



THE MORAY OFFSHORE WIND FARM WEST COMPULSORY PURCHASE ORDER 2021 Statement of Reasons

1. Introduction

- 1.1 This is the Statement of Reasons (the “**Statement of Reasons**”) accompanying the Moray Offshore Wind Farm West Compulsory Purchase Order 2021 (the “**Order**”).
- 1.2 The Order is being promoted by Moray Offshore Windfarm (West) Limited (the “**acquiring authority**”) and was made on the 5 May 2021. This Statement of Reasons sets out the case for compulsory purchase and includes the information which the Scottish Ministers will need when considering whether to confirm the Order. It has been prepared in accordance with the Scottish Government Circular 6/2011 on compulsory purchase orders and the Scottish Government guidance notes for Acquiring Authorities published on 26 April 2018.
- 1.3 The Order is required in order to facilitate the acquisition of rights necessary to install, construct, use, keep, operate, maintain, replace, renew, repair, decommission and retain, to protect and take access to the transmission infrastructure necessary for the connection of an offshore wind farm (to be located in the Moray Firth) to the national electricity transmission system. A detailed description of the rights sought is provided in section 6 below.
- 1.4 The acquiring authority has endeavoured to obtain the rights it requires by private treaty with the relevant landowners. The acquiring authority has entered into voluntary deals with the vast majority of landowners (31 of 33) but a small number of areas of land (“**land parcels**”) currently remain outstanding.
- 1.5 As an electricity generation licence holder the acquiring authority is, subject to authorisation by the Scottish Ministers, given the power under Section 10 and paragraph 1 of Schedule 3 to the Electricity Act 1989 (the “**1989 Act**”) to acquire the required rights compulsorily. Further details on the enabling legislation are set out in section 7 below.
- 1.6 Part III of Schedule 3 to the 1989 Act provides that the procedures set out in the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (the “**1947 Act**”) apply, with necessary modifications, to the compulsory purchase by a licence holder of land or rights in Scotland as if the licence holder were a local authority within the meaning of the 1947 Act.
- 1.7 Two applications for planning permission in principle in respect of the relevant onshore transmission infrastructure (classed as a National Development in terms of National Planning Framework 3) were made, one to Aberdeenshire Council and one to Moray Council pursuant to the Town and County Planning (Scotland) Act 1997 (the “**1997 Act**”) on 1 August 2018 and 2 August 2018 respectively, and were granted on 28 November 2018 and 3 December 2018 respectively.
- 1.8 Separately the installation of transmission infrastructure offshore (comprising 2 offshore substations and 2 export cable circuits) to take electricity from the offshore wind farm to shore has been authorised by a marine licence (under the Marine (Scotland) Act 2010 and Marine and Coastal Access Act 2009) granted on 14 June 2019.
- 1.9 Planning permissions and other consents relevant to the Project (as hereinafter defined in section 5) are discussed further in section 9 below.
- 1.10 In order to comply with relevant legislation and guidance and to assist consideration of the Order the acquiring authority’s request for confirmation is also accompanied by:
 - 1.10.1 Two copies of the signed and dated Order (original plus one certified copy);
 - 1.10.2 Two sets of the Order Map (Plans 1 to 8) (included within the copies of the Order);
 - 1.10.3 Two sets of the Location Plan (Plans 1 to 6) (included within the copies of the Order);
 - 1.10.4 Two copies of this Statement of Reasons;

- 1.10.5 Certified copies of the notices of the making of the Order;
- 1.10.6 Certified copies of both newspaper advertisements of the making of the Order and information about the publication dates;
- 1.10.7 General Certificate in support of the Order submission; and
- 1.10.8 Protected Assets and Special Category Land Certificate.

2. Structure of this Statement of Reasons

- 2.1 This Statement of Reasons seeks to explain and justify the powers of compulsory acquisition sought within the Order. The structure of the Statement is as follows:
 - 2.1.1 Background information on the acquiring authority is contained in section 3;
 - 2.1.2 A description of the land subject to the Order (the “**Order Land**”) (and in particular its location, topographical features and current use) is set out in section 4.
 - 2.1.3 An overview of the Project (the Moray Offshore Wind Farm West and associated offshore and onshore transmission infrastructure) is set out in section 5;
 - 2.1.4 A description of compulsory powers sought under the Order is set out in section 6.
 - 2.1.5 The authority for the use of compulsory powers including the enabling Act is explained in section 7.
 - 2.1.6 The justification for the making of the Order is set out in section 8.
 - 2.1.7 The position in respect of consents for the Project is explained in section 9.
 - 2.1.8 Steps taken to identify land interests and engagement to date with landowners and occupiers of the Order Land is summarised in section 10.
 - 2.1.9 Any barriers to the completion of the Project are discussed in section 11.
 - 2.1.10 Funding is discussed in section 12.
 - 2.1.11 Any special considerations affecting the Order Land e.g. special category land, listed buildings, open space are discussed in section 13.
 - 2.1.12 Whether there have been any views expressed by Ministers on the Project is discussed in section 14.
 - 2.1.13 A list of documents accompanying the Order is set out in section 15, along with other information which may be of interest to someone affected by the Order such as where further information can be obtained.
 - 2.1.14 A copy of the acquiring authority’s Section 6 Electricity Act licence is included at Appendix 1.
 - 2.1.15 A draft Code of Conduct is included at Appendix 2.

3. Background Information on the Acquiring Authority and the OFTO Process

- 3.1 The Acquiring Authority
 - 3.1.1 The acquiring authority is Moray Offshore Windfarm (West) Limited (known as Moray West), a company incorporated in England and Wales (company number 10515140).
 - (i) The acquiring authority is owned by Moray West Holdings Limited (incorporated in England & Wales with company number 11413110) (“**Moray West Holdings**”).
 - (ii) Moray West Holdings Limited is owned (1) 33.4% by EDP Renewables Europe S.L.U; (2) 33.6% by Moray Offshore Renewable Power Limited (“**MORPL**”); (3) 28% by Delphis Holdings Limited (“**Delphis Holdings**”); and (4) 5% by UAB Ignitis Renewables.
 - (iii) MORPL is 100% owned by Ocean Winds UK Limited (formerly known as EDPR UK Limited) (incorporated in England & Wales with company number 07101190) (“**Ocean Winds UK**”).
 - (iv) Ocean Winds UK and Delphis Holdings are both 100% owned by OW Offshore, S.L. (formerly named EDPR Offshore España S.L.) incorporated in Spain (“**OW Offshore**”).
 - (v) OW Offshore is owned 50% by EDP Renováveis S.A. (incorporated in Spain) and 50% by GDF International S.A.S. (incorporated in France) (“**GDF International**”).

- (vi) GDF International is 100% owned by Engie S.A, incorporated in France.
- 3.1.2 OW Offshore is a joint venture established in 2019 by EDP Renováveis and ENGIE, headquartered in Madrid. It acts as an exclusive investment vehicle for both companies to capture offshore (fixed and floating) wind energy opportunities worldwide, combining their offshore wind assets and project pipeline, starting with a total of 1.5 GW under construction and 4.0 GW under development, with the target of reaching 5 to 7 GW of projects in operation or under construction and 5 to 10 GW under advanced development by 2025. OW Offshore primarily targets markets in Europe, the United States and selected geographies in Asia, from where most of the growth is expected to come. The UK headquarters for OW Offshore's offshore wind development (and including the acquiring authority) is in Edinburgh.
- 3.1.3 The acquiring authority intends to lead the development, consenting, financing, construction, operation and maintenance of the offshore wind farm forming part of the Project. It is also the intention that the acquiring authority develop, consent, finance and construct the offshore and onshore transmission assets forming part of the Project before transferring those assets to an Offshore Transmission Owner "**OFTO**" as required by the applicable regulatory regime (explained further below). The acquiring authority will operate the transmission assets in the interim period from completion of construction until the assets are transferred to the OFTO as set out in detail in section 3.2 below.
- 3.1.4 The acquiring authority is the holder of an electricity generation licence granted under section 6(1)(a) of the 1989 Act (a copy of the licence is included at Appendix 1 of this Statement of Reasons).

3.2 Background to the OFTO Regime

History and Context:

- 3.2.1 During the initial period of offshore wind development in the UK, the wind farm developer was responsible for consenting, developing and constructing the transmission infrastructure connecting the generation station to the existing onshore transmission system and for operating and maintaining that transmission infrastructure. As the UK Government considered the potential for expansion of the offshore wind market, it started (in the early to mid 2000s) to develop a new regulatory framework aimed at delivering the major transmission infrastructure expansion needed, in a cost effective way, by introducing competition into the provision of the transmission assets needed to connect offshore wind to the onshore transmission network. The Government was also mindful that the direction of travel in European regulation was towards the unbundling of generation and transmission ownership.

The OFTO Regime:

- 3.2.2 As a result of this work Ofgem and the Department of Energy and Climate Change ("**DECC**") developed a regulatory regime for the construction and operation of offshore transmission assets in GB, the legal framework for which first came into effect in June 2009 using powers given to the Secretary of State under the Energy Act 2004 and which was ultimately fully commenced on 10 June 2014 (the "**OFTO Regime**").
- 3.2.3 Under the OFTO Regime, the transmission assets connecting an offshore wind farm to the onshore transmission system, inclusive of transmission assets located offshore and onshore, are the subject of a competitive tender process in accordance with the "**Tender Regulations**" (the existing regulations being the Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2015).
- 3.2.4 The OFTO Regime, as initially proposed, would have required that the transmission assets for an offshore wind project could only be developed, constructed and operated by a licensed OFTO. However, following the open letter issued by Ofgem in October 2010, Ofgem accepted the need for a so-called "generator build option". As a result the OFTO Regime specifically provides for both:
- (i) Generator build of transmission assets connecting an offshore wind farm to the existing onshore transmission system, whereby the wind farm developer also finances, develops, procures and constructs the transmission assets and then sells those assets (on a regulated cost recovery basis) to a licensed OFTO selected by competitive tender process run by Ofgem under the Tender Regulations; and;

- (ii) OFTO build of the transmission assets connecting the offshore wind farm to the existing onshore transmission system, whereby the licensed OFTO takes on all of the work in relation to the financing, development, procurement, build and operation of those assets. Compared to the generator build option, the competitive tender for the OFTO's appointment is run at a much earlier stage in the wind farm's development process.

So far as the acquiring authority is aware, all offshore wind projects developed in the UK following the introduction of the OFTO Regime to date have proceeded on the basis of the generator build option.

Applying the OFTO Regime to the Project:

- 3.2.5 The acquiring authority is pursuing a generator build option under the OFTO Regime and has entered into the required form of Bilateral Connection Agreement and Construction Agreement ("**grid connection agreements**") with National Grid Electricity System Operator ("**NGESO**") to facilitate this.
- 3.2.6 The acquiring authority will therefore finance, develop, procure and construct the transmission assets associated with the acquiring authority's offshore wind farm as provided for in a range of regulatory instruments including the Tender Regulations, other industry codes and the acquiring authority's grid connection agreements with NGESO.
- 3.2.7 In order to enter the Ofgem managed competitive tender process for the appointment of an OFTO in sufficient time for the operating phase of the Project, the acquiring authority must request that Ofgem commence a tender process once the Project meets the qualifying conditions set out in Schedule 1 to the Tender Regulations.
- 3.2.8 One of the qualifying conditions set out in Schedule 1 paragraph 2 of the Tender Regulations is that the party making the request has: "*obtained all necessary consents and property rights for the transmission assets to be constructed and maintained and ensured that any such consents or property rights which are capable of being assignable to the successful bidder are so assignable;*".
- 3.2.9 Once the acquiring authority demonstrates it meets the qualifying conditions, Ofgem will run a competition for bidders to compete to purchase the transmission assets from the acquiring authority and to own, finance and operate those assets under an offshore transmission licence granted by Ofgem to the preferred bidder.
- 3.2.10 It should also be noted that, under Regulation 4 of the Tender Regulations, Ofgem are obliged to calculate the economic and efficient costs that have been or ought to have been incurred by the generator in connection with the generator build exercise. This will establish the transfer value paid to the acquiring authority by the successful OFTO bidder for the assets.
- 3.2.11 Once the assets are sold to the successful OFTO bidder, the generator will pay transmission network use of system charges for the use of the transmission assets on an ongoing basis in the same manner as any third party connected to the transmission network.
- 3.2.12 It is therefore the clear position under the OFTO Regime that:
 - (i) the acquiring authority is entitled to finance, develop, procure and construct the transmission assets associated with the acquiring authority's offshore wind farm;
 - (ii) the acquiring authority is the party required to obtain the necessary consents and property rights for the transmission assets associated with the acquiring authority's offshore wind farm; and
 - (iii) the acquiring authority must sell the transmission assets to a licensed OFTO and may only recover those costs of developing and constructing the assets that Ofgem assess as having been incurred economically and efficiently – this test exists to protect the UK electricity consumer from over paying for transmission infrastructure and puts the acquiring authority under thorough scrutiny to ensure it does not spend more than is appropriate.

European Requirements:

- 3.2.13 On 19 September 2007, the European Commission (EC) adopted the third package of legislative proposals for electricity and gas markets (the "**Third Package**"). A key

requirement of the Third Package is ownership unbundling, which is the separation of transmission interests (i.e. ownership and operation of transmission systems) from generation, production and supply activities. The proposals make it clear that the EC's preferred option is "full ownership unbundling", which means that a single company can no longer own and/or control both transmission assets and be concerned in energy production or supply activities.

- 3.2.14 The UK Government and Ofgem implemented the Third Package into GB legislation, through the Electricity and Gas (Internal Markets) Regulations 2011 (the "**Regulations**"). Under the Regulations, electricity transmission licensees will be required to be certified as complying with the ownership unbundling requirements of the Third Package. The Regulations designate Ofgem as responsible for processing applications for certification. The Regulations continue to govern ownership unbundling requirements following the UK's exit from the European Union, as amended by the Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530.
- 3.2.15 The UK Government worked to ensure the compatibility of the OFTO Regime with the Third Package. Given that the generator build option culminates in the generator transferring the ownership, operation and maintenance of the transmission assets to a licensed OFTO following a competitive tender run by Ofgem under the Tender Regulations, it is clear that the OFTO Regime ensures that the transmission and generation assets for any offshore wind project are held in separate hands during the operational phase of those assets as is envisaged by the Third Package.
- 3.2.16 In 2019, the European Commission adopted a package of legislative proposals focused on clean energy within electricity and gas markets (the "**Clean Energy Package**"). The Clean Energy Package is based upon and further develops the concepts of ownership unbundling noted above, and recasts and replaces the Third Package.
- 3.2.17 The UK Government included a technical change to the 1989 Act via Section 147 of the Energy Act 2013 to address concerns over the ability of a developer to lawfully commission the generator build assets. This is often referred to as the "generator commissioning clause".
- 3.2.18 The clause is designed to ensure that developers of generator build assets, such as the acquiring authority can lawfully commission those assets prior to transferring them via Ofgem's tender process under the Tender Regulations to a licensed OFTO. It provides an exception to the prohibition on the transmission of electricity without a transmission licence to cater for a generator commissioning and operating the transmission assets during a period of up to 18 months from those assets being deemed to be capable of operation.

In Summary:

- 3.2.19 It is clear that the OFTO Regime specifically enables the acquiring authority to finance, develop, procure, construct, commission and operate transmission assets and to do so in a manner compatible with UK requirements.

4. The Order Land

- 4.1 The area within which rights are sought is shown outlined in red and coloured blue on the Order Map accompanying the Order (the "**Order Land**").
- 4.2 The offshore transmission infrastructure associated with the Project will come ashore at a location from east of Sandend Beach to Redhythe Point on the Aberdeenshire coastline. The offshore and onshore export cables circuits will be connected in two buried transition joint bays. The onshore cables will then be routed inland to the onshore substation site, located in the vicinity of Whitehilllock, near Keith in Moray. The substation will then be connected, via underground cables, to the transmission interface point at the Blackhilllock Substation, where the onshore transmission infrastructure will connect to the National Electricity Transmission System ("**NETS**").
- 4.1 The onshore export cables will cross the A96, A95 and A98 public roads, together with a number of B class roads and more minor roads (classified and unclassified). The onshore export cables will also cross the Aberdeen – Inverness railway line and certain watercourses including the River Isla and a number of smaller burns and streams.
- 4.2 The Order Land comprises areas within the onshore cable route corridor. Some of the Order Land within the onshore cable route corridor is located before the onshore substation site,

and some of the Order Land is located after the onshore substation site, between it and Blackhillock Substation.

