Morven North Offshore Wind Array Project

Habitats Regulations Appraisal

Volume 3, Chapter 1: Derogation Case

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1 Introduction

1.1.1.1 This Derogation Case forms part of the Habitats Regulations Appraisal (HRA) which is required under the Habitats Regulations (hereafter defined), and supports applications for Section 36 Consent and Marine Licences for the Morven North Offshore Wind Array Project (hereafter 'Morven North').

1.2 Project overview

1.2.1.1 Morven Offshore Wind Limited (MvOWL (hereafter 'the Applicant') has been awarded a seabed option under the 2021/22 ScotWind leasing round. The Applicant is developing Morven North; an offshore wind farm within Plan Option (PO) Area E1 identified in the Scottish Government's Sectoral Marine Plan for Offshore Wind Energy (the SMP) (Scottish Government, 2020a).

1.2.1.2 Morven North is a proposed fixed-foundation offshore wind farm located approximately 61km from the Aberdeenshire coast. The Morven North Boundary is illustrated within Figure 1.1 of Volume 1, Chapter 1: Introduction, of the EIA Report and covers an area of 511.1km^2. Morven North includes the wind turbines, foundations, Offshore Substation Platforms (OSPs) and foundations, inter-array and interconnector cables and associated infrastructure in the Morven North Boundary.

1.2.1.3 Subsequent to the identification of the Morven Option Lease Agreement Site (hereafter 'Morven Site'), the Applicant split the Morven Site into the Morven North and Morven South Offshore Wind Array Projects (hereafter 'Morven South'). This Derogation Case supports the Applicant's Morven North application submission to the Marine Directorate-Licensing and Operations Team (MD-LOT), acting on behalf of Scottish Ministers, for Morven North. Separate consents will be sought for Morven South.

1.2.1.4 The United Kingdom (UK) and Scottish Government's ambitions for offshore wind deployment are supported by the Offshore Transmission Network Review (OTNR). The Holistic Network Design (HND), under the "Pathway to 2030" workstream, recommends a network design for the connection of offshore generation assets (for a total capacity of 23GW) to the network. The "Beyond 2030" Report, informed by the Holistic Network Design Follow Up Exercise (HNDFUE), further details the network design and enables the connection of an additional 21GW of offshore wind capacity.

1.2.1.5 As a result of the HND and HNDFUE processes, the Morven Site has two associated points of interconnection at Hawthorn Pit, County Durham, England, and Branxton, East Lothian, Scotland. To progress Morven North, the Applicant is seeking to consent Morven North's generation and export cable/onshore infrastructure separately, and the offshore export cables/onshore infrastructure are not covered in the Morven North HRA. A separate HRA will be produced for the offshore export cables/onshore infrastructure. The potential in-combination effects of Morven North with the offshore export cables/onshore infrastructure have been assessed within the Morven North Report to Inform Appropriate Assessment (RIAA) as far as possible and practicable.

1.2.1.6 For Morven North, the Applicant is seeking the following consents and licences:

- a Section 36 consent under the Electricity Act 1989 for an offshore generating station in the Scottish offshore region (12nm to 200nm);
- a marine licence under the Marine and Coastal Access Act 2009 (Scottish offshore waters (beyond 12nm) for the generating station (wind turbines, foundation and inter-array cables);
- a marine licence under the Marine and Coastal Access Act 2009 (Scottish offshore waters (beyond 12nm) for the OSP infrastructure (OSPs, OSP foundations and interconnector cables within the Morven North Boundary).

1.2.1.7 The key components of Morven North include:

- up to 96 fixed foundation wind turbines;
- inter-array cables linking the wind turbines;
- up to five OSPs, including foundations;
- scour protection;

- cable protection;
- interconnector cables connecting the OSPs to one another.

1.2.1.8 Construction activities for Morven North are expected to last up to five years. The decommissioning process will likely follow a similar, reverse sequence. The Applicant is seeking consent for a 35-year operational period.

1.3 HRA process to date

1.3.1.1 This Derogation Case has been produced in respect of Morven North, and builds upon the findings of the HRA Stage 1 Screening Report produced for the Morven Site (Chapter 1: Morven Option Lease Agreement Site: HRA Stage 1 Screening Report), a re-screening exercise undertaken for Morven North within Part 1 of the Stage 2 RIAA (Chapter 2: Report to Inform Appropriate Assessment Part 1: Introduction), and Part 3 of the RIAA (Chapter 2.2: Report to Inform Appropriate Assessment Part 3: SPA and Ramsar Site Assessments). The RIAA conclusions provide the basis for the requirement to progress to a derogation case.

1.3.1.2 Part 2 of the RIAA (Chapter 2: Report to Inform Appropriate Assessment Part 2: Special Areas of Conservation Assessments) concluded there would be no Adverse Effect on Integrity (AEOI) of Special Areas of Conservation (SAC) and their qualifying features, either from the project alone or in-combination with other plans or projects.

1.3.1.3 Part 3 of the RIAA concluded there would be no AEOI on Special Protection Areas (SPAs) and Ramsar sites from the project alone, however concluded that AEOI could not be ruled out for four SPAs and three qualifying species when the project was assessed in-combination with other plans and projects. The potential for in-combination AEOI is due to displacement and collision impacts during the operation and maintenance phase of Morven North. Table 1.1 below sets out these sites and species for which AEOI cannot be ruled out and the required scale of compensation based on the Applicant's precautionary approach.

1.3.1.4 Further, on a *without prejudice* basis, this Derogation Case considers mortality estimates for a wider range of SPAs and qualifying species, taking into consideration previous consent decisions made by competent authorities (e.g. the Scottish Ministers) on other offshore wind farm projects, using mortality estimates based on NatureScot's more precautionary position.

1.3.1.5 Table 1.2 below provides the lower and upper mortality estimates for qualifying species of the impacted and potentially impacted SPAs under both the Applicant's assessment and the *without prejudice* assessment, with the lower estimate being the Applicant's precautionary position and the upper estimate being NatureScot's more precautionary position.

1.3.1.6 Table 1.3 below provides the lower and upper mortality estimates for qualifying species of the impacted SPAs, for Morven North and Morven South combined (see Volume 3, Chapter 2: Compensation and Evidence Plan of the HRA for further detail).

1.3.1.7 Therefore, this Derogation Case has been prepared in respect of proposed compensation measures for the following SPA sites and species, based on the applicant's conclusions as to AEOI:

- Forth Islands SPA:
- Guillemot (*Uria aalge*) seabird assemblage (with regards to guillemot).
- St Abb's Head to Fast Castle SPA:
  - Kittiwake (*Rissa tridactyla*), razorbill (*Alca torda*) and seabird assemblage (with regards to kittiwake and razorbill).
- Troup, Pennan and Lion's Heads SPA:
  - guillemot and seabird assemblage (with regards to guillemot).
- Outer Firth of Forth and St Andrew's Bay Complex SPA:

- kittiwake, guillemot and breeding seabird assemblage (with regards to kittiwake and guillemot).

1.3.1.8 And, on a *without prejudice* basis, also proposes compensation measures for additional SPAs and qualifying species, and a greater scale of compensation if considered necessary by the Competent Authority, using mortality estimates based on the Applicant's precautionary approach and NatureScot's more precautionary approach, as set out in Table 1.2 below.

1.3.1.9 As set out above, AEOI conclusions have been reached for the Outer Firth of Forth and St Andrew's Bay Complex SPA. This SPA is designated to protect sea areas used by birds from adjacent breeding colonies. AEOI conclusions reached for the Outer Firth of Forth and St Andrew's Bay Complex SPA are therefore a result of AEOI conclusions on adjacent breeding colony SPAs. For Morven North (and Morven South) this relates to guillemot at the Forth Islands SPA and kittiwake at the St Abb's Head to Fast Castle SPA. Therefore, additional compensation measures are not required for the Outer Firth of Forth and St Andrew's Bay Complex SPA, as compensation will be delivered for the predicted impacts on the associated breeding colony SPAs.

Table 1.1 Summary of compensation required based on conclusions of the Morven North RIAA (figures are Applicant's precautionary approach)

SPA	Species	Number of mortalities (no. birds/annum)
Forth Islands	Guillemot	11
St. Abb's Head to Fast Castle	Kittiwake	0.5
	Razorbill	0.2
Troup, Pennan and Lion's Head	Guillemot	9.9
Summed across SPAs	Kittiwake	0.5
	Guillemot	21
	Razorbill	0.2

Table 1.2: Morven North estimated level of compensation which may be required for potential impacts on Special Protection Areas based on recent decisions by the Competent Authority

SPA	Species	Number of mortalities (no. birds/annum)	
		Low	High
Buchan Ness to Collieston Coast	Kittiwake	1.4	3.2
	Guillemot	14.0	54.6
East Caithness Cliffs	Kittiwake	0.6	1.6
	Razorbill	1.5	5.4
Forth Islands	Kittiwake	0.4	0.9
	Guillemot	11.0	39.8
	Razorbill	0.4	1.7

SPA	Species	Number of mortalities (no. birds/annum)	
		Low	High
	Puffin (*Fratercula arctica*)	2.5	10.6
	Gannet (*Morus bassanus*)	7.1	13.6
Fowlsheugh	Kittiwake	2.8	6.2
	Guillemot	37.5	155.4
	Razorbill	0.9	4.1
Hermaness, Saxa Vord and Valla Field	Gannet	0.3	1.0
North Caithness Cliffs	Kittiwake	0.1	0.3
St. Abb's Head to Fast Castle	Kittiwake	0.5	1.1
	Guillemot	19.1	68.7
	Razorbill	0.2	0.8
Troup, Pennan and Lion's Head	Kittiwake	0.6	1.4
	Guillemot	9.9	35.7
Flamborough and Filey Coast	Kittiwake	1.0	2.3
	Razorbill	1.2	4.3
Summed across SPAs	Kittiwake	7.5	17.0
	Guillemot	91.6	354.2
	Razorbill	4.2	16.3
	Puffin	2.5	10.6
	Gannet	7.4	14.6

Table 1.3: Morven North and Morven South estimated level of combined compensation required for potential impacts to Special protection Areas

Potential Impact from Morven North and Morven South (no. of birds/annum)			
Site name	**Species**	**Low**	**High**
Summed across SPAs	Kittiwake	9.1	21.7
	Guillemot	123.2	480.5
	Razorbill	5.9	23.1
	Puffin	3.2	13.3
	Gannet	12.3	24.5

2 Requirement for Derogation Case

2.1.1.1 A HRA under the Habitats Regulations consists of three stages:

- Stage 1 Screening;
- Stage 2 Appropriate Assessment and, if required;
- Stage 3 Derogation.

2.1.1.2 Stage 1 Screening looks to identify whether a plan or project is "likely to have a significant effect" (Likely Significant Effects (LSE)) on a European site, whether alone or in-combination with another plan or project. If such a risk is identified, or cannot be ruled out due to insufficient evidence, the process moves to Stage 2 - Appropriate Assessment.

2.1.1.3 At Stage 2 the Competent Authority (the Scottish Ministers for the purposes of Section 36 Consent and Marine Licence applications) evaluates whether the plan or project will have an AEOI on a European site(s), considering the site's conservation objectives. Although the legal obligation to undertake an Appropriate Assessment rests with the Competent Authority, the Applicant has an obligation to provide such information to the Competent Authority as it may reasonably require, typically in the form of a RIAA. A plan or project can only be authorised at the end of Stage 2 where the Competent Authority concludes beyond reasonable scientific doubt, that there is no risk of an AEOI on any European site(s) — unless the criteria for Stage 3 are met.

2.1.1.4 Stage 3 Derogation applies when a plan or project fails the integrity test (Stage 2) but may still be approved under specific legal conditions. As set out above, the conclusion of the RIAA for Morven North is that the risk of AEOI cannot be ruled out for certain European sites. As such, Stage 3 is engaged and the relevant legal test as set out below must be considered.

2.1.1.5 In order for the Competent Authority to approve a plan or project which requires a derogation case, three legal tests must be satisfied in sequence, in accordance with Regulation 29 of the Habitats Regulations:

1. first, there must be no alternative solutions;
2. second, the project must be justified by Imperative Reasons of Overriding Public Interest (IROPI);
3. third, the Competent Authority must secure that the necessary compensatory measures are taken to ensure that the overall coherence of the UK national site network is protected.

2.1.1.6 The following sections provide the information for the Scottish Ministers, as Competent Authority, to consider each of these tests set out in paragraph 2.1.1.5. In this document the three tests are addressed in the required sequential order as follows:

1. Assessment of Alternative Solutions (section 5);
2. IROPI (section 6);
3. Compensatory measures which can be secured to ensure the protection of the overall coherence of the national site network (section 7).

3 Legislation and policy

3.1 Legislation

3.1.1.1 The European Union (EU) Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the "Habitats Directive") and EU Directive 2009/147/EC on the conservation of wild birds (the "Birds Directive") form the EU legal framework for the protection of habitats and species of European conservation importance.

3.1.1.2 In Scotland, so far as relevant to Morven North, these Directives were transposed into and remain implemented in domestic legislation through the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended), which apply in Scottish offshore waters from 12 to 200nm (herein after referred to as the "Habitats Regulations")

3.2 Policy

3.2.1.1 The key Scottish and UK policy informing this Derogation Case are:

- The Offshore Wind Policy Statement (OWPS) (Scottish Government, 2020b);
- The Sectoral Marine Plan for Offshore Wind Energy (SMP) (Scottish Government, 2020c);
- Draft Updated Sectoral Marine Plan for Offshore Wind Energy (Scottish Government, 2025);
- The Overarching National Policy Statement for Energy (NPS EN-1) (DESNZ, 2025a);
- The National Policy Statement for renewable energy infrastructure (NPS EN-3) (DESNZ, 2025b);
- Update to the 2020 Offshore Wind Policy Statement; Scotland's Offshore Wind ambition (Scottish Government, 2026).

