

Mr Simon Hindson
Berwick Bank Wind Farm Limited
Inveralmond House
200 Dunkeld Road
Perth
PH1 3AQ

31 July 2025

Dear Mr Hindson,

THE ELECTRICITY ACT 1989

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

**DECISION NOTICE FOR THE SECTION 36 CONSENT FOR THE CONSTRUCTION
AND OPERATION OF THE BERWICK BANK WIND FARM, APPROXIMATELY
47.6KM OFFSHORE OF THE EAST LOTHIAN COASTLINE AND 37.8KM FROM
THE SCOTTISH BORDERS COASTLINE AT ST ABBS**

1. Application and description of the Development

- 1.1 On 9 December 2022, Berwick Bank Wind Farm Limited (Company Number SC721781) having its registered office at Inveralmond House, 200 Dunkeld Road, Perth PH1 3AQ (“the Developer”), submitted to the Scottish Ministers an application for a consent under section 36 (“s.36”) of the Electricity Act 1989 for the construction and operation of the Berwick Bank Wind Farm (“the Development”) approximately 47.6 kilometres (“km”) offshore off the East Lothian coastline and 37.8km from the Scottish Borders coastline at St Abbs (“the Application”).
- 1.2 The Application was accompanied by an Environmental Impact Assessment (“EIA”) report (“EIA Report”) as required under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 EW Regulations”) as well as the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and the Marine Works (Environmental Impact Assessment) Regulations 2007 concerning the separate applications for related marine licences.

- 1.3 Additional information was submitted by the Developer to the Scottish Ministers on 4 August 2023 (“Additional Information”) and related to ornithology, marine mammals and the without prejudice Habitats Regulations Appraisal (“HRA”) derogation case.
- 1.4 In addition to the Application, the Developer has also applied for marine licences (under the Marine (Scotland) Act 2010 and Marine and Coastal Access Act 2009) to construct, alter or improve the generating station and offshore transmission infrastructure. Separate decision notices will be issued in respect of any marine licences granted.
- 1.5 The Application is for the construction and operation of an offshore energy generating station, with an anticipated generating capacity of 4.1 gigawatts (“GW”). The offshore generating station is proposed to have an operational lifetime of up to 35 years and comprise of:
1. No more than 307 three-bladed horizontal axis Wind turbine Generators (“WTG”) each with:
 - a) A maximum hub height of 200 metres (“m”) (measured from above Lowest Astronomical Tide (“LAT”))
 - b) A minimum blade tip height of 37m (measured from above LAT)
 - c) A maximum blade tip height of 355m (measured from above LAT)
 - d) A maximum rotor diameter for smallest wind turbine option of 222m
 - e) A maximum rotor diameter of 310m
 - f) A minimum wind turbine spacing of 1,000m
 - g) A maximum wind turbine spacing of 4,650m
 2. A maximum of 1,225 kilometres of inter-array cable.
 3. Up to 307 WTG foundations and substructures (steel lattice jacket towers with pin piles or suction caissons), and associated fixtures, fittings and protections;
 4. Scour and inter-array cable protection;
- and, except to the extent modified by the foregoing, all as described in the Application and by the conditions imposed by the Scottish Ministers. References to “the Development” in this consent shall be construed accordingly.
- 1.6 The total area within the Development site boundary is 1,010.2km². The location and boundary of the Development is shown in Figure 1 of Annex 1.

This decision notice contains the Scottish Ministers’ decision to grant consent for the Development detailed above in accordance with 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 of the Development on a range of receptors
- Information to inform the HRA
- Additional Information pertaining to ornithology, marine mammals and the without prejudice HRA derogation case

2.2 A summary of the environmental information provided in the EIA Report and Additional Information is given below.

2.3 Determining Significance of Effect

2.3.1 The EIA Report quantified the assessment of the impact of the Development on a range of receptors by defining the significance of an effect through the use of a matrix approach. The Developer has set out a scale for assessing effects within the EIA Report as either negligible, minor, moderate or major adverse significance. Where a level of significance of effect of moderate or more has been identified, this is considered a significant adverse effect in terms of EIA. Where a level of significance of effect of minor or less has been identified, this is considered as no significant adverse effect in EIA terms.

2.3.2 The EIA Report details that some topic chapters of the EIA Report use alternative EIA methods including specific topic-based guidance/assessments and alternative significance matrices. For Shipping and Navigation, a level of residual effect of 'unacceptable' has been considered a significant effect in EIA terms, whereas a level of residual effect of broadly acceptable or tolerable has been considered 'not significant'. For Seascape, Landscape and Visual Resources, any effects with a significance level of major and major/moderate have been deemed significant in EIA terms, with moderate effects considered to have the potential, subject to the assessor's professional judgement, to be considered as significant or not significant, depending on the sensitivity and magnitude of change factors evaluated.

2.4 Physical Processes

2.4.1 The EIA Report considered the assessment of the likely significant effects of the Development during the construction, operation and maintenance and decommissioning phases on physical processes. The EIA Report highlighted that from geophysical data taken from the Development array area two morphological bank features were identified as those of Marr Banks and the Firth of Forth Banks Complex Nature Conservation Marine Protected Area ("ncMPA").

2.4.2 Two potential impacts of physical processes on receptors due to the construction, operation and maintenance and decommissioning phases of

the Development were identified within the EIA Report. These were identified as firstly, increased suspended sediment concentrations and associated deposition on physical features as a result of seabed preparation, foundation installation, cable installation, maintenance and decommissioning activities and secondly, changes to tidal currents, wave climate, littoral currents and sediment transport which may have the potential to result in changes to sediment transport pathways, bank morphology and beach morphology due to the presence of infrastructure.

- 2.4.3 The EIA Report assessed that the potential impacts of sediment plumes from increased suspended sediment concentrations and associated deposition arising during the construction phase as being localised within the Development area and therefore not expected to influence the bathymetry of receptors within the Firth of Forth Banks ncMPA resulting in minor or negligible adverse significance in EIA terms. Similarly, the EIA Report assessed the potential impacts during the decommissioning phase as similar to those during the construction phase. The EIA Report considered that during the operational and maintenance phase of the Development, activities are limited to repair activities. As a result, the potential effects are reduced compared to those during the construction phase and as such, results in minor or negligible adverse effects to the receptors associated with the Firth of Forth Banks Complex ncMPA during the operational and maintenance phase.
- 2.4.4 The EIA Report assessed the potential impacts of the presence of infrastructure. Due to the minor changes in hydrodynamics occurring in close proximity to the location of the wind turbines and not extending beyond the Development area it was concluded to be of negligible to minor adverse significance in EIA terms. In addition, following the decommissioning phase it was concluded that the potential impacts would be negligible, due to only scour and cable protection structures that have not been possible or practical to remove remaining in place.
- 2.4.5 The EIA Report assessed the cumulative impacts of physical processes arising from each identified impact in combination with adjacent offshore wind farm developments. These were predicted to result in impacts of negligible to minor adverse significance on the Firth of Forth Banks Complex ncMPA and therefore not significant in EIA terms.
- 2.4.6 The EIA Report also considered and identified impacts to the intertidal area from the construction, operation and maintenance and decommissioning phases of the Development, which were increased suspended sediment concentrations and associated deposition on physical features as a result of the offshore export cables installation and maintenance activity.
- 2.4.7 The EIA Report identified that the offshore export cable routes would not pass through any designated sites; however, highlighted that sediment plumes may arise and reach the outer extent of the Firth of Forth Site of Special Scientific Interest ("SSSI") and Barns Ness Coast SSSI. The Developer has selected a trenchless technique for installation of the export

cables and therefore has concluded that the increased sedimentation from the installation of the offshore export cables would cause little or no sedimentation in the intertidal zone and therefore would be of negligible effect and not significant in EIA terms.

- 2.4.8 The EIA Report assessed the cumulative impacts of physical processes arising from each identified impact in combination with adjacent offshore wind farm developments and these were predicted to result in impacts of negligible adverse significance and therefore not significant in EIA terms on the Firth of Forth SSSI and Barns Ness SSSI.

2.5 Benthic Subtidal and Intertidal Ecology

- 2.5.1 The EIA Report considered the assessment of the likely significant effects of the Development during the construction, operation and maintenance and decommissioning phases on benthic subtidal and intertidal ecology. The assessments were characterised via desktop studies as well as a series of site specific surveys.

- 2.5.2 A number of likely significant effects on benthic subtidal ecology associated with all phases of the Development were identified within the EIA Report and include increased suspended sediment concentrations (“SSC”) and associated deposition; temporary habitat disturbance/loss; long term habitat loss; introduction and colonisation of new habitat; introduction of non-native species (“INNS”); disturbance due to electromagnetic fields (“EMF”) and habitat disturbance via scour and vessel activities during the operational phase of the Development.

- 2.5.3 A number of likely significant effects on intertidal ecology associated with all phases of the Development were also identified within the EIA Report and include increased SSC and associated deposition; INNS and alteration of seabed habitats arising from the effects of physical processes.

- 2.5.4 The EIA Report identified that temporary habitat disturbance/loss was deemed to be of moderate adverse significance during the construction phase of the Development with regard to benthic subtidal and intertidal ecology and therefore significant in EIA terms. The EIA Report concluded that the effects would be short term, decreasing to minor adverse significance in the long term as sediments and communities are predicted to recover.

- 2.5.5 The EIA Report identified that the Development array area and export cable corridor overlap with the Firth of Forth Banks Complex ncMPA. The EIA Report assessed the impacts to the ocean quahog feature during the construction and decommissioning phases of the Development and identified the impacts as being of moderate adverse significance for temporary habitat disturbance in the medium term. The EIA Report concluded that the effects would be reduced to minor adverse significance in the long term due to the prediction that the ocean quahog population and habitat would recover.

- 2.5.6 The EIA Report identified that the offshore export cable corridor overlaps with the Barns Ness Coast SSSI. The Developer has selected a trenchless technique for installation of the export cables and therefore has concluded that this site will not be directly affected by the Development.
- 2.5.7 The Developer has committed to a number of designed in measures within the EIA Report including the implementation of an Environmental Management Plan ("EMP") (to include an INNS Management Plan); a Code of Construction Practice; the implementation of a Decommissioning Programme ("DP"); implementation of a Marine Pollution and Contingency Plan ("MPCP"); suitable implementation and monitoring of cables; a pre-construction Annex I reef survey and the exclusive use of drilling fluids that are on the controlled and maintained list by Cefas. The EIA Report concluded that no further mitigation beyond these designed in measures is considered necessary.
- 2.5.8 The Developer has also made a number of monitoring commitments within the EIA Report including the commitment to engage in discussions with key stakeholders to identify opportunities for contributing to proportionate and appropriate strategic monitoring which will be implemented through the implementation of an EMP and Project Environmental Monitoring Plan ("PEMP").
- 2.5.9 The EIA Report concluded that based on the designed in measures and monitoring to be implemented, the potential impacts to benthic subtidal ecology receptors would result in effects of either negligible or minor adverse significance and therefore not significant in EIA terms. In addition, the potential impacts to benthic intertidal ecology receptors would result in negligible adverse effects and therefore also not significant in EIA terms.
- 2.5.10 The EIA Report assessed the cumulative impacts arising from the Development together with other projects and plans, including other offshore renewable energy developments and dredge and disposal activities and concluded temporary habitat loss/disturbance impacts to subtidal benthic receptors in the construction phase were of moderate adverse significance and therefore significant in EIA terms. These impacts, however, were predicted to decrease to minor adverse significance in the long term as the sediments and communities are predicted as likely to recover. The EIA Report concluded that there were no other significant cumulative impacts predicted with regard to benthic subtidal ecology. The EIA Report concluded that with regard to intertidal benthic ecology, all cumulative impacts would be of negligible to minor adverse significance and therefore not significant in EIA terms.
- 2.5.11 In addition, the EIA Report concluded that with regard to the features of the Firth of Forth Banks Complex ncMPA, the cumulative impacts to both the subtidal sands and gravels feature of the Firth of Forth Banks Complex ncMPA were identified as being moderately affected by temporary habitat disturbance during the construction phase of the Development. The EIA Report concluded, however, that this effect is likely to be short term reducing

to minor significance in the long term. Furthermore, the EIA Report concluded that the ocean quahog feature was found to have moderate significance of effect for temporary habitat disturbance during the construction phase of the Development in the medium term. The EIA Report concluded, however, that this impact would reduce to minor in the long term due to predictions that the ocean quahog population and supporting habitat would recover. No likely significant transboundary effects from the Development were predicted within the EIA Report.

2.6 Fish and Shellfish Ecology

- 2.6.1 The EIA Report assessed the effect of the Development on fish and shellfish ecology associated with the construction, operation and maintenance and decommissioning phases within two study areas consisting of the Development study area and the regional northern north sea study area.
- 2.6.2 Potential impacts on fish and shellfish receptors were identified within the EIA Report and include temporary habitat loss/disturbance; increased suspended sediment concentrations and associated deposition; injury and/or disturbance to fish and shellfish from underwater noise and vibration; long term habitat loss; electric magnetic fields from subsea electrical cabling and colonisation of foundations; scour protection; and cable protection.
- 2.6.3 The Developer has committed to a number of designed in measures as part of the Development to reduce the impacts on fish and shellfish receptors. This includes the implementation of soft start piling procedures; low order disposal of Unexploded Ordnance ("UXO"); development of and adherence to an EMP including a MPCP, an appropriate Code of Construction Practice and a DP; and preparation and implementation of a Cable Plan ("CaP") including a cable burial risk assessment to inform cable burial depth.
- 2.6.4 The EIA Report concluded that based on the designed in measures to be implemented, the potential impacts to fish and shellfish ecology receptors would result in effects of either negligible to minor or minor adverse significance and therefore not significant in EIA terms.
- 2.6.5 The Developer assessed the cumulative impacts arising from the Development together with other projects and plans including other offshore renewable energy developments and dredge and disposal activities. The EIA Report predicted that the cumulative impacts would result in effects of negligible to minor adverse significance and therefore not significant in EIA terms. No transboundary effects from the Development were predicted within the EIA Report.

2.7 Marine Mammals

- 2.7.1 The EIA Report assessed the potential impacts of the Development on marine mammal receptors during the construction, operation and maintenance and decommissioning phases. The assessment focused on the Development study area and in addition, the regional northern north sea marine mammal study area.

- 2.7.2 The potential impacts on marine mammals as a result of the Development were identified within the EIA Report and include injury and disturbance from elevated underwater noise from different activities associated with the Development which include piling, site investigation surveys, UXO clearance, vessel use and other construction-related activities. In addition, an increased risk of injury of marine mammals due to collision with vessels was identified. The EIA Report also considered the potential indirect effects due to changes in fish and shellfish communities in affecting prey availability for marine mammals.
- 2.7.3 In an endeavour to reduce the potential impacts on marine mammal receptors, the Developer committed to the following number of designed in measures as part of the Development within the EIA Report:
- A Marine Monitoring Management Protocol (“MMMP”);
 - Implementation of piling soft start ramp up measures;
 - Detonation of UXO using low order techniques;
 - Implementation and adherence to a Code of Conduct;
 - Development of and adherence to an EMP including a MPCP;
 - Development of and adherence to an appropriate Code of Construction Practice; and
 - Development of and adherence to a DP.
- 2.7.4 The EIA Report concluded that the potential impacts of the Development on marine mammal receptors would mostly result in effects of minor adverse significance and therefore not significant in EIA terms. However, the assessment within the EIA Report concluded the potential for moderate injury impacts on minke whales as a result of underwater noise produced due to piling and on harbour porpoise as a result of UXO clearance if full detonation was required. The Developer has committed to additional mitigation measures in the form of implementation of Acoustic Deterrent Devices (“ADDs”) and soft-start charges to reduce the risk of injury. The EIA Report therefore concluded the potential impacts as minor adverse significance and not significant in EIA terms.
- 2.7.5 The EIA Report also considered the inter-related effects of the number of activities leading to elevations in underwater noise. The three main effects identified were: injury or disturbance from underwater noise; injury due to collision with vessels; and changes in prey communities. The activities associated with the Development may therefore contribute to the effects identified and result in a greater effect on marine mammal receptors than when the effects are considered in isolation. The EIA Report concluded, however, that despite the effects identified, it was predicted that marine mammals would recover and return to any area that may be impacted by these effects.
- 2.7.6 The EIA Report assessed the cumulative impacts arising from the Development together with other projects and plans including other offshore renewable energy developments, subsea cables and dredge and disposal activities. The EIA Report predicted that the cumulative effects arising from

the Development would result in minor adverse significance and therefore not significant in EIA terms within the regional northern north sea marine mammal study area. No transboundary effects from the Development were predicted within the EIA Report.

2.8 Offshore and Intertidal Ornithology

- 2.8.1 The EIA Report considered the potential impacts on offshore and intertidal ornithology receptors associated with the construction, operation and maintenance and decommissioning phases of the Development. Direct impacts scoped into the EIA Report include disturbance, collision risk and displacement from a number of activities associated within the Proposed Development. Indirect impacts scoped into the EIA Report include changes in fish and shellfish communities affecting prey availability.
- 2.8.2 The EIA Report considered and assessed that disturbance and displacement effects within the array area of the Proposed Development during the construction and decommissioning phases as resulting in negligible to minor adverse significance and therefore not significant in EIA terms. The EIA Report also considered indirect effects as a result of habitat loss or displacement of prey species due to increased noise and disturbance to the seabed as resulting in negligible to minor adverse significance and therefore not significant in EIA terms. Furthermore, the EIA Report also considered disturbance and loss of seabed habitat effects resulting from cable installation and removal within the Outer Firth of Forth and St Andrews Bay Complex SPA as being of not more than minor adverse significance and therefore not significant in EIA terms.
- 2.8.3 For the assessment of displacement, barrier and collision effects in the operational stage two approaches were undertaken – the Scoping Approach, which includes a low (Scoping Approach A) and high (Scoping Approach B) range of results, and the Developer Approach. The latter approach was undertaken as the Developer considered the advice provided in the scoping opinion adopted in respect of the Development to be overly precautionary.
- 2.8.4 The EIA Report considered and assessed displacement and barrier effects during the operational phase of the Proposed Development to be no more than minor adverse significance for gannet, kittiwake, razorbill and puffin and therefore not significant in EIA terms. For guillemot, displacement and barrier effects during the operational phase of the Proposed Development was considered to be of minor adverse significance using the Developer Approach and Scoping Approach A but moderate adverse significance using Scoping Approach B which is significant in EIA terms.
- 2.8.5 The EIA Report further considered and assessed collision effects during the operational phase of the Proposed Development alone and concluded that the effects were to be of no more than minor adverse significance for gannet, herring gull, lesser black-backed gull, little gull, common tern, Arctic tern and great skua and therefore not significant in EIA terms. For kittiwake, collision effects were considered to be minor to moderate adverse significance;

however, these effects were revised in the EIA Report to be minor adverse, citing precaution in the assessment, and therefore not significant in terms of EIA.

- 2.8.6 The assessment within the EIA Report considered the inter-related effects of multiple stressors on offshore and intertidal ornithology receptors. The EIA Report identified one main stressor from the proposed impacts being overall effects on foraging seabirds from potential changes in prey communities that could be caused by disturbance, habitat loss or SSC. The assessment within the EIA Report concluded that due to the high mobility of foraging seabirds and their ability to exploit different prey species and the small scale of potential changes in context of wider available habitat, that any changes to fish prey communities are unlikely to have a significant effect on foraging seabirds.
- 2.8.7 The Developer has committed to a number of designed in measures within the EIA Report as part of the Development to reduce the impacts on offshore and intertidal ornithology receptors. These include the increased air gap between the lower tip height and sea surface; avoidance of relatively high densities of seabirds; and moving the site boundary 2km away from the boundary of the Outer Firth of Forth and St Andrews Bay Complex SPA. The EIA Report concluded that no additional mitigation beyond the designed in measures is considered necessary.
- 2.8.8 The EIA Report assessed the cumulative impacts arising from the Development together with other projects and plans including other offshore renewable energy developments, subsea cables and dredge and disposal activities. Overall, it was concluded that there will be a likely significant effect on guillemot and razorbill arising from cumulative displacement effects. Furthermore, it was concluded that there will also be a likely significant effect on gannet and kittiwake from combined displacement and collision effects. No likely significant transboundary effects with regard to ornithology from the Development were predicted.
- 2.8.9 In addition to the effects identified within the EIA Report, the Report to Inform the Appropriate Assessment ("RIAA"), submitted as part of the HRA, concluded adverse effects on site integrity ("AEOSI") (or unable to conclude no AEOSI) from the Development both alone and in-combination on several Special Protection Areas ("SPAs") for ornithological qualifying features. The implications of the Development to protected sites in view of their conservation objectives are considered within the Scottish Ministers' appropriate assessment.

2.9 Commercial Fisheries

- 2.9.1 The EIA Report considered the effect of the Development on commercial fisheries associated with the construction, operation and maintenance, and decommissioning phases of the Development with a study area including the following commercial fishing activities: demersal otter trawling

(predominately for Nephrops and to a much lesser extent squid); creeling for lobster and crab; and scallop dredging.

- 2.9.2 A number of potential impacts were identified within the EIA Report which included loss or restricted access to fishing grounds; displacement of fishing activity into other areas; increased steaming times; snagging risk (loss or damage to fishing gear) and safety issues; interference with fishing activities; and potential impacts on commercially exploited species.
- 2.9.3 The Developer has committed to a range of designed in measures to reduce the potential effects of the Development on commercial fisheries including the implementation of a Fisheries Management and Mitigation Strategy ("FMMS") and the undertaking of an assessment of burial status of cables (including cable protection) and of potential changes to the seabed. Furthermore, the Developer has appointed a Fisheries Liaison Officer ("FLO") to facilitate engagement with the fishing industry throughout the stages of the Development. The impact of the identified potential impacts from all phases of the Development were assessed as resulting in effects of either negligible to minor or minor/tolerable adverse significance.
- 2.9.4 The EIA Report assessed the cumulative impacts from the Development together with other projects and plans and it was predicted to likely result in effects of negligible to minor/tolerable adverse significance upon commercial fisheries receptors and therefore not significant in EIA terms. In addition, no likely significant transboundary effects with regard to commercial fisheries from the Proposed Development were predicted.

2.10 Shipping and Navigation

- 2.10.1 The potential impacts of the Development on shipping and navigation receptors during construction, operation and maintenance and decommissioning phases were considered in the EIA Report to include: vessel displacement; increased vessel to vessel collision risk between a third-party vessel and a project vessel; increased vessel to vessel collision risk between third-party vessels; vessel to structure collision risk; reduced access to local ports; reduction of under keel clearance; interaction with subsea cables; reduction of emergency response capability and interference with magnetic position fixing equipment.
- 2.10.2 The impact of potential effects arising from the construction, operation and maintenance and decommissioning phases was assessed using the maximum design scenario for each shipping and navigation impact. All effects were assessed as being not significant in EIA terms once mitigation is applied.
- 2.10.3 In an endeavour to reduce the potential impacts on shipping and navigation receptors, the Developer committed to the following development design mitigation measures in the EIA Report:
- Application for Safety Zones of up to 500m;

- Deployment of a buoyed construction area in agreement with the Northern Lighthouse Board (“NLB”);
- Suitable implementation and monitoring of cable protection with any damage, destruction or decay of cables notified to the NLB, Maritime Coast Guard Agency (“MCA”), Kingfisher and UK Hydrographic Office (“UKHO”);
- Compliance with Marine Guidance Note (“MGN”) 654 and its annexes and completion of a search and rescue checklist where applicable;
- Use of guard vessels as required by risk assessment;
- Finalised layout through the Design Specification and Layout Plan;
- Lighting and marking of the Development in agreement with the NLB and in line with the International Association of Marine Aids to Navigation and Lighthouse Authorities (“IALA”) G1162 (IALA, 202 (b));
- Marine coordination and communication to manage the Development vessel movements;
- Creation and implementation of a MPCP;
- Appropriate marking of structures within the Development on UKHO Admiralty Charts;
- Minimum blade clearance of 22m above mean high water springs in line with Royal Yachting Association (“RYA”) policy;
- Compliance of all Development vessels with international marine regulations as adopted by the Flag State, notably the COLREGSs (IMO, 1972/77) and SOLAS (IMO, 1974); and
- Promulgation of information for vessel routes, timings and locations, Safety Zones and advisory safe passing distances as required via Kingfisher Bulletins.

