

OFFICIAL SENSITIVE

From: Zoe Crutchfield
Marine Directorate – Licensing Operations Team
10 July 2026

Cabinet Secretary for Public Service Reform

**APPLICATIONS FOR CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989
FOR THE CONSTRUCTION AND OPERATION OF OFFSHORE GENERATING
STATIONS, CALEDONIA NORTH OFFSHORE WIND FARM AND CALEDONIA SOUTH
OFFSHORE WIND FARM**

Priority and Purpose

1. Urgent. A decision is requested by 14 July 2026.
2. To seek your determination on:
 - a) The case for a derogation under the Conservation (Natural Habitats, &c.) Regulations 1994, Conservation of Offshore Marine Habitats and Species Regulations 2017 and Conservation of Habitats and Species Regulations 2017 (together, “the Habitats Regulations”) for the Caledonia North Offshore Wind Farm (“Caledonia North”);
 - b) The case for a derogation under the Habitats Regulations for the Caledonia South Offshore Wind Farm (“Caledonia South”);
 - c) The application submitted by Caledonia Offshore Wind Farm Limited (“the Developer”) for consent under section 36 (“s.36”) of the Electricity Act 1989 (“the Electricity Act”) to construct and operate Caledonia North (hereafter referred to as “the Caledonia North Application”); and
 - d) The application submitted by the Developer for consent under s.36 of the Electricity Act to construct and operate Caledonia South (hereafter referred to as “the Caledonia South Application”).

Recommendation

3. Recommends that you:
 - a) approve the case for a derogation and note the proposed compensatory measures as detailed in Annexes I and J; and
 - b) determine it is appropriate not to cause a public enquiry (“PI”) to be held and to grant consent under s.36 of the Electricity Act for Caledonia North and Caledonia South (together “the Proposed Developments”), subject to the imposition of conditions.

Context and Issues

4. The Developer was granted a lease option under the Crown Estate Scotland (“CES”) ScotWind leasing round. The Developer has opted to split the lease area into Caledonia

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North and Caledonia South and submit separate s.36 applications (“the Applications”) due to the volume of national grid reinforcement works required and wider commercial drivers leading to a need to phase development. The Developer has also applied for four marine licences under the Marine and Coastal Access Act 2009 (“The 2009 Act”) and Marine (Scotland) Act 2010 (“The 2010 Act”) for the construction, alteration or improvement of the generating stations and offshore transmission infrastructure from the generating stations to landfall on the Stake Ness, Aberdeenshire coast.

5. Caledonia North is a fixed bottom offshore wind farm located in the outer Moray Firth, approximately 28 kilometres (“km”) from the Wick coastline and 48km from the Banff coastline with an anticipated generating capacity of 1 Gigawatts (“GW”), produced by up to 77 offshore Wind Turbine Generators (“WTG”).
6. Caledonia South is a combined fixed bottom and floating offshore wind farm located in the outer Moray Firth, approximately 45km from the Wick coastline and 35km from the Banff coastline with an anticipated generating capacity of 1GW, produced by up to 78 WTG (of which no more than 39 shall be floating). Across both Caledonia North and Caledonia South the total number of WTG will not exceed 140.
7. The Applications were supported by an Environmental Impact Assessment Report (“EIA Report”), including information to inform the Habitats Regulations Appraisal (“HRA”). A full description of the Proposed Developments and the Applications are set out in Annex E and F.
8. Consultation and public engagement have been undertaken on the Applications in line with regulatory requirements and the responses received taken into consideration. A full summary of the consultation exercise and the key issues raised by consultees is set out in Annex E at sections 3 to 7 and Annex F, at sections 3 to 7.
9. Objections to the Applications were received from the Royal Society for the Protection of Birds Scotland (“RSPB Scotland”), Scottish Fishermen’s Federation (“SFF”), the Ministry of Defence (“MOD”), Aberdeen International Airport and Highlands and Islands Airport Limited (“HIAL”).
10. In addition, four representation/ns were received, three from members of the public and one from the “say no to pylons” action group, all of which objected to the Proposed Developments. The objections covered a range of topics, but the majority of concerns raised related to marine species and habitats and cumulative impacts with other developments. Details of the objections and representations can be found in Annex E and F.
11. Appropriate Assessments (“AA”) have been completed under the Habitats Regulations which conclude that both Caledonia North and Caledonia South will adversely affect the qualifying features of a number of Special Protection Area (“SPA”)s in-combination with other plans or projects.
12. Therefore, the Proposed Developments can only receive consent if there are no alternative solutions, there are overriding reasons of public interest to grant the consent, and suitable compensatory measures can be secured. The derogation cases (Annex I and J), have been undertaken and the conclusion drawn that there are no alternative

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solutions to the Proposed Developments and that the Proposed Developments must be carried out for imperative reasons of overriding public interest, notwithstanding a negative assessment of the implications for a number of European Designated Sites.

