

Charles Howorth
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19th Floor,
10 Upper Bank Street, Canary Wharf
London
E14 5BF

15 August 2024

Dear Mr Howorth,

MARINE AND COASTAL ACCESS ACT 2009

**THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)
REGULATIONS 2007**

**DECISION NOTICE PROVIDING EIA CONSENT, AND REGULATORY APPROVAL BY
WAY OF A MARINE LICENCE TO CONSTRUCT, ALTER OR IMPROVE ANY WORKS,
FOR THE CULZEAN FLOATING OFFSHORE WIND TURBINE PILOT PROJECT,
APPROXIMATELY 222 KILOMETRES EAST OF ABERDEEN**

1. Application and description of the Works
 - 1.1 On 22 February 2024, TotalEnergies E&P North Sea UK Ltd (“the Applicant”) having its registered office at 19th Floor 10 Upper Bank Street, Canary Wharf, London, England, E14 5BF, submitted to the Scottish Ministers an application (“the Application”) under section 65 of the Marine and Coastal Access Act 2009 (“the 2009 Act”) for a marine licence (“the Marine Licence”) to construct, alter or improve the marine renewable energy works (“the Works”) associated with the Culzean Floating Offshore Wind Turbine Pilot Project (“the Project”).
 - 1.2 The application was accompanied by an Environmental Impact Assessment Report (“EIA Report”) in accordance with The Marine Works (Environmental Impact Assessment) Regulations 2007 (“the 2007 MW Regulations”) and information to inform the Habitats Regulations Appraisal (“HRA”) as required under the Conservation of Offshore Marine Habitats and Species Regulations 2017 (“the Habitat Regulations”).
 - 1.3 The Works is for the construction and operation of one floating offshore wind turbine generator (“WTG”) with a maximum generating capacity of three megawatts (“MW”). The WTG will be connected to the Culzean oil and gas platform and will include:
 1. One floating wind turbine generator and associated floating substructure;
 2. Up to six floating mooring lines;
 3. Up to six drag anchors (or an alternative scenario of three drag and three plate anchors);
 4. One export cable, approximately 2.5 kilometres (“km”) in length; and,

5. Associated scour and cable protection (if required)

All as described in the Application.

1.4 The location and boundary of the Works is shown in Figure 1 of Annex 1 of the marine licence.

1.5 This decision notice contains the Scottish Ministers' EIA Consent Decision under the 2007 MW Regulations for the Works as described above and their decision to grant regulatory approval for the Works by issuing a Marine Licence under Part 4 of the 2009 Act.

2. Summary of environmental information

2.1 The environmental information provided was an [EIA Report](#) which assessed impacts on a range of receptors, as well as information to inform the HRA Report.

2.2 On 14 April 2023, the Applicant submitted a [scoping report](#) and a request for a scoping opinion in respect of the Works to the Scottish Ministers. Following consultation with statutory and other consultees, a [scoping opinion](#) was issued by Scottish Ministers on 20 July 2023, advising on the scope of the impacts to be addressed and the methods of assessment to be used within the EIA Report. The EIA Report assessed the impact pathways identified in the scoping opinion and was prepared in accordance with the terms of the 2007 MW Regulations.

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

2.4 Marine Physical Processes

2.4.1 The EIA Report considered the potential effects on Marine Physical Processes during the construction, operation and maintenance, and decommissioning phases of the Works. The study area of the impacts assessed is defined by a 5 kilometre radius around the WTG. The receptors assessed included loss / alteration of seabed morphology (bathymetry and sediment type), increase in suspended sediments, and introduction of scour.

2.4.2 The EIA Report considered any potential impacts to be negligible and to have no significant consequence due to the small scale of the Project. Embedded mitigation measures, such as the application of scour monitoring or micro-siting offshore infrastructure, are also noted to lessen the impact on the seabed. The EIA Report proposes several management plans as primary or tertiary mitigation measures, including a Cable Plan ("CaP"), a Cable Burial Risk Assessment ("CBRA"), an Environmental Management Plan ("EMP"), a Project Environmental Monitoring Programme ("PEMP"), and a Construction Method Statement ("CMS").

2.4.3 Cumulative effects were considered, while transboundary impacts were scoped out from further consideration in the EIA Report. The closest offshore development to the Project is determined as the Central North Sea Electrification (“CNSE”) project which is located approximately 11 km from the Works. Due to the highly localised and temporary effects of the Works, the EIA considered no pathway for effects and no potential cumulative effects with the Project from other developments, plans and activities. As such no additional embedded mitigation measures are proposed by the Applicant.

2.5 Benthic Ecology

2.5.1 The EIA Report considered that the Works have the potential to impact benthic ecological receptors at all phases. An assessment of the impact of the Works was undertaken using a worst case scenario specific to benthic ecology receptors.

2.5.2 The benthic baseline environment in the vicinity of the Works consists of several broad habitat types and associated benthic communities. The primary sensitive receptors identified include sea pens and burrowing megafauna, and ocean quahog species. Both are designated under the Oslo and Paris Convention for the protection of the Marine Environment of the North-East Atlantic (“OSPAR”) and are Priority Marine Features (“PMFs”).

2.5.3 Potential impacts associated with all phases of the Works were identified as temporary habitat disturbance, temporary increase in suspended sediment and sediment deposition, long-term loss and/or damage to benthic habitats and species, disturbance of contaminated sediments, colonisation of hard structures, and removal of artificial hard structures during decommissioning.

