

From: Jessica Malcolm  
Marine Directorate - Licensing Operations Team  
23 March 2026

Deputy First Minister and Cabinet Secretary for Economy and Gaelic

**APPLICATION UNDER SECTION 36C OF THE ELECTRICITY ACT 1989 TO VARY THE CONSENT GRANTED UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 TO CONSTRUCT AND OPERATE THE GREEN VOLT OFFSHORE WIND FARM, LOCATED APPROXIMATELY 70 KILOMETRES OFF THE ABERDEENSHIRE COAST**

**Priority and Purpose**

1. Urgent priority. A determination is requested by 25 March 2026.
2. To seek your approval to vary the section 36 (“s.36”) consent granted on 19 April 2024 to construct and operate the Green Volt Offshore Wind Farm (“the Development”).
3. Due to a real and perceived conflict of interest, the application is for you to determine rather than the Cabinet Secretary for Climate Action and Energy.

**Recommendation**

4. Recommends that you agree to:
  - Choose option 3 regarding TOG electrification
  - Vary Annex 1 to amend the description of the development;
  - Vary condition 13, the Design Statement, of Annex 2; and
  - Vary Annex 3 to update the definitions and glossary of terms

of the s.36 consent for the Development, in accordance with s.36C of the Electricity Act 1989 and the Electricity Generating Stations (Application for Variation of Consent) (Scotland) Regulations 2013 (“the Variation Regulations”).

5. Recommends that you do not agree to:
  - Vary condition 27, the Detailed Seabird Compensation Plan, of Annex 2.

**Context and Issues**

6. Consent for the Development was granted on 19 April 2024 under s.36 of the Electricity Act 1989 (“the Existing Consent”). An application was made by Green Volt Offshore Windfarm Ltd (“the Company”) on 17 November 2025 to vary the Existing Consent as follows (“the Variation Application”):
  - Vary Annex 1 to amend the description of the Development (“the original design scenario”) as follows:

- Increase the maximum hub height to 148 metres (“m”) above Still Water Level (“SWL”) rather than 143m above Lowest Astronomical Tide (“LAT”);
  - Increase the maximum height to blade tip to 266m above SWL rather than 264m above LAT;
  - Decrease the maximum rotor diameter to 236m from 242m;
  - Alter the blade tip clearance to 22m above SWL rather than Mean High Water Springs;
  - Decrease the maximum blade width to 6.5m from 8m;
  - Decrease the minimum turbine spacing to 1,000m from 1,540m;
  - Increase the maximum turbine spacing to 5,000m.
- Vary Annex 1 to add a second design scenario to the description of the development (“the second design scenario”) as follows:

Up to 30 three-bladed horizontal axis wind turbine generators (“WTGs”) each with:

- A maximum rotor hub height of 159m above SWL;
  - A maximum height to blade tip of 289m above SWL;
  - A maximum rotor diameter of 260m;
  - A blade tip clearance of 22m above SWL;
  - A maximum blade width of 6.81m;
  - A minimum turbine spacing of 1,000m;
  - A maximum turbine spacing of 5,000m.
- Vary Annex 1 of the Existing Consent to specify the following:
    - Where the final design agreed through the Development Specification and Layout Plan (“DSL”) includes a combination of parameters from the original design scenario and the second design scenario, the collision risk to birds must be no greater than assessed in the Appropriate Assessment. If required by the Scottish Ministers, the Applicant must provide evidence of this using the best available science.
  - Vary Annex 1 to permit the use of semi-catenary, taut or semi-taut mooring lines in addition to catenary moorings; increase the mooring line radius to 1,000m from 650m; increase the number of anchors per WTG to nine from six; and permit the use of torpedo, gravity-based, suction pile and drag embedment anchors.
  - Vary condition 13 of Annex 2 of the Existing Consent to remove the requirement for representative wind farm visualisations from key viewpoints, and to remove the requirement for this plan to be based on the Development Specification and Layout Plan.
  - Vary condition 27 of Annex 2 of the Existing Consent to change the timescales for the submission of the Detailed Seabird Compensation Plan from six months prior to the implementation of compensatory measures to six months prior to the Commencement of the Development. Additionally to

permit rotation of turbine blades for testing prior to the Scottish Ministers concluding that the success criteria of the Compensatory Measures have been met.

