**ISLAY COMMUNITY COUNCIL**

# Objection

*to the applications for the proposed*

## MachairWind Offshore Wind Farm

Windfarm Development Area, north-west of Islay

Consent under section 36 of the Electricity Act 1989

Marine licences under Part 4 of the Marine (Scotland) Act 2010

Marine Directorate references 00012385 and 00012386

**July 2026**

## Contents

## 1. The objector, and the basis of this objection

1.1 Islay Community Council objects to the applications made by MachairWind Limited on 25 June 2026 for consent under section 36 of the Electricity Act 1989, and for the marine licences required under Part 4 of the Marine (Scotland) Act 2010, in respect of the proposed MachairWind Offshore Wind Farm in the waters north-west of Islay (Marine Directorate references 00012385 and 00012386) [1][2][3].

1.2 The Community Council is the statutory community body for Islay, constituted under Part IV of the Local Government (Scotland) Act 1973. Section 51(2) of that Act gives it the general purpose of ascertaining and expressing to the public authorities the views of the community it represents, and of taking such action in that community's interests as appears to it expedient and practicable [4]. The determination of these applications rests with the Scottish Ministers; the planning authority for the area is Argyll and Bute Council [2]. This objection is made in discharge of that statutory purpose.

1.3 The Community Council has set out its grounds of objection under the headings which follow. They are not a catalogue of criticisms, and they are not put in the order in which the applicant's own chapters happen to appear. They are put in the order of their weight against this application as it affects Islay: first the harm which the applicant's own consultants accept would be done to the designated coastline of the island and to the setting of its coastal monuments; then the choice of this location in the face of the advice given for it; then the community, the marine environment, the fishing interest and the safety of the sea upon which the island depends; then the protected sites which the law shields absolutely; then the benefit which the applicant advances in justification of all of it; and finally the fact that the Ministers are being asked to decide upon part of a project only. Each ground is advanced as an independent reason for refusal.

1.4 Three points about method should be made at the outset, because they govern everything that follows.

1.5 First, this objection is built on the applicant's own material. Almost every adverse finding relied upon below is the applicant's own finding, taken from its Environmental Impact Assessment Report (“EIAR”), its technical appendices, its Habitats Regulations documentation or the consultation responses it has itself recorded. Where the Community Council performs arithmetic on the applicant's figures, it says so and shows the calculation, so that the Ministers may verify it against the source. The Community Council does not offer competing expert assessment, and its case does not depend upon any.

1.6 Secondly, the Community Council distinguishes carefully between three different kinds of submission, and asks the Ministers to note which is being made at each point. Some of the matters raised below are **mandatory legal requirements**, in the sense that if they are not satisfied consent cannot lawfully be granted at all: that is true of the Habitats Regulations tests addressed in Section 10, and of the sufficiency of environmental information addressed in Section 15. Others are **statutory duties** which constrain how the decision is reached without dictating its outcome, such as the duty under section 15 of the Marine (Scotland) Act 2010 to determine the marine licence applications in accordance with the National Marine Plan unless relevant considerations indicate otherwise [3]. Others again are matters of **policy conflict** which go to the weight to be given to the proposal and to the planning balance, and are not questions of legality at all. The visual and landscape harm addressed in Section 3 falls into this last category. The Community Council does not dress up a matter of weight as a matter of law, and invites the Ministers to hold it to that discipline.

1.7 Thirdly, this objection is directed at this proposal, at this site, upon the evidence which its own promoter has produced. It is not an argument about offshore wind generation in the abstract and the Community Council does not advance one. Islay is an island which the Scottish Government named in May 2022 as one of six Carbon Neutral Islands, each to reach carbon neutrality by 2040, five years ahead of Scotland's statutory net zero date [17]. The community's objection to what is proposed in its waters is not an objection to decarbonisation and should not be characterised as one. The question is whether this development, in this location and at this scale, satisfies the requirements of the framework which governs it. In the Community Council's submission it does not, in a number of separate and independently sufficient respects.

1.8 For the reasons set out below, the Community Council submits that it does not, and asks the Scottish Ministers to refuse both applications. The requests made in the alternative appear at Section 17.

## 2. The proposal, and the framework within which it falls to be determined

### The proposal

2.1 The Project is an offshore wind farm with an export capacity of approximately 2 GW. The Windfarm Development Area (“WDA”) extends to 448 km$^2$ and would accommodate between 91 and 144 wind turbine generators, together with two offshore substation platforms and inter-array cabling. Height and number are inversely related within the design envelope: 91 turbines at a maximum blade tip height of 335 m, or 144 at a maximum of 280 m, with a maximum rotor diameter of 290 m [5]. At its nearest point the WDA lies approximately 15 km north-west of Islay [5][6]. The stated operational life is 35 years, against a seabed lease of 60 years [5].

2.2 The grid connection, confirmed in August 2025, is to the transmission system near Girvan in South Ayrshire. The offshore export cable corridor and the onshore transmission works are not part of these applications and are reserved to separate applications, the offshore cable application being anticipated in 2027 [5]. That division is the subject of Section 12.

2.3 The construction programme is substantial. On the applicant's realistic worst case it would run for five years from the second half of 2030, involving 117 vessels and 5,699 vessel return trips, with vessels assumed to be working 24 hours a day within the WDA; the operational phase would involve some 423 vessel trips and 576 helicopter trips each year [7].

### The statutory and policy framework

2.4 Consent for the generating station is sought under section 36 of the 1989 Act. In determining it the Ministers are bound by paragraph 3 of Schedule 9 to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites and buildings of architectural, historic or archaeological interest, and to do what they reasonably can to mitigate any effect on those matters [2]. That is a duty as to the manner of decision-making; it does not by itself compel refusal, but a decision taken without regard to it would be unlawful.

2.5 The marine licences are sought under Part 4 of the Marine (Scotland) Act 2010. Section 16 requires the Ministers to determine those applications in accordance with Scotland's National Marine Plan unless relevant considerations indicate otherwise, and to state their reasons if they depart from it [3][15]. The Plan's General Policies are planning policy in terms, the Plan itself providing that all of the text in the relevant chapter is to be treated as such [15]. The policies engaged here are GEN 5 (climate change), GEN 6 (historic environment), GEN 7 (seascape, landscape and visual impact), GEN 9 (natural heritage), GEN 13 (noise), GEN 18 (engagement), GEN 19 (sound evidence and precaution) and GEN 21 (cumulative impacts). GEN 1 establishes a presumption in favour of sustainable development, but that presumption is available only to proposals which accord with the Plan's policies, and so is not engaged where those policies are breached [15].

2.6 The applicant sets out its own account of the applicable policy and legislation in Chapter 2 of the EIAR [32]. The development plan comprises NPF4, adopted on 13 February 2023, and the Argyll and Bute Local Development Plan 2, adopted on 28 February 2024 [14][16]. The policies which matter for present purposes are these. NPF4 Policy 1 directs that significant weight be given to the global climate and nature crises, taken together. Policy 2 requires development proposals to be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible. Policy 4(a) provides that proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment will not be supported, and Policy 4(d) governs proposals affecting a landscape area designated in the local development plan, to which Section 3 returns. Policy 11 supports renewable energy generation and directs significant weight to its contribution to emissions targets, subject to conditions which include Policy 11(c), on maximising net economic impact including local and community socio-economic benefits, and Policy 11(e)(ii), which treats significant landscape and visual impacts as generally acceptable only where they are localised and/or appropriate design mitigation has been applied. Policy 11(f) records the expectation that areas identified for wind farms are suitable for that use in perpetuity, and Policy 11(a)(i) supports repowering, extension and expansion [14]. Policy 30 of the Local Development Plan supports renewable energy development where it is consistent with the principles of sustainable development and where it can be adequately demonstrated that there would be no unacceptable environmental effects, whether individual or cumulative, on local communities, the natural and historic environment, landscape character and visual amenity; the applicant identifies that policy as relevant to its own assessment [16][7].

### Where the burden lies

2.7 Each of the operative provisions above is framed as a condition to be satisfied, not as an objection to be rebutted. Support under Policy 4(d) is available only where there are no significant adverse effects, or where such effects are clearly outweighed. Support under Policy 11(c) is available only where local and community benefit is maximised. GEN 19 requires decisions to rest on sound socio-economic and scientific evidence and directs that, where evidence is inconclusive, reasonable efforts be made to fill the gaps and precaution be applied [15]. Under the Habitats Regulations the competent authority must have ascertained the absence of adverse effect on site integrity before consent may be given [21][22].

2.8 It follows that where the applicant has not carried out an assessment capable of demonstrating compliance, the position is not that compliance may be presumed. It is that compliance has not been demonstrated, and the policy or duty in question is not satisfied. That distinction is central to Sections 3, 6 and 15.

## 3. Seascape, landscape and visual impact upon Islay

3.1 The Community Council turns to the effects of the Project on the coastal landscape of Islay. This is a question of planning judgement and policy compliance, not of legality, and it is advanced as such. But it is a question on which the applicant's own assessment provides the answer, and the answer engages a policy test which the applicant has not addressed.

### What the applicant's assessment finds

3.2 The applicant's coastal character assessment, prepared by LUC and submitted as Appendix 16.3 to the EIAR, identifies Coastal Character Areas ("CCA") within 40 km of the WDA and assesses the effect of the Project upon each [8]. Six of those areas lie on Islay. The findings for Islay are summarised in Table 1, and each is the applicant's own conclusion.

**Table 1 – The applicant's assessment of effects on Islay's coastal character areas**

| Coastal Character Area | Distance | Sensitivity | Magnitude | Effect (operation) |
|---|---|---|---|---|
| CCA 18 Sgairail | 18–24 km | High | Medium | **Moderate and significant** |
| CCA 20 Ardnave Point to Rhinns Point | 15–30 km | High | Medium | **Moderate and significant** |
| CCA 19 Loch Gruinart | 15–25 km | High | Low | Minor, not significant |
| CCA 21 Loch Indaal | 23–28 km | Medium | Low | Minor, not significant |
| CCA 22 Laggan Bay | 25–35 km | High | Low | Minor, not significant |
| CCA 16 Sound of Islay | not assessed | – | – | Negligible, not significant |

*Source: EIAR Appendix 16.3, Coastal Character Baseline and Assessment (LUC, November 2025), Tables 2.25 to 2.34 [8]. Effects during construction are assessed as comparable to operational effects in each case.*

3.3 The two coastlines nearest the development are those which the applicant's own consultants find to be significantly and adversely affected, and it is upon those findings that this objection proceeds. The assessment of the remaining Islay coastal character areas, graded lower, is not free of adverse content either. From Loch Gruinart the applicant calculates that the Project would occupy up to some 65 degrees of the horizon, and it records that the turbines would appear on the skyline behind the northern Rhinns peninsula and "may therefore be perceived as an onshore wind farm rather than an offshore development" [8]. A development which reads from an inhabited coast as an onshore wind farm has not been successfully separated from that coast.

3.4 Those two areas are the north and north-west coasts of the island. CCA 20 extends along the west coast of the Rhinns peninsula, some 25 km from Ardnave Point to Rhinns Point, taking in the sandy bays at Sanaigmore, Saligo, Machir and Lossit, the cliffs and headlands between them including Dun Bheolain, and the villages of Portnahaven and Port Wemyss. The applicant records that this coastline lies at the outer edge of the British Isles and of Europe, exposed to the force of the Atlantic, and that it is rich in ancient monuments including forts, standing stones and a chapel [8]. CCA 18 covers approximately 15 km of the northern coast between Killinallan Point and Ruvaal, which the applicant describes as remote, uninhabited and largely undeveloped, with sea stacks, natural arches, caves and narrow inlets [8].

3.5 The applicant's assessed magnitude for each is medium, its assessed sensitivity high, and the resulting effect moderate and significant. Two further features of its findings should be noted. In each case the applicant judges the geographical extent of the change to be large, extending along the whole of the coastline in question [8]. And the horizontal extent of the change is considerable: the applicant calculates that from CCA 20 the Project would occupy a maximum horizontal angle of view of approximately 71 degrees, which is approximately one fifth of the full horizon, and from CCA 18 approximately 59 degrees [8]. For completeness, the applicant's Planning Statement summarises the position across the study area by recording that the major adverse effects predicted were principally those on Colonsay and Oronsay and on north-west and west Islay [6].

3.6 The applicant does not present these effects as capable of being reduced. In the operational assessment for CCA 20 it states that the introduction of the Project into views out towards the open sea would adversely affect the sense of being at the edge of the British Isles, and that views along the coast towards distinctive features including the Dun Bheolain headland would also be adversely affected [8].

### The magnitude gradings, and the distance at which they change

3.7 The gradings in Table 1 require closer examination, because magnitude of change is what drives significance of effect, and the significance attributed to landscape effects is then carried across into the applicant's heritage assessment, its socio-economic assessment and ultimately into the planning balance which the Ministers must strike.

3.8 Neither the Guidelines for Landscape and Visual Impact Assessment, nor NatureScot's guidance, nor the applicant's own written methodology at Appendix 16.1 establishes any distance beyond which a highly sensitive coastal receptor is incapable of experiencing a high magnitude of change, or beyond which a significant effect cannot arise [46][24]. The Community Council does not suggest otherwise. Its submission concerns not what the applicant's methodology says, but what the assessment repeatedly does with it.

3.9 Set the applicant's own conclusions for the Islay coastlines beside its conclusions for the comparable coastlines it assessed in the same appendix, by the same consultants, on the same methodology. The result is Table 2.

