

Cabinet Secretary for Net Zero, Energy and Transport

APPLICATION FOR CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 FOR CONSTRUCTION AND OPERATION OF AN OFFSHORE GENERATING STATION, BILLIA CROO WAVE TEST SITE, ORKNEY

Priority and Purpose

1. Routine priority.
2. To seek your determination on the section 36 consent application to construct and operate the Billia Croo Wave Test Site (“the Development”) with a maximum generating output of 20 megawatts (“MW”) (“the Application”).

Recommendation

3. Recommends that you determine it is appropriate not to cause a public inquiry to be held, and to grant consent under section 36 of the Electricity Act 1989, (“s.36”) for the Development at the European Marine Energy Centre (“EMEC”) (“the Company”), subject to the imposition of conditions.

Context and Issues

4. The Development is an established grid connected wave energy test site which supports the operation and testing of individual Offshore Renewable Energy Infrastructure (“OREI”). Under the current arrangements developers can only construct OREI with a generating capacity of under 1 MW. The Company seeks to achieve s.36 consent to allow the combined maximum generating output of up to 20MW of electricity from OREI constructed at the Development, and to extend the use of that consent to individual developers. This will enable developers to install OREI with a generating capacity exceeding 1MW without the need to apply for a separate s.36 consent; reducing the requirement for multiple s.36 consent applications for the same area. Developers must enter into a contractual agreement with the Company before access to the Development is granted. Part of that agreement is that a valid marine licence must be in place before the OREI can be constructed. A full description of the Development is set out in **Annex C**.
5. The s.36 application includes a Project Envelope for Device and Operations (“the Project Envelope”) which details pre-approved parameters for OREI, removing the need for public consultation on marine licence applications where those parameters are met. There remains the possibility that marine licence applications for OREI that do not meet the parameters of the Project Envelope will be made. These applications will continue to require full public consultation and, if these applications are for a device with a generating capacity of over 1MW, developers would be required to make a separate s.36 consent application.

6. The Developer has applied for an extension to the Development area and the extended lease area has been considered by the Marine Scotland Licensing Operations Team (“MS-LOT”) in the s.36 application under the terms set out at paragraph 13. Crown Estate Scotland will grant the lease to the Company when a s.36 consent has been secured for the original and extended area. The extended Development site is detailed in **Annex C Figure 1**.
7. A full summary of the consultation exercise and the key issues raised by consultees is set out in **Annex C**, at **sections 3, 4 and 5**.
8. Objections to the Application were maintained by the Orkney Fisheries Association (“OFA”) and the Scottish Fishermen’s Federation (“SFF”).
9. OFA maintains its objection to the Application due to the proposed 18 year period of the s.36 consent and the proposed increase to the existing operational area of the Development.
10. The SFF objects to the Application for the following reasons:
 - a. It disagrees with the EIA Report conclusions that the impact on commercial fisheries is predicted as not potentially important.
 - b. The increased site boundary requires local fishers to adapt to the further loss of potential fishing grounds.
 - c. The increase in transit times around the Development may cause safety problems.
 - d. The undetermined impacts on herring spawning.
 - e. The hydrodynamic impact of the Development on aquaculture could not be fully determined within the EIA report due to a lack of scientific evidence.

Options Considered and Advice

11. In determining whether to grant s.36 consent (including the terms on which it is to be granted and conditions attached to it), in accordance with their obligations under paragraph 3(2) of Schedule 9 of the Electricity Act 1989, the Scottish Ministers are (a) required to have regard to: the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest and; (b) the extent to which the Company has complied with its duty under paragraph 3(1)(b) of Schedule 9 to do what it reasonably can do to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects. Under paragraph 3(3) of Schedule 9 the Company and the Scottish Ministers must avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters. These considerations have been made alongside the EIA decision, which includes various required information on the potential environmental effects of the Development, including the consultation arrangements and reasons on which the decision is based.

