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Appendix 1.2

Scoping Opinion

Contents

A1.2.1 EUC SCOPING OPINION 2
A1.2.2 ETTRICK & YARROW COMMUNITY COUNCIL SCOPING OPINION 13
A1.2.3 HERIOT COMMUNITY COUNCILSCOPING OPINION 14
A1.2.4 INNERLEITHEN AND DISTRICT COMMUNCITY COUNCIL SCOPING OPINION 16
A1.2.5 PARISH OF STOW COMMUNITY COUNCIL SCOPING OPINION 17
A1.2.6 BT SCOPING OPINION 18
A1.2.7 DEFENCE INFRASTRUCTURE ORGANISATION SCOPING OPINION 18
A1.2.8 EDINBURGH AIRPORT SCOPING OPINION 19
A1.2.9 FISHERIES MANAGEMENT SCOTLAND SCOPING OPINION 20
A1.2.10 GLASGOW AIRPORT SCOPING OPINION 20
A1.2.11 HISTORIC ENVIRONMENT SCOTLAND SCOPING OPINION 21
A1.2.12 JOINT RADIO COMPANY SCOPING OPINION 25
A1.2.13 MOUTAINEERING SCOTLAND SCOPING OPINION 26
A1.2.14 NATS SAFEGUARDING SCOPING OPINION 27
A1.2.15 NATURESCOT SCOPING OPINION 33
A1.2.16 ONR SCOPING OPINION 35
A1.2.17 RIVER TWEED SCOPING OPINION 35
A1.2.18 RSPB SCOPING OPINION 36
A1.2.19 SCOTTISH WATER SCOPING OPINION 38
A1.2.20 SEPA SCOPING OPINION 40

A1.2.1 EUC SCOPING OPINION

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The Scottish Government
Energy Consents Unit

Scoping Opinion On Behalf Of Scottish Ministers Under The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017

Scawd Law Wind Farm

21 October 2020

CONTENTS

1. Introduction 3
2. Consultation 4
3. The Scoping Opinion 5
4. Mitigation Measures 7
5. Conclusion 7
ANNEX A 9

1. Introduction

1.1 This scoping opinion is issued by the Scottish Government Energy Consents Unit on behalf of the Scottish Ministers to Fred Olsen Renewables Ltd, a company incorporated under the Companies Acts with company number **02672436** and having its registered office at **2nd Floor, 36 Broadway, London, England, SW1H 0BH**, ("the Company") in response to a request dated 31 July 2020 for a scoping opinion under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 in relation to the proposed Scawd Law Wind Farm ("the proposed development"). The request was accompanied by a scoping report.

1.2 The proposed development would be located 3km north of Walkerburn in the Scottish Borders Council planning authority area.

1.3 The proposed development would comprise of 12 turbines with a blade tip height of up to 180 metres, and rotor diameters of approximately 120 metres.

1.4 In addition to the 12 turbines there will be ancillary infrastructure including:

- Turbine foundations and hardstandings;
- External transformer housing;
- Crane pads;
- Access tracks;
- Tree felling
- Underground electricity cables between the turbines;
- Onsite substation and control building;
- Anemometry mast;

1.5 The Company indicates the proposed development would be decommissioned and the site restored in accordance with the decommissioning and restoration plan.

1.6 The proposed development is solely within the planning authority of Scottish Borders Council.

2. Consultation

2.1 Following the scoping opinion request, a list of consultees was agreed between Fred Olsen Renewables Ltd and the Energy Consents Unit. A consultation on the scoping report was undertaken by the Scottish Ministers commencing on 7 August 2020. The consultation closed on 28 August 2020, though the planning authority and community councils were given until 25 September 2020. An extension was granted to Defence Infrastructure Organisation. The Scottish Ministers also requested responses from their internal advisors Transport Scotland and Scottish Forestry. A full list of consultees is set out at **Annex A.**

2.2 The purpose of the consultation was to obtain scoping advice from each consultee on environmental matters within their remit. Responses from consultees and advisors should be read in full for detailed requirements and for comprehensive guidance, advice and, where appropriate, templates for preparation of the Environmental Impact Assessment (EIA) report.

2.3 Unless stated to the contrary in this scoping opinion, Scottish Ministers expect the EIA report to include all matters raised in responses from the consultees and advisors.

No responses were received from Walkerburn and District Community Council, Clovenford Community Council, Peebles Community Council, British Horse Society, Civil Aviation Authority, Crown Estate Scotland, John Muir Trust, National Grid, Scottish Ornithologists Club, Scottish Wild Land Group, Scottish Wildlife Trust, Scotways, Tweed Foundation, Prestwick Airport, or Visit Scotland.

Although not on the agreed Consultee list, a representation was made to Scottish Ministers from Lauderdale Community Council requesting they be included as a future consultee and also ask for a photomontage from the Company. The Scottish Ministers request that the Company contacts Lauderdale Community Council directly regarding this

2.4 With regard to those consultees who did not respond, it is assumed that they have no comment to make on the scoping report, however each should be consulted again in the event that an application for section 36 consent is submitted subsequent to this EIA scoping opinion.

2.5 The Scottish Ministers are satisfied that the requirements for consultation set out in Regulation 12(4) of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 have been met.

3. The Scoping Opinion

3.1 This scoping opinion has been adopted following consultation with Scottish Borders Council, within whose area the proposed development would be situated, Scottish Natural Heritage (acting under its operating name NatureScot, and hereafter referred to as NatureScot), Scottish Environment Protection Agency and Historic Environment Scotland, all as statutory consultation bodies, and with other bodies which Scottish Ministers consider likely to have an interest in the proposed development by reason of their specific environmental responsibilities or local and regional competencies.

3.2 Scottish Ministers adopt this scoping opinion having taken into account the information provided by the applicant in its request dated 31 July 2020 in respect of the specific characteristics of the proposed development and responses received to the consultation undertaken. In providing this scoping opinion, the Scottish Ministers have had regard to current knowledge and methods of assessment; have taken into account the specific characteristics of the proposed development, the specific characteristics of that type of development and the environmental features likely to be affected.

3.3 A copy of this scoping opinion has been sent to Scottish Borders Council for publication on their website. It has also been published on the Scottish Government energy consents website at www.energyconsents.scot.

3.4 Scottish Ministers expect the EIA report which will accompany the application for the proposed development to consider in full all consultation responses attached in **Annex A**.

3.5 Scottish Ministers are generally satisfied with the approach to the scope of the EIA set out at Section 5 of the scoping report. However, Scottish Ministers agree with the comments of RSPB and Scottish Borders Council regarding Black Grouse. Both consultees highlight that the site and local area lie within a core area for Black Grouse. Scottish Ministers would request therefore that Black Grouse is included for assessment in the EIA.

3.6 In addition to the consultation responses, Ministers wish to provide comments with regards to the scope of the EIA report. The Company should note and address each matter.

3.7 The proposed development set out in the Scoping Report refers to wind turbines, and grid technologies including battery storage and/or solar panels. Any application submitted under the Electricity Act 1989 requires to clearly set out the generation station(s) that consent is being sought for. For each generating station details of the proposal require to include but not limited to:

- the scale of the development (dimensions of the wind turbines, solar panels, battery storage)
- components required for each generating station
- minimum and maximum export capacity of megawatts and megawatt hours of electricity for battery storage

3.8 Scottish Water provided information on whether there are any drinking water protected areas or Scottish Water assets on which the development could have any significant effect. Scottish Ministers request that the company contacts Scottish Water (via EIA@scottishwater.co.uk) and makes further enquiries to confirm whether there any Scottish Water assets which may be affected by the development, and includes details in the EIA report of any relevant mitigation measures to be provided.

3.9 Scottish Ministers request that the Company investigates the presence of any private water supplies which may be impacted by the development. The EIA report should include details of any supplies identified by this investigation, and if any supplies are identified, the Company should provide an assessment of the potential impacts, risks, and any mitigation which would be provided.

3.10 MSS provide generic scoping guidelines for both onshore wind farm and overhead line development https://www2.gov.scot/Topics/marine/Salmon-Trout-Coarse/Freshwater/Research/onshoreren) which outline how fish populations can be impacted during the construction, operation and decommissioning of a wind farm development and informs developers as to what should be considered, in relation to freshwater and diadromous fish and fisheries, during the EIA process.

In addition to identifying the main watercourses and waterbodies within and downstream of the proposed development area, developers should identify and consider, at this early stage, any areas of Special Areas of Conservation where fish are a qualifying feature and proposed felling operations particularly in acid sensitive areas.

MSS also provide standing advice for onshore wind farms (which has been appended at Annex A) which outlines what information, relating to freshwater and diadromous fish and fisheries, is expected in the EIA report. Use of the checklist, provided in Annex 1 of the standing advice, should ensure that the EIA report contains the required information; the absence of such information may necessitate requesting additional information which may delay the process.

3.11 Scottish Ministers consider that where there is a demonstrable requirement for peat landslide hazard and risk assessment (PLHRA), the assessment should be undertaken as part of the EIA process to provide Ministers with a clear understanding of whether the risks are acceptable and capable of being controlled by mitigation measures. The Peat Landslide Hazard and Risk Assessments: Best Practice Guide for Proposed Electricity Generation Developments (Second Edition), published at http://www.gov.scot/Publications/2017/04/8868, should be followed in the preparation of the EIA report, which should contain such an assessment and details of mitigation measures.

3.12 The scoping report identified viewpoints at Table 11.2 (page 21) to be assessed within the landscape and visual impact assessment. Full consideration should be given to any LVIA advice provided by Scottish Borders Council and NatureScot and a final list of viewpoints should be agreed with them prior to the submission of the EIA.

3.13 Ministers are aware that further engagement is required between parties regarding the refinement of the design of the proposed development regarding, among other factors, surveys, management plans, peat, radio links, and finalisation of viewpoints, cultural heritage and cumulative assessments and request that they are kept informed of relevant discussions.

3.14 The noise assessment should be carried out in line with relevant legislation and standards as detailed on page 80 of the scoping report. The noise assessment report should be formatted as per Table 6.1 of the IOA "A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise

As the maximum blade tip height of turbines exceeds 150m the LVIA as detailed in section 11.1 of the scoping report must include a robust Night Time Assessment with agreed viewpoints to consider the effects of aviation lighting and how the chosen lighting mitigates the effects.

4. Mitigation Measures

4.1 The Scottish Ministers are required to make a reasoned conclusion on the significant effects of the proposed development on the environment as identified in the environmental impact assessment. The mitigation measures suggested for any significant environmental impacts identified should be presented as a conclusion to each chapter. Applicants are also asked to provide a consolidated schedule of all mitigation measures proposed in the environmental assessment, provided in tabular form, where that mitigation is relied upon in relation to reported conclusions of likelihood or significance of impacts.

5. Conclusion

5.1 This scoping opinion is based on information contained in the applicant's written request for a scoping opinion and information available at the date of this scoping opinion. The adoption of this scoping opinion by the Scottish Ministers does not preclude the Scottish Ministers from requiring of the applicant information in connection with an EIA report submitted in connection with any application for section 36 consent for the proposed development.

5.2 This scoping opinion will not prevent the Scottish Ministers from seeking additional information at application stage, for example to include cumulative impacts of additional developments which enter the planning process after the date of this opinion.

5.3 Without prejudice to that generality, it is recommended that advice regarding the requirement for an additional scoping opinion be sought from Scottish Ministers in the event that no application has been submitted within 12 months of the date of this opinion.

5.4 It is acknowledged that the environmental impact assessment process is iterative and should inform the final layout and design of proposed developments. Scottish Ministers note that further engagement between relevant parties in relation to the refinement of the design of this proposed development will be required, and would request that they are kept informed of on-going discussions in relation to this.

5.5 Applicants are encouraged to engage with officials at the Scottish Government's Energy Consents Unit at the pre-application stage and before proposals reach design freeze.

5.6 Applicants are reminded that once an application is submitted, there will be limited opportunity to materially vary the form and content of the proposed development.

5.7 When finalising the EIA report, applicants are asked to provide a summary in tabular form of where within the EIA report each of the specific matters raised in this scoping opinion has been addressed.

5.8 It should be noted that to facilitate uploading to the Energy Consents portal, the EIA report and its associated documentation should be divided into appropriately named separate files of sizes no more than 10 megabytes (MB). In addition, a separate disc containing the EIA report and its associated documentation in electronic format will be required.

