



09 May 2018

Marine Scotland Licensing Operations Team  
Marine Scotland  
Aberdeen  
AB11 9DB

Attn: Panos Pliatsikas

Ref: KOWL-LT-0004-001

Dear Panos,

**Subject KOWL Second Section 36C Variation Application**

ELECTRICITY ACT 1989 (AS AMENDED)  
THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)  
REGULATIONS 2017 (AS AMENDED)  
THE ELECTRICITY GENERATING STATIONS (APPLICATIONS FOR VARIATION OF CONSENT)  
(SCOTLAND) REGULATIONS 2013  
CONSERVATION OF OFFSHORE MARINE HABITATS AND SPECIES REGULATIONS 2017  
CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017  
CONSERVATION (NATURAL HABITATS, &C.) REGULATIONS 1994  
MARINE (SCOTLAND) ACT 2010  
MARINE AND COASTAL ACCESS ACT 2009

Please accept this letter and enclosed map as an application under Section 36C of the Electricity Act 1989 to vary the consent granted to Kincardine Offshore Windfarm Limited (KOWL) on 07<sup>th</sup> March 2017 (the "s36 Consent"). This is a second variation application (the "Second Variation Application") separate to the first variation application submitted on 24<sup>th</sup> November 2017 (the "First Variation Application") due to further improvements in wind turbine technology.

This application is for the removal of the individual turbine generating capacity limit only. The application will not change any other parameter in the consented Rochdale Envelope of the s36 Consent (or the marine licence granted in parallel). This will not change any of the inputs to the existing environmental assessments, including the collision risk modelling (CRM), and therefore the assessments already undertaken will not be affected by this application.



## **Background**

### Original Application and s36 Consent

The s36 Consent authorises KOWL to construct and operate the Kincardine Offshore Wind-farm, an offshore wind turbine generating station located approximately 15km south east of Aberdeen, with a total area 110 km<sup>2</sup> (central latitude and longitude co-ordinates: 57°00.000'N 01°50.00'W (WGS84)). The maximum capacity of the generating station would be 50MW comprising 6 to 8 turbines with a maximum height of 176 metres above Lowest Astronomical Tide.

### First Variation Application

The First Variation Application was submitted in November 2017 due to necessary technical changes, including an increase in the rated capacity for the largest turbines that were being considered at the time of writing the application. Therefore, the environmental assessments undertaken for the First Variation Application were based on the installation of up to seven turbines, including a 2MW turbine that will be installed first, followed by six larger turbines of up to 8.4MW capacity; however, the maximum generating capacity of windfarm remained up to 50MW.

### **Second Variation Application – This Application**

Since our application in November 2017, there have been further improvements in wind turbine technology. The 8.4MW model noted in the First Variation Application documents may no longer be in production, and turbines are now available which have a higher rated capacity than those previously assessed, without changing the physical dimensions or operational parameters.

The s36 Consent included the following item in the description of the WTGs in Annex 1: “*i. 6 to 8 MW generation capacity (whilst ensuring that the permitted generation capacity does not exceed 50 MW)*”. Whilst it is noted that the First Variation Application already proposes this item is removed, it is recognised that the First Variation Application included references to a wind turbine generator rated capacity of 8.4MW in the accompanying Variation ES. Annex 1 of the s36 Consent stipulates that the Development shall be constructed in accordance with the application and environmental statement.

We can confirm that this Second Variation Application is not an application to change any of the physical or operational parameters specified in the Original ES and ES Addendum submitted with the s36 Consent application or the Variation ES submitted with the First Variation Application. The only change applied for in this Second Variation Application is the removal of the individual turbine capacity limit from the s36 Consent (as varied, if relevant) (including removing the requirement to comply with the individual turbine capacity parameter in the previously submitted environmental information).



## **Environmental Impact Assessment (EIA) and Habitats Regulations Appraisal Considerations**

As part of the Original Application the predicted environmental impacts of the proposed windfarm were assessed in compliance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 and the Marine Works (Environmental Impact Assessment) Regulations 2007 as set out within the documentation provided in support of the Original Application. Documents included:

- Kincardine Offshore Windfarm ES (Original ES) March 2016;
- Kincardine Offshore Windfarm HRA (Original HRA) March 2016;
- ES Additional Information Addendum (ES Addendum) September 2016; and
- Kincardine Offshore Windfarm HRA Addendum (HRA Addendum) September 2016.