2.5.4 The Applicant committed to embedded mitigation measures including, but not limited to, micro-siting of the WTG and the associated offshore infrastructure, and following best practice to reduce localised habitat loss, such as keeping rock used to protect the offshore export cable or used for scour protection at a minimum.

2.5.5 The EIA Report concluded that given the small-scale of the Works, all associated impacts are expected to be minor or negligible and therefore not significant.

2.5.6 The EIA Report concluded that no significant change to the cumulative effects on benthic ecology are expected to result from the Works.

2.6 Fish and Shellfish

2.6.1 The EIA Report considered several fish receptors including marine fish (pelagic and demersal), elasmobranchs, and shellfish such as the Norway Lobster. Diadromous fish, such as Atlantic salmon was also considered, despite little evidence to suggest that this species occurs within the site boundary.

- 2.6.2 The habitats surveys undertaken identified five species and two families of conservation importance including evidence of a Norway lobster burrow and a possible sandy ray. Environmental DNA surveys also identified large reads of species from the cod family, including Norway pout and haddock, and species of the ling family. Of the species identified, two are listed on the OSPAR List of Threatened and/or Declining Species and Habitats, cod and spurdog. Ten species are listed as Scottish PMFs: sandeel, cod, whiting, herring, Norway pout, blue whiting, ling, anglerfish, mackerel and spurdog. One species is listed on the International Union for Conservation of Nature (“ICUN”) Red List as Threatened: sanday ray.
- 2.6.3 The EIA Report assessed the impacts of the Project on the above species, specifically, the impact of disturbance or damage to sensitive species due to underwater sound, the impact of habitat loss or disturbance during the installation of the export cable, mooring lines and the anchors, the impact of temporary increases in suspended sediment concentration and potential sedimentation and smothering of fish and shellfish, and the impact to habitats or species as a result of pollution or accidental damage.
- 2.6.4 The Applicant has committed to embedded mitigation to lessen the impact on the seabed including several post consent plans which will be secured through conditions attached to the marine licence.
- 2.6.5 The EIA Report concluded no significant effects on the receptors identified due to the small-scale of the Works.
- 2.6.6 The EIA Report concluded any potential impacts from the Works would be localised and temporary, therefore there is no expected cumulative effects associated with the Project.
- 2.7 Marine mammals and other megafauna
- 2.7.1 Potential impacts on basking sharks, and marine mammals (harbour porpoise, bottlenose dolphin, Atlantic-white sided dolphin, minke whale, grey seal, and harbour seal) from the Works were assessed within the EIA Report.
- 2.7.2 The EIA Report identified potential injury and disturbance to marine mammals and other megafauna from noise related impacts associated with construction and decommissioning activities from the Works. The potential activities resulting in underwater noise for the Works are limited to vessel activities, cable laying, and pre-construction surveys using ultra-short baseline positioning equipment to ensure precise subsea locations. Due to the low levels of noise associated with these activities, and the short timeline of the construction phase, impacts are assessed as not resulting in any significant effects.

- 2.7.3 The potential impacts of Electric Magnetic Fields (“EMF”) was scoped out of further assessment; however, the Applicant will implement EMF recorders as part of the scientific Research and Development (“R&D”) programme in conjunction with the Technical University of Denmark (“DTU”) and the Marine Alliance for Science and Technology for Scotland (“MASTS”).
- 2.7.4 All impacts on marine mammals were considered negligible or low in EIA terms. The EIA Report identified no plans or projects with an overlapping construction period, therefore, there is no potential for significant cumulative effects to occur throughout the construction stage of the Works.
- 2.8 Ornithology
- 2.8.1 Digital Aerial Surveys (“DAS”) were undertaken between October 2022 and September 2023, with 13 survey visits complete. The DAS identified seven species that were regularly recorded in the survey area: fulmar, gannet, kittiwake, great black-backed gull, herring gull, common guillemot, and razorbill. These species occurred at very low or low densities compared to coastal waters off eastern Scotland, except for razorbill and common guillemot which were sometimes present in high densities outside of breeding season.
- 2.8.2 The EIA Report highlights that the seabed depth at the Works is approximately 90 m, a depth which is well beyond the reach of diving seabird species that target benthic and demersal habitats for foraging.
- 2.8.3 A bird census was undertaken over a period of three days to identify which bird species use the Culzean oil and gas platform and to locate potential nest sites. Only small numbers of great black-backed gull were noted as using the Culzean oil and gas platform for resting. No evidence was found to suggest nesting on the Culzean oil and gas platform by any bird species.
- 2.8.4 Impacts of disturbance and displacement were considered in the EIA Report during each phase of the Works as well as collision risk to flying birds during the operational phase.
- 2.8.5 The EIA Report concluded that impacts to ornithological receptors were negligible; therefore, no additional mitigation beyond the embedded mitigation measures is considered necessary to reduce effects. The embedded mitigation measures included, but are not limited to, having a minimum air gap from sea level being equal to or greater than the minimum 22 m to reduce collision risk for ornithology features, and for all vessels to operate within the International Convention for the Prevention of Pollution from Ships requirements to help ensure that the potential for release of pollutants is minimised during operations.

2.8.6 The EIA Report notes that given the negligible magnitude of potential disturbance/displacement and collision impacts to ornithological features cumulative impacts are not plausible and therefore cumulative regional disturbance effects on bird receptors is not considered further.