Magnus Hughson
Energy Consents Unit
21 October 2020

ANNEX A

Consultation

List of consultees

Scottish Borders Council – A1
Ettrick and Yarrow Community Council – A2
Heriot Community Council – A3
Innerleithen and District Community Council – A4
Parish of Stow Community Council – A5
BT – A6
Defence Infrastructure Organisation – A7
Edinburgh Airport – A8
Fisheries Management Scotland – A9
Glasgow Airport – A10
Historic Environment Scotland - A11
Joint Radio Company – A12
Mountaineering Scotland – A13
NATS Safeguarding with Technical and Operational Assessment – A14
NatureScot – A15
Nuclear Safety Directorate – A16
River Tweed DSFB – A17
RSPB Scotland – A18
Scottish Water – A19
SEPA – A20

Walkerburn and District Community Council*
Clovenford Community Council*
Peebles Community Council*
British Horse Society*
Civil Aviation Authority*
Crown Estate Scotland *
John Muir Trust*
National Grid*
Scottish Ornithologists Club*
Scottish Wild Land Group*
Scottish Wildlife Trust*
Scotways *
Tweed Foundation*
Visit Scotland*

*No response was received.

Internal advice for the Scottish Government was provided by officials from Transport Scotland.

Dear Sir

THE ELECTRICITY ACT 1989 SECTION 36
THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017
SCOPING OPINION REQUEST FOR PROPOSED APPLICATION UNDER SECTION 36 FOR THE SCAWD LAW WIND FARM
OUR REF: 20/00880/SCO

I refer to your above consultation of 7 August 2020 and your email of the 19 August 2020 confirming that the consultation period ran until 25 September 2020. The following advice constitutes the formal scoping comments of Scottish Borders Council who will be a "relevant authority" consultee in the event of a Section 36 Application being submitted to the Scottish Government for determination.

Policy Context

The main Local Development Plan policy to be considered is Policy ED9: Renewable Energy Development, which states that, *'The Council will support proposals for both large scale and community scale renewable energy development including commercial wind farms, single or limited scale wind turbines, biomass, hydropower, biofuel technology, and solar power, where they can be accommodated without unacceptable significant adverse impact considerations'.* Renewable energy developments, including wind energy proposals, will be approved provided that there are no relevant unacceptable significant adverse impacts or effects that cannot be satisfactorily mitigated. Policy ED9 also states that, *'If there are judged to be relevant significant adverse or effects that cannot be satisfactorily mitigated, the development will only be approved if the Council is satisfied that the wider economic, environmental and other benefits of the proposal outweigh the potential damage arising from it'.*

Policy ED9 also lists a range of Development Management considerations which are taken from para 169 of Scottish Planning Policy. Consequently it is important that the Environmental Assessment refers to the various issues identified within the Scoping response in order that they are fully addressed as part of the subsequent planning application submission.

The Ironside Farrar (IF) Landscape Capacity and Cumulative Impact Study is a material planning consideration in the assessment of wind turbine proposals within the Scottish Borders. The role of the Ironside Farrar study is recognised within Policy ED9. It should be noted that the updated 2016 Study has informed the production of the Council's Supplementary Guidance (SG) on Renewable Energy, which has now been approved and adopted as part of the Local Development Plan. Any S36 application at Scawd Law will need to be supported by an EIA that references and assesses the scheme against the new SG and updated IF Study. Impacts on the Tweed Valley are likely to be of significant importance in this assessment against the Landscape Capacity Study.

Please be aware that the developer had submitted a pre-application enquiry to the Council when the wind farm had not been clarified as being a S36 scale development. A full response was sent to the developer on 10 June 2019. This summarised that the greatest impacts were likely to be from the A72, B709, the Southern Upland Way and other hill summit and minor road receptors to the south of the Tweed Valley. Despite the potential reduction of turbines from 18 to 15 at that time (at 177m tip height), we did not consider it was likely that such a scheme would be supported by the Council due to the lack of containment and significant adverse landscape and visual effects, together with aviation lighting impacts.

Landscape and Visual

The following comments are from the Council Landscape Architect**:**

"I refer to the applicant's Scoping Report dated 28 July 2020 and confirm that the general approach to landscape and visual assessment is appropriate and acceptable.

I have the following comments on the report questions:

Question 6 - I agree with the LVIA and CLVIA methodologies proposed.
Question 7 - The selection of viewpoints cannot be agreed until ZTV information is supplied on an OS 1:50,000 base plan with contours.
Question 8 – Further information on aviation lighting is required and only after having access to a more detailed ZTV can it be agreed which or that only a limited number of viewpoints may be illustrated in additional photomontage using photographs taken at dusk.
I am concerned that even though turbine heights and dimensions are getting much bigger than even 5 years ago, the radius for residential visual amenity assessment (RVAA) remains at 2km – I suggest this should be increased and further discussion should take place with the planning authority as to the distance from the development where it would be appropriate to carry out RVAA.
Question 10 - agree to the approach to sequential assessment."

In the discussion section of the Scoping Report about use of the "Rochdale Envelope" approach, the Report states "…that the layout provided within this Scoping Report represents a worst case scenario….and therefore the proposal as identified now will have the greatest environmental impacts". However, it then goes on to say that "Should any changes occur that are likely to have a significant effect…these will be included in the EIA". The two statements appear to contradict each other and, in practice, it is very far from clear how changes are assessed as having a more significant effect than the worst case scenario baseline. Whilst there are obvious areas could be agreed such as tip height or turbine number increases, the movement of turbine positions could well improve one receptor's impacts but worsen another. It is appreciated that the Scoping Report states that contact will be carried out with relevant consultees but the Report stops short of saying that if relevant consultees disagree with the applicant that changes are not creating significant effects, that they will be included in the EIAR.

In such a sensitive location close to the Tweed Valley, it is suggested this is not a location to use the "Rochdale Envelope" approach as small variations could have significant effects and the demonstration of those effects should not be reliant on an applicant deciding whether or not to agree with consultees over the potential of those effects and thus inclusion within the EIAR.

In terms of the sequential assessment, additional B roads should be considered such as the B709 and the B7062.

There is reference only to the production of wireframes for viewpoints but photomontages are recommended as best practice and, indeed, all wind farm applications in the Borders appear to have been accompanied by photomontages at least to those viewpoints with the most significant effects.

In terms of the cumulative baseline as described on Figure 11.3, "Heathpool" is queried to the east of the A703 and south-west of "Bowbeat". Is this just reflecting consent for an anemometry mast ?

Additional Viewpoints

As stated by the Landscape Architect, final viewpoint selection must await ZTV production on a 1:50000 plan with contours. However, it is considered that additional viewpoints should be considered within the Upper Tweeddale NSA, on the public road south of the Tweed between Innerleithen and Yair, more than one viewpoint on the A72, at Selkirk Common and an additional one in the Traquair/Glen vicinity.

Residential Visual Amenity

The Scoping Report states there is only one property within 2km which is presumably "Seathope" – however, the OS Plan suggests another property alongside known as "Caberstongrains". This should be checked as there is no information to suggest it has been considered.

The Scoping Report suggests scoping out a RVAA on the basis there are no financially uninvolved properties within a 2km study area. However, taking into account the views of the Landscape Architect and given the height of the turbines now proposed at 180m tip, it could be considered that SPP and other guidance sought a 2km distance at a time when such turbine heights were never thought possible onshore. It is, therefore, recommended that if there are settlements or individual properties over 2km distant but less than 3km, then they should feature in a Residential Visual Amenity Assessment.

From inspection, there are a number such properties including "Blackhopebyre", "Glentress", "Colquhar" and a group of properties at "The Common", all on the B709. Other more isolated properties exist at "Caddonhead", "Scroof", "Priesthope" and the group of properties at Holylee. Of all of these, "Priesthope" appears the nearest and actually within the 2km study distance. It is appreciated not all of these may be habitable dwellings but they should be checked before being scoped out.

At this stage, we cannot agree that it is correct to scope out a RVAA.

Cultural Heritage

The following advice is from the Council Archaeology Officer:

"I have examined the submitted Scoping Report and plots prepared as part of this application. The methodology proposed in the report for an Environmental Impact Assessment appears generally acceptable in the proposals for desk-based assessment, walkover survey and setting visits, as well as to inform mitigation works – but there is some work to better it required.

The Cultural Heritage chapter of the documentation does not include any reference to the Scottish Borders Historic Environment Record (HER) held by the council. This should be the first port of call for any historic environment information for the area, for whilst the designated heritage assets of Scheduled Monuments and Listed Buildings are included so are other records of other heritage assets. These may be of nationally significance, but never been formally assessed for designation and others undesignated, but of local and regional importance.

The report also should bear in mind the Scottish differences of terminology as both battlefields as well as gardens and designed landscapes are inventories, rather than registered as in England. In particular the mention of Garden and Designated Landscapes (on page 84 in section 1.1 of the Cultural Heritage chapter is particularly misleading). It would appear to be a mistake for the Inventory of Garden and Designed Landscapes, as designated landscapes

would imply something different. The HER holds information and links to other designed landscapes recorded in a Scottish Borders Council study.

The methods of assessment submitted in the report of the desk-based assessment should include reference to the Scottish Borders Council's policies on archaeology within the Structure and Local Development Plan, as well as clearly indicating the relative importance of the sites covered at local, regional and national levels. The assessment, as well as any related and subsequent work, should also indicate to what standards and guidance more than that generically which has been given so far in the Scoping Report

Within the documentation (page 84 in section 1.2 of the Cultural Heritage chapter) it mentions that some preliminary assessment work has been undertaken, but neither the resources of the HER appear to have been consulted as an HER search or that assessment made available as yet. Both these need to be rectified in the documentation to be supplied to support a full planning application, and these should be included for the Methodology proposed.

It is pleasing to see mention made for potential viewpoints to be assessed. These should be assessed in collaboration with Historic Environment Scotland and the local authority archaeology service. Indicative viewpoints are indicated in the submitted documentation of the application so far, but these have been made from a landscape point of view.

It is, therefore, suggested that further photomontages be prepared for those viewpoints already suggested in the submitted documentation for the cultural heritage/historic environment point of view. Historic Environment Scotland should be consulted and may provide an additional list of sites, but they should include Scheduled Monuments as well (some possible suggestions are indicated below). These photomontages should not be taken from within the site in question if at all possible but rather from a position showing the site in the foreground with the development beyond. This helps with the understanding of the experience and appreciation of the monuments referred to in the Local Plan 2016 EP8's policies. If photos are to be taken from within the monuments, these should show the majority of the site in the foreground and present the 'worst case scenario' of impacts.

There may be additional locations that will considered and be required from the cultural heritage/historic environment landscape point of view as well. At the first glance, these should also include some of the Scheduled Monument locations in the surroundings and a preliminary scan of the documentation suggests to me, so far, that the hillforts of the Tweed Valley (such as Pirn Hill above Innerleithen) and Cademuir Hill, the cairn at Cairn Hill, Torwoodlee Broch and settlements along the Glentress Burn locations would all merit consideration in such a listing.

To the listing of the proposed sources to be consulted, it is also emphasized that all available Lidar resources should be also consulted. In particular any Phase 3 Scottish Government/Scottish Power Lidar that is available on the Scottish Government Remote Sensing Portal should also be consulted. This area has seen only limited archaeological work and it is there has been little initial evaluation at this stage for how the record has developed for this area and what the gaps are in such records as a result. This could helpfully target areas for particular walkover investigation.

It would be helpful if the submitted documentation would specify by name those archives and local records that are to be consulted, so this may be agreed or additional sources and information highlighted as necessary.

A desk-based assessment should record all historic environment features within the site area. The desk-based assessment's recording of newly identified archaeological and historical sites should include the provision of information as a GIS shapefile and gazetteer of the sites. It is the desk-based assessment's work to provide information on where further archaeological work, such as mitigation required – both for the site of the turbines, the associated access as well as for those heritage assets that may be affected in the transportation of the components of the site also, such as for the widening of any bridges or for any curves in the road that need amelioration. The swept path analysis required for the transportation of the components to the site and confirmation of the structures along the proposed access routes that are required, should also consider the potential for any damage and/or reconstruction works that will be required as well for these historic features as well.

The plots prepared of turbine location are indicative at the moment, and the preliminary assessment not passed on, so these give little indication for the overall size of the works to enable such a scheme to be carried out though the likes of power lines are said to be going in alongside the roads. The desk-based assessment should help in informing further details such as the whole layout of the scheme, but if these are more advanced already the work required and impacts of such features upon for archaeological remains should be explained in the assessment. Further archaeological investigations such as geophysical survey and more investigatory excavations should also be considered and if necessary also carried out towards the assessment. This includes for the peatland assessment for their archaeological and historical potential to yield possible evidence about the past environmental record that would be otherwise destroyed in the progression of this application.

There should be full integration of the cultural heritage assessment aka desk-based assessment with the landscape assessment.

Therefore in conclusions to the two questions posed;

Question 30: What cultural heritage assets do you think need to be taken into consideration in relation to the proposed Scawd Law Wind Farm?
There are both assets in terms of information (such as the HER) that need consultation, as well as some suggested hillfort, cairn, broch and other sites named that should be considered as viewpoints and sites that lie within the site as a whole that require further consideration.