**Table 2 – The applicant's own magnitude gradings, ordered by distance from the development**

| Coastal character area | Distance | Sensitivity | Magnitude | Effect |
|---|---|---|---|---|
| CCA 11 West Colonsay | ~12 km | High | **High** | Major and significant |
| CCA 13 Oronsay | ~12 km | High | **High** | Major and significant |
| CCA 12 The Strand | ~13 km | High | **High** | Major and significant |
| CCA 9 Kiloran Bay to Eilean Dubh | ~17 km | High | **High** | Major and significant |
| CCA 20 Ardnave Point to Rhinns Point, **Islay** | 15–30 km | High | Medium | Moderate and significant |
| CCA 18 Sgairail, **Islay** | 18–24 km | High | Medium | Moderate and significant |
| CCA 19 Loch Gruinart, **Islay** | 15–25 km | High | Low | Minor, not significant |

*Source: EIAR Appendix 16.3 (LUC, November 2025) [8]. Every grading is the applicant's own.*

3.10 The pattern is consistent and it operates in one direction. High magnitude, and with it a major and significant effect, is attributed to every comparable coastline lying within approximately 17 km of the development. Beyond that, and notwithstanding that sensitivity remains high throughout, high magnitude is not attributed again.

3.11 For Islay the consequence is precise. The nearest turbines to the coastline at CCA 20 would stand approximately 15 km offshore, which is nearer than the 17 km at which the applicant attributes high magnitude and a major effect to Kiloran Bay. The sensitivity of the Islay coastline is assessed as high, as Kiloran Bay's is. The geographical extent of the change at CCA 20 is judged to be large, extending along the entire length of the coastline, as it is at Kiloran Bay. The Project would occupy approximately 71 degrees of the horizon from CCA 20, which is a wider horizontal spread than the applicant records for any other receptor in the appendix [8]. Yet the magnitude attributed to CCA 20 is medium, and the effect moderate rather than major.

3.12 The applicant is therefore required to identify what feature of the north-western coast of Islay, other than viewing distance, accounts for that difference. If the answer is distance, then a threshold is operating which the written methodology does not contain and does not explain. If the answer is not distance, the applicant has not said what it is. The same question arises with greater force at CCA 19, where a highly sensitive coastline with turbines from 15 km, and up to some 65 degrees of horizon occupied, is assessed at low magnitude and no significant effect at all.

3.13 The Community Council does not offer a competing professional judgement, and it does not need to. Its submission is that an assessment conclusion must follow from the evidence relied upon to reach it. In *R (Finch) v Surrey County Council* the Supreme Court confirmed that an environmental decision may be set aside where there is a demonstrable flaw in the reasoning which led to it, including where there was no evidence to support an important step in that reasoning, the question being whether the conclusion follows from the evidence or whether there is an unexplained gap or leap [47]. On the applicant's own tabulated outcomes, the step from a highly sensitive coastline at 15 km with a large geographical extent of change and 71 degrees of occupied horizon, to a medium magnitude of change, is a step which the EIAR nowhere explains.

3.14 The consequence for these applications is not academic. Had high magnitude been attributed to the Islay coastlines on the same basis as it was attributed at 12 to 17 km elsewhere, the effect would have been major and significant, and the assessment which the Ministers are asked to weigh, and which is carried forward into the heritage and socio-economic chapters, would be materially different. The Ministers are invited to satisfy themselves that the gradings for Islay are supportable on the applicant's own methodology, and to treat the landscape conclusions as carrying no greater weight than that examination justifies.

### The policy test which those findings engage

3.15 The whole of CCA 18, and all but a short section of CCA 20 near Rhinns Point, lie within the North and West Islay (Coast) Local Landscape Area, a landscape area designated in the Argyll and Bute Local Development Plan. That is not the Community Council's characterisation; it is recorded by the applicant's own consultants in the baseline for each area, and it is the basis on which they attribute high value, and therefore high sensitivity, to both coastlines [8][16].

3.16 NPF4 Policy 4(d) provides that development proposals affecting a site designated as a local nature conservation site or landscape area in the local development plan will only be supported where either development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified, or any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance [14].

3.17 The first limb is not available. The applicant's own assessment finds significant adverse effects on two coastlines within the designated area, extending along the whole length of each, arising from the very qualities for which the area is valued: its wildness, its lack of modern human influence and its expansive seaward views [8]. The applicant does not appear to have addressed Policy 4(d) by reference to these findings, and the Ministers are invited to do so.

3.18 The second limb requires benefits of at least local importance which clearly outweigh the significant adverse effects. Two matters bear upon it. The first is the reduced weight properly attaching to the claimed climate benefit for the reasons given in Section 11. The second, and more directly relevant, is that no benefit of local importance has been quantified at all: the applicant's economic case is expressed at Scotland and United Kingdom level, no benefit is quantified for Islay or for Argyll and Bute, and no assessment of Islay as an affected community has been undertaken (Section 6) [11]. A test which requires benefits of local importance to be weighed cannot be satisfied where the local position has not been assessed. On the material before the Ministers, the second limb of Policy 4(d) is not made out either.

3.19 Three further policy provisions are engaged by the same findings. NPF4 Policy 11(e)(ii) treats significant landscape and visual impacts as generally acceptable only where they are localised and/or appropriate design mitigation has been applied [14]. Neither condition is met: on the applicant's own assessment the significant effects extend across Islay, Colonsay, Oronsay, Jura, Mull and Iona, which cannot be described as localised, and the design mitigation point is addressed in Section 5. GEN 7 of the National Marine Plan requires particular care where development may affect largely undeveloped or unspoiled coast, and the coastlines in question are those which the applicant itself describes in those terms [8][15]. And Policy 30 of the Local Development Plan supports renewable energy development only where it can be adequately demonstrated that there would be no unacceptable environmental effects on local communities, landscape character and visual amenity; that demonstration has not been made for these coastlines [16].

3.20 Two matters going to the durability of the harm should also be recorded. The stated operational life is 35 years, but NPF4 Policy 11(f) records the expectation that areas identified for wind farms are suitable for that use in perpetuity, and Policy 11(a)(i) supports repowering, extension and expansion; the applicant's seabed lease runs for 60 years [5][14]. The change should therefore be assessed as an enduring one. And the applicant's outline lighting and marking proposals confirm that structures of this height require aviation and navigation lighting, on a horizon which is presently unlit [5].

3.21 The consequence is this. The Community Council does not submit that these findings make consent unlawful. It submits that they place the proposal in conflict with NPF4 Policy 4(d), with the concession relied upon in Policy 11(e)(ii), with GEN 7 of the National Marine Plan and with Policy 30 of the Local Development Plan; that the conflict is established on the applicant's own evidence and not on any assertion by the objector; and that it is a conflict of substance rather than of form, because it concerns significant adverse effects, along the entire length of two designated coastlines, which the applicant proposes to do nothing to reduce.

## 4. The setting of Islay's coastal monuments

4.1 The coastlines which the applicant assesses as significantly affected are also where the coastal monuments of western and northern Islay stand. The setting of a heritage asset is capable of being harmed by development at a distance, without any physical interference with the asset itself, and both the development plan and the National Marine Plan make setting a material consideration. On this question the Scottish Ministers have the benefit of advice from their own statutory adviser on the historic environment, and that advice is expressed in unusually direct terms.

### What the application contains

4.2 Chapter 14 of the EIAR assesses effects on marine and terrestrial heritage receptors, supported by an archaeological assessment of geophysical data, a palaeolandscape assessment and a settings assessment at Appendix 14.3. A study area of the development area with a 50 km buffer was agreed with Historic Environment Scotland for the purpose of assessing effects on the setting of designated assets. Within that 50 km there are 178 scheduled monuments, distributed across Tiree, Coll, Iona, Mull, the Garvellachs, Colonsay and Islay [37].

4.3 The relevant Islay assets are not incidental features. The applicant's own coastal character baseline describes the west coast of the Rhinns as rich in ancient monuments, and records forts at Dun Bheolain and Beinn a' Chasteil, standing stones at Ballinaby and a chapel at Kilchiaran, together with the remains of a chapel and an unmanned lighthouse on the offshore island of Orsay; on the northern coast it records the lighthouse at Ruvaal [8].

### What the statutory adviser has advised

4.4 In its scoping opinion of 9 January 2025 Historic Environment Scotland identified likely significant effects on its historic environment interests. It advised that the proposed development was likely to affect the setting of a number of scheduled monuments, and in particular those of early Christian character whose cultural significance depends upon a sense of isolation, a position at the edge of the land and a relationship with the open sea. Among the assets it named were two on or immediately off Islay: Beinn a' Chaisteil promontory fort and associated remains (SM13213) on the north-west coast, and the monastic site, chapel, burial ground and associated remains on Nave Island (SM3233). It subsequently welcomed the applicant's identification of Dun Bheolain fort on Islay as a further asset likely to be significantly affected [37].

4.5 The advice given in respect of Beinn a' Chaisteil is the most significant single passage in this part of the application, and it is recorded by the applicant itself. On 28 April 2025, having reviewed a draft wireline visualisation prepared from a viewpoint within the scheduled area, Historic Environment Scotland advised that turbines would occupy the whole of the monument's seaward horizon. It advised that the setting of the asset, and in particular of the possible monastic settlement on its lower promontory, is one of almost complete isolation and separation from the land, and that views out to sea containing nothing but open ocean contribute greatly to its cultural significance. Its conclusion was that the development would be likely to alter that baseline setting fundamentally, removing the sense of almost complete isolation in its entirety and depriving the site of its quality of standing at the edge, because turbines would then be visible in the ground beyond. It advised that this effect had “the potential to raise issues of national importance such that we might object” [37].

4.6 That was not an isolated observation. In the same response Historic Environment Scotland advised more generally that impacts on some of the early Christian monuments might be sufficient to raise issues of national importance such that it might object, and in February 2026 it recorded that the assets it had previously identified were not to be treated as an exhaustive list [37].

### Where matters stand, and where the weakness lies

4.7 The applicant's response to each of these representations, as recorded in its own consultation log, is that the matter is assessed in Appendix 14.3 and summarised in Chapter 14 [37]. The Community

Council's review of Appendix 14.3 is not complete, and it therefore does not assert what that assessment concludes. Two matters can nevertheless be stated from the material it has examined.

4.8 The first is that Historic Environment Scotland advised in January 2025 that, if impacts on setting were confirmed as significant, it might be possible to reduce them by careful design or redesign of the turbine layout, and that assessment should accordingly be undertaken early in the design process [37]. The design envelope now before the Ministers remains one of between 91 and 144 turbines at maximum blade tip heights of 335 m and 280 m respectively, and the only change made through consultation was the reduction of five metres in maximum tip height and of three in maximum turbine number discussed at Section 5 [5][37]. The record does not disclose any redesign undertaken in response to the advice on setting.

4.9 The second is that this question cannot be separated from the strategic assessment of the site. The applicant records that the Strategic Environmental Assessment accompanying the draft updated Sectoral Marine Plan for Offshore Wind Energy identified effects on historic environment features and their settings as among the key potentially significant environmental effects arising from the plan, and identified them for the W1 option, which is this site, and for one other option only. It further records that the Strategic Environmental Assessment for the 2020 Plan identified key risk factors for W1 which included potential visual impacts and landscape and seascape character impacts [37]. The effects now advised upon by Historic Environment Scotland are therefore effects which the Scottish Government's own strategic assessment identified as a distinguishing risk of this location.

### The tests engaged

4.10 Three provisions apply, and they differ in character. Paragraph 3 of Schedule 9 to the Electricity Act 1989 requires the Ministers to have regard to the desirability of protecting sites of archaeological or historic interest and to do what they reasonably can to mitigate any effect upon them; that is a duty as to the manner of decision-making [2]. NPF4 Policy 7 governs development affecting historic environment assets and places, and includes at Policy 7(h) a test directed to the integrity of the setting of scheduled monuments, an application which the applicant itself accepts [14][37]. NPF4 Policy 7 governs development affecting historic environment assets and places, and Policy 7(h) applies specifically to scheduled monuments, permitting development affecting the integrity of the setting of such a monument only where exceptional circumstances are demonstrated; the applicant itself accepts that the integrity of setting test applies to scheduled monuments under that limb [14][37]. Most directly, GEN 6 of the National Marine Plan requires the development and use of the marine environment to protect and where appropriate enhance heritage assets in a manner proportionate to their significance, provides that designated assets should be protected in situ within an appropriate setting, and provides that substantial loss or harm to designated assets should be exceptional and should only be permitted where necessary to deliver social, economic or environmental benefits which outweigh the harm or loss. The applicant identifies GEN 6 itself, and accepts that the substantial harm test in the Plan applies to all designated heritage assets [15][37].

4.11 Because section 15 of the Marine (Scotland) Act 2010 requires the marine licence applications to be determined in accordance with the National Marine Plan unless relevant considerations indicate otherwise, GEN 6 operates as a statutory accordance duty and not merely as a policy preference [3]. The Community Council further draws attention to the approach which the courts have taken to statutory heritage duties. In *Barnwell Manor Wind Energy Limited v East Northamptonshire District Council* the Court of Appeal held that such a duty requires the desirability of preserving the setting of a heritage asset to be given considerable importance and weight rather than merely careful consideration, that a finding of harm gives rise to a strong presumption against consent, and that the decision-maker is not free to give that harm whatever weight he chooses [48]. That decision was reached under English listed building legislation and is cited as persuasive on the principle rather than as binding authority; but the principle it states bears directly upon the discharge of the duty in paragraph 3 of Schedule 9 in a case where the statutory adviser has advised that the setting of a scheduled monument may be fundamentally altered.

### The consequence

4.12 The Community Council does not invite the Ministers to conclude that the threshold of substantial harm has been crossed, or that the integrity of setting of a scheduled monument is affected within the meaning of Policy 7(h). Those are matters of expert judgement for the Ministers advised by Historic Environment Scotland, and the Community Council will not assert them in advance of that advice.