2.10.4 The cumulative effects of the Development together with other relevant plans, projects and activities were considered and assessed within the EIA Report. Overall, it is concluded that there will be no significant cumulative effects from the Development alongside other plans, projects, or activities. Vessel displacement for commercial routeing between international ports was identified as a transboundary effect. Given the international nature of commercial vessel traffic, the EIA Report stated that the relevant receptors are captured as part of the vessel traffic survey data and considered within the cumulative assessment, concluding that the effect is of tolerable significance (not significant in EIA terms).

2.11 Aviation, Military and Communications

2.11.1 The EIA Report considered the assessment of the likely significant effects of the Development during the construction, operation and maintenance and decommissioning phases on aviation, military and communications.

2.11.2 The EIA Report considered that there are to be no likely significant effects on forms of communications such as interference with cellular telephone service coverage, television scanning telemetry or non-aviation radar, satellite communications (e.g., with offshore oil and gas), maritime communications,

very high frequency radio and/or microwave links or any other forms of cabling (telecommunications and interlinks).

2.11.3 The EIA Report concluded that the Development would have major significant effects on aviation and military. The EIA Report identified that the Development would have major significant effects on the Ministry of Defence (“MOD”) Brizlee Wood Air Defence Radar (“ADR”); the MOD Buchan ADR; the MOD Leuchars Station Air Traffic Control (“ATC”) radar; the MOD Spadeadam Deadwater Fell ATC radar; the National Air Traffic Services En-Route Public Limited Company (“NERL”) Allanshill ATC radar; and NERL Perwinnes ATC radar. The EIA Report concluded that these effects will be reduced to negligible (and non-significant in EIA terms), by mitigation solutions implemented by NERL and the MOD.

2.11.4 The EIA Report stated that the Development is considered to be significant irrespective of the cumulative situation. However, with the application of secondary mitigation in the form of radar mitigation solutions in consultation with the MOD and NERL, all cumulative effects are assessed as minor and not significant in EIA terms. No likely significant transboundary effects were identified.

2.12 Cultural Heritage

2.12.1 The EIA Report considered the impact of the setting of cultural heritage assets during the construction, operational and decommissioning phases of the Development.

2.12.2 The EIA Report considered the potential indirect impacts to the setting of cultural heritage features including 246 scheduled monuments, 227 Category A Listed Buildings, 1,762 Category B Listed Buildings, 1,923 Category C Listed Buildings, 12 Grade I and II Listed Buildings, 202 Grade II Listed Buildings, 25 Inventory Gardens and Designed Landscapes, one registered Park and Garden and 30 Conservation Areas. These were identified as potentially being indirectly impacted as a result of the Development and were further assessed due to being located within the zone of theoretical visibility and within 60km of the Development.

2.12.3 Designed in measures to reduce the potential for impacts on cultural heritage relating to the Development’s visibility were outlined in the EIA Report. No further mitigation was proposed in the EIA Report in respect of the indirect effects on cultural heritage assets as the likelihood of a significant effect resulting from this was assessed to be negligible or minor. However, the schedule of mitigation within the EIA Report proposed the implementation of a Written Scheme of Investigation (“WSI”) and Protocol for Archaeological Discoveries (“PAD”) to address the potential for the discovery of unknown archaeological remains, an outline of which was submitted along with the EIA Report.

2.12.4 The EIA Report outlined that no significant effects in EIA terms are anticipated during the construction, operation and maintenance or decommissioning phases of the Development and concluded that the

likelihood of indirect impact on the setting of cultural heritage assets was minor and not significant in EIA terms. The EIA Report considered that there is no potential for cumulative effects to occur and no likely significant transboundary effects were identified.

2.13 Seascape, Landscape, Visual Resources

- 2.13.1 The EIA Report considered the likely effects of construction, operation and maintenance and decommissioning of the Development on seascape, landscape and visual resources within a Seascape, Landscape and Visual Impact Assessment ("SLVIA"). The SLVIA considered the potential effects on seascape/landscape character, designated landscapes, visual effects and cumulative effects within a 60km study area.
- 2.13.2 The EIA Report concluded that there would be significant daytime effects on two of the twelve coastal character areas within the study area being the Torness Point to St Abb's Head and St Abb's Head to Eyemouth. The EIA Report also predicted that within these coastal character areas, the Thorntonloch to Dunglass special landscape area ("SLA") and St Abb's Head to Eyemouth SLA there would be significant effects.
- 2.13.3 The EIA Report predicted that four of the 23 viewpoints assessed within the SLVIA would have significant daytime effects from the proposed Development. These four viewpoints are located within the Scottish Borders Council area and within the Berwickshire Coast SLA being Fast Castle; tun Law; Eyemouth and St Abb's Head (which also predicts significant night time effects from the Development).
- 2.13.4 The EIA Report also predicts significant effects for recreational users of the Berwickshire Coastal Path between Dowlaw to St Abb's and St Abb's to Eyemouth. Eyemouth and St Abb's are identified as settlements where viewers would be likely to receive a significant visual effect.
- 2.13.5 A number of designed in measures relating to the siting, design and lighting of the Development have been proposed within the EIA Report to reduce the potential impacts on seascape, landscape and visual resources. No secondary mitigation has been applied to seascape, landscape and visual receptors.
- 2.13.6 The EIA Report assessed the construction and decommissioning phase effects on visual amenity, including laying offshore export cables to shore; installation of wind turbines and Offshore Substation Platforms ("OSP"); use of service vessels and partially constructed/decommissioned offshore elements. The residual effects arising from the construction and decommissioning of the Development as being of the same or lower magnitude and significance on all visual receptors and viewpoints as those arising during the operation and maintenance phase. The EIA Report stated that the residual effects are assessed as being short-term and temporary mainly due to the influence of various construction vessels within the seascape that would not otherwise be present or result in effects during the operation and maintenance phase.

2.13.7 The EIA Report assessed cumulative effects through a cumulative effects assessment using a tiered approach system. Within the Tier 1 assessment it was predicted that the main tier 1 cumulative effect is likely to occur in views experienced by walkers along a short section of the John Muir Way between Torness and Chapel Point, and visitors to Skateraw Harbour where the construction of the landfall will be visible at close range in combination with the construction of the Development and the construction of the onshore substation in inland views, which are assessed to be significant (major/moderate), although temporary during construction. No significant cumulative effects were predicted for the Development within the assessments for Tiers 2-4. No potential for significant transboundary effects was identified.

2.14 Infrastructure and Other Users

2.14.1 The EIA Report considered the potential impacts of the Development on the following infrastructure and other users:

- recreational sailing and motor cruising;
- kite surfing, surfing and windsurfing;
- sea/surf kayaking and canoeing;
- scuba diving;
- recreational fishing;
- other offshore wind farm projects;
- offshore telecommunications cables and subsea cables;
- carbon capture and storage and natural gas storage;
- disposal sites;
- aggregate extraction; and
- oil and gas operations (including pipelines) and additional renewable energy projects

2.14.2 The EIA Report identified a number of potential impacts on infrastructure and other users associated with the construction, operation and maintenance and decommissioning phases of the Development which included displacement of recreational craft; recreational vessels and recreational activities; and restriction of access to cables and pipelines associated with the Neart na Gaoithe (“NnG”) Offshore Wind Farm and Eastern Link 1 project.

2.14.3 The EIA Report concluded that there will be minor adverse significant effects arising from the Development during the construction, operation and maintenance and decommissioning phases and therefore not significant in terms of EIA. Furthermore, no mitigation is considered to be necessary due to the likely effect in the absence of mitigation not being significant in EIA terms.

2.14.4 Cumulative impacts of the Development associated with the construction, operation and maintenance and decommissioning phases were assessed together with other offshore wind farm developments, and cables and pipelines and it was predicted that there will be minor adverse significant

effects (not significant in EIA terms). No transboundary effects were identified.

2.15 Offshore Socio-Economics and Tourism

- 2.15.1 An offshore socio-economics assessment was conducted to identify the potential impacts of the Development during construction, operation and maintenance and decommissioning in which the following impact pathways were considered: supporting employment and gross value added (“GVA”) across Scotland and within the identified support facilities locations, including creating employment opportunities for local workers; increasing demand for short term, medium term and long term accommodation and housing from workers migrating into selected support locations; and potential impacts on the tourism and recreation sector.
- 2.15.2 The socio-economics assessment assessed both national (Scotland) and local study areas for socio-economic receptors, and local study areas for tourism receptors. The socio-economic local study areas included a number of port and harbour facility locations to support the various phases of the Development. The assessment identified the viable options for location and assessed each socio-economics local study area associated with each port and harbour facility identified.
- 2.15.3 The EIA Report assessed the impact on tourism and recreation activity and its associated economic value from the Development and considered this as no greater than minor beneficial significance for all areas being considered. The EIA Report considered the potential for minor adverse impacts within the local study area covering the areas of East Lothian and Scottish Borders due to low level disruption to recreational users of the sea, concluding these as not significant in EIA terms.
- 2.15.4 The EIA Report considered the impact on employment, GVA and access to employment amongst local residents of activities associated with all phases of the Development to be of moderate to major beneficial significance across all of the local and national areas being considered. The EIA Report stated that the Development will support existing employment through contracts placed with existing enterprises and support new employment and economic activity. The impact on the demand for housing, accommodation and local services across all phases of the Development was deemed to be of no greater than minor beneficial significance (not significant in EIA terms).
- 2.15.5 Cumulative impacts from offshore energy developments were assessed within the EIA Report and it was predicted as likely to result in no adverse change to the levels of significance assessed when considering the Development in isolation. In addition, the EIA Report considered transboundary effects with regards to socio-economics and tourism from the Development and concluded that no likely significant effects were predicted.

2.16 Water Quality

- 2.16.1 The EIA Report considered four water framework directive (“WFD”) water bodies in the vicinity of the Development array area and export cable corridor and eight designated bathing water sampling locations. Two WFD water bodies were found to be directly affected by the Development due to the overlap in the export cable corridor and two bathing water sampling locations which are located within 2km of the Development export cable corridor.
- 2.16.2 The EIA Report included a WFD assessment which concluded that the hydro morphology, biology (habitats and fish), water quality and INNS receptors associated within the four WFD water bodies were not at risk of being significantly impacted by the Development. In addition, the WFD assessment assessed the effects of the bathing waters identified.
- 2.16.3 The WFD assessment identified a number of potential impacts on water quality during all phases of the Development which included: increased risk of introduction and spread of INNS; accidental release of lubricants, chemicals or similar; operational painting; and cleaning of marine growth and deterioration of water quality from offshore export cables landfall works. However, these impacts were identified as negligible to minor or minor adverse significance in EIA terms provided mitigation measures were put in place.
- 2.16.4 In an endeavour to reduce the potential impacts on water quality, the EIA report identified a number of designed in mitigation measures including:
- Development of and adherence to an appropriate Code of Construction Practice to include strategies, control measures and monitoring procedures;
 - An EMP to be prepared and implemented during all phases of the Development;
 - A MPCP included within the EMP, containing measures to be adopted to ensure that the potential release of pollutants is minimised.
 - An INNS Management Plan included within the EMP to be implemented to manage and reduce the risk of potential introduction and spread of INNS;
 - A decommissioning plan;
 - Suitable implementation and monitoring of cable protection; and
 - The use of drilling fluids that are on the Poses Little or No Risk to the environment list.
- 2.16.5 The EIA Report assessed the cumulative impacts with other projects and activities and concluded the cumulative effects to be not significant in EIA terms. Furthermore, the EIA Report predicted no likely significant transboundary effects to water quality from the Development.
- 2.17 Inter-Related Effects
- 2.17.1 Inter-related effects have been considered individually within each topic receptor of the EIA Report.

- 2.17.2 The assessments undertaken for fish and shellfish ecology within the EIA Report concluded that none of the potential impacts arising from the Development alone or in combination with other projects would result in significant adverse effects on prey species. Whilst colonisation of foundations, scour protection and cable protection has the potential to lead to localised increases in fish species through potential reef effects, any increases would be localised and are not expected to lead to a significant increase in prey species.
- 2.17.3 The assessments undertaken for marine mammals within the EIA Report included predator species most vulnerable to changes in prey availability arising from the Development. The EIA Report concluded that as significant changes to prey species as a result of the Development alone and in combination with other projects are not predicted, significant effects on key predator species are also not predicted. The EIA Report also concluded that there will be no adverse effects on seabirds arising from changes in the behaviour or availability of prey species for seabirds as a result of the Development given that they have a variety of target prey species and large foraging ranges.
- 2.17.4 The EIA Report concluded that inter-related effects across the construction, operation and maintenance and decommissioning phases of the Development will not result in combined effects of greater significance than that assessed for each of the individual phases of the Development. The EIA Report also concluded that multiple effects will not interact in a way that are likely to result in greater significance than those assessments presented for each topic receptors.
- 2.18 Major Accidents and Disasters
- 2.18.1 The EIA Report includes a description and assessment of the likely significant effects deriving from the vulnerability of and potential for the Development to be impacted or cause major accidents and/or disasters.
- 2.18.2 The assessment within the EIA Report of the potential impacts included collision and allision (to and from vessels and aircraft); snagging (to and from fishing vessels); unexploded ordinance (unplanned detonation); pollution of the marine environment (from vessels and structures); and fire at OSP/Offshore convertor station platform.
- 2.18.3 The assessment of effects concluded that all reasonable worst consequences would be managed to an acceptable level with existing control measures in place. As no reasonable major accidents and disasters risk events were identified, no cumulative, transboundary or interrelated effects assessment was undertaken.

3. Consultation

- 3.1 In accordance with the 2017 EW Regulations, notices publicising the applications and EIA Report and subsequent Additional Information must be published in the Edinburgh Gazette, in a newspaper circulating in the locality

in which the development to which the EIA Report relates to is situated (or, in relation to proposed development in, on, over or under the sea, in such newspapers as are likely to come to the attention of those likely to be affected by the proposed development), and on the Application website. The Application documents, EIA Report and any subsequent Additional Information must be made available for physical inspection at a specified address.

- 3.2 As such, the Developer, in agreement with the Scottish Ministers, published the applications, together with the EIA Report and subsequent Additional Information, as follows:

Document	Publication of public notice
EIA Report and Application	<p>East Lothian Courier (12 January 2023 and 19 January 2023)</p> <p>The Herald (10 January 2023 and 17 January 2023)</p> <p>The Courier (10 January 2023 and 17 January 2023)</p> <p>Edinburgh Gazette (10 January 2023 and 17 January 2023)</p> <p>Fishing News (12 January 2023 and 19 January 2023)</p> <p>Lloyds List (10 January and 17 January 2023)</p> <p>Developer website (10 January 2023)</p>
Additional Information	<p>East Lothian Courier (24 August and 31 August 2023)</p> <p>The Herald (22 August and 29 August 2023)</p> <p>The Courier (22 August and 29 August 2023)</p> <p>Edinburgh Gazette (22 August and 29 August 2023)</p> <p>Fishing News (24 August 2023)</p> <p>Lloyds List (22 August and 30 August 2023)</p> <p>Developer website (27 September 2023)</p>

- 3.3 The Application documents, EIA Report and Additional Information were made available for physical inspection at the following locations:

- East Lothian Council Headquarters, John Muir House, Brewery Park, Haddington, EH41 3HA
- Dundee City Council, Dundee House, 50 North Lindsay Street, Dundee, DD1 1QE
- Scottish Borders Council Headquarters, Newtown St. Boswells, Melrose, TD6 0SA

- Angus Council, Orchardbank Business Park, Orchardbank, Forfar, Angus, DD8 1AN
 - Fife Council, Methil Customer Service Centre and Library Wellesley Road, Methil, Fife, KY8 3PA
 - Dunbar Library, Bleachingfield Community Centre, Dunbar, EH42 1DX
- 3.4 The Scottish Ministers made the applications and Additional Information available on their external facing website: <https://marine.gov.scot/ml/berwick-bank-offshore-wind-farm>
- 3.5 In addition, a consultation exercise on the applications and EIA Report was undertaken in accordance with the 2017 EW Regulations for a period from 22 December 2022 to 21 February 2023 (22 December 2022 to 22 April 2023 (for planning authorities) (“the Original Consultation”). A further consultation exercise in respect of the subsequent Additional Information was undertaken for a period from 18 August 2023 to 3 October 2023 (“the Additional Information Consultation”). The regulatory requirements regarding consultation and public engagement have been met and the representations received have been taken into consideration.
- 3.6 A summary of the representations and advice received is set out at sections 4, 5 and 6. The representations are available to view in full [here](#).
- 4. Summary of representations from statutory consultees**
- 4.1 Angus Council
- 4.1.1 Angus Council responded to the Original Consultation and had no objection to the proposed Development; however, raised concern that there was only one in-depth viewpoint from Angus to Montrose.
- 4.1.2 Angus Council noted that the in-depth viewpoint provided is not the closest part of Angus to the Development. Whilst information had been provided for the closest viewpoint, Seaton Cliffs, only a basic depiction had been provided.
- 4.1.3 Despite this, Angus Council acknowledged that the alignment of the proposed turbines in rows approximately north-west to south-east helps to lessen the impact from Angus which is a favourable approach.
- 4.1.4 Angus Council commented that whilst the height of the proposed turbines would make the Development more visible than other surrounding smaller turbines, the impacts are unlikely to be unacceptable. It noted that should this lead to further increase in turbine heights for turbines located closer to Angus, the impacts and cumulative impacts may become unacceptable. Angus Council acknowledged that the separation between the Development and other surrounding developments makes the turbine heights acceptable.

- 4.1.5 Angus Council also raised that the opinion of Historic Environment Scotland (“HES”) was important in relation to potential impacts upon Bell Rock Lighthouse, a category A listed building.
- 4.1.6 Angus Council responded to the Additional Information Consultation with no further comment to make.
- 4.2 Dundee City Council
- 4.2.1 Dundee City Council responded to both the Original Consultation and Additional Information Consultation with no comments on the Application.
- 4.3 East Lothian Council
- 4.3.1 East Lothian Council responded to the Original Consultation and raised concerns that the appearance of the wind turbines from the Development will have significant visual and seascape impacts on East Lothian.
- 4.3.2 East Lothian Council did not object to the Application, noting that it recognised the need to produce electricity by low carbon means and the strong policy support for this. However, East Lothian Council requested conditions to be attached to the decision to ensure impact from lighting on East Lothian is avoided or minimised, that decommissioning works do not continue further than necessary and the Development secures good practice in construction and operation to avoid pollution of East Lothian shores and any costs do not fall to the Council, where this is not covered by other statutory provision. East Lothian Council recommended further consideration be given to methods and materials of construction as details of design are finalised to ensure greenhouse gas emissions are minimised.
- 4.3.3 No further response was received from East Lothian Council in respect of the Additional Information Consultation.
- 4.3.4 In consideration of the representation from East Lothian Council, conditions have been attached to the s.36 consent and the relevant associated marine licences to require a Construction Methods Statement (“CMS”), EMP, DP and Lighting and Marking Plan (“LMP”) to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.
- 4.4 Fife Council
- 4.4.1 Fife Council had no comment to make on the Original Consultation or Additional Information Consultation.
- 4.5 HES
- 4.5.1 HES responded to the Original Consultation and did not object to the Application.

- 4.5.2 HES agreed that the proposed Development will not have the potential for impacts on the setting of terrestrial assets and is content that there will not be any direct physical impacts on nationally important designated historic environment assets.
- 4.5.3 HES was content with the assessments and methodology used by the Developer which provided an appropriate level of detail and is satisfied with the conclusions of the cumulative assessment. HES advised the proposed Development would not raise issues of national interest.
- 4.5.4 HES responded to the Additional Information Consultation noting that this did not demonstrate any change to the assessed effects on the historic environment.
- 4.5.5 HES responded separately on the HRA derogation case in respect to the proposed colony compensation on Inchcolm Island. HES highlighted that Inchcolm Abbey, on the island, is a HES “Property in Care” and that it has a statutory biodiversity duty which it gives due weight and consideration in managing such properties.
- 4.5.6 HES commented on the lack of evidence presented regarding the impact of black rats on seabird populations on Inchcolm and that further monitoring and investigation of the impact of the black rat on seabird population dynamics would be required for this to be considered as a compensatory measure, as it is still not possible to confidently, and beyond reasonable scientific doubt, conclude that rat predator eradication would result in any improvements to Inchcolm Island.
- 4.5.7 Concerning other ecological feasibility factors, HES advised that there are a number of other limiting ecological factors on Inchcolm that have not been adequately addressed. HES considered that the habitat based assessment and projected targets are considered overly ambitious for the proposed location and the impacts on other bird species have not been adequately investigated nor has the appropriate mitigation for these likely impacts been presented.
- 4.5.8 HES advised the adaptive management mitigation is inappropriate and there is uncertainty whether the Development could achieve conservation targets. If the Development is consented, HES stated that it would require the Development to have secure mechanisms in place as the current proposal identifies long-term monitoring and maintenance for stakeholders including HES to take ownership of which it states that this poses a serious risk to HES operationally. HES further advised that a Habitat Seabird Management Plan would need to be implemented, requiring budget streams, clear responsibilities and legal agreements.
- 4.5.9 The Scottish Ministers have further considered the proposals put forward by the Developer as part of its HRA derogation case. In consideration of the representation from HES, a condition requiring submission of a Seabird Compensation Plan has been attached to the s.36 consent s.36 consent and

the relevant associated marine licences. In addition, the Scottish Ministers have further considered the matters raised by HES in section 9.

4.6 Joint Nature Conservation Committee (“JNCC”)

- 4.6.1 During the Original Consultation, JNCC corresponded with NatureScot in providing its advice on offshore Marine Protected Areas (“MPAs”), which it maintains responsibility for, and any representation it had is included in the NatureScot representation.

4.7 MCA

- 4.7.1 MCA responded to the Original Consultation and provided a cautious acceptance of the Application subject to a number of requirements and conditions.
- 4.7.2 MCA confirmed that it was satisfied that the Navigation Risk Assessment (“NRA”) has been undertaken in accordance with MGN 654, including appropriate traffic data, and NRA risk assessment methodology.
- 4.7.3 MCA is content that the Developer has addressed its concerns related to the sea space between the array area and neighbouring Inch Cape wind farm with the navigation corridor safety case provided in chapter 19 of the NRA. The MCA advised at the post consent stage for route 11, there would be a more direct route south of Bell Rock and Inch Cape wind farms, and through the corridor between Seagreen and Berwick Bank offshore wind farms.
- 4.7.4 MCA commented that the list of embedded mitigation measures within the NRA was appropriate and provided a number of comments on the outline Scour Protection Plan, Navigational Safety Plan (“NSP”) and LMP provided at Application stage, recognising it would have further opportunity to input at post-consent stage. The MCA also recognised the requirement and use of safety zones and noted it would comment on the Application to be submitted to Scottish Ministers. While some consequence scoring in the hazard log was not considered by the MCA to be realistic, it noted that it was unlikely that this would have a significant effect on the individual risk tolerabilities for the relevant hazards.
- 4.7.5 MCA advised that a completed search and rescue checklist based on the requirements in MGN 654 should be required prior to the start of construction, including the requirement for an approved Emergency Response Cooperation Plan (“ERCoP”), and advised of considerations required to be given to the implications of site size and location.
- 4.7.6 MCA advised of several aspects of the Development requiring its approval and that of the NLB prior to construction including layout design and marking and lighting. The MCA also set out its expectations in relation to construction scenarios, under-keel clearance, hydrographic surveys and cable routes.
- 4.7.7 In consideration of the concerns highlighted by MCA, conditions have been attached to the s.36 consent and the relevant associated marine licences to

require a CaP, Construction Programme (“CoP”), CMS, Design Specification and Layout Plan (“DSL P”), NSP, Vessel Management Plan (“VMP”) and LMP to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

4.8 Natural England

4.8.1 Ornithology

4.8.1.1 Natural England provided advice on ornithological impact assessment methodologies, noting that this differed from that provided by NatureScot in some respects which would likely increase the predicted impacts on some species. Natural England flagged these differences in its response to provide context to aid with the interpretation of the results of the EIA Report but stated that it did not expect the Developer to undertake separate assessment based on Natural England’s advice.