2.9 Commercial fisheries

2.9.1 The EIA Report considered the effect of the Works on commercial fisheries. The main impact pathways were identified as, temporary loss of access to fishing grounds due to the presence of vessels and safety zones, temporary displacement of fishing activity into other areas, interference with fishing activity as a result of increased vessel traffic, and safety issues for fishing gear interactions.

2.9.2 Automatic Information Systems (“AIS”) data collected from vessels at sea indicated low fishing vessel activity within the commercial fisheries study area which lies within International Council for the Exploration of the Sea Rectangle 43F1. The key fleets identified were demersal trawlers, targeting mainly *Nephrops*. Based on the VMS data, demersal trawling within the Works is considered low value and low effort. The area of the Works is considered to represent a minimal extent of the available fishing grounds in the area. Therefore, the EIA Report considers demersal trawlers to be of low sensitivity to temporary displacement into other areas.

2.9.3 Any impacts caused by temporary loss of access to fishing grounds will be reduced through embedded mitigation measures. The Applicant will appoint a Fisheries Liaison Officer to coordinate communications with the fishing industry and will share information through Notices to Mariners and Kingfisher notifications.

2.9.4 Due to the small scale of the Works, combined with the embedded mitigation measures in place, there are no expected cumulative effects.

2.10 Shipping and navigation

2.10.1 The key navigational features of the Works on shipping and navigation receptors in the EIA Report included various oil and gas fields and associated infrastructure (including 500 metre safety zones).

2.10.2 The Applicant recorded vessel traffic data across a 12 month period throughout 2022 and 2023. Overall, an average of 8 vessels per day were recorded within limited variance across the 12 month period. An average of 3 vessels per week were recorded crossing the proposed export cable corridor. The main vessel type recorded were oil and gas vessels (89%). No other vessel type accounted for more than 5% of vessel traffic, with the next highest contributors being cargo vessels (4%), tankers (2%) and fishing vessels (2%).

- 2.10.3 The EIA Report identified 11 main commercial routes using the principles set out in Marine Guidance Note (“MGN”) 654. From those identified, the EIA Report considered that Route 2 – featuring oil and gas vessels transiting between Aberdeen (UK) and the Culzean Gas Field – may require deviation due to construction activities.
- 2.10.4 The EIA Report assessed several potential impacts, including, but not limited to, vessel displacement, third-party vessel collision risk and reduction of emergency response capability. All impacts assessed were determined to be As Low As Reasonably Practical under the Formal Safety Assessment and were broadly acceptable or tolerable with the embedded mitigation and therefore not significant.
- 2.10.5 The Applicant has committed to the implementation of a CaP, a CBRA, and a Lighting and Marking Plan (“LMP”) as mitigation measures to shipping and navigation.
- 2.10.6 The EIA Report has considered baseline traffic and does not consider any substantial interaction between the Works and nearby developments. As such, no developments are considered in a cumulative effects assessment. Existing oil and gas infrastructure is noted to be in the vicinity of the Works; however, this is considered part of the shipping and navigation baseline.
- 2.11 Aviation and radar
- 2.11.1 The EIA Report assessed the impact the Works could have on aviation using a 9 nautical miles (“nm”) buffer around the Works to identify impacts within the immediate vicinity. The EIA Report notes no offshore helicopter installations within 9 nm, therefore, helicopter operations into offshore installations (oil and gas platforms) are not expected to be affected by the Works.
- 2.11.2 The EIA Report considered the impact on military low flying and UK search and rescue (“SAR”) helicopter operations due to the presence of the Works during the construction and decommissioning phase, and the impact on military low flying and UK SAR helicopter operations due to presence of the Works during the operational phase.
- 2.11.3 To mitigate potential impacts, the Applicant has committed to the production of an Emergency Response Co-Operation Plan (“ERCoP”) to ensure appropriate lighting and marking is in place to facilitate aeronautical safety during SAR helicopter operations when rendering assistance to vessels and persons in the vicinity of the Works.
- 2.11.4 Given that the WTG is not detectable by any radar system, the EIA Report considers that Works will not present any cumulative effects on radar systems. Additionally, given the distance from known offshore and onshore developments, the Works is not considered to present any cumulative effects on military low flying or SAR helicopter operations.

2.12 Marine archaeology

2.12.1 The marine archaeology study area includes a 2 km buffer which allows for the assessment of potential direct and indirect effects of the Works on marine heritage receptors. The EIA Report considered known wrecks and obstructions, identified geophysical receptors, and the potential for further maritime and aviation archaeological receptors.

2.12.2 An archaeological assessment of geophysical survey data was undertaken to supplement the baseline characterisation for marine archaeology. This data identified 55 anomalies of possible archaeological interest, and two additional seabed features consisting of foul ground and an obstruction.

2.12.3 The EIA Report identified potential impacts on marine archaeology associated with all phases of the Works which include the loss or damage to known and unknown maritime and aviation receptors from direct impacts, and indirect disturbance to maritime and aviation receptors caused by anchoring and mooring systems.

2.12.4 The Applicant will develop a Written Scheme of Investigation (“WSI”) and a Protocol for Archaeological Discoveries (“PAD”) to minimize any direct impacts on potential maritime and aviation receptors and potential seabed features.

2.12.5 The Works will not affect onshore designated assets. Any potential impacts to offshore designated assets would be highly localised with no overlap with other developments. Therefore, there is no pathway for effects to occur and no potential cumulative effects to assess.