Question 31: Do you consider that the cultural heritage survey and methodology proposed are suitable?
The survey and methodology needs further work – no investigatory fieldwork other walkover reconnaissance prior to the determination of the application is mentioned, nor is any work to microsite or differently locate either turbines, road or associated infrastructure depending on what is found in the documentary and digital, as well as in the field, fieldwork. The methodology is generally suitable, but needs some further information to be fully support a full planning application, and if possible this should be agreed and approved as necessary before it is undertaken."

Ecology : Ornithology : Hydrology: Geology, Hydrogeology and Peat : Forestry

The Council Ecology Officer comments as follows:

"Relevant Local Development Plan (LDP) Policies are: EP1 International Nature Conservation Sites and Protected Species, EP2 National Nature Conservation Sites and Protected Species and EP3 Local Biodiversity.

I have not visited the site to inform this consultation response. An assessment was made using desk survey data, aerial photography and details submitted by the applicant.

Scoping report:

I am largely satisfied with the submitted Scoping report (Fred Olsen Renewables 28 July 2020), a comprehensive set of surveys has been carried out to inform an EIA. SNH are said to have provided advice on the scope of some surveys to date.

Ecology:

Designated sites:
Five designated sites have been considered River Tweed SAC (qualifying interest: otter, atlantic salmon, brook lamprey, river lamprey, sea lamprey, Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation and Moorfoot Hills SAC (qualifying interest: blanket bog and european dry heath habitat) and Moorfoot hills SSSI (with respect to upland bird assemblage).), Fala flow SPA and Gladhouse reservoir SPA (both qualifying interest: pink-footed goose)

There could be hydrological connectivity with blanket bog habitat within Moorfoot Hills SAC, < 1km from site.

There is potential connectivity with the River Tweed SAC due to direct drainage to the River Tweed. Potential impacts may arise during construction, operation and decommissioning through sediment run-off and pollution. Impacts may be addressed through wind farm design and good practice construction methods.

Pink-footed geese should not be scoped out of the EIAR as the assessment of impacts will be required to inform a Habitat Regulations Appraisal.

A recent EUCJ ruling means that mitigation cannot be taken into account when considering the likely significant effect of a proposal on a Natura site. Therefore, it can be assumed that there is a likely significant effect and an Appropriate Assessment will be required, taking into account standard, tried and tested forms of mitigation to address sediment run-off and pollution.

The Vantage Point watch surveys for non-breeding birds (geese) are usually likely to provide sufficient information, if the relevant numbers of hours per VP per season have been carried out over at least 2 years in accordance with SNH guidance . At the time of writing I have not seen SNH's scoping response.

Protected Species:
Bats: static recorders have been placed at 13 locations (10 turbines plus 3 further sites) for 14-15 nights during each of June, July and August. 6 species have been recorded including common pipistrelle, soprano pipistrelle, nathusius's pipistrelle and noctule bat (all high collision risk species).
A risk assessment Common pipistrelle and soprano pipistrelle are considered to be at high risk, nathusius's pipistrelle at low risk and noctule at low-moderate risk.

Activity of noctule was said to be mostly low although moderate activity was recorded on several nights. In the absence of seeing the data, it is possible that the automated surveys could be supplemented by walked transects and at height surveys (if a met mast is present) to more fully assess use of the site by noctule bat (a high collision risk species).

The scoping report suggests that further bat surveys may be carried out to cover the spring period. Consideration should also be given to survey in the early Autumn period (September), unpublished monitoring data from Scottish Power Renewables suggests most activity occurred between mid-August to mid-September at their sites. This may coincide with post-breeding populations or migration of bats.

The Ecobat assessment should also be provided as a technical appendix to the EIAT to enable SNH and Planning authority to consider the outputs.

A comprehensive set of surveys has been carried out for other protected species including otter, water vole, badger, pine marten and red squirrel. Otter activity was recorded but no evidence of resting places was found. I am satisfied with pine marten and water vole being scoped out of further assessment under the EIAR.

A fish habitat assessment has been carried out but no fish surveys. Fish surveys may be required to inform a HRA. At the time of writing I have not seen SNH's response.

No mention is given to reptiles. amphibia or invertebrates. Suitable habitats for reptiles is found in the site. Reasonable Avoidance Measures should be adopted to mitigate impacts on e.g. adder, common lizards and amphibia. There are records of a northern brown argus colony (SBL priority species) within the site at the lower part of Gateshopeknowe burn. Their species-rich grassland habitat must be safeguarded form the development and there are opportunities to enhance this habitat under a habitat management plan.

Any confidential annexes should be provided to SNH and the Local Planning Authority.

Habitats:
There are no Local Wildlife Sites or provisional Local Biodiversity Sites are likely to be affected by the proposal.

Phase 1 and NVC surveys of Annex 1 and Scottish Biodiversity List (SBL) priority habitats and for Ground Water Dependent Terrestrial Ecosystems (GWDTES) have been carried out.

Areas of blanket bog are found within the site, turbines T4, 5 and 12 are in areas of blanket bog or wet modified bog although it is said none of the turbines is located on peat.

The Council adopts a no-net loss of biodiversity policy, losses of biodiversity are required to be compensated for and that biodiversity enhancements provided. Compensation and enhancement should be secured through a Habitat Management Plan in accordance with good practice :

Adopting good practice guidanceiii the developers should incorporate measures that are required to deliver ecological enhancements as well as measures to avoid, reduce or compensate for negative ecological impacts. There are opportunities to enhance the local habitat network including the woodland (including riparian habitat) and moorland habitats including wetland habitat network (including blanket bog habitat) and grassland habitat (SNH Integrated Habitat Network). https://www.nature.scot/professional-advice/land-and-sea-management/managing-land/habitat-networks/central-scotland-green-network-habitat-networks

Existing species and habitat interest should be safeguarded and maintained as far as possible. There may be some limited opportunities to enhance habitats for Schedule 1 birds and black grouse and breeding waders at locations away from the turbine array. Although absent from surveys conducted, the site and local area lie within a core area for black grouse identified in the regional conservation strategy .

There are opportunities to deliver multiple benefits for biodiversity, natural flood management and water quality improvements (SBC Land Use Strategy pilot mapping tool): https://www.scotborders.gov.uk/info/20013/environment/723/biodiversity/5

Ornithology:
The scoping report identifies a comprehensive set of survey has been carried out including vantage point watches in the breeding and non-breeding season (geese), moorland bird surveys, breeding raptor surveys, and black grouse surveys.

Raptors
Further advice on statutory protected species and habitats issues will be available from SNH. I also recommend that Lothian and Borders Raptor Study group are consulted by the applicant for records of Schedule 1 raptors. Any sensitive information on protected species should be contained within a confidential annex.

Consideration should be given to the ongoing re-establishment of golden eagles in the region (South Scotland Golden eagle project). It is likely that released birds could occupy former home ranges and young birds are now foraging and commuting to certain areas within Scottish Borders. Further information may be available from the project team: https://www.goldeneaglessouthofscotland.co.uk/

Bird Sensitivity
The site is included in areas identified as low sensitivity with adjacent areas of medium sensitivity as identified in the RSPB/SNH Bird Sensitivity Map .

Bird Atlas
The preliminary results of the South-east Scotland Bird Atlas http://www.the-soc.org.uk/se-atlas/ indicate that there are possible or probable breeding records of snipe (tetrad NT34R, NT34K, NT34Q, NT34V), lapwing (NT34V) curlew (NT34R, NT34K, NT34Q, NT34V, NT33Z) and oystercatcher (NT34V, NT33Z). The SOC data shows that the local area is moderately important for breeding waders within Scottish Borders. SOC and TWIC should be contacted for further information.

Cumulative Impacts
Cumulative effects on birds should be considered with regard to wind farm proposals within the Border Hills NHZ for consented wind farm applications and wind farm applications being considered under Planning.

Further guidance on the assessment of cumulative effects on birds is published by SNH

Snipe (which may be displaced from areas adjacent to turbines) should be scoped into the EIAR.

Water Environment
Impacts on the water environment, notably Gameshopeknowe burn, Searhope burn and their tributaries should be assessed within the EIA. This should also take into account the drift and solid geology and any hydrological impacts that may arise. The proposal site lies within the catchment of the River Tweed SAC/SSSI.

Forestry
If woodland loss is proposed this should be compensated for in accordance with the Scottish Government's Control of woodland removal policy and the Scottish Borders Woodland Strategy (Technical Advice Note 2012) https://www.scotborders.gov.uk/downloads/download/411/planning_guidance_woodland_strategy and LDP Policy EP13 Trees, Woodlands and Hedgerows . This should be included as part of a Forestry Chapter within the EIA. There are opportunities to deliver multiple benefits for biodiversity, natural flood management and water quality improvements through an appropriate woodland compensation scheme.

Soils
Soil types: SNH Carbon rich soils class 1 appear to be found within the site.

General comments:
Guidance on the Council's requirements is given in the Supplementary Planning Guidance for biodiversity
https://www.scotborders.gov.uk/directory/14/supplementary_planning_guidance/category/28
The Council's requirements are set out in Sections 4.1 Environmental Impact assessment, 4.2 Ecological Impact Assessment and for species and habitats in Sections 4, 5 and 6 of the SPG.
The Environmental Impact Assessment should also include information on
• habitat corridors and links to local habitat network
• significance of ecological impacts
• avoidance, mitigation and compensation proposed
• residual significance of ecological impacts
• method statement to include details of how avoidance, mitigation and compensation are to be implemented and the long-term management of habitats and species created, enhanced or protected.
Any significant effects should be qualified with reference to an appropriate geographic scale and have regard to no net loss of biodiversity (Local Development Policies EP1, EP2 and EP3 as informed by the Council's Supplementary Planning Guidance for biodiversity).
Desk-top Study
A full report of the Borders Notable Species and Habitats of Conservation Concern should be obtained from The Wildlife Information Centre , Vogrie Country Park, Midlothian http://www.wildlifeinformation.co.uk/ (tel: 01875-825968 mailto:info@wildlifeinformation.co.uk). Where appropriate, additional survey information and impact assessment will be required for relevant Borders Notable Species and Habitats of Conservation Concern.
Information relating to the Scottish Borders Local Biodiversity Action Plan and Habitat Action Plans therein can be found at https://www.scotborders.gov.uk/info/20013/environment/723/biodiversity and https://www.scotborders.gov.uk/downloads/download/423/habitat_action_plans
(I note the Scoping report erroneously refers to the North East Scotland LBAP in Other guidance, p27)"

The Council Flood Risk Officer states the following:

"In terms of information that this Council has concerning flood risk to this site, I would state that The Indicative River & Coastal Flood Map (Scotland) known as the "third generation flood mapping" prepared by SEPA indicates that the site may be at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any one year.

The Indicative River & Coastal Flood Map (Scotland) has primarily been developed to provide a strategic national overview of flood risk in Scotland. Whilst all reasonable effort has been made to ensure that the flood map is accurate for its intended purpose, no warranty is given.

Due to copyright restrictions I cannot copy the map to you however, if the applicant wishes to inspect the maps they can contact me to arrange a suitable time to come in and view them.

At present due to the minimal flood risk to the turbines and track shown on the site, I would have no objection to this proposal in terms of flood risk.

I would, however, be looking for the following to be adhered to;

- *The formation of any newly formed hard surfaces such as access roads should be attenuated to at least existing Greenfield runoff rates so that there is no increased effect on downstream receptors. Likewise, any discharges from SUDS and other drainage should be kept to existing Greenfield runoff rates.*

- *The Site Layout referenced "GB201049_M_080_A" appears to show that the track does not cross any watercourse. However, if there are to be any culverts, watercourse crossings or alterations to crossings, these must not reduce the flow conveyance of the watercourse.*

- *I would also expect that there is a buffer zone between any watercourse and turbine. The Site Layout referenced "GB201049_M_080_A" appears to show that there are no turbines in close proximity to any watercourse. I would be satisfied with the current distances between turbines and watercourses shown in this drawing.*

- *Details of the silt traps and any other functions that the applicant proposes to minimise the amount of sediment entering the water course should be submitted.*

Please note that this information must be taken in the context of material that this Council holds in fulfilling its duties under the Flood Risk Management (Scotland) Act 2009."

Population and Human Health

Noise

The Council Environmental Health Service commented as follows:

"A noise impact assessment which considers the result of the proposal on nearby residential receptors should also be undertaken."

As further explanation, the following general advice has previously been provided on Wind Farm Scoping Requests:

"The applicant should provide the following information to aid assessment of the proposed turbines.
A noise impact assessment should be undertaken in accordance with ETSU-R-97 and having regard to the methods described in the Institute of Acoustics Good Practice Guide to the Application of ETSU-R-97.