4.8.2 Natural England advised that it did not agree with all the conclusions of the HRA (carried out by the Developer) and advised it could not rule out AEOSI on the Farne Islands SPA for guillemot and seabird assemblage (kittiwake, guillemot and puffin) due to Development alone impacts. Natural England also advised that it couldn’t rule out adverse effect on site integrity on the Flamborough and Filey Coast SPA for kittiwake and razorbill in combination with other projects.

4.8.2.1 Regarding the impacts of Highly Pathogenic Avian Influenza (“HPAI”), Natural England noted that there is uncertainty around population trends of kittiwake, guillemot, razorbill, gannet and puffin and therefore there is a need for a precautionary approach when interpreting population viability analysis outputs in the context of predicted population trends.

4.8.2.2 With regard to the compensatory measures that have been proposed by the Developer, Natural England did not comment on the colony based measures, noting these were of limited compensation value to English seabirds. Natural England disagreed that closure of the sandeel fishery would be sufficient to compensate for all predicted impacts of the Development due to uncertainties in the degree of management or closure, the scale of the benefits from the proposed measure, and the scale of the predicted impacts on English colonies, and provided detailed advice on each area of uncertainty. Natural England advised that the combined uncertainty points towards the need for appropriately large compensation ratios, with comprehensive monitoring coupled with robust adaptive management plans.

4.8.2.3 In responding to the Additional Information Consultation, Natural England confirmed that the predicted impacts of the Development on English SPAs are substantial and noted that the predicted EIA impacts for the Development come close to the recently determined cumulative EIA totals for all consented offshore wind farms to date.

4.8.2.4 Natural England highlighted that it did not consider that the impacts predicted by the Scoping Approach assessment methodology were overly

precautionary and had the Developer followed Natural England advice, the predicted impacts for species would likely have been higher than those predicted by the Scoping Approach. Natural England reiterated its previous advice that there was an additional need for precautionary assessment of impacts given the recent and ongoing outbreaks of HPAI in seabirds, predicted impacts of climate change on seabirds and auk wrecks in the North Sea.

- 4.8.2.5 Natural England maintained its disagreement that the compensatory measures could be confidently expected to offset the predicted impacts to English SPAs or the SPA network, noting that the shadow derogation case relies almost entirely on the proposed measure to close or manage the sandeel fishery in SA4 and disagreed that this measure can be relied upon to fully compensate for the predicted impacts of this Development. Whilst Natural England agreed that the closure would lead to some benefits to seabird populations, it disagreed that the predicted impacts could be quantified with the certainty stated by the Developer. Natural England noted further concerns on uncertainty, including regarding the duration of the benefits of the proposed measure and the ability of the measure to deliver compensation throughout the lifetime of the Development. Further consideration and information on this can be found in the Derogation Case (Annex D).

4.8.3 Marine Mammals

- 4.8.3.1 Natural England advised that, provided the Development is carried out in accordance with the Application and that standard mitigation measures are followed within JNCC guidelines “Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise (2010)”, the Development will not have a significant effect on marine mammals of English Special Areas of Conservation (“SAC”).

4.8.4 Fish and Shellfish

- 4.8.4.1 Natural England agreed with the conclusion of no AEOSI to designated fish species from the east coast of England SACs.

- 4.8.5 The Scottish Ministers have considered the concerns raised by Natural England and are satisfied that the assessment undertaken allows for the consideration of the effects of the Development and to enable conclusions to be made on environmental impacts. The Scottish Ministers have further considered the proposals put forward by the Developer as part of its HRA derogation case. A condition requiring submission of a Seabird Compensation Plan has been attached to the s.36 consent and the relevant associated marine licences. In addition, the Scottish Ministers have further considered the matters raised by Natural England in section 9.

4.9 NatureScot

4.9.1 Physical Processes

- 4.9.1.1 NatureScot highlighted that the criteria defined in Tables 7.11 and 7.12 of Chapter 7 of the EIA Report is only in relation to coastal features and did not take into account the full range of marine and coastal physical process pathways and receptors. Regardless, NatureScot proceeded with its advice taking into consideration the wider range and were overall content with the modelling work and analysis undertaken, as presented in Appendix 7.1 of the EIA Report.
- 4.9.1.2 NatureScot provided advice on the impacts of increases in suspended sediment and agreed that the magnitude of this impact is low and that in physical process terms the sensitivity of the relevant features of the Firth of Forth, Berwickshire Coast, Pease Bay, Barns Ness and St Abb's Head to Fast Castle SSSIs and Berwickshire and North Northumberland Coast SAC is considered negligible and therefore not significant in EIA terms.
- 4.9.1.3 NatureScot agreed that impacts to changes to hydrodynamics and sediment transport are low. NatureScot highlighted that the altered patterns of sediment transport around infrastructure could cause a series of new low-amplitude sand bedforms; however, these would not cause changes to overall rates. NatureScot agreed that due to the scale of change and the recoverability of sandy bedforms, sensitivity of the relevant features of the SSSIs and SAC above is negligible and therefore the effects would not be significant in EIA terms.
- 4.9.1.4 NatureScot noted that potential 'direct impact of the proposed clearance of sandwaves and other bedforms' was not scoped in and assessed within the EIA Report. NatureScot advised it was content with this approach and agreed with the explanation in the EIA Report that the sandwaves are most likely to be only slowly active and can be expected to recover only over many years. NatureScot also agreed with the commitment to undertake landfall by using a trenchless technique, which would rule out adverse impacts on the Barns Ness Coast SSSI.
- 4.9.1.5 NatureScot noted that detailed requirements for scour and cable protection will be agreed post-consent as part of the final Scour Protection Management Plan and Cable Burial Risk Assessment.
- 4.9.2 Benthic Ecology
- 4.9.2.1 NatureScot advised that with regard to colonisation of hard structures, removal of encrusted growth which may occur during the operation and maintenance phase will affect colonisation patterns and the loss of biodiversity that has built up, and will therefore have outcomes for the seabed around the WTG foundations where the removed fouling is allowed to fall to the seabed. NatureScot highlighted that the Developer had not considered the effects of anaerobic conditions resulting from decaying matter and advised that this should be considered further along with alternative methods of removal and included within the INNS Management Plan.
- 4.9.2.2 NatureScot noted that benthic features both inside and outside MPAs had been assessed as not sensitive to EMF and disagreed with this conclusion.

NatureScot therefore advised that the sensitivity of benthic features should be updated to medium, although this would still result in minor significant effects on benthic species.

- 4.9.2.3 NatureScot confirmed it was content with the list of developments considered within the cumulative effects assessment for Benthic Ecology, however, advised that EMF should have been included as the impact is long term and there may be cumulative impacts arising from a 'network' of cables in the area. However, NatureScot advised that it was content that the assessment would have concluded minor significance and therefore would not change the overall conclusion of the assessment.
- 4.9.2.4 NatureScot noted that several of the conclusions in assessments in the cumulative assessment are based on the limited scale of the impacts and habitats/species ability to recover. NatureScot advised that no evidence was provided in the EIA Report for this recovery, however, confirmed that this would not lead to a significant impact on the national status of ocean quahog as a Priority Marine Feature due to the small and localised extent affected.
- 4.9.2.5 NatureScot welcomed the commitment made by the Developer to engage with NatureScot and other stakeholders regarding strategic monitoring for colonisation of hard structures and the effect of temporary disturbance. NatureScot advised that the commitment by the Developer to engage in EMF studies for diadromous fish, should be extended to benthic species as well, given the current lack of knowledge in this area.
- 4.9.2.6 NatureScot provided comment on the INNS Management Plan and highlighted guidance resources for review and inclusion within subsequent revisions.
- 4.9.2.7 NatureScot agreed with the conclusions of the RIAA with respect to Annex I habitats that there is no AEOSI.
- 4.9.2.8 JNCC provided its advice in relation to the MPA Assessment, in particular the Firth of Forth Banks Complex Nature Conservation MPA ("the ncMPA"), within the NatureScot representation. JNCC highlighted inconsistencies in the assessment and outlined assumptions made for the basis of its assessment.
- 4.9.2.9 JNCC was content with how temporary habitat disturbance was classified and assessed, noting that sand wave and boulder clearance will ensure any material is deposited locally and remains within the ncMPA system. JNCC welcomed the commitment to monitoring the effects of temporary habitat disturbance to MPA features and the recovery of sand waves, via the PEMP, and welcome early engagement on this.
- 4.9.2.10 JNCC raised concern with how long-term habitat loss was classified and assessed, in particular how the terms 'habitat creation' and 'habitat alteration' were used. JNCC advised that the introduction of artificial substrate renders the naturally occurring offshore sands and gravels unsuitable to resident benthic communities therefore resulting in permanent habitat loss. JNCC

advised that 'habitat creation' should be considered as long term habitat loss, and JNCC assessed it as such. JNCC advised that this approach increased the cumulative impact to 0.27% of the ncMPA.

- 4.9.2.11 JNCC stated that no detailed information was provided within the assessment to justify the approach that only 15% of cables would require cable protection. JNCC advised that based on experience of cable protection, best case estimates are usually exceeded and as such some contingency in these estimates to assess a worst-case scenario is required.
- 4.9.2.12 JNCC agreed with the conclusions made within the assessment on decommissioning, given the information currently available, however, advised that based on experience from oil and gas decommissioning plans, some proposed activities to remove protective material can result in further disturbance and impacts to sensitive features. JNCC advised that this is of particular concern given the location of the Development within the ncMPA, and requested early engagement on the decommissioning plan and ncMPA assessment.
- 4.9.2.13 JNCC welcomed the prioritisation of UXO clearance provided within the assessment to avoid or relocate a UXO where possible. JNCC advised that where high order detonation may be required, this will need to be fully considered to identify potential effects on the features of the ncMPA once further information is known on the location and type of devices across the site. JNCC advised that this assessment on ncMPA features in relation to UXO clearance should form part of a condition, acknowledging that the underwater noise assessment for UXO detonation will evolve post-consent and it was content to discuss details further at the stage of marine licence.
- 4.9.2.14 JNCC advised that, on the basis of the information provided, whilst the proposal is capable of affecting the protected features of the ncMPA, this is not considered to be significant.

4.9.3 Fish and Shellfish

- 4.9.3.1 NatureScot noted the lack of knowledge of distribution and behaviour for diadromous fish species in the marine environment and raised concerns that the key document being used to describe adult fish movement and diadromous fish species is still that of Malcolm et al. (2010). Furthermore, NatureScot noted that the salmon fisheries statistics, whilst a useful monitoring resource, provides very little about the movement and distribution of Atlantic salmon in the marine environment.
- 4.9.3.2 NatureScot highlighted the importance of the Scottish Marine Energy Research evidence map process for diadromous fish which confirms the evidence gaps and the importance of this for helping to address these evidence gaps and uncertainties. NatureScot also advised that offshore wind developers should contribute to research and other initiatives such as the Wild Salmon Strategy Implementation Plan and any other strategies that are developed for diadromous fish interests.

- 4.9.3.3 NatureScot agreed with the conclusion for fish and shellfish that impacts from the Development will be either minor or negligible and based on the available evidence, agreed with the conclusion of no adverse significant effects. NatureScot confirmed it had considered the Developer's information for diadromous fish and based on the knowledge of NatureScot from previous developments, considered that the Development alone and cumulatively is unlikely to have significant adverse effects when considered within an EIA context.
- 4.9.3.4 NatureScot highlighted that underwater noise and vibration will most likely affect fish and shellfish species that are not able to move quickly away from the disturbance, including PMF species such as sandeel, herring and Atlantic salmon. NatureScot were overall content with the underwater noise modelling as presented in the EIA Report and welcomed the commitment to implement piling soft start and ramp up measure and agreed this is likely to encourage fish to move away from the activity.
- 4.9.3.5 NatureScot noted the impact of EMF for most fish and shellfish species had been assessed as negligible to minor, and noted minor significance for lobster and elasmobranchs. NatureScot stated that although recent research highlighted within the EIA Report suggests that burial may reduce strength of the EMF signal emitted by cables, there is still uncertainty over whether the EMF level will still be within a biologically sensitive range for epifaunal species and it may still impact on infaunal species. NatureScot advised that any input to proposals for infield measurement of EMF that could validate the EIA Report assumptions would be beneficial.
- 4.9.3.6 NatureScot highlighted that as part of the Piling Strategy ("PS") and CaP, it would expect consideration to be given to diadromous fish interests and in particular, final details of the route of the export cable and construction should consider key migration periods, duration and construction methods.
- 4.9.3.7 NatureScot advised that for the windfarm array, the construction method statements should consider habitat disturbance and loss sediment release. Furthermore, NatureScot advised that consideration of reducing EMF effects should be included when developing the CaP in relation to both the wind farm and export cable.
- 4.9.4 NatureScot concluded that there will be negligible adverse significant cumulative effects alongside other projects/plans; however, considered that further work is required across marine industries to address existing evidence gaps.
- 4.9.4.1 NatureScot acknowledged the protected sites considered in the RIAA for diadromous fish, following advice provided pre-application. This also includes consideration of freshwater pearl mussel as there is potential for them to be indirectly impacted by the Development.
- 4.9.4.2 NatureScot highlighted that research and evidence on diadromous fish distribution and behaviour in the marine environment is extremely limited. NatureScot advised that this has prevented its ability to provide advice on

connectivity and therefore impacts to populations within natal rivers. NatureScot concluded that based on the evidence currently available, it was not possible to carry out an assessment of diadromous fish to the level required under HRA.

- 4.9.4.3 NatureScot acknowledged the RIAA attempt to assess impacts across various impact pathways and confirmed although these have been correctly identified, the sites/features that would be affected by which impact is unclear at this stage. NatureScot reviewed the information provided in the RIAA and EIA Report and considered that the Development alone and cumulatively is unlikely to have significant adverse effects when considered in an EIA context, and that mitigation can be deployed to reduce any potential effects, in particular as part of the PS and CaP.

4.9.5 Marine Mammals

- 4.9.5.1 In response to the Original Consultation, NatureScot raised a number of concerns regarding the marine mammal impact assessment. With regards to the aerial survey data, NatureScot advised against the approach used which categorised all unidentified seals as grey seals, as it may have biased the outputs. However, overall NatureScot were content that its advice had been followed for the assessment on seals noting that the Carter et al. (2020) usage maps had been used in the actual assessment. NatureScot further advised against the approach used to categorise all unidentified cetaceans as harbour porpoise however, NatureScot highlighted that this provided a more precautionary approach than using the SCANS densities and therefore based its advice on this more precautionary approach.
- 4.9.5.2 With regards to assessment approach, NatureScot noted that only the piling duration for the 179 x 24MW turbine option was presented. NatureScot stated that cumulatively, a higher number of piling events associated with the smaller turbine scenario may have more impact on survival and fecundity, and therefore population size. NatureScot raised concerns that although the noise levels from each piling event may be lower, the fact that there are more turbines, and therefore the overall duration of piling may be longer, may have greater long-term effects. NatureScot stated that the Developer did not present any evidence as to whether this would result in greater population level impacts for marine mammals compared to the 179 x 24MW turbine scenario. NatureScot advised that, when modelled, the 179 x 24MW scenario will predict the worst-case impact ranges for both PTS and disturbance and based its advice on this. NatureScot noted that turbine parameters may change post consent.
- 4.9.5.3 NatureScot requested additional information in relation to disturbance risk. NatureScot requested that either the assessment was revised to include the updated Whyte et al. 2020 information or evidence be provided to support the Russell et al. 2016 information being more precautionary in line with the scoping opinion, in order to provide final advice.

- 4.9.5.4 NatureScot advised that the modelling approach taken with regard to underwater noise during construction was comprehensive and previous advice provided had been followed. However, whilst NatureScot agreed that the approach was thorough, it stated that the third party review did not add independent support, particularly as to the level of Conversion Factor (“CF”) that is realistic in the field. NatureScot also highlighted that there was considerable uncertainty relating to the choice of appropriate CF; however, did not consider it affected the EIA conclusions presented for the significance of impacts.
- 4.9.5.5 NatureScot welcomed the Developer’s commitment to using low noise alternatives in line with the current joint UXO clearance guidance. NatureScot requested clarification on why the very high frequency hearing group predicted the largest temporary threshold shift SEL weighted range of all hearing groups for the low order 0.5 kg UXO charge, noting that it expects the low frequency hearing group to have the larger impact range. NatureScot also acknowledged that the underwater noise assessment for UXO detonation will evolve post-consent and be considered further as part of the European Protected Species (“EPS”) licencing process.
- 4.9.5.6 With regards to population level effects, NatureScot advised on the CF scenarios presented, highlighting that the 10% reducing to 1% CF scenario should also have been used in the cumulative assessment as previously advised due to the high uncertainty around the suitable choice of CF. NatureScot requested this as additional information, in order to provide final advice.
- 4.9.5.7 NatureScot advised that there are still uncertainties on understanding of the operational noise from fixed offshore wind farms due to the lack of measured data and recommended that operational noise monitoring is undertaken to inform knowledge in this area. NatureScot noted that maintenance activities, such as jet cutting and vessel activity, were not predicted to produce noise levels sufficient to cause injury to marine mammals. NatureScot advised, however, that the disturbance impact ranges for jet cutting are large and may need to be considered further under EPS licencing requirements.
- 4.9.5.8 With regards to mitigation and monitoring, NatureScot emphasised the benefit of reducing underwater noise for multiple receptors, including marine mammals and would welcome consideration of noise abatement systems for noisy activities such as impact piling.
- 4.9.5.9 NatureScot agreed in principle with the proposed Outline MMMP; however, recommended that further detail be discussed as part of the Piling Strategy consultation process. NatureScot also stated that the UXO and geophysical/geotechnical impacts should be revisited through the EPS licencing process and MMMP once construction design details are further refined.
- 4.9.5.10 NatureScot advised that the proposed pre-piling mitigation zone extends greater than the worst case instantaneous risk from piling, in accordance with

its advice to date. NatureScot advised, based on experience from the construction of offshore windfarms in the Moray Firth, that ADDs would not need to be active for as long as 30 minutes and a balance between injury risk and disturbance should be considered when developing the PS.

- 4.9.5.11 With regards to UXO clearance, NatureScot acknowledged that pre-detonation mitigation presented within the outline MMMP follows standard JNCC guidance; however, advised the number of Marine Mammal Observers be increased to three, to enable effective visual observation over the 1km mitigation zone. NatureScot advised that scare charges should not be utilised for marine mammal mitigation due to the significant noise they introduce into the environment and the lack of evidence showing that they enhance protection for marine mammal purposes. NatureScot stated that mitigation should be designed to protect in the event of a high order detonation.
- 4.9.5.12 NatureScot further stated that the complete removal of scare charges is not recommended for depths that restrict the use of noise abatement methods; however, emphasised that they are used at charge sizes appropriate for fish mortality mitigation.
- 4.9.5.13 NatureScot agreed in principle that the use of standard JNCC guidance for geophysical activities would mitigate injury risk from site investigation surveys and proposed to offer further detailed advice on this once the Development construction details are further refined. NatureScot was content that mitigation is not required for other activities including, cable trenching, cable laying, or jack-up activity as mitigation is most suited to the avoidance of injury. However, NatureScot confirmed that disturbance is likely for all these activities and would need to be considered under EPS licensing.
- 4.9.5.14 NatureScot advised that further monitoring in relation to underwater noise should be discussed during the PS consultation and provided initial advice. With regards to seal colony counts, NatureScot raised concerns that the duration of piling could overlap with a maximum of five breeding cycles for grey seal and harbour seal and highlighted the uncertainty surrounding how seals may react to potential disturbances, either individually or at a population level. NatureScot recommended that the Developer contributes to SAC monitoring through the Sea Mammal Research Unit survey programme to support additional surveys in the region.
- 4.9.5.15 NatureScot agreed with the protected sites that were considered for marine mammals in the RIAA, with the exception of the Southern North Sea SAC. NatureScot advised that activities associated with the Development would not extend to impacts within the Southern North Sea SAC; however, advised that Natural England advice should be sought, if required.
- 4.9.5.16 NatureScot agreed with the conclusions within the RIAA in that there would be no AEOSI for Scottish protected sites with marine mammal qualifying features, with the exception of the Firth of Tay and Eden Estuary SAC, where Additional Information was required.

4.9.5.17 In response to the Additional Information Consultation, NatureScot confirmed that it was content with the EIA Report conclusions for marine mammals and that residual effects are not significant in EIA terms. NatureScot also agreed with the conclusion in the RIAA that there is no adverse effect on site integrity for all Scottish SACs with marine mammal qualifying features.

4.9.6 Seascape, Landscape and Visual Impact Assessment

4.9.6.1 NatureScot advised that the EIA Report did not raise any adverse effects on any National Scenic Areas or Wild Land Areas and focussed its advice on potential significant effects on Scottish landscape, seascape, visual, and cumulative effects. NatureScot advised that the Development is at an unprecedented scale for offshore wind as an individual project within Scottish waters and will add considerably to existing cumulative impacts from the consented Forth and Tay windfarms.

4.9.6.2 NatureScot agreed with the assessment of landscape and visual effects as described within the EIA Report that there would be significant adverse effects on coastal and visual receptors both during the day and within the area between Fast Castle and St Abb's Head, additionally into the night. NatureScot advised that there is a coalescing of significant landscape and visual effects in the area along and from within the Berwickshire Coast SLA, where the Development would be visible at the closest part of the coastline to the Development at around 38km. NatureScot noted that the views out to the open sea and dramatic headlines are key components of the view and characteristic of this area of coastline.

4.9.6.3 NatureScot advised that the introduction of lighting as required for the Development into a largely dark baseline (the headland from St Abb's to Fast Castle) will be significant, causing significant and adverse effects on the Berwickshire Coast SLA. NatureScot highlighted that the effect appears to be most acute where there are clear views of the full elevation of the turbines and the majority of the lights would be visible, with low levels of night time light pollution present in the baseline.

4.9.6.4 NatureScot agreed with the requirement for the production and implementation of a LMP. NatureScot advised that it is unclear from the outline LMP which peripheral turbines will be lit. NatureScot advised that this may be an aspect that could help reduce effects on the Berwickshire Coast SLA and associated significant visual night time effects and noted that these requirements would be finalised when a final wind turbine layout is established.

4.9.6.5 NatureScot agreed with the predicted level of cumulative effects as detailed within the EIA Report and advised that it wished to have further discussions with the Developer to explore the final layout to potentially reduce the significant and adverse effects.