4.13 What it submits is this. On the recorded advice of the statutory adviser, the effect of this development upon the setting of at least one scheduled monument on Islay is capable of being fundamental, and capable of raising issues of national importance. That advice was given at a stage when redesign was said to remain possible, and no redesign responsive to it appears on the record. If the Ministers find substantial harm to a designated asset, GEN 6 permits consent only exceptionally and only where the harm is outweighed by the benefits which the development is necessary to deliver, which returns the decision to the reduced weight properly attaching to the claimed benefit for the reasons given at Section 11, and to the absence of any assessed benefit of local importance addressed at Section 6. The Ministers are asked to obtain the final position of Historic Environment Scotland before determining these applications, to reach express conclusions under GEN 6 and Policy 7, and to state their reasons. The Community Council reserves the right to supplement this section upon completing its review of Appendix 14.3 [37].

## 5. The location, the advice given for it, and the alternatives rejected

5.1 The harm described in Section 3 is a function of two variables only: how far the turbines stand from the island, and how large they are. Both were the subject of express advice from the Scottish Ministers' own statutory adviser before this site was fixed, and both were the subject of alternatives which the applicant examined and rejected. This section addresses what happened to that advice and to those alternatives, because the answer determines whether the harm now before the Ministers was necessary.

### The advice given at plan stage

5.2 On 25 March 2020, in supplementary advice on the Draft Sectoral Marine Plan for Offshore Wind Energy, Scottish Natural Heritage, now NatureScot, provided an assessment of potential seascape, landscape and visual impacts together with design guidance for the plan options. For the waters in question that guidance was to limit development to beyond 35 km from Colonsay and Islay, and to limit turbine height to a maximum of 200 metres [9].

5.3 The proposal departs from both limbs, and by wide margins. The nearest turbines would stand approximately 15 km from Islay, which is under half the advised separation, and the tallest would reach 335 m, which exceeds the advised ceiling by more than two thirds [5][9].

5.4 The Community Council advances no legal consequence from this. Plan-stage design guidance does not bind an applicant, and non-compliance with it is not a ground of refusal in itself. Its relevance is evidential and goes to weight in two respects. First, the advice records the considered view of the body which advises the Ministers on landscape and natural heritage as to the parameters within which development in these waters could be accommodated without unacceptable effect; the significant adverse effects which the applicant's own consultants now report on two designated Islay coastlines are consistent with that view, and are the measurable consequence of departing from it (Section 3) [8][9]. Secondly, where a proposal exceeds the parameters identified by the statutory adviser to this extent, the evidential burden on the applicant to demonstrate that the resulting effects are nonetheless acceptable is correspondingly heavier. That burden has not been discharged.

### Reliance upon the Plan and the lease does not answer the objection

5.5 It may be said in answer to all of this that the site was identified through the Sectoral Marine Plan for Offshore Wind Energy and that the seabed has been leased for the purpose. Neither proposition assists the applicant. The Sectoral Marine Plan is not the statutory marine plan for the purposes of section 15 of the Marine (Scotland) Act 2010; the plan which section 15 engages is Scotland's National Marine Plan, and it is against that Plan that these marine licence applications fall to be determined [3][15][12]. The plan-level assessment which accompanied the Sectoral Marine Plan expressly deferred project-level scrutiny of effects to the consenting stage, which is this stage. And the grant of a seabed lease by Crown Estate Scotland confers no entitlement to consent; the Scottish Government's offshore wind ambition is itself expressly subject to rigorous project-level consenting and impact assessment [12][34].

5.6 The strategic assessment of this option area, moreover, points the other way. As Section 4 records, the Strategic Environmental Assessment for the 2020 Plan identified potential visual and landscape or seascape character impacts as key risk factors for W1, and the Strategic Environmental Assessment accompanying the draft updated Plan identified effects on historic environment features and their settings as a key potentially significant effect for W1 and one other option only [37]. The plan process did not clear this site of the effects now in issue. It flagged them, and left them to be resolved here.

### The alternatives which were considered and rejected

5.7 The more important point is that the two variables which produce the harm were both examined as alternatives, and both were rejected for a stated reason. The applicant has produced a chapter dealing with site selection and alternatives, and the Ministers are invited to test the account given there against the appraisal in the derogation material discussed below [19].

5.8 The applicant's Without Prejudice Derogation Case sets out six Project Objectives against which alternatives were appraised. The sixth is to optimise the W1 Plan Option Area and maximise the generation capacity of the available Scottish seabed. Measured against those objectives, a reduced development area and a reduced number of turbines were both considered and both discounted [11]. The applicant also records a single adjustment made through consultation, reducing the maximum blade tip height from 340 m to 335 m and the maximum turbine number from 147 to 144, which it states was done to reduce the magnitude of change on seascape receptors [5].

5.9 Two things follow. The first is that the adjustment actually made cannot rationally be described as mitigation of the effects identified in Section 3. A reduction of five metres in a structure of 335 m, and of three turbines in a field of up to 147, does not alter what is seen from Machir Bay or Saligo.

But the reason the applicant gives for making it is itself significant: it is an acknowledgement, in the applicant's own words, that the seascape effect is real and adverse and that reducing the scale of the development would reduce it.

5.10 The second is that greater separation and smaller or fewer turbines, which are the changes that would have reduced this harm, were live options which the applicant set aside in favour of output. The Community Council does not suggest that a developer may not pursue the efficient use of a leased site. It submits that where harm to a designated landscape is the consequence of a design choice made in preference to available and less harmful alternatives, that harm falls to be weighed as a chosen harm, and the second limb of Policy 4(d) becomes correspondingly harder to satisfy: benefits said to outweigh the harm must outweigh a harm which need not have been incurred at the level proposed.

5.11 The Community Council also invites the Ministers to note the position on mitigation as it stands in the application documents. For the significant adverse effects on the two designated Islay coastlines, the measure the applicant points to for these waters records that the boundary of the development area was drawn using a buffer of at least 12 km from the nearest points of Islay and Colonsay [5]. That is a description of the layout which produces the assessed effects, not a measure which reduces them. Beyond the five-metre adjustment already discussed, the EIAR identifies no mitigation of the seascape and visual effects on Islay. The Ministers are accordingly considering a proposal in which conceded significant adverse effects on a designated landscape area attract no mitigation at all.

## 6. Islay as an affected island community

6.1 This question is different in character from those which precede it. It is not a submission that the applicant has assessed a matter wrongly. It is a submission that a matter which the framework requires to be assessed has not been assessed at all, and that the Ministers therefore lack the material on which two separate requirements depend.

### What the applicant's own consultants identified

6.2 The applicant's socio-economic consultants, BiGGAR Economics, recorded in work commissioned for this Project that there are potential impacts on habitability for island communities in particular [10][11]. Habitability, in that context, means the capacity of an island to remain a place where people continue to live and work. The applicant's own advisers thus identified island habitability as a matter requiring examination.

### What Chapter 18 assesses

6.3 Chapter 18 of the EIAR and its technical appendix do not then examine that question for Islay. The reason is structural rather than accidental. The assessment proceeds on the stated expectation that the main local epicentres of impact are expected to be the ports, and it follows that expectation to a small number of candidate port locations [10]. Islay appears within the assessment, but it appears by reason of its potential role as a direct project location, that is, as a place where project activity might be based. It is not assessed as an affected island community whose exposure to the development has been measured [10]. The employment and Gross Value Added benefits of the Project are quantified at Scotland and United Kingdom level, and at that level only. The applicant's own derogation material puts them at a peak of approximately 3,400 construction jobs in Scotland and 11,463 across the United Kingdom, with Gross Value Added of £803 million in Scotland and £2,435 million across the United Kingdom; and, for the whole Project, 4,750 jobs in Scotland and

14,490 across the United Kingdom, with Gross Value Added of £1,105 million and £3,064 million respectively [11]. Not one of those figures is given for Islay, for the Inner Hebrides, or for Argyll and Bute.

### Why the distinction matters, and why it matters particularly for Islay

6.4 The distinction is not formal. What Islay might gain if project activity were located there is contingent upon commercial decisions which form no part of these applications and which nothing before the Ministers secures. What Islay would experience is not contingent at all: significant adverse effects along the entire length of two coastlines within a designated Local Landscape Area, on the applicant's own findings, arising from the qualities of wildness, remoteness and open seaward view for which those coasts are valued (Section 3) [8]. The first has been appraised. The second has not.

6.5 Islay's circumstances make the omission material rather than technical, and the Community Council puts the point no higher than the evidence allows. The two coastlines which the applicant finds to be significantly affected are not empty ground. CCA 20 contains the settlements of Portnahaven and Port Wemyss, scattered farmsteads and houses, a distillery at Kilchoman near Machir Bay, and a coastline which the applicant itself records as a surfing venue at Machir Bay and as rich in ancient monuments [8]. The island's economy rests on distilling, agriculture and tourism, and its visitor economy is founded on the coastal landscape, the birds and the beaches. Whether significant adverse change to those coasts would affect the island's visitor economy, its businesses and its working population is precisely the question the applicant's consultants raised and which Chapter 18 does not answer. The Community Council does not assert a quantified economic loss, because no such assessment exists, and it will not invent one. Its submission is that the absence of the assessment is itself the defect.

6.6 The applicant's own methodology reinforces the point. Chapter 18 cites Marine Directorate guidance to the effect that local study areas should reflect the appropriate impacts and be understandable to the communities they describe [10]. A treatment of Islay confined to its candidacy as a project location satisfies neither limb of that guidance.

### The requirements which are not met

6.7 Two consequences follow, and they operate independently.

6.8 The first concerns GEN 19 of the National Marine Plan, which requires decision-making to be based on sound scientific and socio-economic evidence, and provides that where evidence is inconclusive and impacts are uncertain, reasonable efforts should be made to fill the evidence gaps and decision-makers should apply precaution within an overall risk-based approach [15]. Here the gap was identified by the applicant's own consultants and was not filled in respect of Islay. Because section 15 of the 2010 Act requires the marine licence applications to be determined in accordance with the Plan unless relevant considerations indicate otherwise, this is a matter of statutory duty [3]. The Plan's direction in the face of such a gap is not that judgement may substitute for evidence; it is that precaution applies.

6.9 The second concerns NPF4 Policy 11(c), which supports renewable energy proposals only where they maximise net economic impact, including local and community socio-economic benefits such as employment and supply chain opportunities [14]. A proposal which has not assessed the affected community cannot demonstrate that local and community benefit has been maximised. The Community Council does not rest this point on the presence or absence of a voluntary community benefit fund; payments of that kind are not mitigation of environmental harm and are not material to the planning merits. The point is the prior one, that the local balance of benefit and harm is unquantified on both sides.

### The Islands (Scotland) Act 2018

6.10 The same evidential gap bears upon the duties owed to island communities, and the Community Council addresses those duties by reference to what is different about Islay rather than by describing the legislation.

6.11 Part 3 of the Islands (Scotland) Act 2018 requires an island communities impact assessment where a policy, strategy or service is likely to have an effect on an island community which is significantly different from its effect on other communities. Part 3 came into force on 23 December 2020 [13]. The Sectoral Marine Plan which identified the W1 option now before the Ministers as MachairWind was published on 28 October 2020, eight weeks earlier, and was therefore never subject to that requirement [12][13]. The Community Council does not contend that this renders the Plan unlawful. It submits that it is a material consideration bearing on the weight which the plan-level identification of this site can carry, particularly given the departure from the statutory adviser's design guidance during that same plan process (Section 5).

6.12 As to the present determination, the difference which engages the duty can be stated concretely. Islay faces this development at approximately 15 km. Two of its coastlines, within a designated Local Landscape Area, would sustain significant adverse effects along their entire length on the applicant's own assessment. It would receive no electricity, no grid connection and no assessed local economic benefit from the Project. And it carries a Scottish Government commitment to carbon neutrality by 2040 which the Project would do nothing to advance [8][11][17]. Those effects are of a different character from the effects of this decision on communities generally, and not merely of a different degree.

6.13 Whether that difference has been assessed is a question the Ministers are better placed to answer than the objector, and the Community Council does not assert a failure it cannot evidence. It asks the Ministers to confirm that an island communities impact assessment has been prepared in respect of this determination; that it has been informed by the meaningful engagement with affected island communities from inception to conclusion which the guidance under section 11 of the Act requires; and that its conclusions are stated in the decision [13]. It further invites Argyll and Bute Council to exercise its power under section 14 of the Act to request a retrospective island communities impact assessment of the Sectoral Marine Plan for Offshore Wind Energy [13]. Finally, it notes that GEN 18 of the National Marine Plan requires engagement which is appropriate, proportionate, meaningful and early, and that the first occasion on which the island could address the acceptability of this location on the basis of a complete environmental assessment is the present consultation, the site having by then been identified, leased and carried through several years of project development [15].

## 7. The marine environment in which Islay sits

7.1 The Community Council is not a specialist marine consultee. It does not offer competing scientific assessment and does not advance conclusions it cannot support. This section identifies what the applicant's own chapters establish about the physical scale of the intervention and the sensitivity of the receiving environment, and asks the Ministers to test the resulting conclusions against the advice of NatureScot and the Marine Directorate's own scientists.

### The physical scale of the intervention

7.2 The works are not confined to the turbines. On the applicant's realistic worst case, scour protection for the turbine foundations alone would require over 8.2 million cubic metres of material, with a further 3.4 million cubic metres for cable protection. The inter-array cabling would extend to 572 km, the platform link cabling to 272 km, and the export cabling within the development area to 200 km [7]. The applicant puts the maximum permanent seabed footprint of the development at 6,705,031 square metres and the maximum temporary construction footprint at 25,385,076 square metres; up to a third of turbine locations may require drilling; and the maximum piling hammer energy is given as 6,600 kilojoules [5]. Approximately 51 square kilometres of the development area is identified as a restricted build area unsuitable for foundations, so the structures would be concentrated within the remainder [5]. This is a substantial and largely irreversible alteration of the seabed, sustained over a 35-year operational life within a 60-year lease.