2.13 Other sea users

2.13.1 The impact of the Works on other sea users was assessed through desktop studies, publicly available data sources and stakeholder advice. Several receptors were identified as having potential sensitivities to the Works within a 10 km buffer which include:

- Obstruction of routine oil and gas operations;
- Obstruction of the ongoing and future decommissioning activities at Merganser and Scoter fields;
- Obstruction of subsea cable installation; and,
- Interference with communication.

2.13.2 The EIA Report concluded no significant effects on any identified other sea user receptor.

2.13.3 The EIA Report notes that any potential impacts from the Works would be localised and temporary; therefore, no significant change to the cumulative effects on other sea users are expected to result from the Works.

- 2.13.4 The Works is located approximately 20 km from the UK/Norway transboundary line. This is outside the 10 km buffer zone; therefore, the EIA Report concludes there is no potential for transboundary impacts on other sea users of the marine environment during any phase of the Works.
3. Consultation
- 3.1 In accordance with the 2007 MW Regulations advertisement of the application and EIA Report must be published in such newspapers or other publications as the Scottish Ministers deem fit for two successive weeks and in such other manner (if any) as the Scottish Ministers considered appropriate.
- 3.2 The Applicant, in agreement with the Scottish Ministers, advertised the Application:
- In two successive weeks, in a newspaper circulating in the locality in which the works to which the environmental statement relates are situated (or, in relation to proposed works in, on, over or under the sea, in such newspapers as are likely to come to the attention of those likely to be affected by the Works). The Applicant chose to advertise in the Fishing News on the 14 March 2024 and the 21 March 2024, and also The Press and Journal on the 14 March 2024 and the 21 March 2024;
 - In the Edinburgh Gazette on one occasion, which was published on the 15 March 2024; and,
 - On the [Applicant's website](#).
- 3.3 The Scottish Ministers made the Application publicly available on its external facing website: [Marine Licence Application - Culzean Floating Offshore Wind Turbine Pilot Project - East of Aberdeen - 00010724 | Marine Scotland Information](#)
- 3.4 The dates for the consultation period were 7 March 2024 to 26 April 2024, with the exception of Natural England which was consulted from the 26 April 2024 to 24 May 2024. The regulatory requirements regarding consultation and public engagement have been met and the representations received taken into consideration. Where matters have not been fully resolved, conditions have been included to ensure appropriate action is taken.
- 3.5 A summary of the representations is set out at sections 4, 5, 6 and 7. The representations are available to view in full [here](#).
4. Summary of representations from statutory consultees
- 4.1 Under the 2007 MW Regulations, the statutory consultees consulted are as follows:
- Natural England
 - NatureScot (operating name of Scottish Natural Heritage);
- 4.2 The Scottish Ministers have not considered any planning authorities appropriate to consult in respect of the Works given the location offshore.

4.3 Natural England

4.3.1 Natural England reviewed the Applicant's HRA Report including the HRA Screening and Report to Inform Appropriate Assessment ("RIAA"), Natural England agreed with the conclusions of the assessments and that the Project will not result in adverse effects on the integrity of any English Special Protected Area ("SPA") considering the scale and location of the Project.

4.4 NatureScot

4.4.1 Physical Processes

4.4.1.1 NatureScot did not provide comment on physical processes as it did not have in-house expertise for the receptor at the point of consultation.

4.4.2 Seascape, Landscape Character and Visual Impact Assessment ("SLVIA")

4.4.2.1 NatureScot did not provide comment on SLVIA as this receptor was scoped out of the EIA Report. This is in line with the [scoping opinion](#) advice.

4.4.3 Ornithology

4.4.3.1 NatureScot agreed with the EIA Report that ornithological interests are unlikely to be significantly affected by the Project.

4.4.3.2 NatureScot noted that the assessment approach, including impact pathways and assessment methods largely follows its pre-application advice. However, noted that rather than using a 2 km buffer beyond the Project's footprint for the assessment of displacement effects, the Applicant used a 2 km radius around the WTG location to assess impacts to guillemot, razorbill, and kittiwake. In this instance, given the project consists of a singular turbine, NatureScot accepts this approach.

4.4.3.3 NatureScot noted that it is content with the sensitivity and magnitude scoping within the EIA Report, as well as the significance conclusions reached for each of the impacts assessed (displacement/disturbance and collision). As such, NatureScot advised they agree with the Applicant's conclusion of no Likely Significant Effect ("LSE") for guillemot, razorbill, gannet, great-black backed gull and herring gull. NatureScot supported kittiwake being screened in for further assessment based on an LSE conclusion and agreed with the conclusion of No Adverse Effect on Site Integrity ("AEoSI") either alone or in combination with other projects.

4.4.3.4 NatureScot noted that the Project is the first INTOG site where each species is either outwith the regional population or has extremely low predicted collision mortality. As such it agreed with the EIA Report that a cumulative assessment is not required.

4.4.3.5 NatureScot noted no further mitigation, beyond the embedded mitigation noted within the EIA Report is required.

4.4.3.6 NatureScot noted the Applicant's initiatives as part of its R&D programme, specifically, the use of deploying camera and radar technologies and have welcomed the opportunity for further involvement with the proposal.

4.4.4 Marine Mammals

4.4.4.1 NatureScot noted that as pin piling is no longer included within the project design envelope, and other potential noise emitting activities will be both localised and temporary, it does not consider there to be any impact pathways of concern to marine mammal interests.

4.4.4.2 NatureScot noted that no underwater noise modelling impact assessment was undertaken within the EIA Report. NatureScot notes there is no calculation of the number of individuals or the proportion of the reference population, and therefore no quantitative approach to assigning the magnitude of the potential impacts. NatureScot disagrees with this approach to assessment, however, notes that given the scale of the Project it agrees that any impacts posed are negligible to all marine mammal species throughout all phases of the Project.

