reduced to being of minor adverse impact, which is not significant in EIA terms.

## 2.12 Cultural Heritage

2.12.1 The EIA Report considered impacts on the setting of a range of onshore receptors of varying degrees of cultural heritage significance during the operational phase. Construction phase impacts were scoped out of the EIA Report. Setting impacts were considered for a number of designated coastal heritage assets.

2.12.2 Impacts resulting from a change in setting of a number of designated coastal heritage assets were assessed as having a moderate effect on Tentsmuir Coastal Defences, St Andrews Cathedral and adjacent ecclesiastical remains and St Andrews Castle. These effects were not considered to be significant in EIA terms.

2.12.3 The cumulative assessment presented in the EIA Report considered the impact of the Development alongside WTGs from Neart na Gaoithe and Seagreen offshore wind farms in relation to the setting of each onshore receptor. During the operation and maintenance phase, setting changes were deemed to have a moderate effect on Bell Rock Lighthouse Signal Tower, Ladyloan, Bell Rock Lighthouse, Tentsmuir Coastal Defences, St Andrews Cathedral and adjacent ecclesiastical remains and St Andrews Castle and a minor/moderate effect on Crail Airfield, pillbox, Foreland Head. These effects were not deemed to be significant in EIA terms.

## 2.13 Seascape and Landscape Visual Impact Assessment

2.13.1 The EIA Report concluded that the following potential effects were of minor or negligible adverse significance: impact of landfall construction activities on

landscape receptors at Thorntonloch Beach; impact of landfall construction activities on visual receptors at Thorntonloch Beach; impact of the operational wind farm on landscape character; impact of aviation and navigation lighting on landscape character; and cumulative impacts on landscape character arising from the additional presence of the offshore wind farms.

- 2.13.2 A number of potential effects were assessed as being significant: impact of the Development on the coastal character on east Fife and north-east East Lothian; impact of the Development on visual amenity within 35km; impact of aviation and navigation lighting on coastal character along the eastern Fife coast; impact of aviation and navigation lighting on visual amenity within 30km; cumulative impacts on coastal character arising from the additional presence of the Development on receptors in east Fife and south-east Angus; and cumulative impacts on visual amenity arising from views of the Development in addition to other wind farms, where both Neart na Gaoithe offshore wind farm and the Development are viewed at closer range.
- 2.13.3 The residual effects of these potential impacts remain significant in EIA terms since no additional mitigation measures beyond the embedded mitigation have been identified.

## 2.14 Socio-Economics

- 2.14.1 Impacts on tourism were scoped out of the EIA Report, and the EIA Report assessed impacts related to the offshore elements of the Development on the Economic Study Area and across Scotland. The “Economic Study Area” was defined as the labour market catchment areas (60 minute drive-time catchments) around eight locations considered as representative of the type of locations that may be able to support the offshore wind sector (Leith, Rosyth, Dundee, Montrose, Methil, Burntisland, Cromarty Firth and Aberdeen).
- 2.14.2 Base and high scenarios were presented in the EIA Report. The base scenario assumed a moderate supply chain capacity capable of supplying around 36% of whole life expenditures from the Economic Study Area, 14% from the rest of Scotland and 18% from the rest of the UK. The high scenario assumed a more developed supply chain capable of supplying around 36% of whole life expenditure from the Economic Study Area, 14% from the rest of Scotland and 27% from the rest of the UK. Both scenarios presented assumed a worst case scenario of 560MW generating capacity.
- 2.14.3 The EIA Report estimated that net additional employment from the Development is estimated to be between 321 full-time equivalent (“FTE”) and 832 FTE direct, indirect and induced construction jobs at an Economic Study Area level, dependent on the impact scenario considered. For the rest of Scotland, net additional employment from the Development was estimated

to be between 108 FTE and 216 FTE direct, indirect and induced construction jobs (and a total of between 858 and 1854 net additional construction jobs in the UK). This would represent between £41.8 million and £108.2 million Gross Value Added ("GVA") per annum at an Economic Study Area level and between £55.8 million and £136.2 million at a Scottish level.

- 2.14.4 During the operation and maintenance phase, the EIA Report estimated that the net additional employment generated would represent a new GVA at an Economic Study Area of between £4.9 million to £10.7 million per annum and £18.6 million per annum for Scotland as a whole. The Company estimated that 202 FTE jobs will be created in total (with 38 within the Economic Study Area and 42 within the rest of Scotland).
- 2.14.5 During the decommissioning phase the number of jobs is likely to be lower than those estimated for the construction phase. The EIA Report estimated that during the decommissioning phase approx. 110 FTE net additional jobs will be generated by the Development.

### **3 Consultation**

- 3.1 In accordance with the 2017 EW Regulations, on 15 August 2018, the Company submitted an EIA Report and HRA Report describing the Development and giving an analysis of its environmental effects.
- 3.2 Advertisement of the Application was made in the local and national press and the application website. The notices were placed in the public domain, and the opportunity given for those wishing to make representations to do so.
- 3.3 The dates of the consultation exercises are given below. The regulatory requirements regarding consultation and public engagement have been met and the responses received taken into consideration. Where matters have not been fully resolved, conditions have been included to ensure appropriate action is taken post consent.

Document	Date received	Dates of consultation	Publication
EIA Report and Application	15 August 2018	21 August 2018 – 1 October 2018  21 August 2018 – 21 December 2018 (for planning authorities)	The Courier (22 and 29 August 2018) Arbroath Herald (24 and 31 August 2018) Edinburgh Gazette – (24 August 2018) The Scotsman (22 August 2018) Fishing News (30 August 2018) <u>Company Website</u> (30 August 2018)

- 3.4 A summary of the responses received is set out at sections 4, 5 and 6. In addition, specialist advice was provided by Marine Scotland Science (“MSS”) and the advice received is set out at section 7.
- 3.5 The responses to the consultation on the EIA Report are available to view [here](#).
- 3.6 In addition, Scottish Natural Heritage (“SNH”) was consulted on the Appropriate Assessment (“AA”) completed by Scottish Ministers.

#### 4 Summary of statutory consultee consultation

- 4.1 Under the 2017 EW Regulations, the statutory consultees are as follows: SNH, the Scottish Environment Protection Agency (“SEPA”) and Historic Environment Scotland (“HES”). The planning authorities whom the Scottish Ministers considered appropriate to consult in respect of the proposed Development are Aberdeenshire Council, Angus Council, Dundee City Council, East Lothian Council, Fife Council and Scottish Borders Council.
- 4.2 In addition, the Maritime and Coastguard Agency (“MCA”) and Northern Lighthouse Board (“NLB”) are statutory consultees under the Marine (Scotland) Act 2010.
- 4.3 Aberdeenshire Council
- 4.3.1 Aberdeenshire Council did not initially object to the Development, subject to the resolution of the concerns regarding ornithology raised by SNH in its consultation response. Aberdeenshire Council advised that, whilst the potential for direct impacts within the local authority area are limited due to

the distance from the Development, any impacts identified have been assessed against the Aberdeenshire Local Development Plan 2017 (“the 2017 Aberdeenshire LDP”). Aberdeenshire Council advised that the Development is likely to impact upon landscape, visual amenity, ecology and built heritage.

- 4.3.2 Aberdeenshire Council advised that the Development will likely be most prominent when viewed from the South East Coast Special Landscape Area (“SLA”). Aberdeenshire Council advised that Policy E2 Landscape of the 2017 Aberdeenshire LDP (“Policy E2”) makes provision for development which may impact upon the SLA where the effects are clearly outweighed by social, environmental or economic benefit of at least local importance. Following its review of the Seascape Landscape Visual Impact Assessment (“SLVIA”), Aberdeenshire Council consider that the Development would be permissible under Policy E2. Having reviewed the SLVIA presented, Aberdeenshire Council advised that the impacts of the Development (both in isolation and in-combination) are likely to be limited to the southern section of the SLA and, therefore, would not fundamentally alter the qualifying interests of the entire designation. Aberdeenshire Council noted that the Development will make a significant contribution towards the transition to the low carbon economy.
- 4.3.3 Aberdeenshire Council advised that Policy E1 Natural Heritage of the 2017 Aberdeenshire LDP (“Policy E1”) seeks to prevent development which would have an unacceptable impact upon nature conservation sites. Aberdeenshire Council stated that it agreed with SNH’s conclusions regarding the predicted impact of the Development on the Fowlsheugh Special Protection Area (“SPA”) within Aberdeenshire. Aberdeenshire Council advised that the mitigation measures outlined in the EIA Report do not appear to suitably mitigate against the identified impacts on the SPA and would, therefore, not constitute appropriate compensatory measures as required by Policy E1.
- 4.3.4 Aberdeenshire Council further considered the Development in light of Policies HE1 and HE2 of the 2017 Aberdeenshire LDP as regards the built environment. Aberdeenshire Council advised that the Development would not have a direct impact upon heritage designations within Aberdeenshire but that the most likely impact would be a change on the setting of listed buildings and conservation areas within the south east Aberdeenshire coastline. Aberdeenshire Council advised, however, that due to the distance between the Development and the local authority area (approximately 22km at the closest point) the impacts of the Development in isolation on the historic context and setting of the area are likely to be minor.
- 4.3.5 Aberdeenshire Council concluded that the Development will likely have some degree of impact on the local authority area in relation to landscape/visual amenity, ecology and built heritage.

- 4.3.6 Aberdeenshire Council advised that it deferred to SNH advice as regards the potential ecological impacts of the Development. Aberdeenshire Council advised that a degree of uncertainty remained regarding the potential impacts of the Development and as to whether further mitigation measures could alleviate the impacts predicted in the EIA Report.
- 4.3.7 A response from the Company was forwarded to Aberdeenshire Council on 19 January 2019. The Company welcomed the comments submitted by Aberdeenshire Council and reiterated its commitment to working with SNH, Royal Society for the Protection of Birds Scotland (“RSPB Scotland”) and other stakeholders to discuss ornithological matters further.
- 4.3.8 SNH advised that there would be an adverse effect on the site integrity of the Fowlsheugh SPA in respect of the black-legged kittiwake and razorbill qualifying interests as a result of the Development in-combination with the other Forth and Tay Developments (see further, SNH response at paragraph 4.13 below).
- 4.3.9 As SNH advised that there would be an adverse effect on the site integrity of the Fowlsheugh SPA in respect of the black-legged kittiwake and razorbill qualifying interests, Marine Scotland – Licensing Operations Team (“MS-LOT”) contacted Aberdeenshire council to confirm its position. On 12 February 2019 Aberdeenshire Council advised that its original comments should be taken as an objection.
- 4.3.10 Aberdeenshire Council reiterated the comments made within its original response: namely that with regard to ecology, Aberdeenshire Council is aware of SNH’s consultation response objecting to the Development partially on the basis of the predicted impact upon Fowlsheugh SPA within Aberdeenshire. Policy E1 seeks to prevent development which would have an unacceptable impact upon nature conservation sites. In this instance, development which would impact upon Fowlsheugh SPA to the extent indicated by SNH, would only be permissible where there are imperative reasons of overriding public importance, where there is no alternative solution, and where appropriate compensatory measures are implemented.
- 4.3.11 Aberdeenshire Council highlighted that the EIA Report indicates that embedded mitigation has been taken into account in assessing the impact of the Development on the qualifying interests of the SPA, as have wider best practice measures such as the employment of an environmental clerk of works. These measures have informed Aberdeenshire Council’s assessment of the impact, and were considered by SNH in assessing the Application. Aberdeenshire Council states that the measures do not appear to suitably mitigate against the identified impact upon the SPA and therefore it considers that the mitigation measures would not constitute appropriate compensatory measures as required by Policy E1.

4.3.12 Aberdeenshire Council further stated that as it stands, the Development would not comply with Policy E1 as a result of the predicted impact upon the Fowlsheugh SPA. The Scottish Ministers, however, concluded in their AA that, subject to the appliance of conditions, there would be no adverse effect on the site integrity of the Fowlsheugh SPA. and as such the development is not considered to breach Policy E1 insofar as it relates to internationally designated nature conservation sites.

#### 4.4 Angus Council

4.4.1 Angus Council did not object and advised that the impacts of the Development, in terms of material considerations relevant to Angus Council's administrative area, do not raise any new or significant issues. Angus Council stated that its comments provided on the 2014 Application remain valid. Angus Council considered the seascape and visual impacts of the 2014 Application to be significant and raised concerns regarding the impacts, particularly from aviation lighting, on the setting of the Bell Rock Lighthouse. Angus Council, however, did not object to the 2014 Application.

4.4.2 Angus Council considered that there would be significant impacts upon landscape and seascape character, however, these were not considered to be unacceptable. Angus Council stated that the WTGs would result in a significant visual impact, however, the visual impact on Angus was not considered to be unacceptable in its view.

4.4.3 Angus Council considered that its concerns regarding the lighting of the Development for both shipping navigation and aviation raised in response to the 2014 Application have been considered in greater detail in the EIA Report. However, Angus Council advised that it considered that there is a limitation to this assessment and that the night time viewpoints presented confirm that the lighting would be viewed in close association and at a greater height to the light at Bell Rock Lighthouse, thus resulting in significant impacts on the setting of the Bell Rock Lighthouse. Angus Council considered that the aviation and navigation lighting will have significant night seascape impacts and stated that further consideration of this matter is required. Angus Council stated that, if an appropriate technical solution is identified, the associated effects would be unlikely to be unacceptable.

4.4.4 Angus Council stated its concerns in relation to cumulative impacts remain as per its concerns regarding the 2014 Application. Angus Council stated that a level of consistency is important to prevent the collective view of the Development, in-combination with Neart na Gaoithe and Seagreen Alpha and Seagreen Bravo offshore wind farms, being inconsistent or distorting seascape perspective. Angus Council highlighted that the Development in-combination with the Neart na Gaoithe wind farm, would present a situation whereby larger turbines from the Development are located in the foreground, with smaller turbines in the background. Angus Council highlighted that these

impacts would not be unacceptable, but that a co-ordinated approach to the finalised height of the Development and the Neart na Gaoithe wind farm should be considered further. Angus Council made further comments regarding the cumulative impacts of lighting associated with the Forth and Tay Developments. Angus Council stated that the lighting will be likely to be visible in prominent views from long distances across Angus, with navigation lighting likely to be visible from higher ground, increasing the cumulative impacts of the Forth and Tay Developments, with attendant impacts on the setting of the Bell Rock Lighthouse. Angus Council stated that further consideration is required in relation to lighting of the Forth and Tay Developments to ensure a consistent solution is identified to mitigate adverse impacts.

- 4.4.5 Angus Council stated that it concurs with the assessment of Historic Environment Scotland (“HES”) regarding the impact of the Development on the Bell Rock Lighthouse. However, Angus Council highlighted that, in its opinion, the EIA Report has limitations in terms of assessing impacts of aviation and navigation lighting on the setting of the asset.
- 4.4.6 Angus Council noted the potential impacts on commercial fishing and recreational use of the waters, during the construction and operation phases of the Development, outlined in the EIA Report. Angus Council stated that the impacts could affect much of the Angus coastline (in particular the commercial fishing fleet, pleasure craft industries and yachting located at Arbroath Harbour and marine and commercial port operations at Montrose). Angus Council stated that disruption to these activities resulting access, exclusion and increased steaming time, are regarded as material considerations. Angus Council considers that the potential socio-economic impacts on industry and tourism reported in the EIA Report have the potential to be higher and may, in some instances (particularly during the construction phase) be significant. Angus Council stated that these impacts were not considered to be unacceptable, subject to the mitigation measures being implemented.
- 4.4.7 A response from the Company was forwarded to Angus Council on 18 January 2019. The Company acknowledged Angus Council’s concerns in relation to the impacts on the setting of Bell Rock Lighthouse. The Company stated that the worst-case scenarios for cumulative impacts and night time lighting presented in the EIA Report are not expected to occur. The Company stated that the night time lighting assessment presented in the EIA Report considered aviation lighting at full intensity, which would only occur in low visibility conditions (e.g., fog) and that these low visibility conditions were not replicated within the assessment.
- 4.4.8 The Company stated that it would not be possible to take the co-ordinated approach to the finalised height of the Forth and Tay Developments



suggested by Angus Council, due to technical and commercial constraints. The Company, however, committed to reducing visual impacts as far as possible through consultation with Angus Council during the post-consent phase.

4.4.9 The Company maintained that the EIA Report provides a realistic assessment of the impacts on recreational yachting and fishing; however, the Company reiterated its commitment to the implementation of mitigation measures and that fishing and recreational vessels would not be restricted from entering the Development site during the operational phase.

4.4.10 Conditions have been attached to mitigate the impacts highlighted by Angus Council, including the requirement to prepare, consult on and adhere to the terms of a Design Specification and Layout Plan (“DSLPL”), Design Statement (“DS”) and Lighting and Marking Plan (“LMP”).

#### 4.5 Dundee City Council

4.5.1 Dundee City Council had no detailed comments to make and advised that it did not object to the Development.

#### 4.6 East Lothian Council

4.6.1 East Lothian Council did not object to the Development, subject to the application of conditions to any consent granted to address its concerns. East Lothian Council advised that conditions relating to the intertidal works, light emission, noise, design layout and specification, decommissioning and pollution prevention and control be attached to any consent granted.

4.6.2 East Lothian Council advised that the Development will have a significant adverse cumulative impact on areas of the coast of East Lothian, beyond the 50km study area agreed at scoping. East Lothian Council advised that the increased size of the WTGs, when compared to the Original Consent, would increase the visual impact of the Development on views from East Lothian, particularly in-combination with the Neart na Gaoithe Offshore Wind Farm.

4.6.3 East Lothian Council advised that the SLVIA presented in the EIA Report did not consider the impact on SLA within East Lothian. East Lothian Council advised that the Company had failed to take into account the proposed SLA, despite being kept duly informed of the progress of the Local Landscape Designation Review and East Lothian Local Development Plan 2018 (“ELLDLP”) process. East Lothian Council advised that this information should have been included to facilitate public understanding of the impacts of the Development.