The assessment should detail the following:
(a) Accurate twelve digit grid references for the turbines;
(b) Accurate twelve digit grid references for the noise sensitive receptors;
(c) Elevations of turbines and receptors;
(d) Details of any financial involvement at noise sensitive receptors;
(e) Sound power level details for the turbine, in its intended mode of operation. Broadband and Aweighted octave band data required, together with uncertainty figures and any tonal penalty;
(f) Ground factor used;
(g) Atmospheric conditions for Aatm;
(h) Propagation height;
(i) Unless it can be shown that it would be possible to meet the simplified noise condition of 35 dB LA90 (10 min) at wind speeds up to 10m/s measured at 10m height, then a background noise survey will require to be carried out.
(j) The cumulative noise effect from existing, consented or approved wind turbines. When considering the cumulative effect of other turbines regard should be had the consented noise levels detailed in the approval.
(k) Information regarding any valley effect. It will be necessary to demonstrate whether or not, a 3dB correction is required in respect of the valley significantly sloping ground effect.

If background surveys are carried out then the following details are required:
• Wind shear methodology
• Best fit curve polynomials for daytime and night time (there must be sufficient data collected across the range of wind speeds from 4m/s to 12m/s
• Location of monitoring positions
• Method to record rainfall (noise data affected by rainfall or extraneous noise sources e.g. dawn chorus, agricultural activities, aircraft etc. should be excluded).
• Equipment used including the type of wind shield fitted to the microphone (the preferred wind shield is a large diameter double layer item). A standard wind shield may not be suitable and it is recommended that the sound level meter manufacturer be consulted to confirm the suitability of any wind shield used.

When considering the cumulative impact of large and small wind turbines the preferred option is to use the ETSU-R-97 guidance for large wind and the BWEA guidance for small wind and add the two together. As mentioned in (j) above, when considering the cumulative effect of other turbines regard should be had the consented noise levels detailed in the approval. The applicant should provide information on construction noise and how this will be mitigated."

Private Water Supplies

The Council Environmental Health Service state the following:

"The scoping report considers the locations of private water supplies in the vicinity of the proposed site, however, further investigation should be made regarding the dwelling known as Seathope (location: 337736, 640863) which is believed to be served by a private water supply. Information should be submitted which confirms that the quality, quantity and continuity of any nearby private water supply is not negatively impacted by the proposed development."

Shadow Flicker

The development's compatibility with current guidance, which normally refers to a 10 x rotor diameter range within 130 degrees due north, should be considered. The Council SG also requests assessment for residential properties within 2km of each turbine. Any residential properties within this distance should still be assessed for shadow flicker.

Socio-economic impacts and tourism

Information on the positive and negative economic effects of the development (in addition to environmental/carbon offset benefits and impacts) would be welcome in order to achieve a rounded understanding of the positive and negative aspects of the development. This Authority would, particularly, wish to be assured that the specific impacts of this development would not have unacceptable effects on established local rural (particularly tourist) businesses and tourism generally, given the important nature of the Tweed Valley to the recreational and tourism sector in the Borders. Reliance on one study (Biggar Economics Study) is not sufficient reason to scope out tourism from the socio-economic assessment.

Previous wind farm developers have shown an intention to draw information from several sources on this matter. The use of established studies on socio-economic and tourism impacts would be advised, together with experience and knowledge. Please note that financial benefits to local communities unrelated to the planning application, would not be accounted for.

Traffic and Transport

The following comments have been received from the Council Roads Planning Service:

"I am content that the proposed scope of the Traffic and Transport section will cover the key elements of the proposal from a Roads Planning perspective."

The following advice has been received from the Council Access Officer:

"General Access Rights

The Land Reform (Scotland) Act 2003 (LRA) introduced a right of responsible public access to most areas of land and inland water in Scotland. This gives everyone a right to take non-motorised access to walk, cycle and horse-ride over most land, by following the Scottish Outdoor Access Code.

Rights of Way are specifically protected by law under the Countryside (Scotland) Act 1967 sec. 46

Anyone exercising their access rights must do so responsibly by following the Scottish Outdoor Access Code and land owners/managers have a reciprocal responsibility in respecting the interests of those exercising their rights.

Scottish Borders Council (SBC) has a statutory duty to uphold these rights.

Core Paths, Public Rights of Way and Promoted Paths

According to the records held by Scottish Borders Council, there are no core paths or rights of way within this area of land (see map below). There are however other core paths, rights of way and promoted paths in the local area from which the development will be clearly visible. Mapping of the wider path network across the Scottish Borders can be found at: www.scotborders.gov.uk/mapadvanced

Please note that SBC does not have a definitive record of every claimed right of way within its area. The Scottish Rights of Way and Access Society, community councils and local residents may have evidence of existence of claimed rights of way that have not yet been recorded by SBC.

Path Planning Study

A Path Planning Study should be commissioned within the title deed extent of the landowner affected. A detailed plan of public access (pedestrian, cycle, horse, all ability routes), across and out with the site, (existing, during construction and upon completion) should be provided by the developer for the consideration of the Planning Authority. This should show:

1. *All existing paths and tracks used by the public;*
2. *Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures;*
3. *All paths and tracks proposed for construction or used for site traffic, for use by walkers, cyclists, horse, all-abilities users, etc.*
4. *Any diversions of paths - temporary or permanent - proposed for the purposes of the development;*
5. *Improvements which the developer will implement in terms of:*
    a. *Provision of high-quality public access routes within the proposed development site*
    b. *Provision of high-quality public access routes linking the site with the wider access network of paths and tracks;*
    c. *Provision of additional path furniture required in terms of signage and interpretation.*
6. *Any existing public car park provision and potential car parking at suitable entrances to the wind farm to facilitate recreational use.*

Proximity to recreational routes

Wind turbines should be set back at a reasonable distance from rights of way and other potential recreational routes. In their 'Scottish Wind Farm Advice Note', the British Horse Society Scotland recommend a separation distance of four times the overall height should be the target for core paths and National Trails, as these are likely to be used by equestrians unfamiliar with turbines, and a distance of three times overall height from all other routes, including roads to maintain safe access for horses and riders.

Managing Public Access

With regards to managing access during and after construction, Developers should follow the guidance set out in the document 'Good Practice during Wind Farm Construction – Part 8 Recreation and Access'.
See: www.nature.scot/guidance-good-practice-during-wind-farm-construction

Further advice on the Land Reform (Scotland) Act 2003 and the Scottish Outdoor Access Code is available from www.outdooraccess-scotland.com or by contacting one of our Outdoor Access Team (Tel: 01835 825060 email: outdooraccess@scotborders.gov.uk)".

Aviation

Impacts and comment on potential effects will be expected from the MOD, Edinburgh Airport and NATS. Policy ED9 in the Council's Local Development Plan takes account of aviation safety matters and would reflect any comments from the aforementioned bodies. However, the issue of lighting is a separate matter considered under landscape and visual effects.

I hope that these Scoping comments are of assistance to yourselves in providing your Scoping Response to the applicant,

A1.2.2 ETTRICK & YARROW COMMUNITY COUNCIL SCOPING OPINION

A2

Response to Scawd law Initial Documentation and presentation

From Ettrick & Yarrow Community Council

Possible Additional Viewpoints: We would like to propose that two extra viewpoints are included:

(1) Newark Hill, GR 446287. This would be seen by walkers and is an excellent, almost 360 degree viewing point on the very popular Duchess Drive walking route around Bowhill Estate; and

(2) Witchieknowe GR 370258. This is at the top of the well-used though minor road between Ettrickbridge and Yarrow and is also the on a very popular walk along the tops, passing Black Knowe – so of interest to both walkers and road users

Nature of the connection to the Grid: While we understand that many factors can change between now and when any wind farm might be built, it would be helpful to know how the wind farm would connect to the grid, what would this look like and what would be the impact on the landscape?

Community Consultation : We are concerned that residents of the Ettrick & Yarrow, and all communities affected by this development, should be given as much information and opportunity to have their say as would have been the case were we not experiencing a pandemic. If this means that the process takes longer which we think it will, then this should be the case.

We feel that it is really important for the consultation process to be managed in such a way that does not assume internet access (or even good internet access – given that you saw some of the challenges of the internet in rural communities during the presentation on 21st September!!) so that community members who do not have access to the internet can also take part. We would be happy to work with you to develop safe ways of doing this – though as a result of Covid, such methods may take longer than usual.

This would undoubtedly mean producing at least some of the important documents in hard copy.

A2

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A1.2.3 HERIOT COMMUNITY COUNCILSCOPING OPINION

A3

Scawd Law Scoping Report: Section 36 Wind Farm Application

Response by Heriot Community Council

Introduction

1. This response is being made following the request by the Energy Consents Unit of the Scottish Government for comments on the scoping report submitted by Natural Power Consultants on behalf of Fred Olsen Renewables Ltd (FORL). The scoping report outlines FORL's proposal for a wind farm on Scawd Law, which is a subsidiary peak to Windlestraw Law, the highest in the Moorfoot Hills, situated in the Scottish Borders. The proposed wind farm would have 12 turbines, with a height to blade tip of 180m. The scoping report sets out the ancillary developments in addition to the turbines which would be necessary. It states that the development would be situated at 500m to 640m above sea level on two ridges.

Greystone Knowe s36 Application

2. There is a major issue which applies specifically to Heriot CC and its neighbour Stow & Fountainhall CC. Shortly before learning about the Scawd Law proposal, both CCs were also consulted on another s36 proposal at scoping; the scheme named Greystone Knowe. This scheme is for a wind farm of 15 turbines with a tip height also of 180m situated around 2km west of Fountainhall and the southern part of Heriot. Heriot CC has made a brief response on this scheme to ECU – but before learning about the Scawd Law proposal.

3. The two schemes are separated by about 5km of open moorland and hillside and will both be visible from many areas in the Scottish Borders, including many places local to Heriot and Stow & Fountainhall. Two schemes, both with turbines that are far higher than any other local wind farms, will completely change the landscape where they are proposed. The area of Moorfoot hills in question are currently largely free of all turbines and constitute an attractive rolling landscape of empty hill and heather.

Scoping Out Proposals

4. The scoping report suggests that the normal approach to the eventual EIA and therefore formal planning application process should be streamlined as the developers consider a number of issues can be "scoped out". Many of these issues will not directly concern Heriot Community as the proposed site is some way away from Heriot, but nevertheless it is vital that this scheme is properly examined for all its effects. Current operational wind farms in the area utilise turbines up to 110m in height. The Scawd Law proposal is for turbines that are magnitudes larger, and also placed on the highest elevations of the Moorfoots. Their effect is therefore going to be felt over a very wide area with little natural screening.

5. It will be vital that local people have plenty of opportunities to fully understand this scheme, which will be very difficult to achieve during the current restrictions imposed

by the CoVid virus. Scoping out various issues at an early stage will considerably hinder this, and therefore agreement to do so should be treated with considerable care. In some respects, the current CoVid emergency exacerbates this issue, discussed further below.

Community Consultations

6. Representatives of Natural Power and FORL have already held an online briefing for Heriot CC in line with the suggested approach in the scoping report, and they have also been careful to encourage comments as well as supplying the scoping report directly online. All this is welcome, as is the suggestion that further consultation will continue in future.

7. Natural Power have supplied two wirelines and a ZTV as requested by Heriot CC. These have been uploaded to the community website. However although material online is easy to access at home, Heriot CC does have doubts about the effectiveness of this as proper consultation. It is accepted that at present it is difficult to hold exhibitions in local public halls, but as soon as the situation allows this should be a priority. Proper displays of explanatory material with montages and layout plans, with the opportunity to ask questions, will allow local residents the chance to absorb such proposals. Montages are not intended for viewing online, as they are to A3 size and to be viewed at arm's length.

8. Community councils should be supplied in the normal way with paper versions of the EIA when the full application is made, to enable their responses.

9. It is noted that FORL have suggested that any exhibition would only be held at Walkerburn. Other venues should be considered when this becomes possible.

Matters Relevant to Heriot

10. Many of the topics raised in the scoping report for inclusion in the EIA are not directly relevant to Heriot. The main parts of the community are around 10kms from the proposed site, and some of these are in lower ground with little or no views of the site. However, other areas do have direct views towards the turbines, and in most cases the Greystone Knowe turbines will potentially be in the foreground.

Operational Noise

11. The scoping report suggests that operational noise can be "scoped out". Given that noise is a major potential intrusion into local people's lives it is hard to see how that can be justified. It is noted that Environmental Health at SBC have already stated that noise should be assessed as normal. There is also the issue of cumulative noise with Greystone Knowe, which the scoping report did not consider.