4.9.7 Ornithology

- 4.9.7.1 In response to the Original Consultation, NatureScot advised that the impacts predicted for the Development were an order of magnitude greater, and across more species than has been seen for any other offshore wind farm application in Scotland. NatureScot advised that this is largely due to the abundance and densities of birds within the development array area, but also the scale of the Development. NatureScot therefore objected to the Application based on the predicted ornithological impacts.
- 4.9.7.2 NatureScot broadly agreed with the ornithology assessment within the EIA and highlighted that there were significant impacts, in EIA terms, for:
- guillemot (project alone and in-combination) through displacement;
 - razorbill (in-combination) through displacement;
 - kittiwake (in-combination) through collision and displacement; and
 - gannet (in-combination) through collision and displacement.
- 4.9.7.3 NatureScot highlighted that the ornithological significance of the Development area could be illustrated when considered against JNCC SPA site selection guidance. NatureScot highlighted that the Development area would qualify for SPA designation for kittiwake, guillemot, gannet and razorbill in its own right, and combined with the neighbouring Outer Firth of Forth and St Andrews Bay Complex (“OFFSAB”) SPA, would also qualify under breeding assemblage.
- 4.9.7.4 NatureScot highlighted that the ornithological assessment reflects the originally planned submission timeline of May 2022 and the limited knowledge of effects and / or advice provided on HPAI at the time. NatureScot advised that key sites and species assessed within the Application have since been significantly affected by HPAI and the effect HPAI may have in the forthcoming breeding season(s) is still unknown. NatureScot therefore advise that its assessment of impacts was more precautionary for gannet, guillemot, razorbill, kittiwake and puffin.
- 4.9.7.5 With regards to the baseline ornithological surveys, NatureScot advised that these were of good quality and sufficient to base the assessment on, and that the surveys covered an adequate duration and complete seasons, using appropriate methods as per NatureScot guidance, with any deviations agreed via the scoping/ roadmap process.
- 4.9.7.6 NatureScot advised that the ornithology technical reports and assessments have provided an appropriate level of information, including baseline data and contextual information across key impact and development stages and were content with the biological parameters and avoidance rates used within the CRM. With regard to the assessment approach, NatureScot advised that it predominantly relied on the Scoping Approach, while reviewing the Developer Approach for context. NatureScot disagreed that the Scoping Approach is overly precautionary as it reflects current methods and evidence as agreed at the time of the scoping and roadmap process. NatureScot agreed with the conclusion within the RIAA that there would be AEOSI for the following SPAs and qualifying features, either alone or in-combination as

a result of displacement effects (auk species only) or combined displacement and collision mortality:

- Buchan Ness to Collieston Coast SPA for kittiwake;
- East Caithness Cliffs SPA for kittiwake, razorbill, breeding seabird assemblage;
- Forth Islands SPA for guillemot, kittiwake, puffin, razorbill, breeding seabird assemblage;
- Fowlsheugh SPA for guillemot, kittiwake, razorbill, breeding seabird assemblage;
- North Caithness Cliffs SPA for kittiwake, breeding seabird assemblage;
- OFFSAB SPA for guillemot, kittiwake, puffin, breeding seabird assemblage;
- St Abb's Head to Fast Castle SPA for guillemot, kittiwake, razorbill, breeding seabird assemblage;
- Troup, Pennan and Lion's Heads SPA for kittiwake; and
- West Westray SPA for kittiwake.

4.9.7.7 NatureScot disagreed with the conclusions within the RIAA for a number of SPAs and qualifying features. NatureScot concluded AEOSI or in some instances were unable to conclude no AEOSI, either alone or in-combination for combined displacement and collision mortality for the following sites and qualifying features:

- Forth Islands SPA for gannet;
- Hermaness, Saxa Vord and Valla Field SPA for gannet;
- OFFSAB SPA for gannet;
- OFFSAB SPA (non-breeding) for razorbill, kittiwake, guillemot and seabird assemblage;
- Troup, Pennan and Lion's Heads SPA for razorbill and breeding seabird assemblage; and
- West Westray SPA for breeding seabird assemblage (kittiwake).

4.9.7.8 NatureScot advised that assessment of impacts from vessel disturbance associated with construction and operation within the OFFSAB SPA was insufficient to ascertain no AEOSI, in part as it only considered vessels associated with cable laying activities and there was a lack of clarity in the EIA Report about the routes that construction and/or operational vessels would take to reach the Development. NatureScot advised that further information was required to make HRA conclusions and to determine whether mitigation or compensation would be required.

4.9.7.9 With regard to migratory waterbirds, NatureScot agreed there will be no AEOSI for any of the screened in waterbird qualifying features for any of the following SPAs:

- Firth of Forth SPA;
- Montrose Basin SPA;
- Firth of Tay and Eden Estuary SPA;
- Ythan Estuary, Sands of Forvie and Meikle Loch SPA;

- Cameron Reservoir SPA;
- Greenlaw Moor SPA;
- Loch of Kinnordy SPA;
- Din Moss - Hoselaw Loch SPA;
- Fala Flow SPA;
- Loch Leven SPA;
- Gladhouse Reservoir SPA;
- South Tayside Goose Roosts SPA;
- Westwater SPA; and
- Slamannan Plateau SPA.

4.9.7.10 With regard to the HRA derogation case submitted as part of the Application, NatureScot was unable to conclude that the proposed compensatory measures will be sufficient to address predicted impacts over the lifetime of the Development, due to limitations in the information provided and the overall scope of the package. NatureScot provided detailed comments on each of the proposed compensatory measures in response to the Original Consultation.

4.9.7.11 In response to the Additional Information Consultation, NatureScot provided further advice in relation to vessel disturbance in the OFFSAB. NatureScot advised that if the Development is carried out strictly in accordance with the mitigation described in its response then it will not adversely affect the integrity of the OFFSAB SPA for common scoter, velvet scoter, eider, long-tailed duck, goldeneye, red-breasted merganser, red-throated diver, Slavonian grebe and shag. NatureScot also advised that avoiding the increase in vessel traffic within the SPA by utilising transit routes outwith the SPA, is likely sufficient to avoid an AEOSI.

4.9.7.12 NatureScot maintained its objection to the Development and advised that, in relation to the compensatory measures proposed by the Developer, further analysis would not resolve inherent uncertainties in quantifying the benefits to those seabird species predicted to be adversely impacted by the Development. NatureScot also continued to advise that the colony-based measures are insufficient on their own.

4.9.8 The Scottish Ministers have considered the concerns raised by NatureScot and have further considered the proposals put forward by the Developer as part of its HRA derogation case. In consideration of the representation from NatureScot, a condition requiring a Seabird Compensation Plan to be submitted has been attached to the s.36 consent and the relevant associated marine licences. In addition, the Scottish Ministers have further considered the matters raised by NatureScot in section 9. Further information on this can also be found in the Appropriate Assessment (Annex B) and Derogation Case (Annex D).

4.9.9 In consideration of the representation from NatureScot, conditions have been attached to the s.36 consent and the relevant associated marine licences to require a PEMP, PS, Operation and Maintenance Programme ("OMP"), CaP, CoP, CMS, DSLP, Design Statement ("DS"), VMP, EMP, DP, LMP, ECoW and

OFFSAB Monitoring Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

4.10 NLB

- 4.10.1 NLB responded to the Original Consultation and had no objection to the Development.
- 4.10.2 NLB advised that continued engagement will be undertaken with the Developer, if the Application is consented, to develop the navigational safety and aid to navigation management elements of the Development, including the LMP.
- 4.10.3 NLB responded to the Additional Information Consultation and confirmed the additional information did not impact its original representation.
- 4.10.4 In consideration of the representation from NLB, a condition has been attached to the s.36 consent and the relevant associated marine licences to require a LMP to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

4.11 Scottish Borders Council

- 4.11.1 The Scottish Borders Council responded to the Original Consultation. Whilst they did not raise an objection to the Proposal, Scottish Borders Council did have concerns regarding some landscape and visual impacts of the Development, including around both the visible extent and the prominence of the proposed turbines from key viewpoints, particularly viewpoints 13,14 and 15 as assessed within the EIA Report.
- 4.11.2 The Scottish Borders Council highlighted that the Development will introduce nighttime red coloured aviation lighting into an area which currently has low levels of artificial lighting and request that the number of lit turbines is minimised where Civil Aviation Authority regulations allow.
- 4.11.3 The Scottish Borders Council suggested that the removal of the two closest lines of turbines to the Scottish Borders coastline would likely remove any detrimental landscape and visual impacts on the Scottish Borders.. Scottish Borders Council advised that landscape and visual impacts are mitigated to a degree by the distance of the Development from the Scottish Borders and was satisfied that the development will not adversely affect the qualifying interests of the Berwickshire Coast SLA.
- 4.11.4 Scottish Borders Council advised, having weighed up the benefits of the Development against the potential harm caused by its environmental impacts that on balance the significant contribution the Development would make towards meeting renewable energy targets outweighs its resultant landscape and visual impact.

- 4.11.5 The Scottish Borders Council flagged that, should the Development seek to use the road network within the Scottish Borders as part of the site construction traffic movements then a transport assessment would be required.
- 4.11.6 In consideration of the representation from Scottish Borders Council, conditions have been attached to the s.36 consent and the relevant associated marine licences to require a DSLP, LMP and a Construction Traffic Management Plan (“CTMP”) to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.
- 4.12 Scottish Environmental Protection Agency (“SEPA”)
- 4.12.1 SEPA responded to the Original Consultation, advising that it only provides comments in relation to the onshore aspects of offshore wind farms and referred to its standing advice.
- 4.12.2 SEPA’s standing advice highlighted the presence of Marine Non-Native Species (“MNNS”) as a risk for water body degradation, with the introduction of MNNS shown to occur when construction equipment is moved from one area to another, and recommended mitigation measures to minimise the risk to MNNS throughout all stages of the Development. The standing advice further advised that all physical operations taking place within 2km of a designated bathing water should be undertaken outwith the bathing water season (1 June to 15 September).
- 4.12.3 Additionally, to prevent pollution and preserve marine ecology interests, SEPA’s standing advice highlighted the requirement to ensure good working practice is implemented and steps taken to prevent marine pollution or disturb sensitive species.
- 4.12.4 In respect of decommissioning, the SEPA standing advice advises that the devices and support infrastructure are removed and all waste disposed of at an appropriate onshore location. The seabed and shoreline must be restored to the original pre-construction condition, or as close to the original condition as reasonably practical.
- 4.12.5 SEPA responded to the Additional Information Consultation and had no further comments to make.
- 4.12.6 In consideration of SEPA’s standing advice, conditions have been attached to the s.36 consent and the relevant associated marine licences to require a DP, EMP, including a MPCP and management measures for INNS, to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. A condition limiting activities within 2 km of designated bathing waters during the bathing water season has been attached to the relevant marine licence.

Summary of non-statutory consultee responses

4.13 Bellrock Offshore Wind Farm Limited ("Bellrock")

- 4.13.1 Bellrock raised concerns regarding lack of information provided in the Application for understanding of the potential implications of the Development for Bellrock Offshore Wind Farm and future offshore wind developments in Scotland.
- 4.13.2 Bellrock flagged that there is a lack of detail relating to the compensatory measures proposed, the measures required for the Development, surplus measures available for other projects and proposed delivery mechanisms or their feasibility. Bellrock advised that if there is a need for ScotWind projects to pursue a derogation case then it is anticipated they will face difficulties in identifying sufficient project-led compensatory measures and that a strategic and/or collaborative approach is likely to be needed to deliver the necessary measures.
- 4.13.3 Bellrock considered that given the lack of detail provided by the Developer in its RIAA and shadow HRA derogation case, it is difficult to understand the impacts for Bellrock, should the Development be consented and the measures proposed in its shadow derogation case implemented, referencing uncertainty as to whether any compensation would be available from closure of the SA4 sandeel fishery for them to utilise and, if so, in what quantity.
- 4.13.4 In consideration of the representation from Bellrock, the Scottish Ministers have considered the proposals put forward by the Developer as part of its HRA derogation case and a condition has been attached to the s.36 consent and the relevant associated marine licences to require a Seabird Compensation Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

4.14 Broadshore Offshore Wind Farm Limited ("Broadshore")

- 4.14.1 Broadshore raised the same concerns as Bellrock made above.
- 4.14.2 In consideration of the representation from Broadshore, the Scottish Ministers have considered the proposals put forward by the Developer as part of its HRA derogation case and a condition has been attached to the s.36 consent and the relevant associated marine licences to require a Seabird Compensation Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

4.15 British Telecom ("BT")

- 4.15.1 BT did not object to the proposal and confirmed that the project should not cause interference to BT's current and planned radio networks.

4.16 Caledonia Offshore Wind Farm Ltd ("Caledonia")

- 4.16.1 Caledonia submitted a representation to the Original Consultation advising that they supported the representation submitted separately by the North East & East Ornithology Group (“NEEOG”) and providing some additional feedback.
- 4.16.2 Caledonia advised that it believed that the SA4 fisheries management measures should be used as a strategic compensation rather than a project specific measure and object to its use as project level compensation solely for the Development.
- 4.16.3 Caledonia responded to the Additional Information Consultation outlining both its view on the policy framework and disputing the Developer’s claims regarding ScotWind projects not providing large-scale contribution to decarbonisation within the timescales for the Development.
- 4.16.4 Caledonia challenged the Developer’s assumption that many ScotWind projects will deploy costly floating technology and disagreed with claims that ScotWind is not an alternative solution.
- 4.17 In consideration of the representation from Caledonia, the Scottish Ministers have considered the proposals put forward by the Developer as part of its HRA derogation case and a condition has been attached to the s.36 consent and the relevant associated marine licences to require a Seabird Compensation Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.
- 4.18 Cockburnspath and Cove Community Council
- 4.18.1 Cockburnspath and Cove Community Council objected to the Development jointly alongside its associated onshore planning application due to the cumulative impact assessments associated with the onshore planning application not taking into account Eastern Link developments, proposed Branxton Battery Storage, proposed North Belton Battery Storage, proposed Crystal Rig IV windfarm and associated solar farm, final phase of Landfill operations at Oxwellmains, and eventual de-fuelling of Torness Power Station and additionally due to the impact of increased traffic volume using the Cockburnspath and Cove roundabout on the A1.
- 4.18.2 In consideration of the representation from Cockburnspath and Cove Community Council, a condition has been attached to the s.36 consent and the relevant associated marine licences to require a Construction Traffic Management Plan (“CTMP”) to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. The Scottish Ministers note that the comments provided by Cockburnspath and Cove Community Council on cumulative impact assessments relate to the onshore planning application, and not the section 36 consent application.
- 4.19 Dee District Salmon Fishery Board

- 4.19.1 Dee District Salmon Fishery Board responded to the consultation with a nil return.
- 4.20 EDF Energy Nuclear Generation Limited (“ENGL”)
- 4.20.1 ENGL responded to the Original Consultation raising concerns relating to the operation and expected decommissioning of Torness Nuclear Power Station, including potential blockages to the cooling water intakes from works in the nearshore area and cable landfall and impacts on ENGL’s onshore assets caused by onshore infrastructure associated with the Development.
- 4.20.2 ENGL requested further justification for the location of the landfall site and cable routes, a legible plan and computer aided design file for the red line boundary, an indicative plan for the location of landfall infrastructure and subsea cables within the red line boundary, an indicative plan for entry and exit points for the Horizontal Directional Drilling for cable laying in the intertidal area, assessment of the risk of blockage to the cooling water intakes and identification and commitment to appropriate cable laying methodologies and subsequent maintenance requirements.
- 4.20.3 ENGL highlighted that the proposed landfall location for the cable (and associated onshore substation) fall within the Torness Detailed Emergency Planning Zone and the Developer must ensure that measures are put in place to ensure the needs of staff, visitors and residents in these areas have been addressed from an emergency planning point of view.
- 4.20.4 ENGL highlighted the potential for cumulative effects with the Scottish Power Eastern Green Link project and requested that detailed construction programmes and construction management plans are shared with ENGL to ensure the security and safe operations of Torness Nuclear Power Station.
- 4.20.5 ENGL responded to the Additional Information Consultation and recommended conditions would be required to mitigate the impacts of Torness Nuclear Power Station cooling water intakes becoming blocked.
- 4.20.6 In consideration of the representation from ENGL, conditions have been attached to the s.36 consent and the relevant associated marine licences to require a CoP and CMS to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. In addition, specific conditions to address the potential impacts in relation to the Torness Nuclear Power Station have been attached to the relevant marine licence.
- 4.21 Forth Ports
- 4.21.1 Forth Ports responded to the Original Consultation advising that vessel management should be considered for vessels in the approaches to and from the Forth and Tay along with transiting traffic for the duration of the construction period and accounting for the cumulative effect of other developments in the area.

- 4.21.2 Forth Ports suggested mitigation in the form of a navigation risk assessment, traffic management plan and using controls methods such as offshore Vessel Traffic Services.
- 4.21.3 Forth Ports also advised that the Developer will require a Works Licence from Forth Ports prior to beginning works and should discuss the requirement for a Notice to Mariners with Forth Ports.
- 4.21.4 Forth Ports responded to the Additional Environmental Information Consultation and had no comments on the proposal.
- 4.21.5 In consideration of the representation from Forth Ports, conditions have been attached to the s.36 consent and the relevant associated marine licences to require a VMP and NSP to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.
- 4.22 Marine Management Organisation
- 4.22.1 The Marine Management Organisation responded with standard advice relating to marine licensing.
- 4.23 Ministry of Defence (“MOD”)
- 4.23.1 The MOD responded to the Original Consultation and objected to the Application on the grounds that the Development would have a significant and detrimental impact on the operation and capability of air defence radars deployed at Remote Radar Head (“RRH”) Brizlee Wood and RRH Buchan, and an air traffic control radar at Leuchars Station.
- 4.23.2 The MOD advised that the unacceptable and unmanageable interference on to the effective operation of air defence radar systems, air traffic radar systems required that a suitable mitigation scheme must be submitted, assessed and accepted by the MOD. The MOD also advised that the Development has the potential to create a physical obstruction to air traffic movements and required the submission, approval and implementation of an aviation lighting scheme and that sufficient data is submitted to ensure that structures can be accurately charted to allow deconfliction.
- 4.23.3 The MOD responded to the Additional Information Consultation and had no further comments to add.
- 4.23.4 The MOD provided a further representation on 8 May 2025 confirming that its objections could be lifted and replaced with radar mitigation planning conditions, suggested wording for which was provided on 12 June 2025.
- 4.23.5 In consideration of the representation from the MOD, conditions have been attached to the s.36 consent and the relevant associated marine licences to require an Air Defence Radar Mitigation Scheme, Air Traffic Control Radar Mitigation Scheme and LMP to be submitted by the Developer for approval

by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

4.24 NATS (En Route) PLC “NERL”

- 4.24.1 NERL responded to the Original Consultation noting that it was pleased that the Developer recognised the risk to NERL’s operation and that it had been working with the Developer to identify risks and begin exploring mitigation operations. NERL advised that it will continue to engage with the Developer.
- 4.24.2 NERL responded to the Additional Information Consultation and stated the Development does not conflict with its safeguarding criteria and has no objection to the proposal. NERL stated that it required to be further consulted on any changes proposed to the information supplied to NERL which become the basis of a revised, amended or further application for approval.
- 4.24.3 In consideration of the representation from NERL, a condition has been attached to the s.36 consent and the relevant associated marine licences to require a Primary Radar Mitigation Scheme to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

4.25 National Trust for Scotland (“NTS”)

- 4.25.1 NTS objected to the Application stating that while it supports well-designed renewable energy developments of the right type and scale in appropriate locations, the Development would cause significant detrimental, long term and potentially irreversible impacts on Scotland’s natural and cultural heritage, including critical seabird colonies, other species and habitats in designated sites, landscape, coastal character and coastal communities.
- 4.25.2 NTS contested the validity of the methods of gathering and interpreting scientific data and accuracy of seabird mortality figures and disagreed with the projected impacts and associated projected scale relating to seabirds, landscape, fisheries, species and habitats and designations. NTS advised that it considered that both the Conservation (Natural Habitats, &c.) Regulations 1994 and Marine (Scotland) Act 2010 would be contravened by approving the Application due to adverse effects on the integrity of SPAs and potential impact to the integrity of the Firth of Forth Banks MPA. It argues, with reference to the habitats derogation tests, that there are available alternatives to the Development in terms of ScotWind leasing round projects.
- 4.25.3 NTS disagreed that the proposed compensatory measures within the Developer’s HRA derogation case are effective and additional and felt that they would fall far short of mitigating the impacts. NTS further considered that there are alternative sites for locating wind farms where impacts would be lesser.
- 4.25.4 NTS considered that the St Abb’s Head National Nature Reserve, which it manages, would be directly impacted and there would be impacts on visitor experience and designated qualities, citing visual and ornithological impacts.

NTS considered that the landscape value identified in the Berwickshire Coast Special Landscape Area would be compromised and disagreed with the cumulative assessment of significance on seascape and the lack of mitigation or compensation for significant effects. NTS further advised that the Application does not adequately consider how the Development may affect coastal communities and low impact fisheries.

4.25.5 NTS responded to the Additional Information Consultation maintaining its objection and raised concern that the Developer had not addressed the comments in its original representation. NTS provided further commentary outlining its disagreement with the Developer on the proposed compensatory measures and narrative on alternative sites within the addendum to the shadow derogation case.

4.25.6 In consideration of the NTS representation, the Scottish Ministers are satisfied that the assessment undertaken allows for the consideration of the effects of the Development and to enable Statutory Nature Conservation Bodies (“SNCBs”) to make their conclusions on environmental impacts. The Scottish Ministers have further considered the proposals put forward by the Developer as part of its HRA derogation case and a condition has been attached to the s.36 consent and the relevant associated marine licences to require a Seabird Compensation Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. In addition, the Scottish Ministers have further considered the matters raised by NTS in section 9.

4.26 Neart na Gaoithe Offshore Wind Limited (“NnGOWL”)

4.26.1 NnGOWL confirmed that the proposed export cables will cross each of the NnG offshore export cables and noted that the Developer has identified related design measures including proximity agreements. NnGOWL are in agreement with establishing proximity agreements and stated that they look forward to engaging further with the Developer.

4.26.2 NnGOWL also noted that proposed construction relating to the export cables may have the potential to interfere with operational access to the Neart na Gaoithe Offshore Wind Farm and that this has not been identified by the Developer in the Application. NnGOWL requested that the Developer engage with NnGOWL to agree an approach that prevents access being restricted to the NnG Offshore Wind Farm. The Developer has stated that it will continue to engage with NnGOWL.

4.27 Royal Society for the Protection of Birds (“RSPB”) Scotland

4.27.1 RSPB Scotland objected to the Application stating that whilst it supports the principle of offshore wind development and agrees that renewable electricity generation offshore has strong policy support, it does not believe this is the right location for the Development. RSPB Scotland also provided commentary outlining its view on the policy framework in particular, that the Application does not constitute sustainable development and so is contrary to Scotland’s National Marine Plan.

- 4.27.2 RSPB Scotland stated that the location of the Development would cause serious and irreparable harm to biodiversity, including pressure on species impacted by avian flu. RSPB Scotland also raised concerns that the Development overlaps with the OFFSAB SPA and is within the vicinity of a number of other designated SPAs. Furthermore, RSPB Scotland stated that the Development overlaps with the Firth of Forth Banks MPA complex which is an identified area of critical sandeel habitat, important for foraging seabirds.
- 4.27.3 RSPB Scotland provided commentary on the impact methodology undertaken by the Developer noting that the avoidance rates recommended by the SNCBs were used in stochastic collision risk model ("sCRM") with respect to gannet. RSPB Scotland advised that whilst it agrees with the majority of the advised avoidance rates including the 98.9% avoidance rate for non-breeding gannets, it was the opinion of RSPB Scotland that a 98% avoidance rate is more appropriate for breeding gannets due to the figures used for the calculation of avoidance rates advocated by SNCBs being largely derived from the non-breeding season for gannet.
- 4.27.4 RSPB Scotland concluded that AEOSI for the Development alone cannot be ruled out for the following sites and species:
- Forth Islands SPA, Fowlsheugh SPA and St Abbs to Fast Castle SPA, kittiwake;
 - Forth Islands SPA, Fowlsheugh SPA and St Abbs to Fast Castle SPA, guillemot;
 - Forth Islands SPA, razorbill;
 - Forth Islands SPA, puffin;
 - Forth Islands SPA; gannet; and
 - OFFSAB SPA; breeding seabirds.
- 4.27.5 Furthermore, RSPB Scotland concluded that AEOSI for the Development in combination with other North Sea wind farms cannot be ruled out for the following sites and species:
- Forth Islands SPA, Fowlsheugh SPA, St Abbs to Fast Castle SPA, Troup, Pennan and Lion's Heads SPA, East Caithness Cliffs SPA, North Caithness Cliffs SPA, West Westray SPA, Buchan Ness to Collision Coast SPA, Flamborough and Filey Coast SPA and Farne Islands SPA, kittiwake;
 - Forth Islands SPA, Fowlsheugh SPA and St Abbs to Fast Castle SPA, guillemot;
 - Forth Islands SPA, Fowlsheugh and St Abbs to Fast Castle SPA; razorbill;
 - Forth Islands SPA and North Caithness Cliffs SPA, puffin;
 - Forth Islands SPA and Hermaness, Saxa Vord and Valla Field SPA, gannet; and

- OFFSAB SPA, breeding seabirds.
- 4.27.6 RSPB Scotland acknowledged the Developer's conclusion that the potential for AEOSI cannot be excluded for four different species at eight different SPAs. However, based on its analysis and consideration of the status of Scottish seabirds, RSPB Scotland also concluded that the Development would have an AEOSI on:
- Forth Islands SPA gannet alone and in combination with other UK North Sea developments
 - Hermaness, Saxa Vord and Valla Field SPA gannet in combination with other UK North Sea developments
 - North Caithness Cliffs SPA kittiwake and puffin in combination with other UK North Sea developments
 - West Westray SPA kittiwake in combination with other UK North Sea developments
- 4.27.7 RSPB Scotland provided detailed assessment and commentary on the proposed compensatory measures provided by the Developer. RSPB Scotland considered that the proposed compensatory measures are inadequate for the scale and magnitude of AEOSI identified and in particular, that the proposed sandeel closure is not an appropriate compensatory measure for consideration. In addition, RSPB Scotland noted that the Developer has not adequately demonstrated that development of ScotWind sites would not constitute feasible alternative solutions and therefore advised that these are given further consideration.
- 4.27.8 RSPB Scotland responded to the Additional Information Consultation maintaining its objection to the Application, reiterating that the location is inappropriate for the Development and would thus cause serious and irreparable harm to biodiversity.
- 4.27.9 RSPB Scotland highlighted its disagreement with the Developer on the magnitude of AEOSI and the number of protected sites and species impacted. RSPB Scotland provided further commentary reiterating its view on the sufficiency of the proposed compensatory measures and the lack of consideration given by the Developer on feasible alternatives.
- 4.27.10 In consideration of the RSPB Scotland representation, the Scottish Ministers are satisfied that the assessment undertaken allows for the consideration of the effects of the Development and to enable SNCBs to make their conclusions on environmental impacts. The Scottish Ministers have further considered the proposals put forward by the Developer as part of its HRA derogation case and a condition has been attached to the s.36 consent and the relevant associated marine licences to require a Seabird Compensation Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. In addition, the Scottish Ministers have further considered the matters raised by RSPB Scotland in section 9.