4.4.4.3 NatureScot disagreed with elements of the cumulative assessment approach, however, given the scale of the Project and the distance from all other planned Scottish offshore wind developments, it agreed that the Project will not significantly add to the overall cumulative impacts from projects planned for the North Sea.

4.4.4.4 In addition to the monitoring proposed within the EIA Report, NatureScot noted that regular marine mammal watches could be conducted and where possible, photo ID could be collected and shared with academic institute and Statutory Nature Conservation Bodies ("SNCBs") as an insight into the presence and absence of offshore species.

4.4.4.5 Due to the distance from designated sites and a lack of impact pathways, NatureScot advised that it considered there to be no LSE on the seal or cetacean qualifying features of any Special Area of Conservation ("SAC") from the Project. Therefore, this receptor was not assessed in the AA.

4.4.5 Fish and Shellfish Ecology

4.4.5.1 Given the scale of the Project, NatureScot agreed with the conclusions of no significant impacts to fish and shellfish receptors for all assessed impacts and at all stages of the development.

4.4.5.2 NatureScot noted the absence of robust evidence regarding the behaviour and distribution of diadromous fish species in the marine environment. Despite this, NatureScot reviewed the information provided by the Applicant and considers that the Project alone and cumulatively is unlikely to have significant adverse effects on diadromous fish.

4.4.5.3 NatureScot considered that the Project alone and cumulatively is unlikely to have significant adverse effects on diadromous fish. As such, NatureScot advised that diadromous fish could be screened out of further consideration under HRA due to:

- The scale of the Project, along with the short construction timeframe,
- Its entirety offshore with no landfall,
- The limited understanding of spatial and temporal distribution of migratory species,
- The lack of evidence to inform impact pathways, and,
- The lack of reference population figures which prevents impact apportioning to SACs.

4.4.5.4 NatureScot agreed with the EIA Report in that the Project will not significantly change the cumulative effects on fish and shellfish ecology.

4.4.5.5 NatureScot noted that the mitigation measures proposed by the Applicant includes indirect measures that will reduce effects on fish and shellfish receptors rather than specific mitigation measures. NatureScot also noted that due to there being no significant effects identified, the Applicant has not considered additional mitigation measures. Given the small scale and nature of the Project, NatureScot is content with the proposed mitigation measures.

4.4.5.6 NatureScot noted the Applicant's fish and shellfish ecology sub-projects within its R&D programme, specifically eDNA monitoring, and have welcomed the opportunity for further involvement with this research.

4.4.6 Benthic Ecology

4.4.6.1 NatureScot agreed with the EIA Report in that the Project will not significantly change the cumulative effects on benthic ecology.

4.4.6.2 Given the scale of the Project, NatureScot agreed with the conclusions of the impact assessments within the EIA Report in that each impact has either a minor or negligible effect, at all stages of the development.

4.4.6.3 NatureScot agreed that no secondary mitigation measures for benthic ecology is required.

4.4.6.4 NatureScot noted the Applicants benthic ecology sub-projects within its R&D programme, specifically EMF monitoring, and have welcomed the opportunity for further involvement with this research.

4.4.6.5 NatureScot noted that it is content that given the distance from designated sites and the lack of any impact pathway there is no LSE from the Project on any Annex I habitats for any SAC with regards to benthic ecology.

5 Summary of representations from other consultees

5.1 Aberdeen International Airport

5.1.1 Aberdeen International Airport had no comments to make on the Application.

5.2 British Telecoms (“BT”)

5.2.1 BT stated that the Works should not cause interference to BT’s current and presently planned radio network.

5.3 Edinburgh Airport

5.3.1 Edinburgh Airport had no objections to the Application.

5.4 HES

5.4.1 HES considered the Applicant’s embedded mitigation appropriate and sufficient for its historic environment interests. HES agreed with the requirement for a WSI and PAD, and that such plans should be secured through the licensing process.

5.4.2 HES had no objections to the Application as it did not consider the Application to raise any historic environmental issues of national significance.

5.5 MCA

5.5.1 The MCA was satisfied that appropriate traffic data had been collected in accordance with MCA guidance.

5.5.2 The MCA noted that an SAR checklist must be completed in agreement with the MCA before the commencement of construction. This includes the requirement for an approved ERCoP. The MCA highlighted that during SAR discussions, particular consideration will need to be given to the implications of the site location and its proximity to the Culzean oil and gas platform.

5.5.3 The Applicant agreed to provide an SAR checklist in line with MGN 654 Annex 5 and an approved ERCoP to the MCA. The Applicant has noted that it will consider the existing Culzean oil and gas platform during SAR discussions.

5.5.4 The MCA is content that the cumulative impacts will be marginal and that the projects identified within a 10 nm area can be screened out from further assessment.

5.5.5 The MCA noted that the final location of the WTG will require approval prior to placement to minimise the risks to surface vessels, including rescue boats and SAR aircraft operating to or in the vicinity of the Culzean oil and gas platform.

5.5.6 The MCA requires all aviation lighting to be visible 360° and compatible with night vision imaging systems. All lighting and marking arrangements will need to be agreed with the MCA.