3.3 Guidance

3.3.1.1 In drafting this Derogation Case all relevant guidance has been considered including:

3.3.2 Scottish guidance

- CMS (2021) – Habitats Regulations Appraisal (HRA) Derogations for Offshore Wind Projects in Scotland - Legal Framework for Decisions;
- DTA (2021a) – Framework to Evaluate Ornithological Compensatory Measures for Offshore Wind. Process Guidance Note for Developers.
- NatureScot (2022) – European Site Casework Guidance: How to consider plans and projects affecting Special Areas of Conservation (SACs) and Special Protection Areas (SPAs);
- NatureScot (2023) – Habitats Regulations Appraisal of Local Development Plans: Guidance for planning authorities in Scotland.
- Scottish Government (2018) – Marine Scotland Consenting and Licensing Guidance: For Offshore Wind, Wave and Tidal Energy Applications;
- Scottish Government (2015) – Scotland's National Marine Plan: A Single Framework for Managing Our Seas;
- Scottish Government (2020a) – EU Exit: The Habitats Regulations in Scotland;
- Scottish Government (2023) – Scotland's Draft Energy Strategy and Just Transition Plan: Ministerial statement;
- Scottish Government (2024) – Marine Licensing and consenting: Habitats Regulations Appraisal;
- SNH (2010) – SNH Guidance 'Natura sites and the Habitats Regulations. How to consider proposals affecting SACs and SPAs in Scotland. The essential quick guide'.

3.3.3 UK Guidance

- Defra (2021a) – Habitats regulations assessments: protecting a European site;

- Defra (2021b) – Draft best practice guidance for developing compensatory measures in relation to Marine Protected Areas;
- Defra (2024) – Consultation on policies to inform updated guidance for Marine Protected Area (MPA) assessments;
- DTA (2021b) – Habitats Regulations Assessment Handbook;
- DESNZ (2021) – Net Zero Strategy: Build Back Greener Details;
- DESNZ (2022) – British Energy Security Strategy (BESS);
- DESNZ (2023) – Net Zero Growth Plan.

3.3.4 European Guidance

- European Commission (EC) (2001) – Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites: Methodological Guidance on the provisions of Article 6(3) and 6(4) of the 'Habitats' Directive 92/43/EEC. November 2001;
- EC (2019) – Managing Natura 2000 Sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC (2000) published by the EC in 2000 but updated in November 2019;
- EC (2020) – Guidance document on wind energy developments and EU nature legislation;
- EC (2021) – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC and Annex.

3.3.5 Precedent

3.3.5.1 The Applicant has developed this Derogation Case in view of the precedent set by past derogation decisions made by the Scottish Ministers and Secretary of State on other offshore wind farm (OWFs) decisions in the period since the first such derogation decision in 2020 to date.

3.3.5.2 The Scottish Ministers have, to date, consented four OWFs with a derogation case, being Green Volt (April 2024), Berwick Bank (June 2025), West of Orkney (June 2025) and Salamander (July 2025).

3.3.5.3 In England the UK Government's Secretary of State for Energy, Security and Net Zero (DESNZ) has consented eleven OWF projects with associated derogation cases. These are: Hornsea Three (2020); East Anglia ONE North, East Anglia TWO, Norfolk Vanguard, Norfolk Boreas (2022); Hornsea Four (2023), the Dudgeon and Sheringham Shoal Extensions (2024), Rampion 2 (2025), Five Estuaries (2025), Morecambe (2025) and Outer Dowsing (2026).

3.3.5.4 A derogation case has also been made for each of the Round 4, Extensions Round and Capacity Increases Programme Plan Level HRA.

3.3.5.5 A derogation case will also be required for the draft updated SMP.

3.3.6 EC Opinions

3.3.6.1 The EC has adopted and published a number of opinions on Article 6(4) derogation cases between 1996 and 2025.[1] These EC opinions have also been reviewed and considered during the development of this Derogation Case.

[1] Nature and biodiversity - Library - Commission opinions Art 6(4) HD

4 Consultation

4.1.1.1 The Applicant has undertaken consultation with relevant stakeholders and Statutory Nature Conservation Bodies (SNCBs) in respect of the HRA for Morven North, and the development of the proposed compensation measures (including Marine Directorate – Licensing Operations Team (MD-LOT) and NatureScot). The Applicant has not received a response to its attempts to engage with RSPB on the development of the compensation measures. Further detail on this consultation is presented in Volume 3, Annex 2.1: Compensation Stakeholder Consultation.

5 Assessment of alternatives

5.1 Introduction

5.1.1.1 This section examines whether there are any feasible alternative solutions to Morven North. A range of alternatives have been considered, as set out in more detail below, these include: "doing nothing" and alternative sites, designs and scales.

5.1.1.2 The conclusion reached is that there are no feasible alternative solutions to Morven North.

5.1.1.3 The analysis set out in this section is supported by, and draws upon, the following documents that accompany the Section 36 Consent and Marine Licence applications:

- Environmental Impact Assessment (EIA) Report:
  - Volume 1, Chapter 1: Introduction;
  - Volume 1, Chapter 3: Project Description;
  - Volume 1, Chapter 4: Site Selection and Consideration of Alternatives;
  - Volume 1, Chapter 5: Consultation;
  - Volume 2, Chapter 18: Climate Change;
  - Volume 3, Annex 6.3: EIA Commitment Register.
- HRA Report:
  - Volume 2, Chapter1: Report to Inform Appropriate Assessment: Part 1 (Introduction);
  - Volume 2, Chapter 3: Report to Inform Appropriate Assessment Part 3: SPA and Ramsar Site Assessments.
- Additional Application information:
  - Chapter 6: Planning and Needs Statement, of the Additional Application Information.

5.2 Approach

5.2.1.1 The legal framework underpinning the HRA for Morven North and this Derogation Case is outlined in Section 2. The Habitats Regulations do not define "no alternative solutions" nor the parameters for assessing them, and case law at UK and EU levels is limited. Accordingly, this Derogation Case draws primarily on Scottish, UK, and EC guidance, as well as precedent from previous offshore wind farm derogation decisions as outlined in Section 3. It follows the following four-step process.

5.2.2 Step 1 – Project Objectives

5.2.2.1 A consistent principle across available guidance, and previous offshore wind farm derogation decisions, is that any alternative solution must meet the core objectives of the project. The EC (2019) Managing Natura 2000 Sites guidance states: "It is for the competent national authorities to ensure that all feasible alternative solutions that meet the plan/project aims have been explored to the same level of detail." The EC (2001) Methodological Guidance recommends a three-step approach for assessment of alternatives, beginning with the identification of the project's key objectives.

5.2.2.2 This approach is supported by the English High Court in *Spurrier v Secretary of State for Transport*,[2] which clarified that an "alternative solution" must be directed at the project's identified objectives: "Even by itself, the noun "alternative" carries the ordinary, Oxford English Dictionary meaning of a "thing available in place of another", which begs the question what are the relevant objectives or

[2] Spurrier, R (on the application of) v The Secretary of State for Transport [2019] EWHC 1070 (Admin), see paragraph 334.

purposes which an alternative would need to serve. However, article 6(4) does not refer simply to the absence of an "alternative" but to an "alternative solution", "alternative" appearing as an adjective, which makes this meaning plain beyond any doubt. In our view, "an alternative" must necessarily be directed at identified objectives or purposes; but it is beyond doubt that "an alternative solution" must be so aimed."

5.2.2.3 Similarly, the Court of Appeal in *Plan B Earth v Secretary of State for Transport*[3] affirmed that alternatives failing to meet central policy objectives are not "true alternatives" under the Habitats Regulations.

5.2.2.4 Defra's guidance (2021a) echoes this, stating that alternatives must meet the original objectives of the proposal and an alternative solution is acceptable if it achieves the same overall objective as the original proposal. It identifies proposals offering nuclear energy instead of offshore wind as an example of an alternative which would not meet the original objective.

5.2.2.5 In summary, the first step in the derogation process is to identify Morven North's core objectives, which must be understood in the context of relevant policy and the needs case for Morven North. This approach has been consistently applied in Scottish and UK offshore wind derogation cases.

5.2.3 Step 2 – Do nothing

5.2.3.1 Guidance also consistently recommends considering a "do nothing" option, meaning considering the implications of not proceeding with the project. The EC describes this as a crucial baseline for comparing alternatives. EC (2019) highlights the need to consider the 'zero option' and EC (2001) identifies the 'do nothing' option as crucial to the assessment of alternatives.

5.2.3.2 However, English courts[4] have questioned whether "do nothing" can constitute a true "alternative solution" in the context of the Habitats Regulations.

5.2.3.3 Nonetheless, for completeness and in line with guidance and previous offshore wind derogation decisions to date in Scotland and England, the "do nothing" option is considered in this Derogation Case.

5.2.4 Step 3 – identify feasible alternative solutions

5.2.4.1 If "do nothing" is discounted as an option, the next step is to identify if there are any alternative solutions that meet the core objectives of the project, and which are legally, technically and financially feasible. Guidance suggests this may include alternatives in location, scale, design, or operational processes — subject to practical constraints.

5.2.4.2 European Court of Justice (ECJ) case law confirms that hypothetical options can be discounted.[5] EC (2018) similarly makes clear that the consideration of alternative solutions should be limited to "feasible" alternative solutions. Defra (2021a) explains that a potential alternative should be: "financially, legally and technically feasible".

5.2.4.3 The recent derogation decisions made by the Scottish Ministers also confirms this approach for Scottish offshore wind farms: "Any alternative identified must be capable of meeting the identified policy objectives, be legally, technically and financially feasible, and have a lower impact on the designated sites"[6].

[3] R. (on the application of Plan B Earth) v Secretary of State for Transport [2020] EWCA Civ 214, see paragraph 116.
[4] Humber Sea Terminal Ltd v Secretary of State for Transport and another [2005] EWHC 1289 (Admin), see paragraph 84.
[5] Attorney General opinion C-209/04 (Lauteracher Ried) notes that the examination of alternatives does not require "every theoretically imaginable alternative" to be considered.
[6] Scottish Ministers' Derogation Case. Derogation Case for Berwick Bank at paragraph 3.2.

5.2.4.4 The Scottish Ministers in the recently granted Scottish offshore wind derogation decisions have also taken the approach, in line with policy, that other forms of renewable technology, including onshore wind farms, are not considered alternatives to offshore wind: "The Scottish Ministers do not consider alternative forms of renewable technologies or onshore wind farms to be "alternatives" to offshore wind given the policy objectives identified for the project. It follows that identification of reasonable alternative solutions will consist of either a 'Do Nothing' approach, or consideration of an alternative project location, scale or design."[7]

5.2.4.5 Similarly, previous English offshore wind derogation decisions have concluded that alternative energy forms do not meet core objectives for proposed offshore wind projects, limiting alternatives to "do nothing" or "alternative wind farm projects"[8]. This is reflected in aforementioned guidance and is therefore adopted in this Derogation Case.

5.2.4.6 Therefore, in the context of offshore wind, only other offshore wind developments are considered valid alternatives — no other form of energy generation.

5.2.4.7 In accordance with National Policy Statement (NPS) EN-1 the provision of nationally significant low carbon infrastructure is identified as a Critical National Priority (CNP).[9] In the context of HRA derogation, the starting point for the Secretary of State's assessment is that energy security and decarbonising the power sector to combat climate change: "requires a significant number of deliverable locations for CNP infrastructure and for each location to maximise its capacity. This NPS imposes no limit on the number of CNP infrastructure projects that may be consented. Therefore, the fact that there are other potential plans or projects deliverable in different locations to meet the need for CNP infrastructure is unlikely to be treated as an alternative solution. Further, the existence of another way of developing the proposed plan or project which results in a significantly lower generation capacity is unlikely to meet the objectives and therefore be treated as an alternative solution".[10]

5.2.4.8 The Scottish Ministers in their derogation decisions, for example for Berwick Bank and West of Orkney, have highlighted this policy position in the context of their consideration of alternative project locations and alternative ways of developing a project, as discussed further in this Derogation Case.

5.2.4.9 The Scottish Ministers in the derogation decision for Salamander offshore wind farm also highlighted NPS EN-3[11] in relation to "the recognised urgent need to increase offshore wind capacity in both Scotland and the UK" (whilst noting the 100MW threshold for nationally significant infrastructure did not currently apply in Scotland).

5.2.4.10 Therefore, this Derogation Case considers whether the objectives for Morven North can be delivered via offshore wind project(s) at alternative locations, or via alternative scale or design, whilst having a lower impact on designated sites (as explained in Section 5.2.5).

5.2.5 Step 4 – assessment of identified alternatives

5.2.5.1 If feasible alternative solutions (offshore wind project(s) at an alternative location, scale or design) are identified which meet the core objectives for Morven North, each solution must be assessed in comparison to Morven North for its relative impact on any European site(s), including those European sites and qualifying features impacted by Morven North, as well as any other European

[7] Scottish Ministers' Derogation Case. Derogation Case for Berwick Bank at paragraph 3.2.
[8] Most recently in the Five Estuaries Offshore Wind Habitats Regulations Assessment at page 48.
[9] Overarching National Policy Statement for Energy (EN-1) – December 2025 at 4.2.16.
[10] Overarching National Policy Statement for Energy (EN-1) – December 2025 at 4.2.34.
[11] Scottish Ministers' Derogation Case. Derogation Case for Salamander at paragraph 2.7

sites and qualifying features which may be subject to adverse effects from the alternative solution considered.

5.2.5.2 A feasible alternative that may reduce effects on a European site does not in itself result in a project failing the overarching assessment of alternatives. There is ECJ case law and EC opinions which suggest a feasible alternative must demonstrate a materially lower impact to be considered a genuine alternative.[12]

[12] Commission v Portugal, C-239/04, see paragraph 44; EC Opinion C(2018) 466, 2018.

5.2.6 Assessment of alternatives structure

5.2.6.1 This Derogation Case adopts a structured and sequential method for examination of alternative solutions which draws on the guidance and planning precedent identified above, and is set out in the section below:

- Step 1 – Identification of the Morven North objectives (Section 5.3);
- Step 2 – Consideration of the "do nothing" scenario (Section 5.4);
- Step 3 – Identification of any feasible alternative solutions that meet the Morven North objectives (Section 5.5);
- Step 4 – Completion of a comparative assessment of the effects of any feasible alternative solutions on the European sites.

5.3 Step 1 – Morven North objectives

5.3.1.1 The Planning and Need Statement comprehensively demonstrates the need for Morven North. Morven North would make a significant contribution to Scotland and the UK's energy initiatives including targets to decarbonise energy supply and ensure energy security, increase electricity supply, and to meet legally binding climate change and emissions reduction targets.