12. Following the legislative and regulatory requirements, as summarised in **Annex A**, the results of the consultation exercise and the supporting information submitted as part of the s.36 application, the key considerations in relation to the determination of this proposal are set out in **Annex C, section 8-11**.
13. The Appropriate Assessment (“AA”), as set out in **Annex B**, concluded that the Development will not adversely affect the integrity of any European offshore marine site or European protected site, either alone or in-combination with other plans or projects.
14. MS-LOT considers that the key issues arising from the s.36 application have been resolved, mitigated and/or successfully addressed through the use of appropriate conditions as set out in the Decision Notice (**Annex C**). All legislative requirements have been complied with throughout the determination process and policy documents identified are considered to be broadly supportive of the Development.

Assessment of Options

15. Under Paragraph 2(1) of Schedule 8 to the Electricity Act 1989, the Scottish Ministers may cause an inquiry to be held in connection with their determination of an application for s.36 consent where a notice of the relevant application is served on the relevant planning authority, and where the planning authority object to the application and their objection is not withdrawn.
16. As Orkney Islands Council, the relevant planning authority in this instance, did not raise any objections to the Application, there is no statutory requirement under Paragraph 2(2) of Schedule 8 to the Electricity Act 1989 for the Scottish Ministers to cause a Public Inquiry (“PI”) to be held. The decision to hold a PI in this case is entirely at the discretion of the Scottish Ministers. Such discretion must always be exercised in accordance with the general principles of public law.
17. Under Paragraph 3(2) of Schedule 8 to the Electricity Act 1989, where by virtue of paragraph 2(2) a PI is not required but objections or copies of objections have been made by persons other than the relevant planning authority, the Scottish Ministers shall consider those objections, together with all other material considerations, with a view to determining whether a public inquiry should be held.
18. If, having considered the s.36 application, the Project Envelope and supporting documents, and the objections received as summarised above, together with other material considerations set out in the Decision Notice (**Annex C**), you determine that it would not be appropriate for a PI to be held, then it remains for you to grant or refuse consent under s.36 of the Electricity Act 1989, having regard to the considerations set out in the documentation.
19. MS-LOT is satisfied that sufficient information to assess the various competing considerations is available, has been properly taken into account, and that all interested parties have had sufficient opportunity to make representations on the s.36 application. MS-LOT is further satisfied that any inquiry would not be likely to

provide any factual information to assist the Scottish Ministers to resolve the issues of risk and planning judgment raised by the Application or to take a different view on the substantive issues on the Application. Accordingly you may conclude that it is not appropriate to cause a PI to be held into these matters.

20. MS-LOT has fully considered matters raised in representations from statutory and non-statutory consultees as well as the information supporting the Application. In addition, MS-LOT has completed an AA (as required under the Habitats Legislation) and concluded that the Development will not adversely affect the integrity of any European offshore marine site or European protected site, either alone or in-combination with other plans or projects.

21. MS-LOT has assessed the impacts of the Development and the degree to which these can be mitigated, against the economic and renewable energy benefits which would be realised. Officials have undertaken this exercise in the context of national and local policies.

Bute House Agreement Implications

22. Ensuring that s.36 applications approved for OREI is related to the commitment in the Bute House Agreement to enhance environmental protection. This is the case in this instance

Financial and Legal Considerations

23. There are no specific legal considerations or risks to highlight beyond the routine legal considerations described above. This recommendation and the annexes have been reviewed by Scottish Government Legal Directorate.

Sensitivities

24. The OFA and SFF have objected to the Application, as set out in paragraphs 9 & 10 above.

Quality Assurance

25. This Submission has been approved by Jo Blewett, Deputy Director, Offshore Wind Transformation.

Conclusions and next Steps

26. MS-LOT advises that where any adverse environmental impacts cannot be prevented, adequate mitigation can be put in place. An obligation has been placed on the Company to give effect to all the mitigation through the attachment of conditions to the s.36 consent, as set out in the Decision Notice (**Annex C**).

27. MS-LOT has considered the characteristics and location of the Development and the potential impacts. MS-LOT is of the view that the Application has had regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites,

buildings and objects of architectural, historic or archaeological interest and any other relevant matters considered and set out in the Decision Notice (**Annex C**). MS-LOT is also of the view that you have discharged your responsibilities in terms of Schedule 9 to the Electricity Act 1989 to have regard to those aforementioned matters and the extent to which the Company has complied with its duty to do what it reasonably can do to mitigate any effect from the Development on these should you decide to grant consent.

