marinescotland

Scottish Government
Riaghaltas na h-Alba
gov.scot

MS.MarineRenewables@gov.scot

Mr Dan Finch
Project Director
Moray Offshore Windfarm (East) Limited
1st Floor, 14/18 City Road
Cardiff
CF24 3DL

22nd March 2018

Dear Mr Finch,

APPLICATIONS UNDER SECTION 36C OF THE ELECTRICITY ACT 1989 TO VARY THE CONSENTS GRANTED UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 ON 19TH MARCH 2014 TO CONSTRUCT AND OPERATE THE TELFORD OFFSHORE WINDFARM, THE STEVENSON OFFSHORE WINDFARM , AND THE MACCOLL OFFSHORE WINDFARM IN THE OUTER MORAY FIRTH.

I refer to the variation application made by Moray Offshore Windfarm (East) Limited (on 18th December 2017), on behalf of the Telford Offshore Windfarm Limited, Stevenson Offshore Windfarm Limited, and MacColl Offshore Windfarm Limited for:

a) variation under section 36C of the Electricity Act 1989 (as amended) to the consents granted under section 36 ("s.36") of the Electricity Act 1989 (as amended) ("the Electricity Act") on 19th March 2014 for construction and operation of the Telford Offshore Windfarm, Stevenson Offshore Windfarm, and MacColl Offshore Windfarm in the outer Moray Firth ("the relevant s.36 consents").

This letter contains the Scottish Ministers' decision to grant the application and to vary the relevant section 36 consents.

Nature of the Variation Sought

- Vary Annex 1 of the MacColl Offshore Windfarm s.36 consent to allow the maximum installed capacity to increase from 372 MW to a maximum of 500 MW. (The maximum total installed capacity of the developments will continue to be limited to 1116 MW)

- Vary Annex 2 (Condition 7) of the three s.36 consents for the developments, to allow an increase in the maximum rated turbine capacity from 8 MW to 10 MW.

Environmental Impacts

The Scottish Ministers are satisfied with the supporting information provided, that include details on why an Environmental Impact Assessment ("EIA") and Appropriate Assessment ("AA") were not required for the variation. The proposed variation of changing the rated capacity of the turbines will not result in any physical changes to the developments. Scottish Ministers have considered regulation 28 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 ("2017 Regulations"), the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 (as amended) ("the Variation Regulations"), and the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) ("the EIA Regulations").

The Scottish Ministers consider that the proposed changes will likely have any no significant effects on the environment and therefore no new EIA Report is needed in support of this application. As there will be no likely significant effects from the proposed changes on any European offshore marine site or European protected sites an AA is not required.

Consultation

The Variation Regulations set out that an applicant must publish the application on a website, serve a copy of the variation application on any planning authority, and advertise by public notices in specified publications as set out in regulation 4 of the Variation Regulations. These requirements have been met. Public notices were placed in the Press and Journal for two weeks and for one week each in the Edinburgh Gazette, the Scotsman, Lloyd's List and the Fishing News.

Marine Scotland Licensing Operations Team ("MS-LOT") on behalf of the Scottish Ministers, consulted a wide range of relevant organisations on the application and "Offshore Consents Variation Application Report" including; Scottish Natural Heritage, Scottish Environment Protection Agency, the Maritime and Coastguard Agency, Historic Environment Scotland, and the Northern Lighthouse Board. MS-LOT also consulted Aberdeenshire Council, Moray Council, and the Highland Council.

The Royal Society of the Protection of Birds maintained the objections made in respect of the application for the s.36 original consent in 2014, while the SFF underlined their past position and concerns, however concerning this variation request, only comments were filed and no new objection was made. Moray Offshore Windfarm (East) Limited has addressed these issues.

Public Representations

There were no representations made on the application to vary the s.36 consents from members of the public.

The Scottish Ministers' Determination

The Scottish Ministers have considered the application documentation and all responses from consultees. Having consented the Telford Offshore Windfarm Stevenson Offshore Windfarm, and MacColl Offshore Windfarm on 19th March 2014, and set out their reasons for doing so in the decision letter associated with those consents, and being satisfied that the variations proposed in this variation application do not fundamentally alter the character or scale of the Development, whilst allowing a potential reduction of environmental impacts of the development, the Scottish Ministers are supportive of the proposed variation, on the basis that such a variation will allow the Moray Offshore Windfarm (East) Limited the opportunity to utilize most up to date commercially available technology.

The Scottish Ministers consider that amendment to the existing s.36 consents, will provide opportunities to potentially reduce the environmental impacts of the project by permitting a reduced number of turbines to be constructed through the increase the maximum rated turbine capacity from 8 MW to 10 MW.

The Scottish Ministers consider that the amended s.36 consents are both reasonable and enforceable.

Accordingly, the Scottish Ministers **hereby vary the relevant s.36 consents as set out in the table below.**

Annex or Condition	Amendment
In Annex 1 of MacColl Offshore Wind Farm s.36 Consent	In the **Description of the Development** substitute the generating capacity allowed from 372 MW to 500MW: "The Development, located as shown on Figure 1 below, shall have a permitted generating capacity not exceeding 500 MW and shall comprise a wind-powered electricity generating station in the Outer Moray Firth, including:"

In Annex 2, Condition 7 of the Telford Offshore Wind Farm, Stevenson Offshore Wind Farm, and MacColl Offshore	Substitute full text with: "The Development must be constructed and operated in accordance with the terms of the Application and related documents, including the accompanying ES, the Additional Ornithological Information, the Section 36 Consents Variation Application Report for Telford, Stevenson and MacColl Offshore Wind Farms dated December 2017 and Annex 1 of this letter, except in so far as amended by the terms of this section 36 consent."

For illustrative purposes a consolidated version of the relevant s.36 consents (with variations shown in tracked changes for ease of reference) is provided.

Copies of this letter have been sent to the nearest onshore planning authorities; Aberdeenshire Council, Moray Council and The Highland Council. This letter has also been published on the MS-LOT website, Submission to Ministers.

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for variation of a s.36 consent.

Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely

Nicola Bain
Marine Renewables Section Leader
Marine Scotland Licensing Operations Team
For and on behalf of the Scottish Ministers
A member of the staff of the Scottish Government