5.3.1.2 In the context of the policy and guidance detailed above and the recent derogation decisions of the Scottish Ministers on other offshore wind projects, the Morven North objectives are set out in Table 5.1 Morven North objectives below and form the basis for this assessment of alternatives.

Table 5.1 Morven North objectives

Morven North Objectives	Need case	How Morven North meets the objectives
1. To generate a significant volume of low carbon electricity from an offshore wind farm in support of the decarbonisation of the Scottish and UK electricity supply.	The First Minister of Scotland declared a climate emergency in April 2019. The UK Government similarly declared a climate emergency in May 2019. Scotland has legally binding targets to achieve a 90% reduction in emissions by 2040 and net zero emissions by 2045. The UK Government has legally binding targets of achieving a reduction of 81% in emissions by 2035 and net zero emissions by 2050. The Clean Power 2030 Action Plan establishes capacity ranges, including delivery of 43GW to 50GW of offshore wind capacity by 2030, but also recognises the need to continue to deliver low carbon generation beyond 2030 to continue to combat climate change. Scotland is behind on meeting its climate change emissions reduction targets. This is evidenced by Scotland choosing to withdraw from its legally binding emissions reduction targets for 2030 for feasibility reasons, and the Climate Change Committee's (CCC) reporting to the Scottish and UK Governments on their progress to meeting their emissions reduction targets. The CCC's report to inform the Sixth Carbon Budget (2033-2037) includes as a key recommendation achieving zero carbon electricity production in the UK by 2035, where offshore wind 'becomes the backbone of the whole UK energy system', growing from the 40GW committed to by 2030 to 100GW or more by 2050. The CCC's report to inform the Seventh Carbon Budget (2038-2042) recognises the need for significant ambition in offshore wind. The Balanced Pathway for emissions reduction to achieve net zero by 2050 requires six-fold growth in offshore wind from 15GW of capacity in 2023 to 88GW of capacity by 2040. The Scottish government's Updated OWPS targets up to 40GW of additional offshore wind capacity in Scottish waters by 2040. The CCC's "Progress in reducing emissions in Scotland – 2025 report to Parliament" published in February 2026 notes the ongoing important role of the Scottish Government at the planning level to facilitate and support the delivery of low-carbon energy projects in line with UK Government energy	Morven North will provide significant additional renewable energy capacity, estimated at 1.5GW, to the UK and Scotland, and will substantially contribute to the targets for offshore wind generation in the mid-2030s, which will in turn have the direct benefit of decarbonisation of the national grid, may have indirect benefits in the form of decarbonisation of other sectors, and will contribute to increased security of domestic energy supply. Critically, Morven North is placed to contribute capacity in the mid-2030s,, to support Scotland's 2040 target. It has been prioritised with Gate 2, Phase 2 grid connection agreements secured with National Grid Electricity System Operator (NESO) for connection of 1500MW to the Hawthorn Pit Substation (England) and connection of 1500MW to Branxton Substation (Scotland), as identified within NESO's Holistic Network Design draft Implementation Plan published in November 2025. As the decarbonisation process continues throughout the UK and Scotland, Morven North will contribute to an increased capacity of electricity supplied to the grid, supporting the resilience of the system and the transition to clean electricity for more sectors, such as home heating, transport, and industry. Refer to Section 6 of the Planning and Need Statement, which sets out the benefits of offshore wind in relation to carbon emissions reduction, security of energy supply, increased electricity generation, reduced electricity costs for consumers, and protection from international market volatility. See Section 6.6 for further detail on the specific benefits of Morven North.

Morven North Objectives	Need case	How Morven North meets the objectives
	supply policy. It highlights the need for the continued decarbonisation of further sectors, including the electrification of the transport sector and heating for buildings. Refer to Sections 2.3, 2.4 and 2.5 of the Planning and Need Statement for further detail.	
2. To export electricity to the electricity grid to support Scottish and UK commitments for offshore wind generation and security of supply.	The UK government's stated aim with regards to energy security is to ensure a clean, affordable, and secure energy supply that supports the country's transition to net zero emissions by 2050. In accordance with the Clean Power 2030 Action Plan, the UK's Clean Power ambition is for over 95% of annual UK electricity demand to be met by UK-based low carbon generation. Investing significantly in clean energy generation capacity from offshore wind sources is a key pillar in the effort to maintain a reliable and resilient energy system. The UK Government has an ambitious aim of 43GW to 50GW of installed offshore wind capacity by 2030. The Scottish Government is targeting up to 40GW of additional installed offshore wind capacity by 2040 in accordance with the Updated OWPS. NESO's Future Energy Scenarios (2025) predicts the need for installed offshore wind capacity of between 92 and 94GW by 2040 and 96GW and 105GW by 2050 to reach net zero. National Grid's TEC Register[13] shows that in the UK, the capacity of offshore wind farms either already operational or in construction was 17.6GW with a further 113.6GW at scoping stage. Scottish offshore wind farm sites comprise approximately one third of this capacity. Refer to Sections 2.4 and 2.5 of the Planning and Need Statement for further detail. It is clear that Scotland and the UK cannot rely on existing projects in the development pipeline to meet their targets and need to look beyond 2030 to what is required and achievable by 2035-2040. This is given the ambitious	

[13] https://www.nationalgrideso.com/data-portal/transmission-entry-capacity-tec-register/tec_register, accessed 23 May 2024

Morven North Objectives	Need case	How Morven North meets the objectives
	targets for generation, increasing demand for low carbon electricity, and the attrition experienced by the sector. Section 5.7 of the Planning and Need Statement analyses the current offshore wind development pipeline and concludes the capacity of offshore wind required to be delivered in the next decade is likely to be higher than current projections. An explanation of the electricity demand vs supply in the UK and anticipated further need is detailed in Section 5.2 to Section 5.3 of the Planning and Need Statement, with an explanation of the required delivery of offshore wind generation capacity against the predicated capacity range set out in Section 5.4 and Section 5.5. Section 5.6 of the Planning and Need Statement details development pipelines and attrition rates, which highlights analysis from NESO and Scottish Renewables that the majority of projects in the development pipeline do not come forward to operation due to consenting challenges, abandonment, technical and commercial constraints. The Statement also highlights the constraints on the transmission network and the significant reinforcement works required, which if delayed would result in further attrition or missed targets.	
3. To contribute to the delivery of a significant volume of operational offshore wind in Scottish waters by 2035-2040.	The Scottish Government has made a clear policy decision, as set out in the Updated OWPS, to aim for up to 40GW of additional capacity by 2040. See the analysis and references to the Planning and Need Statement for objective 2 above. See in particular Section 5.8 of the Planning and Need Statement which sets out analysis on the Scottish offshore wind development pipeline and the magnitude of capacity to be delivered in the 2030s to meet targets.	
4. To optimise generation and export capacity within the constraints of available Scottish sites and Scottish	Spatial marine planning for offshore wind in Scotland is set by the SMP, supported by the policy framework of the UK Marine Policy Statement and the Scottish National Marine Plan (noting an update, "NMP2" was consulted on in 2024). Refer to Sections 3.2 to 3.4 of the Planning and Need Statement for further detail. There is limited seabed available in Scotland and the UK, allocated via CES or TCE leasing rounds.	Morven North has been awarded an Option Lease Agreement by CES. It is fundamental to the delivery of offshore wind capacity in Scotland to maximise capacity within secured leasing areas. Morven North is the one of the largest proposed fixed foundation offshore wind farms in the ScotWind leasing round. Fixed foundation technology is proven and reliable,

Morven North Objectives	Need case	How Morven North meets the objectives
and UK onshore transmission infrastructure.	The Updated OWPS confirms that no further leasing rounds by CES are planned in the 'near term'. Generation capacity should be optimised within the seabed made available through current leasing rounds to maximise benefits for Scottish and UK decarbonisation and supply targets. Optimising capacity supports the diversity of generation portfolio within the UK and contributes towards security of supply and increased capacity of supply as well as decarbonisation. Seabed capacity for fixed foundation offshore wind farms is very limited, particularly in the ScotWind leasing round which mostly consists of lease sites in deeper waters. Refer to Section 5.6 of the Planning and Need Statement for further detail.	with a strong established supply chain. Morven North provides scale as well as greater certainty and lower cost of delivery compared to the majority of ScotWind projects which are floating proposals. As set out in the Planning and Need Statement at Section 5.8, fixed foundation schemes are, in contrast to floating schemes, proven in delivery at the size and scale proposed, and in similar locations as Morven North, and therefore can be assessed as a lower-risk approach to delivering offshore wind capacity ahead of and alongside floating offshore wind. See also Section 6.6 of the Planning and Need Statement on benefits specific to location and technology.

5.4 Step 2 – Do nothing

5.4.1.1 For the reasons detailed above and summarised below, the "do nothing" scenario would meet none of the Morven North objectives. As such, it is discounted and does not form an alternative solution to the development of Morven North.

5.4.1.2 Morven North is one of the largest wind farms proposed as part of the ScotWind leasing round, with an estimated capacity of 1.5GW. It will utilise fixed foundation technology, which is tested and reliable. The Applicant, as a joint venture, brings together significant expertise in developing offshore wind. Morven North has the capacity to export significant amounts of electricity to the grid and the ability to service both Scotland and England, with grid connection agreements already in place.

5.4.1.3 The "do nothing" scenario would comprise not proceeding with Morven North, and the loss of this 1.5GW of offshore wind generating capacity. As discussed, the Scottish and UK Governments are not on track to meet their climate change or offshore wind generation targets. Given the ambitious targets and rate of attrition experienced in the sector, as much offshore wind generation as possible needs to be brought online throughout the 2030s. As such, not proceeding with Morven North would not be in alignment with the Scottish and UK's Governments' goals for decarbonisation, Scotland's offshore wind generation targets for 2040, net zero by 2045/2050, and energy security.

5.4.1.4 Additionally, if Morven North does not proceed, a significant area of seabed (the site boundary located in the western part of PO Area E1 identified in the Sectoral Marine Plan 2020) will not be utilised for renewable energy generation, at least in the foreseeable future within the timescale required (if at all). The E1 PO Area was identified in the SMP and subsequent ScotWind leasing round as suitable, hence was made available, for large scale offshore wind development in Scottish offshore waters. If Morven North does not proceed, this directly undermines the objective of optimising generation capacity within the constraints of the Scottish seabed.

5.4.1.5 Given the need to deliver a substantial number, if not all, of ScotWind projects to meet Scotland and the UK's offshore wind generation targets, and the size and relative certainty of Morven North as a large scale fixed foundation offshore wind farm with a secured PO Area and grid connection, it is fundamental that Morven North is developed in order to meet the UK and Scotland's targets and the Morven North objectives.

5.4.1.6 The recent derogation decisions of the Scottish Ministers on Berwick Bank, West of Orkney, Salamander and Green Volt offshore wind farms align with this approach, with the Scottish Ministers finding that the "do nothing" approach would remove the risk of impacts to the qualifying features of designated sites but would not be consistent with the emissions reductions requirements of the Climate Change (Scotland) Act 2009 to mitigate the effects of climate change, and "in addition, the Scottish Ministers consider that taking a 'do nothing' approach would hinder meeting the ambitions set out in the British Energy Security Strategy (2022). As such, the Scottish Ministers do not consider the 'do nothing approach' to be a feasible alternative solution as it would fail to meet the aim of the Project as established by its need."[14]

5.5 Step 3 – identify feasible alternative solutions

5.5.1.1 The approach to the identification of feasible alternative solutions in this section is informed by the guidance and previous offshore wind farm derogation cases determined by the Scottish Ministers and Secretary of State, as well as the objectives for Morven North.

5.5.1.2 Consistent with Defra guidance (2021a) and the consented Scottish and English offshore wind farm derogation decisions to date, the consideration of feasible alternative solutions is limited to

[14] Derogation Case Assessment for Berwick Bank at paragraphs 4.1.2 and 4.1.3.

alternative offshore wind farm projects, locations and designs. The Scottish Ministers have confirmed that alternative forms of energy generation, including renewable technologies and onshore wind farms, are not 'alternatives' for the purpose of the alternative assessment, would not meet the project objectives and would not support fundamental Scottish and UK Government policy aims.

5.5.1.3 Therefore, the scope for consideration of potentially feasible alternative solutions is as follows:

1. alternative project locations outside Scottish waters (Section 5.5.2);
2. alternative project locations within Scottish waters, outside existing leasing rounds (Section 5.5.3);
3. alternative project locations within Scottish waters and existing leasing rounds (Section 5.5.4);
4. alternative scale: array area size, wind turbine layout and number within the constraints of the E1 PO Area (Section 5.5.5);
5. alternative design: minimum lower tip height (Section 5.5.6).

5.5.1.4 Each of the above is considered in turn below, in the context of the Morven North objectives and with regards to the financial, legal and technical feasibility of the alternatives considered.

5.5.2 Alternative project locations not in Scottish waters

5.5.2.1 The Scottish Minister's derogation cases for Berwick Bank, West of Orkney, Salamander and Green Volt determined that offshore wind farm projects located outside of Scottish waters, including in UK waters and other countries, are not an alternative, as this would not meet the identified project objectives which are specific to Scottish waters, with a view of achieving Scotland's offshore wind ambitions and net zero targets.[15]

5.5.2.2 In these derogation cases the Scottish Ministers also considered English and Welsh projects from The Crown Estate (TCE) 2017 Extension Round, TCE Round 4, and the Celtic Sea Floating Offshore Wind Round and determined they were not appropriate alternatives as they did not align with the project objectives for Scottish decarbonisation targets and the security of the Scottish energy supply.

5.5.2.3 Morven North could deliver electricity to both Scotland and England, however the project has objectives specific to Scotland which tie into the Scottish Government's ambitions for the delivery of offshore wind from Scottish waters, and its Scotland-specific targets for decarbonisation, energy security, and emissions reduction. Further, Morven North has the benefit of a Crown Estate Scotland (CES) lease for seabed within Scottish waters, which relates directly to meeting the Morven North objective of optimising generation and export capacity within the constraints of available Scottish sites.

5.5.2.4 As such, it is considered that a project location outside of Scottish waters does not meet the objectives of Morven North and is not an appropriate alternative to Morven North.