13. The final derogation provision to be met is to secure compensatory measures that benefit the UK Marine Protected Area ("MPA") network in a manner which is reasonably proportionate to the predicted adverse effects on the integrity of European sites. The Developer submitted a without prejudice derogation case alongside the Applications, comprising four seabird compensation measures.
14. Scientific specialists in Marine Directorate ("MD-SEDD") provided advice on the Applicant's derogation case and concluded, in agreement with the representations from NatureScot, that the Developer has currently provided insufficient evidence to conclude with confidence that the compensation measures will deliver the level of compensation required in line with the AA. However, MD-SEDD and NatureScot agree that the compensation measures do have the potential to deliver the level of compensation, but further information is required to reduce the uncertainty. This further information will be secured through the use of a suspensive condition, which will require submission of a detailed seabird compensation plan (including compensatory measures) and its approval by the Scottish Ministers in consultation with statutory nature conservation bodies, prior to the commencement of the Proposed Developments. [Redacted]
15. An MPA Assessment was required under Section 83 of the Marine (Scotland) Act 2010 as the Proposed Developments were considered to be capable of affecting, other than insignificantly, the minke whale, burrowed mud and fronts features qualifying interests of the Southern Trench Nature Conservation MPA (ncMPA). The MPA assessment concluded that the Proposed Developments will not result in a significant risk of hindering the achievement of the conservation objectives of the Southern Trench ncMPA, subject to the imposition of relevant conditions. Full details of the assessment can be found in Annex D.

Options Considered and Advice

16. 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, the Scottish Ministers shall 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;
 - The extent to which the Developer 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.
17. Under paragraph 3(3) of Schedule 9, the Developer and the Scottish Ministers must avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

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18. The above considerations have been taken into account alongside the EIA decision, which includes various required information on the potential environmental effects of the Proposed Developments. Marine Directorate – Licensing Operations Team (“MD-LOT”) is of the view that the Applications had regard to the criteria set out in paragraph 16 above and recorded in Decision Notices (Annex E and F). MD-LOT considers that the Developer has done all that it reasonably can to mitigate the effects which Caledonia North and Caledonia South are predicted to have on the natural beauty of the countryside, or on any such flora, fauna, features, sites, buildings or objects. MD-LOT is of the view that the Scottish Ministers have discharged their responsibilities in terms of Schedule 9 to the Electricity Act, as set out in Annex E and F.
19. Consideration has been given to the views of all consultees, including those who raised objections. The SFF, the MOD, Aberdeen International Airport and HIAL raised concerns regarding the sufficiency of mitigation measures on socio-economic impacts on commercial fishers, Air Defence Radar, Surveillance Radar, and Instrument flight procedures respectively. RSPB Scotland objected on the basis that the Proposed Developments will impact protected sites and seabird species and that the proposed compensatory measures are not detailed enough to provide confidence that the required level of compensation will be secured.
20. To address these objections, suspensive conditions have been attached to the consents, requiring that a Fisheries Management and Mitigation Strategy (“FMMS”), an Air Defence Mitigation Scheme, a Primary Radar Mitigation Scheme and an Instrument Flight Procedures Mitigation Plan are submitted to Scottish Ministers. The Proposed Developments cannot commence until these post consent plans have been approved by Ministers in consultation with the relevant stakeholders. Additionally, a suspensive condition has been added requiring the Developer to submit a finalised Detailed Seabird Compensation Plan. Scottish Ministers must approve the plan in consultation with NatureScot and RSPB Scotland before the Proposed Developments can commence.
21. In its consultation feedback, SFF expressed doubts that the FMMS will be capable of identifying appropriate mitigation measures. MD-SEDD is also of the opinion that mitigation measures identified in the EIA report regarding impacts on commercial fisheries cannot be considered mitigation measures, and that the only viable option identified in the EIA report is financial compensation in the form of disturbance payments. However, as with all suspensive conditions requiring approval of post consent plans, officials are content that the requirement will provide the appropriate opportunities for the requested further discussions on appropriate mitigation measures prior to the commencement of the Proposed Developments.
22. As wider context, in recognition of the importance of progressing coexistence of offshore renewables and commercial fisheries, officials from the Offshore Wind Directorate are currently engaging the offshore wind and fishing sectors in relation to offshore wind and fisheries coexistence matters. This work includes scoping options for short-term disruption payments and addressing longer-term impacts through a fisheries fund. Internally, policy option papers are being prepared as a first step and discussions with Industry and Fisheries stakeholders continue via the Scottish Offshore Wind Energy Council’s Barriers to Deployment Group, with the next meeting expected later in the Summer.