- Vary Annex 3 to update the definitions and glossary of terms.
7. In addition to the Variation Application, the Company also requested to vary the associated generating station marine licence and the offshore transmission infrastructure to landfall marine licence. Details of these variations can be found in Annex C. Marine licences and marine licence variations are not routinely sent to Ministers for a determination and, as such, officials will consider these applications separately under the Marine Scotland Act 2010 (“2010 Act”) and the Marine and Coastal Access Act 2009 (“MCAA 2009”) where relevant.
  8. Prior to receiving the Variation Application, the Scottish Ministers adopted a screening opinion on 3 October 2025 under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017, and the Marine Works (Environmental Impact Assessment) Regulations 2007, which concluded that the Variation Application does not require environmental impact assessment (“EIA”) (as defined in the EIA Regulations). This is due to an assessment that the Variation Application would not result in any new or materially different impacts from those assessed at the time of the Existing Consent.
  9. Under s.36C(4) of the Electricity Act 1989, the Scottish Ministers will exercise judgement as to whether any variation sought is appropriate, having regard (in particular) to:
    - (a) the applicant's reasons for seeking the variation;
    - (b) the variations proposed;
    - (c) any objections made to the proposed variations, the views of consultees and the outcome of any public inquiry.
  10. The Variation Application seeks to vary the Existing Consent, as set out in paragraph 6. The Company provides the following rationale for the proposed variation:
    - Optimisation of the efficiency of the windfarm by using the latest available technology on the market currently, which therefore requires changes to the parameters of the Development.
    - Using the optimal technology for the Development from an environmental and cost perspective.
    - Maximising the potential for the Development to meet Scottish Government renewable energy targets.
    - Changing the Design Statement condition due to the distance from shore.
    - Changing the Detailed Seabird Compensation Plan condition due to wider timelines associated with the construction of the Development.
  11. When the Existing Consent was granted in April 2024, the Scottish Ministers approved a case for derogation under the Conservation (Natural Habitats, &c.) Regulations 1994 and Conservation of the Offshore Marine Habitats and Species

Regulations 2017. This is because the Appropriate Assessment (“AA”) concluded that there would be adverse effect on designated sites from the Development.

12. In considering the Variation Application, the Scottish Ministers must reconsider the derogation assessment to ensure that the derogation provisions continue to be met (see Derogation Assessment Validation at Annex F) One of these derogation provisions is the requirement to demonstrate that there are no alternative solutions for delivering on the policy objectives of the Development. In this regard we have re-examined the position regarding the specific objective to connect the Development to oil and gas assets to decarbonise the operation of those assets, which remains to be achieved and where we are aware there has been a change to the position which existed when the Existing Consent was granted. Our consideration of the current position and options in relation to this objective is addressed in the following section.

### **Options Considered and Advice**

13. The policy intention for the Innovation and Targeted Oil and Gas (“INTOG”) leasing round set out in the INTOG Initial Plan Framework (2022) remains the same as it was when the Existing Consent was awarded in 2024. This includes the delivery of electricity from offshore wind farms in support of the decarbonisation of oil and gas infrastructure operations in Scottish Waters as a key objective. At the time the Existing Consent was awarded, this policy objective was one of those which supported a positive determination and successful derogation assessment. The mechanism deployed to deliver Targeted Oil and Gas (“TOG”) electrification is a provision within Crown Estate Scotland’s (“CES”) exclusivity agreements obliging TOG projects to make ‘best endeavours’ to connect with oil and gas platforms. Officials note that this mechanism is being employed by Green Volt.
14. As part of the derogation assessment for the Existing Consent, the Company previously confirmed that Heads of Terms had been secured with an oil and gas operator. In the intervening time between the Scottish Ministers’ decision to grant the Existing Consent and receipt of the Variation Application, this oil and gas operator has publicly stated that it does not currently consider electrification by the Development to be an investible solution. The Company has advised that they remain committed to TOG and are continuing discussions with a number of potential oil and gas operators with a view to securing connection agreements as part of the best endeavours mechanism. CES has confirmed that the Company has satisfied the best endeavours test to date, and that this is a continuing obligation which endures throughout the lifetime of the Development. We note also that no specific concerns have been raised in relation to TOG electrification during the variation application process.
15. In considering the Variation Application and reconsidering the derogation assessment, the Scottish Ministers must take into account this change to the circumstances which informed the original derogation assessment, as it is a relevant factor in applying the habitats derogations requirements, particularly the ‘no alternatives’ test. The powering of oil/gas assets is one of the five objectives used as an analytical aid in assessing the alternatives test in the derogation case.