5.5.3 Alternative project locations within Scottish waters but outside existing leasing rounds areas

Legal Feasibility – Available Sites

5.5.3.1 Feasible alternative locations are limited to those currently identified for leasing by the CES or TCE. CES and TCE own or (through the Energy Act 2004) exercise exclusive rights to manage the leasing of and exploitation of the seabed for offshore wind development within the UK Renewable Energy

[15] Derogation Case Assessment for Berwick Bank and Derogation Case Assessment for West of Orkney, both at paragraph 4.2.1.

Zone (REZ). CES/TCE make areas of seabed available for offshore wind development selectively in successive offshore leasing rounds, usually several years apart.

5.5.3.2 In recent offshore wind farm derogation decisions, the Scottish Ministers have concluded that sites not subject to a CES leasing process are not viable alternative solutions. In the Berwick Bank decision, the Scottish Ministers concluded: "The Scottish Ministers agree that consideration of alternative locations is linked to the site selection process for offshore wind proposals controlled by the CES leasing process. It follows that those sites that are not subject to a CES leasing round, are not economically or legally viable alternative options…".[16] The same approach was taken by Scottish Ministers in the West of Orkney and Salamander derogation decisions.[17]

5.5.3.3 A similar approach has also been taken on English projects, for example on East Anglia ONE North where the Secretary of State determined that sites outside of the TCE leasing process and sites not secured by the applicant are not viable alternatives, concluding: "The site selection for all offshore wind proposals in the UK is controlled by TCE leasing process. Sites not within the areas identified by TCE leasing process or outside of that which the Applicant has secured (the southern East Anglia Zone) are not legally available and therefore do not represent alternative locations."[18]

5.5.3.4 Outside of ScotWind, other areas of seabed are not available to the Applicant and are not feasible alternative solutions on that basis alone. However, there are many additional reasons to discount other locations / leasing rounds as alternatives, as set out in the following sections.

Future offshore wind leasing rounds

5.5.3.5 Any future alternative location to replace Morven North would depend on a new site leasing process being initiated by CES. There is no prospect of that in the short-term, as confirmed by the Scottish Government in the Updated OWPS.

5.5.3.6 As discussed in detail in Section 5.6 of the Planning and Need Statement, when and where (or indeed if) any further areas of the Scottish seabed may be offered by CES is unknown and a matter of speculation. At this stage, the availability of alternative locations outside of current CES leasing rounds is theoretical (as well as legally unavailable – see above) and can be discounted on that basis. Therefore, any areas of the Scottish seabed not currently the subject of an offshore wind farm leasing round do not constitute feasible alternative solutions.

5.5.3.7 Future locations released via future offshore leasing rounds can additionally be discounted on timing grounds. As set out in section 5.7 of the Planning and Need Statement, of those OWF projects which are now operational, the average development duration from lease award to full commercial operation is over 9 years.

5.5.3.8 As such, a new offshore wind farm leasing round announced in 2025/2026 would not deliver substantial additional installed offshore capacity within the early 2030s. Indeed, the current Round 5 in the Celtic Sea, which was first announced in 2020, is programmed to deliver by 2035.[19] Similarly, the first public announcement for the TCE leasing Round 3 was made by TCE in 2008, however as of 2024, wind turbines at some Round 3 projects are still being erected, and some planned projects are yet to initiate construction.

5.5.3.9 The Scottish Ministers in their derogation decisions for Berwick Bank, West of Orkney and Salamander OWFs determined that any location where site selection has not yet commenced will be

[16] Derogation Case Assessment for Berwick Bank at paragraph 4.3.1.2.

[17] Derogation Case Assessment for West of Orkney and for Salamander, both at paragraph 4.3.1.1.

[18] East Anglian ONE North Habitats Regulations Assessment at paragraph 9.1.3.3.

[19] Celtic Sea Floating Offshore Wind Programme.

on timescales that mean the objectives for those projects to contribute to 2030 generation targets cannot be met.[20] We consider the same can be said in terms of delivery by the mid-2030s, which Morven North will achieve, based on the analysis above and in the Planning and Need Statement.

5.5.3.10 The huge scale of Scottish and UK targets for offshore wind, the statutory requirement to achieve net zero by 2045/2050 respectively, the prevalence of offshore environmental and technical constraints, and the rate of attrition (see Sections 5.6 and 5.7 of the Planning and Need Statement) mean that lost capacity at the scale of Morven North cannot be offset by future uninitiated leasing rounds, even on the most optimistic of outlooks.

5.5.3.11 For the reasons set out above, it is concluded that alternative locations outside areas / sites currently identified for leasing by CES are not alternative solutions to Morven North.

Repowering existing Offshore Wind Farms

5.5.3.12 Most operational wind farms to date typically have an expected operational life span of between 20 years and 35 years (although TCE/CES leasing periods can be longer) before either decommissioning or repowering is considered.

5.5.3.13 To date in the UK, only Blyth offshore wind farm has been decommissioned (in 2019, 4MW). The next section 36 consented offshore wind farm in Scottish waters due to expire is Robin Rigg in 2032 with a capacity of 174MW.

5.5.3.14 As wind turbine technology continues to evolve and the understanding of wind turbine condition and performance monitoring grows, offshore wind farm assets may be expected to operate for longer periods than originally anticipated. However, it is possible that some existing offshore wind farms will be repowered in the short to medium term.

5.5.3.15 In consideration of repowering as an alternative solution, the following observations are made:

- Not all existing offshore wind farms will necessarily repower;[21]
- Many of the earlier offshore wind farms (e.g. from the Scottish Territorial Waters leasing round) are closer to shore and larger/modern scale wind turbines may give rise to greater landscape and visual impacts, with additional consenting risk;
- Given the above, it cannot be assumed that repowering will have a material additive effect in terms of increasing the baseline of installed offshore wind farm capacity, or that it would provide sufficient capacity to offset Morven North's estimated capacity of 1.5GW;
- While it could reasonably be assumed that consenting and development timescales will be shorter than for new 'greenfield' locations, that may be offset to some degree by downstream technical complexities around decommissioning old infrastructure and constructing the repowering infrastructure. There is also no guarantee that consents and licences will be granted for repowering;
- It is unclear whether existing offshore wind farms would be offered continued or new grid connections, and when those connections would be able to come 'online' for delivering power to the grid.

5.5.3.16 The Scottish Ministers in recent derogation decisions considered repowering and concluded that it was not a reasonable alternative in light of the objectives for the relevant projects. They considered that given the likely timelines, uncertainty, and smaller scale of projects which could potentially be repowered, repowering would not provide sufficient additional capacity and would not meet 2030

[20] Derogation Case Assessment for Berwick Bank at paragraph 4.3.1.3 and Derogation Case Assessment for West of Orkney and Salamander, both at paragraph 4.3.1.2.

[21] Experience onshore shows only 55% of onshore wind farms have been repowered in Scotland and similar proportion across the UK (Renewable UK 2019).

generation targets. We consider this is valid analysis for Morven North as well and its objective to deliver significant capacity to the grid by the mid-2030s. If only Robin Rigg is anticipated to potentially repower in Scottish waters in the next decade following expiry of its section 36 consent, the capacity available and likely timelines for repowering mean that repowering will not achieve the Morven North objectives, in that it will not significantly contribute to offshore electricity generation, decarbonisation and climate change targets, and energy security.

5.5.3.17 For these reasons, it is concluded that reliance on repowered offshore wind farms (alone or in aggregate) is not an alternative solution to Morven North.

5.5.4 Alternative project locations within Scottish waters and existing leasing round areas

5.5.4.1 CES and TCE leasing rounds completed or underway comprise TCE Rounds 1 (2000), 2 (2003), 3 (2010) and 4 (2021); two TCE extension rounds (2010 and 2017); the Scottish Territorial Waters round (2009); ScotWind (2022); INTOG (2023); TCE Round 5 in the Celtic Sea (2024); and the Capacity Increases Programme (2025). Morven North is located within the SMP E1 PO Area, a region identified and made available by CES during the ScotWind Leasing Round.

5.5.4.2 Leasing rounds for sites outside Scottish waters are not considered further, for the reasons set out in the section above – namely because these sites would not meet the Morven North objective to deliver an offshore wind farm within Scottish waters and would not contribute to Scotland-specific generation targets.

Operational/existing projects

5.5.4.3 Operational/existing offshore wind farm projects in Scottish waters from Round 3 and the Scottish Territorial Waters round have already been fully or largely developed and form part of the existing baseline of offshore wind farm installed capacity. They do not provide additional installed capacity (as an alternative to Morven North) that is required to achieve current Scottish and UK offshore wind capacity targets. Accordingly, they can be discounted as alternatives to Morven North.

Innovation and Targeted Oil & Gas

5.5.4.4 The Innovation and Targeted Oil and Gas (INTOG) leasing round has been established to allow future offshore wind farms to provide low carbon electricity to power oil and gas installations as well as alternative outputs such as hydrogen. Two types and scales of project are envisaged by CES:[22]

- "IN" – small scale innovation projects of less than 100MW;
- "TOG" – projects connected directly to oil and gas infrastructure, to provide electricity and reduce the carbon emissions associated with production.

5.5.4.5 13 exclusivity agreements were awarded with 12 being taken forward. The draft updated SMP states the INTOG round will contribute 5.4GW of capacity once the 12 projects are operational.

5.5.4.6 In consideration of INTOG projects as an alternative solution, the following observations are made:

- All INTOG projects are brought forward as floating offshore wind farm projects. Therefore, the INTOG projects are not an appropriate alternative to Morven North which will utilise fixed foundation technology and provides greater certainty over feasibility, deliverability and cost;
- As mentioned, the anticipated maximum capacity of the INTOG projects is 5.4GW. Only two of these projects, Green Volt and Salamander, currently have section 36 consent, and the largest individual project is anticipated to be approximately 1GW;

[22] https://www.crownestatescotland.com/scotlands-property/offshore-wind/intog-leasing-round

- The IN projects are small scale (maximum 100MW) and are purposefully innovation projects;
- It is expected that many of the TOG projects will connect to an off-grid solution (i.e., an oil and gas installation), to facilitate the North Sea energy transition. Thus, in the case of these projects the intention is primarily to decarbonise oil and gas infrastructure.

5.5.4.7 The smaller size of these projects and their primary focus for either floating technology innovation or decarbonisation of oil and gas installations means they are not an alternative to Morven North. They do not meet the Morven North objectives to export electricity to the grid or to generate a significant volume of electricity for the UK and Scottish electricity supply, to support decarbonisation, energy security and climate change targets.

5.5.4.8 For these reasons, it is concluded that reliance on INTOG projects (alone or in aggregate) is not an alternative solution to Morven North.

ScotWind leasing round

5.5.4.9 The ScotWind leasing round was launched in June 2020. The SMP for Offshore Wind Energy provided the spatial framework for this leasing round through identification of which areas of seabed could be available for leasing by CES. The spatial framework identifies 15 final PO Areas across four regions (West (W), North (N), North East (NE) and East (E)). The development of the SMP for Offshore Wind Energy began in 2018 and final PO Areas were published in October 2020. Options to Lease Agreements were offered in January 2022.

5.5.4.10 Based on the lease areas put forward as part of the ScotWind Leasing Round, it was expected that up to 10GW of new generating capacity would be built over the following ten years.

5.5.4.11 In 2025 the Scottish Government announced the proposed Update to the Offshore Wind Policy Statement 2020, confirmed and published in January 2026, which increased the targeted offshore wind electricity generation for Scotland from 11GW by 2030 (as established in the OWPS 2020) to 40GW by 2040. The Scottish Government also produced the draft updated Sectoral Marine Plan for Offshore Wind Energy (May 2025) to support the delivery of the ScotWind and INTOG projects, and to reflect the Scottish Government's updated ambitions for offshore wind electricity generation and the increased anticipated capacity resulting from these projects.

<u>Sectoral Marine Plan – identification and development of Plan Option Areas</u>

5.5.4.12 An iterative process was followed to develop the final PO Areas utilising multiple rounds of Areas of Search (AoS), constraints analysis, scoping, stakeholder engagement, and consideration of key matters such as fishing activity, shipping routes and marine protected designations, to identify sites viable for offshore wind development.

5.5.4.13 The Scottish Ministers identified 17 draft POs (DPOs) which were subject to a Sustainability Appraisal process, comprising a Strategic Environmental Assessment (SEA), HRA and Social and Economic Impact Assessment (SEIA), which examined cross-sectoral impacts of the DPOs to support sustainable development of renewable energy generation in Scottish waters. The Sustainability Appraisal was undertaken on a technology neutral basis, and the impacts of individual DPOs were assessed using a realistic maximum deployment scenario (in GW) for each DPO, equating to a proportion of the overall area of the DPO. The potential impacts were assessed at regional and national levels and used a range of deployment scenarios in order to assess a wide range of impacts.

5.5.4.14 Of the 17 DPOs, 15 final PO Areas were identified, following statutory consultation between December 2019 and March 2020.

5.5.4.15 The draft Updated SMP does not propose changes to the PO Areas or their spatial boundaries, however it does undertake further assessment of potential impacts and environmental effects in light of the anticipated increase in offshore wind generation capacity. In relation to the E1 PO Area the HRA for the draft Updated SMP concludes:

1. AEOI for birds is concluded for E1 Option Areas (OAs) (alone and in-combination), especially for kittiwake, guillemot, razorbill, gannet, and puffin;
2. The main impact pathways are loss of foraging habitat, collision risk, and displacement/barrier effects;
3. Mitigation at project level would not be sufficient to avoid AEOI for birds; compensatory measures will be required;
4. The E1 OAs are a significant contributor to the overall ornithological risk profile of the Draft Plan.

5.5.4.16 In relation to the Morven Site specifically, E1C, the HRA highlights impacts to kittiwake in particular:

1. "The RSPB utilisation distribution data indicates that kittiwake utilisation of E3 and to a lesser extent E1C, is greater than at E1A;"
2. "In addition, given the overlap of E3 and E1C with kittiwake utilisation areas and the proximity of E3 and IN4 to the coast; it is considered that cumulative development of the OAs within the East region would result in AEOI (as a result of impacts on bird features including kittiwake)."

Selection of Morven Site location

5.5.4.17 The PO Areas and the SMP were considered by the Applicant ahead of its identification of and successful bid for an area of seabed in the E1 PO Area, referred to during bid phase as 'E1 West'. Further details of the Applicant's selection process are set out in full in Volume 1, Chapter 4: Site Selection and Consideration of Alternatives, of the EIA Report.