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23. Full detail of the post consent plans that are intended to address the concerns raised in consultation responses are included in Annex E & F.

Assessment of Options

24. Under paragraphs 2(1) and 2(2) of Schedule 8 to the Electricity Act, 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 objects to the application and its objection is not withdrawn. The Proposed Developments are not within the area of any local planning authority, but the planning authorities most local to the Proposed Developments were consulted on the Application and did not in any event object.
25. Under paragraph 3(2) of Schedule 8 to the Electricity Act, whereby 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 PI should be held.
26. MD-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 Applications. MD-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 Applications, or to take a different view on the substantive issues on the Applications. Accordingly, you may conclude that it is not appropriate to cause a PI to be held into these matters.
27. If, having considered the Applications and supporting documents, together with other material considerations set out in the Decision Notices (Annex E and F), 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, having regard to the considerations set out in the documentation.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Sensitivities

35. The Sectoral Marine Plan (“SMP”) for Offshore Wind Energy, adopted by the Scottish Government in 2020, provides a strategic framework to guide the sustainable development of offshore wind projects in Scottish waters. The Proposed Developments are situated within the ScotWind NE4 Plan Option Area identified in the SMP. The Applications and project specific HRA (including AAs and derogation cases) have considered possible cumulative and in-combination effects. In line with the Scottish Government’s plan-led system work is ongoing to finalise an updated SMP for Offshore Wind Energy with adoption expected during Summer 2026.

Conclusion and next steps

36. Should the Minister choose to approve the Applications, MD-LOT will finalise and issue the draft decision notices attached at Annex E and F. A communications plan has been developed in conjunction with the Offshore Wind Directorate and SG Communications.
37. The marine licence applications under the Marine (Scotland) Act 2010 and the Marine and Coastal Access Act 2009 for the Proposed Developments and associated offshore transmission infrastructure are being considered alongside the Application and will be determined by MD-LOT.
38. In compliance with regulation 31(4) of the Conservation of Offshore Marine Habitats and Species Regulations 2017, if Scottish Ministers agree to a project under regulation 29, it must notify the Secretary of State as soon as practicable following that agreement. MD-LOT has attached a letter at Annex K for you to send to the Secretary of State to fulfil this obligation should you choose to grant the consents.
39. In order for the determination process to be full open and transparent, MD-LOT recommends that this submission is published on the Marine Directorate Information website, alongside the key documentation related to the Applications.

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List of Annexes

Annex A – Caledonia North Legislative Requirements
Annex B – Caledonia South Legislative Requirements
Annex C – Caledonia North Appropriate Assessment
Annex D – Caledonia South Appropriate Assessment
Annex E – Caledonia North Decision Notice
Annex F – Caledonia South Decision Notice
Annex G – Caledonia North Marine Protected Area Assessment
Annex H – Caledonia South Marine Protected Area Assessment
Annex I – Caledonia North Derogation Case
Annex J – Caledonia South Derogation Case
Annex K – Caledonia North Letter to the Secretary of State
Annex L – Caledonia South Letter to the Secretary of State

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
Cabinet Secretary for Public Service Reform	X			
First Minister				X
Deputy First Minister and the Cabinet Secretary for Finance and Local Government				X
Cabinet Secretary for Climate Action and Rural Affairs		X		
Cabinet Secretary for Economy, Tourism and Transport				X
Minister for Agriculture, Marine and the Islands		X		
Minister for Europe, External Affairs and Energy		X		
Lord Advocate				X
Solicitor General				X

[Redacted]

[Redacted]