4.6.4 East Lothian Council provided information on the SLA not included within the EIA Report (Tantallon Coast SLA, Belhaven Bay SLA, Dunbar to Barns Ness

Coast SLA, North Berwick to Seton Sands SLA) and advised that it would define the sensitivity of each SLA as High. East Lothian Council advised that the Development would introduce a permanent new feature to the seascape, changing the open undeveloped character of the seascape and introducing lighting to a previously dark scene. East Lothian Council advised that this would lead to the loss of an unbroken horizon line of the sea and could detract from the appreciation of the coast as a natural area.

- 4.6.5 East Lothian Council further advised that the impact of the Development on the A198 east of North Berwick has not been considered within the SLVIA, despite the closest point of the A198 to the Development falling within the agreed 50km study area (as advised in the scoping opinion). East Lothian Council stated that it had previously noted the importance of the A198 as a tourist route at scoping and that the Company had agreed to provide a wireline from this route. East Lothian Council advised that whilst this information had not been provided in the EIA Report, it was able to assess the landscape and visual impacts of the Development. East Lothian Council advised that it had no comments to make in respect of the historic environment for the offshore elements of the Development.
- 4.6.6 East Lothian Council advised that lighting, if visible from the East Lothian coast, will have a significant detrimental impact on the landscape character of the SLA. East Lothian Council advised, however, that due to the distance of the Development from the East Lothian Council area, the lights will be positioned below the horizon and thus will not impact on the appreciation of the landscape character of the views from East Lothian. However, due to the potential impacts arising from the visibility of lighting, East Lothian Council requested that a condition be placed on any consent granted to monitor the impacts of lighting and for the implementation of mitigation measures, should light be visible from East Lothian. East Lothian Council further stated that maximum and minimum lighting requirements should be specified and that dimming should be required when visibility is greater than five km. East Lothian Council provided detailed comments regarding matt finish and colour of the WTGs.
- 4.6.7 East Lothian Council provided detailed comments on the viewpoints presented in the EIA Report. East Lothian Council advised that, in its opinion, the SLVIA underestimates the magnitude of cumulative change that the Development will have on the viewpoints presented in the SLVIA and on the SLA. East Lothian Council advised that it considers the magnitude of cumulative change arising from the Development to be moderate, where the WTGs represent a notable increase in the proportion of the seascape and view affected by the Forth and Tay Developments. East Lothian Council advised that an offset grid layout may potentially address the issues arising from cumulative impacts. East Lothian Council advised that the Development would have impacts of moderate/major detrimental significance on both

seascape character and visual amenity for viewpoint 26 (North Berwick Law). East Lothian Council further advised that the Development would have significant detrimental effects on the viewpoint from the A198 road east of North Berwick and moderate, but not significant effects, on the Tantallon Castle, Ravensheugh Sands and Yellowcraig viewpoints.

- 4.6.8 At scoping, East Lothian Council advised that the impacts of the Development on local weather should be considered. East Lothian Council noted that, following further discussion, the Scottish Ministers subsequently agreed that these impacts could be scoped out of the EIA Report. East Lothian Council noted that the Company had briefly considered these impacts in the EIA Report, but advised that provision for monitoring of weather effects should be included in any new consent granted.
- 4.6.9 East Lothian Council advised that it does not support development which would have an adverse impact on the integrity of European sites within East Lothian, or involving such an effect on qualifying interest species of sites outwith East Lothian that visit East Lothian or its coast. East Lothian Council noted SNH's advice regarding adverse effects on the integrity of a Natura 2000 site but that the impacts of the Development would be less than those predicted for the Original Consent. East Lothian Council therefore advised that it considers the Development to be preferable to the Original Consent.
- 4.6.10 East Lothian Council advised that risks of pollution should be minimised and appropriate arrangements made if an incident, for which the Company is responsible, occurs via remediation. East Lothian Council noted that the EIA Report considers shipping collision risk to be moderate and moderate to minor for recreational vessels. East Lothian Council advised that conditions should be attached to any consent granted to ensure environmental best practice is implemented and suitable financial arrangements are in place throughout the lifespan of the Development.
- 4.6.11 East Lothian Council advised that it does not consider that there will be any significant impacts on noise or air quality arising from the Development. On 27 September 2018, the Company confirmed that helicopters will not be operated over the East Lothian Council area. East Lothian Council requested that a specific condition be added to any consent granted to secure this commitment, which was not stated explicitly in the EIA Report.
- 4.6.12 East Lothian Council requested that a condition be placed upon any consent granted regarding decommissioning and financial arrangements to support decommissioning. East Lothian Council further advised that, in its opinion, East Lothian should be considered as part of the community, should community benefits be considered.
- 4.6.13 A response from MS-LOT was provided to East Lothian Council on 31 January 2019, advising that, should consent be granted, the Company will

not be required to undertake monitoring of the impacts of the Development on recreational users, or any such remedial works required as a result of said monitoring, as no significant effects on recreational users were identified through the EIA process.

- 4.6.14 Further, MS-LOT advised that, should consent be granted, the Company will not be required to undertake monitoring of the impacts of lighting and visibility from the East Lothian area, nor will the Company be required to replace said lighting with new systems/methods when such systems/methods become available to address these concerns. MS-LOT further advised that, should consent be granted, the Company will not be required to dim the lighting when visibility is greater than 5km. Lighting and marking requirements will be agreed in consultation with the Ministry of Defence (“MOD”), the Civil Aviation Authority (“CAA”), NLB and MCA to ensure navigational safety. East Lothian Council, however, will be consulted on the terms of the LMP and the Company will be required to install the minimum lighting necessary to meet said navigational safety requirements, to reduce the impacts of lighting on the residents of East Lothian. Should the Company wish to alter the lighting and marking of the Development, the Company would be required to seek and obtain prior written approval from the Scottish Ministers.
- 4.6.15 MS-LOT further advised that air transport is a matter reserved to Westminster under the Scotland Act 1998 (Schedule 5, Head E4) and that the Scottish Ministers do not have devolved powers in connection with these matters (except in limited circumstances, which do not apply in this instance). MS-LOT, therefore, advised that a condition excluding the flight of helicopters over the East Lothian Council could not be attached to any consent granted. In the event that helicopter operations are required, the Company will be required to provide details of said operations within the Operational and Maintenance Plan (“OMP”) and East Lothian Council will be consulted on the terms of the OMP.
- 4.6.16 East Lothian Council will be consulted on the Construction Method Statement (“CMS”) in order to identify and address its concerns relating to the intertidal works.
- 4.6.17 A response from the Company was forwarded to East Lothian Council on 7 February 2019. The Company noted East Lothian Council’s comments regarding the SLVIA and the exclusion of SLA within East Lothian and referred to a pre-submission meeting held between both parties on 13 March 2018, where the Company advised that the assessment would be carried out on the basis of extant Areas of Great Landscape Value (“AGLV”) due to time constraints. The Company stated that the SLA cover similar areas to the AGLV assessed (with some revisions to boundaries) and are supported by Supplementary Planning Guidance, the underlying character of local designated areas remains largely unchanged. The Company stated that,

whilst the AGLV assessed was not supported by documentation defining its qualifying characteristics, AGLV were afforded high sensitivity within the SLVIA,

- 4.6.18 The Company noted East Lothian Council's comments regarding potential impacts on the A198. The Company advised that the SLVIA presented in the EIA Report did not consider the A198 as no significant effects were anticipated and that the scope of the SLVIA had been agreed via the scoping process. The Company stated that no significant effects on viewpoints 25 and 26 had been identified within the SLVIA undertaken.
- 4.6.19 The Company noted East Lothian Council's comments regarding cumulative visual impacts with the Neart na Gaoithe Wind Farm and reiterated that no significant cumulative effects were identified within the SLVIA undertaken. The Company stated that multiple constraints would need to be taken into consideration regarding turbine locations (including landscape and visual considerations) and that the approach to the layout of WTGs is included in section 12.5.3 of the SLVIA and that issues regarding detailed site design and layout would be considered within the DSLP and DS.
- 4.6.20 The Company stated that it is content to investigate mitigation measures to reduce the potential effects of aviation lighting. The Company stated, however, that any solution would need to satisfy the needs of other stakeholders and meet health and safety obligations. The Company further stated that it did not consider that it was proportionate or appropriate to require monitoring of effects or replacement of lighting when new technology becomes available via consent conditions.
- 4.6.21 The Company noted East Lothian Council's comments regarding monitoring of impacts on local weather. The Company reiterated that these effects had been scoped out of the assessment and stated that it does not consider that there is a requirement to monitor weather effects given, in its view, the rarity of the potential impact and the negligible likelihood that there would be significant impacts.
- 4.6.22 The Company noted East Lothian Council's concerns regarding the potential visual impacts of the cable landfall location and cable marker boards on the Prestonpans Coast SLA. The Company stated that, once buried, there will be no visual impacts from the Offshore Export Cable ("OEC") during the operational phase. The Company stated that it would prefer not to install cable marker boards (particularly if horizontal direct drilling ("HDD") is used as the installation method), the requirement to install cable marker boards is related to navigational safety concerns and any proposal not to install cable marker boards would require further consultation and agreement with other stakeholders. The Company clarified that the offshore cable corridor is wider than the area indicated in the onshore planning application to ensure there is sufficient space for vessels to operate during cable installation activities.

The Company confirmed that the cable would be installed in line with the onshore planning application documents.

- 4.6.23 The Company noted East Lothian Council's comments regarding impacts on Natura sites and qualifying interests and stated that it considers that the conclusions of the EIA Report remain valid. The Company considers that the precaution contained within the assessment could result in the impacts of the Development being overestimated. The Company committed to preparing an environmental management plan to address East Lothian Council's concerns regarding the potential risks of pollution.
- 4.6.24 The Company noted East Lothian Council's comments regarding paint finishes of the WTGs and stated that these would be agreed in consultation with stakeholders during the pre-construction phase.
- 4.6.25 The Company noted East Lothian Council's comments regarding potential impacts on recreational users and the need to monitor said impacts. The Company referred to the requirement within the 2017 EW Regulations for monitoring measures to be proportionate to the nature, size and location of the proposed Development and the significance of its effects on the environment. The Company stated that the EIA Report had not identified any significant effects on recreational users and therefore, the imposition of monitoring requirements regarding these effects would not be consistent with the terms of the EW Regulations.
- 4.6.26 The Company stated that it was content to submit a Decommissioning Programme ("DP") to address concerns regarding decommissioning.
- 4.6.27 Conditions have been attached to the s.36 consent to mitigate the impacts highlighted by East Lothian Council, including the requirement to prepare, consult on and adhere to the terms of a DSLP, LMP, DP, CMS, Environmental Management Plan ("EMP") and Project Environmental Monitoring Programme ("PEMP") to address the concerns outlined above. Further, conditions will be attached to any marine licence(s) granted, requiring the Company to bear the costs of any remediation works required and to obtain any other necessary statutory permissions/approvals prior to commencing works.

#### 4.7 Fife Council

- 4.7.1 Fife Council did not object to the Development. Fife Council advised that its concerns regarding the impact of the Original Consent on the seabird qualifying interests of the European designated sites in the Firth of Forth, in particular the Forth Islands SPA, in-combination with the other Forth and Tay Developments remained valid. Fife Council advised that it deferred to advice from SNH regarding these matters.

- 4.7.2 A response from the Company was forwarded to Fife Council on 18 January 2019. The Company maintained that the results of the EIA Report remain valid and that there will be no significant adverse effect on the site integrity of any SPA. The Company, however, reiterated its commitment to working with SNH, RSPB Scotland and other stakeholders to discuss ornithological matters further.
- 4.8 Scottish Borders Council
- 4.8.1 Scottish Borders Council did not object to the Development. Scottish Borders Council advised that, the whilst the Development represents an increase in tip height from the Original Consent, the increase would be unlikely to create any significant effects due to the distance of the Development from the Borders coastline. Scottish Borders Council further advised that any effects resulting from the increase would be offset by the reduction in WTG numbers from the Original Consent.
- 4.8.2 Scottish Borders Council provided detailed comments on the kittiwake qualifying interest of the St Abb's Head to Fast Castle SPA, recommending conditions be attached to any consent granted (including the requirement for a Piling Strategy ("PS") to ensure sequential pile driving is avoided in relation to other in-combination proposals). Further, Scottish Borders Council advised that a condition to enable mitigation (e.g., curtailment) be attached to any consent granted to address any significant adverse impacts on seabird populations at St Abb's Head to Fast Castle SPA identified through monitoring mechanisms.
- 4.8.3 Scottish Borders Council, however, advised that it was content that SNH was considering the impacts of the Development on Special Areas of Conservation ("SAC") and SPAs fully.
- 4.8.4 A response from the Company was forwarded to Scottish Borders Council on 18 January 2019. The Company maintained that the results of the EIA Report remain valid and that there will be no significant adverse effect on the site integrity of any SPA. The Company, however, reiterated its commitment to working with SNH, RSPB Scotland and other stakeholders to discuss ornithological matters further.
- 4.8.5 Conditions have been attached to the s.36 consent requiring the Company to prepare, consult on and adhere to a PS and PEMP (to include monitoring of the impacts of the Development on ornithology and marine mammal receptors) to address the concerns raised. Further, conditions will be attached to any marine licence(s) granted, requiring the Company to bear the costs of any remediation works required.

- 4.9 Historic Environment Scotland (“HES”)
- 4.9.1 HES was content that the EIA Report provided sufficient information and HES did not object to the Application. HES stated that the Application does not raise historic environment issues of national significance. HES consider its key interest in the Development to be the impacts on the setting of two category A listed buildings – Bell Rock Lighthouse (LB 5197) and Ladyloan, Bell Rock Lighthouse Signal Tower and Entrance Lodges (LB 21230). HES were content that there will not be a significant impact on the settings of these listed buildings as a result of the Development.
- 4.9.2 HES welcomed the references to their [Managing Change in the Historic Environment](#) guidance series and HES [Policy Statement](#) within the EIA Report. HES was content that the methodology utilised in the EIA Report was appropriate and provided some detailed comments on the methodology and assessment presented. HES had comments on the method used to rate the sensitivity of heritage assets (included at table 13.9 of the EIA Report). The method used means that no value is available for nationally important assets with a medium or low contribution for setting and therefore, HES stated that this has the potential to obscure the manner in which sensitivity is assigned in such cases.
- 4.9.3 HES welcomed the inclusion of visualisations and wirelines to support the conclusions of the EIA Report and made comments regarding the resolution of the documents. HES were, however, able to refer to visualisations for previous iterations of the scheme for context and stated that it was content that adequate information had been provided.
- 4.9.4 HES welcomed the commitment to produce a Written Scheme of Investigation (“WSI”) and a Protocol for Archaeological Discoveries (“PAD”).
- 4.10 Maritime & Coastguard Agency (“MCA”)
- 4.10.1 MCA advised that detailed discussion had taken place with the Company regarding traffic surveys. MCA advised that it accepted that the original Navigational Risk Assessment (“NRA”), the updated EIA Report, the traffic validation study and the Marine Guidance Note (“MGN”) 543 checklist, as an equivalent to a new NRA. MCA advised that there are a number of issues which would require further consideration, should any consent be granted.
- 4.10.2 MCA stated that it had considered the initial layout design presented in figure 15.1 (Chapter 15, page 13) of the EIA Report and that the turbine layout design will require MCA approval prior to construction, to minimise the risks to surface vessels (including rescue boats) and Search and Rescue (“SAR”) aircraft operating within the Development boundary.



- 4.10.3 MCA stated it was concerned with the scale of the Development, in combination with the Neart na Gaoithe, Seagreen Alpha and Seagreen Bravo offshore wind farms and that the turbine layout and orientation would need to be discussed and agreed with MCA, should any new consent be granted, to mitigate these concerns. MCA advised that a SAR checklist will be required to be agreed prior to the commencement of any construction activities. MCA advised that a condition requiring the preparation and approval of an Emergency Response Co-Operation Plan (“ERCoP”) would be required.
- 4.10.4 MCA advised that lighting and marking requirements would require further discussion with key stakeholders and provided further detail on the lighting and marking requirements for the Development.
- 4.10.5 MCA supported the use of safety zones throughout the lifespan of the Development, but stated that further detailed justification would be required for a 50m operational safety zone, based on significant evidence from the construction phases and the baseline NRA.
- 4.10.6 MCA stated that further work needs to be undertaken to define cable burial and protection methods, particularly close to shore, where impacts on navigable depth may become significant. MCA stated that any consented cable protected works must ensure existing and future safe navigation is not comprised. MCA stated it would accept a maximum of five % reduction in surround depth referenced to Chart Datum. MCA stated that existing charted anchorage areas should be avoided.
- 4.10.7 MCA further advised that its preference would be to see linear progression of the construction programme, to avoid disparate construction sites across the Development boundary. The progression of the construction programme will be subject to agreement through the Construction Programme (“CoP”) and CMS.
- 4.10.8 Conditions have been placed upon the s.36 consent to mitigate the impacts highlighted by MCA, including the requirement to prepare, consult on and adhere to the ERCoP, Cable Plan (“CaP”), CoP, CMS, DSLP, Navigational Safety Plan (“NSP”) and LMP.
- 4.11 Northern Lighthouse Board (“NLB”)
- 4.11.1 NLB stated that it requires the Company to establish a NSP and LMP, detailing the proposed lighting and marking for all phases of the Development. NLB further advised that it wishes to be consulted on the lighting and marking requirements during the decommissioning phase of the Development. NLB further advised that the lighting and marking may need to be altered or amended to reflect the neighbouring Neart na Gaoithe,

- Seagreen Alpha and Seagreen Bravo offshore wind farms, in order to form a cohesive and effective marking plan for the area.
- 4.11.2 NLB provided further details regarding the marking requirements during the construction phase. NLB also provided details regarding the marking and lighting requirements during the operational phase of the Development, including the requirement to adhere to the International Association of Marine Aids to Navigation and Lighthouse Authorities (“IALA”) Recommendation O-139.
- 4.11.3 NLB provided further comments on the requirement to obtain a Statutory Sanction prior to the deployment of any navigational marking and lighting equipment, promulgation of information regarding the nature and timescales of the Development and the requirement to inform the United Kingdom Hydrographic Office (“UKHO”) of the locations of the installed WTGs, cable routes and cable landing points.
- 4.11.4 NLB noted that a comprehensive contingency plan will be required, detailing the emergency response to all possible catastrophic failure and collision scenarios.
- 4.11.5 Conditions have been placed on the s.36 consent to mitigate the impacts highlighted by the NLB, including the requirement to prepare, consult on and adhere to the ERCoP, NSP and LMP. Conditions will also be attached to any marine licence(s) granted regarding notification requirements.
- 4.12 Scottish Environment Protection Agency (“SEPA”)
- 4.12.1 SEPA had no comments to make on the offshore elements of this Development and referred to their standing advice on marine consultations ([LUPS-GU13](#) Marine Scotland consultations: SEPA standing advice for Marine Scotland on marine licence consultations).
- 4.13 Scottish Natural Heritage (“SNH”)
- 4.13.1 SNH submitted an objection to the Development based on the grounds that it predicted adverse effects on the site integrity of the Forth Islands SPA (with respect to the kittiwake, gannet and razorbill qualifying interests) and Fowlsheugh SPA (kittiwake and razorbill qualifying interests) as a result of the Development in-combination with the existing consents for the other Forth and Tay Developments. SNH advised that there would be no adverse effect on the site integrity of any SPA as a result of the Development in isolation.
- 4.13.2 SNH further advised that an adverse impact on the site integrity of the St Abb’s Head to Fast Castle SPA, in respect of kittiwake as a qualifying

interest, as a result of the Development in-combination with the existing consents for the Forth and Tay Developments could not be ruled out.