5.5.4.18 In order to identify and down-select a preferred site within the SMP, the Applicant completed four phases of site assessment to assess the risks, opportunities and constraints of all 17 DPO Areas, which were refined to 15 final PO Areas in October 2020. This process was supported by Xodus Group to aid the down selection by constraints mapping and Levelised Cost of Energy (LCoE) assessment for both fixed and floating options, followed by internal financial modelling and development of technical concepts for the selected sites. The assessments were refined as DPO areas were dropped from consideration as the process progressed. In summary:

- Phase 1: Site identification and high-level evaluation: Consideration of both fixed, floating foundation and hybrid design options based on water depths with 80m and above used as the threshold. Constraints considered included anticipated consenting timeline, LCoE risk, grid connection risk and anticipated competition for the DPO. Key environmental constraints were identified using desktop study and high-level Geographic Information System (GIS) mapping and included offshore ornithology, marine mammals and fish and benthic ecology. DPO areas were discarded based on knock out criteria and compared through a high-level LCoE GIS modelling assessment.
- Phase 2: Down selection and boundary refinement: Nine DPO areas were brought forward; six areas suitable for fixed foundation or hybrid solution, and three suitable for floating foundations. Constraints mapping was refined by introducing hard and soft constraints and the most preferable sites within the DPO areas were identified. More detailed work was undertaken to better understand grid connection feasibility and consenting risk. The environmental constraints were expanded on, alongside new constraints. Designated site analysis was undertaken looking at the type of European Site designated, its qualifying features, and how these could influence consentability. Further constraint identification incorporated fish spawning, fish nursery sites and seal haul-out sites. Impacts to shipping and navigation, commercial fisheries, aviation and radar receptors were also considered. Options were further down selected to five fixed/ hybrid sites and two floating sites and boundaries were refined.
- Phase 3: Detailed LCoE assessment and site shortlisting: Financial modelling was combined with option appraisals for consenting, grid connection, competition and competitive advantage categories for each site. Three site options were shortlisted, comprising two fixed foundation sites (including the E1 DPO area), and one floating foundation site. The analysis also showed that all potential hybrid sites performed less favourably against the criteria than either fixed or floating specific sites so were not considered further.
- Phase 4: Final selection for bid and project concept: Out of the three DPO areas taken forward to final selection in the site selection process, five project concepts were developed for final

analysis. The final analysis included a detailed Black, Red, Amber, Green (BRAG) assessment for consentability, and a further LCoE on the refined project concepts. For the BRAG assessment key EIA disciplines considered were water quality; offshore ecology (benthic, offshore ornithology, fish and shellfish, marine mammals, designated sites); aviation and radar; shipping and navigation; commercial fisheries; cultural heritage; other sea users; unexploded ordnance and seascape, landscape and visual. Based on the outcomes for the BRAG assessments a risk based decision on site selection and preferred project concept was identified.

5.5.4.19 Following comprehensive constraints analysis the Applicant identified the western part of the E1 PO Area as the most competitive, technically viable, and consentable site for a fixed bottom offshore wind farm. The main drivers for selecting E1 West included its optimal wind conditions, the level of environmental impacts, and potential for high energy yield. The decision was also informed by the Applicant's experience delivering other offshore wind projects and specifically consenting projects in the North Sea. The down selection to E1 West within the E1 PO Area was also informed by the following considerations:

- Outcomes of the BRAG assessments;
- Consideration of the key environmental constraints associated with the East Region as identified in the SMP, including the knowledge that the E1 PO Area is potentially an important foraging area for kittiwake and razorbill, and may also be important spawning grounds for fish species, and the fact there are a number of consented and operational offshore wind farm projects within the East Region which would require consideration in-combination with any new proposed offshore wind farm development;
- Potential socio-economic impacts to commercial shipping, fishing and power interconnector sectors;
- Potential MoD radar interference from wind turbines;
- Bathymetry and geotechnical constraints identified within the E1 PO Area;
- Physical constraints including water depths, location of chalk deposits and boulders;
- The location of the Firth of Forth Banks Complex Nature Conservation Marine Protected Area (NCMPA), which overlaps the E1 PO Area by approximately 10km² in the westernmost corner. The Option Agreement Area (OAA) boundary was designed to avoid this NCMPA;
- Crucial ornithological and marine mammal data from Digital Arial Surveys (DAS) to inform decisions with regard to defining and refining the Project Design Envelope (PDE) and site boundary.

Consideration of alternatives

5.5.4.20 The Applicant has concluded that there are no feasible alternative sites within the SMP and ScotWind leasing sites that meet the Morven North objectives. The conclusion is reached on the following key grounds:

5.5.4.21 In order to meet the targets and ambitions of the Scottish and UK Government for the generation of offshore wind, decarbonisation and emissions reduction, a significant volume of additional generating capacity needs to be brought online throughout the 2030s.

5.5.4.22 As detailed in Section 5.8 of the Planning and Need Statement, the current operational installed offshore wind capacity in Scotland is 4.3GW. A further 1.1GW is under construction; 2GW has secured a Contracts for Difference (CfD) (but construction has not yet started) and 5.3GW has been consented but has not yet secured a CfD. The analysis indicates that at most 6GW of offshore wind capacity will likely be connected by 31 December 2030, but up to 20.4GW may be connected by 31 December 2031 if all projects deliver to their current capacity and timeline assumptions. However, historic delivery rates provide evidence that this level of capacity delivery is highly likely not be achieved. The analysis shows that the total capacity of offshore wind projects in Scotland before attrition is 45GW, however, 1.8GW of net attrition has occurred vs. lease award capacities for Scottish projects which are under construction or have been awarded CfD (7.8GW). This is equivalent to an attrition rate of 23%.

5.5.4.23 In order to meet the Scottish Government's ambition of 40GW by 2040, Scottish offshore wind pipeline projects would require:

- 27.2GW of new capacity to be granted planning consent (84% of a total of 13.7GW currently in planning, 14.2GW in pre-planning, and 4.4GW of 'future potential' (IN/TOG) capacity);
- 32.6GW of new CfD to be awarded, nearly five times the capacity of CfD awards to Scottish projects to date (7.4GW);
- A total of 35.7GW of new capacity constructed (alongside the completion of 1.1GW currently under construction), equivalent to a minimum of 2.4GW every year from 2026 to 2040, compared to a historical Scottish average annual construction rate of 0.7GW over the last five years.

5.5.4.24 As detailed in Section 5.4 of the Planning and Need Statement, none of NESO's Future Energy Scenario pathways meet the UK Government's aim of quadrupling offshore wind capacity by 2030, and only one pathway meets the previous Government's target of 50GW, highlighting the massive scale of offshore wind capacity required to achieve net zero.

5.5.4.25 This analysis leads to the conclusion that the majority if not all ScotWind projects currently in the development pipeline need to be developed to meet capacity demand.

5.5.4.26 This is supported by the policy position in NPS-EN1, which states that delivery of sufficient CNP Infrastructure requires a 'significant number' of deliverable locations for CNP infrastructure and for each location to maximise its capacity. There is no limit imposed by the NPS on the number of CNP infrastructure projects that may be consented, and as such, the fact there are other potential plans or projects deliverable in different locations to meet the need for CNP infrastructure is 'unlikely to be treated as an alternative solution.'

5.5.4.27 This does not mean that an assessment of alternatives under the Habitats Regulations is not required, but is important policy context within which the Scottish Ministers and Secretary of State make their determinations. As such, in the derogation decisions for Berwick Bank and West of Orkney the Scottish Ministers highlighted and took into account this policy position in their decision-making.[23]

5.5.4.28 Only the E1 West PO Area is available to the Applicant; other ScotWind sites are leased to other developers, including within the E1 PO Area where other areas are leased to Ossian and Bellrock. As such alternative ScotWind sites are not a legally or economically feasible alternative to Morven North.

5.5.4.29 The identification of the E1 PO Area, and more specifically the E1 West area as appropriate for Morven North has been determined based on detailed and extensive site selection, including assessment of environmental and socio-economic impacts, physical constraints and feasibility assessments, as discussed in the section above. The E1 West area has been identified as being suitable for a large scale fixed foundation offshore wind farm, which will deliver significant capacity to the grid, whereas the majority of ScotWind projects are in deeper waters where floating technology will be required. As discussed, fixed foundation technology is established, well tested, and provides greater certainty on deliverability, timescales and cost.

5.5.4.30 Given the foraging range and behaviour of a number of the qualifying species of the affected SPAs, all possible locations for commercial scale offshore wind farms within the SMP and ScotWind leasing areas have connectivity with one or more qualifying species of the SPAs. There is no location within the SMP and ScotWind leasing areas that could be developed without impacts on Scottish and/or UK SPAs.

[23] Derogation Case Assessment for Berwick Bank at paragraphs 6.11.1 and 6.11.2 and Derogation Case Assessment for West of Orkney at paragraphs 6.14.1 and 6.14.2.

5.5.4.31 The concept of developing Morven South in place of Morven North is not considered an alternative which meets the Morven North objectives. Both Morven North and Morven South need to be developed to build out the E1 West site to its optimum capacity. If Morven North and Morven South are treated as an 'either/or' scenario, this halves the potential generation capacity of E1 West. That is not in accordance with the Morven North objectives as it would fail to optimise the use of the limited seabed made available for development through ScotWind. This is also not in accordance with the policy direction highlighted in NPS-EN1 to deliver as much generation capacity as possible and scale of development necessary to meet the Scottish Government's generation targets.

5.5.4.32 There will be project attrition in the years ahead and not all proposed ScotWind projects will progress on time, or at the full potential capacity. Some projects may not proceed at all. Indeed, analysis from National Grid[24] has shown that only 30 to 40% of projects in National Grid's connection queue make it to fruition. Full assessment of the likely attrition rates for UK and Scottish projects is set out in Section 5.6 of the Planning and Need Statement.

5.5.4.33 The purpose of the remaining ScotWind projects is to provide additional capacity towards Scottish and UK renewables and offshore wind targets, and particularly in light of the anticipated capacity need as detailed above and the anticipated attrition rates, substantially more offshore wind capacity is required to meet legally binding net zero requirements.

5.5.4.34 As discussed, the policy context under NPS-EN1 acknowledges and supports the need for a significant number of offshore wind farm locations to generate sufficient additional capacity. In their recent derogation decisions the Scottish Ministers have determined that "the consenting of other offshore wind farms does not lessen the scale or urgency of the need for further largescale offshore wind projects in pursuance of renewable energy and net zero government targets."[25] It follows that alternative ScotWind sites are not an acceptable alternative, given the significant capacity required as soon as possible to meet decarbonisation, electricity generation and climate change targets.

5.5.4.35 The Applicant has secured connection agreements into England and Scotland. Morven North is well placed to play a key role in delivery of additional capacity in the mid-2030s, to support the UK and Scottish Government's 2035 to 2040 generation targets and 2045/2050 net zero targets.

5.5.4.36 Additionally, Morven North is one of the larger ScotWind projects and one of four projects which can rely on fixed foundation technology, providing greater certainty of delivery to these timescales. On West of Orkney the Scottish Ministers observed: "The Scottish Ministers have considered the Project's location within shallow waters, and the use of fixed bottom foundations offers certainty in the ability to deliver an operational project at scale and within short-term timescales. As compared to floating offshore wind farm technology, fixed bottom foundations are an established technology, used multiple times across Scotland and the wider UK which will ease the construction process and commissioning timescales, in support of objective (iii). Comparatively, the majority of ScotWind sites will likely comprise of [floating offshore wind] farm projects, given their location in deeper waters. As a new developing technology this will bring about more complex technical challenges with potentially longer project timescales and economic costs."[26]

[24] Published https://www.nationalgrideso.com/news/eso-leads-way-major-initiative-accelerate-connections-electricity-transmission-grid, 27th Feb 2023

[25] Derogation Case Assessments for Berwick Bank and Salamander, both at paragraph 4.3.2.2, and Derogation Case Assessment for West of Orkney at paragraph 4.3.2.3.

[26] Derogation Case Assessment for West of Orkney, at paragraph 4.3.2.8.

5.5.5 Alternative design solutions for Morven North

Policy context: National Policy Statement-EN1

5.5.5.1 An important consideration in the context of assessing alternative project design is the policy position in NPS-EN1, which states that delivery of sufficient CNP infrastructure requires each project location to maximise its capacity, and that the existence of another way of developing the proposed plan or project which results in a significantly lower generation capacity is unlikely to meet the objectives and therefore be treated as an alternative solution.[27]

5.5.5.2 This is important policy context within which the Scottish Ministers and Secretary of State should assess the alternatives for project design. As such, in the derogation decisions for Berwick Bank and West of Orkney the Scottish Ministers highlighted and took into account this policy position in their decision-making.

Considerations for design development of Morven North

5.5.5.3 The feasibility and potential nature and scale of a fixed foundation wind farm in deep waters within E1 was the subject of intensive assessment which included consideration of fixed only, floating only, and hybrid solutions. It was ultimately concluded that within E1 West a fixed foundation wind farm was the optimal solution.

5.5.5.4 The optimal design identified as part of the ScotWind Leasing Round application submitted by the Applicant for E1 West for the original 'Morven Site' proposal consisted of 153 wind turbines with a rated power of 19MW each, spaced to maximise energy yield while minimising wake losses. Fixed bottom jacket foundations were selected as the optimal and most robust foundation type for the wind turbines for E1 West, given their strength-to-weight ratio, fabrication, and environmental conditions. Other foundation options, such as extra-extra-large monopiles, gravity base structures, and suction caissons, were considered but not proposed as part of the ScotWind Leasing Round application submitted by the Applicant due to the initial assessment of economic feasibility. The transmission system initially included both High Voltage Alternating Current (HVAC) and High Voltage Direct Current (HVDC) routes to optimise energy transmission and minimise environmental impacts. This careful selection of technologies was intended to ensure that E1 West was technically viable, consentable, and optimised for energy yield while minimising environmental impacts.

5.5.5.5 Following award of the Option to Lease Agreement the Applicant further refined the proposal for the Morven Site at the EIA Scoping stage. The scoping boundary and the Morven Site Scoping Report PDE was refined with respect to information gathered to inform potential engineering, societal, economic and environmental risks and constraints. These risks and constraints were considered against a range of potential technological parameters, which would ultimately aid the Applicant in defining the Morven Site Scoping Report PDE. The key design parameters considered within the Morven Site Scoping Report PDE were related to the wind turbines and OSPs and associated fixed foundation options, interconnector and inter-array cables, and scour protection.