Landscape and Visual Amenity

12. **Viewpoints.** FORL have already provided two wirelines from Viewpoints in Heriot that are also to be used for the Greystone Knowe LVIA. These two sites are Crookston South Mains, which is a small group of houses on the eastern side of the Gala Water valley on the B6368, and Nettlingflat, which is another larger group of houses up a minor road off the A7 just north of the Heriot Station area. The wirelines already demonstrate that both Greystone Knowe and Scawd Law turbines will be seen together.

13. As already discussed, both schemes together will potentially result in a major change to these residents' visual amenity. No Viewpoints have been put forward for Heriot in the list provided in the scoping report. This omission needs to be put right, which presumably requires agreement with SBC and SNH.

14. It will also be necessary to consider montages that demonstrate the effect of aviation lighting being necessary for the turbines of both schemes, as currently this area of the countryside is almost totally devoid of artificial lighting at night. Both these points were discussed briefly at an online meeting with the developers and accepted as valid.

15. It should also be noted that the Reporter hearing the Wull Muir appeal (PPA-140-2080) is currently nearing issuing his decision (see latest document on DPEA web site). The Wull Muir scheme lies just to the west of Nettlingflat, and both SBC and Heriot CC made extensive comments on its impact on local amenity. There are also montages available of this scheme as from Nettlingflat. If the scheme is approved, a full cumulative assessment at Nettlingflat will need to include all three schemes.

16. It may be appropriate that other Viewpoints are considered in the Heriot area that have been suggested for Greystone Knowe. These include the public footpath to the north of Heriot Mill, and also Corsehope Rings, which was also used for assessing Wull Muir.

17. It should also be borne in mind that although there are very few houses in the southern part of Heriot that extends to around 5kms of Scawd Law, there are a few properties that belong to Raeshaw Estate. These are within the boundaries of Fountainhall although most of the Estate is within Heriot. These properties are in between the two wind farm sites.

18. It is widely acknowledged that montages produced in line with SNH guidelines are the best way of informing the general public as to the changes wind farm proposals will have on the local landscape and residential amenity in its fullest sense (covering not just views from properties, but also leisure activities outdoors, and indeed on the local farming community in their daily work).

19. The major step change in the proposed heights of both these schemes requires very careful assessment and clear depiction, which montages can achieve. However, as remarked above, the current CoVid restrictions on being able to view montages as

they are intended will be a considerable handicap. Hopefully the natural course of events as regards the CoVid progression will resolve this.

Conclusion. Future Consultation

20. Natural Power and FORL have already undertaken to continue to consult local communities throughout the progression of the Scawd Law scheme to the full application. This is welcome and the preliminary discussions have already identified issues which are being addressed. Heriot community trusts this good start will be continued.

A1.2.4 INNERLEITHEN AND DISTRICT COMMUNCITY COUNCIL SCOPING OPINION

A4

Young T (Tony)

From:	Marshall Douglas <marshall.douglas@talk21.com>
Sent:	23 September 2020 15:00
To:	Econsents Admin; onlineapplications@scotborders.gov.uk
Cc:	CMiller@scotborders.gov.uk; Young T (Tony)
Subject:	Response to the Scawd Law Wind Farm Proposal Scoping Report, dated 28 July 2020

Scottish Government Energy Consents Unit Reference: ECU00002111

Scottish Borders Council Planning Application Reference : 20/00880/SCO

Innerleithen and District Community Council
Response to the Scawd Law Wind Farm Proposal Scoping Report, dated 28 July 2020

Please see our responses to two of the questions posed in the Scoping Report

Question 7: Do consultees agree with the suggested viewpoint locations and visualisations detailed in Table 11.2?

The following additional viewpoint locations should be included:

Lee Pen

OS Grid Ref: (E: 332594; N: 638636)

Lee Pen is a pronounced and obvious summit (502m) in this part of the Tweed Valley, and a very popular walk from Innerleithen (https://www.walkhighlands.co.uk/borders/lee-pen.shtml). Access is gained through the Woodland Trust Scotland owned Caerlee Woods and through gates and a style maintained by the Scottish Borders Council Ranger Service, and is shown as a 'promoted path' on the Scottish Borders Adopted Core Path Plan Area 30.

Priesthope Hill

OS Grid Ref: (E: 335090; N: 639951)

Priesthope Hill is the 549m summit at the top of the 'Golfie' MTB trails in Innerleithen (https://www.trailforks.com/poi/15536/) that hosts some of the UK's best trails which has over 100km of trails, and ridden by thousands of mountain bikers each year

1

(https://www.mbr.co.uk/news/innerleithen-golfie-391422). It has hosted numerous Enduro mountain bike races over the last decade including rounds of the Enduro World Series.

Question 29: Do consultees agree with scoping out the assessment of tourism from the EIAR?

Considering the precautionary principle and given the proximity to the Golfie MTB Trails an assessment of tourism should not be scoped out, and an assessment should form part of the EIA.

Kind regards,

Marshall Douglas
Chairman
Innerleithen and District Community Council

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A1.2.5 PARISH OF STOW COMMUNITY COUNCIL SCOPING OPINION

A5

Scawd Law Scoping Report : Section 36 Wind Farm Application

Response by Parish of Stow Community Council

1 Within the Parish of Stow Community Council boundary, there are currently 2 windfarms: Toddleburn and Longpark. A third windfarm, Greystone Knowe has been proposed. Unfortunately the scoping report for Greystone Knowe was sent to the Community Council by post and was not received. Hence the Parish of Stow Community Council did not respond to the Energy Consents Unit. However the Community Council is responding directly to the windfarm developers.

2 The Greystone Knowe application takes on new significance as Scawd Law and Greystone Knowe both have turbines with a proposed tip height of 180m, far in excess of the heights of existing wind turbines in the area and the implications of the height of these two windfarms on the surrounding area , the noise generated and the effects on the night sky of lighting should be considered, as well as the cumulative effect of existing windfarms.

3 Scawd Law windfarm is located on very high ground and will be visible from Stow. The Parish of Stow is an area of high ground with residential areas built on hills. There need to be visual points from Stow included. A suggested point is at the top of Craigend Road. However other high areas of Stow could also be considered. Scawd Law is also likely to affect Raeshaw, which straddles the Heriot and Fountainhall boundary.

4 The Parish of Stow Community Council prefers not to have virtual meetings. All business is conducted via emails and phone calls and this is a satisfactory way of fulfilling our obligations to the community. The Secretary attended a virtual meeting at the invitation of Innerleithen Community Council. The developers of Scawd Law have been invited to attend a Parish of Stow Community Council meeting whenever it is possible to resume meetings. Also to email anything they wish discussed. Consultation needs to go further than the Community Council and the internet cannot replace full exhibitions with montages and layout plans. There is an assumption that everyone is online. That is not the case. People in the area have differing levels of internet skills, equipment and access to the internet. This is a scheme with long term effects on the Parish of Stow and it is important that the whole community is included. There needs to be an exhibition in both Stow Town Hall and Fountainhall Village Hall when they reopen. This can be done in a socially distanced way with households booking a slot which gives sufficient time to study materials and ask questions. Booking should be possible both by phone and by email. There should also be a mailshot rather than relying on local press for publicity. It is important that current covid restrictions should not mean less consultation.

5 The effect on tourism in the Parish of Stow area should be considered. Since the Station was opened at Stow, the local community have been promoting Stow as a place to visit. The Old Station House is currently being renovated by Stow Community Trust and a bicycle facility is proposed there. Paths are being proposed for walkers and the C11 between Stow and Fountainhall is already used by cyclists. Other roads in the area are also being proposed as cycle routes. The visual and noise effects of Scawd Law need to be considered, especially as one cycle route is from Stow to Clovenfords

6 We hope to ,in future , discuss all relevant matters with FORL and Natural Power. Unfortunately our reluctance to engage in virtual meetings has been at the forefront of discussions.

A1.2.6 BT SCOPING OPINION

A6

Melrose J (Joyce)

From: lisa.4.smith@bt.com
Sent: 14 August 2020 08:32
To: Econsents Admin
Cc: radionetworkprotection@bt.com; Hughson M (Magnus)
Subject: RE: Scoping - Skawd Law Wind Farm - WID11302

OUR REF: WID11302

Dear Sir/Madam

Thank you for your email dated 07/08/2020.

We have studied this Wind Farm proposal with respect to EMC and related problems to BT point-to-point microwave radio links.

The conclusion is that, the Project indicated should not cause interference to BT's current and presently planned radio network.

Please direct all queries to radionetworkprotection@bt.com

Regards
Lisa Smith
Engineering Services Radio Planning
Tel: 07483912560 / 03316640197

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A1.2.7 DEFENCE INFRASTRUCTURE ORGANISATION SCOPING OPINION

A7

Defence Infrastructure Organisation

Jill Roberts
Assistant Safeguarding Manager
Ministry of Defence
Safeguarding Department
Kingston Road
Sutton Coldfield
West Midlands B75 7RL
United Kingdom

Telephone [MOD]: 0792905 6607

E-mail: Jillian.roberts156@mod.*gov.uk*

Your Reference: ECU00002111

Our Reference: DIO 10048772

Mr Magnus Hughson
Energy Consents Unit
Scottish Government
4th Floor
5 Atlantic Quay
150 Broomielaw
G2 8LU

17 September 2020

Dear Magnus

Site Name: Skawd Law Wind Farm

Proposal: Section 36 Scoping Opinion. The proposed development is for a wind farm of 12 turbines with a maximum tip height of 180 metres above ground level (AGL)

Site Address: located approximately 3km north of Walkerburn in the Scottish Borders

Thank you for consulting the Ministry of Defence (MOD) on the above Section 36 Scoping Opinion for the proposed construction and operation of Skawd Law Wind Farm.

I am writing to tell you that the MOD have concerns to this proposal.

The proposal is for 12 turbines at 180.00 metres to blade tip. This has been assessed using the grid references below as submitted in the scoping report.

Turbine	Easting	Northing
1	336,017	640,608
2	335,961	641,065
3	335,701	641,396
4	336,117	641,809
5	336,363	641,459
6	336,590	641,113
7	336,783	640,719
8	336,538	642,181
9	336,917	642,642
10	337,278	642,471
11	337,524	642,114
12	337,661	641,668

It has been identified that this development will have the following impact upon defence operations:

Eskdalemuir Seismological Recording Station

The proposed development falls within the Statutory safeguarded area around Eskdalemuir Seismological Recording Station. Scientific research has established that wind turbines of current design generate noise emissions that cause seismic vibrations which can interfere with the effective operation of the array. In order to ensure the United Kingdom can continue to implement its obligations in maintaining the Comprehensive Nuclear Test Ban Treaty, a noise budget has been allocated to regulate the development of wind turbines within a 50km radius of the array. The budget has been set at 0.336nm rms. At present the reserved noise budget has been reached.
Therefore, the MOD would have concerns and if this proposal progresses to application the MOD will object based upon current information.

Military Low Flying

The airspace over the UK land mass is used to provide the UK Military Low Flying System to deliver essential military low flying training. The proposed development will occupy Low Flying Area 16 within which military low flying training may be undertaken where military fixed wing aircraft can operate as low as 76.2metres above terrain features. The development proposed will cause a potential obstruction hazard to these military low flying training activities. To address this impact, it would be necessary for the proposed development to be fitted with relevant aviation safety lighting in accordance with the requirements of the Air Navigation Order (2016).

The above issues would need to be taken into account in the preparation of any application of the development proposed.

It is noted that the proposal will involve a permanent anemometry mast. No details are available at this stage, but the MOD would like to review the details once any application is submitted.

Defence Infrastructure Organisation Safeguarding wishes to be consulted and notified of the progression of applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.

I trust this adequately explains our position on the matter. If you require further information or would like to discuss this matter further, please do not hesitate to contact me.

Further information about the effects of wind turbines on MOD interests can be obtained from the following websites:

MOD: https://www.gov.uk/government/publications/wind-farms-ministry-of-defence-safeguarding

Yours sincerely

Jill Roberts
Assistant Safeguarding Manager

A1.2.8 EDINBURGH AIRPORT SCOPING OPINION

A8

Melrose J (Joyce)

From: Safe Guarding <safeguarding@edinburghairport.com>
Sent: 18 August 2020 11:08
To: Econsents Admin
Cc: Safe Guarding
Subject: Scawd Hill - ECU00002111

Good morning,

In respect of the above, I can confirm the location of this development falls out with our Aerodrome Safeguarding zone therefore we have no objection/comment on this proposal.