- 4.13.3 SNH advised that it agreed with the methodology and assessment presented in the EIA Report and the case presented by the Company regarding the use of site specific flight height information (option 1) in the collision risk modelling (“CRM”). SNH welcomed the inclusion of additional work exploring alternative methods of displacement and barrier impacts, which assisted in the formation of its advice. SNH provided detailed comments on the collision risk and displacement modelling and Population Viability Analysis (“PVA”) methods presented in the EIA Report.
- 4.13.4 SNH provided comments on the marine mammal assessment presented in the EIA Report. SNH advised that there would be no significant adverse effect on any SACs as a result of the Development in isolation or in-combination with any other plans or projects, subject to the appliance of conditions to any consent granted to mitigate concerns regarding the impacts of construction and piling activities on marine mammals.
- 4.13.5 SNH stated that a PS should be developed to mitigate the residual risk of PTS, as the predicted PTS effect zones are large. SNH advised, however, that it agreed with the conclusion within the EIA Report regarding the magnitude of impacts (low) and the significance of effect from PTS as minor for all species and scenarios presented. SNH stated that it accepted that there is no requirement to re-run the interim Population Consequences of Disturbance (“iPCoD”) modelling for bottlenose dolphin with the 1% conversion factor. SNH advised that this approach would not change the outcome of the modelling presented using the 0.5% conversion factor.
- 4.13.6 SNH provided further advice regarding the requirement for European Protected Species (“EPS”) licences during construction works.
- 4.13.7 SNH provided advice on the seascape, landscape and visual impacts of the Development. SNH advised that the in-combination effects of the Development and the other Forth and Tay Developments will contribute to widespread levels of significant adverse effects on sensitive landscape, seascape and visual receptors. SNH stated that the large height and extent of the Development will introduce significant adverse effects on receptors along a substantial proportion of the coastline in South Aberdeenshire, Angus and Fife (including both daytime and night-time impacts) and would raise issues of national interest for SNH.
- 4.13.8 SNH stated that the cumulative impacts of the Development, the other Forth and Tay Developments and the operational European Offshore Wind Deployment Centre (“EOWDC”) will introduce significant effects in the regional context, further constraining the onshore capacity for wind energy which is already limited.

- 4.13.9 SNH advised that it broadly agreed with the assessment presented in the EIA Report. SNH stated that it considered the magnitude of cumulative visual change has been underestimated within the EIA Report, whilst this does not change the overall assessment of significance of effect for the most part, SNH advised that the severity of the impact of the increased WTG height of the Development should be recognised. SNH stated that it disagreed with the conclusions within the EIA Report regarding the significance of adverse visual impacts for six of the 26 viewpoints presented – SNH stated that these should be classed as ‘major significant’ and not ‘moderate/major’ (as a result of the greater magnitude of cumulative change resulting from the addition of larger WTGs for the Development and the clearly visible lighting and rotation of the blades).
- 4.13.10 SNH advised significant adverse effects arising along the National Cycle Network Route 1 from South Aberdeenshire to Angus, along the East Coast main rail route between Montrose and Carnoustie, along the A92 (Coastal Tourist Route) and along the Fife Coastal Path (particularly between Anstruther East, Fife Ness and St Andrews and across the Firth of Tay).
- 4.13.11 SNH advised that physical/coastal processes (notably potential erosion on the vicinity of cable landfall referred to in the recent Dynamic Coast project (published 2017)) should be given consideration. SNH noted that physical processes had been scoped out in 2017. SNH advised that the Company should be required to prepare a Cable Laying Strategy (now known as a “CaP”) to address the risks of the trenched cable becoming re-exposed.
- 4.13.12 SNH advised that it welcomed and supported the proposed mitigation included in the EIA Report (including the submission of a PS, CoP and PEMP) to mitigate potential impacts on fish (including diadromous fish) and shellfish.
- 4.13.13 SNH advised that a number of conditions relating to the pre-construction, construction, operational and decommissioning phases of the Development should be attached to any consent granted, in order to mitigate the impacts detailed above.
- 4.13.14 The Company provided a response to SNH’s comments on 6 December 2018. The Company welcomed the response provided by SNH but stated that it disagreed with SNH’s conclusion that the Development in-combination with the other Forth and Tay Developments would result in an adverse effect on the site integrity of the Forth Islands SPA, Fowlsheugh SPA and St Abb’s Head to Fast Castle SPA. The Company advised that it considers that the assessment presented is precautionary and that added precaution at multiple levels (or within multiple parameters) of the assessment has resulted in an over-estimation of impacts. The Company provided detailed commentary of the precaution included in various parts of the ornithology assessment and stated that it maintains that there is no adverse effect on

the site integrity of any SPA as a result of the Development in-combination with other plans and projects.

- 4.13.15 The Company acknowledged SNH's advice regarding seascape, landscape and visual impact assessment but stated that it considers the conclusions of the EIA Report to be valid. The Company considers that SNH's identification of additional viewpoints would not materially change the conclusion of the assessment. The Company further stated that stakeholders had agreed that EOWDC was outside the study area for the assessment.
- 4.13.16 The Company stated that it agreed with the conditions suggested by SNH for all receptors and that it would work with stakeholders to prepare and implement these plans. No subsequent response was received from SNH.
- 4.13.17 Conditions have been attached to the s.36 consent requiring the Company to prepare, consult on and adhere to an EMP, CoP, PS, LMP, DSLP, DS, CaP, PEMP, Vessel Management Plan ("VMP"), DP and participate in the Forth and Tay Regional Advisory Group ("FTRAG") and the Scottish Marine Energy Research ("ScotMER") programme to address the concerns outlined above.

## **5 Summary of non-statutory consultee consultation**

- 5.1 A number of other bodies were consulted on the Application and EIA Report and provided responses.
- 5.2 Aberdeen International Airport ("AIA") raised no objections and advised that the Development does not conflict with the aerodrome safeguarding criteria.
- 5.3 BT Radio Network Protection ("BT") advised that the Development should not cause interference to BT's current and presently planned radio network.
- 5.4 Dunbar Fishermen's Association ("DFA") advised that the preparation and placement of cables would cause disruption to fishing grounds and that, this disruption would result in loss of income for fishermen. DFA stated that compensation would be necessary and that this would need to be discussed further.
  - 5.4.1 A response from the Company was forwarded to DFA. No subsequent response was received from DFA.
  - 5.4.2 Conditions requiring the Company to prepare, consult on and adhere to a CaP and Fisheries Management and Mitigation Strategy ("FMMS") have been attached to the s.36 consent to mitigate these concerns.

- 5.5 Firth of Forth Lobster Hatchery advised that the Development would impact lobster populations and the fishing community along the East Lothian coastline, with attendant impacts on local heritage.
- 5.5.1 A response from the Company was forwarded to Firth of Forth Lobster Hatchery. No subsequent response was received.
- 5.5.2 Conditions requiring the Company to prepare, consult on and adhere to a CaP and FMMS have been attached to the s.36 consent to mitigate these concerns. The requirement to monitor impacts of the Development on commercial fisheries species has been included within the PEMP.
- 5.6 The Ministry of Defence (“MOD”) objected to the Development on safeguarding grounds, citing unacceptable interference to RRH at Buchan and Brizlee Wood, due to the detectability of WTGs. MOD advised that the Development could have detrimental effects on the operation of ADR, due to the desensitisation of radar in the vicinity of WTGs and the creation of ‘false’ aircraft returns. MOD advised that the Development could reduce the Royal Air Force’s (“RAF”) ability to detect and manage aircraft in the United Kingdom’s sovereign airspace.
- 5.6.1 MOD further objected on the grounds of unacceptable interference from the Development to the primary surveillance Air Traffic Control (“ATC”) radar at Leuchars Station (formerly RAF Leuchars). MOD advised that the Development will be detectable from Leuchars Station and could desensitise the ATC radar, thus resulting in aircraft not being detected or creating ‘unwanted’ returns. MOD advised that this could hinder the ability to maintain situational awareness of all aircraft movements.
- 5.6.2 MOD advised that the Development will not adversely affect MOD offshore danger and exercise areas or defence maritime interests. The MOD advised, however, that the WTGs and offshore platforms should be fitted with appropriate aviation warning lighting to maintain the safety of military aviation.
- 5.6.3 MOD subsequently responded on 5 March 2019 to MS-LOT regarding suspensive conditions. MOD stated that both RRH Brizlee Wood and RRH Buchan are equipped with TPS 77 (or equivalent) type ADR. In 2018 MOD issued a public statement identifying that the established process by which wind farm developers have been able to submit proposals to determine whether the inbuilt capabilities of the TPS 77 type ADR, intended to address wind farm interference, could be employed to provide a technical mitigation has been suspended until further notice pending a review of this capability. Therefore the MOD is not in a position to provide confirmation on suspensive conditions at this time. The MOD recognised the importance of the Inch Cape wind farm proposal, and they have been considering the issue of offshore wind farms and the impacts on air defence, however, it is a complex situation

that causes fundamental concerns for defence and therefore needs to be fully considered.

- 5.6.4 Conditions requiring the Company to prepare, consult and adhere to an Air Traffic Control Radar Mitigation Scheme (“ATC Scheme”) and an Air Defence Radar Mitigation Scheme (“ADR Scheme”), and a LMP have been attached to the s.36 consent to address MOD concerns. The MOD is not in a position to confirm suspensive conditions at this time. However, MS-LOT consider that the conditions attached to the s.36 consent mitigate the impacts on ATC Radar and ADR provide sufficient assurance that the MOD concerns will be dealt with prior to the Commencement of the Development.
- 5.7 National Air Traffic Services Safeguarding (“NATS”) advised that the Development does not conflict with its safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company (“NERL”) had no safeguarding objection to the Development.
- 5.8 Port Seton Fishermen (“PSF”) objected to the Development due to concerns regarding the offshore export cable route and potential disruption arising from loss of access to fishing grounds.
  - 5.8.1 A response from the Company was forwarded to PSF, confirming that further discussions with the fishing industry will take place and the mitigation measures which will be adopted by the Company. The Company confirmed that it will support training for local fishermen to become Offshore Fisheries Liaison Officers (“OFLO”) and Fishing Industry Representatives (“FIR”). The Company further outlined that a Cable Burial Plan will be produced and regular monitoring of the cable route will be undertaken. The Company further commit to an over-trawl-ability assessment to provide assurance to the scallop fleet. The Company encouraged PSF to raise any concerns through the Commercial Fisheries Working Group (“CFWG”). No subsequent response was received from PSF.
  - 5.8.2 Conditions requiring the Company to prepare, consult on and adhere to a CaP and FMMS have been attached to the s.36 consent to mitigate these concerns. The requirement to monitor impacts of the Development on commercial fisheries species has been included within the PEMP. Conditions have also been attached requiring the Company to participate in the Forth and Tay Commercial Fisheries Working Group (“FTCFWG”).
- 5.9 River Tweed Commission (“RTC”) advised that the EIA Report has not taken into account the large number of east coast salmon which travel across the North Sea in line with south Northumberland, and then travel northwards up the east coast to reach their Scottish natal rivers.
  - 5.9.1 RTC advised that salmon passing through the Development area are vulnerable to seal predation and new information has shown that the bases

- of WTGs can act as artificial reefs, attracting and thus altering the foraging patterns of seals. RTC consider that the influence of underwater structures on predation of salmon migration has not been fully considered in the EIA Report.
- 5.9.2 RTC considered that some compensatory support should be given to those rivers which will suffer as a consequence of greater predation on returning stocks, should further data support that this is the case.
- 5.9.3 A response from the Company addressing RTC's concerns was shared with RTC. The Company acknowledged RTC's objections and highlighted that a report on 'Salmon Migration Behaviour'<sup>1</sup> had been prepared to provide justification as to why impacts on diadromous fish could be scoped out of the EIA Report. The conclusions of this report had been agreed with Scottish Ministers in November 2017. The Company provided RTC with a map detailing the recaptures of Tweed fish at sea. The Company acknowledged that WTGs are known to alter the foraging pattern of seals, the Company advised that compensatory support for rivers suffering as a consequence would be considered, should further data support this. The Company acknowledged that uncertainties regarding salmon migration would need to be discussed further and consideration given to appropriate post-consent monitoring and mitigation. No subsequent response was received from RTC.
- 5.9.4 Conditions have been attached to the s.36 consent which will implement the commitments outlined in the EIA Report, including the requirement for the PEMP, EMP, PS and to participate in the FTRAG and ScotMER programme.
- 5.10 Royal Society for Protection of Birds (Scotland) ("RSPB Scotland") submitted an objection to the Development due to potential impacts on internationally important seabird populations. RSPB Scotland did acknowledge that the impacts of the Development were predicted to be less than those from the Original Consent. RSPB Scotland advised that the impacts of the Development in-combination with the other Forth and Tay Developments would result in population scale effects, which are significant in EIA terms and would constitute an adverse effect on the site integrity of SPAs.
- 5.10.1 RSPB Scotland provided detailed comments regarding impacts on kittiwake, gannet, guillemot, razorbill and puffin. RSPB Scotland advised that the predicted impacts on the kittiwake qualifying interest of the Forth Islands SPA, Fowlsheugh SPA and St Abb's Head to Fast Castle SPA would result in an adverse effect on the site integrity, due to the scale of predicted impacts on the population. RSPB Scotland reached this conclusion in light of the declining kittiwake population at all three SPAs. RSPB Scotland stated that the total predicted collision impacts for gannet, in-combination with the other

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<sup>1</sup> Salmon Migration Behaviour Report, October 2017. Available here: <http://marine.gov.scot/sites/default/files/00528343.pdf> (Last accessed 19/12/2018)



Forth and Tay Developments and UK North Sea wind farms, amount to significant impacts and that any conclusion regarding effects on the site integrity should be considered in light of the knowledge that 20% fewer gannets will occur, regardless of population increase or decrease over the 50 year timeframe. RSPB Scotland advised that there is a lack of empirical data to inform the displacement effects on auks (puffin, razorbill and guillemot) and that the estimated effects presented should be treated with caution. RSPB Scotland advised that the auk populations are experiencing relatively stable or increasing trends, however, in its opinion the scale of impacts predicted, particularly for razorbill, are concerning.

- 5.10.2 RSPB Scotland provided detailed comments on the methodologies used in the EIA Report and advised that the EIA Report omits a full assessment on the non-SPA bird colonies which show connectivity with the Forth and Tay Developments as an assessment of the impacts to seabirds during the non-breeding season has not been included. RSPB Scotland advised that the risks are posed to individuals from these colonies throughout the year. RSPB Scotland further disagreed with the Company's conclusion that there will be no adverse effect on site integrity for the Forth Islands SPA with respect to kittiwake.
- 5.10.3 RSPB Scotland stated that the site-specific flight altitudes recorded for kittiwake and gannet are lower than those reported in the literature and that sufficient explanation regarding these differences has not been provided in the EIA Report. RSPB Scotland stated that it did not agree with the conclusions of the EIA Report regarding the discrepancies in these figures and that a biologically meaningful argument should be presented if the outputs of CRM using option 1 are to be utilised.
- 5.10.4 A response from the Company was forwarded to RSPB Scotland on 6 December 2018, confirming that the Company's position remained unchanged. No subsequent response was received from RSPB Scotland.
- 5.10.5 Conditions have been attached to the s.36 consent requiring the Company to prepare, consult on and adhere to the PEMP, EMP and CMS to address these concerns. The Company is also required to participate in the FTRAG and ScotMER programme, to contribute to improved understanding of the impacts of the Development, both in isolation and in-combination, on seabird populations.
- 5.11 Seagreen Wind Energy Limited ("Seagreen") highlighted that the design envelopes for the Seagreen Alpha and Seagreen Bravo offshore wind farms utilised in the cumulative impact assessments within the EIA Report had been refined and updated since the information was shared with the Company. Seagreen highlighted that this may have implications for the representation of the impacts of the revised Seagreen Alpha and Seagreen Bravo offshore wind farms ("the Optimised Seagreen Project") in-

combination with the Development. Seagreen advised that the outputs of the collision risk modelling for the revised Seagreen designs represent a reduced number of collisions when compared to the EIA Report. Seagreen further highlighted that the cumulative assessments completed by the Company for fish and marine mammals rely on the Seagreen Phase 1 consented design envelopes and therefore do not consider the use of monopiles as a foundation option, which would represent the worst case scenario for these receptors. Seagreen consider that the marine mammal modelling assessment outcomes for the Development will be inconsistent with Seagreen's assessment for the Optimised Seagreen Project and may underestimate the impacts of underwater noise (particularly on bottlenose dolphin), due to the exclusion of the Optimised Seagreen Project from the quantitative assessment of disturbance impacts.