4.3 The relevant community council for the Order Land is Strathisla (Moray).

4.4 The Order Land for the cable circuits is located within the onshore cable route corridor. That corridor is shown indicatively by the blue outline on the Location Plan. The cable circuits will exit the transition joint bays somewhere within the landfall area and will ultimately connect to the NETS at Blackhillock. Again, the portions of the Order Land required for the cable circuits are subject to the Cable Rights and vary in extent (as shown on the Order Map) dependent on the technical factors which affect the degree of micro siting allowance required for final detailed design and construction within the particular land in question (see Table 3 below for more detail). Once constructed the cable circuits will be located within a much narrower “as built” corridor that is no more than 30 metres wide within the Order Land (as explained further at section 6.4 below). The acquiring authority will look to reduce the area covered by the Cable Rights following installation of the cable circuits, to reflect the as built corridor. The only exception to this relate to Plot 2C :

4.4.1 Within Plot 2C the authority will need to retain a sufficient area to ensure the land over which Access Rights are taken abuts the land over which the Cable Rights are granted. This will mean Plot 2C (over which both access and cable installation rights are required) will require to abut Plot 2D at the point where the access route leaves Plot 2D and enters Plot 2C. However, the cable circuits within Plot 2C will be limited to the 30 metre wide corridor with the remainder of Plot 2C used only for access purposes.

The acquiring authority would be willing to split Plot 2C into two plots to reflect the split between the Access Rights and the Cable Rights once the location of the as built cable corridor is known, and to remove any surplus land from the scope of the Order Land at that point.

4.5 The Order Land predominantly comprises agricultural land. The Order Land does not encroach on areas of settlement land. The agricultural land within the Order Land is primarily Grade 3.2 and 4.1 agricultural land which is predominantly under pastoral use with some crop rotation. Table 1 below sets out in further detail the current use and key features of the Order Land.

Order Land Plot Number	Primary Existing Use(s)	Other Key Features
1	Arable	<ul style="list-style-type: none"> Track cuts through plot Overhead electricity lines carried by towers and poles (no towers in plot, only poles) A private water supply runs through this plot.
2A	Arable	<ul style="list-style-type: none"> Track cuts through plot Water main cuts through plot Watercourse cuts through plot A private water supply runs through this plot.
2B	Arable	<ul style="list-style-type: none"> Electricity lines and poles A private water supply runs through this plot.
2C	Arable	<ul style="list-style-type: none"> Water main cuts through plot A private water supply runs through this plot.
2D	Arable	<ul style="list-style-type: none"> A water supply runs through this plot.

2E	Mainly arable although the southern extremity forms part of the existing road which is believed to be public and the scope of the plot also takes in the initial stretch of a private track that leads in a northern westerly direction from the said public road	<ul style="list-style-type: none"> • Electricity lines • Water main in road and watercourse beneath road • A private water supply and sewage pipe runs through this plot.
2F	Road	<ul style="list-style-type: none"> • A private water supply runs through this plot.
2G	Arable	<ul style="list-style-type: none"> • Electricity lines and poles • A private water pipe runs through this plot.
2H	Arable	<ul style="list-style-type: none"> • Electricity line • A private water pipe runs through this plot.
2J	Arable	<ul style="list-style-type: none"> • Track cuts through plot • Electricity lines and poles • Watercourse cuts through plot • A private water pipe runs through this plot.
2K	Woodland	<ul style="list-style-type: none"> • Track cuts through plot • Electricity lines and poles • Water tank x2, and associated apparatus • A private water pipe runs through this plot.

Table 1 – Existing Use(s) of the Order Land

5. The Project

- 5.1 The Crown Estate awarded a zone development agreement (“**ZDA**”) for the development of offshore wind in an area known as Zone 1 of the UK offshore wind Round 3 zones (the “**Moray Firth Zone**”) in January 2010.
- 5.2 The Order is intended to facilitate the installation, construction, use, operation, maintenance, replacement, renewal, repair, decommissioning, retention, protection of and access to the Onshore Works, which are further defined in section 5.4 of this document. The Onshore Works are, in turn, required to facilitate the export of electricity generated at the offshore wind farm in the Western portion of the Moray Firth Zone to the NETS. The offshore and onshore developments are, in this Statement of Reasons, referred to collectively as the “**Project**”.
- 5.3 The Offshore Works
- 5.3.1 The Moray Firth Zone is located on the Smith Bank in the outer Moray Firth approximately 22km from the Caithness coastline at its closest point to shore and within the UK Renewable Energy Zone (“**REZ**”). The Moray Firth Zone covers 520 square kilometres. Following the award of the ZDA the developer undertook a spatial constraints analysis of the Moray Firth Zone. As a consequence it was decided to develop the Moray Firth Zone in two phases, with the Western Development Area (now known as the Moray West site) of the zone being progressed second.

5.3.2 In June 2019, Moray West was granted consent by the Scottish Government under Section 36 of the Electricity Act 1989. Marine licences were also issued for the wind generation and transmission assets in June 2019.

5.3.3 The Section 36 consent can be implemented up to 18 June 2024 (or such later date as the Scottish Ministers may direct). The Project has a secured grid connection date of April 2024.

5.4 The Onshore Works

Overview

5.4.1 In very high level terms the onshore aspects of the Project can be split into three broad categories:

- (i) Works onshore required to facilitate export cables in the offshore area and the means to bring those cables ashore and to connect them to the “onshore cables”. It is therefore necessary to define the Onshore Works as including offshore electricity transmission infrastructure, as, necessarily, they connect to the onshore cables and are installed, in part, using infrastructure located onshore;
- (ii) Works relating to the underground export cables onshore; and
- (iii) Works relating to the onshore substation.

5.4.2 “**Onshore Works**” is defined in the Order as meaning the offshore and onshore electricity transmission infrastructure including (but without limitation):

- (i) underground cables, wires (including without limitation communication fibre optic and cables and wires) together with all pipes, connections, cable markers, cable terminals, cable joints, drains, ducts, protective boards or tiles, protectors, markers and terminals, GPS indicators, electronic location devices and other underground or overground works, jointing bays, jointing pits, laying pits, monitoring equipment, conductors, supports and poles, electrical testing equipment and such other plant, equipment, apparatus and other works making up or associated with the cables and ancillary works, and including for the avoidance of doubt (but without prejudice to the foregoing generality) link boxes, manhole covers, access hatches and other items required for the operation and maintenance of the circuitry which may be raised above ground level and/or fenced off on a permanent basis;
- (ii) an electricity transmission substation (and associated works for this purpose) over the land hatched black on the Map (the “**Substation Site**”);
- (iii) ground investigation works, site, soil, environmental and archaeological surveys and investigations;
- (iv) accesses, road works, temporary access tracks, bridges, storage, laydown areas, compounds, drainage, replacement or diversion of private water supplies, soakaways and other works and operations facilitating the installation, construction, use, operation, maintenance, repair, replacement, renewal, removal, decommissioning, or retention of the electrical transmission infrastructure; and
- (v) enabling earthworks, post-construction reinstatement works and landscaping.

5.4.3 Planning permission in principle was obtained from Moray Council and Aberdeenshire Council in late 2019. Work to discharge the conditions of both planning permissions in principle is currently being undertaken, running alongside this compulsory purchase process. Additional planning permissions will be required where the route of the cable now extends outside the original planning boundary as a result of local circumstance and micro-siting (see section 9.1 below).

5.4.4 Since obtaining the planning permissions in principle significant work and consultation has been carried out by the acquiring authority in order to further define the location of the Onshore Works. That is reflected in the extent of the Order Land proposed within the Order. Set out below is a description of the sorts of activities which delivery of the Onshore Works will entail. Details of the design development to date and the future refinements anticipated are set out in sections 5.6 and 5.7 below.

- 5.4.5 The acquiring authority has proposed various mitigations to the potential effects of the Onshore Works in the form of a code of conduct. An illustrative draft of a code of conduct is included at Appendix 2 of this Statement of Reasons. The acquiring authority would be willing to enter into such a code of conduct (the “**Code of Conduct**”) with any party whose land interest is potentially adversely affected by the Order. The Code of Conduct would generally set out mitigation measures to minimise, insofar as is reasonably practicable, the impact of the acquiring authority’s activities on any of the Order Land affected by the Onshore Works with particular emphasis on good working practice across all aspects of infrastructure works throughout the cable route corridor, from landfall to substation. By way of example the Code of Conduct could provide for:
- preparation of records of condition prior to commencement of works and general landowner liaison prior to commencement of works;
 - maintenance of existing accesses or provision of an alternative access across the cable route wherever practical and safe to do so;
 - fencing of the works including stock proof fencing where necessary;
 - separation of subsoil and topsoil to maintain the structure of the soil where possible;
 - reinstatement of drainage;
 - soil testing of any imported topsoil; and
 - protection of existing water supplies and other services, or provisions of alternatives where necessary.
- 5.4.6 The Code of Conduct could also be used to control the extent of the Order Land affected during each phase as explained further in section 6.4 below. Additionally, where required as a result of the nature of the Order Land, the acquiring authority is willing to adhere to a biosecurity management plan to ensure the risk of spread of pests and disease is minimised and to promote good practice from an occupational and public health perspective.

Construction

- 5.4.7 Export Cable Landfall:
- (i) The high voltage alternating current (“**HVAC**”) submarine offshore export cable circuits will come ashore east of Sandend Beach and west of Redhythe Point (the “**landfall point**”). The key components of the export cable circuits at the landfall point will consist of but not necessarily be limited to:
 - (i)(a) Two submarine offshore circuits, transitioning to two onshore export cable circuits (voltage in the order of 220kV);
 - (i)(b) A temporary contractor’s compound;
 - (i)(c) A temporary horizontal directional drilling (“**HDD**”) works compound ;
 - (i)(d) Cable winching equipment and platforms; and
 - (i)(e) Transition joint bays and cable link boxes, further described below, in which the offshore export cable circuits are connected to the onshore export cable circuits using jointing components.
 - (ii) To avoid cutting an open trench through the Cullen to Stake Ness Coast Special Site of Scientific Interest (SSSI) and in order to deal with the expected topographical realities of the landfall point, it is anticipated that HDD will be used for the installation at the offshore export cable landfall and foreshore, a common methodology for delivering landfall in locations where similar topography and conditions have been encountered. The Cullen to Stake Ness Coast is designated as a SSSI for both geological and biological notified features. The designation applies to outcrops of the metamorphic rocks along the Cullen to Stake Ness Coast, known as the Dalradian Supergroup, whilst flora and fauna related to heath habitat are the designated biological features. HDD involves drilling a hole from the landward side of the landfall out under the designated features of the SSSI to an appropriate point offshore and then installing ducts through which the offshore export cables will be drawn. Following pre-application discussions

with SNH (now NatureScot), the areas of heath habitat were excluded from the area subject to the planning consent.

5.4.8 Offshore to Onshore Export Cable Transition Joint Bays:

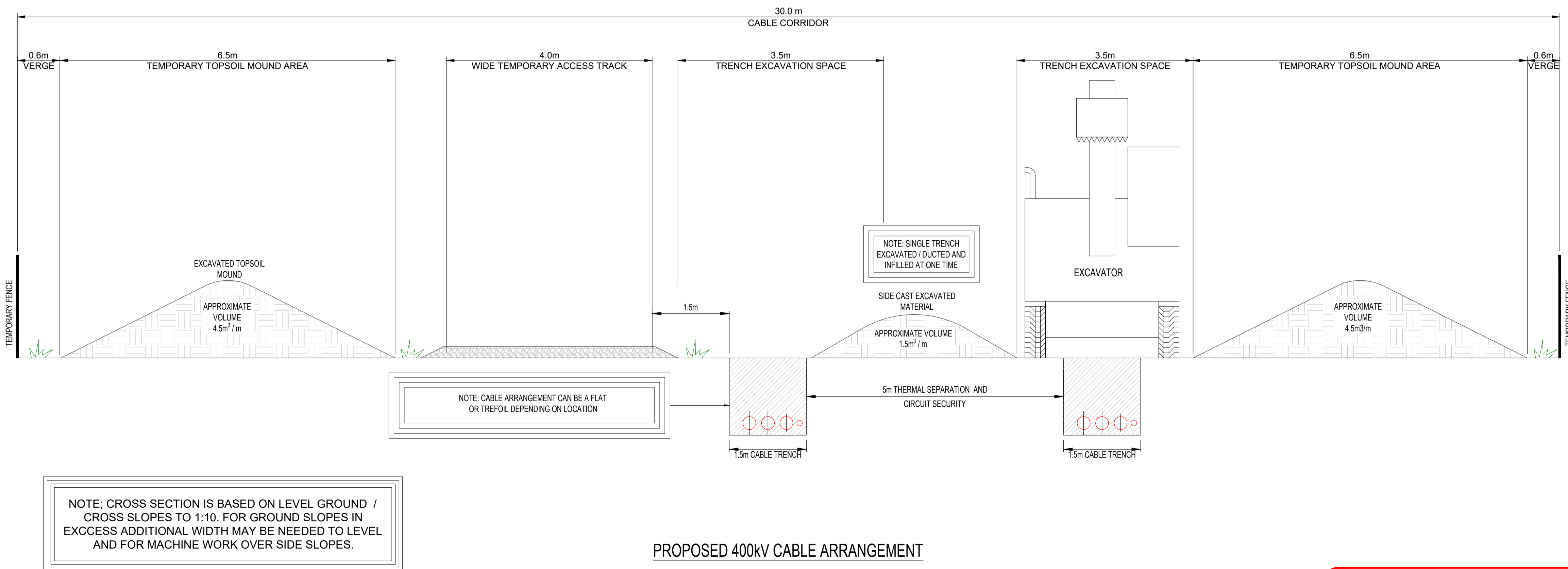
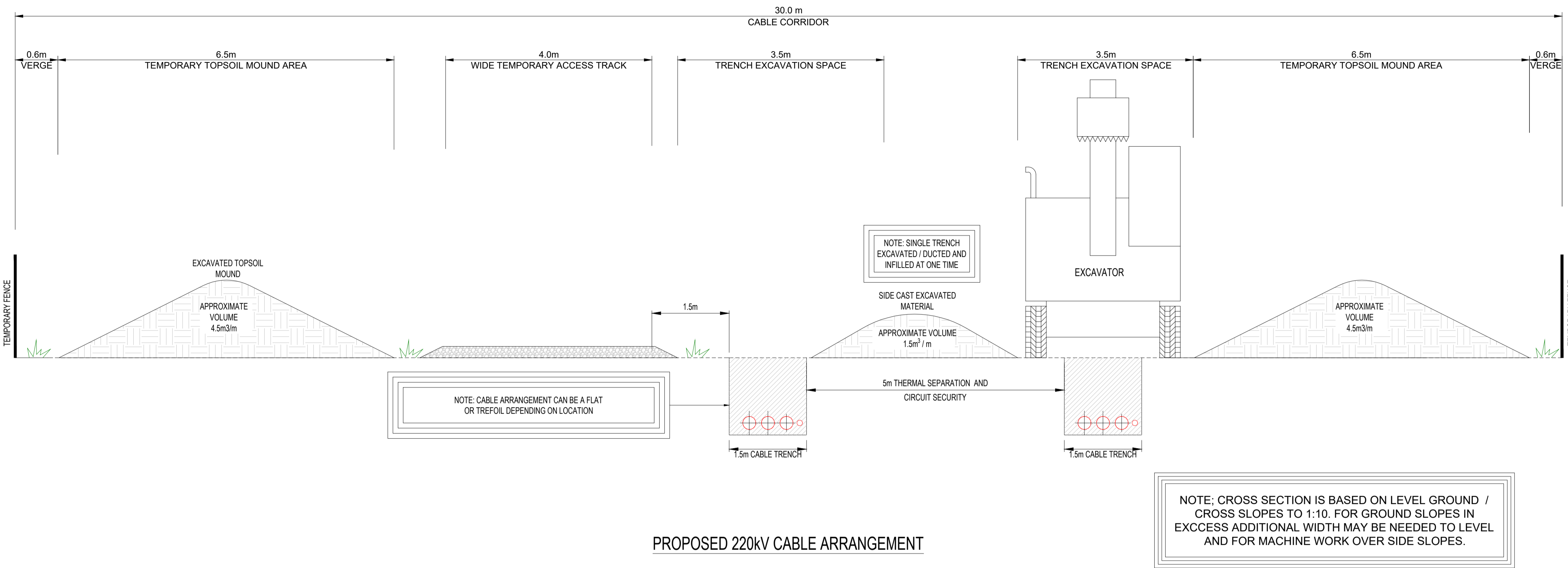
- (i) Transition joint bays are required to joint each offshore export cable circuit to an associated onshore export cable circuit. A maximum of two export cable circuits will be required, and therefore there will be up to two transition joint bays in the landfall area. Both transition joint bays will be located underground inland of mean high water springs (“MHWS”).
- (ii) Adjacent to each transition joint bay there will be link boxes. Link boxes are used at cable joints and terminations to provide easy access for cable testing and fault location purposes. Link boxes will require a number of surface level access covers placed in the vicinity of the associated transition joint bays.

