

9 March 2023

FAO Ben Walker
Marine Scotland Licensing Operations Team,
Marine Laboratory,
375 Victoria Road,
Aberdeen,
AB11 9DB

Dear Ben,

**Subject: The Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013
Marine (Scotland) Act 2010**

APPLICATION FOR VARIATION OF SECTION 36 CONSENT AND MARINE LICENCE GRANTED TO CONSTRUCT AND OPERATE THE DOUNREAY TRI FLOATING WIND DEMONSTRATOR PROJECT

Ref: GBPNTD-PGM-PEN-CM-00029

Further to the Screening Opinion received on 7 March 2022, please accept this letter and the enclosed documents as an application under Section 36C of the Electricity Act 1989, to vary the consent granted under Section 36 of the Electricity Act 1989 to Dounreay Tri Limited on the 16th March 2017. This was subsequently acquired by Highland Wind Limited (HWL), and the assignation of the Section 36 consent approved on the 3rd March 2021. This application also seeks to vary the accompanying Marine Licence number MS-00009324 under the Marine (Scotland) Act 2010 which was transferred to HWL on 8th June 2021. The S36 consent and Marine Licence awarded to Dounreay Tri Limited are collectively referred to as 'the consents'.

The consents currently authorise HWL to construct and operate the Dounreay Tri Floating Wind Demonstrator, an offshore wind farm generating station located approximately 6 km north off the coast of Dounreay, Caithness, with a total area 25 km² (central latitude and longitude co-ordinates: 58° 39.093' N, 03° 50.976' W (WGS84)) and a maximum generating capacity of 12 MW. A detailed description of the Development is described in Annex 1 of the Section 36 consent.

HWL is seeking to vary the consents to:

- Remove the individual wind turbine generator (WTG) capacity limit of 6 MW;
- Remove the total generating capacity limit of 12 MW.

This would allow larger capacity WTGs to be installed under the existing consent parameters. There are no changes proposed to the physical parameters of the development and no variation is sought or required to any other parameters of the consents and there would be no implications for the environmental effects of the project. This is further detailed within Appendix 1. HWL is also requesting that the associated marine licence (Licence Number: MS-00009324) is also varied.

In line with The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended in 2017) and The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (together the "EIA Regulations"), only variation applications where the changes proposed by the variation may cause significant adverse environmental effects require an EIA. On 7 March 2022, Marine Scotland Licensing Operations Team (MS-LOT) (on behalf of the Scottish Ministers) confirmed that the changes proposed by the variation application would not cause significant adverse environmental effects and, as such, no EIA would be required.

The application documents submitted in respect of the S36 and marine licence variation application consist of the following:

This covering letter; and

- Details of the Public Notice;
- Revised S36 consent with proposed amendments (Annex A);
- Revised Marine Licence for the Generating Station with proposed amendments (Annex B).

The full Environmental Statement and associated technical appendices submitted in support of the Original Section 36 consent application can be downloaded from: <http://marine.gov.scot/data/environmental-statement-dounreay-tri-floating-wind-demonstration-project>.

On confirmation of receipt and acceptance by MS-LOT, notice of this application will be placed in Lloyd's List, the Fishing News Bulletin, the Edinburgh Gazette and the Scotsman once and in the John O' Groats Journal for two successive weeks. The notice of this application will set out where physical copies of the application will be available for public inspection. Additionally, the notice of this application and the supporting Section 36 variation documents will be published and available for download on HWL's company website at: www.pentlandfloatingwind.com.

We note that there is no relevant planning authority in terms of the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 ("2013 Regulations") for this application. In summary, the 2013 Regulations make provision about the procedures for handling applications to vary consents for the construction, extension and operation of electricity generating stations that have been granted under section 36 of the Electricity Act 1989. Regulation 4 of the 2013 Regulations states that the applicant must "*serve a copy of the variation application on the planning authority (if any)*" (our emphasis). The Section 36 consent is for a generating station located offshore (see Figure 1 to the section 36 consent "Offshore site"), and this s36C application relates to the offshore generating station only. The offshore generating station is not located within the area of any planning authority. The presence of "if any" in regulation 4(2)(b) makes clear that there is no planning authority for the purposes of Regulation 4 where the application site is not in the area of any planning authority. As the application relates solely to the offshore generating station and is therefore not within the area of any planning authority, we do not consider there to be a planning authority for the Application and so regulations 4(2)(b) and 4(6)(a) are not engaged. The applicant has already notified Highland Council as a matter of best practice who were content with this approach.

I trust that the enclosed information will allow you to process the application. If you require any further information or have any questions, please do not hesitate to contact me.