16. Officials consider there are three options, which are considered in turn at paragraphs 17 to 23:

- Option 1: Refuse the Variation Application
- Option 2: Approve the Variation Application subject to inclusion of a condition requiring TOG electrification
- Option 3: Approve the Variation Application without inclusion of a condition requiring TOG electrification

## **Assessment of Options**

### Option 1 - Refuse the variation application

17. Officials consider that the Scottish Ministers could decide to refuse the Variation Application, resulting in the original consent remaining in place but the proposed changes through the Variation Application being rejected. Scottish Ministers could seek to do so in light of the changed circumstances described above. Previously, at the time of assessing alternatives to the original consent, a 'Heads of Terms' agreement was in place with an oil and gas platform operator to provide power to their asset.

18. However, given the developments outlined above, it is the view of officials that the alternatives test remains satisfied, including in relation to the objective concerning powering oil and gas assets, as the Company is actively pursuing other oil and gas electrification opportunities, as required by CES through their 'best endeavours' mechanism.

### Option 2 - Approve the Variation Application subject to a condition requiring TOG electrification

19. The second option that officials have considered concerns the possibility of attaching a condition to a s.36 consent relating to powering at least one oil and gas platform.

20. There is a wide discretion afforded to the Scottish Ministers in imposing conditions on s.36 consents. Officials have considered whether attaching such a condition in response to the alternatives test may help to secure the TOG electrification objective.

21. For reasons of practicality and fairness, we judge that any such condition would likely need to be on a 'best endeavours' basis. This would duplicate the requirements of CES's leasing process and render such a condition unnecessary. Officials have concluded that such a condition would provide no substantive additional benefit aside from giving the Scottish Ministers additional regulatory control, while creating an additional (duplicative) obligation for the developer 'mid-project' which would increase their level of uncertainty and risk. It is also worth noting that no such condition was included in the Existing Consent.

### Option 3 - Approve the Variation Application and not include a condition requiring TOG electrification

22. The third option would rely on CES' existing obligations on the Company to make best endeavours to power an oil or gas platform. As noted at Option 2, the Existing Consent does not include a condition requiring connection to an oil or gas platform, and this matter is covered instead by CES' leasing requirements. Also as outlined at Option 2, the inclusion of such a condition by Scottish Ministers would be unnecessary duplication of the CES' leasing requirements. Those requirements provide an established mechanism for TOG projects to work towards the policy objective of offshore wind powering oil or gas platforms (as well as potentially connecting to the grid), recognising that the achievement of this objective is subject to investment decisions based on market-led risk assessments. CES has confirmed that the Company has satisfied the best endeavours test to date and that this is a continuing obligation throughout the lifetime of the Development.

23. In light of the consideration outlined above officials recommend Option 3.

### Content of the Variation Application

24. Twenty representations concerning the Variation Application were received during the consultation period. The MOD objected to the Variation Application and its concerns are summarised below. NatureScot, Scottish Fishermen's Federation ("SFF") and the Dee District Salmon Fishery Board ("DSFB") also raised concerns which are summarised below. A full summary of the consultation responses and how they have been addressed is detailed in Annex A.

25. MOD objected to the Variation Application due to the impact of the Development on Remote Radar Head Buchan and uncertainty over whether the mitigation previously agreed with the Company remains suitable due to the proposed increase in turbine spacing. Officials are satisfied that condition 20 of the Existing Consent requiring the developer to prepare, consult on and submit for approval an Air Defence Radar Mitigation Scheme remains sufficient to address the MOD's concerns.