With best regards,
Claire

Claire Brown | Safeguarding & Compliance Officer

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A1.2.9 FISHERIES MANAGEMENT SCOTLAND SCOPING OPINION

A9

Melrose J (Joyce)

From: Brian Davidson <brian@fms.scot>
Sent: 10 August 2020 11:27
To: Econsents Admin
Cc: Hughson M (Magnus); James Hunt (jhunt@tweedfoundation.org.uk); Alison Gorrie
Subject: RE: Scoping - Scawd Law Wind Farm

Thank you for your correspondence concerning the proposed Scawd Law Wind Farm project.

Fisheries Management Scotland (FMS) represents the network of 41 Scottish District Salmon Fishery Boards (DSFBs) including the River Tweed Commission (RTC), who have a statutory responsibility to protect and improve salmon and sea trout fisheries and the 26 fishery trusts who provide a research, educational and monitoring role for all freshwater fish.

FMS act as a convenient central point for Scottish Government and developers to seek views on local developments. However, as we do not have the appropriate local knowledge, or the technical expertise to respond to specific projects, we are only able to provide a general response with regard to the potential risk of such developments to fish, their habitats and any dependent fisheries. Accordingly, our remit is confined mainly to alerting the relevant local DSFB/Trust to any proposal.

The proposed development falls within the district of the River Tweed Commission, and the catchments relating to the Tweed Foundation. It is important that the proposals are conducted in full consultation with these organisations (For your reference, please see link to FMS member DSFBs and Trusts below). We have also copied this response to these organisations.

Due to the potential for such developments to impact on migratory fish species and the fisheries they support, FMS have developed, in conjunction with Marine Scotland Science, advice for DSFBs and Trusts in dealing with planning applications. We would strongly recommend that these guidelines are fully considered throughout the planning, construction and monitoring phases of the proposed development.

- LINK TO ADVICE ON TERRESTRIAL WINDFARMS
- LINK TO DSFB CONTACT DETAILS
- LINK TO FISHERY TRUST CONTACT DETAILS

Regards,

Brian

Brian Davidson | Dir Communications & Administration
Fisheries Management Scotland
11 Rutland Square, Edinburgh, EH1 2AS
Tel: 0131 221 6567 | 075844 84602
www.fms.scot

1

A1.2.10 GLASGOW AIRPORT SCOPING OPINION

A10

Melrose J (Joyce)

From: #GLA Safeguarding <GLASafeguard@glasgowairport.com>
Sent: 27 August 2020 12:24
To: Econsents Admin
Subject: RE: Scoping - Skawd Law Wind Farm

This proposal is located outwith our consultation zone. As such we have no comment to make and need not be consulted further.

Kind regards

Kirsteen

GLASGOW AIRPORT
PROUD TO SERVE SCOTLAND

#GLA Safeguarding
#GLA Safeguarding

07808 115 881
glasafeguard@glasgowairport.com
www.glasgowairport.com

Glasgow Airport, Erskine Court, St Andrews Drive, Paisley, PA3 2TJ

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A1.2.11 HISTORIC ENVIRONMENT SCOTLAND SCOPING OPINION

A11

HISTORIC ENVIRONMENT SCOTLAND | ÀRAINNEACHD EACHDRAIDHEIL ALBA

By email to: econsents_admin@gov.scot

Magnus Hughson
Energy Consents Unit
4th Floor, 5 Atlantic Quay
150 Broomielaw
Glasgow
G2 8LU

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Enquiry Line: 0131-668-8716
HMConsultations@hes.scot

Our case ID: 300045889
Your ref: ECU00002111

09 September 2020

Dear Mr Hughson

The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017
Skawd Law Wind Farm
Scoping Report

Thank you for your consultation which we received on 07 August 2020 about the above scoping report. We have reviewed the details in terms of our historic environment interests. This covers World Heritage Sites, scheduled monuments and their settings, category A-listed buildings and their settings, inventory gardens and designed landscapes, inventory battlefields and historic marine protected areas (HMPAs).

The relevant local authority's archaeological and cultural heritage advisors will also be able to offer advice on the scope of the cultural heritage assessment. This may include heritage assets not covered by our interests, such as unscheduled archaeology, and category B- and C-listed buildings.

Proposed Development
We understand that the proposed development comprises up to 12 wind turbines of up to 180m maximum blade tip height, plus ancillary infrastructure including access tracks, underground cables, onsite substation and control building, anemometry mast, temporary borrow pits and temporary construction compounds.

Scope of assessment
Potential direct impacts
We can confirm that there are no scheduled monuments, category A listed buildings, Inventory battlefields, gardens and designed landscapes or World Heritage Sites within the proposed development boundary.

Potential impacts on the setting of assets
There are a number of nationally important historic environment assets within our remit in the vicinity of the development whose settings have the potential to be significantly adversely impacted by it. The annex to this letter gives details of a number of assets which appear likely to experience impacts. This list should not be treated as exhaustive

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and is only intended as a reference to those assets which at this stage appear most likely to be significantly impacted.

Potential cumulative impacts
There are a number of other existing and proposed wind farms in the surrounding area. We would recommend that the potential cumulative impacts of the proposed development in combination with other developments in the vicinity be assessed. This should assess the incremental impact or change when the proposed development is combined with other present and reasonably foreseeable developments.

Scoping report
We welcome that cultural heritage effects are scoped in to the assessment. We welcome that the operational effects of the proposal on the setting of cultural heritage assets as well as direct impacts from construction will be assessed; we have provided further comments in the attached annex. We strongly recommend that our Managing Change Guidance Note on Setting is used to inform setting assessments and further information on good practice in cultural heritage assessment can be found in Appendix 1 of the EIA Handbook.

Further information
The Historic Environment Policy for Scotland (HEPS 2019) was adopted on the 01 May 2019 and replaced the Historic Environment Scotland Policy Statement (HESPS 2016). The new Historic Environment Policy for Scotland is a strategic policy document for the whole of the historic environment and is underpinned by detailed policy and guidance. This includes our Managing Change in the Historic Environment Guidance Notes. All of these documents are available online at www.historicenvironment.scot/heps.

Practical guidance and information about the EIA process can also be found in the EIA Handbook (2018). Technical advice is available on our Technical Conservation website at http://conservation.historic-scotland.gov.uk/.

We hope this is helpful. Please contact us if you have any questions about this response. The officer managing this case is Victoria Clements who can be contacted by phone on 0131 668 8730 or by email on Victoria.Clements@hes.scot.

Yours sincerely

Historic Environment Scotland

Historic Environment Scotland – Longmore House, Salisbury Place, Edinburgh, EH9 1SH
Scottish Charity No. **SC045925**
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Annex

Historic Environment Scotland's interest
The following designated historic environment assets are in the vicinity of the development and have the potential to be impacted by it. This list is not considered to be exhaustive, and we would recommend that a wider search is undertaken of the surrounding area for potential impacts in the first instance. It is important to note that some assets have settings that are particularly sensitive to impacts and this should be used to help determine which sites are assessed in more detail in the EIA Report.

We recommend that an appropriately detailed ZTV should be used to identify potential setting impacts in the first instance and that consideration should be given to including assets where even though the ZTV indicates that no direct intervisibility would be possible there is the potential for turbines to appear in the background of key views towards these assets.

Scheduled monuments

Glentress Tower, ENE of Glentress (SM 3112)
Glentress Tower includes the remains of a medieval tower house with other remains, including later enclosures, around it. The tower was built in the valley of Glentress Burn, in a 'side glen' that runs off a valley followed by the current B709. A location in a side glen is common among later medieval fortified dwellings in the Scottish Borders. Such locations may have been favoured because they provided some additional security, alongside ready access to a communication route, during times of conflict along the Anglo-Scottish Border.

Views to and from the monument that contribute to an appreciation of its strategic location in the glen are important to an appreciation, understanding and experience of it. The ZTV suggests that these views may be affected by the proposed turbines and there is the potential for significant adverse impacts on the setting of this asset.

Potential impacts should be fully assessed, and this should include a site visit and the production of visualisations such as wireframes and, if necessary, photomontages. If an adverse impact on the monument's setting is identified, then mitigation to reduce it should be explored. This is likely to include re-design of the proposed development through deletion, reduction in height or movement of turbines.

Hillside Knowe, settlement, Glentress (SM 2731)
The upstanding, earthwork, remains of prehistoric settlement are located at the summit of Hillside Knowe. It is thought that there may have been two phases of occupation, including a settlement defended by a palisade. The builders of the monument clearly chose a pronounced knoll at the junction of two glens to locate their defended settlement.

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This is likely to reflect that the occupants wished to overlook and monitor movement along the glens. It may also have made the settlement easier to defend and a more impressive feature in the landscape.

Views to and from the monument that contribute to an understanding, appreciation and experience of these aspects of the monument's cultural significance are clearly important. The ZTV suggests that these views may be affected by the proposed turbines and there is potential for a significant adverse impact on the setting of the monument.

The potential impacts should be robustly assessed by site visit and the production of visualisations such as wireframes and, if necessary, photomontages. If an adverse impact is identified, then mitigation to reduce it should be explored. This is likely to include re-design of the proposed development through deletion, reduction in height or movement of turbines.

Cairn Hill, cairn, Walkerburn (SM 2758)
The monument at Cairn Hill comprises the remains of a prehistoric burial cairn. It was built on the summit of Cairn Hill, where it commands extensive views of the Tweed Valley to the south, east and west. To the north is a ridge leading to Scawd Law. This prominent site is likely to have been deliberately chosen by the cairn's builders and views to and from the monument that allow an appreciation, understanding and experience of related aspects of its cultural significance are important.

Surrounding forestry has been designed to retain open ground around the cairn and this may preserve important aspects of its setting. This includes open ground to the monument's north, along the ridge that leads to Scawd Law. The ZTV suggests that important views in this direction may be affected by the proposed turbines and there is potential for a significant adverse impact on the setting of the monument.

Potential impacts should be robustly assessed by site visit and the production of visualisations such as wireframes and, if necessary, photomontages. If adverse impacts are identified, then mitigation to reduce these should be explored. This is likely to include re-design of the proposed development through deletion, reduction in height or movement of turbines.

Category A listed buildings

Walkerburn, The Kirna (LB 8323)
The village of Walkerburn grew up around the textile mills of Tweedvale and Tweedholm of Henry Ballantyne, the founder of the village. Ballantyne was also responsible for the earliest workers housing and laying out the village we see today. By his death in 1865, Walkerburn was a flourishing manufacturing village with a population of just under 800 people. A number of impressive houses were built in the village for Ballantyne's five

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sons, including The Kirna. The Ballantyne houses are highly prized as a group of buildings by F T Pilkington. The Kirna is unusual within Walkerburn as it stands away from the other Ballantyne houses.

Located approximately 2.5km to the south of the proposed wind farm, at the base of Priesthope Hill, the turbines are not likely to be visible from the building itself due to the incline of the hill. However, views of the building from the opposite side of the valley may include the wind farm with the building. The assessment should therefore consider the impact of the development on views towards the building and any effect on the cultural significance of this impressive and important building within the village of Walkerburn.

Walkerburn, Galashiels Road, Stoneyhill House, stables and boundary walls (LB 12930)
Another of the impressive Ballantyne houses within Walkerburn, Stoneyhill House is located approximately 2.5km to the south of the proposed wind farm, at the base of Priesthope Hill. The turbines are not likely to be visible from the building due to the incline of the hill. However, views of the building from the opposite side of the valley may include the wind farm. The assessment should therefore consider the impact of the development on views towards the building and any effect on the cultural significance of this impressive and important building within the village of Walkerburn.

Traquair House including wings, terraces, pavilions, courtyard screen walls, gatepiers, railings and gates (LB 15429)
Located approximately 4km to the south west of the proposed wind farm, according to the ZTV, 1-6 turbines would be visible from the building.

The setting of the building includes significant views of the house along the length of the formal, tree-lined avenue from the south. Although this formal approach through the Bear Gates is not currently used, the building (specifically its courtyard and gates) have been designed with a symmetrical relationship towards the avenue, and therefore any views to the house from the avenue are particularly important. The current approach from the south to the building is not symmetrically aligned, but views of the wind farm may be visible on the nearer approaches to the building.

The wind farm has the potential to be visible on the hills above Innerleithen, which form the backdrop when viewing the building from the south. There may also be views of the wind farm looking north from within the principal rooms of the A listed building.

We would expect the assessment to fully consider the potentials impacts of the development on the setting of the building, and provide appropriate visualisations of views of the house, including views from the formal avenue at the Bear Gates and at points approaching the house. We would also expect visualisations from the principal rooms of the house looking towards the wind farm.

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The Glen, house and service wing (LB 19746)
Located approximately 8km to the south west of the wind farm, according to the ZTV, the turbines would not be visible from the building itself. However, when approaching the building from the west the wind farm has the potential to be visible in the important backdrop of the house. We would expect the assessment to consider the impact of the wind farm on views of the building (and its immediate surrounding area) and views of the building in its GDL setting. We recommend that a visualisation of the wind farm in the backdrop from the western approaches to the house should be provided to aid with assessment.