- 5.5.7 The Applicant acknowledged the lighting and marking requirements and will adhere to the requirements detailed in the Civil Aviation Authority Policy and Guidelines on Wind Turbines (“CAP 764”) and MGN 654 Annex 5.
- 5.5.8 The MCA notes that third party verification of the mooring arrangements for all floating devices will be required prior to construction to provide assurance against loss of station.
- 5.5.9 The MCA notes the WTG will have an alarm system in place, whereby an alert will be provided to the Applicant if the WTG leaves a pre-defined ringfenced alarm zone. The MCA expects the use of GPS in this system. The inclusion of AIS as an additional measure to help track any loss of station is welcomed; however, the overall particulars of this system would require further discussion with the MCA and NLB.
- 5.5.10 The MCA notes that a load line exemption for the turbine platform is required prior to any towage to site and that the Applicant addresses any ballast water requirements.
- 5.5.11 The Applicant agreed to engage early with local MCA marine offices when necessary to ensure its contractors and subcontractors have the required certifications.
- 5.5.12 The MCA acknowledges that the Applicant will produce a CaP and a CBRA, however, notes that any cable protection works must ensure existing and future safe navigation is not compromised. The MCA would expect a maximum of 5% reduction in surrounding depth referenced to Chart Datum.
- 5.6 Ministry of Defence (“MOD”)
- 5.6.1 MOD had no objections to the Application.
- 5.6.2 MOD highlighted that its assessment for the Scoping Report remained extant. In this assessment MOD requested that, in the interest of air safety, the Works is fitted with MOD accredited aviation safety lighting. As a minimum MOD require that the WTG be fitted with 25cd or IR lighting.
- 5.7 National Air Traffic Services (“NATS”)
- 5.7.1 NATS stated that the Application does not conflict with its safeguarding criteria and therefore it has no objections to the Application.
- 5.8 NLB
- 5.8.1 The NLB will engage with the Applicant to develop a LMP that will satisfy the requirements of G-1162 of the International Association of Marine Aids to Navigation and Lighthouse Authorities guidance.

- 5.8.2 The NLB require the Project to be marked with an AIS Aid to Navigation. The NLB noted that a separate broadcast licence would be required to be obtained from OFCOM ahead of deployment.
- 5.8.3 The NLB noted that prior to the deployment of any aids to navigation on the WTG, the Statutory Sanction of the Commissioners of Northern Lighthouses must also be sought.
- 5.9 Royal Society Protection Birds (“RSPB”) Scotland
- 5.9.1 RSPB Scotland disagreed with the conclusions within the EIA Report that the project would not materially contribute to wider regional impacts for any bird species receptor. RSPB Scotland noted that despite how negligible the magnitude of potential disturbance, displacement and collision impacts are considered to be, such impacts will still contribute to the overall impacts.
- 5.9.2 RSPB Scotland noted the Applicant’s exploration of environmental research initiatives as part of its R&D programme, specifically, the use of deploying camera and radar technologies. RSPB Scotland is leading significant research initiatives in this field and given the potential complementarities the Applicant is encouraged to engage with RSPB Scotland during such research. The Applicant has requested engagement with RSPB Scotland to discuss approaches to bird monitoring techniques.
- 5.10 Royal Yachting Association (“RYA”)
- 5.10.1 RYA had no objections to the Application.
- 5.11 Scottish Fishermen’s Federation (“SFF”)
- 5.11.1 In its consultation response the SFF referred to a meeting held on 11 September 2023 in which the Applicant presented the Project to representatives from the SFF and the Scottish White Fish Producers Association (“SWFPA”). The representatives were content with the presented baseline during this meeting. The SFF noted that due to a lack of fishing data it is assumed that the Project is within an area which is not frequented by fishers, however, it notes that as fishing patterns can change it cannot be ruled out as an area that could become utilised in the future.
- 5.11.2 The SFF reiterated its position on its preference that the export cable is totally buried, and that maximum effort is made to totally trench and bury the cable for safety reasons. Where cable burial is not possible, the SFF notes its preferred cable protection measure to be rock dump/protections considering industry standard rock size with a 1:3 profile.
- 5.11.3 Where possible, the Applicant will share the location of any potential rock protection areas with the SFF.

- 5.11.4 The SSF noted specifics it would like to see within the Applicant's decommissioning programme. The decommissioning programme is a requirement of the Energy Act 2004 and will be secured by a condition in the marine licence. Any decommissioning programme will be consulted on with relevant stakeholders.
- 5.11.5 The SFF encouraged the Applicant's proposal to trial new innovative mooring techniques which will reduce the seabed impact of a mooring system in comparison to the more traditional catenary mooring systems. If the Applicant is considering mooring options that are not captured within the Application, it should engage early with MD-LOT to understand any licensing requirements.
- 5.12 SEPA
- 5.12.1 SEPA had no site-specific comments to make on the Application but referred to its [standing advice](#).
- 6 Summary of third party advice
- 6.1 Marine Directorate – Science, Evidence, Data, and Digital (“MD-SEDD”)
- 6.1.1 MD-SEDD was content that the impacts of snagging risk of gear and fisheries displacement during all phases of the Project was considered in the EIA Report. MD-SEDD agreed with the outcomes of this assessment.
- 6.1.2 Regarding the commercial fisheries baseline, MD-SEDD agreed with SFF and SWFPA in that there is limited fishing activity in the vicinity of the Project.
- 6.2 Transport Scotland
- 6.2.1 Transport Scotland was satisfied that it is unlikely that the Works will have a perceivable impact on the trunk road network given its limited size and location offshore. Transport Scotland stated that no further information or analysis is required for the Application.
- 7 Summary of representations from other organisations and members of the public
- 7.1 The Scottish Ministers received no representations from other organisations or members of the public.
- 8 The Scottish Ministers' EIA Consent Decision
- 8.1 The Scottish Ministers are satisfied that an EIA has been carried out. Environmental information including the EIA Report has been produced and the applicable procedures regarding publicity and consultation laid down in the 2007 MW Regulations have been followed. The environmental impacts of the Works have been assessed and the Scottish Ministers have taken the environmental information into account when reaching their EIA Consent Decision.