Yours sincerely,

[Redacted]

Peter Moore

Consents Lead
Pentland Floating Offshore Wind Farm

Appendix 1

1. Introduction

This Appendix has been prepared to support an application by HWL under Section 36C of the Electricity Act 1989 to vary the S36 consent granted for the Dounreay Tri Floating Demonstration Project, hereafter referred to as the 'existing S36 Consent'. In line with the proposed variations to the existing S36 Consent, this Appendix also supports an application to Scottish Ministers to vary the associated marine licence (MS-00009324) under section 30 of the Marine (Scotland) Act 2010, should the variations to the existing S36 Consent be granted.

The information provided within this Appendix demonstrates that the proposed variations to the existing S36 Consent and associated marine licence would not lead to any different or any greater significance of environmental impacts on receptors than authorised by the existing consent. The removal of the capacity limit will allow for increased generation of renewable energy on the site. This will increase the Project's contribution towards meeting Scotland's ambitious renewable energy targets and commitment to reaching net zero by 2045.

Therefore, there is no requirement for a new Environmental Impact Assessment (EIA) to be undertaken and the existing S36 Consent and marine licences can be varied with no further assessment required. As noted above, on 7 March 2022, Marine Scotland Licensing Operations Team (MS-LOT) (on behalf of the Scottish Ministers) confirmed that the changes proposed by the variation application would not cause significant adverse environmental effects and, as such, no EIA would be required.

1.1 Background

Highland Wind Limited (HWL) was assigned the existing S36 Consent awarded to Dounreay Tri Limited (in administration) for the Dounreay Tri Floating Demonstration Project on the 3rd March 2021. HWL is a Special Purpose Vehicle (SPV) formed with a fund managed by Copenhagen Infrastructure Partners (CIP) acting as the majority shareholder (Company registration number: SC675148). The project has additionally been renamed as the "Pentland Floating Offshore Wind Farm" (PFOWF) (hereafter, referred to as the Project).

CIP is a Danish fund management company, focused on energy infrastructure including offshore wind, onshore wind, solar PV, biomass and energy-from-waste, transmission and distribution. It was founded in 2012 and currently has approximately EUR 16 billion under management. CIP is a major investor in the offshore wind sector and has significant investments in a number of offshore wind projects around the world. Copenhagen Offshore Partners (COP), which conducts offshore wind development activities on behalf of the funds managed by CIP, has recently opened an office in Edinburgh to support the funds' increasing engagement in Scotland, with a particular focus on floating wind.

Dounreay Tri Limited, the original developer and a subsidiary of Hexicon AB, previously applied for consent under S36 of the Electricity Act 1989 and for associated marine licences under the Marine (Scotland) Act 2010, for the Project in October 2016. The application was supported by an Environmental Statement (ES) (hereafter, referred to as the 'Original ES'). The existing S36 Consent was granted by the Scottish Ministers on the 16 March 2017 and marine licence (MS-00009324) was issued by the Scottish Ministers on 8 June 2021 (hereinafter referred to as the Marine Licence). HWL subsequently requested an extension to the project's commencement date, which in July 2021, the Scottish Ministers granted until 15 March 2025 to allow for the commencement of the development.

1.2 Proposed Consent Variation

HWL is seeking consent from the Scottish Ministers to vary the existing S36 Consent under the Electricity Act 1989 through modifying the following parameters:

- Remove the individual wind turbine generator (WTG) capacity limit of 6 MW
- Remove the total generating capacity limit of 12 MW;

HWL are also requesting that, should the variation of the existing S36 Consent be granted, the associated Marine Licence (Licence Number: MS-00009324) is also varied by the Scottish Ministers under section 30 of the Marine (Scotland) Act to reflect amendments to the existing S36 Consent. Draft proposed changes to the existing S36 Consent and the Marine Licence are included within this application (Annexes A and B). **Error! Reference source not found.**

As set out above, the Project has been renamed to the PFOWF and therefore, HWL is requesting that, should the variation of the existing Section 36 Consent and the Marine Licence be granted, the consent and licence are granted in this name.