5.4.9 Onshore Export Cables:

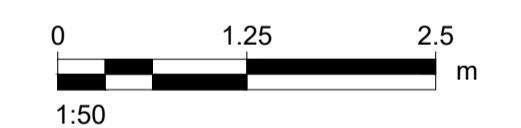
- (i) After coming ashore the onshore export cable circuits will continue to the onshore substation location south east of Keith at Whitehillock.
- (ii) From this location they will progress to their terminal point of connection at the existing NETS at Blackhillock.
- (iii) The onshore export cables will be comprised of a maximum of 2 export cable circuits, each of which will in turn be comprised of 2 triple core power cables, multiple fibre optic cores (packaged in bundles) and other related equipment and materials.
- (iv) The onshore export cable circuits will be ducted in trenches or, where trenchless crossings are required to pass under features such as major roads, contained in ducts installed by HDD or similar method.
- (v) Other than location markers the only above ground works are the covers for the link boxes (and potential fencing around them) and the onshore substation which are both further discussed below.
- (vi) Figure 1 below shows a typical working cable corridor arrangement during construction.
- (vii) The area sought for the Cable Rights is required to facilitate construction and to enable the acquiring authority to micro site the final 30 m cable route within the Order Land taking into account ground conditions, private water supplies, drains, utilities, environmental factors and other constraints which are currently not known. Further information on the extent of the Order Land and its basis is provided in Table 3 below.
- (viii) The approximate consented cable corridor length from Sandend landfall to the substation and on to the connection point is 30km.
- (ix) The onshore export cable circuits will mainly pass through agricultural land (see section 4 above for more details).
- (x) During the installation of cables, the Order Land will also facilitate, for example:
 - (x)(a) Excavation of trenches or undertaking trenchless techniques;
 - (x)(b) Access to the trenches and other parts of the Order Land by personnel, vehicles, plant and equipment including excavators and cable-drum delivery vehicles;
 - (x)(c) Laying down ducts for the cables;
 - (x)(d) Laying down and/or pulling through the cables;
 - (x)(e) Laying down and/or reinstatement of drainage;
 - (x)(f) Temporary storage of construction materials/excavated material;
 - (x)(g) Establishing fencing;
 - (x)(h) Establishing access points;
 - (x)(i) Provision of welfare facilities; and
 - (x)(j) Temporary storage of vehicles and equipment.

- (xi) Excavated material will be stored within the Order Land temporarily and used later, together with imported materials, to fill in the trench and bury the cable (see also section 5.4.9(xvi) below).
- (xii) Where crossings of sensitive or substantial watercourses are required HDD will be used.
- (xiii) Roads will either be crossed utilising HDD followed by cable pulling under the road or using excavation of the road surface followed by cable laying and reinstatement of pavement and road.
- (xiv) Joint bays will be located along the onshore export cable route for the purpose of jointing sections of laid cable together. These joint bays will include associated link boxes with surface level access covers to provide easy access for inspection and testing. These access covers may require to be fenced off for protection and safety reasons.
- (xv) Temporary access tracks for construction, periodic maintenance and decommissioning are required. Construction access roads (where required) will be approximately 5 m to 6 m in width.
- (xvi) Shortly prior to installation, topsoil and vegetation will be stripped from the working area using tracked excavators and stored to one side of the allocated area. Topsoil will be stored away from watercourses or drains and in such a way that it will not be mixed with subsoil or subject to construction trafficking. Storage times for topsoil will be kept to a minimum to prevent deterioration in its quality. Topsoil from different fields will be stored separately as appropriate.

Figure 1 - Indicative construction corridor cross-section



- NOTES
1. DETAILS INDICATED ON DRAWING ARE FOR INDICATIVE PURPOSES ONLY. CABLE CORRIDOR DESIGN TO BE AGREED.



APPROVED FOR ISSUE

A	KGK	GY	DL
I/R	DRAWN BY	CHECKED	APPROVED

ISSUE/REVISION

A	23.08.19	FIRST ISSUE
I/R	DATE	DESCRIPTION

PROJECT NUMBER

60610110

SHEET TITLE

TYPICAL SECTIONS THROUGH
CABLE CORRIDORS
FLAT GROUND

SHEET NUMBER

60610110-SHT-10-ZN00-C-0011

**NOT FOR CONSTRUCTION
FOR INFORMATION ONLY**

- 5.4.10 Horizontal Directional Drilling (“HDD”) (Onshore)
- (i) In addition to its use at the landfall point it is likely that HDD will be utilised along parts of the onshore cable route including water crossings such as the River Isla, crossing of the rail network and major road crossings.
 - (ii) The HDD works will involve drilling an arc between two points (known as the launch site and receiving site), to pass underneath the feature to be avoided (e.g. a water crossing).
 - (iii) The first stage of HDD typically involves a small pilot hole being drilled with a cutting/steering head to set the path of the arc from the launch site towards the receiving site. When the pilot bore is completed, the cutting/steering head is replaced with an appropriately sized back-reamer at the receiving site and pulled through the pilot hole from the drill rig towards the launch site to enlarge the diameter of the hole. Depending on the final borehole diameter required, it may be necessary to carry out the back-reaming in several stages, each time gradually increasing the borehole diameter.
 - (iv) The HDD works will require temporary compounds containing launch pits for each of the drilling operations.
 - (v) Following completion of the HDD exercise, the excavated materials will be replaced into the pits and the area will be reinstated. Where excess waste material is generated this will be re-used or disposed of in accordance with a site waste management plan.
- 5.4.11 Onshore Substation
- (i) The onshore export cable circuits will enter an onshore substation in the vicinity of Whitehilllock near Keith in Moray. This will be a HVAC substation, which is required to transform the power that has been transmitted along the onshore export cable circuits, stepping up the voltage to equate to that at the point of connection to the NETS. This substation will then be connected, via underground cables again, to the connection point at the Blackhilllock Substation. The acquiring authority has successfully entered into a voluntarily option agreement with the landowners of the Whitehilllock substation site. This site is shown hatched black on the Map accompanying the Order (and for the avoidance of doubt does not form part of the Order Land).
- 5.4.12 General
- (i) The construction of the Onshore Works will take into consideration industry established methodologies and will incorporate embedded environmental management and risk mitigation measures as standard practice.
 - (ii) All aspects of the detailed engineering design and construction work will be undertaken in accordance with the Construction Design and Management (CDM) Regulations 2015.

Operation and Maintenance

- 5.4.13 Onshore Export Cables:
- (i) Operation and maintenance of the onshore export cables will involve periodic visual inspection of the cable corridor, particularly in the years immediately following construction to monitor reinstatement work, and routine cable testing during a circuit outage.
 - (ii) Apart from visual inspection and routine testing, the onshore export cable circuits should largely remain maintenance free. The installation of the cables seeks to ensure that these are buried securely for a maintenance free operational life, protected from damage. In the event that damage or a fault occurs, testing will diagnose where the affected section of the cable is so it can be replaced and reburied.
 - (iii) The cables will be marked on services maps which will be provided to landowner and to utility companies for their records.

- (iv) Even where access to cables is required to inspect or repair a cable fault, it will often be possible to achieve that access at jointing pits along the route. In some circumstances it will be necessary to undertake more intrusive engineering works such as excavating an area in order to access sections of cables between jointing pits or even installing replacement cables using HDD. Even in those situations it is likely that works would be over a very short section of the route and they could be carried out within the 30 m Cable Corridor (as defined in section 6.4 below).

5.4.14 Onshore Substation

- (i) The onshore substation will be serviced and maintained on a regular basis throughout its life. Maintenance or replacement of the assets is normally separated in to three categories:
 - (i)(a) Routine inspection and scheduled maintenance;
 - (i)(b) Periodic overhauls; and
 - (i)(c) Unscheduled maintenance.

5.4.15 Routine Inspections and Scheduled Maintenance

- (i) Scheduled maintenance will be comprised primarily of the inspection and testing of safety equipment, primary electrical equipment and auxiliary systems, as well as general inspection of the condition of the substation.
- (ii) The onshore substation will not be permanently staffed. Typically during the operational phase, site visits will be limited to fortnightly routine inspection visits and routine operation and maintenance activities. The frequency and duration of maintenance visits will be dependent on the manufacturer's recommendations related to the equipment installed on site and the final maintenance regime developed by the OFTO (see section 3 above).

5.4.16 Periodic Overhauls

- (i) These will be carried out in accordance with the Original Equipment Manufacturers' instructions and Manufacturer's warranty requirements. They are typically planned for execution in periods of the year with the best conditions, preferably in the summer, and scheduled to coincide with planned maintenance outages.
- (ii) They typically include function and safety tests, analysis of oil samples and replacement of consumable parts/materials.

5.4.17 Unscheduled Maintenance

- (i) This applies to any sudden failure events or defects arising which require unscheduled maintenance or remedial work to be undertaken. The scope of such maintenance would range from repair of small defects to complete replacement of major components.

Decommissioning

- 5.4.18 In the event that the onshore substation is decommissioned, the effects of decommissioning would be generally similar to those of construction activities. The most appropriate method of decommissioning and the handling and disposal of materials will be undertaken in agreement with the relevant authorities and in line with environmental best practice and the relevant legislation and guidance prevailing at the time. It is likely that non-buried elements of the Onshore Works would be removed but buried elements (such as the cables) may well be left *in situ*.

- 5.5 A plot by plot analysis of the Order Land is set out below in Table 2, summarising the likely principal activities during each phase of the Project.

Order Land Plot Number	Likely Principal Onshore Works Activities		
	Construction	Operations/Maintenance	Decommissioning
1, 2A, 2B, 2C, 2G, 2H, 2J, 2K,	<ul style="list-style-type: none"> • Vehicular access will be required to facilitate mobilisation and demobilisation of works, with supplies of plant, personnel and equipment carried across the installed access throughout the duration of construction. • Construction will require removal and storage of topsoil, trenching within substrata (and associated separate storage of materials), installation of ducts and reinstatement of worked area. In localised circumstances additional installation methodologies such as horizontal directional drilling may be required for example to cross existing infrastructure and watercourses. • To facilitate installation of cables, access hatches (and associated link boxes) will be installed. • Circuit media will be introduced to the ducts as a secondary 	<ul style="list-style-type: none"> • Expected to be primarily comprised of periodic visual inspection, particularly in the years immediately following construction to monitor reinstatement work. • Access for cable repair/replacement in the unlikely event of cable damage or failure occurring. • Refer to section 5.4.13 above for further information. • Protection rights are also required to allow the acquiring authority to prevent works or uses of the Order Land in order to protect the cable circuits from damage and to ensure access to the cable circuits is maintained. 	Refer to section 5.4.18 above.

	phase. Following this site restoration will occur		
2D, 2E, 2F,	<ul style="list-style-type: none"> • A vehicular access to the works corridor will be created. • This will require the removal of topsoil and storage of said material. • The substrate may need to be modified by the addition of additional materials (geotextiles etc). • A running surface will then be installed to industry best practice in width and bearing weight. • Adequate control and security will be secured by the installation of fencing. 	<ul style="list-style-type: none"> • Taking of access over the Order Land for the purpose of maintenance works. 	Taking of access over the Order Land for the purpose of decommissioning works.

Table 2 – Likely Principal Onshore Works Activities on Order Land

5.6 Site Selection and Alternatives

- 5.6.1 As noted above the Crown Estate awarded a ZDA for the development of offshore wind in the Moray Firth Zone in January 2010. That established the broad area within which offshore wind generation assets could be promoted. As explained above, a decision was taken to promote wind farms within the eastern area of the zone first, and the western area of the zone second. The latter area is now known as the Moray West site. As part of the development of the overall Project it was then necessary to identify how to connect the offshore wind farm to be located in the Moray West site to the NETS.
- 5.6.2 It is important to recognise that the location of the Order Land has been significantly influenced by the preferred grid connection point identified by NGENSO through the Connections Infrastructure Options Note (“**CION**”) process. The CION process is an option assessment process that is undertaken in order to identify the most economic and efficient option for a grid connection taking into account various key factors such as environmental and planning considerations as well as overall cost. It provides a regulated, clear, transparent, repeatable and non-discriminatory process to ensure all relevant developers are treated in a consistent manner and that an appropriate range of options are considered and assessed before determining the grid connection point for a given project. The CION requires input from NGENSO as System Operator, Transmission Operators (“**TOs**”) and Developers. NGENSO as System Operator coordinates this input. In the specific case of Moray West, the relevant TO, SHE Transmission, was involved in the process.
- 5.6.3 Based primarily on likely costs and timing of grid infrastructure upgrades three potential locations were initially discounted, leaving Blackhillock and New Deer as the focus of the further appraisal process. In 2017 the acquiring authority was formally offered by National Grid a grid interface point at Blackhillock as a result of this process, and thus allowing landfall optioneering to commence.
- 5.6.4 Offshore Export Cable Route and Landfall Point Selection
- (i) Criteria based on good industry practice were used to define potential marine export cable routes. These criteria were used in a concept engineering study to identify cable route options and landfall points. Factors taken into account included, for example, cable route length, installation complexity, environmental sensitivities and interactions with other developments/assets/sea users.
 - (ii) On receipt of the above mentioned grid offer, an initial desk-based assessment of potential landfall options along the Moray/Aberdeenshire coast was undertaken. The basis for the desk-based assessment was to identify potential landfall locations that would facilitate potential options for an export cable corridor route from the Moray West Site. A number of technical and environmental constraints were considered including (but not limited to): the presence of existing infrastructure (both offshore and onshore); coastal landform and topography; presence of land designated for nature conservation; suitability of access for equipment / plant required to bring cables ashore; and minimisation of third party interactions.
 - (iii) On the above basis, a number of landfall options were identified along a stretch of coastline from Portknockie to Portsoy in Moray / Aberdeenshire. Potential options for bringing the cables ashore at Portgordon were also examined, but Portgordon is already being used as the landfall for both the Beatrice Offshore Wind Farm and the Caithness to Moray HVDC Interconnector Project. These two projects mean that available space at this landfall is constrained and it was therefore concluded, due to the limited space combined with an increased risk of third party interactions and potential environmental effects that Portgordon be discounted as a potential landfall location.
 - (iv) Works to refine the potential landfall area were carried out given that potential locations between Portgordon and Portknockie are also limited due to the presence of built development associated with Buckie, Portessie

and Findochty, the A942 Great Eastern Road and areas of environmental and archaeological sensitivity. The process of refining therefore focused on a potential landfall location along the coast to the east of Portknockie between Cullen Bay and Portsoy. These potential landfall locations were visited by a multi-disciplinary team of environmental and consenting specialists, and cable construction and installation engineers to identify a preferred landfall area.

- (v) Following site visits and further desk-based analysis of potential constraints, a refined landfall search area on the Aberdeenshire Coast was selected, running from Findlater Castle in the west to Redhythe Point in the east.
- (vi) Initial Environmental Impact Assessment (“EIA”) studies commenced along onshore routes from this defined landfall area. Following these studies, technical advice and offshore geophysical and geotechnical studies, it was confirmed a corridor into the hinterland was viable. Further work, including community engagement, defined the optimal point of landfall as lying east of Sandend beach and this was selected as the optimum landfall area.
- (vii) Following the identification of the offshore export cable corridor and the landfall area, Environmental Impact Assessment (“EIA”) was progressed in May 2017.