4.28 Royal Yachting Association Scotland (“RYA Scotland”)

- 4.28.1 RYA Scotland responded to the Original Consultation and did not object to the Application.
- 4.28.2 RYA Scotland noted that there may be a possibility of reduced access to local ports although there is a lack of detail within the Application. RYA Scotland noted specific concerns regarding potential impacts in case of any reduced access to recreational vessels using Arbroath harbour from increased Development activity.
- 4.28.3 RYA Scotland is content that with appropriate planning, any increased use of Arbroath harbour should not adversely affect recreational vessels.
- 4.28.4 In response to the Additional Information Consultation, RYA Scotland had no comments to make.
- 4.28.5 In consideration of the representation from RYA Scotland, a condition has been attached to the s.36 consent and the relevant associated marine licences to require a VMP to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

4.29 Scottish Seabird Centre

- 4.29.1 Scottish Seabird Centre responded to the Original Consultation and objected to the Application. Scottish Seabird Centre recognised the importance of offshore developments to meeting net zero targets, however outlined the importance of developments not contributing to further nature loss.
- 4.29.2 Scottish Seabird Centre advised that its objection was due to insufficient evidence to demonstrate there are no alternatives in relation to HRA derogation; the validity of methods of gathering and interpreting scientific data and accuracy of seabird mortality figures; the Application not adequately addressing the issue of how coastal communities who rely on the marine environment socially and economically will be impacted during construction and operation of the Development and disagreement that the proposed compensatory measures for seabirds are effective and represent additionality.
- 4.29.3 Scottish Seabird Centre responded to the Additional Information Consultation and maintained its objection to the Development at the site and scale proposed. Scottish Seabird Centre offered further comments on the Additional Information submission, noting that consenting of the Development could severely constrain ScotWind potential, the impact of avian influenza on seabird populations and raised uncertainties regarding the compensatory measures proposed.
- 4.29.4 In consideration of the representation from Scottish Seabird Centre, the Scottish Ministers are satisfied that the assessment undertaken allows for the consideration of the effects of the Development and to enable SNCBs to

make their conclusions on environmental impacts. The Scottish Ministers have further considered the proposals put forward by the Developer as part of its HRA derogation case and a condition has been attached to the s.36 consent and the relevant associated marine licences to require a Seabird Compensation Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. In addition, the Scottish Ministers have further considered the matters raised by Scottish Seabird Centre in section 9.

4.30 Scottish Fishermen's Federation ("SFF")

- 4.30.1 In response to the Original Consultation, SFF objected to the Application.
- 4.30.2 SFF objected to the HRA derogation proposed citing the creation of a precedent that allows for redirection of responsibility for environmental damage, the number of projected bird mortalities and the projected benefits outstripping the loss on the bird population. SFF was not satisfied with the information presented within the Application regarding scallop dredging which was presented as a cause of mortality in sandeels and advised this assumption should be ignored due to it being a discredited theory. SFF also disagreed with information used to present bird mortalities as a result from fishing which is not supported by ornithology science. SFF also advised information on bird mortality and the impact from the fishing industry is disproportionate. SFF stated that it felt the Application does not give the same consideration to fisheries policies compared to renewable policies within Scotland's National Marine Plan ("NMP"). In particular, SFF advised that it did not consider the Application had considered the importance of fishing to coastal communities, their activity, socio-economics and their heritage and this was contrary to the NMP.
- 4.30.3 SFF noted there is a lack of information on cable burial, protection and monitoring which needs to be clearer to mitigate fishing concerns. SFF advised that the Developer should utilise best practice co-existence between Developer vessels and the fishing industry during pre-consent rather than undertake at the later stage of post-consent.
- 4.30.4 SFF noted concerns around impacts to fish and shellfish ecology and the assessment of significance of impacts. SFF also provided comment on socioeconomics and stated that the Developer must give clarity on anticipated employment opportunities, supply chain, community benefit.
- 4.30.5 SFF stated there is a need for further clarity on restricted access, long-term access, displacement, co-existence, safety, snagging and over-trawl trials to address the fishing industry's concerns. SFF stated that over-trawl trials were required as a standard practice for safety.
- 4.30.6 SFF had no further comments to make on the Additional Information Consultation noting that its earlier comments hadn't been addressed.
- 4.30.7 In consideration of the representation from SFF, conditions have been attached to the s.36 consent and the relevant associated marine licences to

require a FMMS, PEMP, CaP, VMP and Seabed Obstruction Mitigation Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. A condition has also been attached to the s.36 consent and the relevant associated marine licences to require the appointment of a FLO with responsibility for establishing and maintaining effective communications between the Developer, its contractors and sub-contractors and fisherman and other users of the sea during construction of the Development. The appointment of the FLO is to be approved by the Scottish Ministers, following consultation with the SFF, the Forth and Tay Commercial Fisheries Working Group and any other advisors or organisations as required at the discretion of the Scottish Ministers. In addition the Scottish Ministers have considered the matters raised by the SFF further in section 9.

4.31 Sport Scotland

- 4.31.1 In response to the Original Consultation Sports Scotland confirmed that it had no objections and had consulted with RYA Scotland.

4.32 Scottish and Southern Electricity Networks ("SSEN") Transmission

- 4.32.1 SSEN Transmission responded to the Original Consultation noting that the construction timeframe will overlap with the Eastern Green Link 2 high voltage direct current link installation corridor.
- 4.32.2 SSEN Transmission requested that provision is made to ensure that simultaneous operations are appropriately managed and to be kept informed of any changes to the installation programme or working area over the course of the development and installation.
- 4.32.3 In consideration of the representation from SSEN Transmission, conditions have been attached to the s.36 consent and the relevant associated marine licences to require a NSP, VMP and CoP to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. The Developer has advised that it will inform SSEN of any changes to the installation programme or working area of the Development.

4.33 UK Chamber of Shipping ("UKCoS")

- 4.33.1 UKCoS responded to the Original Consultation raising navigational concerns around future routing and the gap between the Development and Inch Cape, alongside steaming distances from wind farms. UKCoS acknowledged that the gap meets the requirements of MGN 654 and Permanent International Association of Navigation Congresses ("PIANC") guidance but raised concerns relating to cumulative impacts. UKCoS recommended that the Developer undertakes a full and detailed analysis via a navigational simulation exercise for vessels transiting through the area.
- 4.33.2 Concerns were also raised by UKCoS that a 16 nautical mile long corridor between Seagreen Alpha and Bravo offshore wind farms and the

Development had not been assessed which left concerns for navigational safety. UKCoS recommended that the developer adhere to MGN 654 for corridors between wind farms.

- 4.33.3 UKCoS recommended that there is a reduction of the red line boundary prior to consent to leave more available sea room for other marine activities, or a reduction in the build array area, providing the unused area back for alternative marine development.
- 4.33.4 UKCoS found the analysis on fuel costs and emissions within the shipping and navigation chapter of the EIA Report to be inadequate and queried the conclusion of the impact as minor. UKCoS also advised that future development of Forth Ports has the potential to mean significant increases in vessel activity and traffic which haven't been accounted for.
- 4.33.5 UKCoS outlined an example of a serious drifting allision incident in the Southern North Sea and advised the consequence of allision risk should be considered.
- 4.33.6 MCA provided its view on the gap between Seagreen Alpha and Bravo wind farms and the Development, noting that it does not treat this as a navigation corridor, as per the guidance in MGN 654, and the width of the gap is acceptable to MCA.
- 4.33.7 In consideration of the representation from UKCoS, the Scottish Ministers are satisfied that the assessment undertaken allows for the consideration of the effects of the Development and to enable MCA to make its conclusions on navigational impacts. Conditions have been attached to the s.36 consent and the relevant associated marine licences to require a VMP and NSP to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

5. Representations from other organisations and members of the public

5.1 RWE (Dogger Bank South Offshore Wind Farms) ("RWE")

- 5.1.1 RWE raised concerns regarding the level of precaution within the assessment methodology and implications for over-estimating the magnitude of effect and scale of compensation required. RWE also raised concerns relating to the Developer's shadow derogation case, particularly in regards to considering the scale of compensatory measures, use of fisheries based compensation for a single project, and what surplus may be left for future projects.
- 5.1.2 In consideration of the representation from RWE, the Scottish Ministers have considered the proposals put forward by the Developer as part of its HRA derogation case and a condition has been attached to the s.36 consent and the relevant associated marine licences to require a Seabird Compensation Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

5.2 North-East and East Ornithology Group (“NEEOG”)

5.2.1 NEEOG focussed its comments on the compensatory fisheries measures within the Developer’s HRA derogation case, noting that if a decision is made that fisheries management measures at the scale proposed are needed there are likely to be significantly limited compensation options available to other projects. It suggested that any fisheries management is delivered strategically and not all allocated to a single project and reiterated the need for a robust strategic compensation framework.

5.2.2 In consideration of the representation from NEEOG, the Scottish Ministers have considered the proposals put forward by the Developer as part of its HRA derogation case and a condition has been attached to the s.36 consent and the relevant associated marine licences to require a Seabird Compensation Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

5.3 Scottish Environment LINK Marine Group (“Link Group”)

5.3.1 Link Group responded to the Original Consultation and objected to the Proposal referring to uncertainties in modelling seabird mortality, scale of impact on seabirds and landscape, assessment of the impacts on fisheries and coastal communities and the failure to meet the derogation requirements.

5.3.2 Link Group also questioned whether the Application had sufficiently considered the degree to which the Development accords with general policies of the NMP and expressed concern regarding precedent setting for future developments. Link Group also noted concern with the overlap with the Firth of Forth Banks Complex MPA, negative impacts on cetaceans and spawning and nursery areas for various fish species and overlap with the Outer Firth of Forth and St Andrews Bay Complex SPA.

5.3.3 In consideration of the representation from Link Group, the Scottish Ministers have considered the proposals put forward by the Developer as part of its HRA derogation case and a condition has been attached to the s.36 consent and the relevant associated marine licences to require a Seabird Compensation Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

5.4 Public Representations

5.4.1 11 representations were received from members of the public. Nine objected to the Development whilst two others raised concerns. The topics of concern raised in public representations are summarised in Table 1 . These concerns have been considered by the Scottish Ministers as part of their determination.

Table 1

Topic of Concern	Number of Representations
Location of Development	5
Scale of Development	3
Impacts on protected areas	4
Impacts on Firth of Forth Banks Complex MPA	1
Impacts on St Abb's Head National Nature Reserve	2
Impacts on gannet colony at Bass Rock	6
Impacts on the Isle of May	2
Impacts on breeding seabirds	4
Seabird mortality	3
Impacts on migrating birds overwintering in Scotland	1
Avian Influenza outbreak	6
Threat to biodiversity	1
Impacts on marine mammals	2
Impacts on wildlife/sea life	1
Environmental damage	1
Visual impacts on seascape / landscape	4
Impacts to geology	1
Number of renewable projects already	2
Criticism of the planning process	1
Cumulative impacts	4
Compensatory measures	4
Lack of benefit for local community	2
Impact on local community	3
Impact on tourism	4
Negative impacts on economy	1
Price of electricity bills	1
Impacts to public enjoyment of nature	2
Impacts on Traffic	2
Accommodation concerns	1
Concerns on flood risks	1

Construction Noise	2
Risks to public health	1

6. Summary of internal advice

6.1 Marine Directorate - Licensing Operations Team (“MD-LOT”) sought advice from the Marine Analytical Unit (“MAU”), Marine Directorate - Science, Evidence, Data and Digital (“MD-SEDD”) and Transport Scotland on the Application. MD-SEDD also separately provided expertise in completing the Appropriate Assessment (“AA”) and Derogation Case.

6.2 MAU

6.2.1 Socio-Economics

6.2.1.1 MAU noted that the assessment of GVA and employment assesses the impacts of the Development across each stage of Development and across different spatial levels, however, additional details on job creation could have been provided.

6.2.1.2 In relation to social impacts, MAU advised that the impacts considered could have been broader.

6.2.1.3 MAU noted that whilst socio-economics was discussed in the chapter on Inter-related Effects, this did not integrate information included in the individual chapters into the discussion of potential changes for communities. MAU noted that it would have welcomed more comprehensive mapping out of the interrelation between socio-economic changes and separate receptors.

6.2.1.4 MAU also referred to the lack of primary data that was collected during engagement events. They note that to understand whether potential social impacts have been fully and adequately considered, MAU would require information on what primary data has been collected, social research methods used, and how data has been analysed.

6.2.1.5 MAU noted that the areas included in the stakeholder engagement and consultation do not map fully onto the areas of impact forming the basis of analysis and there is a strong focus on East Lothian, Fife, Angus and the Borders.

6.2.1.6 MAU noted that the social impacts have not been assessed together for the Development and associated onshore elements which means there is only a partial picture of how local communities will be impacted.

6.2.1.7 MAU also commented on the matrix for assigning significance, noting that this would automatically downgrade social impacts and that data sets are only available at the local authority level meaning ‘local’ impacts are not assessed.

- 6.2.1.8 The Developer provided representation in response to the MAU advice above. The Developer outlined that its review when compiling the EIA Report did not identify a broader range of social impacts to be explored that would give rise to likely significant effects, and therefore did not explore any further impacts in the EIA Report in line with proportionate EIA. The Developer set out that inter-related effects had been considered for socio-economics and that justification had been provided as to effects scoped out of assessment.
- 6.2.1.9 The Developer described the data collection exercises undertaken, involving engagement with local authorities and community councils from across the local study areas. The Developer noted that any further analysis would need to be undertaken after procurement and contracting has progressed to the extent that known epicentres of impact have been identified so that it can be targeted to relevant communities.
- 6.2.1.10 The Developer advised that onshore elements were assessed separately in the onshore EIA supporting its Application to East Lothian Council, but that likely significant cumulative impacts were assessed in the EIA Report. The Developer described its approach to assessing sensitivity was broader than geographic scale and that it is inappropriate to say that local impacts will automatically be assessed as negligible.
- 6.2.1.11 The Scottish Ministers have considered the advice of MAU and representation provided by the Developer in the context of the relevant policies of the National Marine Plan, in particular GEN 2, 3 and 19. The Scottish Ministers consider that the information within the EIA Report is sufficient to understand the likely economic benefits. Social impacts have been assessed as no greater than minor adverse. The Scottish Ministers acknowledge the Developer's stage of procurement and contracting and the data collection exercises undertaken, including in the areas where potential for impact is likely to be greatest, and consider the level of evidence provided by the Developer is sufficiently sound to agree with the conclusions of lack of significant adverse social impacts.

6.3 MD-SEDD

6.3.1 Commercial Fisheries

- 6.3.1.1 MD-SEDD advised that all impacts to commercial fisheries had been identified and adequately assessed within the EIA Report.
- 6.3.1.2 MD-SEDD noted that the Developer has not committed to carrying out a cable over-trawl survey, and advised that this is carried out given the prevalence of fishing in the area. MD-SEDD further advised that commercial fisheries monitoring is carried out pre-construction, during construction and post-construction of the wind farm to validate EIA predictions.
- 6.3.1.3 MD-SEDD later provided updated advice following consultation noting that it no longer advises over-trawl surveys to be carried out.

- 6.3.1.4 In consideration of the advice from MD-SEDD, a condition has been attached to the s.36 consent and the relevant associated marine licences to require a FMMS to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. In addition the Scottish Ministers have considered the matters raised by MD-SEDD further in section 9.

6.4 Transport Scotland

- 6.4.1 Transport Scotland responded to the Original Consultation noting that it had no comments to make on the EIA Report, given that traffic effects were scoped out of the offshore element of the proposal but requested a condition for a CTMP to be included on the consent.

- 6.4.2 In response to the Additional Information Consultation, Transport Scotland had no further comments to make on the Application.

- 6.4.2.1 In consideration of the advice from Transport Scotland, a condition has been attached to the s.36 consent and the relevant associated marine licences to require a CTMP to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to.

7. **Public Local Inquiry (“PLI”)**

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

8. **The Scottish Ministers’ Considerations and Main Determinative Issues**

8.1 Determination of s.36 consent

- 8.1.1 In accordance with their obligation under paragraph 3(2) of Schedule 9 of the Electricity Act 1989, the Scottish Ministers have considered and are satisfied that (a) the Developer, when formulating its proposal to construct the generating station, has had sufficient 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 and; (b) the Developer, in having regard to these matters, has reasonably sought to mitigate any effect which its proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

- 8.1.2 In coming to this conclusion, the Scottish Ministers have considered that EIA has been undertaken by the Developer which considers the likely significant effects of the Development on the environment and cultural heritage. Additionally the Developer has presented information to inform the HRA in relation to likely significant impacts on protected sites. The Developer has considered mitigation measures to avoid, prevent, reduce or offset any identified significant adverse effects, and considered the requirement for compensatory measures under the HRA. The Scottish Ministers have had

regard to the desirability of the matters mentioned under (a) above in its determination of the Application and have attached conditions to the consent and associated marine licences to secure appropriate mitigation and HRA compensatory measures.

- 8.1.3 Under paragraph 3(3) of Schedule 9, the Scottish Ministers are satisfied that the Developer will also avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters. The Developer has considered impacts on fish and commercial fisheries within its EIA Report and presented mitigation measures to avoid, prevent, reduce or offset any identified significant adverse effects. The Scottish Ministers under paragraph 3(3) of Schedule 9 must also avoid, so far as possible, causing injuries to fisheries or to the stock of fish in any waters and are satisfied that this has been achieved through attaching conditions to the consent and associated marine licences to secure appropriate mitigation.

8.2 Environmental Matters

- 8.2.1 The Scottish Ministers are satisfied that an EIA has been carried out. Environmental information including the EIA Report, information to inform the HRA and Additional Information 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.

- 8.2.2 The Scottish Ministers have considered fully and carefully the EIA Report, information to inform the HRA, the Additional Information and all relevant representations from consultees, other organisations and members of the public and internal advice.

8.3 Main Determinative Issues

- 8.3.1 The Scottish Ministers, having taken account of all relevant information and regulatory requirements, consider that the main determining issues are:

- the extent to which the Development accords with and is supported by Scottish and UK Government policy and plans including the terms of the National Marine Plan (“NMP”);
- economic benefits; and,
- the main 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 commercial fisheries;
 - Impacts on seascape, landscape and visual amenity; and
 - Impacts on aviation and military.

8.4 Scottish and UK Government Policy Context

- 8.4.1 The NMP formally adopted in 2015 and reviewed in Spring 2018, provides a comprehensive statutory planning framework for all activities out to 200nm. The Scottish Ministers must take authorisation and enforcement decisions which affect the marine environment in accordance with the NMP. The NMP policies 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’ and 5;
 - Chapter 8 Wild Salmon and Diadromous Fish, policies ‘WILD FISH 1’;
 - Chapter 11 Offshore Wind and Marine Renewable Energy, policies ‘RENEWABLES 1, 4-10’;
 - 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 1-4’; and
 - Chapter 15 Defence, policy ‘DEFENCE 1’.
- 8.4.2 The Scottish Government is in the process of developing National Marine Plan 2; however, given its stage of development, the Scottish Ministers have considered the existing NMP in making this decision. The Climate Change (Scotland) Act 2009 commits Scotland to reach net zero emissions of all greenhouse gases (“GHGs”) by 2045, ahead of the UK target of 2050. These targets are consistent with an ambitious Scottish contribution to the goals of the 2015 United Nations Paris Agreement on climate change, to limit global average temperature increases to 1.5 degrees Celsius.
- 8.4.3 The 2017 Scottish Energy Strategy set a target for the equivalent of 50% of the energy for Scotland’s heat, transport and electricity to come from renewable sources by 2030. Continued support for renewable energy, including offshore wind, was reiterated in the Scottish Government Climate Change Plan: The 3rd Report on Proposals and Policies 2018 – 2032, including an ambition for Scotland’s electricity system to be largely decarbonised by 2032.
- 8.4.4 Offshore wind is seen as an integral element in Scotland’s contribution towards action on climate change. Our Offshore Wind Policy Statement sets out the Scottish Government’s ambitions for offshore wind in Scotland, including an ambition (but not a limit) to achieve 8-11GW of offshore wind in Scotland by 2030, reaffirmed in both Scotland’s Energy Strategy Position Statement (2021) and the Scottish Government Update to the Climate Change Plan 2018 – 2032 (2020). Following publication of a draft Energy Strategy and Just Transition Plan (“ESJTP”) in 2023 the Scottish Ministers have consulted on setting further offshore wind deployment ambitions out to 2045 (by which point the Government is committed to achieving net zero). The draft ESJTP sets out how its vision of affordable, resilient and clean

energy supplies for Scotland will be delivered, maximising home-grown clean energy provision and significantly increasing domestic production of renewable electricity by 2030, helping to address climate change by substantially reducing the emissions of our energy sector.

- 8.4.5 On 18 June 2025, Scottish Government launched a consultation to update the Offshore Wind Policy Statement acknowledging that since 2020 there had been considerable change in the policy and planning landscape for offshore renewable energy generation in Scotland and the wider UK, referencing the Clean Power 2030 Action Plan (see paragraph 8.4.8) as a considerable driver for change. The updated Policy Statement, sets out the Scottish Government commitment to maximise the deployment of offshore wind in Scotland, by resetting its ambition and aiming for the development of up to 40GW by 2035-2040.
- 8.4.6 The Development will contribute to the direct reduction of emissions from energy generation in Scotland and further advance the technological understanding of offshore energy. Accordingly, the Development is consistent with the emissions reduction requirements of the Climate Change (Scotland) Act 2009 and Scottish energy and climate change policy.
- 8.4.7 The Scottish Ministers have also had due regard to the UK Government's Overarching National Policy Statement for energy (EN-1), published in January 2024, and its National Policy Statement for renewable energy infrastructure (EN-3), published in November 2023. These policies provide a framework for delivering the UK's international commitments on climate change. The Scottish Ministers have taken particular account of EN-1's identification of nationally significant low carbon infrastructure (which includes offshore wind) as a critical national priority and the overarching need for energy security and decarbonising the power sector to combat climate change.
- 8.4.8 The UK Government's Clean Power 2030 Action Plan sets a pathway to deliver 43-50GW of offshore wind capacity across Great Britain in order to achieve a 95% clean energy system by 2030. The Scottish Government is committed to working closely with the UK government on shared ambitions to decarbonise energy generation and drive progress towards net zero in line with these objectives. To meet the Clean Power 2030 target, the action plan recognises the important role projects in Scotland will play and emphasises the need capitalise on projects that are already in the planning system and able to commence construction before 2030.
- 8.4.9 The Scottish Ministers have also considered the UK Government's British Energy Security Strategy (2022), alongside the UK Government's Ten Point Plan for a Green Industrial Revolution (2020), Energy White Paper: Powering our Net Zero Future (2020) and Net Zero Strategy: Build Back Greener (2021), and the contribution which Scotland can make to the target of up to 50GW of offshore wind by 2030 across the UK.