26. NatureScot advised that a Marine Mammal Management Plan and/or Piling Strategy must be agreed with NatureScot and specified the details these should include. Officials note that piling activities are restricted to the construction of the offshore transmission infrastructure. Officials are satisfied that the Piling Strategy is therefore not required by condition in the s.36 consent or generating station marine licence but should be included on the offshore transmission infrastructure marine licence.

27. NatureScot additionally advised that further details on the installation process for dynamic cables and clarity on how entanglement risk will be minimised is necessary, but that this was not required to reach a conclusion of no adverse effect on designated sites. Officials are satisfied that an amendment to condition 18 of the Existing Consent, requiring the submission of an Inter-Array Cable Plan, to set

out cable-laying techniques and methods used to mitigate marine mammal entanglement risk, is sufficient to address NatureScot's concerns.

28. With regard to the request to vary condition 27, the Detailed Seabird Compensation Plan, NatureScot did not raise any concerns.

29. The Dee DSFB requested that the Company contributes to monitoring which could address evidence gaps identified by ScotMER for diadromous fish. Officials are satisfied that condition 22 of the Existing Consent which requires the submission of and adherence to a Project Environmental Monitoring Programme sufficiently addresses these concerns.

30. Officials consider that the changes proposed in the Variation Application in respect of:

- Amending of the description of the development in Annex 1
- Amending condition 13, the Design Statement, of Annex 2
- Update to the definitions and glossary of terms in Annex 3

do not fundamentally alter the character or scale of the Development, and there will be no changes to the capacity of the Development or the boundary of the Development.

31. Officials have included a further requirement in condition 12 of Annex 2, the Development Specification Layout Plan. This requires that where the final design includes a combination of parameters from the original design scenario and the second design scenario, the Developer must provide evidence demonstrating that the environmental impacts are no greater than assessed in the Original Application.

32. Officials consider that you can be satisfied that, in this circumstance, these changes proposed are appropriate to be authorised (having regard to the variation proposed, the reasons for the variation, and the views of consultees) by means of the variation procedure in line with the Electricity Act 1989 and the Variation Regulations, and the Scottish Government Applications for Variation of Section 36 Consents Guidance published in May 2019.

33. Officials do not consider the changes proposed in the Variation Application in respect of amending condition 27, the Detailed Seabird Compensation Plan ("DSCP"), are appropriate.

34. Officials consider that the DSCP must be submitted at least six months prior to the implementation of the compensatory measures. A change to provide this six months prior to the commencement of the development would not permit sufficient time to consider, with stakeholders, the effectiveness of proposed compensatory measures prior to implementation. This further increases the risk that insufficient or ineffective compensatory measures may be implemented and that the success criteria are not met prior to the Commencement of the Development. The Applicant has provided that such amendment is required due to wider timelines associated with the construction of the Development. Officials do not consider this to be a sufficient justification.

35. Further, officials do not consider that the proposed amendment to permit the commencement of the Development for turbine blade testing, prior to the success criteria for the compensatory measures having been met and then implemented, is appropriate. It is critical that the Scottish Ministers have confidence that the compensatory measures are delivering the required level of compensation, prior to the commencement of the Development, to give reassurance that their obligations can be met prior to the predicted damage occurring. Officials therefore consider that maintaining the existing commencement restriction is necessary.

36. Before determining a variation application, per the Electricity Act 1989 and the Variation Regulations, the Scottish Ministers may cause a public inquiry to be held if it is deemed appropriate to do so. Having considered the representations received and all other material considerations, officials recommend that it is appropriate not to cause a public local inquiry.

### **Contribution to the Government's Four Priorities**

37. The Development is related to the priority to tackle the climate emergency by contributing to a just transition to net zero and increasing the use of renewable energy to respond to the climate crisis, as well as the priority to grow the economy by contributing to sustainable economic growth.

### **Risks to Delivery**

38. If a Ministerial decision is not taken prior to the commencement of the pre-election period, the variation will not be determined until June 2026. The Company have stated that such a delay would pose an additional risk which could jeopardise investment in the Development.