5.6.5 Onshore Export Cable Route Selection

- (i) The key considerations in identifying potential onshore export cable routes include:
 - (i)(a) Areas of environmental designation in which underground cable construction, operation or decommissioning might affect the purpose of designation;
 - (i)(b) Sensitive ecology and habitats;
 - (i)(c) Known archaeology;
 - (i)(d) Contaminated land;
 - (i)(e) Areas of flood risk;
 - (i)(f) Areas of steep terrain;
 - (i)(g) Location of other infrastructure;
 - (i)(h) Water courses;
 - (i)(i) Access requirements including consideration of the existing road network in terms of the effects of road closure and disruption;
 - (i)(j) Existing land use; and
 - (i)(k) Avoidance of major settlements.
- (ii) The routing considerations set out above, plus the onshore substation location as described in section 5.6.6 and the offshore export cable landfall location as described in section 5.6.4 were used to select a broad onshore export cable corridor.
- (iii) This “broad onshore export cable corridor” was in the order of 500 m wide along its length, with this increased in areas where pre-identified design challenges existed. This corridor formed the basis of the planning permission in principle. Since the identification of that corridor further work has been done to narrow the route. Factors taken into account in achieving that narrowing of the broad export cable route corridor included (1) constraints identified through landowner consultation throughout the route corridor, (2) environmental and planning related factors including: location of peat, location of wetland including ground water dependent ecosystems, flood risk areas, private water supplies, water crossings, road crossings, protected mammals and breeding bird surveys, environmental and archaeological designations, accessibility, land use, field drainage where known, responses from individuals located within the planning corridor and (3) technical factors including slopes, utility crossings, land boundaries, road crossing and areas of expected HDD.

5.6.6 Onshore Substation Site Selection

- (i) A HVAC substation is required to transform the power that has been transmitted along the onshore export cable circuits, stepping up the voltage to equate to that at the point of connection to the NETS. This will allow onwards transmission of the electricity generated. This substation will ultimately be transferred to the ownership of an OFTO entity along with the offshore substations, and the offshore and onshore export cables (as explained in section 3 above). Consent for development of a substation at Whitehillock exists within the Moray Council planning permission in principle.
- (ii) The substation site was selected following technical and environmental studies, advice (technical, Landscape and Visual Impact and general environmental advice) and landowner discussions. The substation site will also be used to provide landscaping to further screen the substation, although the site is already well screened by the pre-existing shelter belts that surround the development area.
- (iii) The substation site was selected for the following reasons:
 - (iii)(a) Distance from residential properties;
 - (iii)(b) Proximity to point of connection at Blackhillock;
 - (iii)(c) Existing screening;
 - (iii)(d) Space for additional screening works;
 - (iii)(e) Ground, slope and gradient conditions;
 - (iii)(f) Accessibility;
 - (iii)(g) Technical principles associated with the Holford Rules for Substation Locations; and
 - (iii)(h) Positive landowner discussions.

5.6.7 Conclusion

It is clear that, based on the detailed engineering, environmental and land-use appraisals carried out as well as the CION process associated with the regulated grid connection process, the acquiring authority has examined all reasonable alternatives for the location of the Onshore Works. The acquiring authority has identified Order Land which is the most appropriate and it is necessary for the delivery of the Onshore Works.

5.7 Design Development

- 5.7.1 The work described in sections 5.6.4 and 5.6.5 defined a broad planning corridor in the order of 500m for installation of the onshore export cables which is now subject to planning permission in principle.
- 5.7.2 Subsequent work has been undertaken by the acquiring authority to further define cable routing. This work has included:
 - (i) Refined desk based constraints assessment (with integrated GIS);
 - (ii) Extensive site visits and landowner meetings to identify routing constraints and preferences;
 - (iii) Utilities searches to identify the location of electricity, water and gas utility infrastructure that exists along the cable route;
 - (iv) Engagement with statutory undertakers and consultees (roads authorities, SEPA, utility providers, Network Rail);
 - (v) Extensive consultant engineering design works integrating practical lessons learnt from direct undertaking of such works within the wider business, and;
 - (vi) Engagement with civil engineering and electrical supply chain to verify these design considerations and their viability.
- 5.7.3 The work set out in section 5.7.2, as well as further application of the various considerations listed in section 5.6.5, has been used to develop anticipated cable routing for each land parcel forming part of the route, which in turn has informed landowner discussions and led in various cases to a reduction in the land rights sought

by the acquiring authority from the area included within the planning corridor. As explained at section 6.4 below the intention is that post installation the Cable Rights can be reduced to apply to an up to 30m wide area (subject to the need to maintain access through plot 2C).

- 5.7.4 The acquiring authority has engaged the supply chain through a structured and comprehensive procurement process based on the cable routing that was developed as outlined above. This process was used to validate the expected routing within the planning corridor and the anticipated working methods, e.g. location of HDD crossings. Refinement of cable routing by the acquiring authority has continued in parallel with this process through ongoing engagement with landowners.
- 5.7.5 The Order Land takes into account the outcome of the design development activities set out above. Further detailed design work is however required (see below) and the rights sought in the Order reflect the requirement for flexibility.
- 5.7.6 Further Work
- (i) The acquiring authority is presently concluding the procurement activities outlined in section 5.7.4 as required by expected project construction timescales. This will conclude with engagement of a specialist contractor with responsibility for final design and installation of the onshore export cables.
 - (ii) Following appointment, the specialist contractor will undertake further detailed site investigation work, detailed cable route design and construction planning. This will lead to development of finalised “for construction” plans, drawings and other construction methodology documentation being developed for the onshore cable route, inclusive of the affected Order Land. Furthermore the acquiring authority appointed in 2020 its onshore ecological and planning advisor for the condition discharge process. This company has provided initial advice and surveys to further inform detailed routing, with these works already including the update and verification of the environmental surveys that underpinned the consent, including protected mammals and habitat surveys. Works will now extend into a programme of archaeological works, detailed mitigation plans for flood risk, wetlands, peat, and private water supplies, and wider construction environmental and transport management plans. As these emerge any relevant considerations will also be used to influence the final construction methodologies.
- 5.7.7 Conclusion
- (i) Following the initial studies used to identify the planning corridor, the acquiring authority has defined and developed the design associated with the onshore export cable route in a manner commensurate with industry practice and consistent with the development of the design of the wider Project.
 - (ii) This has led to the land rights required being narrowed and, where possible, adjusted to reflect landowner input.
 - (iii) In respect of the Order Land, further work will be undertaken to facilitate the reduction of the extent of land burdened by the Cable Rights to a maximum 30 m width post installation of the onshore export cable circuits (subject to the need to maintain rights over a wider area through plot 2C) as described further in section 6.4 below.

Order Land Plot Number	Extent of Land Parcel Overall area of plot and width at widest point	Explanation for extent of land parcel
1	Area: 62,639 m ²	The cable route has been significantly reduced through negotiations with owner to minimise land take. Corridor

		now represents the minimum width viable at this stage to allow micro-siting and accommodation of final design proposed by contractor.
2A	Area: 84786 m ²	<p>The extent of this parcel is determined by accommodation of two variable features;</p> <p>1) a Scottish Water high pressure main; the optimal location for crossing this asset has yet to be determined and space has been left to optimise the design with the statutory undertaker. This crossing is also complicated by the fact it will be associated with a significant bend in the cable, adding further uncertainty as to the exact location of the assets and their trajectory.</p> <p>2) Significant contouring of the landform; this means that a greater flexibility for micro-siting is needed that in general circumstances to ensure that final design minimises the impacts of cut and fill etc.</p>
2B	Area: 53679 m ²	This area is largely constrained. However there is an area of greater width to accommodate the transition from the final cable route within parcel 2 and the final position of the required bend of the cable in this area.
2C	Area: 52856 m ²	As per 2A, 2C's form is determined by the interaction with Scottish Water assets, which will be further developed, and the transition from the parcel to the north (which is not subject to order agreement). 2C also needs to provide connection between cable corridor land and parcel 2D which will only facilitate access.
2D	Area: 1735 m ²	2D is limited in width as its sole purpose is to provide access. Length is determined by the need for flexibility to accommodate an optimised point of interaction between the access corridor and the cable corridor.
2E	Area: 10911 m ²	This parcel solely provides a continuation of access between 2D and the public highway. In the large its form is significantly constrained, with the only area that allows generous accommodation of assets being an area of additional tolerance to ensure adequate interaction can be formed with the public highway. This wider apron will also ensure that suitable

		control facilities can be put in place to keep the works area safe and secure.
2F	Area: 320 m ²	2F is an area where the public adopted highway has been extended to facilitate passing of traffic to the fabrication facility at Simmers Contracts Limited. It is understood that this extension to the highway was undertaken by Simmers directly, on land that was in their control and therefore the parcel is not considered to offer the rights that would normally be afforded to the acquiring authority in the case of the adopted highway. On the basis that practicable differentiation of access over the highway and order land will not be viable, the acquiring authority seeks to ensure access rights are available across the entire width. This reflects the real usage of the land in its current guise.
2G	Area: 573 m ²	This area allows accommodation of the general trajectory of the cable in parcel 2B and micro siting of the final design as it enters 2J. This will see bend in the cable in the vicinity of 2G/2H, the exact location of which is yet to be defined.
2H	Area: 798 m ²	This area allows accommodation of the general trajectory of the cable in parcel 2B and micro siting of the final design as it enters 2J. This will see bend in the cable in the vicinity of 2G/2H, the exact location of which is yet to be defined.
2J	Area: 37500 m ²	2J is sized greater than minimal landtake due to the need to accommodate a change in direction of the cable and the potential to punch out through the southern perimeter into the next landownership, or to continue onto 2K. The exact location of this boundary crossing is yet to be defined due to the need for final ownership of the design by the contractor. This is due to additional complications in the wider area, namely; private water supplies, field drains, and electricity distribution network circuits.
2K	Area: 15358 m ²	2K sizing and form is defined by the same issues confronted by parcel 2J.

Table 3 – Explanation for extent of land sought in relation to each individual plot

6. Description of New Rights Being Created

- 6.1 As described more fully in section 10 below, the acquiring authority has obtained the significant majority of the rights it requires to facilitate the Onshore Works by private agreement, including having:
- 6.1.1 obtained the rights it requires to purchase outright land for the purpose of constructing and operating an onshore substation (shown hatched black on the Map accompanying the Order).
- 6.1.2 obtained the rights it requires to construct and operate other transmission infrastructure including cables within a number of land parcels along the onshore cable route.
- 6.2 The acquiring authority still requires to obtain rights of access to and through certain land parcels ("**Access Rights**"), rights to do works within certain land parcels ("**Cable Rights**") and rights to protect the works post construction ("**Protection Rights**"), in each case to facilitate the installation, construction, use, operation, maintenance, replacement, renewal, repair, decommissioning, retention and protection of the Onshore Works. In the absence of a private agreement, the acquiring authority seeks the authority to acquire these rights under the Order.
- 6.3 Table 4 below explains the nature of the rights sought within each of the plots forming part of the Order Land.

Order Land Plot Number	New Rights to be Acquired
1	the Cable Rights
2A	the Cable Rights
2B	the Cable Rights
2C	the Cable Rights, the Access Rights
2D	the Access Rights
2E	the Access Rights
2F	the Access Rights
2G	the Cable Rights
2H	the Cable Rights
2J	the Cable Rights
2K	the Cable Rights

Table 4 – New Rights to be Acquired

With:

Cable Rights meaning "*the servitude rights in favour of and for the benefit of the Substation Site to install, construct, use, keep, operate, maintain, replace, renew, repair, decommission and retain and take access to the Onshore Works (and associated works in their respect), including without limitation the following ancillary rights :*

- *the Access Rights;*
- *the Protection Rights; and*
- *the rights to create, install and use temporary office space, temporary welfare provision, works compounds and associated parking, storage and laydown areas, temporary access roads and tracks, drainage, ground improvements or other works or operations and the right to restrict access during construction, renewal, maintenance or decommissioning; and*

- *the right to alter, re-lay, maintain, adjust, or remove pipes, cables, conduits or other apparatus (excluding apparatus of statutory undertakers)";*

Access Rights meaning "the rights in favour of and for the benefit of the Substation Site of pedestrian and vehicular access (including without limitation plant, equipment and personnel) for the purposes of taking access to or egress from (either directly or indirectly) all or any of the Onshore Works or providing diverted access or rights of way to third parties including without limitation the right where necessary to lay or create, use, keep, repair, maintain, upgrade, widen, replace, renew and remove an access track and road over such areas and the right to carry out improvement and widening works to existing roads"; and

Protection Rights meaning "the rights in favour of and for the benefit of the Substation Site to prevent any works on or uses of the Order Land which may damage, interfere or injuriously affect the Onshore Works or interfere or hinder in any way the acquiring authority's access to the Onshore Works and, in particular and without prejudice to the generality of the foregoing:

- *The right to prevent and remove the whole or any part of any building or other erection or works, tree, shrub or bush or other thing whatsoever on the Order Land; and*
- *The right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the Order Land."*

- 6.4 The export cable circuits forming part of the Onshore Works once constructed will be located within a corridor that is no more than 30m wide (the "**Cable Corridor**") running (i) from the landfall area to the onshore substation and (ii) from the onshore substation to the point of connection to the NETS (as more fully described in section 5 above). To allow for construction flexibility (including cable micrositing following detailed design), the Order Land is wider than the Cable Corridor. However the acquiring authority is offering to enter into a Code of Conduct with relevant affected landowners, part of the purpose of which would be to require the acquiring authority to deliver, as soon as reasonably practicable following completion of installation/construction works, a drawing showing the as built position of the cable infrastructure within the land. The drawing would also include measurements showing any reduction in the extent of land burdened by the acquiring authority's rights during the operational phase of the Project. The acquiring authority would then propose, if agreed with the landowner, to execute such documentation as may be required to be registered in the Land Register of Scotland to effect any such reduction in the extent of the land burdened by the acquiring authority's rights. This would have the effect of reducing the burdened property, in respect of the Cable Rights, to the up to 30 m Cable Corridor (subject to the need to maintain rights over a wider area for the Access Rights through Plot 2C (see section 6.5 below)).
- 6.5 Access Rights only are sought in respect of plots 2D, 2E and 2F. These rights are required to provide access from the public road network to the Onshore Works. Access to the cable corridor will be taken from the A96 over the unclassified public road that leads towards Backmuir Cottages. A temporary access will be constructed which will leave the public road before it reaches Backmuir Cottages and will run through Plot 2E initially in a north easterly direction before continuing through Plot 2D and then joining the cable corridor within Plot 2C. As set out in section 4.4 above, the access route connecting the public road to the eventual "as built" cable corridor will join the cable corridor somewhere within Plot 2C, meaning that Plot 2C will partly comprise land over which only the Access Rights are required, and will partly comprise land over which the Cable Rights are required. Plot 2F comprises land adjacent to the existing running width of the public road which will be required to accommodate the access.

7. Use of Enabling Act

- 7.1 The acquiring authority is promoting the Order in exercise of the powers conferred by section 10 and paragraph 1 of Schedule 3 of the 1989 Act.

7.2 Section 10 (1) of the 1989 Act provides:

"Subject to subsection (2) below, Schedule 3 to this Act (which provides for the compulsory acquisition of land) and Schedule 4 to this Act (which confers other powers and makes other provision) shall have effect in relation to the holder of a transmission licence; and to the extent that his licence so provides, in relation to an electricity distributor or any other licence holder; and references in those Schedules to a licence holder shall be construed accordingly."

7.3 Paragraph 1 of Schedule 3 to the 1989 Act provides:

"Subject to paragraph 2 below, the Secretary of State may authorise a licence holder to purchase compulsorily any land required for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on. In this paragraph and paragraph 2 below "land" includes any right over land (other than, in Scotland, a right to abstract, divert and use water); and the power of the Secretary of State under this paragraph includes power to authorise the acquisition of rights over land by creating new rights as well as acquiring existing ones."