5.5.5.6 Results from site specific geophysical surveys during 2022 reaffirmed that the Morven Site would be suitable for fixed foundations, both for wind turbines and OSPs. Accordingly, only fixed foundations were considered in the Morven Site Scoping Report PDE. The Applicant carried out geotechnical and geophysical site investigation and environmental surveys to further determine the constraints and define the PDE. This included surveys and data related to the marine mammal and ornithological baseline, geophysical considerations, benthic subtidal data and environmental DNA (eDNA), and metocean data.

[27] Overarching National Policy Statement for Energy (EN-1) – December 2025 at 4.2.34.

5.5.5.7 The site investigation surveys confirmed relatively large water depths of the Morven Site. Therefore, as part of the Morven Site Scoping Report PDE, it was important to consider a range of fixed foundation options to maintain flexibility in the design. Engineering studies determined that piled jacket, suction bucket jacket, gravity-based structure, and monopile solutions would be the most suitable fixed foundation options for the Morven Site and were therefore included within the Morven Site Scoping Report PDE. The reasoning for this was that although piled jacket foundations were still considered as the preferred option, the absence of detailed geotechnical data meant it was important to not exclude other options that may prove to be more economically viable once detailed geotechnical data became available.

5.5.5.8 The refined Morven Site scoping PDE looked to maximise generation capacity through location, number and specification of the wind turbines, as detailed in Volume 1, Chapter 4: Site Selection and Consideration of Alternatives, of the EIA Report. The Morven Site proposal was then split into Morven North and Morven South due to uncertainty around grid connection and therefore to allow maximum flexibility for delivery of the project. Further detailed constraints analysis was undertaken to inform defining the boundaries between Morven North and Morven South; this included further consideration of physical processes, offshore ornithology and commercial fisheries, and data from geophysical, geotechnical and marine traffic surveys. Engineering constraints analysis included consideration of the influence of physical objects such as boulders, physical characteristics such as water depth and an initial view of wind yield effects based on early indicative layouts. It was ultimately determined it was appropriate to split the Morven Site into two project areas which aligned with the original Morven Site boundary.

5.5.5.9 Following scoping, the PDE for Morven North and Morven South have been further refined, informed by early engineering works, consultation with stakeholders and environmental constraints.

5.5.5.10 After receipt of the Morven Site Scoping Opinion, the Applicant assessed and increased the minimum blade tip height of the wind turbines in order to decrease the potential impacts on offshore ornithology receptors. As such, interim collision risk modelling studies were carried out to investigate the relative impact on collision risk numbers by increasing the 'air gap' by 1m intervals. This study was based on site specific DAS undertaken across the Morven Site. As a result of the studies, the minimum blade tip height was increased from 30m above Lowest Astronomical Tide (LAT) as provided within the Morven Site Scoping Report, to 34m above LAT. This commitment will significantly reduce the collision risk to key seabird species.

Scope of consideration of alternative design

5.5.5.11 The scope for consideration of feasible alternative solutions has been considered throughout the development process for Morven North and has been a fundamental driver for design and decision-making. Details of refinements to the PDE are set out in Volume 1, Chapter 4: Site Selection and Consideration of Alternatives, of the EIA Report.

5.5.5.12 The AEOI identified in the RIAA would arise from collision and/or displacement risk related to the operation of the wind turbines, and so the primary project design parameters which may influence these impact pathways during operation are considered to be:

1. Location of Morven North;
2. The Morven North Boundary and wind turbine number;
3. Individual wind turbine parameters, including height of wind turbine blades above sea surface.

5.5.5.13 It should be noted that the specific layout of a project's wind turbines within a site boundary (i.e. the location of each wind turbine) does not materially affect ornithological impacts resulting from seabird collision risk or displacement as this is not a parameter that is incorporated within displacement and collision risk models.

5.5.5.14 In relation to method, as the ornithological effects of relevance to this Derogation Case relate to the operation of the offshore wind farm, no alternative methods are available beyond the scale and

design options considered below. There are no alternative solutions relating to an alternative method of carrying out Morven North, and this is not considered further.

5.5.5.15 The location of Morven North was determined and fixed through the SMP PO Area selection process and ScotWind Leasing Round bidding process, as has been set out above in this Derogation Case. Accordingly, the further potential alternative design solutions considered in this section of the Derogation Case are:

- The Morven North Boundary and the number of wind turbines, which is aimed at optimising the generation capacity of Morven North;
- the minimum blade tip height above LAT, which has been subject to detailed consideration of technical and commercial constraints of wind turbines whilst balancing impacts on ornithological receptors.

5.5.5.16 Consultation has been a key part of the design refinement for Morven North and has been undertaken through informal and formal consultation activities as detailed Volume 1, Chapter 5: Consultation, of the EIA Report. The Applicant has also considered data analysis, constraints mapping and other information sources to help identify environmental constraints.

Morven North Boundary and number of wind turbines

5.5.5.17 As discussed in the sections above, the Applicant's selection of a lease site within the E1 PO Area, down-selection to E1 West, and the refinement of the PDE for the Morven Site and subsequently Morven North has been the subject of extensive assessments and surveys, balancing environmental and socio-economic impacts, engineering and consenting constraints, and feasibility. This analysis has informed the determination of the Morven Site Boundary size and wind turbine layout and number, subsequently applied to Morven North and Morven South, with a focus on optimising generating capacity within environmental and physical constraints.

5.5.5.18 Wind conditions were a key factor in site selection and design development. Baseline data utilised in the constraints analysis included wind resource data. The wind resource assessment was carried out using mesoscale modelled wind data from the UK Offshore Wind Dataset (2015) produced by the UK Met Office (UKMO). This dataset included 15-year average wind data from 1999-2014, which was used as a baseline for wind resource modelling. Metocean analysis was completed using 25-year datasets from the Danish Hydraulic Institute (DHI) Group, which included wind speed, significant wave height, currents, and water levels.

5.5.5.19 Water depths within the western part of the E1 PO Area were determined to range between 61.89m and 75.28m LAT. Following consideration of fixed only, floating only and hybrid models it was determined water depths and geophysical constraints within E1 West were appropriate for a fixed foundation wind farm.

5.5.5.20 Geophysical surveys determined conditions within E1 West were suitable to support a greater number of foundations than initially contemplated at the ScotWind bid phase, meaning a greater number of wind turbines could be accommodated within the Morven Site, within the limits of environment and ecological constraints. This enabled revised wind turbine specifications and overall optimisation of the generating capacity of the Morven Site.

5.5.5.21 Minimum spacing between wind turbines of 1000m has been retained across the design evolution to minimise wake effects and ensure optimal generating capacity is possible.

5.5.5.22 If the Morven North Boundary is amended and reduced number of wind turbines is considered as an alternative to Morven North, the following observations are made:

- If the Morven North Boundary is reduced and the number of or spacing between wind turbines is reduced this will have negative implications for the generating capacity of Morven North, which is not in accordance with national policy under NPS-EN1 or the Morven North objectives to optimise the generating capacity within seabed constraints and provide a significant contribution to electricity generation, decarbonisation and climate change targets.

5.5.5.23 Reduced spacing between the wind turbines could result in wake effects which may reduce energy yield. Additionally, minimum spacing for wind turbines is a requirement of Marine Guidance Note 654 (MGN654) (MCA, 2021) which provides guidance to accommodate safe and effective search and rescue operations in the event of an emergency.

5.5.5.24 A reduced number of wind turbines within Morven North would result in reduced generation capacity unless individual wind turbine capacity can be increased to offset this, which may not be technically or economically viable and may have additional environmental impacts. Additionally, at this stage of project development certainty is needed as to wind turbine design so wind turbines can be procured at scale within required timeframes.

5.5.5.25 Furthermore, Morven North must compete for a CfD in a competitive tender, without which it may not attract finance. An unviable project would not contribute to the UK and Scotland's climate change and renewable energy generation targets and would not help address security of energy supply risks. A failure to optimise generation and export capacities is not in accordance with the Morven North objectives of optimising offshore wind generation, supporting energy security, decarbonisation, and significant contributing to offshore wind generation in Scotland by the mid-2030s and within seabed constraints.

5.5.5.26 For these reasons, a reduced Morven North Boundary and/or reduced wind turbine number are not feasible alternative solutions to Morven North.

Minimum blade tip height of wind turbines above Lowest Astronomical Tide

5.5.5.27 As has been discussed above, following EIA scoping the minimum blade tip height of the wind turbines above LAT was assessed and refined in order to decrease the potential impacts on offshore ornithology receptors. Interim CRM studies were carried out to investigate the relative impact on collision risk numbers by increasing the 'air gap' by 1m intervals. As a result of the interim studies, the minimum blade tip height above LAT was increased from 30m to 34m. This commitment will reduce the collision risk to key seabird species; the Applicant's modelling determined that the increase would result in an approximately 32% decrease in collision numbers for kittiwake and a 34% decrease for gannet.

5.5.5.28 Any further increase in minimum blade tip height above LAT is considered not feasible from a technical and financial perspective. Further increasing the blade tip height would require either increasing the length of the wind turbine tower or the height of the wind turbine foundation. Increasing tower length is not an option as it would negatively impact generation capacity, and regardless, certain equipment manufacturers will not produce towers beyond a certain length. Increasing the foundation height above LAT is not an option as it would prohibitively increase construction costs. For both options, a greater wind turbine height increases the load experienced at the foundation, which requires increased foundation weight and therefore increased construction costs.

5.5.5.29 Increasing wind turbine height through increases to tower length or foundation height is also not a feasible alternative given the likely lack of capability and availability of a sufficient number of installation vessels on the market when required, and the related supply chain risk of requiring larger wind turbines. To increase the height of the wind turbines further may rule out installation vessels options and hence limit the number of capable vessels. Given the number of OWFs expected to be constructing in the 2030s, there will be high competition for installation vessels and therefore a further increase in wind turbine height could lead to programme and delivery risk.

5.5.5.30 For these reasons, a further increased minimum blade height is not financially or technically feasible and therefore is not an alternative solution to Morven North.

5.5.6 Summary: No alternative solutions

5.5.6.1 Section 5 of this Derogation Case assesses the potential alternatives to Morven North in terms of site location and design features considered by the Applicant.

5.5.6.2 The site selection and PDE for the Morven Site and subsequently Morven North has been developed through an extensive and iterative process balancing environmental and socio-economic considerations, engineering and consenting constraints, and feasibility. Morven North has been located and designed to maximise generation capacity within E1 West.

5.5.6.3 The Applicant has demonstrated that there are no feasible alternatives to location or design which will meet the Morven North objectives to maximise generation capacity within Scottish seabed constraints, export electricity to the national grid, and significantly contribute to Scotland and the UK's offshore generation, decarbonisation and climate change targets and need for energy security and increased electricity supply.

5.5.6.4 The Scottish Government's ambitions for offshore wind delivery are clear in the draft Updated SMP, which forecasts for 40GW of additional capacity. It is understood that the UK and Scotland are currently behind on their targets for delivery of offshore wind energy, and in meeting their climate change emissions reduction targets. The Scottish Minister's in the Berwick Bank derogation case considered that the fact that other offshore wind farms were being consented 'does not lessen the scale of urgency of the need for further largescale offshore wind projects…'.[28]

5.5.6.5 Within the policy, legislative and sector context and due to the attrition rate, it is clear that significant additional offshore wind capacity is needed to meet Scottish and UK targets for renewable energy generation, decarbonisation of electricity, and emissions reduction. Most if not all ScotWind projects need to be developed to meet Scotland's 2040 generation targets and 2045 net zero targets. Morven North is well placed to deliver a substantial portion of this capacity and has greater certainty of deliverability to timelines, given it is one of the largest fixed foundation wind farms in the ScotWind Leasing Round.

5.5.6.6 This assessment is underpinned by the national policy set out in NPS-EN1 as relied upon by the Scottish Minister's in the derogation decisions for other Scottish OWFs, that there is no limitation on the number of CNP infrastructure projects which can be consented, and there is an acknowledgment that a significant number of deliverable locations are required to achieve sufficient capacity.

5.5.6.7 It has been concluded in this Derogation Case that "do nothing" (i.e. the no Morven North scenario) is not an alternative solution and that Scottish and UK offshore wind capacity targets will be substantially more difficult to achieve without the contribution of Morven North. The existence of other project locations, including ScotWind sites, does not alter that conclusion.

5.5.6.8 The results of this alternatives assessment as summarised in Table 5.2 below.

[28] Derogation Case Assessment for Berwick Bank at paragraph 4.3.2.2.