- 8.4.10 Scotland's National Planning Framework ("NPF") 4 was adopted on 13 February 2023. It sets out a long-term spatial plan including regional priorities and 18 national developments, as well as a full suite of 33 national planning policies. NPF4 replaces NPF3 and Scottish Planning Policy.
- 8.4.11 On adoption of NPF4, the provisions in the Planning (Scotland) Act 2019 commenced making NPF4 part of the statutory development plan. NPF4 sets out the Scottish Government proposals for future consideration of planning matters and as such it may be taken into account by planning authorities on a case-by-case basis.
- 8.4.12 NPF4 signals a turning point for planning, placing climate and nature at the centre of the planning system and making clear Scottish Government support for all forms of renewable, low-carbon and zero emission technologies, including transmission and distribution infrastructure. This includes onshore infrastructure that supports offshore renewable development. Potential impacts on communities, nature and other receptors remain important considerations in the decision-making process. All applications are already, and will continue to be, subject to full site-specific assessments.
- 8.4.13 The Scottish Ministers have had regard to NPF4 when assessing the Application. The Scottish Ministers consider that the Development accords with NPF4 as it supports the delivery of renewable electricity generation and transmission, providing employment and helping to reduce emissions and improve security of supply. Furthermore, the Development supports Policy 11 by contributing to the expansion of renewable energy generation.
- 8.5 Economic benefits
- 8.5.1 National policy and strategies, such as NPF4, the Draft ESJTP, and the Scottish Energy Strategy: The Future of Energy in Scotland (2017), support the role of renewable energy development in achieving socioeconomic benefits and supporting the growth of the low carbon economy. The EIA Report stated that the Development, in providing new renewable energy capacity, would support the Scottish Government's commitments to reaching net zero emissions of all GHG by 2045.
- 8.5.2 The Developer assessed the potential impacts on supporting employment and GVA; demand for housing, accommodation and local services; and the tourism and recreation sector as a result of the Development within the Offshore Socio-Economics and Tourism chapter of the EIA Report and associated technical appendices. MAU noted that the assessment of GVA and employment assessed the impacts of the Development across each stage of Development and across different spatial levels, however additional details on job creation could have been provided and social impacts considered could have been broader.
- 8.5.3 The EIA Report estimated that activities associated with manufacturing, construction and installation of the Development would result in between £90 million and £160 million total GVA in local study areas, and between £450

million and £1.1 billion nationally, depending on procurement scenario. Potential employment impacts of these activities were calculated as between 1,100 and 1,900 full time equivalent (“FTE”) years in local study areas and between 6,000 and 14,500 FTE years nationally.

8.5.4 The operation and maintenance activities associated with the Development were estimated by the EIA Report to result in £1.2 billion total GVA in local study areas and £2.6 billion nationally. Potential employment impacts of these activities were calculated as 11,200 FTE years in local study areas and 26,100 FTE years nationally.

8.5.5 The Scottish Ministers have taken this information regarding the socioeconomic impacts of the Development into account in their decision making.

8.6 Impacts of the Development on the environment

8.6.1 *Impacts on European sites and bird and marine mammal impacts*

8.6.1.1 The Conservation (Natural Habitats, &c.) Regulations 1994 and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (together, “the Habitats Regulations”) require the Scottish Ministers to consider whether the Development would be likely to have a significant effect on a European site (either alone or in combination with other plans or projects), as defined in the Habitat Regulations.

8.6.1.2 In line with the view of NatureScot and Natural England, that the Development is likely to have a significant effect on one or more of the qualifying interests of Berwickshire and North Northumberland Coast SAC, Firth of Tay and Eden Estuary SAC, Isle of May SAC, Moray Firth SAC, Southern North Sea SAC, Buchan Ness to Collieston Coast SPA, Cameron Reservoir SPA, Copinsay SPA, Coquet Island SPA, Din Moss – Hoselaw Loch SPA, East Caithness Cliffs SPA, Fair Isle SPA, Fala Flow SPA, Farne Islands SPA, Fetlar SPA, Firth of Forth SPA, Firth of Tay and Eden Estuary SPA, Flamborough and Filey Coast SPA, Forth Islands SPA, Foula SPA, Fowlsheugh SPA, Gladhouse Reservoir SPA, Greenlaw Moor SPA, Hermaness, Saxa Vord and Valla Field SPA, Holburn Lake and Moss SPA, Hoy SPA, Lindisfarne SPA, Loch Leven SPA, Loch of Kinnordy SPA, Montrose Basin SPA, North Caithness Cliffs SPA, North Rona and Sula Sgeir SPA, Northumbria Coast SPA, Noss SPA, OFFSAB SPA, Slamannan Plateau SPA, South Tayside Goose Roosts SPA, Sule Skerry and Sule Stack SPA, St Abb’s Head to Fast Castle SPA, Troup, Pennan and Lion’s Heads SPA, Westwater SPA, West Westray SPA, Ythan Estuary, Sands of Forvie and Meikle Loch SPA and Westwater SPA, the Scottish Ministers, as the “competent authority”, were required to carry out an Appropriate Assessment (“AA”).

8.6.1.3 Having had regard to the representations made by NatureScot and Natural England, it can be ascertained that the Development will not adversely affect the integrity of Berwickshire and North Northumberland Coast SAC, Firth of Tay and Eden Estuary SAC, Isle of May SAC, Moray Firth SAC, Southern

North Sea SAC, Cameron Reservoir SPA, Copinsay SPA, Coquet Island SPA, Din Moss – Hoselaw Loch SPA, Fair Isle SPA, Fala Flow SPA, Fetlar SPA, Firth of Forth SPA, Firth of Tay and Eden Estuary SPA, Foula SPA, Gladhouse Reservoir SPA, Greenlaw Moor SPA, Holburn Lake and Moss SPA, Hoy SPA, Loch Leven SPA, Loch of Kinnordy SPA, Lindisfarne SPA, Montrose Basin SPA, North Rona and Sula Sgeir SPA, Northumbria Coast SPA, Noss SPA, Slamannan Plateau SPA, South Tayside Goose Roosts SPA, Sule Skerry and Sule Stack SPA, Ythan Estuary, Sands of Forvie and Meikle Loch SPA and Westwater SPA, providing the Developer adheres to the conditions set out in the AA, the s.36 consent and the relevant associated marine licences. Further considering the reasons for which the sites were designated and the associated conservation objectives, the Scottish Ministers are content that the Development will not on its own or in combination with other projects, adversely affect the integrity of the Berwickshire and North Northumberland Coast SAC, Firth of Tay and Eden Estuary SAC, Isle of May SAC, Moray Firth SAC, Southern North Sea SAC, Cameron Reservoir SPA, Copinsay SPA, Coquet Island SPA, Din Moss – Hoselaw Loch SPA, Fair Isle SPA, Fala Flow SPA, Fetlar SPA, Firth of Forth SPA, Firth of Tay and Eden Estuary SPA, Foula SPA, Gladhouse Reservoir SPA, Greenlaw Moor SPA, Holburn Lake and Moss SPA, Hoy SPA, Loch Leven SPA, Loch of Kinnordy SPA, Lindisfarne SPA, Montrose Basin SPA, North Rona and Sula Sgeir SPA, Northumbria Coast SPA, Noss SPA, Slamannan Plateau SPA, South Tayside Goose Roosts SPA, Sule Skerry and Sule Stack SPA, Ythan Estuary, Sands of Forvie and Meikle Loch SPA and Westwater SPA.

- 8.6.1.4 However, the Scottish Ministers concluded that the Development alone or in combination with other plans or projects would have an AEOSI on:

Alone:

- Kittiwake for Forth Islands, Fowlsheugh, OFFSAB breeding and non-breeding and St Abb's Head to Fast Castle SPAs;
- Guillemot for Forth Islands, Fowlsheugh, OFFSAB breeding and non-breeding and St Abb's Head to Fast Castle SPAs;
- Razorbill for St Abb's Head to Fast Castle SPA; and
- Seabird assemblage qualifiers for Farne Islands (kittiwake), Forth Islands (guillemot, kittiwake), Fowlsheugh (guillemot, kittiwake), breeding OFFSAB (guillemot, kittiwake), non-breeding OFFSAB (guillemot, kittiwake) and St Abb's Head to Fast Castle (guillemot, kittiwake, razorbill) SPAs.

In-combination:

- Kittiwake for Buchan Ness to Collieston Coast, East Caithness Cliffs, Flamborough and Filey Coast, North Caithness Cliffs and Troup, Pennan and Lion's Heads;
- Gannet for Forth Islands and OFFSAB breeding SPA;

- Puffin for Forth Islands and OFFSAB breeding SPAs;
- Razorbill for East Caithness Cliffs, Flamborough and Filey Coast, Fowlsheugh and Troup, Pennan and Lion's Heads SPAs; and
- Seabird assemblage qualifiers for Buchan Ness to Collieston Coast (kittiwake), East Caithness Cliffs (kittiwake, razorbill), Forth Islands (gannet, puffin), Fowlsheugh (razorbill), North Caithness Cliffs (kittiwake), OFFSAB breeding (gannet, puffin) and Troup, Pennan and Lion's Heads (kittiwake, razorbill) SPAs.

8.6.1.5 Further, the Scottish Ministers were unable to conclude beyond reasonable scientific doubt that there will be no AEOSI from the Development alone or in combination with other plans or projects for the following:

Alone:

- Guillemot for Farne Islands SPA;
- Kittiwake for West Westray SPA;
- Razorbill for Forth Islands; and
- Seabird assemblage qualifiers for Forth Islands (razorbill) and West Westray (kittiwake) SPAs.

In-combination:

- Gannet for Hermaness, Saxa Vord and Valla Field SPA;
- Razorbill for OFFSAB (non-breeding) SPA; and
- Seabird assemblage for Hermaness, Saxa Vord and Valla Field SPA (gannet) and OFFSAB non-breeding (razorbill)

8.6.1.6 A full explanation of the issues and justification for the conclusions regarding site integrity is provided in the AA (Annex B).

8.6.1.7 Given that the AA for the Development concluded AEOSI and was also unable to conclude no AEOSI for the sites/species listed above, the Scottish Ministers proceeded to consider the derogations provisions in the Habitats Regulations. The Scottish Ministers are satisfied that there are no alternative solutions to the Development in order to meet its objectives and that the Development must be carried out for imperative reasons of overriding public interest, notwithstanding a negative assessment of the implications for a European site. Further, the Scottish Ministers consider that compensatory measures can be secured by the inclusion of a suspensive condition, to require a Seabird Compensation Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. This will ensure that compensatory measures are formally secured as required by the Habitats Regulations before the Development can be lawfully built and operated.

8.6.1.8 In accordance with Regulation 31(5) of the Conservation of Offshore Marine Habitats and Species Regulations 2017, the Scottish Ministers notified the Secretary of State through the Department of Environment, Food and

Environmental Affairs (“Defra”) of its intention to approve the Development on 27 June 2025. The Secretary of State provided a response on 21 July 2025 whereby he agreed to the consent of the Development subject to his written agreement being obtained to the Seabird Compensation Plan (which may be given subject to such conditions or restrictions as he may specify) and that a condition must be imposed on the Developer reflecting this requirement, the wording of which must be agreed with his officials. The Scottish Ministers have included the Seabird Compensation Plan as a condition to the section 36 consent and relevant associated marine licences and agreed the wording with Defra officials.

8.6.1.9 Full details of the Scottish Ministers’ considerations can be found in the Derogation Case (Annex D). The Seabird Compensation Plan will be made available on Marine Scotland Information, should this be approved by the Scottish Ministers.

8.6.1.10 The Scottish Ministers consider that, having taken into account the information provided by the Developer and the responses of the consultation bodies, there are no outstanding concerns in relation to the impact of the Development alone or in combination with other plans and projects on birds, marine mammals and European sites which would require consent to be withheld.

8.6.2 *Commercial fisheries*

8.6.2.1 Effects on commercial fisheries were identified in the EIA Report as being of negligible or minor/tolerable adverse significance by the Developer during all phases of the Development.

8.6.2.2 In response to the Original Consultation, SFF objected to the Application and raised concerns around the methodology used to project the rate of bird mortality in comparison to the impact on the fishing industry. It also holds the view that the Application does not give the same consideration to fisheries policies compared to renewable policies within the NMP.

8.6.2.3 SFF advised that there was a lack of information in the Application on cable burial, protection, and monitoring. It stated that there is a need for further clarity on restricted access, long-term access, displacement, co-existence, safety, snagging and over-trawl trials.

8.6.2.4 The Scottish Ministers have taken into account the terms of the NMP in relation to the SFF’s concerns, alongside advice from MD-SEDD. In consideration of the representation received, a number of conditions have been attached to the s.36 consent and the relevant associated marine licences to require a FMMS, CaP, DSLP, VMP and Seabed Obstruction Mitigation Plan to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. In particular, the FMMS must include a strategy for communicating with fishers; assessment of impact on affected commercial fisheries in socio-economic terms and in terms of environmental sustainability; mitigation; and monitoring. The FMMS must be defined and

finalised in consultation with the Forth and Tay Commercial Fisheries Working Group. The CaP must include a Cable Burial Risk Assessment to ascertain burial depths and where necessary alternative protection measures; methodologies and timetable for post-construction and operational surveys of the cables and the cable protection through its operational life; and measures to address and report to the Scottish Ministers any exposure of cables or risk to users of the sea from cables. The Seabed Obstruction Mitigation Plan must demonstrate how any risks to legitimate users of the sea identified from the post-lay surveys and operational surveys described in the CaP will be reduced. A condition requiring a FLO to be appointed to establish and maintain effective communications between the Developer, its contractors and sub-contractors, and fishermen and other users of the sea during construction of the Development, and a condition requiring the Developer to participate in the Forth and Tay Commercial Fisheries Working Group to facilitate commercial fisheries dialogue have also been attached to the s.36 consent and the relevant associated marine licences.

- 8.6.2.5 The Scottish Ministers consider that, having taken into account the information provided by the Developer, the responses of the consultation bodies, and having regard to the conditions attached to the s.36 consent and the relevant associated marine licences, there are no outstanding concerns in relation to the impact of the Development on commercial fisheries which would require a consent to be withheld.

8.6.3 *Seascape, landscape and visual resources*

- 8.6.3.1 The EIA Report concluded that there would be significant daytime effects on two of the twelve coastal character areas within the study area being the Torness Point to St Abb's Head and St Abb's Head to Eyemouth. The EIA Report also predicted that within these coastal character areas, the Thorntonloch to Dunglass SLA and St Abb's Head to Eyemouth SLA would receive significant effects. The EIA Report predicted that four of the 23 viewpoints assessed within the SLVIA would have significant daytime effects from the proposed Development, and one with significant night time effects. The EIA Report also predicts significant effects for recreational users of the Berwickshire Coastal Path between Dowlaw to St Abb's and St Abb's to Eyemouth. Eyemouth and St Abb's are identified as settlements where viewers would be likely to receive a significant visual effect.
- 8.6.3.2 Within the Tier 1 cumulative assessment it was predicted that the main tier 1 cumulative effect is likely to occur in views experienced by walkers along a short section of the John Muir Way between Torness and Chapel Point, and visitors to Skateraw Harbour where the construction of the landfall will be visible at close range in combination with the construction of the Development and the construction of the onshore substation in inland views, which are assessed to be significant (major/moderate), although temporary during construction.

- 8.6.3.3 NTS objected to the Application due to the impacts on Scotland's natural and cultural heritage, including landscape, coastal character and coastal communities.
- 8.6.3.4 NTS raised concerns regarding visual impacts from the Development on St Abb's Head National Nature Reserve and the Berwickshire Coast SLA and believed visual impacts from the Development will detract from the value of St Abb's Head's geological features. NTS also raised concerns that the impacts on seascape from the Development contradict the SLA designation which cites the 'open seascape, the naturalness and elemental feel of the marine environment'. In addition, NTS disagreed with the conclusions of the cumulative assessment regarding seascape and raised concerns about the cumulative visual impact of the Development, changing the flat seascape to a windfarm landscape.
- 8.6.3.5 LINK Group objected to the Application due, in part, to the scale of impact on landscape. LINK Group considered that the NatureScot 2017 Guidance on windfarm siting was not followed in the landscape assessment within the Application. LINK Group were concerned the cumulative impact on the seascape of the Firth of Forth would be significant and suggested the proposal fails to meet GEN 7 of the NMP. LINK Group believe that an alternative site in deeper water where the landscape impact is lesser would be more appropriate.
- 8.6.3.6 NatureScot agreed with the assessment of significant landscape and visual effects and advised that there would be significant adverse effects on coastal and visual receptors during the day and night within the area between Fast Castle and St Abb's Head. NatureScot advised that the impacts would be concentrated to approximately 20km of coastline including the coastal edge of both Berwickshire Coast SLA and Thorntonloch to Dunglass Coast SLA. NatureScot agreed with the implementation of a Lighting and Marking Plan to mitigate the effects on the Berwickshire Coast SLA and associated visual night time impact, and wished to have further discussions with the Developer to explore the final layout to potentially reduce the significant and adverse effects.
- 8.6.3.7 Angus Council responded to the Original Consultation and had no objection to the proposed Development however, was concerned that only one in depth viewpoint had been provided from Angus to Montrose, and that there was a lack of information provided on the Seaton Cliff's viewpoint. Despite this, Angus Council acknowledged that the alignment of the proposed turbines in rows approximately north-west to south-east helps to lessen the impact from Angus which is a favourable approach and that impacts were unlikely to be unacceptable.
- 8.6.3.8 East Lothian Council raised concerns that the appearance of the wind turbines from the Development will have significant visual and seascape impacts on East Lothian during good visibility in the day time, at dawn/dusk and at night, and disagreed that these impacts would be reversible given the

long term nature. It requested that conditions are attached to minimise impact from lighting on East Lothian.

- 8.6.3.9 The Scottish Borders Council raised concerns regarding the visual impacts from key viewpoints and stated that there would be significant impacts for sensitive receptors associated with the coastal landscape. The Scottish Borders Council highlighted that the Development will produce red coloured aviation lighting to the area and proposed that removal of the two closest lines of turbines to the Scottish Borders coastline could reduce the visual impacts and the impact of red coloured lighting in the area. Scottish Borders Council requested that a condition is attached which requires lighting visible from land to be kept to the minimum required, and that the provision of lighting is kept under regular review.
- 8.6.3.10 In consideration of the representations received regarding seascape, landscape and visual resources, conditions have been attached to the s.36 consent and the relevant associated marine licences to require a DSLP, DS and LMP to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. The DSLP confirms the final Development specification and layout, and the DS must include representative day and night wind farm visualisations from key viewpoints, based upon the final DSLP, and signed off by at least one qualified landscape architect. The LMP must include lighting and marking requirements for the construction phase and operational phase of the Development.
- 8.6.3.11 The Scottish Ministers consider that, having taken into account the information provided by the Developer, the responses of the consultation bodies and having regard to the conditions attached to the s.36 consent and the relevant associated marine licences, there are no outstanding concerns in relation to the impact of the Development on seascape, landscape and visual resources which would require consent to be withheld.

8.6.4 *Aviation and Military*

- 8.6.4.1 The EIA Report concluded that the Development would have major significant effects on aviation and military. The EIA Report identified that the Development would have major significant effects on the MOD Brizlee Wood ADR; the MOD Buchan ADR; the MOD Leuchars Station ATC radar; the MOD Spadeadam Deadwater Fell ATC radar; the NERL Allanshill ATC radar; and NERL Perwinnes ATC radar. The EIA Report concluded that these effects will be reduced to negligible (and non-significant in EIA terms), by mitigation solutions implemented by NERL and the MOD.
- 8.6.4.2 The MOD initially objected to the Application on the basis that the Development would have a detrimental impact on the effective operation and capability of ADRs deployed at RRH Brizlee Wood and RRH Buchan, and a detrimental impact on the effective operation and capability of ATC radar at Leuchars Station as the Development will be in proximity to these sites making the WTGs detectable and causing interference.

- 8.6.4.3 The MOD also raised concerns that the Development falls within Low Flying Areas 14 and 16, and the WTGs would cause a physical obstruction to low flying aircraft operating in the area.
- 8.6.5 The MOD later confirmed that its objection could be removed subject to the imposition of planning conditions.
- 8.6.6 NERL noted that it was pleased that the Developer recognised the risk to NERL's operation and that it had been working with the Developer to identify risks and begin exploring mitigation operations. NERL later noted that Development does not conflict with its safeguarding criteria and has no objection to the proposal.
- 8.6.6.1 In consideration of the representations received from the MOD and NERL, conditions have been attached to the s.36 consent and the relevant associated marine licences to require an ADR Mitigation Scheme, ATC Scheme, PRMS and LMP to be submitted by the Developer for approval by the Scottish Ministers prior to the Commencement of the Development and thereafter adhered to. Such approval may only be granted following consultation with the MOD and NERL. The ADR Mitigation Scheme is a detailed scheme to mitigate the adverse impacts of the Development on the ADR at RRH Brizlee Wood and RRH Buchan and the air surveillance and control operations of the MOD, and requires consultation with the MOD. The ATC Scheme is a scheme designed to mitigate the impact of the Development upon the operation of the Primary Surveillance Radar at Leuchars Station ("the Radar") and the ATC operations of the MOD which is reliant upon the Radar, and required consultation with the MOD. The PRMS is to mitigate the adverse impacts of the Development on the Allanshill and Perwinnes radar and associated ATC operations. The LMP must provide that the Development be lit and marked in accordance with the current CAA aviation lighting requirements and MOD aviation lighting requirements, and requires consultation with CAA, NERL and MOD. The Scottish Ministers consider that, having taken into account the information provided by the Developer, the representations of the consultation bodies, and having regard to the conditions attached to the s.36 consent and the relevant associated marine licences, there are no outstanding concerns in relation to the impact of the Development on aviation and defence which would require consent to be withheld.
- 8.7 The Nature Conservation (Scotland) Act 2004
- 8.7.1 The Nature Conservation (Scotland) Act 2004 ("the 2004 Act") makes it the duty of all public bodies in Scotland, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions.
- 8.7.2 In complying with this duty public bodies must have regard to any strategy designated as the Scottish Biodiversity Strategy. The relevant strategy in this case is Scottish Government's Scottish Biodiversity Strategy to 2045: Tackling the Nature Emergency in Scotland (published November 2024) ("the

SBS"). This replaces the previous strategy "Scotland's Biodiversity: It's in your hands" 2004 and the associated "2020 Challenge for Scotland's Biodiversity supplement". The SBS sets out the need to act decisively to address the twin crises of biodiversity loss and climate change together and how Scottish Government will protect and regenerate biodiversity across the country by 2045.

8.7.3 Under the 2004 Act, public bodies must also have regard to the United Nations Environmental Programme Convention on Biological Diversity of 5 June 1992 as amended from time to time (or any United Nations Convention replacing that Convention) ("the CBD"). Article 14(1)(a) which requires each contracting party, as far as possible and appropriate to, "introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures".

8.7.4 The Scottish Ministers have had regard to the SBS and the CBD in the exercising of their functions in the determination of the Developer's s.36 consent Application. The Developer was required to undertake EIA and provide information to inform HRA to support its Application. Following review of the EIA Report and representations received during consultation referred to in Section 3 of this decision notice, the Development has been identified to result in some significant environmental effects with implications for biodiversity. However, conditions requiring the Developer to mitigate its environmental impacts have been placed on the consent, including but not limited to an EMP, VMP, CMS, PS and adherence, where appropriate, to the Scottish Marine Wildlife Watching Code, alongside measures which the Developer has committed to in its EIA Report. In relation to adverse effects identified through HRA, a condition has been placed on the s.36 consent and the relevant associated marine licences such that Development cannot commence until the Developer has demonstrated that sufficient compensation will be put in place to compensate for the impacts identified in the AA. Furthermore, the Scottish Ministers recognise the contribution the Development will make to the delivery of renewable electricity generation and transmission in responding to climate change.