7.4 The acquiring authority is the holder of a generation licence under Section 6(1)(a) of the 1989 Act (granted 27 March 2018). A copy of the generation licence is included at Appendix 1 of this Statement of Reasons.

7.5 Section 8A of the 1989 Act provides for standard conditions to be incorporated in licences such as that held by the acquiring authority.

7.6 Standard Licence Condition 14 has been incorporated into the generation licence held by the acquiring authority and gives effect to Schedule 3 of the Act granting powers to the acquiring authority to purchase compulsorily any right in land for specified purposes including:

"the installation, inspection, maintenance, adjustment, repair, alteration, replacement or removal of electric lines, and electrical plant associated with them, and any structures for housing or coverings such lines or plant, connecting a generating station with: the national electricity transmission system; or a distribution system, including for the avoidance of doubt where these activities in sub-paragraph (c) are to be carried out by the licensee or another licence holder."

8. Justification for Making the Order

8.1 Need for the Project

8.1.1 The key driver for the Project is the development of renewable sources of energy. This is not only critical for combatting global climate change, but for enabling Scotland (and the wider UK) to realise the wider environmental, societal and economic benefits of a low-carbon economy.

8.1.2 The Order is required to deliver an essential aspect of the Project, namely the transmission infrastructure. Without this infrastructure the renewable energy generated could not be transmitted to the NETS for onwards supply to unlock the public benefit and to further the many applicable legal and policy objectives.

8.1.3 This section seeks to summarise the key legal and policy drivers and support for the development of renewable energy and the transmission infrastructure necessary to support it. This suite of legislation and policy demonstrates the clear need for the timeous and effective delivery of the Project.

Wider Context – Achieving Net Zero

8.1.4 Achieving net zero

- (i) Climate change and the effect of climate change on the environment have been high on the political agenda since the adoption of the Kyoto Agreement back in 1997. Since then, the European Union (EU) and UK Government have taken significant steps to tackle climate change through the introduction of various Directives, regulations, plans and policies. These set out long-term aims and objectives, and provide a legal framework for tackling climate change that have resulted in the enforcement of a number of targets for reducing CO2 emissions and

increasing the amount of energy produced from renewable sources of energy including wind power. The importance of these Directives, regulations, plans and policies has been recently reinforced (December 2015) through the adoption of the Paris Agreement (UNFCCC, 2015) which legally binds 195 countries to limiting global warming to well below 2°C. National legislation also sets legally binding targets on the Scottish Government. Scotland has set a target date for net-zero emissions of all greenhouse gases by 2045. Additionally there are interim targets for reductions of at least 56% by 2020, 75% by 2030 and 90% by 2040. Scotland has set a target date for net-zero emissions of all greenhouse gases by 2045. Additionally there are interim targets for reductions of at least 56% by 2020, 75% by 2030 and 90% by 2040.

- (ii) At the point of adoption of the Paris Agreement, the parties to the Agreement invited the IPCC (Intergovernmental Panel on Climate Change) to produce a special report on impacts of global warming at 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways. In 2016, the IPCC agreed to provide the 'Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development and efforts to eradicate poverty' ('the Special Report'). The Special Report was published in 2018 and concluded CO₂ emissions must be cut by 45% from 2010 levels to cap global warming at 1.5°C. They also stated by 2050, we must be 'net-zero' to avoid serious adverse effects from rising temperatures.

8.1.5 UK's net-zero targets

- (i) The Climate Change Act 2008 set the 2050 target of cutting the UK's greenhouse gas emissions by 80% compared to 1990 levels. However, in 2018, the UK Government asked the Committee on Climate Change (CCC) to deliberate on a new target which would aim to cap global warming temperature rises at 1.5°C following the Special Report.
In May 2019, the CCC recommended a new emissions target for the UK – net-zero greenhouse gases by 2050. They stated the move was necessary, feasible and cost-effective. On 12 June 2019, the Government laid the draft Climate Change Act 2008 (2050 Target Amendment) Order 2019, which amended the Climate Change Act 2008. This Order came into force on 27 June 2019.
- (ii) The CCC's June 2020 Progress Report stated that whilst it is clear that net-zero is a key Government goal, the steps taken thus far do not equate to 'adequate progress.'
- (iii) On 9 December 2020, the CCC published their recommendations to the UK Government's Sixth Carbon Budget. The central recommendation is a reduction in UK greenhouse gas emissions of 78% relative to 1990 levels by 2035, with an interim target of 68% by 2030. The CCC's Balanced Pathway recommends that offshore wind should be "the backbone" of the electricity generation system which requires 3 GW per year of new wind capacity. The report suggests the UK Government should aim to be on the way to 65-125 GW of offshore wind by 2050. The report also states that Government policies should support "the coordination of connections from offshore windfarms into the onshore network." (page 29).
- (iv) The Scottish Government has gone further still, with stretching targets now enshrined in legislation. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 amends the Climate Change (Scotland) Act 2009 and sets targets to reduce Scotland's emissions of all greenhouse gases to net-zero by 2045 at the very latest. This follows the

recommendation of the CCC for Scottish emissions. Additionally there are interim targets for reductions of at least 56% by 2020, 75% by 2030 and 90% by 2040. The CCC's 2019 report on Scotland's progress states the Scottish Government's policy commitment show their commitment to taking these ambitious targets seriously. However, the Progress report also states the Scottish Government need to go further especially on issues of agriculture and changing the use of land to mitigate climate change.

Renewable Energy Policy Framework

8.1.6 Development of renewable energy and climate change policy supports the delivery of the Onshore Works (as necessary to facilitate renewable energy development)

8.1.7 2020 Route Map for Renewable Energy in Scotland

- (i) The 2020 Route Map for Renewable Energy in Scotland (Scottish Government, 2011a) sets out how Scotland will achieve its target to meet an equivalent of 100% demand for electricity from renewable energy by 2020, as well as its target of 11% renewable heat. The 2020 Route Map is an update and extension to the Scottish Renewables Action Plan 2009. Further updates to the Route Map were published in September 2015. This update reports on progress on development across the renewables sector and towards reaching the 2020 targets, highlighting that provisional figures showed renewable sources generated a record 49.8% of Scotland's gross electricity consumption in 2014. The 2015 update also identifies further collective actions needed to unlock Scotland's full renewable energy potential. In particular, it identifies challenges faced by developers with the Government's move from the system of Renewable Obligations to Contracts for Difference (CfD).

8.1.8 White Paper on "Industrial Strategy: Building a Britain fit for the future"

- (i) On 28 June 2017, Department of Business, Energy and Industrial Strategy (BEIS) published their approach to building a modern 'Industrial strategy: building a Britain fit for the future' The white paper noted the important contribution low carbon technologies will make to one of the greatest industrial opportunities of our time. The white paper recognises significant investment made by the offshore wind industry and set out a commitment to investigate opportunities to support greater energy efficiency and to work to further reduce the costs of offshore wind
- (ii) In March 2019, BEIS published their Offshore Wind Sector Deal. This sets out the UK Government's strategy for partnership between the UK Government and industry to make the UK offshore industry productive and competitive and to maintain the UK's place as a leader in offshore development. This included a £250m investment in the Offshore Wind Growth Partnership, setting a £2.6bn export target by 2030, a commitment to increasing UK content to 60% by 2020 and continuing the Contracts for Difference scheme. There is also a range of support offered to promote Regional Clusters, including DeepWind in North Scotland. Regional Clusters promote cooperation between developers and regional supply chains, public sector and educational institutes. BEIS hope this will stimulate productivity, competitiveness and innovation, whilst simultaneously promoting growth in the relevant coastal economies. On 4 March 2020, BEIS published 'Offshore Wind Sector Deal – one year on' which assessed the impact of the Sector Deal. This report notes that there has been significant progress in development of both the Offshore Wind Growth Partnership and Regional Clusters.

8.1.9 UK Government's Ten Point Plan for a 'Green Industrial Revolution'

- (i) On 18 November 2020, the UK Government published its' ten point plan for a Green Industrial Revolution to 'build back better' from the Covid-19

pandemic. The first point on the plan is Advancing Offshore Wind, which is noted as a “critical source of renewable energy for our growing economy”. The Plan reiterates the commitment to 40GW of offshore wind energy by 2030 and highlights the importance of offshore wind to coastal towns.

8.1.10 UK Government’s Energy White Paper

- (i) On 14 December 2020, the UK Government published the Energy White Paper. The paper commits to building on the 40 GW by 2030 target. It emphasises the importance of offshore wind in high-quality job creation and also in facilitating growth in ports and coastal regions across the UK. The Paper praises the move to decarbonise the power sector as the leading factor in the UK’s efforts to reduce greenhouse gas emissions, noting the tenfold growth in offshore wind capacity from 1GW in 2010 to 10GW in 2019.

8.1.11 Scottish Energy Strategy: The Future of Energy in Scotland

- (i) In December 2017, the Scottish Government published its Energy Strategy for Scotland. This sets out Scotland’s 2050 vision for energy which encompasses the development of a strong low carbon economy, building on the 2020 Route Map, and development of a modern, integrated clean energy system for Scotland. The focus of the strategy is on continued growth of the economy through secure, reliable and affordable energy supplies. The strategy examines Scotland’s current energy mix and provides a framework for the future growth of technologies and fuels that will be required to supply Scotland’s energy needs over the coming decades. The strategy sets two main targets by 2030:

“The equivalent of 50% of the energy for Scotland’s heat, transport and electricity consumption to be supplied from renewable sources.

An increase by 30% in the productivity of energy use across the Scottish economy.”

8.1.12 Climate Change Plan – the Third Report on Policies and Proposals 2018-2032

- (i) The Scottish Government published its Climate Change Plan on 12 September 2018. It is the third report on proposals and policies under the Climate Change (Scotland) Act 2009. The Plan recognises the progress made to date, noting that emissions have fallen 41% by 2015, and that renewables generated the equivalent of 68.1% of Scotland’s electricity requirements in 2017, from just over 12% in 2000 (section 1).
- (ii) Notwithstanding the progress made to date however, the plan suggests that it is clear that more needs to be done to meet overall targets. The Plan notes the objective that *“By 2032, Scotland will have reduced its emissions by 66%, relative to the baseline, while growing the economy, increasing the wellbeing of the people of Scotland and protecting and enhancing our natural environment.”* and *“By 2032, Scotland’s electricity system, already largely decarbonised, will be increasingly important as a power source for heat and transport.”* This includes a commitment that *“By 2030, 50% of all Scotland’s energy needs will come from renewables.”*
- (iii) To achieve these policy outcomes the Plan recognises the contribution required from renewables, including offshore wind. The report also stated that renewable electricity generation in 2017 was 29% higher than 2016 levels, taking the share of renewables of total electricity generated in Scotland to 51.7%, with the largest increase coming from wind power. Wind power accounted for 35% of total electricity generation alone.

8.1.13 Climate Change Plan: monitoring report 2019

- (i) On 17 December 2019, the Scottish Government published the second annual report monitoring progress towards Scotland’s 2018 Climate

Change Plan. In terms of electricity, the monitoring report shows that all electricity indicators are on track.

Specific Offshore Renewable Framework

- 8.1.14 Offshore wind and marine specific policy also supports the Project proposals as set out below.
- 8.1.15 Scottish Government's Update to Securing a Green Recovery on a Path to Net Zero: Climate Change Plan 2018–2032
- (i) On 16 December 2020, the Scottish Government published an update to its Climate Change Plan. The update emphasises the necessity of a green recovery in Scotland's response to the Covid-19 pandemic which prioritises the climate emergency, climate change targets and a just transition to net zero. To do this, the report notes we shall have to take "advantage of the large potential for growth of onshore and offshore wind capacity in Scotland," (page 60) noting that wind and solar power are now the lowest cost forms of electricity generation (page 76). The Scottish Government commit to using the planning system to "actively facilitate decarbonised electricity generation and distribution" (page 78) The report also outlines that offshore wind can play a key role in facilitating the transition from oil and gas reliance to low and zero carbon renewable electricity generation.
- 8.1.16 Scotland's National Marine Plan
- (i) The Scottish Government adopted its National Marine Plan in early 2015. The purpose of the plan is to provide an overarching framework for marine activity in Scottish waters, in an aim to enable the sustainable development and use of the marine area in a way that protects and enhances the marine environment whilst promoting both existing and emerging industries. This is underpinned by a set of core general policies which apply across all existing and future development and use of the marine environment and sectoral specific policies.
 - (ii) With respect to offshore wind, the plan emphasises the growth of the global wind industry and Scotland's contribution to this industry by becoming a key hub for the design, development and deployment of the next generation of offshore wind technologies. The plan emphasises the importance of offshore wind in achieving Scotland's targets for generating the equivalent of 100% of Scotland's own electricity demand from renewable resources by 2050 and to deliver an 80% reduction in greenhouse gas emissions by 2050. The Scottish Government's Energy Statistics for 2019 show Scotland is on target for meeting this aim with 90.1% of gross electricity consumption coming from renewable sources in 2019. This is an increase of 13.4% from 2018.¹
 - (iii) The plan also highlights that within the Scottish marine area, there are a number of planned development sites for offshore wind. These include The Crown Estate 'Round 3' offshore wind zones including the Moray Firth Zone.
 - (iv) The strategy notes that there will need to be a significant increase in renewable energy in order to reach these targets. The Scottish Government assume in order to make this possible around 17 GW of installed renewable energy capacity by 2030.
- 8.1.17 The core objectives of marine planning policies are to:
- (i) Ensure sustainable development of offshore wind in the most suitable locations;

¹ <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2018/10/quarterly-energy-statistics-bulletins/documents/energy-statistics-summary-june-2020/energy-statistics-summary-june-2020/govscot%3Adocument/Scotland%2BEnergy%2BStats%2BQ1%2B2020.pdf>

- (ii) Maximise economic benefits from offshore wind by securing a competitive local supply chain in Scotland;
 - (iii) Align marine and terrestrial planning and efficient consenting and licensing processes including, but not limited to, data sharing, engagement and timings, where possible;
 - (iv) Align marine and terrestrial transmission grid planning and development in Scottish waters;
 - (v) Contribute to achieving the renewables target to generate electricity equivalent to 100% of Scotland's gross annual electricity consumption from renewable sources by 2020;
 - (vi) Contribute to achieving the decarbonisation target of 50gCO₂/kWh by 2030 (to cut carbon emissions from electricity generation by more than four-fifths);
 - (vii) Encourage sustainable development and expansion of test and demonstration facilities for offshore wind and marine renewable energy devices; and
 - (viii) Ensure co-ordinated government and industry-wide monitoring.
- 8.1.18 Blue Seas - Green Energy A Sectoral Marine Plan for Offshore Wind Energy in Scottish Territorial Waters
- (i) Produced in 2011, this plan sets out proposals for the development of offshore wind in Scottish territorial waters. The plan identified 9 sites for delivery of offshore wind in the short term i.e. by 2020 and a further 25 sites as areas of search for delivery of offshore wind in the medium term i.e. between 2020 and 2030. Two medium term areas of search were identified in the Moray Firth, as well as medium term areas of search located further south around the firths of Forth and Tay. The Moray Firth is acknowledged in the plan as having favourable conditions and significant potential for the development of offshore wind.
- 8.1.19 Sectoral Marine Plan for Offshore Wind Energy (2020)
- (i) On 28 October 2020, the Scottish Government published the final Sectoral Marine Plan (SMP). The SMP provides the strategic framework for the Crown Estate Scotland's first leasing bid round, ScotWind. The SMP identifies 15 plan options across 4 regions. The SMP acknowledges significant offshore development in the Moray Firth, including the consent granted to Moray West offshore wind farm.
 - (ii) The SMP identifies the significant role offshore wind energy will play in Scotland's energy system in the future. Furthermore, the Ministerial Foreword of the SMP notes in light of the Covid-19 pandemic, the stakes could not be higher in the necessity in maximising the potential of offshore wind.
- 8.1.20 Scotland's Offshore Wind Route Map
- (i) Scotland's Offshore Wind Route Map: Developing Scotland's Offshore Wind Industry to 2020 and Beyond, recognises that, with 25 % of Europe's offshore wind potential, the large scale development of offshore wind represents the biggest opportunity for sustainable economic growth in Scotland.
- 8.1.21 Offshore Wind Policy Statement
- (i) Alongside the publication of the SMP on 28 October, the Scottish Government also published the Offshore Wind Policy Statement. The statement sets out the Scottish Government's policy on offshore wind ambition. To see increasing renewable commitment is a key goal for the government, especially in relation to net zero transmissions. The statement recognises the "vital part" offshore wind energy will play in meeting Scotland's emission targets. The statement recognises that the

Scottish Government has promoted a positive policy landscape for renewables balanced by a rigorous environmental impact assessment regime. The report notes the Moray East as being under construction and Moray West as a type of development that had obtained consent.