- 5.12 Scottish Fishermen's Federation ("SFF") submitted an objection to the Development due to concerns regarding potential impacts on commercial fishing interests. SFF advised that the Development represented a conflict with several policies contained within the Scottish National Marine Plan ("NMP") including Chapter 4, General Policies 4, 13, 17, 18 and 19 and Chapter 6, Sea Fisheries Policies 1, 2 and 3.
- 5.12.1 SFF advised that conditions should be attached to any consent granted, to mitigate the impacts of the Development on the fishing industry. SFF advised that it wishes to be consulted on various post-consent plans (including the Commercial Fisheries Management Plan – now known as the Fisheries Management and Mitigation Strategy ("FMMS")) to ensure its concerns are addressed. SFF also advised that monitoring of the main fisheries activities in the area (scallops, squid, nephrops, lobster, cod, herring, sprat and shad) would be required. SFF did recognise that the impacts of the Development may represent an improvement when compared to the predicted impacts of the Original Consent.
- 5.12.2 SFF advised that it did not agree with the conclusions of chapter 7.9 of the EIA Report, which concluded that potential conflicts with commercial fisheries interests had been adequately considered and addressed. SFF contended that sufficient action has not been taken to address concerns regarding the offshore export cable route and impacts on nephrop grounds. SFF advised that scour protection for inter array cables should be restricted to within the 50m safety zone and that the Branch laying option for inter array cabling should be the preferred option. SFF advised that cable protection using rock or mattresses is not suitable for scallop fishing and, therefore, burial should be the preferred option. SFF advised that further restrictions on fishing activities beyond the construction impacts, caused by unburied cable, rock or mattress dumping, should be avoided.

- 5.12.3 SFF highlighted that whilst the Development will contribute to energy security, consideration should also be given to food security. SFF advised that it considers that the socio-economics assessment presented in the EIA Report (chapter 16) does not properly address the worst case displacement scenarios. SFF stated that £10.3 million first sale value of fish could be lost, impacted potentially 218 vessels and 335 jobs could be impacted, with attendant impacts on the onshore supply chain. SFF recognised the importance of early engagement on the content of any DP for the Development.
- 5.12.4 A response from the Company was forwarded to SFF on 29 November 2018 addressing the comments raised by SFF. The Company reaffirmed its commitment to the consent conditions outlined in the EIA Report (including the FMMS and Fisheries Liaison Officer (“FLO”)) and confirmed that its position remains unchanged.
- 5.12.5 SFF subsequently responded on 17 December 2018, reiterating the importance the role of the FLO and the Commercial Fisheries Mitigation Strategy (now known as the FMMS) and its concerns regarding the impacts of the Development on commercial fisheries interests. SFF reiterated the requirement for compensation for affected parties and that it expects an agreement to put in place regarding a protocol to protect any static gear from damage prior to the commencement of construction and that this should be reflected in the FMMS. SFF confirmed that the commitment to a consent condition requiring a DP would satisfy its concerns regarding the decommissioning phase of the Development.
- 5.12.6 Conditions have been attached to the s.36 consent and Offshore Transmission Infrastructure (“OfTI”) marine licence requiring the Company to prepare, consult on and adhere to a VMP, DP and FMMS to address these concerns. The SFF will be consulted on all relevant post-consent plans. The Company will be required to prepare and deliver a PEMP to monitor the impacts of the Development on a range of receptors, including commercial fisheries. A condition requiring a FLO has been attached to the s.36 consent and OfTI marine licence to establish and maintain effective communications between the Company, any contractors or sub-contractors, fishermen and other users of the sea during the construction of the Development. Further, the Company is also required to participate in the FTCFWG and ScotMER programme, to contribute to an improved understanding of the impacts of the Development on commercial fisheries.
- 5.13 Tay District Salmon Fishery Board (“Tay DSFB”) submitted an objection to the Development and advised that its objection would be maintained until an agreed and accepted monitoring and mitigation strategy is produced by the Company.

- 5.13.1 Tay DSFB raised concerns regarding potential negative impacts on Atlantic salmon and sea trout arising from the Development. Tay DSFB requested that, should any consent be granted, conditions should be attached regarding monitoring and mitigation measures. Tay DSFB advised that, should monitoring work identify any negative impacts, then conditions should be attached to the consent requiring mitigation measures. Further, should these issues be unable to be resolved, the Tay DSFB advised that compensatory activities in the affected catchments should be considered.
- 5.13.2 Tay DSFB expressed its willingness to participate in the development of such measures. Tay DSFB provided details of potential monitoring work which could be undertaken (including monitoring the effects of piling noise on migrating salmon and sea trout, the impact of electromagnetic fields and the risk of increased predation from seals). Tay DSFB advised that it is keen to re-engage with the FTRAG.
- 5.13.3 A response from the Company was forwarded to Tay DSFB acknowledging its objection. The Company recognised that uncertainties regarding the impacts on diadromous fish migration need to be considered further and addressed via appropriate mitigation and monitoring measures, however the Company maintained that it is unlikely that the Development will result in significant impacts on diadromous fish populations. The Company proposed that conditions requiring the preparation and implementation of a PS, PEMP and CoP would ensure any impacts are minimised. No subsequent response was received from Tay DSFB.
- 5.13.4 Conditions have been attached to the s.36 consent which will implement the commitment to participate in the FTRAG and require the Company to prepare, consult on and implement a PEMP, to include monitoring of impacts on diadromous fish.
- 5.14 Transport Scotland (“TS”) did not have any objections to the Development. TS noted that the EIA Report does not indicate how any of the turbine or foundation components or structures will be transported via road network to the port, prior to loading onto delivery vessel. TS note the commitment included in the EIA Report to prepare a Traffic and Transport Plan (“TTP”) in the unlikely event that abnormal loads are required during the construction phase of the Development. TS advised that should abnormal load movements be required on the trunk road network, an assessment of the route to site will be required. TS advised that conditions should be attached to any consent granted, requiring the Company to prepare, consult on and adhere to the terms of a Construction Traffic Management Plan (“CTMP”), prior to the commencement of deliveries to site, in order to minimise interference and maintain the safety and free flow of traffic on the trunk roads.
- 5.15 A condition has been attached to the s.36 consent requiring the Company to prepare, consult on and adhere to a CTMP, should any major offshore

components require onshore abnormal load transport. TS will be consulted on any CTMP prepared.

## **6 Representations from other organisations and members of the public**

6.1 No public representations were received during the consultation period

## **7 Advice from Third Parties**

7.1 MS-LOT sought advice from MSS on the Application and consultation responses. MSS provided advice as follows and also provided expertise in completing the AA.

### **7.2 Marine Mammals**

7.2.1 MSS provided detailed comments on the marine mammal assessment presented in the EIA Report. MSS maintain that the use of the 1% noise modelling conversion factor would be more precautionary, based on current best scientific evidence. MSS advised that the contour maps for low and high frequency cetaceans and seals indicated that the cumulative PTS zones are larger when the 1% conversion factor is used, as opposed to the 0.5% rate. MSS advised, however, that it agrees with the conclusions of the Company and SNH that the magnitude of impact is low and that the significance of effect from PTS is low for all species and scenarios. MSS advised that this conclusion was also valid for the disturbance assessment.

7.2.2 MSS acknowledged that the use of Acoustic Deterrent Devices (“ADDs”) has been incorporated into the noise modelling assessment. MSS further noted that the Company does not intend to use ADDs as a mitigation measure, following consideration of the outputs of further modelling undertaken. MSS noted that there are some inconsistencies in the EIA Report regarding the use of ADDs which should be checked.

7.2.3 MSS agreed with SNH that some scenarios presented do have large effect zones for cumulative PTS for minke whale, at distances which may make current mitigation practices ineffective. MSS note that an EPS licence for injury may be required, however, MSS stated that this is likely to be a precautionary measure.

7.2.4 MSS agreed with the mitigation measures outlined in the SNH response of 28 September 2018.

7.2.5 The Company provided a response to MSS’s comments, welcoming the comments received and noting the potential need for the inclusion of minke whale within an EPS licence application for injury. The Company noted MSS’s comments regarding the use of ADDs and noted that specific

mitigation requirements for piling will be agreed through the development of the PS.

### 7.3 Marine Fish Ecology

7.3.1 MSS advised that it is broadly in agreement with the conclusions presented in the EIA Report.

7.3.2 MSS welcomed the embedded mitigation included in the EIA Report and the commitment to the purpose of the relevant conditions attached to the Original Consent.

### 7.4 Diadromous Fish

7.4.1 MSS advised that it had previously reviewed the salmon behaviour migration report (Appendix 9C of the EIA report) and report on particle motion (Appendix 9D of the EIA report) prior to formal submission of the EIA Report. MSS did not have further comments to make on these papers. MSS noted that the Company had reviewed the existing HRA material and that this review may be helpful should further appraisal be required at a future date.

7.4.2 MSS noted that the EIA Report had concluded that returning adult salmon would migrate north, close to the coast, thus avoiding the construction work. MSS noted that prior to this migration, adults will have migrated south, probably further offshore, which could bring them into proximity of the construction work. MSS noted that substantial numbers of emigrating smolts and returning adults will migrate through the general area and that these are associated with some of Scotland's most important salmon rivers.

7.4.3 MSS advised that the Company should participate in the ScotMER programme. The Company provided a response to MSS, confirming that it will commit to further engagement with MSS regarding mitigation and monitoring measures.

### 7.5 Commercial Fisheries

7.5.1 MSS noted that it had previously provided comments on the EIA Report prior to submission and that further information had been provided in the final EIA Report, as regards the FTCFWG and dropped objects procedure. MSS noted that further information had not been provided in relation to bottom towed fishing gears, nor the FMMS, however, MSS noted that the Company had committed to both topics as part of consent conditions.

7.5.2 MSS had no additional comments to make on the baseline data used, the identified fisheries impacted and the significance levels of effects.

## 7.6 Ornithology

- 7.6.1 MSS provided detailed comments on the ornithology assessment presented in the EIA Report and HRA Report. MSS noted that the assessed impacts of the Development are less than those predicted for the Original Consent. MSS noted that objections to the Development had been submitted by SNH and RSPB Scotland.
- 7.6.2 MSS advised that the Company had followed the advice provided in the scoping opinion, and in subsequent clarifications, regarding CRM. MSS provided further advice regarding the use of site-specific flight height data (option 1) and recent research publications regarding its use, but noted that generic flight-height (option 2) data results will be utilised in the AA. MSS noted that SNH advised that the use of site specific flight height data would 'have reduced the impacts significantly' as regards the kittiwake qualifying interest of the St Abb's Head to Fast Castle SPA.
- 7.6.3 MSS advised that the presentation of displacement effects using the new Seabird Offshore Renewable Development ("SeabORD") tool provided useful additional context.<sup>2</sup> MSS noted RSPB Scotland's comments regarding the lack of empirical data to support the displacement assessment.
- 7.6.4 MSS noted that SNH had advised that the collision risk modelling impacts used in the PVA (for the impacts following both displacement and collision) were from option 2 of the CRM, resulting in significantly greater assessed impacts for gannet and kittiwake when compared to outputs using option 1.
- 7.6.5 MSS further noted SNH's objection to the Development in-combination with the other Forth and Tay Developments. MSS advised that the outputs from the assessment prepared for the Seagreen Alpha and Seagreen Bravo offshore wind farms should be considered, once available, to provide additional context.
- 7.6.6 The Company provided a response to MSS's comments welcoming the comments received. The Company stated that it does not consider that SNH and RSPB Scotland have considered the level of precaution built into the assessment fully and that the conclusions of the EIA Report and HRA Report regarding impacts on site integrity remain valid. The Company provided a detailed overview of the precaution included within the assessment for further context.

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<sup>2</sup> SeabORD: A tool to estimate the fate of birds displaced by offshore renewable energy developments. Available here: <https://www2.gov.scot/Topics/marine/marineenergy/mre/current/SeabORD> (Last accessed 18/12/2018).

## 7.7 Socio-Economics

- 7.7.1 The Marine Scotland Marine Analytical Unit (“MAU”) reviewed the Application and provided detailed comments on the socio-economics assessment included. MAU previously provided detailed comments on the draft EIA Report and reiterated that its previous advice remains valid. MAU stated that its concerns have not been adequately addressed.
- 7.7.2 MAU advised that the impacts of displacement in the energy supply chain have not been considered in the assessment and, therefore, this could overestimate the positive economic impacts of the Development.
- 7.7.3 MAU provided further comments regarding the economic multipliers used to determine direct and induced employment impacts which could result in an overestimation of the positive impacts of the Development (by overestimating the number of FTE jobs created within the Economic Study Area).
- 7.7.4 MAU advised that the socio-economic analysis included is exclusively focussed on economic outcomes and does not consider potential impacts on wider social indicators (such as poverty, demand for public services and impact on environmental health).
- 7.7.5 The Company provided a response to MAU’s comments outlined above, stating that it considers that the conclusions of the assessment remain valid. The Company stated that it considers project-specific displacement is highly unlikely in the circumstances and that displaced jobs are not directly comparable. The Company provided details of the multiplier values used and where these values were sourced from and advised that, as due to uncertainties regarding the location of the facilities to be utilised during the construction and operation phase of the Development, the Economic Study Area has been defined based on assumed labour market catchment areas.

## 7.8 Summary

- 7.8.1 Scottish Ministers have considered the advice provided by MSS in reaching their decision.

## **8 Public Local Inquiry (“PLI”)**

- 8.1 Scottish Ministers did not require a PLI to be held.

## **9 The Scottish Ministers Considerations**

### 9.1 Environmental Matters

- 9.1.1 Scottish Ministers are satisfied that an environmental impact assessment has been carried out. Environmental information including the EIA Report has been produced and the applicable procedures regarding publicity and



consultation laid down in regulations have been followed. The environmental impacts of the Development have been assessed and the Scottish Ministers have taken the environmental information into account when reaching their decision.

9.1.2 The Scottish Ministers are satisfied that the Company, when formulating its proposal to construct the generating station, had 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.

9.1.3 The Scottish Ministers have had regard to the desirability of the matters mentioned in the previous paragraph and the extent to which the Company has done what it reasonably could to mitigate the effects of the Development on those features, and are satisfied that the Company has done what it reasonably could with regard to mitigation.

9.1.4 The Scottish Ministers have considered fully and carefully the Application, EIA Report, HRA Report, all relevant responses from consultees, MSS and third party representations received.

## 9.2 Main Determinative Issues

9.2.1 The Scottish Ministers, having taken account of all relevant information, consider that the main determining issues are:

- The extent to which the Development accords with and is supported by Scottish Government policy and the terms of the NMP and relevant local development plans;
- Renewable energy generation and associated policy benefits;
- Economic impacts; and
- The significant effects of the Development on the environment, which are in summary:
  - Impacts on marine mammals and seabirds including impacts on European sites and European offshore marine sites;
  - Impacts on diadromous fish;
  - Impacts on commercial fisheries;
  - Impacts on cultural heritage;
  - Impacts on seascape, landscape and visual amenity; and
  - Impacts on aviation and defence.

## 9.3 Scottish Government Policy Context

9.3.1 The NMP, formally adopted in 2015, and recently reviewed in Spring 2018, provides a comprehensive statutory planning framework for all activities out to 200nm. Scottish Ministers must take authorisation and enforcement decisions, which affect the marine environment, in accordance with the NMP.

9.3.2 Of particular relevance to this proposal are:

- Chapter 4 policies 'GEN 1-21', which guide all development proposals;
- Chapter 6 Sea Fisheries, policies 'FISHERIES 1-3';
- Chapter 8 Wild Salmon and Diadromous Fish, policies 'WILD FISH 1 and 3';
- Chapter 11 Offshore Wind and Marine Renewable Energy, policies 'RENEWABLES 1, 3-10';
- Chapter 12 Recreation and Tourism, policies 'REC & TOURISM 2 and 6';
- Chapter 13 Shipping, Ports, Harbours and Ferries, policies 'TRANSPORT 1 and 6';
- Chapter 14 Submarine Cables, policies 'CABLES 1, 2 and 5'; and
- Chapter 15 Defence, policy 'DEFENCE 1'.

9.3.3 The Development will contribute to Scotland's renewable energy targets and will provide wider benefits to the offshore wind industry which are reflected within Scotland's Offshore Wind Route Map and the National Renewables Infrastructure Plan ("NRIP"). Offshore wind is seen as an integral element in Scotland's contribution towards action on climate change. The development of offshore wind also represents one of the biggest opportunities for sustainable economic growth in Scotland for a generation. Scotland's ports and harbours present viable locations to service the associated construction and maintenance activities for offshore renewable energy.

9.3.4 Scottish Planning Policy 2014 ("SPP") sets out the Scottish Government's planning policy on renewable energy development. Efficient supply of low carbon and low cost heat and generation of heat and electricity from renewable energy sources are vital to reducing greenhouse gas emissions and can create significant opportunities for communities. Renewable energy also presents a significant opportunity for associated development, investment and growth of the supply chain, particularly for ports and harbours identified in the NRIP. Communities can also gain new opportunities from increased local ownership and associated benefits.