1.3 The Consented Development

The existing S36 Consent permits the development of a demonstration Offshore Wind Farm (OWF) in the Pentland Firth, located as shown on Figure 1. The existing S36 Consent is limited by the following key parameters:

- *The Development shall be approximately 6 km offshore from Dounreay, Caithness, with a permitted generating capacity not exceeding 12 MW and shall be comprised of:*
 - *One single floating, semi-submersible, column-stabilised platform, comprising of buoyancy columns interconnected in a steel lattice truss framework. The maximum length will be 230 m, maximum width will be 135 m and maximum height of 15 m above water surface; the platform will rotate 360° and have a passive mooring system. The mooring system will consist of up to 8 mooring lines, passing through a 600-tonne clump weight suspended in the water beneath the platform. A total of 16 anchors will be attached to the mooring lines, two per line, with a maximum radius of 800 m from the platform centre;*
 - *Two Demonstration offshore wind turbine generators (WTGs) each with an installed capacity of up to 6 Megawatts (MW), giving a total maximum generating capacity not exceeding 12 MW. Each turbine will be a three bladed structure with a maximum hub height of 124 m above Lowest Astronomical Tide (LAT), including the jacket, and with a maximum blade tip height of up to 201 m above LAT and a maximum rotor diameter of 154 m;*
 - *Grid infrastructure, including the installation of one subsea cable, which will bring the power ashore immediately to the west of the Dounreay Restoration Site fence line; and*
 - *Associated onshore infrastructure, including, underground cabling and turbine transformers comprising medium and low voltage container units, to be located at, or near to the existing Dounreay 132/33/11kV substation.*

The consented development is also detailed in Annex 1 (Description of the Development) of the existing S36 Consent.

For reference, the existing S36 Consent documents and the Original ES for Project can be accessed at: <http://marine.gov.scot/ml/dounreay-tri-floating-wind-demonstration-project>