28. MS-LOT do not consider that announcements should be made regarding this decision.

29. In order for the determination process to be fully open and transparent, MS-LOT recommend that this submission is published on the Marine Scotland Information website, alongside the key documentation relating to the Application.

List of Annexes

Annex A – Legislative and Policy Requirements

Annex B – Appropriate Assessment

Annex C – Decision Notice and Conditions

Ben Walker

Marine Scotland – Licensing Operations Team

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
Cabinet Secretary for Net Zero, Energy and Transport	x			
Cabinet Secretary for Rural Affairs and Islands		x		
Minister for Environment, Biodiversity and Land Reform		x		
Lord Advocate				x

Officials Copy List
Solicitor General DG Economy DG Net Zero Director of Marine Scotland Jo Blewett, Offshore Wind Transformation Mike Palmer, Marine Scotland David Pratt, Marine Scotland Zoe Crutchfield, Marine Scotland Gayle Holland, Marine Scotland Debbie England, Marine Scotland Ben Walker, Marine Scotland

Officials Copy List

Rebecca Bamlett, Marine Scotland
Mark Christie, Marine Scotland
Paul Smith, Marine Scotland
Kat Jones, Marine Scotland
Jared Wilson, Marine Scotland
Allan Gibb, Marine Scotland
Kersti Berge, Energy Directorate
Andrew Hogg, Energy Directorate
David Stevenson, Energy Directorate
Ruaraidh Macniven, Solicitor to the
Scottish Government
Legal Secretariat to the Lord Advocate
Alison Presly, Legal Directorate
Angela Lawson, Legal Directorate
David Moffat, Legal Directorate
Joanna Dingwall, Legal Directorate
Joan McHutchison, Legal Directorate
Stewart Cunningham, Legal Directorate
John McFarlane, Special Advisor
Kate Higgins, Special Advisor
Communications – Finance & Economy
Communications – Net Zero and Rural
Affairs
Gillian Provan – Communications
Aileen Macarthur - Communications

ANNEX A REGULATORY REQUIREMENTS: LEGISLATION AND POLICY

APPLICATION FOR CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 FOR THE CONSTRUCTION AND OPERATION OF AN INSHORE GENERATING STATION, WITHIN THE ESTABLISHED WAVE TEST SITE AT BILLIA CROO, ORKNEY, APPROXIMATELY 2.2KM WEST FROM THE ORKNEY MAINLAND COASTLINE.

1 LEGISLATION

1.1 The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 and The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2006

1.1.1 The generation, transmission, distribution and supply of electricity are reserved matters under Schedule 5, Part II, section D1 of the Scotland Act 1998. The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (“the 1999 Order”) executively devolved section 36 (“s.36”) consent functions under the Electricity Act 1989 (“the Electricity Act 1989”) (with related Schedules) to the Scottish Ministers. The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 2) Order 2006 (“the 2006 Order”) revoked the transfer of s.36 consent functions as provided under the 1999 Order and then, one day later, retransferred those functions, as amended by the Energy Act 2004, to the Scottish Ministers in respect of Scotland and the territorial waters adjacent to Scotland and extended those consent functions to a defined part of the Renewable Energy Zone beyond the Scottish territorial sea, as set out in the Renewable Energy Zone (Designation of Area) (Scottish Ministers) Order 2005.

1.2 The Electricity Act 1989

1.2.1 Any proposal to construct, extend or operate a generating station situated in internal waters or the territorial sea (out to 12 nautical miles (“nm”) from the shore) with a generation capacity in excess of 1 megawatt (“MW”) requires consent under s.36 of the Electricity Act 1989. A consent under s.36 may include such conditions (including conditions as to the ownership or operation of the station) as appear to the Scottish Ministers to be appropriate. The s.36 consent shall continue in force for such period as may be specified in, or determined by or under, the s.36 consent.