Table 5.2 Summary of potential alternatives assessed and discounted for Morven North

Category	Alternative Considered	Summary of key reasons
Do nothing	Do not develop Morven North"	• Does not meet the Morven North objectives. • Loss of substantial generating capacity estimated at 1.5GW. • Does not address the urgent need and clear policy direction for additional renewable energy capacity, particularly offshore wind generation. • Makes no contribution to Scottish and UK decarbonisation, climate change, and offshore wind generation targets, or goals for energy security and increased electricity supply. • Misses an opportunity to utilise a secured seabed lease where large scale fixed foundation development can occur. • Does not utilise secured grid connection agreements.
Alternative location	Morven North location outside Scottish waters	• Does not meet the Morven North objectives. • Does not contribute to Scotland's generation, decarbonisation and climate change targets. • Does not utilise secured lease of Scottish seabed. • Does not optimise generation capacity as it does not develop Morven North with generation capacity of approximately 1.5GW and secured grid connection. • Not legally feasible as the applicant does not have CES/TEC leasing rights. • Current and any future offshore wind farm leasing rounds are complementary and required in addition (and are not an alternative) to the 1.5GW from Morven North, given the scale and urgency of the need case.
	Morven North location within Scottish waters but not within existing leasing round areas	• Does not meet the Morven North objectives. • Future leasing rounds are not available to the Applicant. Whether future leasing rounds will occur is unknown and the Updated OWPS confirmed no further leasing rounds are contemplated in the near term. • Sites from other active leasing rounds are not a legally feasible alternative as these sites are not available to the Applicant. • Does not optimise generation capacity as it does not develop Morven North with generation capacity of approximately 1.5GW, and secured grid connection. • Sites not yet consented or in development are unlikely to be ready to contribute power to the grid by mid 2030s, whereas Morven North has grid connection agreements in place and will deliver power to the grid by the mid-2030s, within 2035-2040 timescales. • Does not contribute to Scotland's targets for offshore wind generation, decarbonisation and

Category	Alternative Considered	Summary of key reasons
		climate change, and does not utilise available seabed lease within Scottish waters. • Scale of projects such as INTOG are not a sufficient replacement for the capacity which will be delivered by Morven North. • Projects such as INTOG have alternative objectives for innovation and decarbonisation of oil and gas, so will not contribute to Morven North objectives to export electricity to the national grid. • Repowering existing offshore wind farms does not provide additional capacity to the grid, and the uncertainty, scale and likely timeframes of repowering existing projects will not provide sufficient capacity to the grid by mid-2030 or within 2035-2040 timeframes. • Current and any future offshore wind farm leasing rounds are complementary and required in addition (and are not an alternative) to the 1.5GW from Morven North, given the scale and urgency of the need case.
	Morven North location within Scottish waters and existing leasing round areas	• Does not meet the Morven North objectives. • Does not align with the policy direction in NPS-EN1 to maximise development locations and available capacity, and does not align with the scale of need which requires development of all ScotWind projects to meet generation targets. • Does not optimise generating capacity of the Scottish seabed, particularly E1 PO Area West, which is available for a fixed foundation wind farm, and of Morven North with generation capacity of approximately 1.5GW and secured grid connection rights.
Alternative design	Reduction in Morven North Boundary and/or number of wind turbines	• Does not meet the Morven North objectives. • Does not maximise the generation capacity available within the E1 West site.
	Increase in minimum blade tip height above sea surface	• Does not meet the Morven North objectives. • Raises technical and financial feasibility concerns which impact the viability of the project.

6 Imperative Reasons of Overriding Public Interest

6.1 Introduction

6.1.1.1 This section provides the evidence which demonstrates that the Scottish Ministers can be satisfied that there are IROPI to authorise Morven North.

6.1.1.2 It is concluded that there is a compelling case that Morven North must be carried out for IROPI, which are fundamental to achieve the Scottish and UK Governments' legislative targets to reduce emission and achieve net zero, and policy objectives to secure an increased capacity of low carbon electricity generation from offshore wind.

6.1.1.3 The IROPI case is supported by and draws on the following documents which accompany the Section 36 Consent application for Morven North:

- EIA Report:
  - Volume 1, Chapter 1: Introduction;
  - Volume 1, Chapter 3: Project Description;
  - Volume 1, Chapter 4: Site Selection and Consideration of Alternatives;
  - Volume 1, Chapter 5: Consultation;
  - Volume 2, Chapter 17: Socio-economics;
  - Volume 2, Chapter 18: Climate Change;
  - Volume 3, Annex 6.3: EIA Commitment Register.
- HRA Report:
  - Chapter 2: Report to Inform Appropriate Assessment: Part 1 (Introduction);
  - Chapter 2.2: Report to Inform Appropriate Assessment Part 3: SPA and Ramsar Site Assessments.
- Additional Application information:
  - Chapter 6: Planning and Needs Statement, of the Additional Application Information.

6.1.1.4 In addition, this IROPI case draws from the other sections of this Derogation Case, particularly the Morven North objectives (see Table 5.1).

6.2 Approach

6.2.1.1 Regulation 29(1) of the Habitats Regulations provides: "If it is satisfied that, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest (which, subject to paragraph (2), may be of a social or economic nature), the [Scottish Ministers] may agree to the plan or project notwithstanding a negative assessment of the implications for the site."

6.2.1.2 Regulation 29(2) further states: "Where the site concerned hosts a priority natural habitat type or a priority species, the reasons referred to in paragraph (1) must be either:

- reasons relating to human health, public safety or beneficial consequences of primary importance to the environment; or
- any other imperative reasons of overriding public interest."

6.2.1.3 The IROPI stage involves a balance of interests between the conservation objectives of the European site affected and the reasons for the plan or project proceeding, and the Competent Authority, in this

case the Scottish Ministers, must be satisfied that the balance weighs in favour of the latter. This has been confirmed by the ECJ in several cases.[29]

6.2.1.4 It is important to note that, in the case of Morven North, the RIAA does not identify any AEOI in respect of priority habitats or species.

6.2.1.5 The Applicant has applied the guidance referenced in Section 3 to identify key principles relevant to establishing a case for IROPI. The following sections of this Derogation Case are structured around these principles to demonstrate that Morven North must be carried out for IROPI:

- Are the reasons for undertaking Morven North in the public interest?
- Are the reasons for undertaking Morven North imperative?
- Are the reasons for undertaking Morven North long-term?
- Are the reasons for undertaking Morven North overriding?

6.3 Question 1: Are the reasons for undertaking Morven North in the public interest?

6.3.1.1 Morven North serves a clear public interest in terms of its contribution to decarbonisation and energy security. It will contribute to meeting Scottish and UK net zero legislative targets and policies, which are designed to serve fundamental public interests. Those public interests, in short, are:

- rapid decarbonisation to mitigate climate change;
- ensuring security and increased capacity of domestic energy supply at affordable cost.

6.3.1.2 The Defra (2021a) guidance notes that "National strategic plans, policy statements and major projects are more likely to have a high level of public interest and be able to show they are imperative and overriding.". For the reasons set out below and in the Planning and Need Statement, Morven North will make a significant contribution to meeting Scottish and UK climate change and energy security policy commitments, including as detailed in the SMP (and updated draft SMP), the OWPS and Updated OWPS, the Scottish Draft Energy and Just Transition Plan, the UK Net Zero Growth Plan the UK Offshore Wind Industrial Growth Plan and the Clean Power Action Plan 2030, as well as the legislative targets set by the Climate Change (Scotland) Act 2009, the Climate Change Act 2008 (as amended) and the Net Zero Strategy.

6.3.1.3 The Applicant is a private entity. However, Morven North clearly serves the public interest, and all previously granted Scottish and UK offshore wind derogation cases acknowledge the essential reality that the strategy to harness Scotland's and the UK's offshore wind resource to produce renewable electricity can only be delivered through the private sector.

6.3.1.4 EC (2019) guidance acknowledges that whether a project is promoted by public or private entities is irrelevant to determining whether the public interest is served in determining IROPI: "As regards the 'other imperative reasons of overriding public interest' of social or economic nature, it is clear from the wording that only public interests, irrespective of whether they are promoted either by public or private bodies, can be balanced against the conservation aims of the Directive."

Conclusion on public interest

6.3.1.5 Morven North's contribution to decarbonisation of the energy sector and security and capacity of supply are clearly in the public interest. Morven North fulfils a suite of national and international law and policies designed to serve fundamental public interests. In supporting and delivering long-term

[29] Nomarchiaki Aftodioikisi Aitoloakarnanias and Others, C-43/10; Commission v Portugal, C-239-04.

low carbon energy and contributing to security of supply and affordability of energy, Morven North will serve public interests.

6.4 Question 2: Are the reasons for undertaking Morven North imperative?

6.4.1.1 There is an imperative need for Morven North. Climate change is one of the defining global risks of our era, and challenging net zero targets have been set by the Scottish and UK Governments to try to address the global warming threat. Morven North will help to tackle climate change and make an important and significant contribution to those targets. In addition, energy security and stability, free of fossil fuels and volatile international markets, is an important aim for Scottish and UK energy policy. Addressing climate change and energy security are "reasons relating to human health, public safety or beneficial consequences of primary importance to the environment" which constitute IROPI.

Climate change

6.4.1.2 Climate change poses a risk to the health and safety of Scottish and UK citizens.

6.4.1.3 The overarching goal of the UNFCCC Paris Agreement (UN 2016), to which the UK is a signatory, is to hold "the increase in the global average temperature to well below 2°C above pre-industrial levels" and pursue efforts "to limit the temperature increase to 1.5°C above pre-industrial levels."

6.4.1.4 The Intergovernmental Panel on Climate Change (IPCC) in October 2018 published a Special Report on the impacts of global warming of 1.5°C above pre-industrial levels which concluded that human-induced warming had already reached approximately 1°C above pre-industrial levels, and that without a significant and rapid decline in emissions across all sectors, global warming would not be likely to be contained, and therefore more urgent international actions to decarbonise are required.

6.4.1.5 In April 2022 the IPCC Working Group III (IPCC WG3) published its Summary of Climate Change as part of the IPCC's Sixth Assessment Report, noting that although the rate of growth of average global annual greenhouse gas (GHG) emissions was lower between 2010 and 2019 than in the previous decade, average global annual GHG emissions during the last decade were higher than in any previous decade on record. The IPCC WG3 report findings also imply that mitigation after 2030 can no longer establish a pathway which will likely not exceed 1.5°C global temperature increase vs. 1990, during the 21st Century.

6.4.1.6 At the 28th Conference of the Parties to the United Nations Framework Convention on Climate Change (COP28) in December 2023 the Global Renewables and Energy Efficiency Pledge was made to "tripling renewables and doubling energy efficiency." On a global basis, COP28 concluded the requirement for action to abolish carbon emissions is more urgent now than it has ever been. The Pledge was reaffirmed at both COP29 and COP30.

6.4.1.7 Both Scottish and UK Governments are committed to climate change mitigation and emissions reduction through a suite of timebound legislation and policy commitments for GHG emissions reduction and decarbonisation, as detailed in Sections 2.3 and 2.4 of the Planning and Needs Statement. In summary, in June 2019, following recommendation from the CCC, the UK Government set legally binding targets under the Climate Change Act 2008 to achieve net zero emissions for the UK by 2050. The Climate Change (Scotland) Act 2009 sets a Scottish specific target to achieve net zero emissions by 2045.

6.4.1.8 The Sixth Carbon Budget (2033 to 2037), set in 2021 in accordance with the requirements of the Climate Change Act 2008, is the first UK carbon budget consistent with the UK's net zero target for 2050, and requires a 78% reduction in emissions by 2035 (from 1990 levels). The CCC's report to inform the Seventh Carbon Budget (2038 to 2042) recommends a reduction in emissions by 87% by 2040 (from 1990 levels).

6.4.1.9 In response to advice from the CCC in 2024, the Prime Minister announced the UK's ambitious Nationally Determined Contributions target to reduce all GHG emissions by at least 81% by 2035, compared to 1990 levels (excluding international aviation and shipping emissions).

6.4.1.10 However, the UK and Scottish Governments are falling short on their commitments to tackle climate change. The Scottish Government has withdrawn from its 2030 climate change targets for feasibility concerns, and the CCC has made it clear in its most recent Progress Report to Parliament in 2025 that the UK is not on track to meet its fifth (2028 to 2032) or sixth (2033 to 2037) Carbon Budget commitments.

6.4.1.11 Government's commitments and updated targets emphasise that the delivery of new low carbon electricity generation in the form of offshore wind delivered beyond 2030 is essential if net zero and decarbonisation targets are to be met. The imperative nature of offshore wind in this context is underlined by NPS-EN1 and EN3 (which are of material consideration to Scottish Ministers). The NPSs classify offshore wind as CNP infrastructure, and state that "starting from the position that energy security and decarbonising the power sector to combat climate change … are capable of amounting to IROPI for HRAs … for CNP Infrastructure."

6.4.1.12 The assessment in Volume 2, Chapter 18: Climate Change of the EIA Report estimates that Morven North will produce approximately 140,803,609MWh of low carbon electricity during its 35 year operational phase. Over its lifecycle (accounting for construction, O&M and decommissioning) Morven North will produce an emission intensity of 34.8gCO_2e/kWh. Specifically during the O&M phase Morven North will produce an emissions intensity of 7.8gCO_2e/kWh. The electricity generated by Morven North will save up to 61,531,177tCO_2e from being emitted into the atmosphere that would otherwise have been emitted from conventional, higher carbon emitting forms of energy generation (i.e. fossil fuels). When construction, operation and maintenance and decommissioning phase GHG emissions are included Morven North will save up to 56,637,588tCO_2e from being emitted into the atmosphere over its lifecycle (net emissions).

6.4.1.13 It will take approximately 4 years to 'pay back' the GHG emissions relating to the construction phase from the start of operation. This 'payback' period is in line with both the UK and Scottish Governments' net zero ambitions. Due to the carbon savings that the operation and maintenance phase will produce from low carbon electricity generation, Morven North is assessed in Volume 2, Chapter 18: Climate Change, of the EIA Report as having a significant beneficial effect on the climate.

Energy security and affordability

6.4.1.14 Reducing the UK and Scotland's dependency on foreign fossil fuels is an imperative for security of supply and controlling electricity costs.

6.4.1.15 The ECJ confirmed in 2019[30] that ensuring the security of the electricity supply constitutes an IROPI. The ECJ has held that security of energy supply in the EU is one of the fundamental objectives of EU policy in the field of energy. The ECJ went further, saying that, in any event "the objective of ensuring the security of electricity supply in a Member State **at all times** constitutes an imperative reason of overriding public interest, within the meaning of that provision"[31] [emphasis added].

6.4.1.16 As noted by the UK government in the BESS, the imperative to ensure security of energy supply has been compounded by Russia's invasion of Ukraine. This has had a direct impact on the affordability of energy in the UK. The urgency for an electricity system which is self-reliant and not dependent on fossil fuels is enormous, to protect consumers from high and volatile energy prices, and to reduce opportunities for destructive geopolitical intrusion into national electricity supplies and economics.

[30] Judgement of 29.7.2019 – Case C-411/17 Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen ASBL v Conseil des ministers.

[31] C-411/17 Inter-Environment Wallonie and Bond Beter Leefmillieu Vlaanderen at paragraphs 157 and 159.

The energy security and affordability benefits associated with developing electricity supplies which are not dependent on volatile international markets and are located within the UK's national boundaries are more important than ever.

6.4.1.17 The UK's Clean Power ambition is for over 95% of annual UK electricity demand to be met by UK-based low carbon generation. Accelerating the switch to domestic renewable energy sources and achieving the Clean Power ambition will enhance energy security. The Clean Power 2030 Action Plan reiterates the energy security and affordability benefits of pursuing a low carbon future: "In an era of heightened geopolitical risk, switching fossil fuelled generation for homegrown clean energy from renewables and other clean technologies offers us security that fossil fuels simply cannot provide … It is crucial we complement renewables with flexible capacity to ensure we can deliver clean power no matter the weather".