9.3.5 Whilst the SPP makes clear that the criteria against which applications should be assessed will vary depending upon the scale of the development and its relationship to the characteristics of the surrounding area, it states that these are likely to include: impacts on landscapes and the historic environment; ecology (including birds, mammals and fish); biodiversity and nature conservation; the water environment; communities; aviation; telecommunications; noise; shadow flicker and any cumulative impacts that are likely to arise. It also makes clear that the scope for the development to

contribute to national or local economic development should be a material consideration when considering an application.

- 9.3.6 Scotland's National Planning Framework 3 ("NPF3") sets out the ambition for Scotland to move towards a low carbon country, placing emphasis on the development of onshore and offshore renewable energy. It recognises the significant wind resource available in Scotland, and reflects targets to meet at least 30% of overall energy demand from renewable sources by 2020 including generating the equivalent of at least 100% of gross electricity consumption from renewables with an interim target of 50% by 2015. It also identifies targets to source 11% of heat demand and 10% of transport fuels from renewable sources by 2020.
- 9.3.7 NPF3 aims for Scotland to be a world leader in offshore renewable energy and expects that, in time, the pace of onshore wind development will be overtaken by the development of marine energy including wind, wave and tidal power.

#### 9.4 Impacts of the Development on the environment

##### 9.4.1 *Impacts on marine mammals, seabirds, European sites and European offshore marine sites*

9.4.1.1 The Habitats Regulations require Scottish Ministers to consider whether the proposed development would be likely to have a significant effect on a European site or European offshore marine site (either alone or in combination with other plans or projects), as defined in the Habitats Regulations.

9.4.1.2 Owing to the view of SNH that the Development is likely to have a significant effect on the qualifying interests of Forth Islands SPA, Fowlsheugh SPA, St Abb's Head to Fast Castle SPA, Buchan Ness to Collieston Coast SPA, Moray Firth SAC, Tay and Eden Estuary SAC, Berwickshire and North Northumberland Coast SAC and Isle of May SAC and the Outer Firth of Forth and St Andrews Bay Complex proposed Special Protection Area ("pSPA"), MS-LOT, on behalf of the Scottish Ministers, as the "competent authority", was required to carry out an AA.

9.4.1.3 For marine mammal species, the main impact of the Development would be from noise during construction due to piling operations and, in particular, in-combination impacts with the other Forth and Tay Developments and wind farms in the Moray Firth.

9.4.1.4 For the SAC qualifying interests, namely bottlenose dolphin, grey seal and harbour seal, SNH advised that there would be no adverse effect on the integrity of the above SACs. The AA considered the conservation objectives, the populations at the sites, the predicted levels of effect and population

consequences, the fact that the effects are less than those associated with the Original Consent, the precaution in the assessment methods and the advice from SNH. Scottish Ministers concluded that the Development, subject to the application of conditions, would not adversely affect the site integrity of the Moray Firth SAC, Tay and Eden Estuary SAC, Berwickshire and North Northumberland Coast SAC and Isle of May SAC, either alone or in-combination with other plans and projects. The AA provides detail on the noise propagation modelling and population modelling undertaken to inform the assessment.

9.4.1.5 In addition to the SAC qualifying interests above, other cetaceans (which are also European protected species) could be affected by the Development, in particular harbour porpoise and minke whale. These species were considered in the EIA Report. In its response of 28 September 2018, SNH advised that for both these species there would be no impact on favourable conservation status, subject to conditions being attached to the consent.

9.4.1.6 For bird species, the main impacts come from either collision and/or displacement and barrier effects. SNH considered that there would be a likely significant effect (“LSE”) as follows:

- Forth Islands SPA – gannet, kittiwake, herring gull, puffin, guillemot and razorbill;
- Fowlsheugh SPA – kittiwake, herring gull, guillemot and razorbill;
- St Abb’s Head to Fast Castle SPA – kittiwake, herring gull, guillemot and razorbill;
- Buchan Ness to Collieston Coast SPA – kittiwake, herring gull, guillemot; and
- Outer Firth of Forth and St Andrews Bay Complex pSPA - gannet, kittiwake, herring gull, puffin, guillemot and razorbill.

9.4.1.7 After receiving information provided by the Company, SNH submitted a formal objection to the Development on 28 September 2018. SNH’s objection was on the basis that the Development in-combination with Neart na Gaoithe, Seagreen Phase would lead to an adverse effect on the site integrity of the Forth Islands SPA, with respect to kittiwake, razorbill and gannet, and Fowlsheugh SPA, with respect to kittiwake and razorbill. SNH further advised that there could be an adverse effect on the site integrity of the St Abb’s Head to Fast Castle SPA with respect to kittiwake. On 24 January 2019, SNH advised that an adverse effect on the site integrity of the St Abb’s Head to Fast Castle SPA could not be ruled out in respect to kittiwake.

9.4.1.8 SNH did, however, advise that the impacts from the Development would be less than those associated with the Original Consent.

- 9.4.1.9 RSPB Scotland also objected to the Development both in isolation and in combination with the other Forth and Tay Developments due to unacceptable impacts on the seabird qualifying interests of the above listed SPAs. However, RSPB Scotland did recognise that the Development represents a reduction in predicted impacts from the Original Consent on internationally important seabird populations.
- 9.4.1.10 The AA considered the conservation objectives, populations at the sites, the predicted levels of effect and population consequences, the fact that the effects are less than in those associated with the Original Consent, the precaution in the assessment methods and the advice from SNH. Scottish Ministers concluded that, subject to the application of conditions, the Development would not adversely affect the site integrity of the Forth Islands SPA, Fowlsheugh SPA or St Abb's Head to Fast Castle SPA either alone or in-combination with other projects. Full details of the assessment methodology is provided in the AA.
- 9.4.1.11 In reaching their conclusions in the AA, Scottish Ministers have given considerable weight to SNH's advice. The methods advised by SNH through scoping and subsequent clarifications have been incorporated into the assessment. As such, divergence from SNH advice is limited to differing conclusions in relation to site integrity of gannet at Forth Islands SPA, kittiwake at Forth Islands SPA, Fowlsheugh SPA and St Abb's Head to Fast Castle SPA and razorbill at Forth Islands SPA and Fowlsheugh SPA. In reaching a different conclusion from SNH, Scottish Ministers have taken account in the AA of the entire context of the assessment, in particular its highly precautionary assumptions, which make it very unlikely that the number of impacted individuals will be as large as the values presented in the AA. For these reasons, Scottish Ministers consider the levels of the assessed impact to be reasonable and are convinced that there will be no adverse effect on the site integrity of any of the SACs, SPAs or the pSPA considered in the AA.
- 9.4.1.12 Scottish Ministers are currently in the process of identifying a suite of new marine SPAs in Scottish waters. In 2014, advice was received from the Statutory Nature Conservation Bodies ("SNCBs") on the sites most suitable for designation and at this stage they became draft SPAs ("dSPAs"). Once Scottish Ministers have agreed the case for a dSPA to be the subject of a public consultation, the proposal is given the status of pSPA and receives policy protection, which effectively puts such sites in the same position as designated sites, from that point forward until a decision on classification of the site is made. This policy protection for pSPAs is provided by SPP (paragraph 210), the UK Marine Policy Statement (paragraph 3.1.3) and the NMP for Scotland (paragraph 4.45). The Outer Firth of Forth and St. Andrew's Bay Complex pSPA is currently at consultation and, therefore, is included in the AA.

- 9.4.1.13 It is not a legal requirement under Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna or flora (“the Habitats Directive”) or the Habitats Regulations for the AA to assess the implications of the Development on the pSPA. Nevertheless, the AA includes an assessment of implications upon this site in accordance with domestic policy. Scottish Ministers are required to consider article 4(4) of Council Directive 2009/147/EC on the conservation of wild birds (“the Birds Directive”) in respect of the pSPA. The considerations under article 4(4) of the Birds Directive are separate and distinct to the considerations which must be assessed under this Habitats Directive assessment but they are, nevertheless, set out within the AA.
- 9.4.1.14 SNH advised that the Development in-combination with the other Forth and Tay Developments would not adversely affect the integrity of the Outer Firth of Forth and St Andrews Bay Complex pSPA. The completed AA came to the same conclusion.
- 9.4.1.15 Considering article 4(4) of the Birds Directive, Scottish Ministers concluded that the Development will not cause pollution or deterioration of habitats and any disturbance will be negligible.
- 9.4.1.16 In accordance with regulation 50 of the Conservation (Natural Habitats, &c.) Regulations 1994, and regulation 65 of the Conservation of Habitats and Species Regulations 2017, the Scottish Ministers will review their decision authorising the Development as soon as reasonably practicable following the formal designation of the pSPA. If required, this will include a supplementary AA being undertaken concerning the implications of the Development on the site as designated (as the site is currently a pSPA, the conservation objectives are currently in draft form; the conservation objectives will be finalised at the point at which the site is designated). If the conservation objectives, site boundary and qualifying features do not change when the site becomes designated, then a further AA may not be required as the effects of the Development have been fully considered in the current AA.
- 9.4.1.17 Conditions requiring the Company to prepare, consult on and adhere to a CMS, EMP, PS, VMP and PEMP, and to participate in the FTRAG and ScotMER Programme, have been attached to the s.36 consent to mitigate these concerns.
- 9.4.1.18 Scottish Ministers consider that, having taken into account the information provided by the Company, the responses of the consultative bodies, and having regard to the conditions attached, there are no outstanding concerns in relation to the impact of the Development on marine mammals, seabirds, European sites or European offshore marine sites which would require consent to be withheld.

## 9.4.2 *Impacts on diadromous fish*

- 9.4.2.1 In its scoping advice, SNH advised that diadromous fish should be scoped out of both EIA and HRA. MSS further advised that, since the completion of the original assessment, further research had been undertaken and significant findings regarding the behaviour of diadromous fish had been published. The scoping opinion, therefore, advised that the Company should review these findings and consider whether the findings would impact the conclusions of the previous assessment. If the Company deemed that the new information did not impact the conclusions of the previous assessment, the scoping opinion advised that the Company would be required to justify this decision.
- 9.4.2.2 The Company submitted a report on salmon migration behaviour to MS-LOT in October 2017, setting out its review of the recent information in relation to salmon migration research and proposal not to include further assessment of diadromous fish within the EIA Report. MS-LOT subsequently confirmed that the Company had provided sufficient justification that the baseline information and conclusions of the previous assessment remained valid. MS-LOT therefore confirmed that no further assessment was required within the EIA Report. The salmon migration behaviour report was included as an appendix to the EIA Report for context (Appendix 9C). MSS advised that substantial numbers of salmon may be migrating through the general area. Within the EIA Report, the Company has committed to mitigation measures to reduce the potential noise impacts on fish species, through the incorporation of a soft-start procedure during piling operations.
- 9.4.2.3 Consultees raised concerns regarding the potential for increased predation by seals around installed WTGs. In its response to RTC, the Company advised that compensatory support for rivers suffering as a consequence of the effects of increased predation, would be considered, should evidence of the impacts be provided. The Company further acknowledged the uncertainties around salmon migration behaviour and committed to further discussion regarding potential monitoring and mitigation requirements.
- 9.4.2.4 A condition requiring the Company to prepare, consult on and adhere to a PEMP (to include monitoring of the impacts of diadromous fish) and a PS have been attached to the s.36 consent to mitigate concerns regarding this receptor. The Company is also required to participate in the ScotMER programme, which includes research and monitoring work relating to the impacts of offshore renewable energy developments on diadromous fish.
- 9.4.2.5 Scottish Ministers consider that, having taken into account the information provided by the Company, the responses of the consultative bodies and having regard to the conditions attached to the s.36 consent, there are no outstanding concerns in relation to the impact of the Development on diadromous fish which would require consent to be withheld.

### 9.4.3 *Impacts on commercial fisheries*

- 9.4.3.1 Moderate significant effects were identified by the Company on several commercial fisheries throughout the lifespan of the Development, however, the Company concluded that the application of mitigation measures would reduce the significance of these effects to minor.
- 9.4.3.2 The SFF responded on behalf of its members, objecting to the Development. The SFF objected to aspects of the assessment presented in the EIA Report, particularly in relation to loss of access to fishing grounds during all phases of the works, the socio-economic assessment presented and the route of the offshore export cable, SFF raised concerns regarding resumption of fishing activities following conclusion of the construction phase of the Development and the options for burial of the offshore export and inter array cables. SFF further requested monitoring of the impacts of the Development on commercial fished stocks in the area, in particular squid fisheries and nephrops, should be required.
- 9.4.3.3 SFF confirmed that it was content that concerns regarding the decommissioning phase of the Development could be addressed via a consent condition requiring the preparation and approval of a DP. The SFF highlighted the importance of the role of the FLO and the preparation and implementation of a FMMS in addressing its concerns.
- 9.4.3.4 Scottish Ministers have taken account of the terms of the NMP in relation to SFF concerns and conditions requiring the Company to prepare, consult on and adhere to a FMMS, CaP, DP and PEMP (to include monitoring of commercial fisheries), a condition requiring a FLO to establish and maintain effective communications between the Company, any contractors or sub-contractors, fishermen and other users of the sea during the construction of the Development, a condition which requires the Company to remain a member of the FTCFWG, to facilitate communication and development of relevant post consent plans, and a condition requiring the Company to participate in the ScotMER programme, to contribute to an improved understanding of the impacts of the Development on commercial fisheries have been attached to the s.36 consent and OfTI marine licence to mitigate concerns regarding commercial fisheries.
- 9.4.3.5 Scottish Ministers consider that, having taken into account the information provided by the Company, the responses of the consultative bodies, the NMP and having regard to the conditions attached to the s.36 consent, there are no outstanding concerns in relation to the impact of the Development on commercial fisheries which would require consent to be withheld.



#### 9.4.4 *Impacts on seascape, landscape and visual amenity*

- 9.4.4.1 SLVIA was undertaken for the Development in-combination with Neart na Gaoithe and Seagreen Phase 1 and the new proposals for the Forth and Tay Developments. Impacts on the coastal character of east Fife, north-east East Lothian and within 35km of the Development were assessed as being significant. Further, significant impacts resulting from aviation and navigation lighting on visual amenity within 30km of the Development and cumulative impacts on coastal character in east Fife and south-east Angus were identified in the SLVIA.
- 9.4.4.2 SNH advised that the cumulative impact of the Forth and Tay Developments would introduce significant effects in the regional context. SNH and East Lothian Council both disagreed with the level of significance assigned to viewpoints with the SLVIA presented, but did not object to the Development on these grounds.
- 9.4.4.3 Angus Council, East Lothian Council and SNH agreed that the Development would result in significant adverse effects due to the increased height of the WTGs, particularly when compared to the Original Consent. All recognised that these impacts may be offset slightly by the reduction in the number of WTGs to be installed compared to the Original Consent.
- 9.4.4.4 Angus Council advised that, whilst the Development would have significant impacts upon landscape and seascape character, these impacts were not considered to be unacceptable. Angus Council and East Lothian Council both advised that detailed consideration of aviation and navigation lighting requirements should be undertaken, to mitigate impacts on the night seascape. Further, Angus Council and East Lothian Council both advised that consideration of cumulative impacts should be undertaken when approving the final layouts of the Forth and Tay Developments with a view to mitigating potential impacts.
- 9.4.4.5 East Lothian Council requested that a condition be placed on any consent granted to monitor the impacts of aviation lighting and to address the impacts of aviation lighting, should such lighting be visible from East Lothian. East Lothian Council further suggested that maximum and minimum lighting requirements should be included within any consent condition and that the Company should be required to dim the lighting when visibility is greater than 5km. On 31 January 2019, MS-LOT subsequently advised East Lothian Council that the Company would not be required to monitor the impacts of aviation lighting, dim lighting or replace the lighting should new technologies become available. MS-LOT advised, however, that the Company will be required to adhere to the minimum requirements of the CAA, MOD, NLB and MCA in order to minimise the impacts on the residents of East Lothian, whilst ensuring navigational safety.

- 9.4.4.6 The exact lighting and marking requirements for the Development will be agreed by consultees within the LMP required by the s.36 consent. East Lothian Council will be consulted on the content of the LMP and will have the opportunity to comment on the lighting requirements at this stage.
- 9.4.4.7 The Company stated, in its response to Angus Council dated 18 January 2019, that the night time lighting assessment presented in the EIA Report was based on aviation lighting operating at maximum intensity. Night time lighting would only be operated at such intensity in periods of low visibility, such as fog, which was not accounted for within the assessment presented. The Company stated that the worst case cumulative and night time lighting scenarios presented in the EIA Report would, therefore, be unlikely to occur. The Company further stated that a co-ordinated approach to the final layouts of the Forth and Tay Developments would not be possible, due to technical and financial constraints.
- 9.4.4.8 Conditions requiring the Company to prepare, consult on and adhere to a LMP, DSLP and DS have been attached to the s.36 consent. The planning authorities and SNH will be consulted on the DSLP and DS. SNH and East Lothian Council will be consulted on the LMP.
- 9.4.4.9 Scottish Ministers consider that, having taken into account the information provided by the Company, the responses of the consultative bodies and having regard to the conditions attached to the s.36 consent, there are no outstanding concerns in relation to the impact of the Development on seascape, landscape and visual amenity which would require consent to be withheld

#### 9.4.5 *Impacts on cultural heritage*

- 9.4.5.1 Moderate significant effects were predicted as a result of the Development in-combination with the other Forth and Tay Developments on the Isle of May Priory. The priory is a scheduled monument and an uninterrupted view of the Development would be visible to visitors. These impacts were not discussed in the responses received.
- 9.4.5.2 HES did not object to the Development and stated that the Development did not raise historic environment issues of national significance.
- 9.4.5.3 Angus Council stated that it agreed with HES's assessment regarding the impacts of the Development on the setting of the Bell Rock Lighthouse, however, Angus Council advised that the EIA Report was limited in its assessment of the impacts of aviation and navigation lighting on the setting of this cultural heritage asset.