Leithen Lodge, with Lochend Arch, outbuildings and sundial (LB 13475)
Located approximately 2.5km to the north east of the proposed wind farm, according to the ZTV 1-6 turbines would be visible from the building itself. However, given the orientation of the building in relation to the wind farm, as well as the buffer of trees, there is the potential for no turbines to be visible from the building. We would expect the assessment to consider the impact of the development on views from the building towards the wind farm and ascertain whether significant adverse effects are likely on the setting of this building.

Inventory gardens and designed landscapes

Bowland (GDL 00066)
Located approximately 5km to the east of the proposed wind farm, according to the ZTV, the turbines would not be visible from the GDL. However, there are long views towards this GDL from the B710 road to the south east which might take in both the GDL and the wind farm. We would therefore expect the assessment to consider the impact of the development on views towards the GDL and any effects on the cultural significance of the GDL.

Traquair House (GDL 00378)
Located approximately 4km to the south west of the proposed wind farm, according to the ZTV only 1-6 turbines would be visible from the GDL. The formal avenue leading from the closed bear gates to the main front elevation of Traquair House remains one of the strongest landscape design components of the policies. The upland terrain beyond the GDL forms a striking and contrasting backdrop for the house, trees, gardens and avenue. We would expect the assessment to consider the impact of the development on the setting of this GDL, including views along the important formal entrance avenue towards the House, in which the hills around Innerleithen form the backdrop, as well as views from the Castle and the formal terraces immediately to the north. If adverse impacts are identified we recommend that a visualisation is provided to assist with the assessment of effects.

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Kailzie (GDL 00229)
Located approximately 8km to the west of the proposed wind farm, according to the ZTV, the turbines would only be visible from elevated areas in the west side of the GDL. The orientation of the GDL and its distance from the wind farm may mean that significant adverse effects on the setting of this asset can be avoided. However, the assessment process should consider the potential for impacts from the development on these more elevated views within the GDL and determine whether any effects are likely to be significant.

The Glen (GDL 00359)
Located approximately 8km to the south west of the wind farm, according to the ZTV, the turbines would be visible from the higher ground immediately to the west of the mansion house. We would expect the assessment to consider the impact of the development on views from the GDL towards the wind farm and views of the house in its GDL setting. A visualisation of the wind farm in the backdrop from western approaches to the house should be provided to assist with assessment.

Bowhill (GDL 00065)
Located approximately 9km south of the proposed wind farm, according to the ZTV, the turbines would not be visible from the GDL. However, there are important long views towards the GDL from the minor roads to the south of the Ettrick Water which might take in both the GDL and the wind farm. We would therefore expect the assessment to consider the impact of the development on these views towards the GDL and any potential for significant adverse effects on the cultural significance of this asset.

Scoping report
We note that a detailed assessment methodology specifically for the historic environment chapter has not been produced within the scoping report. We are happy to provide advice regarding the proposed methodology prior to the application being submitted if that would be helpful. Advice on good practice in the assessment of impacts on the historic environment is available in Appendix 1 of the EIA Handbook. We welcome that the report states that an appropriately experienced archaeological organisation will undertake the assessment for the historic environment, and we will be happy to provide further advice to the relevant consultants if helpful.

We welcome that the scoping report states that direct impacts from construction and operational impacts on the setting of assets will be assessed, along with cumulative impacts. We welcome that the report indicates that mitigation measures will be proposed for any adverse effects that are identified. We recommend that in line with the mitigation hierarchy any significant adverse effects on assets designated as nationally important are avoided by redesign of the development.

HISTORIC ENVIRONMENT SCOTLAND | ÀRAINNEACHD EACHDRAIDHEIL ALBA

If adverse effects are identified we would welcome further consultation as the design of the project progresses so that we can provide advice regarding impacts on the setting of assets and any requirement for mitigation at a useful and constructive stage in the project design process.

A 10km study area is proposed to identify nationally important assets which may potentially receive impacts to their settings. We do not generally recommend the use of a specific radius to identify assets for inclusion or exclusion in assessments as there is the potential for assets to be missed. As stated above, we would generally recommend the use of an appropriately detailed ZTV to identify assets which may potentially receive impacts to their settings in the first instance. In this instance, we consider that the 10km study area is acceptable based on the current layout, however, if the layout is altered this radius should be reconsidered in line with new ZTVs and assets outwith this radius assessed for any potential impacts to their settings.

All nationally important designated assets within the outer study area should be appraised for potential impacts on their settings. It is acceptable that assets which have no potential for adverse impacts on their settings are then excluded from detailed assessment. However, the rationale for this exclusion should be set out clearly in the assessment report. This would allow readers to reach a view as to whether an asset's exclusion is reasonable.

Where potential for adverse impacts on a monument's setting are identified then it should be taken forward for detailed assessment to identify the scale of impacts and so that appropriate mitigation can be adopted where appropriate. We would be happy to engage further with the applicant and confirm whether we were content with a proposed list of assets for detailed assessment. This should be informed by a robust appraisal and the results and rationale behind the selection of assets for detailed assessment clearly set out for us to review. We strongly recommend that this approach is adopted to reduce the risk of us objecting to the proposed development because of a lack of information in the assessment report. We also recommend that this is undertaken at an appropriately early stage in the project design process to allow us to provide advice at a useful stage in the process.

We note that the report suggests that further consultation will be undertaken with ourselves and the Council archaeology service during the course of the EIA to agree on a selection of viewpoints. We would welcome further consultation regarding the visualisations to be produced for the assessment.

We note that the report suggests that direct impacts on historic environment assets are proposed to be scoped out of further assessment. While we are content that direct impacts on assets within our remit are unlikely and can therefore be scoped out of further assessment, we strongly recommend that the Local Authority archaeology services are

Historic Environment Scotland – Longmore House, Salisbury Place, Edinburgh, EH9 1SH
Scottish Charity No. **SC045925**
VAT No. **GB 221 8680 15**

HISTORIC ENVIRONMENT SCOTLAND | ÀRAINNEACHD EACHDRAIDHEIL ALBA

consulted regarding this aspect of the report for their advice regarding assets outwith our remit such as unscheduled archaeology.

Historic Environment Scotland
09 September 2020

A1.2.12 JOINT RADIO COMPANY SCOPING OPINION

A12

Young T (Tony)

From: JRC Windfarm Coordinations <windfarms@jrc.co.uk>
Sent: 23 September 2020 14:30
To: Young T (Tony)
Subject: FW: Scoping - Scawd Law Wind Farm [WF434362] [WF681160]

Dear tony,

A Windfarms Team member has replied to your co-ordination request, reference **WF681160** with the following response:

Dear Tony

***Name/Location**: Scawd Law Windfarm*

***Site Centre/Turbine at NGR/IGR**:*

Turbine No.	Easting	Northing
1	336017	640608
2	335961	641065
3	335701	641396
4	336117	641809
5	336363	641459
6	336590	641113
7	336783	640719
8	336538	642181
9	336917	642642
10	337278	642471
11	337524	642114
12	337661	641668

***Development Radius**: 0.1KM*

***Hub Height**: 120m **Rotor Radius**: 60m*

*This proposal **cleared** with respect to radio link infrastructure operated by:*

Scottish Power and Scotia Gas Networks

JRC analyses proposals for wind farms on behalf of the UK Fuel & Power Industry. This is to assess their potential to interfere with radio systems operated by utility companies in support of their regulatory operational requirements.

In the case of this proposed wind energy development, JRC does not foresee any potential problems based on known interference scenarios and the data you have provided. However,if any details of the wind farm change, particularly the disposition or scale of any turbine(s), it will be necessary to re-evaluate the proposal.

In making this judgement, JRC has used its best endeavours with the available data, although we recognise

1

that there may be effects which are as yet unknown or inadequately predicted. JRC cannot therefore be held liable if subsequently problems arise that we have not predicted.

It should be noted that this clearance pertains only to the date of its issue. As the use of the spectrum is dynamic, the use of the band is changing on an ongoing basis and consequently,developers are advised to seek re-coordination prior to considering any design changes.

Regards

Wind Farm Team

Friars House
Manor House Drive
Coventry CV1 2TE
United Kingdom

Office: 02476 932 185

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http://www.jrc.co.uk/about-us

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We hope this response has sufficiently answered your query.
If not, please **do not send another email** as you will go back to the end of the mail queue, which is not what you or we need. Instead, **reply to this email by clicking on the link below or login to your account** for access to your co-ordination requests and responses.

https://breeze.jrc.co.uk/tickets/view.php?auth=o1xtadaaabmkiaaavBTTqkmEZTvoGA%3D%3D

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2

A1.2.13 MOUTAINEERING SCOTLAND SCOPING OPINION

A13

MOUNTAINEERING SCOTLAND WALKCLIMBSKI
50 YEARS: 1970 - 2020

The Granary | West Mill Street | Perth | PH1 5QP
T: 01738 493 942 E: info@mountaineering.scot
www.mountaineering.scot

By email to: Econsents_Admin@gov.scot

FAO Magnus Hughson
Energy Consents Unit
Directorate for Energy and Climate Change
5 Atlantic Quay
150 Broomielaw
Glasgow
G2 8LU

14 August 2020

Dear Sir/Madam

Skawd Law Wind Farm: Environmental Impact Assessment Scoping Report

Reference: ECU00002111

Background and Context

1. Fred Olsen Renewables has submitted a scoping report for a wind farm of up to 12 turbines of up to 180m BTH, northeast of Innerleithen on the upper ridges of Windlestraw Law, south of the summit.

2. Mountaineering Scotland is a membership organisation with over 14,000 members and is the only recognised representative organisation for hill walkers, climbers, mountaineers and ski-tourers who live in Scotland or who enjoy Scotland's mountains, and acts to represent, support and promote Scottish mountaineering. Mountaineering Scotland also acts on behalf of the 85,000 members of the British Mountaineering Council (BMC) on matters related to landscape and access in Scotland, and provides training and information to mountain users to promote safety, self-reliance and the enjoyment of our mountain environment.

3. Windlestraw Law is the highest hill in the Moorfoots at 659m OD. The turbine bases would be at altitudes of c.420-640m OD, though only two are below 500m. This gives blade-tip altitudes up to 820m OD, making them by far the highest altitude objects in the Moorfoots. Indeed, in the Southern Uplands only the nearby Tweedsmiur/Manor hills, the Galloway Highlands, and the Cheviot are higher. Heading north and west one does not find ground >800m until the Corbetts and Munros of the Southern Highlands beyond the Highland Boundary Fault.

Assessment

4. Mountaineering Scotland is in general content with the proposed methodology in the Scoping Report. It has three observations which are set out below.

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5. Q.7 (1) There is no viewpoint to illustrate the potential effect on the western Moorfoots. This has a number of summits likely to be affected and is popular for walks from Peebles and Gladhouse/Portmore.

6. Q.7 (2) There is no viewpoint to illustrate the potential effect on the high ground to the south of Peebles (the ridges above Glensax and The Glen). Again these are popular walking areas. Viewpoint 5 is on the edge of this area but it is in a valley. A much more suitable viewpoint would be where the Southern Upland Way begins to descend from Blake Muir, with an unobstructed view forward to the proposed development.

7. Q.29 It is proposed to scope out any consideration of tourism. This is unacceptable since reanalysis of the data in the Biggar Economics report cited shows an adverse effect on tourism-related employment around wind farms located in local scenic designations. The proposed development is near to, though not in, a number of local scenic designations which could be affected by its presence.

Yours sincerely

Davie Black
Access & Conservation Officer
Mountaineering Scotland

T: 07555 769325

E: access@mountaineering.scot

A1.2.14 NATS SAFEGUARDING SCOPING OPINION

A14

Melrose J (Joyce)

From: NATS Safeguarding <NATSSafeguarding@nats.co.uk>
Sent: 06 October 2020 16:32
To: Econsents Admin
Subject: FW: Scoping - Skawd Law Wind Farm [SG30112]
Attachments: SG30112 Skawd Law - TOPA - Issue 1.pdf

Apologies, with the attachment.

From: NATS Safeguarding
Sent: 06 October 2020 16:31
To: Econsents_Admin@gov.scot
Subject: FW: Scoping - Skawd Law Wind Farm [SG30112]

Our Ref: SG30112

Dear Sir/Madam

We refer to the application above. The proposed development has been examined from an en-route infrastructure technical safeguarding perspective and the findings show that it will infringe NERL safeguarding criteria for the following reason:
The proximity, physical size and relative orientation of the development, is sufficient to generate false tracks. **Accordingly, NATS (En Route) plc objects to the proposal.**

We would like to take this opportunity to draw your attention to the legal obligation of local authorities to consult NATS before granting planning permission. The obligation to consult arises in respect of certain applications that would affect a technical site operated by or on behalf of NATS (such sites being identified by safeguarding plans that are issued to local planning authorities).