1.2.2 Paragraph 3 of Schedule 9 to the Electricity Act 1989 requires that regard be given to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. Reasonable steps must be taken to mitigate any effect which the proposals would have on these features. The Scottish Ministers must have regard to the extent to which the person, by whom the proposals were formulated, has complied with their duty to mitigate the

Annex A – Legislative and Policy Requirements

effects of the proposals. When exercising any relevant functions, a licence holder, a person authorised by an exemption to generate or supply electricity, and the Scottish Ministers must also avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

- 1.2.3 Under s.36B of the Electricity Act 1989, the Scottish Ministers may not grant a consent in relation to any particular offshore generating station activities if they consider that interference with the use of recognised sea lanes essential to international navigation is likely to be caused by the carrying on of those activities or is likely to result from their having been carried on. The Scottish Ministers, when determining whether to give consent for any particular offshore generating activities, and considering the conditions to be included in such consent, must have regard to the extent and nature of any obstruction of, or danger to, navigation which, without amounting to interference with the use of such sea lanes, is likely to be caused by the carrying on of the activities, or is likely to result from their having been carried on. In determining this issue, the Scottish Ministers must have regard to the likely overall effect (both while being carried on and subsequently) of the activities in question and such other offshore generating activities which are either already subject to s.36 consent or are activities for which it appears likely that such consents will be granted.
- 1.2.4 Under Schedule 8 to the Electricity Act 1989, the Electricity (Applications for Consent) Regulations 1990, and the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 EW Regulations”), an applicant must publish notice of its application for s.36 consent in one or more local newspapers, in one or more national newspapers, in the Edinburgh Gazette and on an application website to allow representations to be made concerning the EIA Report, and supporting documents submitted by the European Marine Energy Centre Ltd (“the Company”) on 24 June 2019 (“the Application”). The Scottish Ministers must serve notice of any application for s.36 consent upon any relevant planning authority or planning authorities.
- 1.2.5 Paragraph 2(2) of Schedule 8 to the Electricity Act 1989 provides that where a relevant planning authority notifies the Scottish Ministers that they object to an application for s.36 consent and where they do not withdraw their objection, then the Scottish Ministers must cause a Public Inquiry (“PI”) to be held in respect of the application. In such circumstances, before determining whether to give their consent, the Scottish Ministers must consider the objections and the report of the person who held the PI.
- 1.2.6 The location and extent of the EMEC Billia Croo Wave Test Site (“the Development”), to which the Application relates (being wholly offshore) means that the Development is not within the area of any local planning authority. MS-LOT, on behalf of the Scottish Ministers, consulted with the planning authority most local to the Development - Orkney Islands Council.
- 1.2.7 The Scottish Ministers are not obliged to require a PI to be held in this case. But are required, under Paragraph 3(2) of Schedule 8 to the Electricity Act 1989 to consider all objections received, together with all other material

Annex A – Legislative and Policy Requirements

considerations, with a view to determining whether a PI should be held. Paragraph 3(2) of Schedule 8 provides that if the Scottish Ministers think it appropriate to do so, they shall cause a PI to be held, either in addition to or instead of any other hearing or opportunity of stating objections to the Application.

- 1.2.8 The Scottish Ministers can be satisfied that all the necessary tests set out within the Electricity Act 1989 have been met through the assessment of the Application and all procedural requirements have been complied with. The European Marine Energy Centre Ltd (Company Number SC249331) registered at The Charles Clouston Building Oric, Back Road, Stromness, Orkney, Scotland, KW16 3AW holds a generation licence. Your officials have approached matters on the basis that Schedule 9, Paragraph 3(1) obligations as apply to licence holders and the specified exemption holders should also be applied to the Company.

1.3 The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 *(the 2017 EW Regulations)*

- 1.3.1 The 2017 EW Regulations are targeted at projects which are likely to have significant effects on the environment and identify projects which require an environmental impact assessment (“EIA”) to be undertaken. The Company identified the Development as one requiring an EIA Report in terms of the 2017 EW Regulations.