- 8.2 The Scottish Ministers have considered fully and carefully the Application, the EIA Report, and all relevant representations from consultees and advice from MD-SEDD.
- 8.3 Assessment of impacts of the Works on the environment in accordance with Regulation 21A(2) of the 2007 MW Regulations
- 8.3.1 Seabird qualifying features of European sites.
- 8.3.2 The Conservation of Offshore Marine Habitats and Species Regulations 2017 (“the Habitats Regulations”) require the Scottish Ministers to consider whether the Works would be likely to have a significant effect on a European site (either alone or in combination with other plans or projects), as defined in the Habitats Regulations.
- 8.3.3 In line with the view of NatureScot that the Works are likely to have a significant effect on the qualifying interests of the Buchan Ness to Collieston Coast SPA, Fowlsheugh SPA, Troup, Pennan and Lion’s Head SPA, St Abb’s Head to Fast Castle SPA and Forth Islands SPA, and Natural England that the Works are likely to have a significant effect on the qualifying interests of the Flamborough and Filey Coast SPA, the Scottish Ministers, as the “competent authority,” were required to carry out an Appropriate Assessment (“AA”).
- 8.3.4 NatureScot advised that there would be a likely significant effect on the qualifying interests of the Scottish SPAs due to collision risk and displacement.
- 8.3.5 Having had regard to the representations made by NatureScot and Natural England, and given the scale and distance offshore, it can be ascertained that the Works, subject to the conditions set out in the marine licence, will not adversely affect the integrity of any SPA on their own, or in combination with other Scottish projects.
- 8.3.6 The AA has considered the impact of the Works in combination with other windfarms, excluding Berwick Bank Offshore Wind Farm (“Berwick Bank”). Applications have been received for Berwick Bank, consisting of 307 WTGs, 47.6 km from the coast of East Lothian. A determination has not yet been made on the applications for this project, however, the AA has concluded that it will have an adverse effect on the site integrity of a number of qualifying interests of SPAs including kittiwake of the Buchan Ness to Collieston Coast SPA, Fowlsheugh SPA, Troup, Pennan and Lion’s Head SPA, St Abb’s Head to Fast Castle SPA, Forth Islands SPA, and Flamborough and Filey Coast SPA. Berwick Bank can therefore only be consented if a derogations case is agreed, including compensatory measures to offset its impacts on those species/sites where the AA cannot conclude that there will be no AEOI. This means that if Berwick Bank is consented, the effects from Berwick Bank on these species/sites will be compensated for and on this basis, they have not been considered in this in-combination assessment.
- 8.3.7 A full explanation of the issues and justification for decisions regarding site integrity is provided in Annex B: Appropriate Assessment.

8.3.8 The Scottish Ministers consider that, having taken into account the information provided by the Applicant, the representations of the consultation bodies, and having regard to the conditions attached, there are no outstanding concerns in relation to the impact of the Works on European sites and their qualifying features which would require an EIA Consent Decision to be withheld. On this basis, the Scottish Ministers consider that an up to date conclusion of the likely significant effects of the Works on biodiversity has been reached in accordance with Regulation 21A(2)(b) of the 2007 MW Regulations.

8.3.9 In reaching its EIA Consent Decision, the Scottish Ministers have had further regard to the likely significant effect of the Works on the remaining environmental factors listed at Regulation 21A(2) of the 2007 MW Regulations that were scoped in for assessment. They have concluded, taking into account the information provided by the Applicant, the representations of the consultation bodies, and having regard to the conditions attached, that there are no outstanding concerns in relation to the impact of the Works on soil, climate, material assets, cultural heritage and the interaction between them. On this basis, the Scottish Ministers consider that an up to date conclusion of the likely significant effect of the Works has been reached in accordance with Regulation 21A(2) of the 2007 MW Regulations.

9 The Scottish Ministers' Considerations and Main Determinative Issues

9.1 Determination of Marine Licence Applications

9.1.1 In determining the application for a marine licence (including the terms on which it is granted and what conditions, if any, are to be attached to it) the Scottish Ministers have had regard to:

- the need to protect the environment, protect human health, prevent interference with legitimate uses of the sea and such other matters as the Scottish Ministers consider relevant;
- the effects of any use intended to be made of the works when constructed; and
- representations received from persons with an interest in the outcome of the applications.

9.2 Main Determinative Issues

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

- The extent to which the Works accord with and is supported by Scottish Government policy and the terms of Scotland's National Marine Plan ("NMP");
- Renewable energy generation and associated policy benefits; and,
- The main effects of the Works on the environmental factors listed under regulation 21A of the 2007 MW Regulations considered in reaching the EIA Consent Decision, namely, in this case, kittiwake at European sites.

9.3 Scottish Government Policy Context

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

9.3.2 Of particular relevance to this proposal are:

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

9.3.3 The Climate Change (Scotland) Act 2019 commits Scotland to reach net zero emissions of all GHGs by 2045, ahead of the UK target of 2050. These targets are consistent with an ambitious Scottish contribution to the goals of the 2015 United Nations Paris Agreement on climate change, to limit global average temperature increases to 1.5 degrees Celsius.