- 9.4.5.4 Conditions requiring the Company to prepare, consult on and adhere to a DSLP, PAD and DS have been attached to the s.36 consent to mitigate these concerns.
- 9.4.5.5 Scottish Ministers consider that, having taken into account the information provided by the Company, the responses of the consultative bodies and having regard to the conditions attached to the s.36 consent, there are no outstanding concerns in relation to the impact of the Development on cultural heritage which would require consent to be withheld.
- 9.4.6 *Impacts on aviation and defence*
- 9.4.6.1 MOD submitted an objection to the Development on safeguarding grounds, due to unacceptable interference to ATC radar at Leuchars Station, and ADR at RRH Buchan and RRH Brizlee Wood and attendant impacts on air safety. MOD requested that further engagement take place with the Company to identify a technical solution to mitigate impacts. The MOD is not in a position to confirm suspensive conditions at this time. However, MS-LOT consider that the conditions attached to the s.36 consent to mitigate the impacts on ATC Radar and ADR provide, sufficient assurance that the MOD concerns will be dealt with prior to the Commencement of the Development.
- 9.4.6.2 MOD further requested that the WTGs are fitted with appropriate aviation warning lighting. Further requirements regarding aviation lighting were recommended by NLB and MCA and the requirements for aviation and navigational lighting will be implemented through consent conditions.
- 9.4.6.3 NATS and AIA had no safeguarding objections to the Development.
- 9.4.6.4 East Lothian Council recommended that a condition should be attached to any consent granted, preventing the use of helicopters over the East Lothian Council area throughout the lifespan of the Development. As air transportation is a matter reserved to Westminster (under the Scotland Act 1998), the Scottish Ministers do not have devolved powers to intervene in these matters. If, however, helicopters are to be used during any phase of the Development, the Company is required to include further details regarding their usage within the Operation and Maintenance Programme (“OMP”) and East Lothian Council will be consulted on the terms of the OMP. The Company confirmed that it is, however, unlikely that helicopter operations will be required and that helicopter operations will not take place over the East Lothian area.
- 9.4.6.5 Conditions requiring the Company to prepare, consult on and adhere to an LMP, DSLP, OMP, EMP, DS, CMS, NSP, a technical mitigation proposal for ADR, and ATC Scheme, have been attached to the s.36 consent to address these concerns.

9.4.6.6 Scottish Ministers consider that, having taken into account the information provided by the Company, the responses of the consultative bodies, and having regard to the conditions attached to the s.36 consent including amendments made in relation to the ATC Scheme and the technical mitigation proposal for ADR, there are no outstanding concerns in relation to the impact of the Development on aviation and defence which would require consent to be withheld.

#### 9.4.7 *Renewable energy generation and associated policy benefits*

9.4.7.1 The key environmental benefit of the Development is to offset greenhouse gas (“GHG”) emissions that might otherwise be produced by other means of electricity generation. Over the lifetime of the Development, carbon emissions from fabrication, construction, operation and decommissioning will be offset by the net reduction in emissions through the low carbon wind energy technology.

9.4.7.2 There are multiple benefits associated with the Development, including:

- The reduction in emissions of carbon dioxide, nitrogen oxides, and sulphur dioxide during the operational phase equivalent to the annual emissions of carbon dioxide, nitrogen oxides, and sulphur dioxide from traditional thermal generation sources;
- Improvements to the security of the UK’s domestic energy supply through increased energy generation;
- Reduction in the reliance on fossil fuels; and
- Providing a contribution towards the ambitious Scottish, UK and European Union (“EU”) renewable energy targets.

9.4.7.3 The proposed installed capacity of the Development will be around 700MW (however, the exact value is dependent on the nominal capacity and number of WTGs installed and cannot yet be confirmed). Based on the Scottish Government’s published Renewable Electricity Output Calculator,<sup>3</sup> it is estimated that, depending on the fuel type displaced, 428,627 tonnes of carbon dioxide will be saved each year. In addition, it is estimated that the Development will generate enough electricity each year to meet the needs of the equivalent of 468,696 Scottish households per year.

#### 9.4.8 *Economic benefits*

9.4.8.1 SPP advises that economic benefits are material issues which must be taken into account as part of the determination process. SPP also confirms the Scottish Ministers’ aim of achieving a thriving renewables industry in Scotland. Further, national policy and strategies, such as NPF3 and The Scottish Energy Strategy: The Future of Energy in Scotland (Scottish

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<sup>3</sup> <https://www.gov.scot/Topics/Statistics/Browse/Business/Energy/onlinetools/ElecCalc> (Last accessed: 23/01/2019).

Government, 2017), support the role of renewable energy development in achieving socio-economics benefits and supporting the growth of the low carbon economy. The EIA Report reported that the Development would support the development of the domestic renewable energy industry and offset GHG emissions.

- 9.4.8.2 Whilst impacts on tourism were scoped out of the EIA Report, the Company assessed socio-economic impacts related to the offshore elements of the Development on the Economic Study Area and across Scotland.
- 9.4.8.3 The Company has estimated that net additional employment from the Development is estimated to be between 321 FTE and 832 FTE direct, indirect and induced construction jobs at an Economic Study Area level, dependent on the impact scenario considered. For the rest of Scotland, net additional employment from the Development was estimated to be between 108 FTE and 216 FTE direct, indirect and induced construction jobs (and a total of between 858 and 1854 net additional construction jobs in the UK). This would represent between £41.8 million and £108.2 million GVA per annum at an Economic Study Area level and between £55.8 million and £136.2 million at a Scottish level.
- 9.4.8.4 During the operation and maintenance phase, the Company estimates that the net additional employment generated would represent a new GVA at an Economic Study Area of between £4.9 million to £10.7 million per annum and £18.6 million per annum for Scotland as a whole. The Company estimates that 202 FTE jobs will be created in total (with 38 within the Economic Study Area and 42 within the rest of Scotland).
- 9.4.8.5 The Company estimates that during the decommissioning phase the number of jobs is likely to be lower than those estimated for the construction phase. However, it is estimated that during the decommissioning phase approx. 110 FTE net additional jobs will be generated.
- 9.4.8.6 Angus Council stated that it considers that there is the potential for the negative socio economic impacts on commercial fisheries to be higher than predicted in the EIA Report. Angus Council, however, does not consider these impacts to be unacceptable, providing the mitigation measures set out in the EIA Report are applied.
- 9.4.8.7 In its consultation response, the SFF stated that the EIA Report did not include full consideration of the potential negative socio-economic impacts resulting from the impacts on commercial fisheries receptors. PSF and DFA raised further concerns regarding the economic consequences of disruption.
- 9.4.8.8 MAU advised that the socio economic assessment presented overestimates the impacts of the Development. On this basis, MAU highlighted issues with

the assessment regarding economic multipliers and the assessment of displacement effects.

- 9.4.8.9 The Scottish Ministers consider that there is sufficient information regarding the socio-economic impacts of the Development to inform their decision.

## **10 The Scottish Ministers' Determination**

- 10.1 The Scottish Ministers are satisfied that an environmental impact assessment has been carried out, and that the applicable procedures regarding publicity and consultation in respect of the Application have been followed.
- 10.2 When formulating proposals for the construction of the proposed generating station the Company must comply with paragraph 3 of Schedule 9 to the Electricity Act 1989. Paragraph 3(1)(a) of Schedule 9 requires the Company in formulating such proposals to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. Paragraph 3(1)(b) requires the Company to do what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects. Under paragraph 3(3) of that Schedule, the Company must also avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.
- 10.3 Under paragraph 3(2) of Schedule 9, the Scottish Ministers must have regard to the desirability of the matters mentioned in paragraph 3(1)(a) of that Schedule and the extent to which the Company has complied with its duty under paragraph 3(1)(b). Under paragraph 3(3) the Scottish Ministers must avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.
- 10.4 In considering the application, the Scottish Ministers have had regard to the desirability of the matters mentioned in paragraph 3(1)(a) of Schedule 9 and the extent to which the Company has complied with its duty under paragraph 3(1)(b). Ministers consider that the Company has done what it reasonably can to mitigate the effect of the proposed Development on the matters mentioned in paragraph 3(1)(a). The Scottish Ministers are content that the requirements of paragraph 3 of Schedule 9 are satisfied.
- 10.5 Scottish Ministers have weighed the impacts of the proposed Development, and the degree to which these can be mitigated, against the economic and renewable energy benefits which would be realised. Scottish Ministers have undertaken this exercise in the context of national and local policies.

- 10.6 Scottish Ministers have considered the extent to which the Development accords with and is supported by Scottish Government policy, the terms of the SPP, the NMP, local development plans and the environmental impacts of the Development, in particular: impacts on seabirds and marine mammals (including impacts on European sites and European offshore marine sites), impacts on diadromous fish, impacts on seascape, landscape and visual amenity, impacts on commercial fisheries, impacts on cultural heritage and impacts on aviation and defence. Scottish Ministers have also considered the estimated contribution made by the Development to reducing carbon dioxide emissions and the socio-economic and the renewable energy benefits of the Development.
- 10.7 Scottish Ministers are satisfied that the environmental issues have been appropriately addressed by way of the design of the Development and through mitigation measures, and that the issues which remain are, on balance, outweighed by the benefits of the Development. In particular, Scottish Ministers are satisfied that the proposal will not adversely affect the integrity of the Forth Islands SPA, Fowlsheugh SPA, St Abb's Head to Fast Castle SPA, Buchan Ness to Collieston Coast SPA, Moray Firth SAC, Firth of Tay and Eden Estuary SAC, Berwickshire and North Northumberland Coast SAC, Isle of May SAC or the Outer Firth of Forth and St Andrews Bay Complex pSPA.
- 10.8 Scottish Ministers have had regard to the requirements of Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds, and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.
- 10.9 In their consideration of the environmental impacts of the Development, Scottish Ministers have identified conditions to be attached to the consent to reduce and monitor environmental impacts. These include requirements for pre-construction, construction and operational monitoring of birds, commercial fisheries, marine mammals and diadromous fish and the preparation, consultation, approval and implementation of a CMS, EMP, OMP and VMP.
- 10.10 A condition requiring the appointment of an Environmental Clerk of Works ("ECoW") and defining the terms of the ECoW's appointment has been attached to the consent. The ECoW will be required to monitor and report on compliance with all consent conditions, monitor that the Development is being constructed in accordance with plans and the terms of the Application, the s.36 consent and all relevant regulations and legislation. The ECoW will also be required to provide quality assurance on the final draft versions of any plans and programmes required under the consent.
- 10.11 Scottish Ministers have concluded that the Company has had regard to the potential interference of recognised sea lanes essential to international and

- national navigation. Any obstruction or danger to navigation has been addressed through specific consent conditions attached to the s.36 consent.
- 10.12 Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that this reasoned conclusion, as required under the 2017 EW Regulations, is still up to date.
- 10.13 Subject to the conditions set out in Annex 2, Scottish Ministers grant consent under s.36 of the Electricity Act 1989 for the construction and operation of the Inch Cape Offshore Wind Farm (as described in Annex 1). In addition, Scottish Ministers have also made a declaration under s.36A of the Electricity Act 1989.
- 10.14 The embedded mitigation and any additional mitigation identified in the EIA Report has been incorporated into the conditions of this s.36 consent and/or any marine licence(s) granted. The conditions also capture monitoring measures required under Regulation 22 of the 2017 EW Regulations.
- 10.15 In accordance with the 2017 EW Regulations, the Company must publicise notice of this determination and provide that a copy of this decision letter may be inspected on the application website, in the Edinburgh Gazette and a newspaper circulating in the locality to which the application relates is situated. The Company must provide copies of the public notices to the Scottish Ministers.
- 10.16 Copies of this letter have been sent to the public bodies consulted on the application, including the relevant planning authorities, SNH, SEPA and HES. This letter has also been published on the [Marine Scotland Information website](#).
- 10.17 The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the [website of the Scottish Courts](#). Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.



Yours sincerely,

[Redacted]

[Redacted]

Marine Scotland Licensing Operations Team

A member of the staff of the Scottish Ministers

17 June 2019

## **ANNEX 1 – DESCRIPTION OF THE DEVELOPMENT**

An offshore energy generating station, located in the outer Firth of Forth, approximately 15-22km east of the Angus coastline, as shown in Figure 1 below, with a maximum generating capacity of around 700 megawatts (“MW”) comprising:

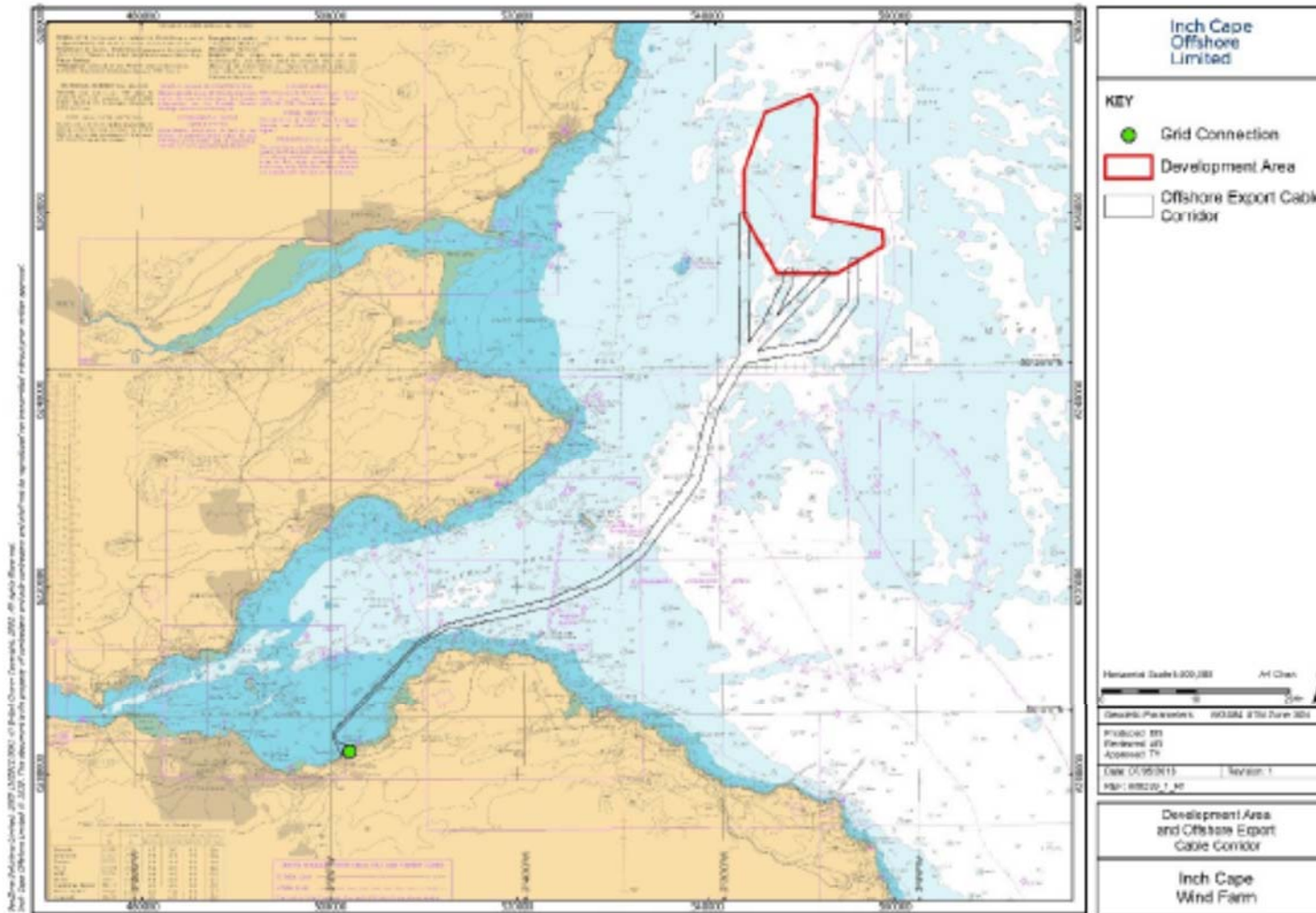
1. No more than 72 three-bladed horizontal axis Wind Turbine Generators (“WTGs”), each with:
  - a) A maximum height to blade tip of 291 metres (measured from Lowest Astronomical Tide (“LAT”));
  - b) A maximum rotor diameter of 250 metres;
  - c) A minimum blade tip clearance of 27.4 metres (measured from LAT);
  - d) A maximum blade width of 7.8 metres; and
  - e) A nominal turbine spacing of 1,278 metres.
2. No more than 72 substructures and foundations and ancillary equipment.
3. No more than 190km of inter-array cabling;

The total area within the Development site boundary is 150km<sup>2</sup>.

Annex C – Decision Notice and Conditions

Annex 1 – Description of the Development

FIGURE 1 INCH CAPE OFFSHORE WIND FARM SITE AND EXPORT CABLE CORRIDOR TO SHORE AT COCKENZIE, EAST LOTHIAN



## **ANNEX 2 – SECTION 36 CONSENT CONDITIONS**

**The consent granted under Section 36 of the Electricity Act 1989 is subject to the following conditions:**

The Company must submit the requested plans as detailed in the conditions prior to the Commencement of the Development, in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with any such advisors or organisations as detailed in the conditions or as may be required at the discretion of the Scottish Ministers.

The Development must, at all times, be constructed in accordance with the approved plans as updated or amended.

Any updates or amendments made to the approved plans must be submitted, in writing, to the Scottish Ministers for their prior written approval.

The Company must satisfy itself that all contractors or sub-contractors are aware of the extent of the Development for which this consent has been granted, the activity which is consented and the terms of the conditions attached to this consent. All contractors and sub-contractors permitted to engage in the Development must abide by the conditions set out in this consent.

The Company must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code, where appropriate, during all installation, operation and maintenance activities.