6.4.1.18 As such, it is critical that large scale renewable energy projects such as Morven North are developed to contribute to the UK and Scottish government's targets for domestic low carbon electricity supply.

6.4.1.19 As detailed in Section 6.4 of the Planning and Need Statement, the offshore wind industry is a competitive market that can lower electricity costs for consumers. The competitive marginal cost of generation of offshore wind developments indicates that consenting further offshore wind developments are likely to help to reduce the UK's average traded wholesale electricity costs. Further, increased development of domestic low carbon electricity supply and therefore reduced reliance on foreign fossil fuels helps to reduce market volatility and protect consumers.

6.4.1.20 Refer to Sections 6.3, 6.4 and 6.5 of the Planning and Need Statement for further details on energy security and affordability.

Conclusion on Imperative

6.4.1.21 Morven North is clearly imperative due to the near and long-term contribution it will make to address climate change risk, contributing to decarbonisation of the energy sector, supporting electrification across sectors, and achieving Scottish and UK net zero commitments. In addition, reducing Scotland's and the wider UK's dependency on fossil fuels has important security of supply and capacity, electricity cost and cost volatility avoidance benefits which are urgently required to be realised now.

6.5 Question 3: Are the reasons for undertaking Morven North long-term?

6.5.1.1 The imperative public interests identified in this Derogation Case are long-term Scottish and UK interests. The decarbonisation of the energy sector and secondary industries is a process that has been ongoing for decades and will continue for decades to come. The legal commitments to achieve net zero by 2045/2050 respectively are long-term. However, net zero has to be maintained thereafter. It is not a temporary or fleeting interest, rather the objective is and must be a permanent condition whereby society is in better balance with the environment and is no longer contributing to climate change mechanisms. The transition to renewable energy is also a long-term public interest from an ecological standpoint.

6.5.1.2 Security of domestic energy supply, to ensure that the lights remain on, is a continuous long-term obligation of every successive Scottish and UK Government. Energy supply security is a matter of long-term national interest and security against foreign powers.

6.5.1.3 Morven North's contribution to these objectives is itself long-term. Morven North is estimated to provide 1.5GW of clean energy generation for around 35 years (possibly longer, if repowered). It will contribute to Scotland and the UK's future low carbon energy generation beyond 2045 and beyond 2050.

6.5.1.4 The contribution of Morven North is also strategically important, to ensuring continuity in the offshore wind sector. Large energy infrastructure projects have a long lead time, and Morven North

is a substantial, large scale fixed foundation offshore wind project. This lends great long-term importance to Morven North.

6.5.1.5 Finally, economic benefits through the creation of jobs, work-force upskilling and investment in supply chain are also expected from the construction, operation and maintenance of Morven North. The following socio-economic highlights are summarised from Volume 2, Chapter 17: Socio-Economics, of the EIA:

- Construction related spending for Morven North is expected to be £2.75 billion (excluding the grid connection projects), including £438 million that would be secured in Scotland and £657 million in the UK (including Scotland). This expenditure is expected to bring exponential economic growth, with 4,290 years of employment in Scotland and £703 million Gross Value Added (GVA) and 10,300 years of employment in the UK (including Scotland).
- The development of Morven North is also likely to bring significant economic activity to the surrounding ports through construction and O&M activities. It is found that construction port(s) would have £49 million GVA and 670 years of employment, while O&M activities will bring £3 million GVA and 36 jobs annually.
- Morven North is also likely to have an economic impact on states outside the UK, with a predicted £2.75 billion in expenditure in the European Union and elsewhere.

6.5.1.6 The socio-economic benefits of Morven North extend beyond the construction phase and can provide a long-lasting legacy (e.g. skilled workers who go on to work on successive offshore wind farm projects in the years and decades to come).

Conclusion on long-term interest

6.5.1.7 Morven North has a critical role to play in the long-term vision of the offshore wind sector and in support of the UK and Scottish government's decarbonisation, electrification, and climate change targets, extending to 2045/2050 and beyond. Once constructed Morven North will make a long-term contribution to decarbonising the energy sector and ensuring security and capacity of supply. Morven North is also strategically important, to ensuring continuity and certainty in the offshore wind sector, and will produce long-term economic benefits such as job creation, work force upskilling and investment in the supply chain.

6.6 Question 4: Are the reasons for undertaking Morven North an overriding interest?

6.6.1.1 An assessment of the overriding interests of Morven North necessarily involves a balancing exercise. It is for the decision-maker to determine whether the imperative, long-term public interests that Morven North serves, outweigh the conservation interests of the qualifying species of the affected SPAs (as listed in Section 7).

6.6.1.2 That judgment must be exercised in a rational and a reasonable manner in the context of the HRA framework as described in this Derogation Case. However, ultimately it is a matter of discretion as to the balance to be struck.

6.6.1.3 In view of the arguments presented above on decarbonisation and energy security, the Applicant considers that the benefits served by Morven North clearly override the AEOI identified in Part 3 of the RIAA. The qualifying interests affected in this case are not priority habitats or species to which the Habitats Regulations attach enhanced importance.

6.6.1.4 On the other side of the balance, Morven North is necessitated by critical long-term public interests to support Scotland and the UK's decarbonisation and energy security needs.

6.6.1.5 Both of these benefits fall within the core IROPI category of "reasons relating to human health, public safety or beneficial consequences of primary importance to the environment", being reasons that the Habitats Regulations stipulate can be overriding even in circumstances where AEOI has been

found in respect of priority habitats and / or species. Decarbonisation is imperative in order to protect human health and public safety, as well as to deliver beneficial consequences of primary importance to the environment, for all of the reasons set out above. As mentioned, the ECJ confirmed in 2019[32] that ensuring the security of electricity supply "at all times" constitutes an IROPI. Either reason, even in isolation, can and would constitute IROPI and together the case is even stronger.

6.6.1.6 This determination by the ECJ and the policy direction in NPS-EN1 is consistent with the conclusions reached by the Scottish Ministers and Secretary of State in their previous Scottish and UK offshore wind farm decisions that relied upon the HRA derogation provisions.

6.6.1.7 It is also recognised that in contributing to net zero and decarbonisation targets, Morven North will provide long-term environmental benefits including benefits to bird species within the SPAs as a result of Morven North's contribution to climate change mitigation.

6.6.1.8 Climate change is likely to be the strongest influence on seabird populations in coming years, with anticipated deterioration in conditions for breeding and survival for most species of seabirds (Sandvik *et al*. 2012; Frederiksen *et al*. 2004, 2013; Burthe *et al*. 2014; Macdonald *et al*. 2015; Furness 2016; Capuzzo *et al*. 2018; JNCC 2024; NatureScot, 2025).

6.6.1.9 The EU funded SEANSE13 project has assessed the impact of climate change on key seabird species (Rijkswaterstaat Zee & Delta 2020). The research concluded that prey availability effects due to climate change is the pressure/pathway that currently has the largest impact on seabird population at the wider North Sea level and is likely to be responsible for a substantially greater effect than impacts resulting from any of the other activities (including collision risk or displacement from offshore wind). For all seabirds it is largely expected that climate change impacts will become more severe in the future as both temperatures, and possibly the rate of increase, become greater, and extreme weather events become more frequent.

Conclusion on overriding

6.6.1.10 The imperative reasons for Morven North are overriding interests. The benefits that Morven North serves outweigh the predicted harm to the affected SPAs which are the subject of this Derogation Case. These benefits are clearly in the long-term public interests, and due to Morven North's contribution to climate change mitigation, they also benefit those seabird species affected by Morven North.

6.7 Priority species

6.7.1.1 For priority habitat and species, a Competent Authority can only be satisfied that there are IROPI under specific conditions. This could, in effect, raise the bar on the test for IROPI, as it requires the Competent Authority to be satisfied that a plan or project will benefit certain areas (such as human health, public safety, or the environment).

6.7.1.2 Section 7 lists the SPAs and qualifying features identified by the RIAA Part 3 that are predicted to be adversely affected by Morven North in-combination with other plans and projects.

6.7.1.3 None of the qualifying features listed in Section 7 are identified as priority habitats and species by the Habitats Directive. This means that for the Competent Authority to be satisfied that there are IROPI, the specific conditions attached to priority species and habitats do not need to be addressed.

6.7.1.4 Nevertheless, while there is no requirement to address these specific requirements, Morven North will clearly be beneficial for human health and the environment due to its contribution to the

[32] Judgment of 29.7.2019 – Case C-411/17 Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen ASBL v Conseil des ministers.

decarbonisation of the energy sector (as evidenced in the preceding sections). The knowledge that Morven North meets this higher test associated with priority species and habitats should provide the Competent Authority with additional comfort that Morven North is of IROPI.

6.8 Summary and Conclusions

6.8.1.1 This Section demonstrates the case that Morven North must be carried out for IROPI. The RIAA has found that AEOI cannot be ruled out for four SPAs and three qualifying species due to collision and displacement impacts from Morven North in-combination with other plans and projects. Additionally, and on a *without prejudice* basis, this Derogation Case acknowledges the potential for further conclusions of AEOI based on previous derogation decisions by the Scottish Ministers and the assessment conclusions applying the NatureScot most precautionary approach. None of the impacted species are priority species as defined by the Habitats Directive. Despite the conclusions of the RIAA, in consideration of the impacts of climate change and in the pursuit of energy security, supply and affordability the reasons for Morven North are imperative and in the long-term public interest. These reasons are overriding when weighed against the conservation interests of the qualifying features of the affected and potentially affected SPAs. This position is emphasised when the contribution of Morven North to decarbonisation is considered against the threat of climate change on these species.

7 Compensation

7.1.1.1 In Sections 5 and 6 above the Applicant has demonstrated that there are no alternative solutions and that there are IROPI for Morven North. The final section of this Derogation Case demonstrates to Scottish Ministers that compensatory measures can be put in place if necessary to ensure the overall coherence of the national site network.

7.1.1.2 The Applicant is proposing the following project-led compensatory measures to offset the potential impacts of Morven North in-combination with other plans and projects (Table 7.1).

Table 7.1: Summary of project-led compensatory measures proposed

Compensation Measure and Species Covered	Compensation Measure Description
Invasive mammal control i.e. rat eradication on the Isle of Muck Guillemot, kittiwake, razorbill and puffin	Eradication of brown rats on the Isle of Muck in order to facilitate enhanced seabird breeding at suitable sites on the island, and as a result increased population growth rates.
Compensation measure for gannet.	The Applicant is progressing a project-led measure for gannet compensation, however due to commercial sensitivity further detail will be provided during the determination phase.

7.1.1.3 The Applicant is also considering project-led or collaborative strategic compensation measures, including wider (i.e. tier 2 and 3) measures, and/or use of the Marine Recovery Fund, as options to deliver adaptive management or additional compensation measures if required. Further detail is set out in the Applicant's Compensation and Evidence Plan (Volume 3, Chapter 2 of the HRA) and Outline Compensation Implementation, Monitoring and Adaptive Management Plan (Volume 3, Chapter 3 of the HRA).

7.1.1.4 The Applicant is confident that the compensation package presented in this Derogation Case is sufficient to fully compensate for the AEOI concluded in the RIAA Part 3 (summarised in Section 1.3), both in respect of the Applicant's conclusions as to AEOI and its *without prejudice* consideration of the potential for further AEOI based on precedent and associated mortalities based on NatureScot's more precautionary approach.

7.1.1.5 As summarised below, adequate reasons and evidence have been provided to give the Scottish Ministers confidence that these compensatory measures can be secured and will be effective compensation. The compensation measures are proposed for, and sufficient in scale to compensate the AEOI of both Morven North and Morven South, if both projects are brought forward to operation, at both the Applicant's precautionary 'low' mortality estimates and NatureScot's more precautionary 'high' mortality estimates.

7.1.1.6 The Applicant has outlined the proposed compensation measures in the reports listed below in Table 7.2, which are appended to this document.

Table 7.2: Compensation Documents

Compensation documents for Morven North and Morven South		
Document Reference	**Document Title**	**Detail**
Volume 3, Chapter 2: Compensation and Evidence Plan	Compensation and Evidence Plan	Plan outlining the proposed compensation measures, supporting ecological evidence and justification of feasibility.
Volume 3, Annex 2.1: Compensation Stakeholder Consultation	HRA Consultation Report	Report summarising the consultation the Applicant has carried out with stakeholders on the HRA and specifically proposed compensation measures.
Volume 3, Annex 2.2: Long list of species and compensation options	Long list of species and compensation options	This document provides an initial list of potential environmental measures that could help protect affected species, created to support discussions with stakeholders and to refine these ideas into a more targeted shortlist.
Volume 3, Annex 2.3: Assessment of Offshore Islands Potentially Suitable for Predator Eradications Report	Assessment of Offshore Islands Potentially Suitable for Predator Eradications Report	This document reviews evidence to identify the most suitable UK islands for potential predator-removal projects that could help seabird populations recover, forming an early list of options that will be refined with stakeholders as part of future environmental planning.
Volume 3, Annex 2.4: Predator Eradication Modelling Report	Predator Eradication Modelling Report	This document models the benefits to seabirds from predator eradication on the Island of Muck.
Volume 3, Annex 2.5: Island Screening Report	Island Screening Report	This document presents data from a field survey on seabird colony counts and identification of suitable seabird habitat on Muck.
Volume 3, Annex 2.6: Pre-eradication Field Study Report	Pre-eradication Field Study Report	This document summarises a field survey that gathered evidence on rat numbers, movements, and diet on Muck to understand how they may affect seabird populations and to inform planning for a possible future predator-removal programme.
Volume 3, Chapter 3: Outline Compensation Implementation, Monitoring and Adaptive Management Plan	Outline Compensation Implementation, Monitoring and Adaptive Management Plan	An outline of the Compensation Implementation, Monitoring and Adaptive Management Plan which details the proposed implementation, monitoring and adaptive management requirements for the compensation measures.
Volume 3, Chapter 4: Compensation: EIA of Compensation Measures	EIA of Compensation measures	The EIA of the LSE (in accordance with the EIA Regulations) of the compensation measures.
Volume 3, Chapter 5: Compensation: HRA Screening of Compensation Measures	HRA Screening of Compensation Measures	A HRA screening of the LSE (in accordance with the Habitats Regulations) of the compensation measures on European sites.

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