Onshore Planning Policy

- 8.1.22 Specific and clear support for the development of the Onshore Works associated with the offshore renewable energy element of the Project comes from a number of sources as set out below.
- 8.1.23 The need for the Onshore Works is clearly established within National policy, falling within the category of “national development” in terms of the National Planning Framework.
- 8.1.24 Scotland’s Third National Planning Framework (NPF3)
- (i) The NPF3 was published on 23 June 2014. It sets out the strategic long-term aims of the Scottish Government to encourage economic activity and investment in Scotland. It sits alongside the Scottish Planning Policy (published on 23 June 2014 and referred to further below) to help the planning system deliver the Scottish Government’s vision and outcomes for Scotland.
 - (ii) One of these visions is making Scotland a “low carbon place”. The NPF3 aims to develop Scotland’s renewable energy potential whilst safeguarding the environment and communities. To achieve this, diversification of generation and improved energy efficiency are required.
 - (iii) The NPF3 recognises that progress is being made towards diversifying energy generation capacity, and lowering carbon emissions, but that more action is needed. That action includes further offshore wind development (paragraph 3.9):
“We want to continue to capitalise on our wind resource, and for Scotland to be a world leader in offshore renewable energy”.
 - (iv) The NPF3 defines certain categories of development as “national development”. This categorisation feeds in to general planning law and policy. Statutory development plans must have regard to the NPF (including the categories of national development) and the Scottish Ministers expect planning decisions to support its delivery. There is clear policy support for the national developments identified.
 - (v) Paragraph 6.5 of the NPF3 identifies three categories of “national development” which would help to achieve the objective of making Scotland a low carbon place, and provide significant opportunities for growth arising from its natural energy resources.
 - (vi) The second category identified is an:
“Enhanced High Voltage Energy Transmission Network... to facilitate renewable electricity development and its export”.
 - (vii) This policy support for onshore transmission infrastructure for renewable projects is expanded upon further and is directly relevant to the need for the Onshore Works:
“As part of this national development, we want to see planning enabling development of onshore links to support offshore renewable energy development”.
 - (viii) Section 4 Annex A of the NPF3 describes the classes of development which fall within the “Enhanced High Voltage Energy Transmission Network” – including new and/or upgraded onshore electricity transmission cabling of or in excess of 132kV - and sets out clearly the basis of their need:
“These classes of development are needed to support the delivery of an enhanced high voltage electricity transmission grid which is vital in

meeting national targets for electricity generation, statutory climate change targets, and security of energy supplies.”

- (ix) As the Onshore Works constitute new onshore electricity transmission cabling operating in excess of 132kV they clearly fall within the category of national development and the need for their delivery – namely being vital to meeting national targets for electricity generation, statutory climate change targets and security of energy supplies – is clear in and supported by national policy. Aberdeenshire and Moray Councils considered the applications for planning permission in principle in law and in policy as applications for national development.

8.1.25 Scottish Planning Policy (SPP)

- (i) A new SPP was published on 23 June 2014 and sets out national planning policies which reflect the Scottish Ministers’ priorities for the operation of the planning system and for the development and use of land. Although non-statutory, the content of the SPP is described (within the document) as being a material consideration that “*carries significant weight*” in planning decisions.
- (ii) The SPP aims to set out practically how the vision of making Scotland “*a low carbon place*” (as per the NPF3) can be achieved. Paragraph 153 of the SPP recognises the importance of renewable energy, not only as vital in combating climate change, but also in its ability to create opportunities for associated development, investment and growth. The Policy Principles proposed in the SPP include supporting the “*transformational change*” to a low carbon economy, to meet national targets.
- (iii) Paragraph 90 of the SPP states that development plans should provide for the development requirements of land based development associated with offshore energy projects. This statement reinforces the support for offshore renewable energy developments and the associated onshore works that are necessary to meet Government targets.

8.1.26 It is clear from the various pieces of legislation, plans and policies discussed above that there is clear legal and political support for the delivery of renewable energy and associated electrical transmission infrastructure in Scotland. The benefits of renewable energy not only include combating climate change and helping achieve binding emissions targets, there are also wider social and economic benefits. This is recognised by the Scottish Government.

8.1.27 The Onshore Works are required to facilitate the delivery of offshore wind farm, furthering Scotland and the UK’s energy objectives and helping to realise the many benefits which flow therefrom. The importance of the delivery of these is reflected in their status within the town and country planning system, falling within the category of “national development” under the NPF3.

8.1.28 The Project has obtained the necessary section 36 consent and related marine licences to enable construction of the offshore aspects of the Project. In addition, planning permission has been granted for the onshore elements. These confirm that the Project overall has very strong policy support and that has been reflected in the positive decision making in respect of the various aspects of it.

8.1.29 Scotland’s National Planning Framework 4 Consultation

- (i) The Scottish Government is currently consulting on the fourth iteration of the NPF, NPF4. The most recent stage was a Call for Ideas, which closed on 30 April 2020. The Scottish Government published the analysis of responses in August 2020.
- (ii) One of the key themes identified was sustainable energy. A number of respondents were said to have viewed changes to the planning framework as an important prerequisite for meeting the net-zero target and as such an increase in renewables development, support for the development in

energy storage capacity alongside grid infrastructure and capacity are all necessary steps.

8.1.30 Position Statement

- (i) In November 2020 the Scottish Government published a Position Statement which sets out their current thinking having digested the information received through the above mentioned Call for Ideas, as it works towards a draft NPF4. The Position Statement is not itself a document setting out policy but rather aims to inform further discussions. The Scottish Government will extensively consult on the detail in Autumn 2021.
- (ii) The Position Statement notes the requirement to achieve net-zero emissions by 2045. One of the key opportunities to achieve this, set out in the Position Statement, is by supporting renewable energy developments, including new and replacement grid infrastructure. The Position Statement also notes that the Scottish Government expects NPF4 will confirm their view that the global climate emergency should be a material consideration in considering applications for appropriately located renewable energy developments. Additionally support will be needed to deliver associated infrastructure of low and zero carbon fuel sources which include grid networks.

8.1.31 Moray Local Development Plan

- (i) The importance of “national development” is reflected in the Moray Local Development Plan 2020, which was adopted on 27 July 2020. Policy EP5 (open space) sets out that developments which would result in a change of use of a site identified as environmental land such as a natural/semi-natural greenspace to anything other than an open space use will be refused. Natural/semi-natural greenspaces are defined as:
“areas of undeveloped or previously developed land with residual natural habitats or which have been planted or colonised by vegetation and wildlife, including woodland and wetland areas”
- (ii) However, an exception is allowed:
“where the proposal is for essential community infrastructure required to deliver the key objectives of the Council and its Community Planning Partners...”
- (iii) One of the key objectives outlined in the plan is to:
“Encourage efficient use of land and promote low carbon and sustainable development. Additionally, ‘national developments’ under the NPF are the first priority in the hierarchy of developments.”

8.1.32 Aberdeenshire Local Development Plan

- (i) The importance of “national development” is reflected in the Aberdeenshire Local Development Plan 2017 which was adopted by Aberdeenshire Council on 17 April 2017. Policy R1 (special rural areas) sets out the restrictions on development in green belt land, but, recognising the priority of national development, permits that development within the protected green belt area:
“Housing and employment development opportunities will be significantly restricted in the greenbelt and coastal zone to reflect the special nature of these areas. We will only allow development if it is essential and cannot be located elsewhere. In the greenbelt the following development is permitted:
...
development identified as a national priority in the National Planning Framework;”

8.1.33 The Onshore Works have clear policy support at a national and local level.

8.2 Economic Benefit

- 8.2.1 Moray West will create significant economic benefit for the UK. The Ocean Winds office in Edinburgh employs over 100 professional staff including 30 dedicated to Moray West with this number rising steadily as the project matures. The development phase of the project, with a budget to date of over £40 million, has been extensively supported by external UK based professional service providers including lawyers, engineering and environmental consultancies and engagement with the supply chain.
- 8.2.2 The project will require a substantial multi-billion pound deployment of capital and is actively seeking a strong UK content element as procurement advances. Local economic benefit from the onshore civils work is expected to be high with local flow down to support businesses such as plant hire, site accommodation and staff accommodation. The EIA for the project estimated between 1,080 and 3,080 FTEs in Scotland would be supported during the construction phase. A regional port is expected to act as an intermediate delivery port for the construction phase, hosting the major wind farm components around the installation phase with associated opportunities for elements of fabrication, inspection, post-transport repair and pre-commissioning activity. The operational phase of the project will utilize a local port with resulting long term economic benefit to the UK and directly to the local Scottish economy. The project EIA estimated between 100 and 160 Scottish FTEs would be sustained during the operational phase, many of those in the local area.
- 8.2.3 An accurate portrayal of the wider economic gain to Scotland and the UK from the contribution of the project to an efficient transition to a low carbon economy is beyond the scope of a commentary contained within a statement of reasons. Nevertheless, the broader economic benefits include: affordable and clean energy for homes and businesses, climate action towards a range of related targets, improved coastal and rural infrastructure and well-paid, long term and safe jobs from components and services in a clean growth sector that assists transitioning of the workforce and industrial sectors to meet future need. The established expertise and experience in the Scottish offshore oil and gas sector, with its skilled workforce, are well placed to support the project and other offshore wind projects and thereby manage their medium/long term transition. The economic benefit in the UK from offshore wind projects is most clearly seen in the coastal communities where new investments can revitalise areas that have faced decline.

8.3 The Type and Extent of Compulsory Rights Sought

- 8.3.1 As noted in section 1 above in preparing the Order the acquiring authority has had proper regard to Scottish Government Circular 6/2011 on compulsory purchase orders and has sought to use the most specific powers available to it under the 1989 Act to obtain the rights it requires. The acquiring authority considered all powers available to it to acquire rights to enable delivery of the Onshore Works:
- 8.3.2 Voluntary negotiations
- (i) As summarised in section 10 below the acquiring authority has made significant efforts to obtain the servitude rights required to deliver the Project through voluntary treaty. To date that has not proven possible in respect of a very limited number of land parcels.
- 8.3.3 Compulsory acquisition of land
- (i) The acquiring authority considered that the use of powers to outright acquire land (Section 10 of and Schedule 3 to the Electricity Act 1989) are likely unnecessary and disproportionate in the context of having secured voluntarily an agreement to acquire land for the substation.
- 8.3.4 Voluntary Wayleaves
- (i) The acquiring authority considered that seeking voluntary wayleaves from landowners (even if successful) would not afford sufficient or appropriate rights to deliver the Onshore Works for the following reasons:
- (ii) A voluntary wayleave is only capable of binding those owners or occupiers who enter into it and not, importantly, successors in title, other occupiers

or mortgagees. Where the land changes hands therefore, the rights under the voluntary wayleave will be lost.

- (iii) Similarly a voluntary wayleave is capable of being terminated by the owner or occupier prior to the installation taking place. This again presents significant construction programming and cost risks and would render the Project unworkable.
- (iv) Even post installation of the cable the voluntary wayleave can be terminated on notice and a licence holder would then have to apply to the Scottish Ministers for a necessary wayleave to retain the cable

8.3.5 Necessary Wayleaves

- (i) In circumstances where a landowner or occupier has refused to enter into a voluntary wayleave, has granted a voluntary wayleave on terms to which the licence holder objects or has terminated a voluntary wayleave, a generation licence holder (such as the acquiring authority) could apply to the Scottish Ministers to grant a necessary wayleave under paragraph 6, Schedule 4 to the 1989 Act. Whilst a necessary wayleave, once granted, will bind successors in title to the land, the acquiring authority considers that seeking such necessary wayleaves would not afford sufficient or appropriate rights to deliver the Onshore Works for the following reasons:
 - (i)(a) A necessary wayleave can only be sought in circumstances where a voluntary wayleave has been refused. The acquiring authority therefore cannot unilaterally avoid the unsatisfactory elements of the voluntary wayleave process;
 - (i)(b) Although a necessary wayleave is binding on successors in title it cannot be registered or recorded in property registers and so will not be disclosed by property searches and (importantly) cannot be made subject to the grant of a standard security. This differs from a formal servitude, which, unlike a wayleave, attaches to the benefited land and will therefore be covered by a standard security granted over the benefited property (i.e. the substation site). The inability to secure a wayleave in this way is problematic as it would deter lenders from providing project finance for the project, as lenders invariably require such a security over the project cable rights. As an additional remark, the absence of any public flag to the existence or location of underground cables makes it more susceptible to accidental damage/creates a potential health and safety risk;
 - (i)(c) Most seriously and fundamentally, as set out at section 3 above land interests acquired in respect of the Onshore Works must be capable of being transferred to an OFTO. The wayleave procedure does not provide for such a transfer.
 - (i)(d) In addition the acquiring authority considers that, whilst a necessary wayleave as defined within paragraph 6, Schedule 4 to the 1989 Act may be succinctly stated, it still contains wide-ranging powers that are no less burdensome than the rights sought by the acquiring authority under the Order.

8.4 Compelling case in the Public Interest

- 8.4.1 UK and Scottish Government policy on the delivery of renewable energy (and in particular offshore wind) and the infrastructure to support it is set out in section 8.1 above. The Project is clearly consistent with and is capable of making an important contribution towards the objectives of these policies. As also discussed above, delivery of the Project also has the potential to create significant economic benefit.
- 8.4.2 As explained in section 5 above delivery of the Onshore Works are necessary to realise the benefits of the Project overall. Without the necessary land rights being acquired (either voluntarily or by compulsory acquisition in the form summarised in section 6) it will not be possible to deliver the Project. The rights sought are proportionate and necessary. Despite substantial efforts on the part of the acquiring

authority it has not been possible to obtain the rights voluntarily. In the circumstances the acquiring authority submits that it is clearly in the public interest to confirm the Order in the form requested

8.5 European Convention on Human Rights (“ECHR”)

8.5.1 The ECHR is incorporated into UK law by the Human Rights Act 1998. Article 1 of the First Protocol to the ECHR states that:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”

8.5.2 If the powers of compulsory acquisition contained in the Order are authorised, the owners and occupiers of (or other rights holders within) the Order Land may be restricted in their use and enjoyment of their property. However, as explained above, the development of the Project is in the public interest and therefore falls within the exception contained within the Protocol.

8.5.3 Article 6 of the ECHR states:

“In the determination of his civil rights and obligations... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”

8.5.4 The compulsory acquisition process provides those potentially affected by any compulsory purchase order to make representations in its respect. Additionally, parties affected by the Order have been consulted prior to the Order being made. It is submitted that on this basis the rights contained within Article 6 of the ECHR are satisfied.

8.5.5 Article 8 of the ECHR states:

“Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.”

8.5.6 Any interference with this right shall be made in accordance with the 1989 Act and other relevant legislation. It is considered that such interference is necessary in a democratic society in the interests of the economic well-being of Scotland (and the UK as a whole) given that it will generate much needed renewable energy thus helping to tackle climate change, security of energy supply and it will help develop the renewables supply chain within the country.

8.5.7 The potential infringement of ECHR rights has been considered in including compulsory acquisition powers within the Order against the potential public benefits gained if the Project is developed. The Project has the potential to generate significant amounts of renewable energy which will be of great benefit to Scotland and the rest of the UK in meeting its renewable energy targets. It will provide significant additional generation capacity at a time when many large power stations are becoming life-expired and closing, thus helping to ensure the security of electricity supply to UK households and businesses.

8.5.8 In order for this benefit to be achieved, the compulsory acquisition powers sought in the Order must be granted. It is considered that the Order strikes a fair balance between the public interest in the development going ahead and the interference with the rights that will be affected.