### **Part 1 – Conditions Attached to Section 36 Consent**

#### **1. Duration of the Consent**

The consent is for a period of 50 years from the date of Final Commissioning of the Development.

Written confirmation of the dates of First Commissioning of the Development and Final Commissioning of the Development must be provided by the Company to the Scottish Ministers and to Aberdeenshire Council, Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders Council and Scottish Ministers no later than one calendar month after these respective dates.

**Reason: To define the duration of the consent.**

#### **2. Commencement of Development**

The Commencement of the Development must be no later than five years from the date of this consent, or in substitution such other later period as the Scottish Ministers may hereafter direct in writing. The Company must provide written confirmation of the intended date of Commencement of Development to the Scottish Ministers and to Aberdeenshire Council, Angus Council, Dundee City Council, East Lothian Council, Fife Council and Scottish Borders Council no later than one calendar month before that date.

**Reason:** *To ensure that the Commencement of the Development is undertaken within a reasonable timescale after consent is granted.*

### 3. **Decommissioning**

There must be no Commencement of Development unless a Decommissioning Programme (“DP”) has been submitted to and approved in writing by the Scottish Ministers. The DP must outline measures for the decommissioning of the Development, restoration of the seabed and will include without limitation, proposals for the removal of the Development, the management and timing of the works and, environmental management provisions.

The Development must be decommissioned in accordance with the approved DP, unless otherwise agreed in writing in advance with the Scottish Ministers.

**Reason:** *To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner, and in the interests of safety and environmental protection.*

### 4. **Assignment**

This consent must not be assigned without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignment of the consent (with or without conditions) or refuse assignment as they may see fit. The consent is not capable of being assigned, alienated or transferred otherwise than in accordance with the assignment procedure as directed by Scottish Ministers.

**Reason:** *To safeguard the obligations of the consent if transferred to another company.*

### 5. **Redundant turbines**

If one or more turbine fails to generate electricity for a continuous period of 12 months, then unless otherwise agreed in writing by the Scottish Ministers, the Company must: (i) by no later than the date of expiration of the 12 month period, submit a scheme to the Scottish Ministers setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the sea bed restored; and (ii) implement the approved scheme within six months of the date of its approval, or such other date as agreed in writing by the Scottish Ministers, all to the satisfaction of the Scottish Ministers.

**Reason:** *To ensure that any redundant wind turbine(s) is/are removed from the site, in the interests of safety, amenity and environmental protection.*

### 6. **Incident Reporting**

In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company must provide written notification of the nature and timing of the incident to the Scottish Ministers within 24 hours of the incident occurring. Confirmation of remedial measures taken and/or to be taken to rectify the breach must be provided, in writing, to the Scottish Ministers within a period of time to be agreed by the Scottish Ministers.

**Reason:** *To keep the Scottish Ministers informed of any such incidents which may be in the public interest.*

**7. Implementation in accordance with approved plans and requirements of this consent**

Except as otherwise required by the terms of this consent, the Development must be constructed and operated in accordance with the Application and any other documentation lodged in support of the Application.

**Reason:** *To ensure that the Development is carried out in accordance with the approved details.*

**8. Transportation for site inspections**

As far as reasonably practicable, the Company must, on being given reasonable notice by the Scottish Ministers (of at least 72 hours), provide transportation to and from the site for any persons authorised by the Scottish Ministers to inspect the site.

**Reason:** *To ensure access to the site for the purpose of inspecting compliance with this consent.*

**9. Construction Programme**

The Company must, no later than six months prior to the Commencement of the Development, submit a Construction Programme (“CoP”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with Scottish Natural Heritage (“SNH”), Maritime and Coastguard Agency (“MCA”) and Northern Lighthouse Board (“NLB”), and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers. The CoP must set out:

- a. The proposed date for Commencement of Development;
- b. The proposed timings for mobilisation of plant and delivery of materials, including details of onshore lay-down areas;
- c. The proposed timings and sequencing of construction work for all elements of the Development infrastructure;
- d. Contingency planning for poor weather or other unforeseen delays; and
- e. The scheduled date for Final Commissioning of the Development.

The final CoP must be sent to Aberdeenshire Council, Angus Council, East Lothian Council, Fife Council and Dundee City Council for information only.

**Reason:** *To confirm the timing and programming of construction.*

**10. Construction Method Statement**

The Company must, no later than six months prior to the Commencement of the Development submit a Construction Method Statement (“CMS”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, MCA, NLB and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

## Annex 2 – Section 36 Consent Conditions

The CMS must include, but not be limited to:

- a. Details of the commencement dates, duration and phasing for the key elements of construction, the working areas, the construction procedures and good working practices for installing the Development.
- b. Details of the roles and responsibilities, chain of command and contact details of company personnel, any contractors or sub-contractors involved during the construction of the Development.
- c. Details of how the construction related mitigation steps proposed in the Application are to be delivered.

The CMS must adhere to the construction methods assessed in the Application. The CMS also must, so far as is reasonably practicable, be consistent with the Design Statement (“DS”), the Environmental Management Plan (“EMP”), the Vessel Management Plan (“VMP”), the Navigational Safety Plan (“NSP”), the Piling Strategy (“PS”), the Cable Plan (“CaP”) and the Lighting and Marking Plan (“LMP”).

The final CMS must be sent to Aberdeenshire Council, Angus Council, East Lothian Council, Fife Council and Dundee City Council for information only.

**Reason: To ensure the appropriate construction management of the Development, taking into account mitigation measures to protect the environment and other users of the marine area.**

### 11. Piling Strategy

The Company must, no later than six months prior to the Commencement of the Development, submit a Piling Strategy (“PS”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, Fisheries Management Scotland (“FMS”), Whale and Dolphin Conservation (“WDC”) and any such other advisors as may be required at the discretion of the Scottish Ministers.

The PS must include, but not be limited to:

- a. Details of expected noise levels from pile-drilling/driving in order to inform point d below;
- b. Full details of the proposed method and anticipated duration of piling to be carried out at all locations;
- c. Details of soft-start piling procedures and anticipated maximum piling energy required at each pile location; and
- d. Details of any mitigation such as Passive Acoustic Monitoring (“PAM”), Marine Mammal Observers (“MMO”), use of Acoustic Deterrent Devices (“ADD”) and monitoring to be employed during pile-driving, as agreed by the Scottish Ministers.

The PS must be in accordance with the Application and must also reflect any monitoring or data collection carried out after submission of the Application. The PS must demonstrate how the exposure to and/or the effects of underwater noise have been mitigated in respect to harbour porpoise, minke whale, bottlenose dolphin, harbour seal, grey seal and Atlantic salmon.

The PS must, so far as is reasonably practicable, be consistent with the EMP, the Project Environmental Monitoring Programme (“PEMP”) and the CMS.

**Reason:** *To mitigate the underwater noise impacts arising from piling activity.*

## 12. Development Specification and Layout Plan

The Company must, no later than six months prior to the Commencement of the Development, submit a Development Specification and Layout Plan (“DSLPL”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with the MCA, NLB, SNH, the Ministry of Defence (“MOD”), Civil Aviation Authority (“CAA”), Scottish Fishermen’s Federation (“SFF”), Aberdeenshire Council, Dundee City Council, East Lothian Council and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The DSLPL must include, but not be limited to the following:

- a. A plan showing the location of each individual WTG (subject to any required micro-siting), including information on WTG spacing, WTG identification/numbering, seabed conditions, bathymetry, confirmed foundation type for each WTG and any key constraints recorded on the site;
- b. A list of latitude and longitude co-ordinates accurate to three decimal places of minutes of arc for each WTG. This should also be provided as a Geographic Information System (“GIS”) shape file using WGS84 format;
- c. A table or diagram of each WTG dimensions including - height to blade tip (measured above Lowest Astronomical Tide (“LAT”)) to the highest point, height to hub (measured above LAT to the centreline of the generator shaft), rotor diameter and maximum rotation speed;
- d. The generating output of each WTG used on the site (Figure 1) and a confirmed generating output for the site overall;
- e. The finishes for each WTG (see condition 20 on WTG lighting and marking); and
- f. The length and proposed arrangements on the seabed of all inter-array cables.

The final DSLPL must be sent to Angus Council and Fife Council information only.

**Reason:** *To confirm the final Development specification and layout.*

## 13. Design Statement

The Company must, no later than six months prior to the Commencement of the Development, submit a Design Statement (“DS”), in writing, to the Scottish Ministers. The DS, which must be signed off by at least one qualified landscape architect, as instructed by the Company prior to submission to the Scottish Ministers, must include representative wind farm visualisations from key viewpoints as agreed with the Scottish Ministers, based upon the final DSLPL as approved by the Scottish Ministers as updated or amended. The Company must provide the DS, for information only, to Aberdeenshire Council, Angus Council, Dundee City Council, East Lothian Council,



Fife Council, SNH, MCA and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

**Reason:** *To ensure that the Development is carried out in accordance with the approved details, and to inform interested parties of the final wind farm scheme proposed to be built.*

#### 14. **Environmental Management Plan**

The Company must, no later than six months prior to the Commencement of the Development, submit an Environmental Management Plan (“EMP”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, Royal Society for the Protection of Birds Scotland (“RSPB Scotland”), WDC, FMS and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The EMP must provide the over-arching framework for on-site environmental management during the phases of development as follows:

- a. All construction as required to be undertaken before the Final Commissioning of the Development; and
- b. The operational lifespan of the Development from the Final Commissioning of the Development until the cessation of electricity generation (environmental management during decommissioning is addressed by the Decommissioning Programme provided for by condition 3).

The EMP must be in accordance with the Application insofar as it relates to environmental management measures. The EMP must set out the roles, responsibilities and chain of command for the Company personnel, any contractors or sub-contractors in respect of environmental management for the protection of environmental interests during the construction and operation of the Development. It must address, but not be limited to, the following over-arching requirements for environmental management during construction:

- a. Mitigation measures to prevent significant adverse impacts to environmental interests, as identified in the Application and pre-consent and pre-construction monitoring or data collection, and include reference to relevant parts of the CMS (refer to condition 10);
- b. A pollution prevention and control method statement, including contingency plans;
- c. Management measures to prevent the introduction of invasive non-native marine species;
- d. A site waste management plan (dealing with all aspects of waste produced during the construction period), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment. Wherever possible the waste hierarchy of reduce, reuse and recycle should be encouraged; and
- e. The reporting mechanisms that will be used to provide the Scottish Ministers and relevant stakeholders with regular updates on construction activity,

including any environmental issues that have been encountered and how these have been addressed.

The EMP must be regularly reviewed by the Company and the Scottish Ministers or Forth and Tay Regional Advisory Group (“FTRAG”), at intervals agreed by the Scottish Ministers. Reviews must include, but not be limited to, the reviews of updated information on construction methods and operations of the Development and updated working practices.

The EMP must be informed, so far as is reasonably practicable, by the baseline monitoring or data collection undertaken as part of the Application and the PEMP.

**Reason:** *To ensure that all construction and operation activities are carried out in a manner that minimises their impact on the environment, and that mitigation measures contained in the Application, or as otherwise agreed are fully implemented.*

#### 15. **Vessel Management Plan**

The Company must, no later than six months prior to the Commencement of the Development, submit a Vessel Management Plan (“VMP”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, WDC, FP, MCA, NLB, SFF and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The VMP must include, but not be limited to, the following details:

- a. The number, types and specification of vessels required;
- b. How vessel management will be coordinated, particularly during construction but also during operation;
- c. Location of working port(s), the routes of passage, how often vessels will be required to transit between port(s) and the site and indicative vessel transit corridors proposed to be used during construction and operation of the Development; and

The confirmed individual vessel details must be notified to the Scottish Ministers in writing no later than 14 days prior to the Commencement of the Development, and thereafter, any changes to the details supplied must be notified to the Scottish Ministers, as soon as practicable, prior to any such change being implemented in the construction or operation of the Development.

The VMP must, so far as is reasonably practicable, be consistent with the CMS, the EMP, the PEMP, the NSP, and the LMP.

**Reason:** *To mitigate the impact of vessels.*

## 16. Operation and Maintenance Programme

The Company must, no later than three months prior to the Commissioning of the first WTG, submit an Operation and Maintenance Programme (“OMP”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with the SNH, MCA, NLB, SFF, WDC, East Lothian Council and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The OMP must set out the procedures and good working practices for operations and the maintenance of the WTG’s, substructures, and inter-array cable network of the Development. Environmental sensitivities which may affect the timing of the operation and maintenance activities must be considered in the OMP.

The OMP must, so far as is reasonably practicable, be consistent with the EMP, the PEMP, the VMP, the NSP, the CaP and the LMP.

The final OMP must be sent to Aberdeenshire Council, Angus Council, Dundee City Council and Fife Council for information only.

**Reason:** *To safeguard environmental interests during operation and maintenance of the Development.*

## 17. Navigational Safety Plan

The Company must, no later than six months prior to the Commencement of the Development, submit a Navigational Safety Plan (“NSP”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with MCA, NLB and any other navigational advisors or organisations as may be required at the discretion of the Scottish Ministers.

The NSP must include, but not be limited to, the following issues:

- a. Navigational safety measures;
- b. Construction exclusion zones;
- c. Notice(s) to mariners and radio navigation warnings;
- d. Anchoring areas;
- e. Temporary construction lighting and marking;
- f. Buoyage.

The Company must confirm within the NSP that they have taken into account and adequately addressed all of the recommendations of the MCA in the current Marine Guidance Note (“MGN”) 543, and its annexes that may be appropriate to the Development, or any other relevant document which may supersede this guidance prior to approval of the NSP.

**Reason:** *To mitigate the navigational risk to other legitimate users of the sea.*

**18. Emergency Response Co-operation Plan**

The Company must, no later than six months prior to the Commencement of the Development, submit an Emergency Response Co-operation Plan (“ERCoP”) for the construction, operation, maintenance and decommissioning phases of the Development, in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with the MCA and NLB and any other navigational advisors or organisations as may be required at the discretion of the Scottish Ministers. The ERCoP should follow the MCA template and guidance. The ERCoP must be developed in discussion with the MCA and be in accordance with condition 3.2.2.9 of the marine licence.

**Reason:** *For emergency response planning relating to the Development and requirements for Search And Rescue (“SAR”) helicopter operations.*

**19. Cable Plan**

The Company must, no later than six months prior to the Commencement of the Development, submit a Cable Plan (“CaP”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, MCA, SFF, East Lothian Council and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The CaP must be in accordance with the Application.

The CaP must include, but not be limited to, the following:

- a. The vessel types, location, duration and cable laying techniques for the inter array cables;
- b. The results of monitoring or data collection work (including geophysical, geotechnical and benthic surveys) which will help inform cable routing;
- c. Technical specification of inter array cables, including a desk based assessment of attenuation of electro-magnetic field strengths and shielding;
- d. A burial risk assessment to ascertain burial depths and where necessary alternative protection measures;
- e. Methodologies for surveys (e.g. over trawl) of the inter array cables through the operational life of the wind farm where mechanical protection of cables laid on the sea bed is deployed; and
- f. Methodologies for inter array cable inspection with measures to address and report to the Scottish Ministers any exposure of inter array cables.

Any consented cable protection works must ensure existing and future safe navigation is not compromised. The Scottish Ministers will accept a maximum of 5% reduction in surrounding depth referenced to Chart Datum. Any greater reduction in depth must be agreed in writing by the Scottish Ministers.

**Reason:** *To ensure all environmental and navigational issues are considered for the location and construction of the inter array cables.*

## 20. Lighting and Marking Plan

The Company must, no later than six months prior to the Commencement of the Development, submit a Lighting and Marking Plan (“LMP”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, MCA, NLB, CAA, MOD, East Lothian Council and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers. The LMP must provide that the Development be lit and marked in accordance with the current CAA and MOD aviation lighting policy and guidance that is in place as at the date of the Scottish Ministers approval of the LMP, or any such other documents that may supersede this guidance prior to the approval of the LMP. The LMP must also detail the navigational lighting requirements detailed in the International Association of Marine Aids to Navigation and Lighthouse Authorities (“IALA”) Recommendation O-139 or any other documents that may supersede this guidance prior to approval of the LMP.

The final LMP must be sent to Aberdeenshire Council, Angus Council, Dundee City Council and Fife Council for information only.

**Reason:** *To ensure navigational safety and the safe marking and lighting of the Development.*

## 21. Aviation Radar

The Company must, prior to the Commencement of the Development, submit an Air Traffic Control Radar Mitigation Scheme (“ATC Scheme”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation of the ATC Scheme with the MOD.

The ATC Scheme is a scheme designed to mitigate the impact of the Development upon the operation of the Primary Surveillance ATC Radar at Leuchars Station (“the Radar”) and the air traffic control operations of the MOD which is reliant upon the Radar.

The ATC Scheme must set out the appropriate measures to be implemented to mitigate the impact of the Development on the Radar and must be in place for the operational life of the Development provided the Radar remains in operation.

No WTGs forming part of the Development may become operational, unless and until all those measures required by the approved ATC Scheme to be implemented prior to the operation of the turbines, have been implemented, and the Scottish Ministers have confirmed this in writing. The Development must thereafter be operated fully in accordance with the approved ATC Scheme.

**Reason:** *To mitigate the adverse impacts of the Development on the Air Traffic Control Radar.*

## 22. Air Defence Radar

The Company must, prior to the Commencement of the Development, submit an Air Defence Radar Mitigation Scheme (“ADR Scheme”), in writing, to the Scottish

Ministers for their written approval. Such approval may only be granted following consultation of the ADR Scheme with the MOD.

This proposal must address the impacts on the Air Defence Radar at Remote Radar Head (“RRH”) Buchan and RRH Brizlee Wood.