### The receiving environment

7.3 The applicant's own benthic assessment confirms the presence of Priority Marine Features and Annex I habitats within the development area itself [28]. GEN 9 of the National Marine Plan is expressed in mandatory terms: development and use of the marine environment must not result in significant impact on the national status of Priority Marine Features [15]. The applicant has also produced a Report to Inform Marine Protected Area Assessment, and records that the wider marine environment of this area forms part of the Sea of the Hebrides Marine Protected Area [8][11].

7.4 The applicant's assessment of fish and shellfish identifies an underwater noise zone of influence extending to 88 km, and assesses disturbance, displacement and vessel collision risk in relation to basking shark, together with modelled effects on prey species including herring and lesser sandeel [29]. Its marine mammal assessment is supported by underwater noise modelling, by interim population consequences of disturbance modelling and by an assessment of unexploded ordnance clearance [30]. GEN 13 of the National Marine Plan requires that significant adverse effects of man-made noise be avoided, especially on species sensitive to such effects [15].

7.5 On ornithology, the applicant's own conduct discloses how material it considers the bird interest of these waters to be. It undertook dedicated Manx shearwater tracking on Lunga in 2025, commissioned an evaluation of seabird attraction to lighting on offshore wind farms, modelled population viability at 25, 35 and 50 years, and assessed cumulative mortality across the Western Biologically Defined Minimum Population Scale [18]. It also increased the minimum air gap beneath the rotors from 22.45 m to 28.4 m above the highest astronomical tide during design development, expressly in order to reduce ornithological collision risk [5]. A developer does not redesign for collision risk which it regards as immaterial. It addresses the protected site consequences separately at Section 10.

### The submission

7.6 The Community Council makes a limited and specific submission. NPF4 Policy 4(e) applies the precautionary principle, and uncertainty arising from the limits of survey coverage or of modelling method is not evidence that significant effects are absent [14]. Where an intervention of this physical scale is proposed in waters which the applicant itself identifies as supporting Priority Marine Features, Annex I habitats, basking shark, cetaceans, seals and internationally important seabird populations, the Ministers should require positive demonstration that the mandatory terms of GEN 9 are satisfied, rather than accepting an absence of demonstrated harm as equivalent to demonstrated absence of harm. The Community Council adopts the representations of

NatureScot, RSPB Scotland and the other specialist bodies so far as consistent with this objection, and asks that substantial weight be given to that evidence [24][31].

## 8. Commercial fisheries and the displacement of fishing effort

8.1 Islay's relationship with these waters is not only visual. Inshore fishing forms part of the island's economy, and the grounds in question lie within the working range of island-based vessels.

8.2 The applicant's commercial fisheries chapter identifies five impacts. They include reduction in, or exclusion from, access to the development area, and displacement of fishing activity leading to gear conflict and increased fishing pressure elsewhere [25]. The applicant consulted the Mull and Iona Fishermen's Association, the Scottish Creel Fishermen's Federation and the South West Coast Regional Inshore Fisheries Group, and has produced an outline fisheries mitigation, monitoring and communication plan [25].

8.3 Those impacts are the applicant's own findings. The Community Council's submission concerns what follows from them, which the chapter does not confront. Fishing effort excluded from 448 $km^2$ of sea does not cease; it relocates. The consequences of relocation, being gear conflict and increased pressure on adjacent grounds, are borne by the same small fleets, and they are consequences which the applicant's own chapter identifies rather than ones the objector has supposed.

8.4 Two provisions are engaged. GEN 4 of the National Marine Plan looks for development which enables co-existence with established marine activities [15]. The Ministers are invited to test whether genuine co-existence has been demonstrated for the inshore fleets of these islands, or whether one long-standing use of these waters is in substance displaced in favour of another. And NPF4 Policy 11(c), which requires net economic impact including local socio-economic benefit to be maximised, cannot be assessed in respect of Islay without accounting for effects on an existing island industry; as Section 6 explains, no such island-level assessment exists [14].

8.5 The Community Council does not quantify a loss to the Islay fishing interest, because the material to do so has not been produced. It submits that the absence of that material is itself a matter the Ministers must confront, and that a mitigation, monitoring and communication plan is a mechanism for managing an impact rather than evidence that the impact is acceptable.

## 9. Navigation, lifeline connectivity and safety at sea

9.1 For an island community, access by sea and the availability of rescue at sea are not questions of amenity. Islay depends on ferry services for passengers and freight, and on marine and aeronautical search and rescue in circumstances where definitive medical care is reached across water or by air. The applicant records that the Colonsay to Port Askaig ferry passes within approximately 1 km of Ruvaal at the northeastern tip of the island, and that Islay Airport lies adjacent to Laggan Bay [8].

9.2 The applicant's shipping and navigation chapter assesses seven impacts. They include reduced access to local ports and harbours and a reduction of emergency response capabilities. The ferry services operated by Caledonian MacBrayne are among the navigational receptors identified, which is to say that the lifeline services upon which Islay depends for passengers and freight are within the assessed zone of effect. The chapter records consultation with the Maritime and Coastguard Agency, the Royal National Lifeboat Institution and the Northern Lighthouse Board, and is supported by a navigational risk assessment and an outline vessel management and navigational safety plan [26].

9.3 The Community Council draws attention to the scale of the vessel activity which would accompany the development, because it bears directly on both matters. On the applicant's realistic worst case the construction programme would involve 117 vessels and 5,699 vessel return trips over five years, with vessels assumed to be operating 24 hours a day within the development area, followed throughout the operational phase by some 423 vessel movements and 576 helicopter movements each year [7].

9.4 The submission is a narrow one and is directed at what the Ministers should require rather than at what the objector can prove. Where a developer's own assessment identifies a reduction in emergency response capability, the Ministers should not treat the matter as resolved by the existence of a management plan. They should require positive demonstration, to the satisfaction of the Maritime and Coastguard Agency and the Royal National Lifeboat Institution, that search and rescue capability serving Islay and these waters would not be degraded at any stage of construction, operation or decommissioning; and they should satisfy themselves as to the position of the Northern Lighthouse Board on aids to navigation, including in relation to the Dubh Artach lighthouse, for which the applicant has produced a separate technical note [26][38]. The Community Council reserves the right to supplement this section once the representations of those bodies are available.

## 10. The Habitats Regulations

10.1 This section, unlike those which precede it, concerns a mandatory legal requirement. If it is not satisfied, consent cannot lawfully be granted, whatever view is taken of the planning balance. The Community Council therefore states the test with precision and confines itself strictly to what the applicant's own documents establish.

### The test

10.2 Two sets of Habitats Regulations apply across these waters, the 1994 Regulations inshore and the 2017 Regulations beyond 12 nautical miles [21]. Under both, where a plan or project is likely to have a significant effect on a European site, the competent authority must make an appropriate assessment of its implications for the site's conservation objectives, and may agree to the project only after having ascertained that it will not adversely affect the integrity of the site.

10.3 In *Waddenzee* the Court of Justice held that that condition is met only where no reasonable scientific doubt remains as to the absence of such effects; that the assessment must contain complete, precise and definitive findings capable of removing all reasonable scientific doubt as to the effects of the works on the site concerned; and that the requirement incorporates the precautionary principle [22]. The standard is therefore not the balance of probabilities. It is the absence of reasonable scientific doubt.

### What the applicant's documents show

10.4 The applicant's Report to Inform Appropriate Assessment concludes that no adverse effect on the integrity of any European site would arise, and the applicant maintains that no derogation is required [11].

10.5 In the same application, however, the applicant has lodged a Without Prejudice Derogation Case together with a Without Prejudice Guillemot Compensation Plan, both directed at a single feature of a single site: the guillemot of the North Colonsay and Western Cliffs Special Protection Area. Its stated reason for doing so is that the competent authority “may not reach the same conclusion” as the applicant in relation to that feature [11].

10.6 The Community Council draws from that only the inference which the document itself supports. The preparation of a derogation case and a species compensation plan is a substantial undertaking, and no applicant advised as this applicant is advised would undertake it in respect of an outcome it regarded as scientifically unavailable. The applicant has judged it necessary to plan for a conclusion of adverse effect on the integrity of that site in respect of that feature. Where a well-advised promoter, in possession of the full survey and modelling record, considers that the competent authority may properly reach the opposite conclusion on the science, the question is not one from which reasonable scientific doubt has been excluded.

10.7 The consequence is precise. So long as that doubt subsists, the condition for consent under the appropriate assessment route is not met, and consent cannot lawfully be granted by that route. That is a matter of law and not of planning judgement. The Community Council does not submit that the Ministers must conclude that there will be an adverse effect on integrity; that is a scientific question for the Ministers advised by NatureScot. It submits that the Ministers cannot lawfully proceed on the footing that the absence of adverse effect has been ascertained, when the applicant itself has provided for the contrary.

### If the derogation route were engaged

10.8 If the Ministers were to conclude that there would or might be an adverse effect on site integrity, consent could be granted only if three cumulative tests were satisfied: that there is no alternative solution, that there are imperative reasons of overriding public interest, and that the necessary compensatory measures are secured [21]. The Community Council makes two observations, both drawn from the applicant's own document.

10.9 The first concerns alternatives. The Derogation Case appraises alternatives against six Project Objectives, the sixth of which is to optimise the W1 Plan Option Area and maximise the generation capacity of the available Scottish seabed, and it discounts a reduced development area and a reduced number of turbines by reference to those objectives [11]. The applicant cites *R (Spurrier) v Secretary of State for Transport* for the proposition that an alternative solution must be directed at identified objectives [11][27]. That is correct as a statement of principle, but it carries a consequence the Derogation Case does not confront: where the objectives against which alternatives are measured include the maximal exploitation of the very site in question, no smaller or less damaging alternative at that site can satisfy them, and the alternatives test ceases to perform its function. The identification of the objectives against which alternatives fall to be judged is a matter for the competent authority, and the Ministers are invited to satisfy themselves that the objectives applied are theirs and not the applicant's alone.

10.10 The second concerns compensation. The applicant records that the Regulations governing compensatory measures came into force in May 2026 and apply to this Project, and that the Scottish Government's statutory guidance supporting those requirements has not yet been published [11]. The Community Council does not submit that this precludes determination as a matter of law. It submits that the adequacy, deliverability and long-term security of any compensatory measure would require to be established on evidence before consent could be granted, and that the absence of the governing guidance is a matter the Ministers should weigh when considering whether that has been achieved.

### Other natural heritage matters

10.11 The Community Council is not a specialist ecological consultee and does not advance ecological objections it cannot evidence. It records four matters which appear on the face of the applicant's documents and which engage the National Marine Plan directly.

- The applicant's benthic assessment confirms the presence of Priority Marine Features and Annex I habitats within the development area itself. GEN 9(b) of the National Marine Plan provides in mandatory terms that development and use of the marine environment must not result in significant impact on the national status of Priority Marine Features [15][28].
- The applicant's underwater noise modelling extends to a zone of influence of 88 km, in waters supporting basking shark, cetaceans and seals, with assessed effects on prey species including herring and lesser sandeel [29][30]. GEN 13 requires that significant adverse effects of man-made noise be avoided, especially on species sensitive to such effects [15].
- The applicant undertook dedicated Manx shearwater tracking on Lunga in 2025, which indicates that it regarded the ornithological interest of these waters as material to its assessment [18].
- NPF4 Policy 4(e) applies the precautionary principle. Uncertainty arising from the limits of survey coverage or modelling method is not evidence that significant effects are absent [14].

10.12 The National Trust for Scotland has stated its intention to object, and RSPB Scotland and other specialist bodies are understood to be conducting detailed technical review [31]. The Community Council adopts and supports those representations so far as they are consistent with this objection, and asks that substantial weight be given to that specialist evidence. It reserves its position on the ecological detail accordingly.

## 11. The claimed climate benefit

11.1 The foundation of this application is its claimed contribution to decarbonisation. That is the benefit to which the applicant invites the Ministers to give significant weight under NPF4 Policy 11, and it is the benefit against which every harm identified in this objection would fall to be balanced. It is therefore the right place to begin, and it requires close attention, because the applicant's own quantification of that benefit does not support the conclusion which the EIAR draws from it.

### What the applicant assesses, and what it concludes

11.2 Chapter 19 of the EIAR quantifies the greenhouse gas emissions of the Project across its lifetime and compares them with a “Do Nothing” scenario in which the same quantity of electricity is generated instead by gas-fired power stations fitted with carbon capture and storage. On that basis the chapter concludes that the operational phase, and the Project overall, would have an effect which is beneficial and significant in EIA terms [7].

11.3 The material figures are the applicant's own and are set out in Table 3.

**Table 3 – Greenhouse gas figures reported by the applicant (EIAR Chapter 19)**

| Quantity | Tonnes $CO_2e$ | Source |
|---|---|---|
| WDA construction, including pre-construction | 4,759,276 | Table 19.13 |
| WDA operation and maintenance, 35 years | 1,904,549 | Table 19.14 |
| WDA decommissioning | 571,250 | Table 19.16 |
| Offshore export cable corridor (indicative) | 327,380 | Table 19.17 |
| Onshore transmission development area (indicative) | 563 | Table 19.17 |
| **Whole Project, lifecycle total** | **7,563,018** | Table 19.17 |
| **Do Nothing scenario, 35 years** | **4,756,234** | Table 19.12 |
| Reported avoided emissions | 2,851,685 | Table 19.15 |

*Source: EIAR Chapter 19, Greenhouse Gas Assessment, June 2026 [7]. Lifetime generation is given as 229,769,756 MWh at a capacity factor of 40.2%.*

### The weakness

11.4 The two figures in bold are on the same basis as each other: both are whole-life totals, and both relate to the same quantity of electricity over the same 35 years. Compared directly, the Project emits some **2.81 million tonnes of carbon dioxide equivalent more** than the scenario against which the applicant has chosen to measure it.