- 1.3.2 In compliance with the 2017 EW Regulations consultation has taken place with NatureScot (operating name of Scottish Natural Heritage), the Scottish Environment Protection Agency, Historic Environment Scotland, the relevant planning authority, and such other persons likely to be concerned by the Development by reason of their specific environmental responsibilities on the terms of the EIA Report.

- 1.3.3 The 2017 EW Regulations require that a decision notice is issued to the applicant, including specified information such as the reasons and consideration on which the decision is based, as well as any conditions attached to the decision. The decision notice required under the 2017 EW Regulations (see regulation 21) is attached at Annex C. You can be satisfied that the EIA regulatory requirements have been met and your officials have taken into consideration the environmental information, including the EIA Report, the responses received from the consultative bodies and the representations received.

1.4 The Conservation of Habitats and Species Regulations 2017

- 1.4.1 Under the Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) projects in, or adjacent to, European protected sites, or in locations which have the potential to affect such sites, must undergo what is commonly referred to as a Habitats Regulations Appraisal (“HRA”). In line with advice from NatureScot, MS-LOT, on behalf of the Scottish Ministers, undertook an Appropriate Assessment (“AA”) as part of this HRA.

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The AA is included in the documentation accompanying this submission at Annex B.

1.4.2 You can be satisfied that the Habitats Regulations requirements have been met. The AA completed has concluded that the Development, alone and in combination with other plans or projects, will not adversely affect the integrity of any Special Area of Conservation (“SAC”) or Special Protection Area (“SPA”). The AA considered the Hoy SPA, the Scapa Flow SPA and the Sanday SAC in its conclusions.

1.5 The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019

1.5.1 The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 commits Scotland to reach net zero emissions of all greenhouse gases by 2045, ahead of the UK target of 2050. It includes bold interim targets to reduce emissions by 75% by 2030, against a 1990 baseline, and to reduce emissions by 90% by 2040. These targets are in line with what is required to meet Scotland’s commitments under the 2015 Paris Agreement, to limit global average temperature increases to 1.5 degrees Celsius or less. The Glasgow Climate Pact keeps alive this target of limiting global warming to 1.5 degrees.

1.5.2 The Development will contribute to the direct reduction of emissions from energy and further advance the technology and understanding of wave and tidal energy. Accordingly the Development complies with the 2019 Act.

2. POLICY

2.1 Scotland’s National Marine Plan

2.1.1 The National Marine Plan (“NMP”), formally adopted in 2015, and reviewed in Spring 2018, provides a comprehensive statutory planning framework for all activities out to 200nm (see Part 3 of the 2010 Act). The Scottish Ministers must take authorisation and enforcement decisions, which affect the marine environment, in accordance with the NMP.

2.1.2 The NMP sets an objective to promote the sustainable development of offshore wind, wave and tidal renewable energy in the most suitable locations. In doing so, it sets a presumption in favour of sustainable development and use of the marine environment when consistent with the policies and objectives of the NMP. The NMP also contains specific policies relating to the mitigation of impacts on habitats and species.

2.1.3 Of particular relevance to this proposal are:

- Chapter 4 policies ‘GEN 1-21’ which guide all development proposals;
- Chapter 6 Sea Fisheries, policies ‘FISHERIES 1-3’ and 5;
- Chapter 8 Wild Salmon and Diadromous Fish, policies ‘WILD FISH 1’;
- Chapter 11 Offshore Wind and Marine Renewable Energy, policies ‘RENEWABLES 1, 3-10’;

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- Chapter 12 Recreation and Tourism, policies ‘REC & TOURISM 2 and 6’;
- Chapter 13 Shipping, Ports, Harbours and Ferries, policies ‘TRANSPORT 1 and 6’;
- Chapter 14 Submarine Cables, policies ‘CABLES 1, 2 and 5’; and
- Chapter 15 Defence, policy ‘DEFENCE 1’.

2.1.4 MS-LOT has had full regard to the NMP when assessing the Application. Taking account of the details outlined above, MS-LOT considers that the Development accords with the NMP by contributing to the sustainable development of wave and tidal energy in the most suitable locations and expansion of test and demonstration facilities for marine renewables energy devices.