**Reason: To mitigate the adverse impacts of the Development on the Air Defence Radar.**

### **23. Charting requirements**

The Company must, prior to the Commencement of the Development, and following confirmation of the approved DSLP by the Scottish Ministers (refer to condition 12), provide the positions and maximum heights of the WTGs and construction equipment to the United Kingdom Hydrographic Office (“UKHO”) for aviation and nautical charting purposes. The Company must, within one month of the Final Commissioning of the Development, provide the coordinates accurate to three decimal places of minutes of arc for each WTG and the position and maximum heights of the WTGs to the UKHO for aviation and nautical charting purposes.

**Reason: For aviation and navigational safety.**

### **24. Project Environmental Monitoring Programme**

The Company must, no later than six months prior to the Commencement of the Development, submit a Project Environmental Monitoring Programme (“PEMP”), in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with SNH, RSPB Scotland, WDC, SFF, FMS and any other environmental advisors or organisations as required at the discretion of the Scottish Ministers. The PEMP must be in accordance with the Application as it relates to environmental monitoring.

The PEMP must set out measures by which the Company must monitor the environmental impacts of the Development. Monitoring is required throughout the lifespan of the Development where this is deemed necessary by the Scottish Ministers. Lifespan in this context includes pre-construction, construction, operational and decommissioning phases.

The Scottish Ministers must approve all initial methodologies for the above monitoring, in writing and, where appropriate, in consultation with the FTRAG referred to in condition 25 of this consent.

Monitoring must be done in such a way so as to ensure that the data which is collected allows useful and valid comparisons between different phases of the Development. Monitoring may also serve the purpose of verifying key predictions in the Application. In the event that further potential adverse environmental effects are identified, for which no predictions were made in the Application, the Scottish Ministers may require the Company to undertake additional monitoring.

The PEMP must cover, but not be limited to, the following matters:

- a. Pre-construction, construction (if considered appropriate by the Scottish Ministers) and post-construction monitoring or data collection as relevant in terms of the Application, and any subsequent monitoring or data collection for:
  1. Birds;
  2. Marine Mammals;
  3. Commercial Fisheries;
  4. Marine fish;
  5. Diadromous fish;
  6. Benthic communities; and
  7. Seabed scour and local sediment deposition.
- b. The participation by the Company to contribute to data collection or monitoring of wider strategic relevance, identified and agreed by the Scottish Ministers.

Due consideration must be given to the Scottish Marine Energy Research (“ScotMER”) programme, or any successor programme formed to facilitate these research interests.

Any pre-consent monitoring or data collection carried out by the Company to address any of the above issues may be used in part to discharge this condition subject to the written approval of the Scottish Ministers.

The PEMP is a live document which will be regularly reviewed by the Scottish Ministers, at timescales to be determined by them to identify the appropriateness of on-going monitoring. Following such reviews, the Scottish Ministers may, in consultation with the FTRAG require the Company to amend the PEMP and submit such an amended PEMP, in writing, to the Scottish Ministers, for their written approval. Such approval may only be granted following consultation with the FTRAG and any other environmental, or such other advisors as may be required at the discretion of the Scottish Ministers.

The Company must submit written reports and associated raw and processed data of such monitoring or data collection to the Scottish Ministers at timescales to be determined by them. Consideration should be given to data storage, analysis and reporting and be to Marine Environmental Data and Information Network standards.

Subject to any legal restrictions regarding the treatment of the information, the results are to be made publicly available by the Scottish Ministers, or by such other party appointed at their discretion.

The Scottish Ministers may agree, in writing, that monitoring may be reduced or ceased before the end of the lifespan of the Development.

**Reason:** *To ensure that appropriate and effective monitoring of the impacts of the Development is undertaken.*

**25. Regional Advisory Group**

The Company must participate in the Forth and Tay Regional Advisory Group (“FTRAG”) or any successor group, established by the Scottish Ministers for the purpose of advising the Scottish Ministers on research, monitoring and mitigation programmes for, but not limited to, ornithology, marine mammals, diadromous and commercial fish. The extent and nature of the Company’s participation in the Regional Advisory Group is to be agreed by the Scottish Ministers.

**Reason:** *To ensure effective environmental monitoring and mitigation is undertaken at a regional scale.*

**26. Fisheries Management and Mitigation Strategy**

The Company must no later than six months prior to the Commencement of the Development, submit a Fisheries Management and Mitigation Strategy (“FMMS”), in writing, to the Scottish Ministers for their written approval in consultation with SFF and other fisheries representatives. Commencement of the Development cannot take place until such approval is granted. The FMMS must be defined and finalised in consultation with the Forth and Tay Commercial Fisheries Working Group (“FTCFWG”).

In order to inform the production of the FMMS, the Company must monitor or collect data as relevant and agreed with Scottish Ministers.

The FMMS must include a transit plan, which must lay out guidelines to address potential interactions with fishing activity, for vessels operating in and around the Development and transiting to the Development.

As part of any finalised FMMS, the Company must produce and implement a mitigation strategy for each commercial fishery that can prove to the Scottish Ministers that they would be adversely affected by the Development. The Company must implement all mitigation measures committed to be carried out by the Company within the FMMS. Any contractors, or sub-contractors working for the Company, must co-operate with the fishing industry to ensure the effective implementation of the FMMS. The Company must remain a member of the FTCFWG or any successor group formed to facilitate commercial fisheries dialogue.

**Reason:** *To mitigate the impact on commercial fishermen.*

**27. Environmental Clerk of Works**

Prior to the Commencement of the Development, the Company must at its own expense, and with the approval of the Scottish Ministers in consultation with SNH, appoint an independent Environmental Clerk of Works (“ECoW”). The ECoW must be appointed in time to review and approve the draft version of the first plan or programme submitted under this consent to Scottish Ministers, in sufficient time for any pre-construction monitoring requirements, and remain in post until agreed by the Scottish Ministers. The terms of appointment must also be approved by the Scottish Ministers in consultation with SNH.



The terms of the appointment must include, but not be limited to:

- a. Quality assurance of final draft versions of all plans and programmes required under this consent;
- b. Responsible for the monitoring and reporting of compliance with the consent conditions and the environmental mitigation measures for all wind farm infrastructure;
- c. Provision of on-going advice and guidance to the Company in relation to achieving compliance with consent conditions, including but not limited to the conditions relating to and the implementation of the CMS, the EMP, the PEMP, the PS, the CaP and the VMP;
- d. Provision of reports on point b & c above to the Scottish Ministers at timescales to be determined by the Scottish Ministers;
- e. Induction and toolbox talks to onsite construction teams on environmental policy and procedures, including temporary stops and keeping a record of these;
- f. Monitoring that the Development is being constructed in accordance with the plans and this consent, the Application and in compliance with all relevant regulations and legislation;
- g. Reviewing and reporting incidents/near misses and reporting any changes in procedures as a result to the Scottish Ministers; and
- h. Agreement of a communication strategy with the Scottish Ministers.

**Reason:** *To ensure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development.*

## 28. Fisheries Liaison Officer

Prior to the Commencement of the Development, a Fisheries Liaison Officer (“FLO”), must be appointed by the Company and approved, in writing, by the Scottish Ministers following consultation with SFF and the FTCFWG. The FLO must be appointed by the Company for the period from Commencement of the Development until the Final Commissioning of the Development. The identity and credentials of the FLO must be included in the EMP (referred to in condition 14). The FLO must establish and maintain effective communications between the Company, any contractors or sub-contractors, fishermen and other users of the sea during the construction of the Development, and ensure compliance with best practice guidelines whilst doing so.

The responsibilities of the FLO must include, but not be limited to:

- a. Establishing and maintaining effective communications between the Company, any contractors or sub-contractors, fishermen and other users of the sea concerning the overall Development and any amendments to the CMS and site environmental procedures;
- b. The provision of information relating to the safe operation of fishing activity on the site of the Development; and
- c. Ensuring that information is made available and circulated in a timely manner to minimise interference with fishing operations and other users of the sea.

**Reason:** *To facilitate engagement with the commercial fishing industry.*

**29. Protocol for Archaeological Discoveries**

The Company must, no later than six months prior to the Commencement of the Development, submit a Protocol for Archaeological Discoveries (“PAD”) which sets out what the Company must do on discovering any marine archaeology during the construction, operation, maintenance and monitoring of the Development, in writing, to the Scottish Ministers for their written approval. Such approval may be given only following consultation by the Scottish Ministers with Historic Environment Scotland (“HES”) and any such advisors as may be required at the discretion of the Scottish Ministers. The Reporting Protocol must be implemented in full, at all times, by the Company.

**Reason:** *To ensure any discovery of archaeological interest is properly and correctly reported.*

**30. Construction Traffic Management Plan**

In the event that major offshore components require onshore abnormal load transport, the Company must, no later than six months prior to the Commencement of the Development, submit a Construction Traffic Management Plan (“CTMP”) in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with Transport Scotland and any such other advisors as may be required at the discretion of the Scottish Ministers.

The CTMP must include but not be limited to:

- a. A mitigation strategy for the abnormal loads on the trunk road network including any accommodation measures required, incorporating the removal of street furniture, junction widening, or traffic management of road based traffic and transportation associated with the construction of the Development. All construction traffic associated with the Development must conform to the approved CTMP; and
- b. Any additional signing or temporary traffic control measures deemed necessary due to the size or length of loads being delivered as a result of the Development.

**Reason:** *To maintain the free flow and safety of the trunk road network.*

## DEFINITIONS AND GLOSSARY OF TERMS

- “2014 Application” means the Application letter and Environmental statement and marine licence applications submitted to the Scottish Ministers by Inch Cape Offshore Limited on 1 July 2013
- “AA” means the Appropriate Assessment;
- “ADD” means Acoustic Deterrent Devices;
- “ADR” means Air Defence Radar;
- “AGLV” means Areas of Great Landscape Value;
- “Application” means the EIA Report, HRA Report and supporting documents submitted by the Company on 15 August 2018 to construct and operate an offshore generating station and transmission works;
- “ATC” means Air Traffic Control;
- “Commencement of the Development” means the date on which the first construction activity occurs in accordance with the EIA Report submitted by the Company on 15 August 2018;
- “the Company” means Inch Cape Offshore Limited (SC373173, 5<sup>th</sup> Floor, 40 Princes Street, Edinburgh EH2 2BY)
- “CRM” means collision risk modelling;
- “dSPA” means draft Special Protection Area;
- “Development” means the Inch Cape Offshore Wind Farm, approximately 15-22km east of the Angus coastline, at Arbroath;
- “ECoW” means Environmental Clerk of Works;
- “EIA” means Environmental Impact Assessment;
- “EIA Report” means Environmental Impact Assessment Report;
- “EOWDC” means European Offshore Wind Deployment Centre;
- “EPS” means European Protected Species;
- “Final Commissioning of the Development” means the date on which the last wind turbine generator constructed forming the Development has supplied electricity on a commercial basis to the National Grid, or such earlier date as the Scottish Ministers deem the Development to be complete;
- “FIR” means Fishing Industry Representatives;
- “First Commissioning of the Development” means the date on which the first wind turbine generator constructed forming the Development has supplied electricity on a commercial basis to the National Grid;
- “FLO” means Fisheries Liaison Officer;
- “Forth and Tay Developments” means combinations of the previous and existing consents for Neart na Gaoithe Offshore Wind Farm (granted October 2014 and December 2018), the existing consent for Inch Cape offshore wind farm (granted October 2014) and the application for new consent (submitted August 2018), the existing consents for the Seagreen Alpha and Seagreen Bravo offshore wind farms (granted October 2014) and the applications for new consents (submitted September 2018);
- “FTE” means full-time equivalent;
- “GHG” means greenhouse gas;
- “GIS” means Geographic Information System;
- “GVA” means Gross Value Added;
- “HDD” means Horizontal Direct Drilling;

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- “HRA Report” means Habitat Regulations Appraisal;
- “IALA” means International Association of Marine Aids to Navigation and Lighthouse Authorities;
- “iPCoD” means interim Population Consequences of Disturbance;
- “LAT” means Lowest Astronomical Tide;
- “LSE” means Likely Significant Effect;
- “MMO” means marine mammal observer;
- “MW” means megawatt;
- “OEC” means Offshore Export Cable;
- “OFLO” means Offshore Fisheries Liaison Officers;
- “OfTI” means Offshore Transmission Infrastructure;
- “PAM” means passive acoustic monitoring;
- “PAR” means Precision Approach Radar;
- “PEXA” means military Practice and Exercise Areas;
- “PLI” means Public Local Inquiry;
- “PAR” means Precision Approach Radar;
- “pSPA” means Proposed Special Protection Areas;
- “PSR” means Primary Surveillance Radar;
- “PTS” means Permanent Threshold Shift;
- “PVA” means population viability analysis;
- “the Radar” means the Primary Surveillance Radar at Leuchars Airfield;
- “RRH” means Remote Radar Head;
- “SAC” means Special Area of Conservation;
- “SAR” means Search and Rescue;
- “ScotMER” means Scottish Marine Energy Research Programme;
- “SeabORD” means Seabird Offshore Renewable Development tool;
- “SLVIA” means Seascape, Landscape and Visual Impact Assessment;
- “SLA” means Special Landscape Area;
- “SNCBs” means statutory nature conservation bodies;
- “SPA” means Special Protection Area;
- “s.36” means section 36 of the Electricity Act 1989 (as amended);
- “s.36A” means section 36A of the Electricity Act 1989 (as amended);
- “the Original Consent” means the s.36 consent and marine licences (which the Scottish Ministers granted in October 2014) for an offshore wind farm development within the same boundary as the current Application that the Company currently holds.
- “TMZ” means Transponder Mandatory Zone;
- “the 2013 ES” means [Environmental Statement](#) submitted by the Company on 1 July 2013 for the application made for the Original Consent;
- “the 2014 Application” means the application submitted by the Company on 1 July 2013;
- “WTG” means wind turbine generators; and
- “ZTV” means Zone of Theoretical Visibility.

### Organisations and Companies

- “AIA” means Aberdeen International Airport;
- “BT” means BT Radio Network Protection;

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- “CAA” means the Civil Aviation Authority
- “CFWG” means Commercial Fisheries Working Group;
- “DFA” means Dunbar Fishermen’s Association;
- “EU” means European Union;
- “FMS” means Fisheries Management Scotland;
- “FTCFWG” means the Forth and Tay Commercial Fisheries Working Group;
- “FTRAG” means Forth and Tay Regional Advisory Group;
- “HES” means Historic Environment Scotland;
- “ICOL” means Inch Cape Offshore Limited;
- “MAU” means Marine Scotland Marine Analytical Unit;
- “MS-LOT” means Marine Scotland Licensing Operations Team;
- “MSS” means Marine Scotland Science;
- “MCA” means the Maritime and Coastguard Agency;
- “MOD” means the Ministry of Defence;
- “NATS” means National Air Traffic Service Safeguarding;
- “NERL” means NATS (En Route) Public Limited Company;
- “NLB” means the Northern Lighthouse Board;
- “PSF” means Port Seton Fishermen;
- “RAF” means the Royal Air Force;
- “RAG” means Regional Advisory Group;
- “RTC” means River Tweed Commission;
- “RSPB Scotland” means The Royal Society for the Protection of Birds Scotland;
- “SEPA” means The Scottish Environment Protection Agency;
- “Seagreen” means Seagreen Wind Energy Limited;
- “SFF” means The Scottish Fishermen’s Federation;
- “SNH” means Scottish Natural Heritage;
- “Tay DSFB” means Tay District Salmon Fishery Board;
- “TS” means Transport Scotland;
- “UKHO” means United Kingdom Hydrographic Office; and
- “WDC” means Whale and Dolphin Conservation.

### Plans and Programmes

- “the 2017 Aberdeenshire LDP” means the Aberdeenshire Local Development Plan 2017
- “ATC Scheme” means Air Traffic Control Radar Mitigation Scheme;
- “CaP” means Cable Plan;
- “CMS” means Construction Method Statement;
- “CoP” means Construction Programme;
- “CTMP” means Construction Traffic Management Plan;
- “DP” means Decommissioning Programme;
- “DS” means the Design Statement;
- “DSL P” means Development Specification and Layout Plan;

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- “ELLDP” means East Lothian Local Development Plan;
- “EMP” means Environmental Management Plan;
- “ERCoP” means Emergency Response Co-operation Plan;
- “FMMS” means Fisheries Management and Mitigation Strategy;
- “LMP” means Lighting and Marking Plan;
- “MGN” means Marine Guidance Note;
- “NMP” means the National Marine Plan;
- “NPF3” means Scotland’s National Planning Framework 3;
- “NRA” means Navigation Risk Assessment;
- “NRIP” means National Renewables Infrastructure Plan
- “NSP” means Navigational Safety Plan;
- “OMP” means Operation and Maintenance Programme;
- “PAD” means Protocol for Archaeological Discoveries;
- “PEMP” means Project Environmental Monitoring Programme;
- “Policy E1” means Aberdeenshire Policy E1 Natural Heritage
- “PS” means Piling Strategy;
- “SPP” means Scottish Planning Policy 2014;
- “Transit Plan” means a plan which sets out measures to be taken to avoid or reduce the impact of vessel movement on the local fishing industry and to promote a sustainable coexistence. It will include indicative transit routes for vessels operating in and around the development and transiting to the site from relevant ports;
- “VMP” means Vessel Management Plan; and
- “WSI” means Written Scheme of Investigation.

### Legislation

- “the Birds Directive” means Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds, as amended and as codified by Directive 2009/147/EC of the European Parliament and of the Council of 30th November 2009;
- “the Electricity Act” means the Electricity Act 1989 (as amended);
- “the Habitats Regulations” means the Conservation of Habitats and Species Regulations 2017 and the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended);
- “the Habitats Directive” means Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and wild fauna and flora (as amended);
- “the 1994 Habitats Regulations” means the Conservation (Natural Habitats, & c.) Regulations 1994 (as amended);
- “the 2017 EW Regulations” means The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended); and
- “the 2010 Act” means the Marine (Scotland) Act 2010.