9.3.4 Offshore wind is seen as an integral element in Scotland's contribution towards action on climate change. Our Offshore Wind Policy Statement sets out the Scottish Government's ambitions for offshore wind in Scotland, including an ambition to achieve 8-11 gigawatt of offshore wind in Scotland by 2030. Officials recognise that this ambition needs to be reviewed in light of the market ambition expressed in response to the ScotWind and INTOG leasing rounds and are currently consulting on setting a further offshore wind deployment ambition, including establishing a 2045 ambition for offshore wind in Scotland through the draft Energy Strategy and Just Transition Plan.

9.3.5 Scotland's National Planning Framework 4 ("NPF4") was adopted on 13 February 2023. It sets out a long-term spatial plan including regional priorities and 18 national developments, as well as a full suite of 33 national planning policies. NPF4 replaces NPF3 and Scottish Planning Policy.

9.3.6 On adoption of NPF4, the provisions in the Planning (Scotland) Act 2019 commenced making NPF4 part of the statutory development plan. NPF4 sets out the Scottish Government proposals for future consideration of planning matters and as such it may be taken into account by planning authorities on a case-by-case basis.

- 9.3.7 NPF4 signals a turning point for planning, placing climate and nature at the centre of the planning system and making clear Scottish Government support for all forms of renewable, low-carbon and zero emission technologies, including transmission and distribution infrastructure. This includes onshore infrastructure that supports offshore renewable Works. Potential impacts on communities, nature and other receptors remain important considerations in the decision-making process. All applications are already, and will continue to be, subject to full site-specific assessments.
- 9.3.8 The Scottish Ministers have had regard to NPF4 when assessing the Application. The Scottish Ministers considers that the Works accord with NPF4 as it supports renewable electricity generation and will help to reduce emissions through decarbonisation of the Culzean oil and gas asset. Furthermore, the Works support Policy 11 by contributing to the expansion of renewable energy generation.
- 10 The Scottish Ministers' Determination
- 10.1 The Scottish Ministers are satisfied that an EIA has been carried out, and that the applicable procedures regarding publicity and consultation in respect of the Application have been followed. The Scottish Ministers are also satisfied, having regard to current knowledge and methods of assessment, that their EIA Consent Decision is based on an up to date conclusion about the likely significant effects of the Works on relevant environmental factors, as required under the 2007 MW Regulations
- 10.2 The Scottish Ministers have weighed the impacts of the Works, and the degree to which these can be mitigated, against the renewable energy benefits which would be realised. The Ministers have undertaken this exercise in the context of national policies.
- 10.3 The Scottish Ministers have considered the extent to which the Works accord with, and are supported by, Scottish Government policy, the terms of the NPF4, the NMP, and the environmental impacts of the Works. In particular, the Scottish Ministers have considered the impacts of seabird qualifying features of European sites.
- 10.4 The Scottish Ministers are satisfied that the environmental issues associated with the Works have been appropriately addressed by way of the design of the Works and mitigation measures. In particular, the Scottish Ministers are satisfied that the Works will not adversely affect the site integrity of the Buchan Ness to Collieston Coast SPA, Fowlsheugh SPA, Troup, Pennan and Lion's Head SPA, St Abb's Head to Fast Castle SPA, Forth Islands SPA and Flamborough and Filey Coast SPA.
- 10.5 In their consideration of the environmental impacts of the Works, the Scottish Ministers have identified conditions to be attached to the marine licence to reduce and monitor environmental impacts (these conditions are outlined in the draft marine licence at the end of this document). These include the requirement of post consent plans, including a CMS, a Development Specification and Layout Plan, an EMP, a Vessel Management Plan, an Operation and Maintenance Programme, a Navigational Safety Plan, a CaP, a LMP a PEMP, and a WSI and PAD. .

- 10.6 A condition requiring the appointment of an Environmental Clerk of Works (“ECoW”) and defining the terms of the ECoW appointment has been attached to the marine licence. The ECoW will be required to monitor and report on compliance with all consent conditions and to monitor the construction of the Works in accordance with plans and the terms of the Application, marine licence, and all relevant regulations and legislation. The ECoW will also be required to provide quality assurance on the final draft versions of any plans and programmes required under the marine licence.
- 10.7 The Scottish Ministers are satisfied that regard has been given to protecting the environment, protecting human health, and preventing interference with legitimate uses of the sea, as well as other factors considered to be relevant, as required by section 69 of the 2009 Act .
- 10.8 The Scottish Ministers **grant a marine licence subject to conditions** under the 2009 Act to construct, alter or improve the Culzean Floating Offshore Wind Turbine Pilot Project. The marine licence is attached at Appendix D.
- 10.9 The embedded mitigation identified in the EIA Report has been incorporated into the conditions of the marine licence. The conditions also capture monitoring measures required under Regulation 22 of the 2007 MW Regulations.
- 10.10 Copies of this decision notice have been sent to all consultation bodies that have responded to the consultation. This decision notice has also been published on the [Marine Scotland Information](#) website.
- 10.11 The Scottish Ministers’ decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the [Scottish Courts and Tribunals website](#).
- 10.12 Your local Citizens’ Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely,

Jessica Malcolm
Offshore Renewables Consenting Section Leader
Marine Directorate - Licensing Operations Team
A member of the staff of the Scottish Ministers
15 August 2024.