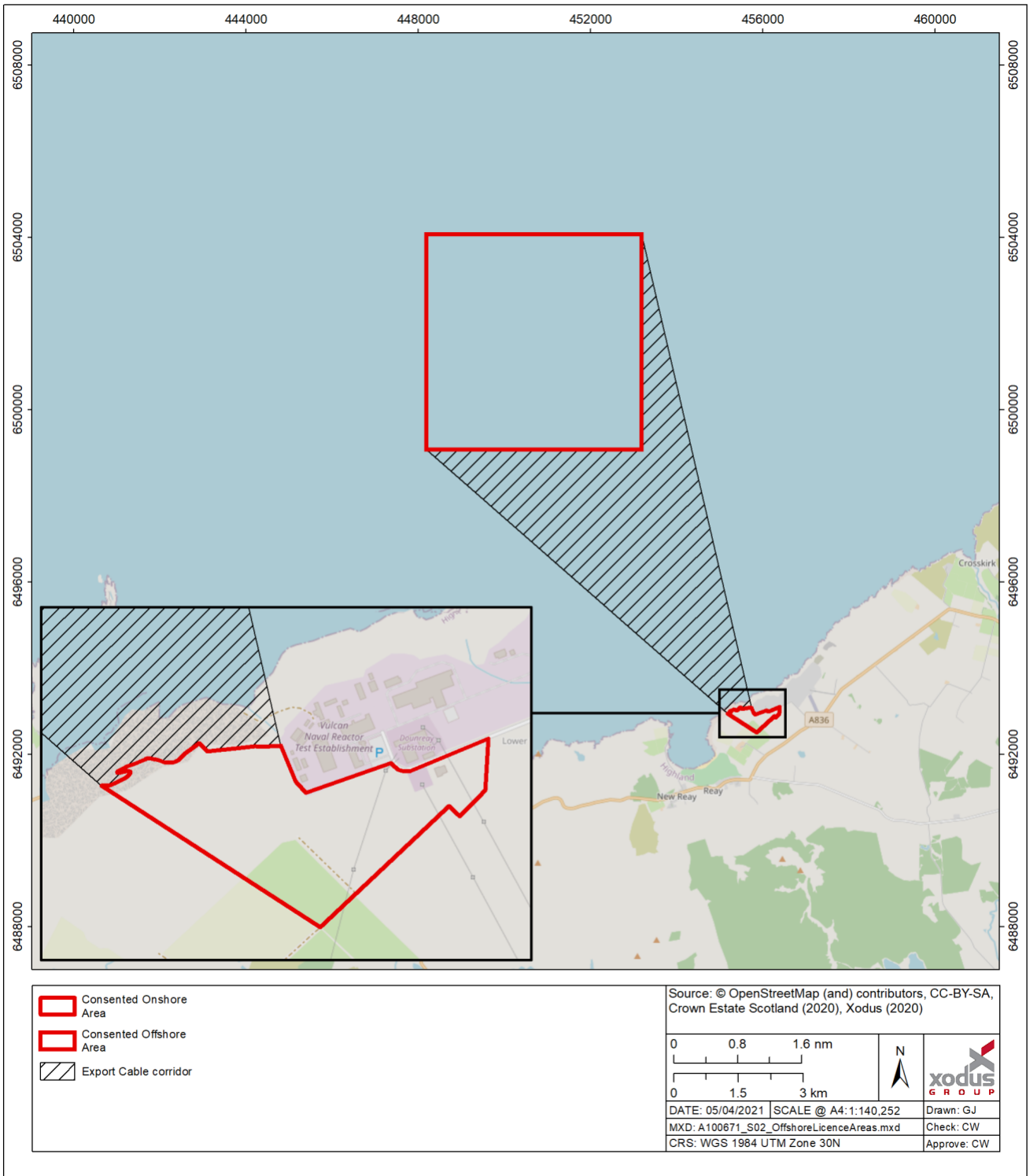


Figure 1 Current S36 consented project boundaries

2 Requirement for Consent Variation

Following the assignment of the existing S36 Consent, and in response to evolving and emerging offshore wind technologies since the consent was granted, HWL has been undertaking further detailed project design work which has resulted in the need to vary some of the previous consented project parameters in the existing S36 Consent and associated Marine Licence.

The Project parameters presented in the original application were based on technology commercially available at the time and to be deployed in line with the original Project schedule. During the time between the granting of the existing S36 Consent, the associated marine licence and subsequent acquisition, the commercially available offshore wind technology has evolved to provide WTGs directly linked to lowering the levelised cost of energy. The variations considered within this document will ensure that the project remains cost effective, utilising the most up to date technology and allow for more comparative trials for commercial scale WTGs to be developed in ScotWind.

2.1 Legislative Context

S36 of the Electricity Act 1989 applies to proposals for any offshore generating station whose capacity exceeds 1 MW within Scottish territorial waters or exceeds 50 MW in the Scottish Offshore Region. Offshore generating stations also require a marine licence under the Marine (Scotland) Act 2010 (between 0 and 12 NM) or under the Marine and Coastal Access Act 2009 (between 12 and 200 NM).

Section 20 of the Growth and Infrastructure Act 2013 inserted a new S36C into the 1989 Act to provide for the making of variations to S36 consents. Prior to 2013, the 1989 Act did not provide for S36 consents to be varied.

The Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 ('the 2013 Regulations') came into force in December 2013. The 2013 Regulations were later amended by regulation 42 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) ('the EIA Regulations'). The regulations make provision for the content of a variation application and the consultation process to be followed with respect to S36C applications. The regulations also provide that the Scottish Ministers may cause a public local inquiry to be held if they consider it appropriate to do so.

Under paragraph 3 of Schedule 2 of the EIA Regulations, and paragraph 13 of Schedule 2 of the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ('the MW EIA Regulations'), any change to works already authorised which were subject to an EIA must be considered to determine whether that change may have significant adverse effects on the environment and, as such, is an EIA project. MS-LOT, on behalf of the Scottish Ministers, considered that the proposed variations fell under Schedules 2(3) and 2(13) of the EIA Regulations and MW EIA Regulations, respectively, and, as such, were obliged to adopt a screening opinion as to whether the variations are, or are not, an EIA project under the EIA Regulations and MW EIA Regulations. On 7th March 2022, the Scottish Ministers issued a Screening Opinion confirming that the proposed variations are not an EIA project under the EIA Regulations and MW EIA Regulations and, consequently, that no EIA is required to be carried out in respect of the proposed variations.

Following discussions with MS-LOT and as considered further in the following sections of this Appendix, it is HWL's view that the variation process under S36C of the Electricity Act 1989 is the appropriate mechanism by which to address the proposed design updates to the consented Project.

A draft of the proposed variations to the existing S36 Consent is included with this application and this has been marked up with the amendments proposed.

HWL is also requesting that should the variation of the existing S36 Consent be granted that the associated Marine Licence also be varied by the Scottish Ministers under section 30 of the Marine (Scotland) Act to reflect amendments to the existing S36 Consent. The draft revised Marine Licence is included with this application and has been marked up with the amendments proposed.

2.2 Section 36C Applications

Under Regulation 3 of the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 a 36C Consent variation application must:

- *be made in writing;*
- *describe the proposed development and identify the location of the proposed development by reference to a map;*
- *explain why it is proposed that the relevant section 36 consent should be varied; and*
- *include—*
 - *a draft of the variations which it is proposed should be made to the relevant section 36 consent;*
 - *copies of any maps or plans not referred to in the relevant section 36 consent which it is proposed should be referred to in the relevant section 36 consent as so varied; and*

- particulars of— the relevant section 36 consent, and, if that consent was not granted to the applicant, how the applicant has the benefit of that consent.

Table 1 details the proposed design amendments to the Project and highlights where changes to the parameters require the existing S36 Consent and/ or the Marine Licence to be varied.