11.5 The reported benefit of 2,851,685 tonnes is not that comparison. It is the result of subtracting the operational phase emissions alone, 1,904,549 tonnes, from the whole 35-year Do Nothing total of 4,756,234 tonnes [7]. Construction, decommissioning and the transmission infrastructure, amounting together to 5,658,469 tonnes, or 75% of the Project's own footprint, are absent from one side of the comparison. Construction alone accounts for approximately 66% of the WDA's lifecycle emissions, and the applicant records that 88% of the construction figure is embodied carbon in materials [7].

11.6 The applicant's own intensity figures disclose the same difficulty from a different direction, and this comparison is made on a consistent basis. Chapter 19 reports the whole Project's carbon intensity as 32.9 g $CO_2e$ per kWh. The emission factor from which the Do Nothing baseline is constructed is 20.7 tonnes $CO_2e$ per GWh, which is 20.7 g $CO_2e$ per kWh [7]. Per unit of electricity delivered, the Project as assessed is therefore more carbon-intensive than its own counterfactual, by a margin of approximately 59%.

11.7 Chapter 19 does not overlook the incompatibility of the two sides of its comparison. At paragraph 19.6.2.2 the applicant explains that the gas emission factor represents the operational use of gas at source, that it is not representative of lifecycle emissions because it excludes the extraction, processing and transportation of the gas, and that it is accordingly “not directly comparable” with the lifecycle emissions of the WDA infrastructure; and that for that reason avoided emissions have been estimated for the operational phase only [7].

11.8 So far as it goes that is a correct statement of the limitation, since a gas plant's lifecycle emissions would exceed its operational emissions. But the explanation identifies a problem which the chapter then leaves unresolved, and the applicant cannot rely upon its own acknowledgement of incomparability as an answer to that incomparability. Having recognised that the two sides of the comparison are measured on different bases, the applicant does not quantify the gas lifecycle figure which would render them comparable. That figure appears nowhere in the EIAR. What is presented to the Ministers is therefore a comparison which omits three quarters of the Project's emissions from one side, together with a conclusion of significant benefit drawn from it; and the one comparison which the chapter does complete on a consistent lifecycle basis, the intensity comparison, runs against the Project.

11.9 The Community Council states its position with care. It does not submit that this Project would increase global emissions, and it does not have the evidence to submit that. It submits something narrower and, for present purposes, more important: that the magnitude of the climate benefit claimed for this Project is not established by the assessment which the applicant has produced, and that on the applicant's own arithmetic the comparison the EIAR completes does not demonstrate a net lifetime saving. Whether such a saving exists is a question the EIAR leaves unanswered.

### The tests engaged, and the consequence

11.10 Three consequences follow, and they differ in kind.

11.11 The first concerns weight, and it is the most significant for the planning balance. NPF4 Policy 11 directs that significant weight be given to a proposal's contribution to renewable energy generation and emissions reduction targets [14]. Weight of that kind attaches to a contribution which has been demonstrated, and it attaches in proportion to the demonstration. Where the promoter's own assessment cannot show, on a consistent basis, what the net lifetime emissions benefit of its scheme would be, the weight which that benefit can bear in the balance is correspondingly reduced. The weight which the applicant invites the Ministers to place upon this benefit is not available to it upon its own evidence, and it is against that reduced weight that the harms identified elsewhere in this objection fall to be balanced.

11.12 The second concerns NPF4 Policy 2, which requires proposals to be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible, and which the applicant cites as relevant to its own assessment [7][14]. Against a lifecycle footprint of 7.56 million tonnes, Chapter 19 identifies one embedded mitigation measure, namely the removal of gravity base foundations from the design envelope, and proposes no greenhouse gas monitoring, the applicant recording that no specific monitoring requirements are anticipated [7]. Beyond that, the chapter expresses an intention to pursue opportunities which prove technically feasible and commercially viable as design progresses. Meanwhile the design options which would have reduced embodied carbon materially, a smaller development area and fewer turbines, were considered by the applicant and rejected because they conflicted with its objective of maximising the generation capacity of the site (Section 5) [11]. A proposal which sets aside the design choices that would reduce its embodied emissions in order to maximise output has not minimised those emissions as far as possible, and Policy 2 is not satisfied.

11.13 The third concerns GEN 5 of the National Marine Plan, which requires marine decision-makers to act in the way best calculated to mitigate and adapt to climate change and to consider ways of reducing greenhouse gas emissions [15]. Since the marine licence applications must be determined in accordance with the Plan unless relevant considerations indicate otherwise, this is a statutory duty and not merely a policy preference [3]. The Ministers cannot discharge it on an assessment which does not establish the Project's net lifetime emissions effect on a consistent basis.

### The benefit is quantified for the whole Project; the harm is assessed for part of it

11.14 One further feature of Chapter 19 should be drawn to the Ministers' attention, because it recurs in Section 12. For the purpose of quantifying the climate benefit, the applicant assesses the whole Project, expressly including the offshore export cable corridor and the onshore transmission development area, on the basis that this infrastructure is required in order to supply renewable energy and contribute to decarbonising the transmission system [7]. For the purpose of assessing environmental harm, every other chapter of the EIAR is confined to the WDA. The Ministers are therefore presented with the benefits of the entire scheme and the harms of a part of it.

### What the Project delivers to Islay

11.15 The final element of this question is specific to the objector. The whole of the electricity generated would be exported to the transmission system at Girvan [5][7]. No connection to Islay is proposed, and no supply to the island forms any part of these applications. Nothing in the Project as applied for would displace any part of the fuel oil on which the island's distilleries and households presently depend.

11.16 That matters for two reasons which are legally distinct. The first is a matter of weight: the benefit of this Project to the community which would bear its effects is, in energy terms, nil, and the Ministers are entitled and bound to take that into account when weighing benefit against harm. The second is a matter of policy compliance: NPF4 Policy 11(c) supports renewable energy proposals only where they maximise net economic impact, including local and community socio-economic benefits, and the National Marine Plan directs that particular consideration be given to opportunities which provide benefit to communities [14][15]. The applicant quantifies the Project's employment and Gross Value Added benefits at Scotland and United Kingdom level and at no finer resolution [11]. Neither the energy generated nor any quantified economic benefit reaches the islands nearest the development. Section 6 returns to this in the context of the socio-economic assessment as a whole.

11.17 The Community Council adds one observation, and confines itself to what can properly be said. Islay carries a Scottish Government commitment to carbon neutrality by 2040 [17]. An objection from such a community is not opposition to decarbonisation. It is an insistence that a development which takes the island's seascape should be shown, on evidence, to deliver the climate benefit claimed for it. On the material presently before the Ministers, that showing has not been made.

## 12. The Project is before the Ministers only in part

12.1 The final question concerns the scope of what the Ministers are being asked to decide. It is a question of law, and it was answered by the Inner House four months before these applications were made.

### What has been excluded, and what was advised

12.2 These applications cover the WDA. The offshore export cable corridor and the onshore transmission works, without which no electricity generated by the Project can reach the network, are reserved to separate applications, the offshore cable application being anticipated in 2027 [5]. The grid connection near Girvan was itself confirmed only in August 2025 [5].

12.3 The Ministers' own advisers addressed this in advance, and the applicant has recorded their advice in its own Project Description. NatureScot advised on 10 June 2025 that separating the assessments raised concerns that not all potential impacts would be assessed so as to enable full consideration of the proposal and of mitigation options, and stated that it expected the WDA and offshore transmission assessments to be contained within one EIA Report at the section 36 application stage. The Marine Directorate's Licensing and Operations Team advised at scoping that it was essential that sufficient information on the proposed offshore export cable works and onshore works be included in order to understand the cumulative impacts of the development [5][12]. Neither advice was followed.

12.4 The applicant's recorded reasons for proceeding as it did are the uncertainty of the grid connection, limitations on the remaining validity of its ornithological baseline data, and existing precedent for separate consent submissions [5]. The practical consequence is acknowledged in the EIAR itself. Chapter 14, for example, records that by reason of the delay in confirming the grid connection it considers the Windfarm Development Area study area and existing environment only, and the applicant explains elsewhere that the level of detail available for the export cable corridor and the onshore works is limited, so that any combined assessment is commensurate with that limited detail [37]. The whole-Project assessment which the applicant offers is therefore, on its own account, constrained by the very division which is in question. The Community Council observes that none of the three is an environmental justification. The first and third are matters of programme and practice. The second is an acknowledgement that the Project was divided in part because survey data was approaching the end of its useful life.

### The applicable law

12.5 On 17 February 2026, in *Raeshaw Farms Limited v Scottish Ministers*, the Inner House quashed a permission granted on the footing that the grid connection formed no part of the proposal and would be assessed later. The Court held that the decision-maker had erred by failing to carry out a fact-specific assessment of whether the wind farm and its grid connection constituted a single project for the purposes of environmental impact assessment, relying instead on established common practice; and it found force in the argument that it was irrational to take into account the renewable energy benefits of a wind farm without also addressing the potential adverse impacts of its grid connection. The relevant question is not whether the developer intended to avoid assessment, but whether the division would result in an incomplete or inadequate assessment of environmental effects [23].

12.6 The applicant's appeal to precedent is therefore an appeal to the reasoning the Court rejected. More significantly, the asymmetry which the Court identified as potentially irrational is present here in an acute form, and it is documented in the applicant's own EIAR: as Section 11 records, the transmission infrastructure is included when the climate benefit is quantified in Chapter 19, on the express basis that it is required in order to deliver the renewable energy, and excluded when environmental harm is assessed [7].

12.7 The consequence is a matter of law. The Ministers are required to make a fact-specific and reasoned assessment of whether the WDA and the transmission works constitute a single project for the purposes of environmental impact assessment, and to state their conclusion and reasons. If they are one project, the effects of the whole must be assessed before consent is granted. The Community Council submits that the applicant's own treatment of the transmission works in Chapter 19 makes that conclusion difficult to resist.

### Cumulative effects

12.8 The Community Council raises cumulative effects once and does not repeat the point elsewhere. GEN 21 of the National Marine Plan requires cumulative impacts to be addressed in decision-making, including whether the cumulative impact of activities outweighs their benefits [15]. That assessment cannot properly be performed on a partial project. Nor can it be performed on this Project in isolation from the wider programme of offshore wind development in these waters. The Ministers are invited to address the cumulative question on the whole of the Project, and in the context of the other development proposed and consented in this sea area, before determining these applications.

## 13. Further matters requiring the Ministers' determination

13.1 The Community Council raises the following matters so that they are before the Ministers and answered. In each case it states what the application contains and what it asks the Ministers to test. It does not assert conclusions on chapters it has not examined, and it identifies in the note on sources which those are.

### Aviation lighting and the night-time environment

13.2 Structures of the height proposed require aviation obstruction lighting, and offshore structures require navigation marking and lighting; the applicant has produced an outline lighting and marking plan, a military and civil aviation chapter and an airspace and radar modelling appendix [5][38][39]. The horizon concerned is presently unlit, and the applicant's own coastal character assessment acknowledges that aviation lighting may be perceptible during the hours of darkness [8]. The Ministers are asked to address the night-time effect on the western and northern coasts of Islay, which is a distinct effect from the daytime visual effect considered at Section 3, and to confirm the positions of the Civil Aviation Authority, the Ministry of Defence and the operator of Islay Airport.

### Other marine users, major accidents and pollution risk

13.3 The applicant's chapter on major accidents and disasters assesses marine casualty, vessel allision, and loss of containment and pollution, applying the guidance of the Institute of Environmental Management and Assessment on major accidents and disasters in environmental impact assessment together with Marine Accident Investigation Branch and Maritime and Coastguard Agency guidance [41]. The application also includes a chapter on infrastructure and other marine users, a marine pollution contingency plan, an assessment of unexploded ordnance clearance and an invasive non-native species mitigation plan [40][41]. Islay lies to the south-east of the development area and its coasts and inshore waters would receive the consequences of any significant loss of containment. The Community Council has not completed its review of these documents. It asks the Ministers to satisfy themselves that the risk to Islay's coastline, its beaches and its inshore shellfish grounds from accidental events during a five-year construction programme involving 117 vessels and 5,699 vessel movements has been assessed at island level, and that the contingency arrangements are proportionate to that risk and secured by condition.

### Climate resilience of the development itself

13.4 The applicant has produced a climate change risk assessment supported by climate projection data and a vulnerability assessment [42]. Since the Project would stand in an exposed Atlantic location for a stated 35 years within a 60-year lease, the Ministers are asked to confirm that the resilience of the infrastructure, and the implications of any failure for the waters and coasts of the adjacent islands, have been assessed.

### Blue carbon

13.5 The applicant has produced a blue carbon assessment as an appendix to its greenhouse gas chapter [43]. Given that the Project would disturb 448 $km^2$ of seabed and place over 11.6 million cubic metres of protective material upon it, the treatment of seabed carbon stores is material to the emissions question addressed at Section 11, and the Ministers are asked to state their conclusions on it.

### Inter-related and combined effects on the same receptors

13.6 The EIAR assesses effects topic by topic, and the applicant has produced a chapter on inter-related effects and ecosystem assessment [44]. This matters to Islay more than the structure of the document suggests, because the same island, the same coastline and the same communities appear in several chapters at once: significant adverse seascape change along two designated coastlines, five years of intensive vessel activity, displaced fishing effort, and reduced port access and emergency response capability. The Ministers are asked to satisfy themselves that the combined effect of those matters upon the affected island communities has been assessed, and not merely the individual effects considered separately. The Community Council notes that this is closely connected to the absence of any place-based assessment of Islay identified at Section 6.