9. The position in respect of consents and related applications

9.1 The acquiring authority was granted planning permission in principle by both Aberdeenshire Council and Moray Council on 28 November 2018 and 3 December 2018.

In relation to a few locations along the route the acquiring authority is exploring further planning applications to accommodate small amendments to the route. .

- 9.2 The offshore wind farm was granted consent by the Scottish Government under Section 36 of the Act on 14 June 2019. The marine licences for the generating station and the transmission infrastructure were granted on 14 June 2019.
- 9.3 Works to discharge the conditions of both planning permissions in principle is currently being undertaken and will now run alongside this compulsory purchase process.

10. Engagement with landowners and occupiers

- 10.1 In 2017 the acquiring authority undertook land referencing in relation to the potential landfalls, cable routes and potential onshore substation sites. Land agents made contact with landowners or neighbouring proprietors where necessary to establish ownership / occupier details. As part of the pre-application consultation process four public exhibitions were held between 27 February 2018 and 29 March 2018 at Buckie, Keith, Portsoy and Sandend. The acquiring authority and their land agents were present at each of these meetings and met with landowners who attended the events.
- 10.2 As part of the planning determination process a Pre-Determination hearing was held in Portsoy on 24th September 2018. At the hearing the acquiring authority made members of the project team available together with consultants, land agents and experts to answer queries. This included responding to queries within the formal business of the meeting as well as before and after the meeting with individual landowners to enable parties to engage effectively and with confidentiality as required. In addition, a number of separate meetings were arranged with individual landowners on later dates.
- 10.3 Initial discussions were held from Q3 2017 to establish whether landowners were willing to allow environmental surveys to be carried out to support the future onshore planning application. Pre-application environmental surveys were completed for environmental receptors along the onshore cable corridor. These site specific surveys and studies included ecology (including habitats and breeding bird surveys), hydrology and hydrogeology (including identification of private water supplies where possible), cultural heritage, noise, traffic and transport and landscape and visual impact studies. Further water vole surveys were conducted in September 2016. These surveys and studies have, where possible, been used to inform the narrowing of the planning corridor within the Order Land.
- 10.4 In addition, site walkovers and meetings with landowners and their representatives to discuss technical matters in relation to the cable route have also been conducted from 2018 onwards to establish constraints and the presence of utilities and services, including drainage and private water supplies.
- 10.5 In the guise of its shareholders' involvement in the wider Moray Firth development zone, affiliates of the acquiring authority have engaged with the supply chain to support development of the Moray West onshore works. As part of that engagement, potential contractors have also visited the proposed route (and indeed the wider area that could host any connection) and have provided technical input on matters such as development viability, engineering constraints, access requirements, road crossings and expected HDD works.
- 10.6 Commencing in October 2017 the acquiring authority proposed commercial terms for an option and servitude to the known landowners within the route corridor. From that time forward, the acquiring authority and their agents have met and have been willing to meet landowners to understand any concerns and specific site related issues. This has resulted in the acquiring authority constraining areas of their option agreements and incorporating landowner requirements into the final route where possible. On 25 March 2019 the acquiring authority entered into an option agreement for the purchase of the substation site.
- 10.7 At the time of the making of the Order over 90%per cent of the route ownerships are subject to voluntary agreement. The acquiring authority's strong and clear preference throughout is to reach voluntary agreements with all landowners within the Order Land.

This remains the case and the acquiring authority will continue to negotiate with any landowner willing to do so.

- 10.8 The table below summarises the engagement made to date in respect of each plot of land forming part of the Order Land, and summarises the reason for including the plot in the Order.

Plot Number:	Owner	Engagement to date	Reason for inclusion in the Order
1	<p>Rachael Shearer Davidson, residing at Netherton Farm, Keith, AB55 5PE</p> <p>Harold Paterson Davidson, residing at Netherton Farm, Keith, AB55 5PE</p>	<p>Initial contact was made with the landowner's representative, Larry Irwin of Strutt and Parker, in September 2018 and draft proposed Heads of Terms for the acquisition of a cable servitude provided together with associated draft option plan.</p> <p>Over the following 6 months there was regular communication between the acquiring authority's land agent, Savills, and Strutt and Parker. Discussion focused on clarifying routes and option area and potential for development on the land affected. In response to discussions, revised option plans were provided in May 2019.</p> <p>Further discussion and a meeting between the acquiring authority's land agent, Savills, and Strutt and Parker took place on 24th July 2019. This focussed on the requirement for a servitude over a wayleave. Throughout this period there was significant disparity in commercial terms.</p> <p>In August 2019, the acquiring authority was able to further clarify route options and reduce the option area being sought.</p> <p>Discussions between agents continued for several months without reaching agreement and the necessity to consider compulsory acquisition while continuing to work towards a voluntary settlement was advised to Strutt and Parker on 1 April 2020. At this</p>	<ul style="list-style-type: none"> The reason for inclusion of this plot within the Order is that despite substantial efforts, the acquiring authority has been unable to conclude a voluntary agreement with the owner of the plot for the grant of the necessary rights.

Plot Number:	Owner	Engagement to date	Reason for inclusion in the Order
		<p>point, following detailed design discussions, a further reduced option area was proposed.</p> <p>Following further discussions, an email was sent to Strutt and Parker on 27 July 2020 outlining the specific updated terms on which the acquiring authority remained willing to enter into a voluntary agreement and seeking a response within 7 days.</p> <p>Strutt and Parker responded on 3 August to say that despite additional provisions now being agreed in principle their client remained unwilling to accept the latest commercial terms and remained concerned regarding impact on future development.</p> <p>On 10 August 2020 the acquiring authority's agent, Savills requested access for non-invasive environmental surveys. This was subsequently refused by the landowner's agent, Strutt and Parker as the outstanding commercial terms had not been agreed.</p> <p>On 18 August 2020, solicitors for the acquiring authority issued a Formal Final Notice of Offer to the owners setting out the terms on which the acquiring authority were willing to enter into a voluntary agreement.</p> <p>Following further discussion with the owner's agent on 10 September 2020, a further reduced option area proposal was provided on 11 September.</p>	

Plot Number:	Owner	Engagement to date	Reason for inclusion in the Order
		<p>The respective land agents have subsequently remained in contact and further understanding of the basis for outstanding commercial concerns has been sought but to date it has not been possible to reach a voluntary agreement due to a significant disparity between the owner's aspirations and the consistent terms the acquiring authority has agreed elsewhere on the route.</p> <p>Further discussions between agents continued for several months without reaching agreement. Following further reviews and in an attempt to reach agreement a further reduced and amended option area was provided to the owner's agent on 28 January 2021.</p> <p>On 19 March 2021, solicitors for the acquiring authority issued a Formal Final Notice of Offer to the owners setting out the terms on which the acquiring authority were willing to enter into a voluntary agreement.</p> <p>Further discussions between agents have continued throughout April 2021 both in respect of the commercial sums and reduced option area but no agreement has been reached.</p>	
2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H, 2J, 2K	Philip Simmers residing at Backmuir Farmhouse, Backmuir, Keith, AB55, 5PE	Initial contact was made with the landowners' representative in January 2018.	<ul style="list-style-type: none"> The reason for inclusion of this plot within the Order is that despite efforts, the acquiring authority has been unable to conclude a

Plot Number:	Owner	Engagement to date	Reason for inclusion in the Order
	<p>Symon Edward Grant Simmers residing at Greenwood House, Keith, AB55 5PW</p>	<p>Over the following several months there were a series of meetings between the landowner and Watson Bell (agent for the landowner) and the acquiring authority and its agent to discuss a potential substation site and cable routeing options. During this period, a series of amended draft proposal plans were prepared and provided to the landowner's agent along with corresponding proposed commercial terms with a view to reaching voluntary agreement for the acquisition of a substation site and cable servitude together with ancillary rights. A significant disparity in commercial terms remained at this stage.</p> <p>A meeting was held with the landowners and their agent on 3 December 2018 when a further offer was made.</p> <p>Following further discussions the significant disparity in commercial terms and associated conditions remained unresolved. As a consequence of the continued uncertainty the substation land requirement was instead solely sourced from another nearby landowner.</p> <p>A revised requirement and updated offer was made to the landowner's agent on 11 November 2019. This</p>	<p>voluntary agreement with the owner of the plot for the grant of the necessary rights.</p>

Plot Number:	Owner	Engagement to date	Reason for inclusion in the Order
		<p>restricted the nature of the project's request to rights for the cable route; access and a temporary main construction compound for the cable works.</p> <p>A meeting was held with the landowners' agent on 11 December 2019 and various revisals suggested for consideration at a further meeting to include both the acquiring authority and the landowner.</p> <p>Revised terms were sent for consideration on 9th January 2020 and discussions continued with landowners' agent. Following a joint meeting held on 16th January 2020 a further offer was made and further amended cable route and Option area plans provided.</p> <p>Further dialogue continued with updated cable route and reduced Option area plans issued to reflect the landowners observations.</p> <p>On 26 March 2020 the landowners' agent requested a meeting once Covid 19 measures permitted.</p> <p>In the interim, discussions between the agents continued including responses to specific requests for further detail from the landowners' agent</p>	

Plot Number:	Owner	Engagement to date	Reason for inclusion in the Order
		<p>regarding the potential construction compound, access road and related commercial terms.</p> <p>On 24 April 2020 the landowners' agent advised the acquiring authority's agent that his clients no longer wished to continue discussions regarding the construction compound or access road as despite several practical concerns being resolved, the commercial sums offered were well below the landowners' aspirations.</p> <p>After further discussion between the agents to clarify the landowners' stance, an offer letter was sent on 19 May 2020 to the landowners and their agent confirming the acquiring authority's proposed terms ahead of potentially requiring to seek recourse to compulsory process.</p> <p>Following further discussion with the landowners' agent, a meeting was held on 10 June 2020 between the landowners and their agent and the acquiring authority and its agent at the landowners' premises. However no agreement on commercial terms was reached. The intention of the acquiring authority to move to a final offer based upon the cable servitude and access only was indicated in the absence of agreement, with compound rights further removed from the proposed terms.</p>	

Plot Number:	Owner	Engagement to date	Reason for inclusion in the Order
		<p>On 10 August 2020 acquiring authority requested access for non-invasive environmental surveys. That request was subsequently refused by the landowner.</p> <p>On 18 August 2020, solicitors for the acquiring authority issued a Formal Final Notice of Offer to the owners setting out the terms on which the acquiring authority were willing to enter into a voluntary agreement.</p> <p>On 7 September 2020 the acquiring authority offered the opportunity of a further meeting to which the landowners' agent advised that his clients felt there was nothing further to discuss.</p> <p>On 24 December 2020 the land owner's agent confirmed they were no longer acting and to contact the landowner directly. This was acknowledged by the acquiring authority's agent on 5 January 2021.</p> <p>On 20 January 2021 the acquiring authority advised the land owners of non-invasive high altitude aerial surveys to be conducted. No response was received.</p> <p>On 19 March 2021, solicitors for the acquiring authority issued a Formal Final Notice of Offer to the owners setting out the terms on which the acquiring authority were willing to enter into a voluntary agreement.</p>	

Plot Number:	Owner	Engagement to date	Reason for inclusion in the Order
		<p>On 24 March 2021 the acquiring authority in a further attempt to reach agreement sought discussions with the land owner.</p> <p>On 25 March 2021 the land owner advised they were in the process of appointing a new agent.</p> <p>On 27 March 2021 confirmation was received from the new agent appointed by the land owners.</p> <p>On 14 April 2021 discussions held between agents and update expected from the land owners agent. No update yet received.</p>	

Table 5 – Engagement in respect of relevant plots

11. Barriers to completing the scheme

- 11.1 The planning permissions in principle require the acquiring authority to obtain approval from the local planning authority of various matters specified in conditions and in addition as stated above there is a requirement for a separate planning consent for the additional areas that lie out-with the current consented boundary.
- 11.2 There are no further barriers to implementing the Order.

12. Funding

- 12.1 The audited 2019 financial statements of the acquiring authority were prepared on the going concern basis on the basis of continuing financial support from its shareholders, UAB Ignitis Renewables, EDP Renewables Europe S.L.U, Moray Offshore Renewable Power Limited and Delphis Holdings Limited and their respective parent companies. It is anticipated that future costs in respect of compensation will be met by the Project through direct funding from these companies and potential new investors into the Project.
- 12.2 The combined strength of Moray Offshore Renewable (and its parent company Ocean Winds UK Limited) and Delphis Holdings has been further enhanced by their coming together in joint venture through OW Offshore, S.L. EDP Renováveis S.A. reported a 2019 net revenue of 1.72 billion Euros and Engie, the owner of Delphis Holdings reported a 2019 turnover of 60.1 billion Euros. UAB Ignitis Renewables reported a revenue of 437.4 million Euros in 2019 and Ignitis is the largest supplier of electricity and gas in Lithuania, supplying more than 1.6 million people.
- 12.3 The stakeholders intend to part fund the construction of the Project by raising finance at the project level. The acquiring authority will target a non-recourse project finance solution and also target debt leverage to part fund the capital build programme. It is expected that the equity ownership of the Project will be comprised of a group of 3 or 4 investors including both EDPR and ENGIE through the Ocean Winds joint venture. Further Co-investors in the project are expected to be large integrated utilities/industrials or infrastructure funds.
- 12.4 Debt for the Project is expected to be drawn from a combination of project finance banks and multilateral agencies.

13. Special considerations

- 13.1 There are no special considerations affecting the land.
- 13.2 As noted in the First Schedule to the Order, the Order Land comprises some land which is occupied by statutory undertakers. These interests have been specifically preserved in the Second Schedule to the Order.

14. Ministerial statements

- 14.1 Other than the various offshore consents granted (as summarised in section 9 above), no ministerial statements have been made in respect of the Project.

15. List of documents and other useful information

The acquiring authority will have deposited a copy of the Order, the Order Map, the Location Plan and this Statement of Reasons at Keith Library, Union Street, Keith, AB55 5DP. These documents are available for inspection free of charge between the following hours:

Monday	13:00 – 15:00
Tuesday	14:00 – 18:00
Wednesday	Closed
Thursday	14:00 – 18:00
Friday	10:00 – 12:00
Saturday	10:00 – 12:00
Sunday	Closed

- 15.1 The acquiring authority will also have carried out the necessary statutory notification and advertisement of the making of the Order. Individual notices will have been served. Newspaper adverts will be published in the Press and Journal.
- 15.2 The statutory notices advise that any objections to the Order must be made in writing stating the title of the Order and the grounds of objection and addressed to Scottish Government, Energy Consents Unit, 4th Floor, 5 Atlantic Quay, 150 Broomielaw, Glasgow G2 8LU (email address: econsents_admin@gov.scot) by 4 June 2021.
- 15.3 As noted in section 1, the following documents will have been provided to the Scottish Ministers to accompany the acquiring authority's request for confirmation:
- 15.3.1 Two copies of the signed and dated Order (original plus one certified copies);
 - 15.3.2 Two sets of the Order Map (Plans 1 to 8) (included within the copies of the Order);
 - 15.3.3 Two sets of the Location Plan (Plans 1 to 6) (included within the copies of the Order);
 - 15.3.4 Two copies of this Statement of Reasons;
 - 15.3.5 Certified copies of the notices of the making of the Order;
 - 15.3.6 Certified copies of both newspaper advertisements of the making of the Order and information about the publication dates;
 - 15.3.7 General Certificate in support of the Order submission; and
 - 15.3.8 Protected Assets and Special Category Land Certificate.

16. Conclusions

- 16.1 This Statement of Reasons has provided sufficient information to demonstrate that the confirmation of compulsory acquisition powers sought within the Order (namely the compulsory purchase of new rights in the Order Land):
- 16.1.1 Is necessary for the delivery of the Project.
 - 16.1.2 Involves only interference with rights for a legitimate purpose and is proportionate.
 - 16.1.3 Is consistent with (and not in breach of) the European Convention on Human Rights.
- 16.2 This Statement of Reasons has also:
- 16.2.1 Introduced the acquiring authority and explained the powers under which it made and requests the confirmation of the Order;
 - 16.2.2 Explained that reasonable alternatives to compulsory purchase of new rights were fully explored;
 - 16.2.3 Confirmed that commercial negotiations have been sought and in the significant majority of cases have been successful;
 - 16.2.4 Detailed the Onshore Works required as part of the Project and the development consents in place to authorise them;
 - 16.2.5 Explained the compulsory rights sought and how these relate to the Order Land during different phases of development;

16.2.6 Offered a Code of Conduct to mitigate adverse effects of the Order.

It is therefore requested that the Order be confirmed as made.