2.2 Pilot Pentland Firth and Orkney Waters Marine Spatial Plan, 2016

2.2.1 The Pilot Pentland Firth and Orkney Waters (“PPFOW”) Marine Spatial Plan is an integrated planning policy framework to guide marine development, activities and management decisions within the Pentland Firth and Orkney Waters area. The PPFOW Marine Spatial Plan also sets an objective to support the transition to a low carbon economy.

2.2.2 Of particular relevance to this proposal are:

- Section 4 General Policies 1A-9 which guide all development proposals;
- Sectoral Policy 1: Commercial fisheries points 1 and 5;
- Sectoral Policy 4: Renewable energy generation;
- Sectoral Policy 6: Marine Transport; and,
- Sectoral Policy 8: Pipelines, electricity and telecommunications infrastructure.

2.2.3 The areas established for wave and tidal development have been identified in the PPFOW Marine Spatial Plan to be consistent with the NMP. These areas are also at the forefront of wave and tidal energy developments and the PPFOW Marine Spatial Plan will contribute to decarbonisation and climate change targets. Therefore the PPFOW Marine Spatial Plan supports the development of the generating station.

2.3 Scottish Energy Strategy, 2017

2.3.1 The Development will contribute to Scotland’s renewable energy targets and will provide wider benefits to the wave and tidal sector which are reflected within the Scottish Energy Strategy, which states that the Scottish Ministers will continue to champion the Scottish wave and tidal energy sector – supporting the research, development, innovation and demonstration that will maintain Scotland’s competitive advantage.

2.4 Scottish Planning Policy

2.4.1 Scottish Planning Policy 2014 (“SPP”) sets out Scottish Government’s planning policy on renewable energy development. Efficient supply of low

Annex A – Legislative and Policy Requirements

carbon and low cost heat, and generation of heat and electricity from renewable energy sources are vital to reducing greenhouse gas emissions and can create significant opportunities for communities. Renewable energy also presents a significant opportunity for associated development, investment and growth of the supply chain, particularly for ports and harbours. Communities can also gain new opportunities from increased local ownership and associated benefits.

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

2.4.3 MS-LOT has had regard to the SPP when assessing the Application. The Development is also endorsed by the SPP principles by supporting the development of a diverse range of electricity generation from renewable energy technologies. Whilst the Development will potentially have environmental impact, it does not outweigh the benefits, therefore, MS-LOT considers that the Development accords with the SPP.

2.5 National Planning Framework 3

2.5.1 Scotland's National Planning Framework 3 ("NPF3"), adopted in June 2014, sets out the ambition for Scotland to move towards becoming a low carbon country, placing emphasis on the developments of onshore and offshore renewable energy. NPF3 aims for Scotland to be a world leader in offshore renewable energy and expects that, in time, the pace of onshore wind will be overtaken by the development of marine energy including wind, wave and tidal power.

2.5.2 MS-LOT has had regard to the NPF3 when assessing the Application. MS-LOT considers that the Development accords with the NPF3.

2.6 National Planning Framework 4

2.6.1 The Revised Draft National Planning Framework 4 ("NPF4") was laid in the Scottish Parliament on 8 November 2022 for consideration and approval. NPF4 is effectively a national development plan for Scotland. 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.

2.6.2 NPF4 is required to be approved by the Scottish Parliament, then adopted by Scottish Ministers before it becomes part of the statutory development plan. On adoption, the provisions in the 2019 Planning Act will be commenced which will make the NPF4 part of the statutory development

Annex A – Legislative and Policy Requirements

plan. NPF3 and Scottish Planning Policy will remain in force until NPF4 is adopted. The Revised Draft NPF4 sets out our 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.

- 2.6.3 The Revised Draft 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. Which includes onshore infrastructure that supports offshore renewable development. Potential impacts on communities, nature and other receptors remain important considerations in the decision-making process. All applications are already, and will continue to be, subject to full site-specific assessments.'

2.7 Summary

- 2.7.1 MS-LOT considers that the policy documents outlined above demonstrate that the Development is in the public interest and that the impacts identified through the EIA and HRA assessments do not outweigh the contribution that the Development makes to delivering Scottish Ministers policies.