### Securing whatever mitigation is relied upon

13.7 The applicant has produced a mitigation and commitments register together with a suite of outline management plans [45]. If consent were granted, the Community Council asks that every measure relied upon in reaching that decision be secured by condition in terms which are enforceable, and that outline plans be required to be submitted in final form for approval before the commencement of works.

## 14. Matters on which the applicant is anticipated to rely

14.1 The Community Council sets out below the principal answers which it expects the applicant to make to this objection, together with its reply to each. It does so so that the matters genuinely in dispute are before the Scottish Ministers now, and not for the first time at a later stage of the examination.

### That the magnitude gradings are a matter of professional judgement

14.2 Professional judgement is required by the guidelines, and viewing distance is properly among the considerations within it. That is not the objection. The objection is that the applicant has reached a conclusion which its own methodology does not require and nowhere explains. The coastline at CCA 20 is assessed as being of high sensitivity, as experiencing a large geographical extent of change along its entire length, as having approximately 71 degrees of its horizon occupied, and as sustaining a moderate and significant effect, with the nearest turbines approximately 15 km offshore. High magnitude is attributed by the same consultants, in the same appendix, to a comparable coastline at approximately 17 km. The applicant must therefore identify what feature of north-west Islay, other than viewing distance, accounts for the difference. If the answer is distance, a threshold is operating which the methodology does not contain. If it is not distance, the applicant has not said what it is (Section 3).

14.3 Consistency in the application of professional judgement is ordinarily a virtue. It ceases to be one where the consistent outcome is not required by the written methodology, is not explained, and operates in one direction only.

### That significant weight must be given to renewable energy, and that this outweighs the harm

14.4 Three answers follow. The first concerns the test. The applicable provisions do not ask whether benefits outweigh harm. NPF4 Policy 4(d) requires significant adverse effects on a designated landscape area to be clearly outweighed by benefits of at least local importance; GEN 6 of the National Marine Plan requires substantial harm to a designated heritage asset to be exceptional and to be necessary in order to deliver outweighing benefits; and NPF4 Policy 7(h) requires exceptional circumstances to be demonstrated where the integrity of the setting of a scheduled monument is affected [14][15]. Those are higher thresholds than a simple balance, and the burden of satisfying them lies upon the applicant.

14.5 The second concerns what the benefit is. It is not the national importance of offshore wind in the abstract. It is the benefit of this development at this site. The ScotWind round awarded a substantial number of separate option areas, and the same generating capacity is capable of being delivered elsewhere [34]. What must clearly outweigh the harm to Islay is therefore the marginal advantage of this location over an alternative, and the applicant has nowhere quantified it.

14.6 The third concerns the structure of the Framework. NPF4 Policy 1 directs significant weight to the climate and nature crises together and not as a hierarchy, so the climate case cannot without more be deployed to defeat the protective policies which the same Framework enacts [14]. And on the authority discussed at Section 4, a decision-maker who finds harm to the setting of a heritage asset is not free to give that harm whatever weight he chooses [48].

### That the objector has produced no expert evidence of harm

14.7 Every operative test identified in this objection is a condition which the applicant must positively satisfy, and none of them is satisfied by the absence of contrary evidence (Section 2). Under the Habitats Regulations in particular, consent requires that reasonable scientific doubt be removed; it is not for the Community Council to create doubt which the applicant has itself provided for by preparing a derogation case and a species compensation plan (Section 10) [11].

14.8 In any event this objection does not rest upon evidence of the Community Council's own. It rests upon the applicant's documents, the applicant's methodology, the applicant's tabulated findings, the recorded advice of Historic Environment Scotland and the guidance of NatureScot.

### That the statutory consultees have not objected

14.9 If that is said, it does not discharge the Ministers' own duties. The duty in paragraph 3 of Schedule 9 to the Electricity Act 1989 is the Ministers' duty and not a consultee's [2]. The tests in NPF4 and in the National Marine Plan are applied by the Ministers. The silence of a consultee cannot demonstrate the exceptional circumstances which Policy 7(h) requires to be demonstrated, and it cannot remove reasonable scientific doubt for the purposes of the Habitats Regulations [14][21].

14.10 Nor, on the record, is this a case of consultee contentment. Historic Environment Scotland has advised that the effect upon the setting of a scheduled monument on Islay is capable of raising issues of national importance such that it might object (Section 4) [37]. The National Trust for Scotland has stated its intention to object [31]. And both NatureScot and the Marine Directorate's own licensing team asked for the wind farm and its transmission works to be assessed together, and were not followed (Section 12) [5].

### That Raeshaw Farms is a terrestrial case and marine practice differs

14.11 The reasoning which the Inner House rejected in that case was precisely the reasoning that established common practice justified assessing a wind farm separately from its grid connection [23]. An appeal to common practice in marine licensing is therefore an appeal to the argument which failed. The principle is not confined to the terrestrial regime: in the Habitats context the appropriate assessment must identify all the aspects of the project capable of affecting the conservation objectives of the site [22]. And the applicant's own explanation, that the level of detail available for the export cable corridor and the onshore works is limited so that any combined assessment is commensurate with that limited detail, is not an answer to the objection (Section 12) [37]. It is the objection.

### That the site was identified through the Sectoral Marine Plan and the seabed has been leased

14.12 That answer is addressed at Section 5. In short, the Sectoral Marine Plan is not the statutory marine plan which section 15 of the Marine (Scotland) Act 2010 engages; its plan-level assessment deferred project-level scrutiny to this stage; the grant of a seabed lease confers no entitlement to consent; and the strategic assessment of this option area identified the very categories of effect now in issue as key risks attaching to it [3][12][34][37].

### That community benefit will be provided

14.13 The provision of a voluntary community benefit fund would not affect the planning merits of these applications. Payments of that kind are not mitigation of environmental harm and are not material to whether consent should be granted. Nor do they satisfy NPF4 Policy 11(c), which is concerned with whether the proposal itself maximises net economic impact including local and community socio-economic benefit [14]. A proposal which quantifies its benefit in national totals, which locates its supply-chain benefit at ports, whose only identified island role is Islay's possible use as a project location, and which concentrates seascape, heritage, fisheries, connectivity and habitability harm upon island communities whose socio-economic position it has not assessed, does not meet that requirement (Section 6).

### That at this distance the turbines would be barely perceptible

14.14 That is not what the applicant's own assessment says. It records a large geographical extent of change along the entire length of two Islay coastlines, approximately 71 degrees of occupied horizon at CCA 20, moderate and significant effects, and, from Loch Gruinart, a development which may read as an onshore wind farm rather than an offshore one (Section 3) [8]. Nor is perceptibility a function of scale alone. Moving blades draw the eye in a way that static structures do not, and the introduction of aviation and navigation lighting would alter a presently unlit Atlantic horizon after dark (Section 13).

### That the assessment adopted a realistic worst case

14.15 The applicant states that each chapter assesses a realistic worst case, so ensuring a robust and precautionary approach [20]. The design envelope, however, permits a trade between turbine height and turbine number: 91 turbines at up to 335 m, or 144 at up to 280 m [5]. Those two layouts do not share a single worst case. The scenario which is worst for seascape and visual effect is not necessarily the scenario which is worst for ornithological collision risk, for benthic habitat loss, or for navigation. The Ministers are invited to require the applicant to demonstrate that the scenario assessed is the worst case for each receptor individually rather than a single scenario asserted to be worst overall; and if it is not, to treat the assessment as not achieving what is claimed for it, and any consent as requiring conditions fixing the parameters actually assessed.

## 15. The adequacy of the information before the Ministers

15.1 Environmental impact assessment exists to place the competent authority in possession of the information it needs to determine the application before it. The statutory question is not whether the EIAR is long, nor whether its methodology is orthodox, but whether the Ministers now have sufficient information to identify, describe and assess the likely significant effects of this development and to determine these applications on an informed basis [33]. The Community Council submits that they do not, and identifies four specific deficiencies rather than advancing a general complaint.

- **The climate benefit is not quantified on a consistent basis.** The reported avoided emissions omit 75% of the Project's own lifecycle emissions from one side of the comparison, and the applicant, having correctly identified that the two sides are measured differently, does not supply the figure which would make them comparable. On the only lifecycle comparison the chapter completes, the Project is more carbon-intensive per unit of electricity than its own counterfactual (Section 11) [7].
- **Policy 4(d) has not been addressed on the applicant's own findings.** Two Islay coastlines within a designated Local Landscape Area are assessed as sustaining significant adverse effects along their entire length, and no assessment of local benefit exists against which those effects could be weighed under the second limb of that policy (Sections 3 and 6) [8][11][14].
- **The affected island community has not been assessed.** Island habitability was identified as a matter requiring examination by the applicant's own consultants; the assessment then examined ports, and considered Islay only by reference to its potential role as a project location (Section 6) [10].
- **There is an acknowledged gap in statutory heritage advice.** Historic Environment Scotland ceased advising on undesignated underwater cultural heritage from 1 January 2025, and the Marine Directorate's licensing team recorded that it was considering alternative provision for non-designated assets. The Ministers are asked to confirm what advice they have received on that part of the resource before determining the applications (Section 4) [37].
- **The combined effect on the affected island communities is not drawn together.** The same island, coastline and communities appear across the seascape, socio-economic, fisheries, navigation and construction chapters, and the Ministers are asked to satisfy themselves that the inter-related effects assessment addresses their combined effect rather than each in isolation (Section 13) [44].
- **The Project is assessed in part while its benefits are quantified in whole.** The transmission infrastructure is included in the greenhouse gas assessment and excluded from every chapter assessing harm, contrary to the advice of both NatureScot and the Marine Directorate's licensing team, and contrary to the approach which *Raeshaw* requires (Sections 11 and 12) [5][7][23].

15.2 The applicant's methodology chapter states the basis on which each topic chapter has been assessed [20]. Each of the deficiencies identified above is capable of being remedied by the provision of further environmental information, and the Community Council's alternative request at Section 10 is framed accordingly. But until they are remedied, the Ministers are being asked to weigh a benefit which has not been consistently quantified against harms of which one has not been assessed at all, in respect of a project of which part has been withheld from assessment. That is not a sufficient basis on which to determine applications of this scale.

## 16. The planning balance, and the reasons which will be required

16.1 The Community Council does not restate its case here. It identifies what it submits are the decisive considerations, and the matters on which reasons will be required.

### The balance

16.2 On the benefit side, the applicant relies upon the contribution the Project would make to renewable generation, and NPF4 Policy 11 directs that significant weight be given to such a contribution where it is made out [14]. Three matters deny that benefit the weight the applicant claims for it. Its magnitude is not established on a consistent basis by the applicant's own greenhouse gas assessment (Section 11). It is not site-specific: the national contribution could be delivered from other option areas created by the ScotWind leasing round, and the applicant has not quantified what would be lost by a smaller, more distant or differently configured development, having rejected those alternatives against its own objective of maximising output from this site (Section 5) [11][34]. And no benefit of local importance has been quantified at all (Section 6) [11].

16.3 On the harm side stand significant adverse effects, on the applicant's own assessment, along the entire length of two coastlines within a designated Local Landscape Area, unmitigated and enduring; an island community whose exposure has not been assessed; identified effects on fisheries access, on access to local ports and harbours and on emergency response capability which the applicant's own chapters record; a substantial and largely irreversible alteration of 448 km$^2$ of seabed in waters supporting Priority Marine Features and Annex I habitats; the introduction of aviation and navigation lighting onto a presently unlit horizon; and an effect on the setting of the coastal monuments of western Islay which the statutory adviser on the historic environment has described as capable of fundamentally altering the setting of a scheduled monument and of raising issues of national importance [7][8][10][25][26][28][37].

16.4 Standing back, the Community Council submits that the decisive point is not any single harm but the relationship between the two sides. The benefit which is said to justify the harm is the one element of the application which the applicant's own evidence does not establish on a consistent basis; and the community which would bear the harm is the one element of the receiving environment which the applicant's own assessment does not examine. A balance struck on that material would not be a balance struck on evidence.

### Reasons

16.5 The Ministers' reasons must be intelligible and adequate, must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the principal important controversial issues, and must leave no substantial doubt as to whether the decision-maker erred in law: *South Buckinghamshire District Council v Porter (No 2)*, and see *Dover District Council v CPRE Kent* on the giving of reasons as an element of good administration [35]. In the specific context of environmental impact assessment, *R (Finch) v Surrey County Council* confirms that a decision may be set aside where there is a demonstrable flaw in the reasoning which led to it, including where an important step in that reasoning is unsupported by evidence, the question being whether the conclusion follows from the evidence or whether there is an unexplained gap or leap [47]. Several of the matters listed below are of that character.

16.6 The Community Council submits that the principal important controversial issues, on which express conclusions and reasons will be required, are these:

- whether the Project delivers a net reduction in greenhouse gas emissions across its lifetime measured against the counterfactual the applicant has itself defined and, if that cannot be determined from the EIAR, what weight the claimed climate benefit can properly carry;
- whether either limb of NPF4 Policy 4(d) is satisfied in respect of the North and West Islay (Coast) Local Landscape Area, given the applicant's own findings of significant adverse effects on CCA 18 and CCA 20;
- whether NPF4 Policy 11(c) can be satisfied where local and community socio-economic benefit is neither quantified nor assessed;
- whether sound socio-economic evidence exists in respect of Islay as an affected island community, as GEN 19 of the National Marine Plan requires;
- whether reasonable scientific doubt has been excluded in respect of the guillemot feature of the North Colonsay and Western Cliffs Special Protection Area, and if not, whether each limb of the derogation test is made out;
- whether the Windfarm Development Area and the transmission works constitute a single project for the purposes of environmental impact assessment, applying *Raeshaw Farms*; and
- whether the duties owed under the Islands (Scotland) Act 2018 have been discharged in respect of this determination;
- what feature of the north-western coast of Islay, other than viewing distance, accounts for the attribution of medium rather than high magnitude to CCA 20 and CCA 18, when high magnitude and a major effect are attributed to comparable coastlines at 12 to 17 km;
- whether the effect on the setting of Beinn a' Chaisteil promontory fort and the other coastal monuments of western and northern Islay amounts to substantial harm for the purposes of GEN 6 of the National Marine Plan, whether the integrity of setting of any scheduled monument is affected within NPF4 Policy 7(h), and how the duty under paragraph 3 of Schedule 9 to the 1989 Act has been discharged;
- whether the mandatory terms of GEN 9 of the National Marine Plan are satisfied in respect of the Priority Marine Features and Annex I habitats within the development area;
- whether genuine co-existence with the established inshore fishing interest has been demonstrated for the purposes of GEN 4, and what becomes of the fishing effort displaced from the development area;
- whether search and rescue capability and access to local ports and harbours serving Islay would be maintained, to the satisfaction of the Maritime and Coastguard Agency and the Royal National Lifeboat Institution; and
- whether the combined effect of the Project's separate impacts upon the affected island communities has been assessed.