It should be noted that the WTG capacity and overall generating capacity of the wind farm is not a parameter that is typically directly assessed in terms of EIA and Habitats Regulations Appraisal (HRA) and this has not underpinned assessments, which are based on physical parameters of the WTGs (as well as other infrastructure) Therefore, HWL is requesting the removal of these parameters from the existing S36 Consent.

Notwithstanding removal of these parameters, HWL could not install infrastructure larger in physical terms than considered in the EIA and HRA and subsequently consented (unless a variation to such parameters is granted). Removal of the WTG capacity and overall generating capacity would allow HWL the flexibility to optimise renewable energy production, without resulting in an increase in impact beyond what is assessed within the EIA.

Table 1 Proposed variations to the PFOWF Project Design

PARAMETER	CONSENTED DOUNREAY TRI	PROPOSED VARIATION FOR PFOWF	CHANGE EXISTING TO S36	CHANGE TO MARINE LICENCE
Total Capacity	12 MW (2 WTGs each with an installed capacity of up to 6 MW)	Removal of capacity	Remove overall generating capacity limit from the existing S36 Consent	Remove overall generating capacity limit from MS-00009324 to accord with the S36C Consent
Capacity of Single WTG	6 MW	Removal of capacity	Remove maximum capacity limit of individual WTGs from the existing S36 Consent	Remove maximum capacity limit of individual WTG from MS-00009324 to accord with the S36C Consent
Type of Platform	Single floating, semi-submersible, column-stabilised platform comprising buoyancy columns interconnected in a steel lattice truss framework	No change	No change	No change
Platform Height	15 m	No change	No change	No change
No. of WTGs	2	No change	No change	No change
Anchors *	16 anchors	No change	No change	No change
Max blade tip height (LAT)	201 m	No change	No change	No change
Max Rotor Diameter	154 m	No change	No change	No change
Mooring System*	Passive (catenary) mooring system	No change	No change	No change

PARAMETER	CONSENTED DOUNREAY TRI	PROPOSED VARIATION FOR PFOWF	CHANGE EXISTING CONSENT TO S36	CHANGE TO MARINE LICENCE
Clump Weight**	600-tonne clump weight suspended in the water beneath the platform	No change	No change	No change
No. of export cables	1 (33 kV)	No change	No change	No change

2.3 Receptors affected by the S36 Consent and Marine Licence Variations

Table 2 provides a summary of the environmental receptor topics and potential environmental impacts which have been considered as a result of the proposed variations.

Table 2 Receptor topics considered based on potential for impacts from proposed variations to the S36 consent and marine licences

RECEPTOR TOPIC	POTENTIAL IMPACTS FROM REMOVAL OF CAPACITY LIMIT
Physical and Coastal Processes	No potential impacts identified
Intertidal Ecology	No potential impacts identified
Benthic and Shellfish Ecology	No potential impacts identified
Fish Ecology	No potential impacts identified
Marine mammals, basking sharks and turtles	No potential impacts identified
Marine Ornithology	No potential impacts identified
Commercial Fisheries	No potential impacts identified
Shipping and Navigation	No potential impacts identified
Aviation and Radar	No potential impacts identified
Seascape, Landscape and Visual Amenity	No potential impacts identified
Offshore Archaeology and Cultural Heritage	No potential impacts identified
Other Users of the Marine Environment	No potential impacts identified
Socioeconomics, Recreation and Tourism	No potential impacts identified
Geology and Hydrology	No potential impacts identified
Land Use, Agriculture and Soils	No potential impacts identified
Terrestrial Ornithology	No potential impacts identified
Terrestrial Ecology	No potential impacts identified
Onshore Archaeology and Cultural Heritage	No potential impacts identified
Air Quality	No potential impacts identified
Landscape and Visual Effects	No potential impacts identified

3 Conclusions

HWL is seeking to vary the existing S36 Consent and the Marine Licences for the Project to:

- Remove the individual WTG capacity limit of 6 MW
- Remove the total generating capacity limit of 12 MW;

This Appendix has been submitted in support of the application to vary the existing S36 Consent under Section 36C of the Electricity Act 1989. It has provided an overview of the potential environmental impacts of the updated project design by comparison with the consented project design.

In line with the requirements of the guidance on S36 Consent variation, it has been found that no significant adverse effects on the environment arise from the changes proposed. Furthermore the potential impacts associated with the proposed variation will be no greater than those previously assessed for the consented project within the Original ES, and the existing S36 Consent and marine licences can be varied accordingly.

The removal of the capacity limit will allow for increased generation of renewable energy on the site. This will increase the Project's contribution towards meeting Scotland's ambitious renewable energy targets and commitment to reaching net zero by 2045.