The newly amended Environmental Impact Assessment (EIA) Directive 2014/52/EU entered into force on May 15, 2014. Scotland was required to apply the new rules by 16 May 2017. The requirements of the new Directive were enabled in relation to S36 consents by The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, and in relation to marine licences by the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017. Therefore, the First Variation Application was assessed in compliance with these newly amended regulations. Documents included:

- Section 36C Variation ES (Variation ES) November 2017; and
- Section 36C Variation HRA (Variation HRA) November 2017.

As set out in the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended in December 2017 by the Electricity Works (Environmental Impact Assessment) (Scotland) (Amendment) Regulations 2017), in the case of variation applications, these will only constitute EIA development requiring EIA where the proposed variation is a schedule 1 development or is a schedule 2 development likely to have significant effects on the environment. In this case, this Second Variation Application, if granted, would not change any of the consented physical or operational parameters. The Original ES, Original HRA, ES Addendum, HRA Addendum, Variation ES and Variation HRA are all based on the physical and operational parameters of the turbines (and associated infrastructure), not the turbine capacity, and so are unaffected by a change to the turbine capacity. Therefore, the Second Variation Application does not give rise to any likely significant effects and so the proposed variation is not an EIA development in terms of the 2017 EIA Regulations. As there will be no likely significant effects from the proposed changes, including on any European offshore marine site or European protected sites, an updated habitats regulations appraisal (HRA) is not required.



## Section 36 Consent Variations Sought

In Annex 1 to the s36 Consent, the following variations to the description of the WTGs comprised in the development are proposed:

- Delete item 1(i): ~~i. 6 to 8 MW generating capacity (whilst ensuring that the permitted generating capacity does not exceed 50 MW);~~ *[Drafting note: this change has already been applied for under the First Variation Application, so may not be necessary by the time of a decision on the Second Variation Application.]*
- Insert a new sub-item at the end of the list in item 1: vii. a generating capacity per WTG which is not prescribed (provided always that the total permitted generating capacity must not exceed 50 MW);
- Amend the penultimate paragraph in Annex 1 as follows: The Development shall be constructed in accordance with that specified in the Application, the ES Addendum and by the conditions imposed by the Scottish Ministers (all as updated, superseded or varied by subsequent approved variations and the terms of this consent). *[Drafting note: a similar change will be required under the first variation application, so may not be necessary by the time of a decision on the Second Variation Application.]*

Consequential amendments may also be required to some of the conditions, and defined terms, in the s36 Consent to reflect the above.

## Marine Licence

If the Second Variation Application is granted, it is understood that the Scottish Ministers will exercise their discretion to vary the marine licence under section 72(3) of the Marine and Coastal Access Act 2009 and section 30(3) of the Marine (Scotland) Act 2010 to ensure that the marine licence and s36 Consent (as varied) are aligned (as also proposed in relation to the First Variation Application). Equivalent changes to those proposed by this Second Variation Application would be required to the marine licence to align it with the s36 Consent. The conclusions on the impacts of the changes set out above apply equally to the s36 Consent and marine licence.



## Summary

We trust that the enclosed information in this letter and attached map is sufficient to be considered as an additional variation application.

On confirmation of receipt and acceptance by Marine Scotland, notice of this application will be placed in Lloyd's list, in the Fishing News Bulletin and in The Herald and Edinburgh Gazette for a one-week period and the Press and Journal for a two-week period.

A copy of the variation application will be made available at [www.pilot-renewables.com](http://www.pilot-renewables.com) and at the following places:

Aberdeen City Library  
Rosemount Viaduct  
Aberdeen  
AB25 1GW

Aberdeen City Council  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

Aberdeenshire Council  
Woodhill House  
Woodhill Road  
Aberdeen  
AB16 5GB

Portlethen Library  
Bruntland Road  
Portlethen  
AB12 4QL

Stonehaven Library  
Evan Street  
Stonehaven  
AB39 2ET

Atkins Aberdeen Office  
Kirkgate House  
Upperkirkgate  
Aberdeen  
AB10 1HW

If you require any further information or have any questions please do not hesitate to contact me.

Yours Sincerely,

**Jaime Altolaguirre**  
**Director - Kincardine Offshore Wind Ltd.**