16.7 If the Ministers depart from Scotland's National Marine Plan in determining the marine licence applications, section 15(2) of the 2010 Act requires them to state their reasons for doing so [3].

## 17. Conclusion, and the determination sought

17.1 Refusal is sought not because this development is unwelcome, but because the framework which governs it is not satisfied, and the Community Council concludes by identifying where, on the applicant's own evidence, that framework fails.

17.2 The marine licence applications must be determined in accordance with Scotland's National Marine Plan unless relevant considerations indicate otherwise [3]. They are not in accordance with it. GEN 5 requires the Ministers to act in the way best calculated to mitigate climate change, and the Project's net lifetime emissions effect is not established on a consistent basis by the applicant's own assessment. GEN 7 requires particular care where largely undeveloped and unspoiled coast may be affected, and two such coastlines are assessed by the applicant as sustaining significant adverse effects along their entire length. GEN 6 requires designated heritage assets to be protected in situ within an appropriate setting and permits substantial harm only exceptionally, and the statutory adviser's recorded advice is that the setting of a scheduled monument on Islay may be fundamentally altered. GEN 19 requires sound socio-economic evidence and, where it is lacking, precaution; the evidence for Islay as an affected community does not exist. GEN 21 requires cumulative impacts to be addressed, which cannot be done on a project presented in part. The presumption in favour of sustainable development in GEN 1 is available only to proposals which accord with the Plan, and so is not engaged [15].

17.3 The section 36 application falls to be determined against a development plan which withholds support from it. NPF4 Policy 4(d) is not satisfied on either limb in respect of the North and West Islay (Coast) Local Landscape Area. The concession in Policy 11(e)(ii) is unavailable, the effects being neither localised nor mitigated. Policy 11(c) is not satisfied, local and community benefit being unquantified. Policy 2 is not satisfied, the design choices which would have reduced lifecycle emissions having been rejected in favour of output. Policy 4(a) withholds support from development which by virtue of type, location or scale would have an unacceptable impact on the natural environment, and Policy 30 of the Local Development Plan requires a demonstration of no unacceptable environmental effects which has not been made [14][16].

17.4 Two further matters stand apart from the planning balance because they are conditions of lawfulness rather than considerations of weight. The applicant's own derogation filings establish that the question of adverse effect on the integrity of the North Colonsay and Western Cliffs Special Protection Area is not free from reasonable scientific doubt, and while that is so the appropriate assessment route to consent is closed [11][21][22]. And the Ministers are required to determine, on a fact-specific and reasoned basis, whether the Windfarm Development Area and the transmission works are one project for the purposes of environmental impact assessment; if they are, the effects of the whole must be assessed before consent is granted [23].

17.5 For those reasons Islay Community Council requests that the Scottish Ministers **REFUSE** consent under section 36 of the Electricity Act 1989 and **REFUSE** the associated marine licence applications [2][3].

### Requests in the alternative

17.6 The requests which follow are made only in the alternative, and only in the event that the Ministers are not minded to refuse. Nothing in them is to be read as an indication that the Community Council considers this proposal capable of being made acceptable, or as any measure of agreement with the applicant. The deficiencies identified in this objection are advanced as reasons for refusal; the requests below identify the minimum which would have to be remedied before the Ministers could lawfully and properly determine these applications at all. The Community Council requests that further environmental information be required under the Electricity Works and Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 before any determination [33], comprising:

- a greenhouse gas comparison on a consistent lifecycle basis, quantifying the lifecycle emissions of the Do Nothing counterfactual and stating whether the Project delivers a net lifetime reduction against it;
- an account of the measures by which lifecycle emissions have been minimised as far as possible for the purposes of NPF4 Policy 2, including the reasons for rejecting a reduced development area and a reduced number of turbines;
- an assessment addressing both limbs of NPF4 Policy 4(d) in respect of the North and West Islay (Coast) Local Landscape Area, by reference to the findings for CCA 18 and CCA 20;
- the final position of Historic Environment Scotland on the setting of Beinn a' Chaisteil promontory fort and the other assets it has identified, together with an assessment of whether design or layout change could reduce the effect on setting, as that body advised in January 2025;
- a place-based socio-economic and habitability assessment of Islay as an affected island community, founded on engagement with that community and distinct from any appraisal of the island as a potential project location;
- quantification of the local and community socio-economic benefits relied upon for the purposes of NPF4 Policy 11(c), at island and Argyll and Bute level; and
- such further ecological information as the Ministers require in order to discharge their duties under the Habitats Regulations.

17.7 The Community Council further requests that the examination of these applications take the form of inquiry sessions. It recognises that, following the amendments made to Schedule 8 to the Electricity Act 1989 by the Planning and Infrastructure Act 2025 with effect from 18 February 2026, the form of examination is a matter for the appointed reporter and no objection compels an inquiry [36]. The request is made because the central matters raised by this objection are matters on which written exchanges permit assertion but not testing: how a conclusion of significant benefit is derived from the figures in Chapter 19, and how significant adverse effects on a designated landscape area come to attract no mitigation, are questions which require the applicant's witnesses to be examined on the record.

17.8 The Community Council also requests that it be notified of, and given a proper opportunity to comment upon, any supplementary environmental information, any addendum to the Environmental Impact Assessment Report and any material change to the applications before determination; and that it be notified promptly of any decision and of the reasons for it, having regard to section 36D(4) of the 1989 Act, which allows six weeks from publication of a decision for any application questioning its validity [2].

17.9 If consent were granted notwithstanding this objection, the Community Council requests that a decommissioning programme, with adequate and enduring financial security for its execution, be secured before any works commence, having regard to the expectation in NPF4 Policy 11(f) that areas identified for wind farms are suitable for that use in perpetuity [14].

17.10 The Community Council reserves the right to supplement this objection, in particular upon the completion of its review of Chapter 16 and its remaining appendices, and once the representations of NatureScot, Historic Environment Scotland, the National Trust for Scotland, RSPB Scotland and the relevant fisheries bodies are available [24][31].

## References


[1] Applications by MachairWind Limited dated 25 June 2026 for consent under section 36 of the Electricity Act 1989 and for marine licences under Part 4 of the Marine (Scotland) Act 2010, Marine Directorate references 00012385 and 00012386, together with the accompanying application documentation published at marine.gov.scot, energyconsents.scot and in the applicant's MachairWind document library.

[2] Electricity Act 1989. Section 36 (consent for generating stations); section 36D(4) (six-week period for questioning the validity of a decision); Schedule 8 (as amended); and Schedule 9, paragraph 3 (duty to have regard to the preservation of natural beauty, the conservation of flora, fauna and features of special interest and the protection of sites and buildings of interest, and to mitigate effects on them).

[3] Marine (Scotland) Act 2010. Part 4 (marine licensing); section 15 (authorisation decisions to be made in accordance with the appropriate marine plan unless relevant considerations indicate otherwise, with reasons required for any departure).

[4] Local Government (Scotland) Act 1973, Part IV; section 51(2) (general purpose of a community council).

[5] EIAR Chapter 3, Project Description, June 2026. Cited for the 448 $km^2$ Windfarm Development Area; the design envelope of 91 turbines at up to 335 m or 144 at up to 280 m with a maximum rotor diameter of 290 m; the reduction of maximum tip height from 340 m to 335 m and of turbine numbers from 147 to 144, stated as being to reduce the magnitude of change on seascape receptors; the definition of the northern and eastern boundary of the development area by a buffer of at least 12 km from the nearest points of Islay and Colonsay; the approximate distance of 15 km to Islay; the 35-year operational life and 60-year lease; the confirmation of the grid connection near Girvan in August 2025; the deferral of the Offshore Export Cable Corridor and Onshore Transmission Development Area to separate applications; and the consultation responses of NatureScot (10 June 2025) and of the Marine Directorate Licensing and Operations Team, together with the applicant's stated reasons for making separate submissions.

[6] Planning Statement, June 2026, page 50, summarising the seascape, landscape and visual findings across the study area.

[7] EIAR Chapter 19, Greenhouse Gas Assessment (Haskoning), June 2026. Cited for: construction emissions of 4,759,276 $tCO_2e$, of which 88% is embodied carbon in materials (Table 19.13); operational emissions of 1,904,549 $tCO_2e$ (Table 19.14); decommissioning emissions of 571,250 $tCO_2e$ (Table 19.16); the whole Project total of 7,563,018 $tCO_2e$, comprising a WDA figure of 7,235,075, an Offshore Export Cable Corridor figure of 327,380 and an Onshore Transmission Development Area figure of 563 (Table 19.17); the Do Nothing total of 4,756,234 $tCO_2e$ over 35 years, derived from an emission factor of 20.7 $tCO_2e$/GWh for gas generation with carbon capture at an assumed 95% capture rate (paragraph 19.6.2.2 and Table 19.12); reported avoided emissions of 2,851,685 $tCO_2e$ calculated as the Do Nothing total less operational emissions only (Table 19.15); lifetime generation of 229,769,756 MWh at a 40.2% capacity factor; whole Project carbon intensity of 32.9 g $CO_2e$/kWh (paragraph 19.7.2.4.1); the conclusions of beneficial and significant in EIA terms (paragraphs 19.7.2.2.4 and 19.7.2.4.2); the applicant's explanation that the gas factor is not directly comparable with lifecycle emissions (paragraph 19.6.2.2); the whole-Project basis of the chapter and its stated rationale (paragraph 19.1); the single embedded mitigation measure removing gravity base foundations (Table 19.6); the absence of proposed greenhouse gas monitoring (paragraph 19.11); construction and operational vessel and helicopter movements (Table 19.5); and the policy schedule citing NPF4 Policies 1, 2 and 11, National Marine Plan GEN 5 and Argyll and Bute Local Development Plan 2 Policy 30 (Table 19.1).

[8] EIAR Appendix 16.3, Coastal Character Baseline and Assessment (LUC, November 2025). Cited for the coastal character findings for Islay reproduced at Table 1 of this objection, namely CCA 16 (Sound of Islay), CCA 18 (Sgairail), CCA 19 (Loch Gruinart), CCA 20 (Ardnave Point to Rhinns Point), CCA 21 (Loch Indaal) and CCA 22 (Laggan Bay); for the identification of CCA 18, CCA 19 and CCA 20 as lying within the North and West Islay (Coast) Local Landscape Area and of the Oa section of CCA 22 within the South-West Islay Local Landscape Area; for the assessed sensitivity, magnitude, geographical extent and significance of effect in each case; for the maximum horizontal angles of view of approximately 71 degrees (CCA 20), 65 degrees (CCA 19) and 59 degrees (CCA 18); for the baseline descriptions of those coastlines, including the characterisation of CCA 20 as lying at the outer edge of the British Isles and Europe, its bays at Sanaigmore, Saligo, Machir and Lossit, the Dun Bheolain

headland, the villages of Portnahaven and Port Wemyss, the distillery at Kilchoman and the ancient monuments along that coast; and for the assessment observations that the Project would adversely affect the sense of being at the edge of the British Isles (CCA 20) and might be perceived as an onshore rather than an offshore development (CCA 19).

[9] Scottish Natural Heritage, Supplementary Advice to SNH Consultation Response, 25 March 2020, comprising an assessment of potential seascape, landscape and visual impacts and design guidance in respect of the Draft Sectoral Marine Plan for Offshore Wind Energy, including the recommendations that development be limited to beyond 35 km from Colonsay and Islay and that turbine height be limited to a maximum of 200 metres.

[10] EIAR Chapter 18, Socio-economics (BiGGAR Economics), and Appendix 18.1, Socio-economics Technical Report, June 2026. Cited for the stated expectation that the ports are the main local epicentres of impact; for the treatment of Islay by reference to its potential role as a direct project location; and for the citation of Marine Directorate guidance on the definition of local study areas.

[11] Habitats Regulations documentation submitted with the application, June 2026: Report to Inform Appropriate Assessment (Parts 1 to 3); Report to Inform Marine Protected Area Assessment; Windfarm Development Area Habitats Regulations Appraisal Screening Report; Without Prejudice Derogation Case; and Appendix 1 thereto, the Without Prejudice Guillemot Compensation Plan. Cited for the direction of the derogation material to the guillemot feature of the North Colonsay and Western Cliffs Special Protection Area and the applicant's statement that the competent authority may not reach the same conclusion as the applicant; for the six Project Objectives, including the optimisation of the W1 Plan Option Area and the maximisation of the generation capacity of the available Scottish seabed; for the discounting of alternatives including a reduced development area and reduced turbine numbers against those objectives; for the citation of R (Spurrier); for the record that the compensation Regulations came into force in May 2026 with supporting statutory guidance not yet published; for the quantification of employment and Gross Value Added at Scotland and United Kingdom level; and for the finding of the applicant's consultants as to potential impacts on the habitability of island communities.