APPENDIX 1

SECTION 6 ELECTRICITY ACT 1989

ELECTRICITY GENERATION LICENSE

**ELECTRICITY ACT 1989
SECTION 6(1)(a)**

ELECTRICITY GENERATION LICENCE

FOR

Moray Offshore Windfarm (West) Limited

NOTE

The licence holder is subject to the
environmental obligations set out in Schedule 9
(Preservation of Amenity and Fisheries)
of the Electricity Act 1989

PART 1. TERMS OF THE LICENCE

1. This licence, granted under section 6(1)(a) of the Electricity Act 1989 ("the Act"), authorises Moray Offshore Windfarm (West) Limited (a company registered in England and Wales under company number 10515140) ("the licensee") whose registered office is situated at 14-18 City Road, Cardiff, CF24 3DL, United Kingdom, to generate electricity in the area specified in Schedule 1 for the purpose of giving a supply to any premises or enabling a supply to be so given, during the period specified in paragraph 3 below, subject to -
 - (a) the standard conditions of electricity generation licences referred to in -
 - (i) paragraph 1 of Part II below, which shall have effect in the licence; and
 - (ii) paragraph 2 of Part II below which shall only have effect in the licence if brought into effect in accordance with the provisions of the standard conditions,

subject to such amendments to those conditions, if any, as are set out in Part III below (together "the conditions");
 - (b) the special conditions, if any, set out in Part IV below ("the special conditions");
 - (c) such Schedules hereto, if any, as may be referenced in the conditions, the special conditions or the terms of the licence.
2. This licence is subject to transfer, modification or amendment in accordance with the provisions of the Act, the special conditions or the conditions.
3. This licence shall come into force on 27 March 2018 and unless revoked in accordance with the provisions of Schedule 2 shall continue until determined by not less than 25 years' notice in writing given by the Authority to the Licensee, such notice must not be served earlier than a date being 10 years after the Licence comes into force.
4. The provisions of section 109(1) of the Act (Service of documents) shall have effect as if set out herein and as if for the words "this Act" there were substituted the words "this licence".
5. Without prejudice to sections 11 and 23(1) of the Interpretation Act 1978, Parts I to IV inclusive of, and the Schedules to this licence shall be interpreted and

construed in like manner as an Act of Parliament passed after the commencement of the Interpretation Act 1978.

6. References in this licence to a provision of any enactment, where after the date of this licence -
- (a) the enactment has been replaced or supplemented by another enactment, and
 - (b) such enactment incorporates a corresponding provision in relation to fundamentally the same subject matter,

shall be construed, so far as the context permits, as including a reference to the corresponding provision of that other enactment.

**The Official Seal of the Gas and
Electricity Markets Authority
hereunto affixed is authenticated
by:-**



.....
Lesley Nugent

**Authorised in that behalf by the
Gas and Electricity Markets Authority**



27 March 2018

PART II. THE STANDARD CONDITIONS

1. Standard conditions in effect in this licence

Section A	Section B	Section C
Standard condition 1	Standard condition 5	Standard condition C1
Standard condition 2	Standard condition 6	Standard condition C3
Standard condition 3	Standard condition 7	Standard condition C4
	Standard condition 9	
	Standard condition 10	
	Standard condition 11	
	Standard condition 12	
	Standard condition 13	
	Standard condition 14	
	Standard condition 15	
	Standard condition 16 (paragraphs 1-4)	
	Standard condition 16A (paragraph 1)	
	Standard condition 16B	
	Standard condition 17 (paragraphs 1-13)	
	Standard condition 17A (paragraphs 1-12)	
	Standard condition	

	18 (paragraphs 1-6)	
	Standard condition 19	
	Standard condition 19B	
	Standard condition 20A	

2. Standard conditions not in effect in this licence

Section C	Section D
Standard condition C1	Standard condition D1
Standard condition C3	Standard condition D2
Standard condition C4	Standard condition D3
	Standard condition D4
	Standard condition D5

Note: A copy of the standard conditions of electricity generation licences as determined by the Secretary of State together with subsequent modifications can be inspected at the principal office of the Authority. The above lists are correct at the date of this licence but may be changed by subsequent modifications to the licence.

PART III. AMENDED STANDARD CONDITIONS PARTICULAR TO THIS LICENCE

There are no amendments to the standard conditions

PART IV. SPECIAL CONDITIONS

There are no special conditions

SCHEDULE 1
SPECIFIED AREA

Great Britain, in the territorial sea adjacent to Great Britain or in a Renewable Energy Zone.

where:

Renewable Energy Zone has the meaning given by section 84(4) of the Energy Act 2004.

SCHEDULE 2

REVOCATION

1. The Authority may at any time revoke the licence by giving no less than 30 days' notice (24 hours' notice, in the case of a revocation under sub-paragraph 1(f)) in writing to the licensee:
 - (a) if the licensee agrees in writing with the Authority that the licence should be revoked;
 - (b) if any amount payable under standard condition 4 (Payments by the Licensee to the Authority) is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Authority has given the licensee notice that the payment is overdue - provided that no such notice shall be given earlier than the sixteenth day after the day on which the amount payable became due;
 - (c) if the licensee fails:
 - (i) to comply with a final order (within the meaning of section 25 of the Act) or with a provisional order (within the meaning of that section) which has been confirmed under that section and (in either case) such failure is not rectified to the satisfaction of the Authority within three months after the Authority has given notice in writing of such failure to the licensee - provided that no such notice shall be given by the Authority before the expiration of the period within which an application under section 27 of the Act could be made questioning the validity of the final or provisional order or before the proceedings relating to any such application are finally determined; or
 - (ii) to pay any financial penalty (within the meaning of section 27A of the Act) by the due date for such payment and such payment is not made to the Authority within three months after the Authority has given notice in writing of such failure to the licensee - provided that no such notice shall be given by the Authority before the expiration of the period within which an application under section 27E of the Act could be made questioning the validity or effect of the financial penalty or before the proceedings relating to any such application are finally determined;
 - (d) if the licensee fails to comply with:
 - (i) an order made by the court under section 34 of the Competition Act 1998;
 - (ii) an order made by the Authority under Sections 158 or 160 of the Enterprise Act 2002
 - (iii) an order made by the Competition Commission under Sections 76, 81, 83, 84 and 161 of the Enterprise Act 2002

- (iv) an order made by the Secretary of State under Sections 66, 147, 160 or 161 of the Enterprise Act 2002.
 - (e) if the licensee:
 - (i) has ceased to carry on the generation business;
 - (ii) has not commenced carrying on the generation business within 3 years of the date on which the licence comes into force;
 - (f) if the licensee:
 - (i) is unable to pay its debts (within the meaning of section 123(1) or (2) of the Insolvency Act 1986, but subject to paragraphs 2 and 3 of this schedule) or has any voluntary arrangement proposed in relation to it under section 1 of that Act or enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Authority);
 - (ii) has a receiver (which expression shall include an administrative receiver within the meaning of section 251 of the Insolvency Act 1986) of the whole or any material part of its assets or undertaking appointed;
 - (iii) has an administration order under section 8 of the Insolvency Act 1986 made in relation to it;
 - (iv) passes any resolution for winding-up other than a resolution previously approved in writing by the Authority; or
 - (v) becomes subject to an order for winding-up by a court of competent jurisdiction; or
2. For the purposes of sub-paragraph 1(f)(i), section 123(1)(a) of the Insolvency Act 1986 shall have effect as if for "£750" there was substituted "£100,000" or such higher figure as the Authority may from time to time determine by notice in writing to the licensee.
 3. The licensee shall not be deemed to be unable to pay its debts for the purposes of sub-paragraph 1(f)(i) if any such demand as is mentioned in section 123(1)(a) of the Insolvency Act 1986 is being contested in good faith by the licensee with recourse to all appropriate measures and procedures or if any such demand is satisfied before the expiration of such period as may be stated in any notice given by the Authority under paragraph 1.
 4. The Authority may at any time revoke the licence by giving no less than 7 days notice in writing to the Licensee where the Authority is satisfied that there has been a material misstatement (of fact) by, or on behalf of the Licensee, in making its application for the Licence.

APPENDIX 2

DRAFT CODE OF CONDUCT

Draft Code of Conduct

CODE OF CONDUCT

Between

Moray Offshore Windfarm (West) Limited, a company incorporated under the Companies Acts (Company Number 10515140) and having their Registered Office at c/o Shepherd And Wedderburn Llp, Condor House, 10 St. Paul's Churchyard, London, United Kingdom, EC4M 8AL (who and in substitution therefor its assignees and successors as owner of the Onshore Works are herein referred to as the "Operator")

and

[Insert name and designation of landowner] ("the Landowner")

Introduction

1.1 The Operator and the Landowner have entered into this Code of Conduct in order to agree processes and establish good practice for the delivery of the Onshore Works within land (the "land") owned by the Landowner. Any changes to the procedures will be agreed between the Operator and the landowner, such agreement not to be unreasonably withheld or delayed.

1.2 The following words and phrases will have the meanings ascribed to them below:

1.2.1 "Onshore Works" has the meaning given to it in the Order;

1.2.2 "Operator" means the developer/owner/operator of the Onshore Works;

1.2.3 "Order" means the Moray Offshore Wind Farm West Compulsory Purchaser Order 2021;

1.2.4 "Planning Permission" means the planning permission reference APP/2018/1891 granted by Aberdeenshire Council and dated 28 November 2018 and planning permission reference 18/01046/EIA granted by Moray Council and dated 3 December 2018 as the same may be varied, amended or supplemented from time to time.

Undertakings

1.3 The Operator shall use its reasonable endeavours (and subject always to it having the necessary rights, consents and permissions to do so):

Preliminary

1.3.1 Prior to carrying out the Onshore Works on the land to prepare a written and photographic Record of Condition ("RoC") and at the Landowner's request to take samples to test for any soil borne pests or diseases;

1.3.2 In carrying out investigation works (including in the digging of trial pits) to minimise the disturbance to land and where holes cannot be immediately re-instated to fence or mark them off pending re-instatement;

1.3.3 To seek to ascertain from the Landowner in advance of the commencement of investigation works on the land the details of land use, land features and Landowner preferences and

concerns including:

- 1.3.3.1 Land ownership, occupancy and other third party rights affecting the land;
- 1.3.3.2 Existing utilities and services;
- 1.3.3.3 Details of previous flooding;
- 1.3.3.4 The location of water supplies, watercourses, springs, wells, cess pools or septic tanks or land drains;
- 1.3.3.5 Any harmful materials, liquids or vegetation in the area or any contamination;
- 1.3.3.6 Any designated areas or grant schemes;
- 1.3.3.7 Any other issues which the Landowner wishes to raise.
- 1.3.4 Other than in the case of emergencies to provide at least 24 hours' notice of the commencement of investigation works on the land and to provide an indicative programme for completion of the investigation works and thereafter to advise reasonably regularly as to any rescheduled timings.
- 1.3.5 Other than in the case of emergencies to provide at least four weeks' notice of the commencement of cable installation works on the land and to provide an indicative programme for completion of the cable installation works and thereafter to advise reasonably regularly as to any rescheduled timings.

Duration of the Works

- 1.3.6 Where practical and safe to do so to maintain the use of existing accesses or provide an alternative access and to endeavour to keep accesses as clear as practical from mud, dust and other debris arising from the Onshore Works;
- 1.3.7 To install fencing and signage where necessary for reasons of health and safety arising from the Onshore Works;
- 1.3.8 To ensure all staff and contractors employed by the Operator are appropriately briefed on their responsibilities on site including compliance with relevant consents, environmental and project plans and health and safety issues;
- 1.3.9 To where practical lay cables forming part of the Onshore Works to a depth that will not impede normal agricultural operations on the land;
- 1.3.10 To store any stripped topsoil separately from other excavated materials and as far as practicable to replace excavated material during restoration to the condition it was prior to cable installation;
- 1.3.11 If for any reason it is not possible to retain and re-instate the same topsoil that was removed to replace that topsoil by a soil of a similar nature, structure and quality which will be tested and the results notified to the Landowner prior to its use on the land;
- 1.3.12 Where practical to minimise damage to trees or hedgerows and where a tree or hedgerow is subject to a statutory designation to consult with the appropriate authority and to comply with any condition imposed by that authority;
- 1.3.13 In the event of damage to existing drainage to re-instate that drainage or to construct a replacement scheme to a reasonably equivalent standard;
- 1.3.14 To provide drawings of all drainage works carried out by the Operator to the Landowner within six months of the completion of the cable laying works forming part of the Onshore Works;
- 1.3.15 To comply with the requirements of SEPA, Internal Drainage Board or other statutory authority as relevant in effecting the installation of cables beneath watercourses on the land and where practical to repair damage to banks and ditches as a result of the Onshore Works;

- 1.3.16 To use reasonable precautions to protect water supplies against interruption and/or pollution and where water supply is interrupted to rectify this within four hours or to provide a reasonable alternative;
- 1.3.17 Where the Landowner has advised it that an area which is the subject of the Onshore Works is affected by disease notifiable under the Animal Health Act 1981 to follow the relevant guidelines, to provide sanitary equipment necessary to avoid fouling of the surrounding land and to dispose of waste off site;
- 1.3.18 To ensure staffer contractors of the Operator will not bring mobile homes, caravans or tents onto the land or reside overnight save where necessary or for security reasons.
- 1.3.19 Where reasonably practical to locate surface/above surface structures forming part of the permanent Onshore Works adjacent to field boundaries and avoiding gateways;
- 1.3.20 To ensure staff or contractors do not carry firearms on the land or bring animals onto the land (other than guard dogs);
- 1.3.21 To notify the Landowner and the appropriate archaeological body of the discovery of any coins, fossils or other artefacts on the land and not to lay claim to them (but noting that the Operator has a legal obligation to have regard to the protection and conservation of objects of archaeological interest and will have to comply with legislative requirements and the Planning Permission);
- 1.3.22 To use stock proof fencing where necessary to protect livestock as a result of the Onshore Works;

Post Works

- 1.3.23 Upon completion of the installation of the Onshore Works and subject always to the need to protect and facilitate the Onshore Works and the ongoing rights provided by the Order relating thereto to restore the area of the land where the works have taken place to a condition equivalent to that existing prior to the commencement of the works as evidenced by the RoC and to repair or replace damaged or removed fences, banks or walls and re-plant any damaged or removed hedgerows;
- 1.3.24 Upon completion of the installation of the Onshore Works to remove all construction tools and equipment brought to the land and to offer the Landowner a joint inspection;
- 1.3.25 As soon as reasonably practicable following completion of the installation of the Onshore Works, the Operator will deliver to the Landowner (where relevant) a drawing showing the as built position of the Operator's cable infrastructure insofar as located on or under the land and which drawing will include measurements showing any reduction in the extent of land to be burdened by the rights of the Operator during the Operation Phase. If required by the Landowner the parties will execute such documentation as may be required to be registered in the Land Register of Scotland to effect any such reduction in the extent of the land burdened by the Operator's rights in a form acceptable to both parties.
- 1.3.26 Other than in the case of emergencies the Operator shall give to the Landowner not less than 24 hours' prior notice of its intention to carry out works to inspect, maintain, replace, renew, repair or decommission the Onshore Works. When exercising its rights to maintain, replace, renew, repair or decommission the Onshore Works the Operator shall adhere to its obligations in sections 1.3.6 -1.3.24 of this Code of Conduct to the extent relevant.

1.4 The Landowner shall use its reasonable endeavours:

1.4.1 to promptly and fully answer queries raised and provide information requested by the Operator pursuant to or to assist it in complying with its obligations under this Code of Conduct including without limitation in relation to the matters set out in clause 1.3.3 above.

..... Date

..... Signed

For and on behalf of Moray Offshore

Windfarm (West) Limited

..... Signed

..... Witness name

..... Address

Director/Authorised Signatory

..... Date

..... Signed

..... Signed

..... Witness name

..... Address

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[Landowner name]

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