8.8 The Marine Strategy Regulations 2010

8.8.1 The Marine Strategy Regulations 2010 provide a comprehensive framework and obligation for the four UK administrations to take a coordinated approach to assess, monitor and take action to achieve or maintain Good Environmental Status ("GES") in UK waters. The UK Marine Strategy consists of a three part framework for achieving GES in our seas, the most recent iteration of which comprises: Marine Strategy Part One: UK updated assessment and Good Environmental Status (2019); Marine Strategy Part Two: UK updated monitoring programmes; and Marine Strategy Part Three: 2025 UK programme of measures. The UK Marine Strategy recognises that offshore wind will play a pivotal role in the UK's clean energy mission and the UK government and devolved governments are considering or have under

development programmes to explore and develop mechanisms to enable delivery of the government's offshore wind ambition while still protecting the marine environment.

- 8.8.2 The Scottish Ministers have had regard to the UK Marine Strategy when assessing the Application. Environmental impacts, including impacts to protected sites, have been assessed through Environmental Impact Assessment and Habitats Regulations Appraisal. Significant impacts identified to European sites and bird and marine mammal impacts have been addressed as discussed in paragraphs 8.6.1.1 to 8.6.1.8, including mitigation and compensation through consent and licence conditions, and the decision taken in accordance with the NMP. Relevant aspects of the programme of measures have been carried forward and taken into consideration in the decision-making process.

9. The Scottish Ministers' Determination and Reasoned Conclusion

- 9.1 The Scottish Ministers are satisfied that an EIA has been carried out, and that the applicable procedures regarding publicity and consultation in respect of the applications have been followed.
- 9.2 The Scottish Ministers have weighed the impacts of the Development, and the degree to which these can be mitigated, against the economic and renewable energy benefits which would be realised. The Scottish Ministers have undertaken this exercise in the context of relevant policies.
- 9.3 The Scottish Ministers have considered the extent to which the Development accords with and is supported by relevant Scottish and UK Government policy and plans (described in section 8.4); the Climate Change (Scotland) Act 2009; the Nature Conservation (Scotland) Act 2004; the Marine Strategy Regulations 2010; and the environmental impacts of the Development. In particular, the Scottish Ministers have considered the impacts on marine mammals and seabirds including impacts on European sites and European offshore marine sites; commercial fisheries; seascape, landscape and visual resources; and aviation and military.
- 9.4 The Scottish Ministers are satisfied that the environmental issues associated with the Development have been appropriately addressed by way of the design of the Development and mitigation measures. In particular, the Scottish Ministers are satisfied that the Development will not adversely affect the integrity of Berwickshire and North Northumberland Coast SAC, Firth of Tay and Eden Estuary SAC, Isle of May SAC, Moray Firth SAC, Southern North Sea SAC, Cameron Reservoir SPA, Copinsay SPA, Coquet Island SPA, Din Moss – Hoselaw Loch SPA, Fair Isle SPA, Fala Flow SPA, Fetlar SPA, Firth of Forth SPA, Firth of Tay and Eden Estuary SPA, Foula SPA, Gladhouse Reservoir SPA, Greenlaw Moor SPA, Holburn Lake and Moss SPA, Hoy SPA, Loch Leven SPA, Loch of Kinnordy SPA, Lindisfarne SPA, Montrose Basin SPA, North Rona and Sula Sgeir SPA, Northumbria Coast SPA, Noss SPA, Slamannan Plateau SPA, South Tayside Goose Roosts SPA, Sule Skerry and Sule Stack SPA, Ythan Estuary, Sands of Forvie and

Meikle Loch SPA and Westwater SPA. For sites/species where the Scottish Ministers were unable to conclude no AEOSI, the Scottish Ministers are satisfied that the requirements of the derogations provisions in the Habitats Regulations have been met and a condition added to the s.36 consent and the relevant associated marine licences to ensure that satisfactory and sufficient compensatory measures are approved by Scottish Ministers before the commencement of the Development. In reaching this conclusion, the Scottish Ministers consider that the legislative reforms to be progressed under the Energy Act 2023 in relation to habitats compensatory measures will have a material impact on the nature of compensatory obligations on the Scottish Ministers and how these obligations may be fulfilled.

9.5 In their consideration of the environmental impacts of the Development, the Scottish Ministers have identified conditions to be attached to the s.36 consent to reduce and monitor environmental impacts (these conditions are outlined in Annex 2). These include development of, and adherence to, the mitigation measures outlined in the Developer's EIA Report and the submission of:

- Air Defence Radar Mitigation Scheme;
- Air Traffic Control Radar Mitigation Scheme;
- Cable Plan;
- Construction Method Statement;
- Construction Programme;
- Construction Traffic Management Plan;
- Decommissioning Programme;
- Design Statement;
- Development Specification and Layout Plan;
- Environmental Management Plan, including a Marine Pollution Contingency Plan;
- Fisheries Management and Mitigation Strategy;
- Lighting and Marking Plan;
- Navigational Safety Plan;
- OFFSAB Monitoring Plan;
- Operation and Maintenance Programme;
- Piling Strategy;
- Primary Radar Mitigation Scheme;
- Project Environmental Monitoring Plan;
- Seabed Obstruction Mitigation Plan;
- Seabird Compensation Plan;

- Vessel Management Plan; and
- Written Scheme of Investigation and Protocol for Archaeological Discovery.

- 9.6 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 of the Electricity Act 1989 and the extent to which the Developer has complied with its duty under paragraph 3(1)(b). The Scottish Ministers consider that the Developer has done what it reasonably can to mitigate the effects of the Development on the matters mentioned in paragraph 3(1)(a). The Scottish Ministers are satisfied, as required by paragraph 3(3) of Schedule 9, that the Developer shall avoid, so far as possible, causing injuries to fisheries or to the stock of fish in any waters, as will the Scottish Ministers in the exercise of its relevant functions. The Scottish Ministers are content that the requirements of paragraph 3 of Schedule 9 are satisfied.
- 9.7 Under section 36B of the Electricity Act 1989, the Scottish Ministers may not grant a consent in relation to any particular offshore generating activities if they consider that interference with the use of recognised sea lanes, essential to international navigation is likely to be caused by the carrying on of those activities or is likely to result from their having been carried on. The Scottish Ministers, when determining whether to give consent for any particular offshore generating activities, and considering the conditions to be included in such consent, must have regard to the extent and nature of any obstruction of or danger to navigation which, without amounting to interference with the use of such sea lanes, is likely to be caused by the carrying on of the activities, or is likely to result from their having been carried on. In determining this consent, the Scottish Ministers must have regard to the likely overall effect (both whilst being carried on and subsequently) of the activities in question and such other offshore generating activities which are either already the subject of s.36 consent or activities from which it appears likely that such consents will be granted. In this regard, the Scottish Ministers are satisfied that appropriate consultation was carried out on the applications. Representations were received from MCA and NLB. No concerns were raised on the premise of the Developer meeting the requirements set out in the representations and requested conditions being attached to the s.36 consent and the relevant associated marine licences. This Scottish Ministers have concluded that the Developer has had regard to the potential interference with recognised sea lanes essential to international and national navigation and has discharged its responsibilities in terms of section 36B to the Electricity Act 1989.
- 9.8 The 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 valid.
- 9.9 The Scottish Ministers grant consent, subject to conditions set out in Annex 2, under s.36 of the Electricity Act 1989 for the construction and operation of the Development (as described in Annex 1).

- 9.10 The embedded mitigation and any additional mitigation identified in the EIA Report has been incorporated into the conditions of the s.36 consent. The conditions also capture monitoring measures required under Regulation 22 of the 2017 EW Regulations.
- 9.11 In accordance with the 2017 EW Regulations, the Developer must publicise notice of this determination, and how 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 applications relate or such newspaper as is likely to come to the attention of those likely to be affected by the Development. The Developer must provide copies of the public notices to the Scottish Ministers.
- 9.12 Copies of this decision notice have been sent to the public bodies consulted on the applications, including the planning authorities, NatureScot, Natural England, SEPA and HES. This decision notice has also been published on the [Marine Scotland Information](#) website.

Yours sincerely,

[redacted]

A member of the staff of the Scottish Ministers

31 July 2025

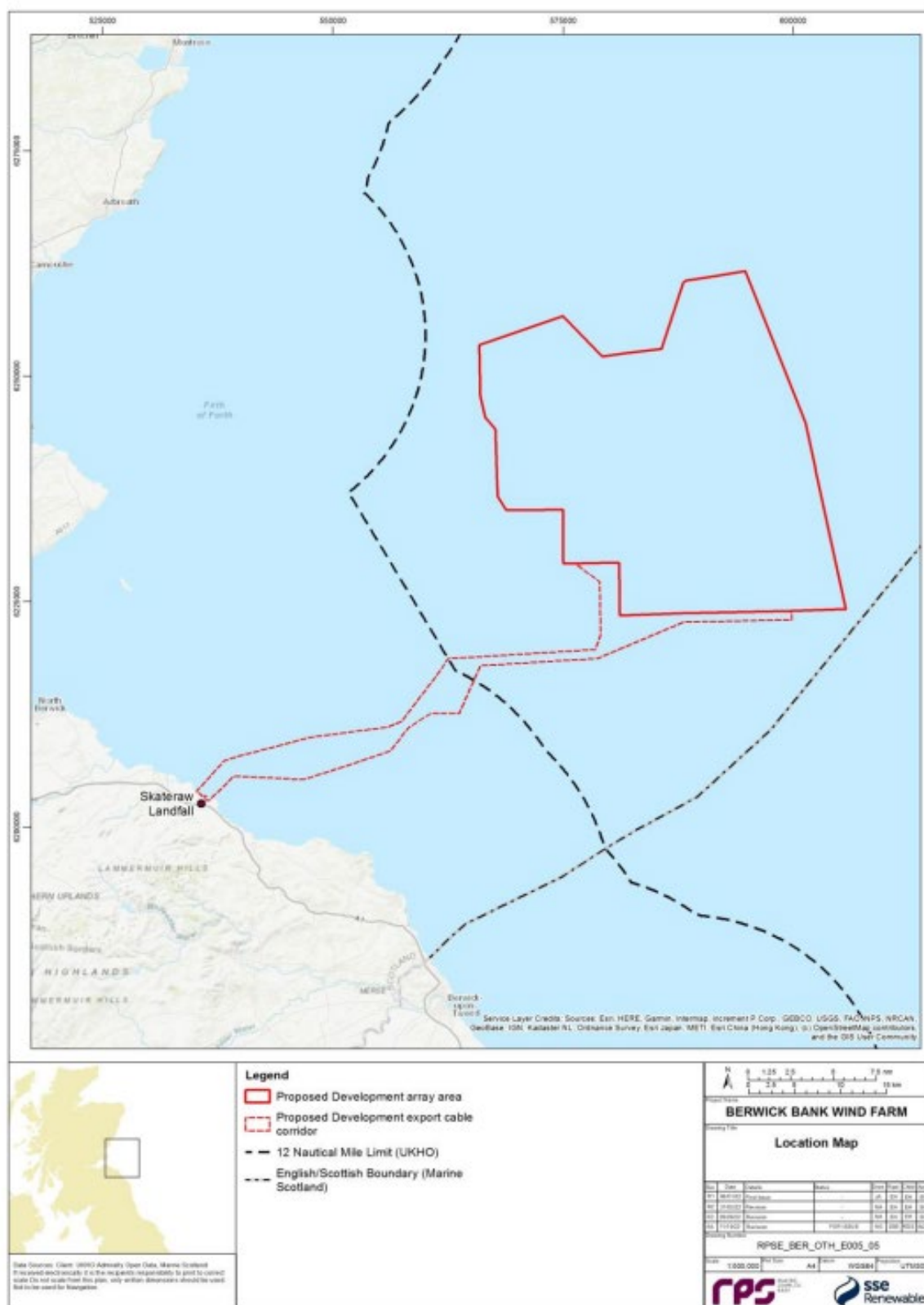
Annex 1 – DESCRIPTION OF THE DEVELOPMENT

The Application is for the construction and operation of an offshore energy generating station which shall comprise:

1. No more than 307 three-bladed horizontal axis Wind Turbine Generators (“WTG”) each with:
 - a. A maximum hub height of 200 metres (“m”) (measured from above Lowest Astronomical Tide (“LAT”))
 - b. A minimum blade tip height of 37m (measured from above LAT)
 - c. A maximum blade tip height of 355m (measured from above LAT)
 - d. A maximum rotor diameter for smallest wind turbine option of 222m
 - e. A maximum rotor diameter of 310m
 - f. A minimum wind turbine spacing of 1,000m
 - g. A maximum wind turbine spacing of 4,650m
1. A maximum of 1,225 kilometres of inter-array cable.
2. Up to 307 WTG foundations and substructures (steel lattice jacket towers with pin piles or suction caissons), and associated fixtures, fittings and protections.
3. Scour and inter-array cable protection.

and, except to the extent modified by the foregoing, all as described in the Application and by the conditions imposed by the Scottish Ministers. References to “the Development” in this consent shall be construed accordingly.

Figure 1: Development location (Source: [Berwick Bank Wind Farm Environmental Impact Assessment Report: Volume 1, Chapter 1: Introduction](#))



ANNEX 2 – SECTION 36 CONSENT CONDITIONS

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

1. Duration of the Consent

The consent is for a period of 35 years from the date of Final Commissioning of the Development.

Written confirmation of the date of First Commissioning of the Development must be provided by the Developer to the Scottish Ministers and to Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders Council and Northumberland County Council no later than one calendar month after this date.

Reason: To define the duration of the consent

2. Commencement of the 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 Developer must provide written confirmation of the intended date of Commencement of the Development to the Scottish Ministers and Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders Council and Northumberland County 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 the Development until a Decommissioning Programme ("DP"), submitted in accordance with a section 105 notice served by the appropriate Minister, has been approved under section 106 of the Energy Act 2004 by 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 cannot be assigned, alienated or transferred otherwise than in accordance with the assignation procedure as directed by Scottish Ministers.

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

5. Redundant Wind Turbine Generators

If any wind turbine generator (“WTG”) fails to generate electricity for a continuous period of 12 months, then, unless otherwise agreed in writing by the Scottish Ministers, the Developer must: (i) by no later than the date of expiration of the 12 month period, submit a scheme to the Scottish Ministers setting out the manner in which that WTG and associated infrastructure will be removed from the site and the seabed 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 should a WTG become redundant, it is removed from the site, in the interests of safety, amenity and environmental protection.*

6. Incident Reporting

The Developer must provide written notification of any serious unforeseen incident of harm to the environment or human health, or any serious unforeseen incident of interference with legitimate uses of the sea during the lifetime of the Development, to the Scottish Ministers within 24 hours of the incident occurring.

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, the Environmental Impact Assessment Report submitted by the Developer on 9 December 2022, the Addendum of Additional Information submitted by the Developer on 4 August 2023, and any other documentation and information provided by the Developer in support of the Application.

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

8. Submission and approval of plans, programmes and schemes

The Developer must submit the requested plans, programmes and schemes, as detailed in the conditions, 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 these conditions or as may be required at the discretion of the Scottish Ministers.

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

The Development must, at all times, be constructed and operated in accordance with the approved plans, programmes and schemes.

Reason: To ensure that the Development is constructed and operated in accordance with the approved details.

9. Compliance with this consent

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

Reason: To ensure that the Development is constructed and operated in accordance with the approved details.

10. Forth and Tay Regional Advisory Group

The Developer 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. The extent and nature of the Developer'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.

11. Construction Programme

The Developer 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. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, Maritime and Coastguard Agency ("MCA"), Northern Lighthouse Board ("NLB"), EDF Energy Nuclear

Generation Limited 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 the 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;
- 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 Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders Council and Northumberland County Council for information only.

Reason: To confirm the timing and programming of construction.

12. Construction Method Statement

The Developer 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 NatureScot, MCA, NLB and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The CMS must include:

- a) The construction procedures and good working practices for construction of 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;
- d) Details of how the construction methods, including timing and duration, have considered key migration periods for diadromous fish; and
- e) Details of how the construction methods have considered habitat disturbance and loss and sediment release.

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 DS, the EMP, the VMP, the NSP, the PS, the CaP and the LMP.

The final CMS must be sent to Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders Council and Northumberland County 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*

13. Development Specification and Layout Plan

The Developer 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, NatureScot, Chamber of Shipping (“CoS”) the Ministry of Defence (“MOD”), Civil Aviation Authority (“CAA”), NATS (En Route) PLC, Scottish Fishermen’s Federation (“SFF”), Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders Council, Northumberland County Council, Historic Environment Scotland and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The DSLPL must include:

- 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;
- b) Details of any key environmental constraints recorded on the site for example designated sites, priority marine features, archaeological exclusion zones, areas of archaeological potential;
- c) A list of latitude and longitude co-ordinates accurate to three decimal places of minutes of arc for the centre point of the proposed location for each WTG. This should also be provided as a GIS shape file using WGS84 format;
- d) A table or diagram of each WTG dimensions including: height to blade tip (measured above LAT) to the highest point, height to hub (measured above LAT to the centreline of the generator shaft), rotor diameter and maximum rotation speed;
- e) The generating output of each WTG used on the site (see Annex 1) and a confirmed generating output for the site overall;
- f) The finishes for each WTG (see condition 21 on WTG lighting and marking);
- g) The length and proposed arrangements on or above the seabed of all inter-array cables; and
- h) Details of any cable and scour protection.

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

14. Design Statement

The Developer 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 Developer prior to submission to the Scottish Ministers, must include representative day and night wind farm visualisations from key viewpoints as agreed with the Scottish Ministers, based upon the final DSLP as approved by the Scottish Ministers as updated or amended.

The Developer must provide the DS, for information only, to Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders Council and Northumberland County Council, NatureScot, MCA and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

Reason: *To inform interested parties of the final wind farm scheme proposed to be built.*

15. Environmental Management Plan

The Developer 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 NatureScot and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The EMP must provide the overarching framework for on-site environmental management for the duration of this consent which includes the construction and operation of Development:

- a) All construction as required to be undertaken before the Final Commissioning of the Development; and
- b) The period of time commencing with the Final Commissioning of the Development until cessation of the electricity generation (environmental management during decommissioning is addressed by the DP provided for by condition 3).

The EMP must be in accordance with the Application insofar as it related to environmental management measures. The EMP must set out the roles, responsibilities and chain of command for the Developer 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 the following overarching 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 12);
- b) Marine Pollution Contingency Plan;
- 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 Developer in consultation with the FTRAG at intervals agreed by the Scottish Ministers. Reviews must include 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.*

16. Monitoring within the Outer Firth of Forth and St Andrews Bay Complex Special Protection Area

If the Developer intends to route vessel traffic within the Outer Firth of Forth and St Andrews Bay Complex Special Protection Area ("OFFSAB"), the Developer must, prior to the commencement of construction, undertake pre-construction monitoring within the OFFSAB for common scoter, velvet scoter, eider, long-tailed duck, goldeneye, red-breasted merganser, red-throated diver, Slavonian grebe and shag to understand species distributions, populations and locations of moulting birds.

The Developer must submit a monitoring plan for the OFFSAB ("OFFSAB Monitoring Plan"), in writing, to the Scottish Ministers for their written approval. Monitoring cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The OFFSAB Monitoring Plan must include the following:

- a) A detailed description of the monitoring to be undertaken;
- b) Timescales for monitoring results to be submitted to the Scottish Ministers; and
- c) Details of how the monitoring results will be used to inform spatial and/or seasonal mitigation requirements to be set out in the Vessel Management Plan ("VMP") depending on selection of port(s) and vessel transit routes.

The Developer must ensure that the results of the OFFSAB monitoring are available no later than six months prior to the commencement of the Development to inform the mitigation measures set out in the VMP. The Development shall only be commenced where the Scottish Ministers have confirmed to the Developer that the monitoring requirements have been met and that the mitigation measures to be taken are satisfactory.

Reason: *To understand and inform the mitigation measures required to avoid an adverse effect on the Outer Firth of Forth and St Andrews Bay Complex Special Protection Area.*

17. Vessel Management Plan

The Developer 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. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, MCA, SFF, RYA, CoS and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

The VMP must include 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; and
- c) Location of working port(s), the routes of passage (including lie up and sheltering areas), 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.

If the Developer intends to route vessel traffic within the OFFSAB, the VMP must be informed by the results of monitoring as set out in the approved OFFSAB Monitoring Plan described in condition 16 and must include spatial and/or seasonal mitigation depending on selection of ports and vessel transit routes.

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 should refer to the Scottish Marine Wildlife Watching Code and Guide to Best Practice for Watching Marine Wildlife for guidance on how vessels should behave around aggregations of birds on the water.

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

Reason: To mitigate the impact of vessels.

18. Operation and Maintenance Programme

The Developer must, no later than three months prior to the Commissioning of the first WTG, submit an OMP, in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot 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.

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

19. Navigational Safety Plan

The Developer 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. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with MCA, NLB, RYA, SFF, CoS, MOD and any other navigational advisors or organisations as may be required at the discretion of the Scottish Ministers.

The NSP must include, the following issues:

- a) Navigational safety measures;
- b) Safety zones;

- c) Notice(s) to mariners and radio navigation warnings;
- d) Anchoring areas;
- e) Temporary construction lighting and marking;
- f) Buoyage;
- g) Post-construction monitoring;
- h) surveys or monitoring required, including timing and reporting

The Developer must confirm that they have taken into account and adequately addressed all of the recommendations of the MCA in the current Marine Guidance Note ("MGN") 654, 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.

20. Inter-Array Cable Plan

The Developer must, no later than six months prior to the Commencement of the Development, submit an Inter-Array Cable Plan ("CaP"), in writing, to the Scottish Ministers for their written approval. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, MCA, SFF 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, 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 inter array cable routing;
- c) Technical specification of the cables, including a desk based assessment of attenuation of electromagnetic field strengths and shielding;
- d) A Cable Burial Risk Assessment, to ascertain burial depths and where necessary alternative protection measures;
- e) Methods to be used to mitigate the effects of EMF on diadromous fish;
- f) Methods and timetable for post-construction and operational surveys (including inspection, post-lay) of the cables and any cable protection through its operational life. This must include measures, to be undertaken by the licensee, to survey for and identify risks to legitimate users of the sea including areas where physical cable protection is not within the parameters of those approved and where cable installation has created seabed obstructions. The findings of such surveys must be provided to the Licensing Authority in the Seabed Obstruction Mitigation Plan as required by condition 33; and

- g) Measures to address and report to the Scottish Ministers any exposure of cables or risk to users of the sea from cables.

Any licensed cable protection 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.

The CaP must, so far as is reasonably practicable, be consistent with the DSLP.

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

21. Lighting and Marking Plan

The Developer 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. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, MCA, NLB, CAA, NATS (En Route) PLC, MOD, East Lothian Council, Scottish Borders 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 aviation lighting requirements, MOD aviation lighting requirements and guidance, NLB aids to navigation requirements and guidance and MCA navigation and Search and Rescue requirements that are in place as at the date of the Scottish Ministers approval of the LMP. The LMP must include lighting and marking requirements for the construction phase and operational phase of the Development.

With regards to aviation lighting, the LMP must include, but not be limited to:

- a) Details of any construction equipment and temporal structures with a height of 50m or greater (above mean sea level ("MSL")) that will be used during the construction the Development, and details of any aviation warning lighting that they will be fitted with, specifying the position of the lights; the type(s) of lights that will be fitted; and the performance specification(s) of those lights;
- b) Details of any floating structures with a height of 50m or greater (above MSL) specifying the position of any lights; the type(s) of lights that will be fitted; and the performance specification(s) of those lights for all stages of marine transit or storage, or whilst moored prior to final construction;
- c) Details of any permanent structures with a height of 50m or greater (above MSL), providing their locations and heights, and identifying those that will be fitted with aviation warning lighting, specifying the position of the lights; the

type(s) of lights that will be fitted; and the performance specification(s) of those lights.