[12] Scottish Government, Sectoral Marine Plan for Offshore Wind Energy, published 28 October 2020, together with the consultation on the Draft Plan conducted between 18 December 2019 and 25 March 2020; and the consultation responses recorded by the applicant at EIAR Chapter 3, Table 3.1.

[13] Islands (Scotland) Act 2018. Part 3 (duties in relation to island communities), commenced 23 December 2020; section 11 (guidance on island communities impact assessments); section 14 (power of a listed local authority to request a retrospective island communities impact assessment).

[14] National Planning Framework 4, adopted 13 February 2023. Policies relied upon: Policy 1 (significant weight to the climate and nature crises); Policy 2 (siting and design to minimise lifecycle greenhouse gas emissions as far as possible); Policy 4(a) (no support where type, location or scale gives rise to unacceptable impact on the natural environment), Policy 4(d) (proposals affecting a local nature conservation site or landscape area designated in the local development plan) and Policy 4(e) (precautionary principle); Policy 11 and in particular Policy 11(a)(i), 11(c), 11(e)(ii) and 11(f).

[15] Scotland's National Marine Plan, published 27 March 2015 under section 5 of the Marine (Scotland) Act 2010, Chapter 4 (General Policies), the Plan providing that all text in that chapter is to be considered as planning policy. Policies relied upon: GEN 1 (presumption in favour of sustainable development consistent with the Plan's policies); GEN 4 (co-existence with established activities); GEN 5 (climate change); GEN 6 (historic environment, including the protection of designated assets in situ within an appropriate setting and the requirement that substantial loss or harm to designated assets be exceptional); GEN 7 (seascape, landscape and visual impact, including undeveloped and unspoiled coast); GEN 9 (natural heritage, including Priority Marine Features); GEN 13 (noise); GEN 18 (engagement); GEN 19 (sound evidence and precaution); GEN 21 (cumulative impacts).

[16] Argyll and Bute Local Development Plan 2, adopted 28 February 2024, comprising the Written Statement and Proposals Map. Cited for Policy 30 (sustainable growth of renewables), which the applicant identifies as relevant at EIAR Chapter 19, Table 19.1, and for the designation of the North and West Islay (Coast) and South-West Islay Local Landscape Areas.

[17] Scottish Government, Carbon Neutral Islands project. Islay was named in May 2022 as one of six islands, with Hoy, Great Cumbrae, Raasay, Barra and Yell, to become carbon neutral by 2040, in advance of Scotland's statutory net zero date of 2045 under the Climate Change (Scotland) Act 2009 as amended.

[18] EIAR Chapter 11, Offshore Ornithology, and its appendices and annexes, June 2026, including Annex 11.2O recording Manx shearwater tracking undertaken on Lunga in 2025.

[21] The Conservation (Natural Habitats, &c.) Regulations 1994, as amended, applying within 12 nautical miles; and The Conservation of Offshore Marine Habitats and Species Regulations 2017, applying beyond that limit. Cited for the requirement of appropriate assessment, for the condition that the competent authority must have ascertained the absence of adverse effect on site integrity before agreeing to a project, and for the cumulative derogation tests of no alternative solution, imperative reasons of overriding public interest and secured compensatory measures.

[22] Case C-127/02 Landelijke Vereniging tot Behoud van de Waddenzee v Staatssecretaris van Landbouw, Natuurbeheer en Visserij [2004] ECR I-7405, Court of Justice (Grand Chamber), 7 September 2004: authorisation may be given only where no reasonable scientific doubt remains as to the absence of adverse effects on the integrity of the site, on the basis of complete, precise and definitive findings, the requirement incorporating the precautionary principle.

[23] Raeshaw Farms Limited v Scottish Ministers [2026] CSIH 10, Inner House, Court of Session, 17 February 2026.

[24] EIAR Chapter 16, Seascape, Landscape and Visual Impacts, and Appendices 16.1, 16.2 and 16.4, June 2026, together with the representations of NatureScot on these applications when available.

[25] EIAR Chapter 12, Commercial Fisheries, and Appendix 12.1, June 2026, including the assessed impacts of exclusion from and reduced access to the development area and of displacement of fishing effort.

[26] EIAR Chapter 13, Shipping and Navigation, and Appendix 13.1, Navigational Risk Assessment, June 2026, including the assessed impacts of reduced access to local ports and harbours and of reduced emergency response capability.

[27] R (Spurrier) v Secretary of State for Transport [2019] EWHC 1070 (Admin), cited by the applicant in its Without Prejudice Derogation Case for the proposition that an alternative solution must be directed at identified objectives.

[28] EIAR Chapter 8, Benthic Ecology, June 2026, recording the presence of Priority Marine Features and Annex I habitats within the Windfarm Development Area.

[29] EIAR Chapter 9, Fish (including Basking Shark) and Shellfish, and Appendix 9.1, June 2026, including the underwater noise zone of influence and the assessment of effects on basking shark and on prey species including herring and lesser sandeel.

[30] EIAR Chapter 10, Marine Mammals and Leatherback Turtle, and Appendix 10.1, Underwater Noise Modelling Report, June 2026.

[31] National Trust for Scotland, stated intention to object to the MachairWind proposal, June 2026.

[19] EIAR Chapter 4, Site Selection and Alternatives, June 2026.

[20] EIAR Chapter 5, EIA Methodology, June 2026, including the applicant's stated approach of assessing a realistic worst case for each topic.

[32] EIAR Chapter 2, Policy and Legislative Context, June 2026, containing the applicant's own account of the legislation and policy which it considers applicable to the Project.

[37] EIAR Chapter 14, Offshore Archaeology and Cultural Heritage (Haskoning), with Appendix 14.1 (Archaeological Assessment of Geophysical and Hydrographic Data), Appendix 14.2 (Palaeolandscape Assessment) and Appendix 14.3 (Settings Assessment), June 2026. Relied upon in particular for the consultation record at Table 14.2, which reproduces the representations of Historic Environment Scotland, including its scoping opinion of 9 January 2025 identifying likely significant effects on historic environment interests and naming Beinn a' Chaisteil promontory fort (SM13213) and Nave Island (SM3233) among the assets at risk; its written response of 28 April 2025 on the draft wireline visualisation from within the scheduled area at Beinn a' Chaisteil; its advice of January

2025 that significant setting impacts might be reduced by careful design or redesign of the turbine layout and that assessment should be undertaken early in the design process; the meeting record of 13 June 2025 concerning Dun Bheolain fort; its written response of 20 February 2026 recording that the assets previously identified were not an exhaustive list, and the applicant's acknowledgement that the integrity of setting test applies to scheduled monuments under NPF4 Policy 7(h) and that the substantial harm test in Scotland's National Marine Plan applies to all designated heritage assets. Also relied upon for the policy schedule at Table 14.1, which records the terms of GEN 6, the identification by the Strategic Environmental Assessment of the draft updated Sectoral Marine Plan of effects on historic environment features and their settings as a key potentially significant effect for Plan Option W1, and the identification by the Strategic Environmental Assessment for the 2020 Plan of potential visual and landscape or seascape character impacts as key risk factors for W1; for the statement at paragraph 2 that the chapter considers the Windfarm Development Area study area and existing environment only by reason of the delay in confirming the grid connection; for the number and distribution of the 178 scheduled monuments within 50 km; and for the record that Historic Environment Scotland ceased to advise on undesignated underwater cultural heritage with effect from 1 January 2025 and that the Marine Directorate was considering alternative provision for non-designated assets.

[46] Landscape Institute and Institute of Environmental Management and Assessment, Guidelines for Landscape and Visual Impact Assessment (3rd edition, 2013), together with NatureScot guidance on landscape and visual impact assessment and on the visual representation of wind farms. Neither establishes any viewing distance beyond which a highly sensitive receptor is incapable of experiencing a high magnitude of change, or beyond which a significant effect cannot arise.

[47] R (Finch) v Surrey County Council [2024] UKSC 20, [2024] PTSR 988, on environmental impact assessment and the standard of review: a decision may be set aside where there is a demonstrable flaw in the reasoning which led to it, including where there was no evidence to support an important step in that reasoning; the question being whether the conclusion follows from the evidence, or whether there is an unexplained evidential gap or leap which fails to justify the conclusion.

[48] Barnwell Manor Wind Energy Limited v East Northamptonshire District Council, English Heritage, the National Trust and the Secretary of State for Communities and Local Government [2014] EWCA Civ 137: a statutory heritage duty requires the desirability of preserving the setting of a heritage asset to be given considerable importance and weight rather than merely careful consideration; a finding of harm gives rise to a strong presumption against consent; and the decision-maker is not free to give that harm such weight as he chooses. See also Jones v Mordue [2015] EWCA Civ 1243, that no particular form of words is required in order to discharge the duty. Decided under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and cited here as persuasive on the principle.

[38] EIAR Appendix 12, Outline Lighting and Marking Plan, and Appendix 15.2, Dubh Artach Lighthouse Technical Note, June 2026.

[39] EIAR Chapter 15, Military and Civil Aviation, and Appendix 15.1, Airspace Analysis and Radar Modelling, June 2026.

[40] EIAR Chapter 17, Infrastructure and Other Marine Users, June 2026.

[41] EIAR Chapter 21, Major Accidents and Disasters; Appendix 7, Marine Pollution Contingency Plan; Appendix 8, Invasive Non-Native Species Mitigation Plan; and Appendix 10.6, Unexploded Ordnance Assessment for Marine Mammals and Leatherback Turtle, June 2026.

[42] EIAR Chapter 20, Climate Change Risk Assessment, with Appendix 20.1 (Climate Projection Data) and Appendix 20.2 (Climate Change Vulnerability Assessment), June 2026.

[43] EIAR Appendix 19.2, Blue Carbon Assessment, June 2026.

[44] EIAR Chapter 22, Inter-related Effects and Ecosystem Assessment, June 2026.

[45] EIAR Appendix 5, WDA Mitigation and Commitments Register; Appendix 6, Outline Environmental Management Plan; Appendix 10, Fisheries Mitigation, Monitoring and Communication Plan; and Appendix 13, Outline Vessel Management Plan and Navigational Safety Plan, June 2026.

[33] The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, SSI 2017/101; and The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017, SSI 2017/115, including the power to require further information.

[34] Crown Estate Scotland, ScotWind leasing round outcome, January 2022.

[35] South Buckinghamshire District Council v Porter (No 2) [2004] UKHL 33, [2004] 1 WLR 1953, per Lord Brown at paragraph 36; Dover District Council v CPRE Kent [2017] UKSC 79.

[36] Planning and Infrastructure Act 2025 (c. 34), Royal Assent 18 December 2025, relevant provisions in force 18 February 2026, amending Schedule 8 to the Electricity Act 1989 so as to provide for a reporter-led examination in which the appointed person determines the appropriate procedure.

## Note on sources and on the limits of this objection

Every figure and finding attributed to the applicant in this objection is taken from the application documentation published in the MachairWind document library and is cited to the chapter, appendix, table or paragraph in which it appears.

Three calculations in this objection are the Community Council's own and are performed on the applicant's figures, so that the Ministers may verify them at source. The comparison in Section 11 between the whole Project lifecycle total at Table 19.17 and the Do Nothing total at Table 19.12 is a direct subtraction of those two figures. The proportion of the Project's emissions omitted from the reported avoided emissions figure is derived by deducting the operational figure at Table 19.14 from the whole Project total at Table 19.17. The comparison of carbon intensity is between the figure at paragraph 19.7.2.4.1 and the emission factor at paragraph 19.6.2.2, converted to common units. The description in Section 3 of approximately 71 degrees as approximately one fifth of the horizon is arithmetic on the applicant's own figure.

The design guidance of Scottish Natural Heritage discussed at Section 5 forms part of the published consultation documentation for the Draft Sectoral Marine Plan, and the Community Council will provide a copy to the Scottish Ministers on request.

The Community Council records the limits of this objection candidly, so that the weight to be given to each part of it may be judged accordingly. It is not a specialist ecological, seascape, navigational or economic consultee, and it has not commissioned competing assessment.

The application documents which the Community Council has examined directly, and upon which the substantive submissions at Sections 3, 4 and 11 rest, are Chapter 19 (Greenhouse Gas Assessment), Appendix 16.3 (Coastal Character Baseline and Assessment) and Chapter 14 (Offshore Archaeology and Cultural Heritage), including the consultation record at Table 14.2 of that chapter. The submissions at Sections 6, 7, 8 and 9 rest upon the impacts, figures and consultation responses identified by the applicant in Chapters 3, 8, 9, 10, 11, 12, 13 and 18 and in its Habitats Regulations documentation, and are confined to matters recorded in those documents.

The Community Council's review of Appendix 14.3 (Settings Assessment), Chapter 15 (Military and Civil Aviation), Chapter 16 and its remaining appendices, Chapter 17 (Infrastructure and Other Marine Users), Chapter 20 (Climate Change Risk Assessment), Chapter 21 (Major Accidents and Disasters), Chapter 22 (Inter-related Effects and Ecosystem Assessment) and Appendix 19.2 (Blue Carbon Assessment) is not complete. Where those documents are raised, at Sections 4 and 13, the Community Council states what the application and the consultation record contain and asks the Ministers to test it. In particular, the submissions at Section 4 rest upon the recorded representations of Historic Environment Scotland and not upon any conclusion of the applicant's settings assessment, which the Community Council has not examined. It does not assert what those chapters conclude, and it reserves the right to supplement this objection upon completing its review of them.

Where this objection relies upon a grading or conclusion reached by the applicant, that grading is identified and cited so that the Ministers may check it at source. The Community Council has confined itself to grounds which the application documents support, and no submission in this objection depends upon evidence which the Community Council cannot produce or which the Ministers cannot verify in the application documents.