### **Verity House Agreement Implications**

39. One of the missions of the Verity House Agreement is to transform Scotland's economy through a just transition to deliver net zero, recognising climate change as one of the biggest threats to communities across Scotland. Delivery of major offshore wind developments can be expected to contribute to the achievement of this shared mission between national and local government.

### **Legal Considerations**

[Redacted]

whom the Company had signed Heads of Terms at the time of the award of the Existing Consent), and the new/updated developments referred to above and in the annexed documentation.

[Redacted]

[Redacted]

[Redacted]

## **Financial Considerations**

47. There are no known financial considerations relating to this submission.

## **Sensitivities**

48. Upon receipt of a variation request, the Scottish Ministers have not, to date, refused to grant a variation in line with or similar to the request from a developer. Whilst in this case officials recommend some of aspects of the variation request are granted, officials do not recommend the Scottish Ministers grant the variation of condition 27 relating to the DSCP and test rotation of turbine blades. The Developer will not welcome this decision but officials consider that the variation of condition 27 is not appropriate.

49. The Cabinet Secretary was recused from the decision on the Existing Consent due to a real or perceived conflict of interest associated with the North East location of the Development and the identified adverse effects on the Buchan Ness to Collieston Coast Special Protection Area located within her constituency. Therefore, in line with the original decision, the variation decision is also for the Deputy First Minister.

## **Quality Assurance**

50. This Submission has been approved by Mike Palmer, Deputy Director for Marine Directorate.

## **Conclusions and Next Steps**

51. We advise that all three of the options outlined at paragraphs 18 to 23 should be carefully considered as possible options for determining this application. Should the Deputy First Minister choose to approve the Variation Application in line with officials' recommendation a draft decision notice is attached at Annex C which officials will finalise and issue to the Company on the Deputy First Minister's behalf.

52. Officials will exercise discretion, on behalf of the Scottish Ministers, under section 72 of the MCAA 2009 to vary the generating station marine licence attached to the Development to ensure consistency between the section 36 consent and the marine licence for the Development.

53. In compliance with regulation 31(4) of the Conservation of Offshore Marine Habitats and Species Regulations 2017, if the Scottish Ministers agree to a project under regulation 29, they must notify the Secretary of State as soon as practicable following that agreement. Officials have attached a letter at Annex G for you to send to the Secretary of State to fulfil this obligation should you choose to vary the Existing Consent.

54. In order for the determination process to be fully open and transparent, officials recommend that this submission is published on the [Marine Scotland Information website](#) with appropriate redactions, alongside the Existing Consent and the Variation Application documentation.

**Jessica Malcolm**

Marine Directorate - Licensing Operations Team

<b>Cabinet Secretaries and Ministers Copy List</b>	<b>For Action</b>	<b>For Information Portfolio interest</b>	<b>For Information Constituency interest</b>	<b>For Information General awareness</b>
Deputy First Minister and Cabinet Secretary for the Economy and Gaelic	X			
First Minister				X
Cabinet Secretary for Climate Action and Energy		X		
Cabinet Secretary for Rural Affairs, Land Reform and Islands		X		
Cabinet Secretary for Transport		X		
Minister for Public Finance				X
[Redacted]				X
[Redacted]				X

<b>Officials Copy List</b>
Permanent Secretary DG Economy DG Net Zero Director, Marine Directorate Director, Offshore Wind Directorate Mike Palmer, Deputy Director, Marine Directorate Zoe Crutchfield, Marine Directorate Rebecca Young, Marine Directorate Rebecca Bamlett, Marine Directorate Ben Walker, Marine Directorate Kirsten Watson, Marine Directorate Lauren Cowan, Marine Directorate Benjamin Taylor, Marine Directorate Kerry Bell, Marine Directorate Nuala Gormley, Deputy Director, Marine Directorate Jared Wilson, Marine Directorate Lucy Law, Offshore Wind Directorate

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## **LIST OF ANNEXES**

- ANNEX A** Background and Consultation
- ANNEX B** Legislative Requirements
- ANNEX C** Draft Decision Notice
- ANNEX D** Validation of Appropriate Assessment
- ANNEX E** Validation of Marine Protected Area Assessment
- ANNEX F** Validation of Derogation Assessment
- ANNEX G** Letter to Secretary of State