The Developer must display all lighting and marking and aids to navigation as set out in the approved LMP. Where fitted to permanent structures, the approved lighting and marking and aids to navigation must remain operational for the lifetime of the Development.

The Developer must update the LMP on the request of the Scottish Ministers, in the timescales set out by the Scottish Ministers. Any updates or amendments made to the LMP must be submitted, 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 these conditions or as may be required at the discretion of the Scottish Ministers.

Reason: To ensure marine navigational and aviation safety and the safe marking and lighting of the Development

22. Air Defence Radar Mitigation Scheme

No WTG forming part of the Development is permitted to rotate its rotor blades on its horizontal axis until Scottish Ministers, having consulted with the MOD, confirms satisfaction in writing that appropriate mitigation will be implemented and maintained for the life of the authorised development and that arrangements have been put in place with the MOD to ensure that the approved mitigation is implemented.

For the purposes of this condition —

- a) “appropriate mitigation” means measures to prevent or remove any adverse effects which the authorised development will have on the air defence radars at Remote Radar Head (“RRH”) Buchan and RRH Brizlee Wood, and the MOD’s air surveillance and control operations;
- b) “approved mitigation” means the detailed Radar Mitigation Scheme that will set out the appropriate measures and timescales for implementation as agreed with the MOD at the time Scottish Ministers confirms satisfaction in writing in accordance with this condition;

The Developer must thereafter comply with all other obligations contained within the approved mitigation for the lifetime of the Development.

Reason: To mitigate the adverse impacts of the Development on the Air Defence Remote Radar Head Brizlee Wood and Remote Radar Head Buchan.

23. Primary Radar Mitigation Scheme

No part of any WTG is to be erected above mean sea level until a Primary Radar Mitigation Scheme (“PRMS”) has been submitted to and approved in writing by the Scottish Ministers following consultation with NATS (En Route) PLC (“NERL”).

Commencement of the Development cannot take place until such approval is granted.

No blades is to be fitted to any WTG until the technical mitigation measures set out in the approved PRMS have been implemented in accordance with its terms and the Development must thereafter be operated fully in accordance with such approved PRMS.

Reason: To mitigate the adverse impacts of the Development on the Allanshill and Perwinnes radar and associated air traffic control operations.

24. Air Traffic Control Radar Mitigation Scheme

No WTG is to be erected unless and until an Air Traffic Control Radar Mitigation Scheme ("ATCRMS") to address the impact of the WTGs upon air safety has been submitted to and approved in writing by Scottish Ministers in consultation with the MOD.

The ATCRMS is a scheme designed to mitigate the impact of the Development upon the operation of the Air Traffic Control Radar System(s) used by Leuchars Station ("the Radar") and the air traffic control operations of the MOD which are reliant upon the Radar. The ATCRMS 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 lifetime of the Development provided the Radar remains in operation.

The Development must be implemented strictly in accordance with the details set out in the approved ATCRMS.

No WTG erected as part of the Development is permitted to rotate its rotor blades about its horizontal axis, unless and until all those measures required by the approved ATCRMS to be implemented prior to the operation of the WTGs, have been implemented, and the Scottish Ministers have, following consultation with the MOD, confirmed this in writing.

Thereafter the Development must be operated strictly in accordance with the details set out in the approved ATCRMS for the lifetime of the Development

Reason: To mitigate the adverse impacts of the Development on the air traffic control radar at Leuchars Station and the operations of the MOD.

25. Project Environmental Monitoring Plan

The Developer must, no later than six months prior to the Commencement of the Development, submit a Project Environmental Monitoring Plan ("PEMP"), in writing, to the Scottish Ministers for their written approval. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot,

RSPB Scotland and the FTRAG 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 Developer 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 and operational phases.

The Scottish Ministers must approve all initial methodologies for the monitoring, in writing and, where appropriate, in consultation with NatureScot, the FTRAG and any other environmental advisors or organisations as required at the discretion of the Scottish Ministers.

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 Developer to undertake additional monitoring.

The PEMP must cover 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. Fish and Shellfish;
 - 4. Diadromous fish;
 - 5. Physical Processes; and
 - 6. Benthic communities;
- b) The Developer's contribution to data collection or monitoring, as identified and agreed by the Scottish Ministers.

In relation to EMF, the Developer must monitor and provide a report on the EMF produced by the Development to the Scottish Ministers. The Developer must agree the methodologies and timescales for monitoring with the Scottish Ministers prior to the Commencement of the Development. Any agreement must be adhered to unless otherwise agreed and approved 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 Developer 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 Scottish Ministers may require the Developer 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 NatureScot, the FTRAG and any other environmental advisers, or such other advisors as may be required at the discretion of the Scottish Ministers.

The Developer 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 Scottish Ministers, or any such other party appointed at the Scottish Ministers discretion, may make the results publicly available.

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

Should any advisory groups be established for advice from stakeholders, the Developer must participate as directed by the Scottish Ministers

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

26. Fisheries Management and Mitigation Strategy

The Developer must submit a Fisheries Management and Mitigation Strategy (“FMMS”), in writing, to the Scottish Ministers for their written approval no later than six months prior to the Commencement of the Development. 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”).

The FMMS must include:

- a) a strategy for communicating with fishers;
- b) an assessment of the impact of the Development on the affected commercial fisheries, both in socio-economic terms and in terms of environmental sustainability;

- c) a description of measures to mitigate adverse effects on commercial fisheries and fishers, and;
- d) a description of the monitoring of the effect of the Development on commercial fisheries and of the effectiveness of mitigation.

The outcome of the monitoring of the effectiveness of the mitigation measures may be used to adapt the FMMS subject to the approval of the Scottish Ministers.

The Developer must implement the approved FMMS.

The Developer must participate in and remain a member of the FTCFWG or any successor group formed to facilitate commercial fisheries dialogue.

Reason: To mitigate the impact on commercial fisheries.

27. Environmental Clerk of Works

Prior to the Commencement of the Development, the Developer must at its own expense, and with the approval of the Scottish Ministers in consultation with NatureScot, 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 a date agreed by the Scottish Ministers. The terms of appointment must also be approved by the Scottish Ministers in consultation with NatureScot.

The terms of the appointment must include:

- a) Quality assurance of final draft versions of all plans and programmes required under the 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 Developer in relation to achieving compliance with the consent conditions, including but not limited to the conditions relating to and the implementation of the CMS, the EMP, the PEMP, 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 the 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 Developer and approved, in writing, by the Scottish Ministers following consultation with the SFF, the FTCFWG and any other advisors or organisations as required at the discretion of the Scottish Ministers. The FLO must be appointed by the Developer for the period from Commencement of the Development. The identity and credentials of the FLO must be included in the EMP (referred to in condition 15). The FLO must establish and maintain effective communications between the Developer, 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:

- a) Establishing and maintaining effective communications between the Developer, 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. Written Scheme of Investigation and Protocol for Archaeological Discoveries

The Developer must implement the Written Scheme of Investigation and Protocol for Archaeological Discoveries dated 28 October 2022 (document reference EOR0766) (“WSI and PAD”) that was submitted as part of its Application.

The Developer may only implement an amended version of that WSI and PAD if that amended version has first been approved by the Scottish Ministers. If the Developer wishes to implement an amended version of that WSI and PAD they must submit the proposed amended version of the WSI and PAD in writing to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with Historic Environment Scotland, and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers.

Reason: *To ensure mitigate the impact of the Development on marine archaeology and 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 Developer 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. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with Transport Scotland, Scottish Borders Council and any such advisors as may be required at the discretion of the Scottish Ministers.

The CTMP must include:

- a) A transport assessment detailing all proposed trips with relevant swept path analysis to ensure the safe passage of abnormal loads;
- b) A mitigation strategy for the abnormal loads on roads including any accommodation measures required. This may include the removal of street furniture, junction widening, or traffic management of road based traffic and transportation associated with the construction of the Development; and
- c) 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.

All construction traffic associated with the Development must conform to the approved CTMP.

Reason: *To minimise interference and maintain the safety and free flow of traffic on roads as a result of the traffic moving to and from the Development.*

31. Piling Strategy

If piling is to be undertaken, the Developer 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. Commencement of the Development cannot take place until such approval is granted. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot and any such other advisors as may be required at the discretion of the Scottish Ministers.

The PS must include:

- 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;
- d) Details of any mitigation such as Passive Acoustic Monitoring (“PAM”), Marine Mammal Observers (“MMO”), use and duration of Acoustic Deterrent Devices (“ADD”) and monitoring to be employed during pile-driving, as agreed by the Scottish Ministers;
- e) Details relating to necessary Marine Mammal Mitigation Protocols for pile-drilling/driving

The PS must be in accordance with the Application and must also reflect any relevant monitoring or data collection carried out after submission of the Application. The PS must demonstrate the means by which the exposure to and/or the effects of underwater noise have been mitigated in respect to harbour porpoise, bottlenose dolphin, white-beaked dolphin, minke whale, grey seal, harbour seal and diadromous fish. The PS must, so far as is reasonably practicable, be consistent with the EMP, the PEMP and CMS.

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

32. Compensation for adverse effects on Special Protection Areas

No later than six months prior to the implementation of proposed compensatory measures (or such alternative timeframe, as approved in writing by the Scottish Ministers), the Developer must submit a Seabird Compensation Plan in writing to the Scottish Ministers for their written approval. Such approval may only be granted following:

- (a) consultation by the Scottish Ministers with NatureScot; Natural England; any such other advisors or organisations as may be required at the discretion of the Scottish Ministers which may include a compensatory measures steering group; and
- (b) written agreement by the Secretary of State in relation to compensatory measures concerning the English SPAs that the Appropriate Assessment (“AA”) has concluded adverse effects on site integrity (“AEOSI”) for (or been unable to conclude no AEOSI for), subject to such conditions or restrictions relating to the compensatory measures as he may specify.

The Seabird Compensation Plan must set out compensatory measures which are sufficient to compensate for the Development’s impacts on SPAs, as identified and quantified within Tables 76 and 77 of the AA where conclusions of AEOSI or being unable to conclude no AEOSI have been drawn. Furthermore, the Seabird Compensation Plan must include the following:

- a) a timetable of implementation and maintenance of the compensatory measures;
- b) the location of the compensatory measures;
- c) a description of the characteristics of the proposed compensatory measures;
- d) the predicted outcomes of each compensatory measure, including timescales of when those outcomes will be achieved;
- e) details of monitoring and reporting of the effectiveness of the compensatory measures including—
 - i) survey methods;
 - ii) survey programmes;
 - iii) success criteria;
 - iv) timescales for monitoring reports to be submitted to the Scottish Ministers;
 - v) reporting of meeting success criteria, and
 - vi) measures to adapt, and where necessary increase, compensatory measures and the criteria used to trigger any adaptation of compensatory measures.

Commencement of the Development cannot take place without written approval of the Seabird Compensation Plan by the Scottish Ministers. The Scottish Ministers may require that certain elements of the Seabird Compensation Plan must be fulfilled prior to Commencement of the Development. In this instance, the Scottish Ministers will notify the Developer, in writing, of what is required. The Developer must not initiate Commencement of the Development until the Scottish Ministers have confirmed, in writing, that they are content and any such elements have been fulfilled.

The Developer must implement the approved Seabird Compensation Plan in full.

Any requests for amendments to the approved Seabird Compensation Plan must be submitted, in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following:

- (a) consultation by the Scottish Ministers with NatureScot, Natural England and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers, which may include a compensatory measures steering group; and
- (b) written agreement by the Secretary of State in relation to compensatory measures concerning the English SPAs that the AA has concluded AEOSI for (or been unable to conclude no AEOSI for), subject to such conditions or restrictions relating to the compensatory measures as he may specify.

The Developer must make such alterations to the approved Seabird Compensation Plan as directed by the Scottish Ministers and submit the updated Seabird Compensation Plan to the Scottish Ministers for approval within such a period as directed in writing by the Scottish Ministers. If those directions make alterations to

compensatory measures relating to the English SPAs that the AA has concluded AEOSI for (or been unable to conclude no AEOSI for), this will be subject to written agreement from the Secretary of State.

The Developer must notify the Scottish Ministers, NatureScot and Natural England of the completion of any compensatory measures set out in the Seabird Compensation Plan.

No later than six months prior to the implementation of proposed compensatory measures (or such alternative timeframe, as approved in writing by the Scottish Ministers), the Developer must submit a Seabird Compensation Plan in writing to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot; Natural England; any such other advisors or organisations as may be required at the discretion of the Scottish Ministers which may include a compensatory measures steering group; and the Secretary of State in relation to English SPAs that the AA has concluded adverse effects on site integrity (“AEOSI”) for (or been unable to conclude no AEOSI for).

The Seabird Compensation Plan must set out compensatory measures which are sufficient to compensate for the Development’s impacts on SPAs, as identified and quantified within Tables 76 and 77 of the AA where conclusions of AEOSI or being unable to conclude no AEOSI have been drawn. Furthermore, the Seabird Compensation Plan must include the following:

- a) a timetable of implementation and maintenance of the compensatory measures;
- b) the location of the compensatory measures;
- c) a description of the characteristics of the proposed compensatory measures;
- d) the predicted outcomes of each compensatory measure, including timescales of when those outcomes will be achieved;
- e) details of monitoring and reporting of the effectiveness of the compensatory measures including—
 - i) survey methods;
 - ii) survey programmes;
 - iii) success criteria;
 - iv) timescales for monitoring reports to be submitted to the Scottish Ministers;
 - v) reporting of meeting success criteria, and
 - vi) measures to adapt, and where necessary increase, compensatory measures and the criteria used to trigger any adaptation of compensatory measures.

Commencement of the Development cannot take place without written approval of the Seabird Compensation Plan by the Scottish Ministers. The Scottish Ministers may also require that certain elements of the Seabird Compensation Plan must be fulfilled prior to Commencement of the Development. In this instance, the Scottish Ministers will

notify the Developer, in writing, of what is required. The Developer must not initiate Commencement of the Development until the Scottish Ministers have confirmed, in writing, that they are content and any such elements have been fulfilled.

The Developer must implement the approved Seabird Compensation Plan in full.

Any requests for amendments to the approved Seabird Compensation Plan must be submitted, in writing, to the Scottish Ministers for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with NatureScot, Natural England and any such other advisors or organisations as may be required at the discretion of the Scottish Ministers, which may include a compensatory measures steering group. The Developer must make such alterations to the approved Seabird Compensation Plan as directed by the Scottish Ministers and submit the updated Seabird Compensation Plan to the Scottish Ministers for approval within such a period as directed in writing by the Scottish Ministers.

The Developer must notify the Scottish Ministers, NatureScot and Natural England of the completion of any compensatory measures set out in the Seabird Compensation Plan.

Reason: To ensure that the adverse impacts on site integrity of the Special Protection Areas are sufficiently compensated for.

33. Seabed Obstruction Mitigation Plan

The Developer must submit a Seabed Obstruction Mitigation Plan to the Scottish Ministers, for their written approval. The Seabed Obstruction Mitigation Plan must demonstrate how any risks to legitimate users of the sea, identified from the post-lay surveys and operational surveys described in the CaP, will be reduced. The Seabed Obstruction Mitigation Plan must include and address any areas where physical cable protection is not within the parameters of those approved or where cable installation has created seabed obstructions.

Such approval may only be granted following consultation by the Scottish Ministers with any advisors or organisations as may be required at the discretion of the Scottish Ministers.

The Seabed Obstruction Mitigation Plan must be submitted for approval no later than three months after cable laying has been completed and updated no later than one month after any operational phase survey where risks to legitimate users of the sea have been identified.

The Seabed Obstruction Mitigation Plan must include:

- a) findings of each survey carried out at post-lay stage and following operational phase surveys where risks to legitimate users of the sea have been identified, including the locations of any areas that do not meet the approved design

- parameters or cause obstruction to legitimate users of the sea and any risks identified, and how the findings have informed mitigation measures;
- b) measures that will be implemented to reduce any risks identified for each area where approved design parameters have not been met or where obstructions to legitimate users of the sea have been identified; and
- c) timescales for the implementation of the measures.

The Developer must implement the approved Seabed Obstruction Mitigation Plan.

Any updates to the Seabed Obstruction Mitigation Plan must be submitted to the Scottish Ministers, in writing, for their written approval. Such approval may only be granted following consultation by the Scottish Ministers with any such other advisors or organisations as may be required at the discretion of the Scottish Ministers. Implementation of the updated Seabed Obstruction Mitigation Plan cannot take place until such approval is granted.

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

34. Aviation Charting and Safety Management

The Developer must notify the MOD, at least 14 days prior to the Commencement of the Development, in writing of the following information:

- a) the date of the commencement of the construction of any WTG or other permanent structures with a height of 50m or greater (above MSL));
- b) the latitude and longitude, and maximum height of any construction equipment with a height of 50m or greater (above MSL) that will be used in the construction of the Development;
- c) the latitude and longitude co-ordinates of each WTG or other permanent structure with a height of 50m or greater (above MSL) to be constructed.

The Developer must notify the MOD of any changes to the information supplied under this condition throughout the lifetime of the Development and of the completion of the construction of the Development.

Reason: To mitigate the adverse impacts of the Development on the operations of the MOD.

Annex 3 - DEFINITIONS AND GLOSSARY OF TERMS – In this decision notice and In Annex 1 and 2

- “AA” means the Appropriate Assessment;
- “AEOSI” means Adverse Effect on Site Integrity;
- “Additional Information” means the information submitted by the Developer to the Scottish Ministers on 4 August 2023 related to ornithology, marine mammals and the without prejudice HRA derogation case;
- “Application” means the EIA Report and supporting documents submitted by the Developer on 9 December 2022 to construct and operate an offshore generating station and transmission works, it also includes the EIA Addendum Report submitted on 4 August 2023;
- “ADR” means Air Defence Radar;
- “ATC” means Air Traffic Control;
- “BDMPS” means Biologically Defined Minimum Population Size;
- “CF” means Conversion Factor;
- “Commencement of the Development” means the date on which the first construction activity occurs in accordance with the EIA Report submitted by the Developer on 9 December 2022;
- “Commissioning of the First WTG” means the date on which the first wind turbine generator forming the Development has supplied electricity on a commercial basis to the National Grid;
- “CRM” means collision risk modelling;
- “Development” means the Berwick Bank Wind Farm, approximately 47.6km offshore of the East Lothian coastline and 37.8km from the Scottish Borders coastline at St Abbs;
- “ECOW” means Environmental Clerk of Works;
- “EIA Addendum Report” means the Environmental Impact Assessment Addendum Report submitted by the Developer on 4 August 2023;
- “EIA Report” means Environmental Impact Assessment Report;
- “EIA” means Environmental Impact Assessment;
- “EMF” means Electromagnetic Fields;
- “EPS” means European Protected Species;
- “FLO” means Fisheries Liaison Officer;
- “GHG” means Greenhouse Gases;
- “GVA” means Gross Value Added;
- “GW” means Gigawatt;
- “HPAI” means Highly Pathogenic Avian Influenza
- “HRA” means Habitats Regulations Appraisal;
- “IALA” means International Association of Marine Aids to Navigation and Lighthouse Authorities;
- “INNS” means Invasive Non-Native Species;
- “km” means Kilometres;
- “m” means metres;
- “MNNS” means Marine Non-Native Species

- “MPA” means Marine Protected Area;
- “MSL” means mean sea level
- “MW” means Megawatt;
- “ncMPA” means Nature Conservation Marine Protected Area;
- “OFFSAB” means Outer Firth of Forth and St Andrews Bay Complex
- “OSP” means Offshore Substation Platform;
- “PLI” means Public Local Inquiry;
- “RIAA” means Report to Inform the Appropriate Assessment;
- “RRH” means Remote Radar Head;
- “s.36” means section 36 of the Electricity Act 1989;
- “SAC” means Special Area of Conservation;
- “ScotMER” means Scottish Marine Energy Research Programme;
- “sCRM” means stochastic collision risk modelling;
- “SLA” means Special Landscape Area;
- “SLVIA” means Seascape, Landscape and Visual Impact Assessment;
- “SNCBs” means the Statutory Nature Conservation Bodies;
- “SPA” means Special Protection Area;
- “SSC” means Suspended Sediment Concentration;
- “SSSI” means Site of Special Scientific Interest;
- “the Additional Information Consultation” means the consultation on the Additional Information;
- “the Developer” means Berwick Bank Wind Farm Limited (Company Number SC721781) having its registered office at Inveralmond House, 200 Dunkeld Road, Perth PH1 3AQ;
- “the Original Consultation” means consultation on the Application for s.36 consent and EIA Report;
- “the Radar” means Primary Surveillance Radar at Leuchars Station;
- “UXO” means Unexploded Ordnance”;
- “WTG” means Wind Turbine Generators

Organisations and Companies

- “Bellrock” means Bellrock Offshore Wind Farm Limited
- “Broadshore” means Broadshore Offshore Wind Farm Limited
- “BT” means BT Radio Network Protection;
- “CAA” means the Civil Aviation Authority;
- “Caledonia” means Caledonia Offshore Wind Farm Ltd;
- “Defra” means Department of Environment, Food and Environmental Affairs;
- “ENGL” means EDF Energy Nuclear Generation Limited;
- “HES” means Historic Environment Scotland;
- “JNCC” means Joint Nature Conservation Committee;
- “MAU” means Marine Analytical Unit;
- “MCA” means the Maritime and Coastguard Agency;

- “MOD” means the Ministry of Defence as represented by Defence Infrastructure Organisation – Safeguarding, St George’s House, DIO Head Office, DMS Whittington, Lichfield, Staffordshire, WS14 9PY or any successor body;
- “MD-LOT” means Marine Directorate - Licensing Operations Team;
- “MD-SEDD” means Marine Directorate – Science Evidence Data and Digital;
- “NTS” means National Trust for Scotland;
- “NnGOWL” means Neart na Gaoithe Offshore Wind Farm Limited;
- “NEEOG” means North-east and East Ornithology Group;
- “NERL” means National Air Traffic Safety (En Route) Public Limited Company;
- “NLB” means the Northern Lighthouse Board;
- “RSPB Scotland” means the Royal Society for the Protection of Birds Scotland;
- “RYA” means the Royal Yachting Association Scotland;
- “SEPA” means the Scottish Environment Protection Agency;
- “SFF” means the Scottish Fishermen’s Federation;
- “SSEN Transmission” means Scottish and Southern Energy Networks Transmission;
- “UKCoS” means UK Chamber of Shipping;
- “UKHO” means United Kingdom Hydrographic Office.

Plans and Programmes

- “ATCRMS” 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;
- “DSLP” means Development Specification and Layout Plan;
- “EMP” means Environmental Management Plan;
- “ERCoP” means Emergency Response Co-operation Plan;
- “ESJTP” means Energy Strategy and Just Transition Plan;
- “FMMS” means Fisheries Management and Mitigation Strategy;
- “GES” means Good Environmental Status;
- “LMP” means Lighting and Marking Plan;
- “MMMP” means Marine Mammal Mitigation Protocol
- “MGN” means Marine Guidance Note;
- “MPCP” means Marine Pollution Contingency Plan;
- “NMP” means the National Marine Plan;
- “NPF” means National Planning Framework;
- “NRA” means Navigation Risk Assessment;
- “NSP” means Navigational Safety Plan;
- “OMP” means Operation and Maintenance Programme;
- “PAD” means Protocol for Archaeological Discoveries;
- “PEMP” means Project Environmental Monitoring Programme;

- “PS” means Piling Strategy;
- “The CBD” means the United Nations Environmental Programme Convention on Biological Diversity of 5 June 1992 as amended from time to time (or any United Nations Convention replacing that Convention);
- “the SBS” means the Scottish Government’s Scottish Biodiversity Strategy to 2045: Tackling the Nature Emergency in Scotland (published November 2024);
- “VMP” means Vessel Management Plan;
- “WFD” means Water Framework Directive;
- “WSI” means Written Scheme of Investigation.

Legislation

- “the 2004 Act” means the Nature Conservation (Scotland) Act 2004;
- “the 2017 EW Regulations” means the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017;