In the event that any recommendations made by NATS are not accepted, local authorities are obliged to follow the relevant directions within Planning Circular 2 2003 - Scottish Planning Series: Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) (Scotland) Direction 2003 or Annex 1 - The Town And Country Planning (Safeguarded Aerodromes, Technical Sites And Military Explosives Storage Areas) Direction 2002.

These directions require that the planning authority notify both NATS and the Civil Aviation Authority ("CAA") of their intention. As this further notification is intended to allow the CAA to consider whether further scrutiny is required, the notification should be provided prior to any granting of permission.

It should also be noted that the failure to consult NATS, or to take into account NATS's comments when determining a planning application, could cause serious safety risks for air traffic.

Should you have any queries, please contact us using the details below.

Yours faithfully

NATS Safeguarding
E: natssafeguarding@nats.co.uk
4000 Parkway, Whiteley,
Fareham, Hants PO15 7FL
www.nats.co.uk

1

From: NATS Safeguarding
Sent: 21 August 2020 12:42
To: Econsents_Admin@gov.scot
Subject: RE: Scoping - Skawd Law Wind Farm [SG30112]

Dear Sir/ Madam

We refer to the application above. The proposed development has been examined by our technical safeguarding teams. In the timeframe given to us we have been unable to thoroughly investigate the effects of the proposed development on our Operations, however, the relevant teams are being consulted.

Based on our preliminary technical findings, the proposed development does conflict with our safeguarding criteria. Accordingly, NATS (En Route) plc **objects to the proposal.** We will notify you within 4-6 weeks of the results of our operational assessment. Only if this assessment shows the impact to be acceptable will we be able to withdraw our objection.

We would like to take this opportunity to draw your attention to the legal obligation of local authorities to consult NATS before granting planning permission for a wind farm. The obligation to consult arises in respect of certain applications that would affect a technical site operated by or on behalf of NATS (such sites being identified by safeguarding plans that are issued to local planning authorities).

In the event that any recommendations made by NATS are not accepted, local authorities are further obliged to notify both NATS and the Civil Aviation Authority ("CAA") of that fact (which may lead to the decision made being subject to review whether by the CAA referring the matter for further scrutiny or by appropriate action being taken in the courts).

As this further notification is intended to allow the CAA sufficient time to consider whether further scrutiny is required, we understand that the notification should be provided prior to any granting of permission. You should be aware that a failure to consult NATS, or to take into account NATS's comments when deciding whether to approve a planning application, could cause serious safety risks for air traffic.

If you have any queries regarding this matter you can contact us using the details as below.

Yours faithfully

NATS Safeguarding

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Fareham, Hants PO15 7FL
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2

Prepared by:
NATS Safeguarding Office

Unmarked

Technical and Operational Assessment (TOPA)

For Skawd Law Wind Farm

Wind Farm Development

NATS ref: SG30112

Ref: ECU00002111

Issue 1.0

Contents

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1.	Background	4
1.1.	En-route Consultation	4
2.	Scope	4
3.	Application Details	5
4.	Assessments Required	5
4.1.	En-route RADAR Technical Assessment	6
4.1.1.	Predicted Impact on Lowther Hill RADAR	6
4.1.2.	Predicted Impact on GDF RADAR	6
4.1.3.	En-route operational assessment of RADAR impact	6
4.2.	En-route Navigational Aid Assessment	6
4.2.1.	Predicted Impact on Navigation Aids	6
4.3.	En-route Radio Communication Assessment	6
4.3.1.	Predicted Impact on the Radio Communications Infrastructure	6
5.	Conclusions	6
5.1.	En-route Consultation	6

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Publication History

Issue	Month/Year	Change Requests and summary
1.0	August 2020	Scoping Request

Document Use

External use: Yes

Referenced Documents

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1. Background

1.1. En-route Consultation

NATS en-route plc is responsible for the safe and expeditious movement in the en-route phase of flight for aircraft operating in controlled airspace in the UK. To undertake this responsibility it has a comprehensive infrastructure of RADAR's, communication systems and navigational aids throughout the UK, all of which could be compromised by the establishment of a wind farm.

In this respect NATS is responsible for safeguarding this infrastructure to ensure its integrity to provide the required services to Air Traffic Control (ATC).

In order to discharge this responsibility NATS is a statutory consultee for all wind farm applications, and as such assesses the potential impact of every proposed development in the UK.

The technical assessment sections of this document define the assessments carried out against the development proposed in section 3.

2. Scope

This report provides NATS En-Route plc's view on the proposed application in respect of the impact upon its own operations and in respect of the application details contained within this report.

Where an impact is also anticipated on users of a shared asset (e.g. a NATS RADAR used by airports or other customers), additional relevant information may be included for information only. While an endeavour is made to give an insight in respect of any impact on other aviation stakeholders, it should be noted that this is outside of NATS' statutory obligations and that any engagement in respect of planning objections or mitigation should be had with the relevant stakeholder, although NATS as the asset owner may assist where possible.

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3. Application Details

Scottish Government submitted a request for a NATS technical and operational assessment (TOPA) for the development at Skawd Law Wind Farm. It will comprise turbines as detailed in Table 1 and contained within an area as shown in the diagrams contained in Appendix B.

Turbine	Lat	Long	East	North	Hub (m)	Tip (m)
1	55.6548	-3.0181	336037	640608	120	180
2	55.6588	-3.0193	335967	641060	120	180
3	55.6617	-3.0233	335720	641389	120	180
4	55.6655	-3.0169	336128	641806	120	180
5	55.6624	-3.0130	336372	641454	120	180
6	55.6594	-3.0093	336596	641111	120	180
7	55.6559	-3.0062	336784	640719	120	180
8	55.6690	-3.0104	336541	642181	120	180
9	55.6731	-3.0045	336922	642639	120	180
10	55.6716	-2.9989	337272	642468	120	180
11	55.6685	-2.9947	337530	642116	120	180
12	55.6645	-2.9923	337673	641662	120	180

Table 1 – Turbine Details

4. Assessments Required

The proposed development falls within the assessment area of the following systems:

RADAR	Lat	Long	nm	km	Az (deg)	Type
GDF Radar	54.6841	-2.4509	61.5	113.8	342.2	CMB
Lowther Hill Radar	55.3778	-3.7530	30.1	55.7	55.6	CMB
Perwinnes Radar	57.2123	-2.1309	97.0	179.7	197.8	CMB
Tiree Radar	56.4556	-6.9230	139.6	258.5	108.2	CMB
Nav	Lat	Long	nm	km	Az (deg)	Type
None						
AGA	Lat	Long	nm	km	Az (deg)	Type
None						

Table 2 – Impacted Infrastructure

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4.1. En-route RADAR Technical Assessment

4.1.1. Predicted Impact on Lowther Hill RADAR

Using the theory as described in Appendix A and turbine specific propagation profile it has been determined that the terrain screening available will not adequately attenuate the signal from turbines T2, T3, T4, T5, T8, T9 & T10, and therefore these turbines are likely to cause false primary plots to be generated. A reduction in the RADAR's probability of detection, for real aircraft, is also anticipated.

4.1.2. Predicted Impact on GDF RADAR

Using the theory as described in Appendix A and turbine specific propagation profile it has been determined that the terrain screening available will not adequately attenuate the signal from turbines T2, T3, T4, T5, T7, T8, T9, T10 & T11, and therefore these turbines are likely to cause false primary plots to be generated. A reduction in the RADAR's probability of detection, for real aircraft, is also anticipated.

4.1.3. En-route operational assessment of RADAR impact

Where an assessment reveals a technical impact on a specific NATS' RADAR, the users of that RADAR are consulted to ascertain whether the anticipated impact is acceptable to their operations or not.

Unit or role	Comment
Prestwick Centre	Unacceptable

Note: The technical impact, as detailed above, has also been passed to non-NATS users of the affected RADAR, this may have included other planning consultees such as the MOD or other airports. Should these users consider the impact to be unacceptable it is expected that they will contact the planning authority directly to raise their concerns.

4.2. En-route Navigational Aid Assessment

4.2.1. Predicted Impact on Navigation Aids

No impact is anticipated on NATS' navigation aids.

4.3. En-route Radio Communication Assessment

4.3.1. Predicted Impact on the Radio Communications Infrastructure

No impact is anticipated on NATS' radio communications infrastructure.

5. Conclusions

5.1. En-route Consultation

The proposed development has been examined by technical and operational safeguarding teams. A technical impact is anticipated, this has been deemed to be unacceptable.

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Appendix A – Background RADAR Theory

Primary RADAR False Plots

When RADAR transmits a pulse of energy with a power of P_t the power density, P, at a range of r is given by the equation:

$$P = \frac{G_t P_t}{4\pi r^2}$$

Where G_t is the gain of the RADAR's antenna in the direction in question.

If an object at this point in space has a RADAR cross section of σ, this can be treated as if the object re-radiates the pulse with a gain of σ and therefore the power density of the reflected signal at the RADAR is given by the equation:

$$P_a = \frac{\sigma P}{4\pi r^2} = \frac{\sigma G_t P_t}{(4\pi)^2 r^4}$$

The RADAR's ability to collect this power and feed it to its receiver is a function of its antenna's effective area, A_e, and is given by the equation:

$$P_r = P_a A_e = \frac{P_a G_r \lambda^2}{4\pi} = \frac{\sigma G_t G_r \lambda^2 P_t}{(4\pi)^3 r^4}$$

Where G_t is the RADAR antenna's receive gain in the direction of the object and λ is the RADAR's wavelength.

In a real world environment this equation must be augmented to include losses due to a variety of factors both internal to the RADAR system as well as external losses due to terrain and atmospheric absorption.

For simplicity these losses are generally combined in a single variable L

$$P_r = \frac{\sigma G_t G_r \lambda^2 P_t}{(4\pi)^3 r^4 L}$$

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Secondary RADAR Reflections

When modelling the impact on SSR the probability that an indirect signal reflected from a wind turbine has the signal strength to be confused for a real interrogation or reply can determined from a similar equation:

$$P_r = \frac{\sigma G_t G_r \lambda^2 P_t}{(4\pi)^3 r_t^2 r_r^2 L}$$

Where r_t and r_r are the range from RADAR-to-turbine and turbine-to-aircraft respectively. This equation can be rearranged to give the radius from the turbine within which an aircraft must be for reflections to become a problem.

$$r_r = \sqrt{\frac{\lambda^2}{(4\pi)^3}} \sqrt{\frac{\sigma G_t G_r P_t}{r_t^2 P_r L}}$$

Shadowing

When turbines lie directly between a RADAR and an aircraft not only do they have the potential to absorb or deflect, enough power such that the signal is of insufficient level to be detected on arrival.

It is also possible that azimuth determination, whether this done via sliding window or monopulse, can be distorted giving rise to inaccurate position reporting.

Terrain and Propagation Modelling

All terrain and propagation modelling is carried out by a software tool called ICS Telecom (version 11.1.7). All calculations of propagation losses are carried out with ICS Telecom configured to use the ITU-R 526 propagation model.

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Appendix B – Diagrams

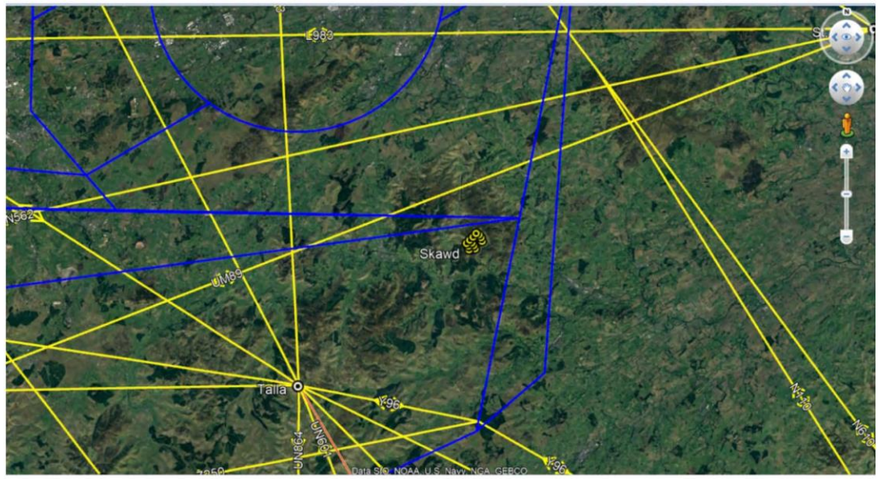
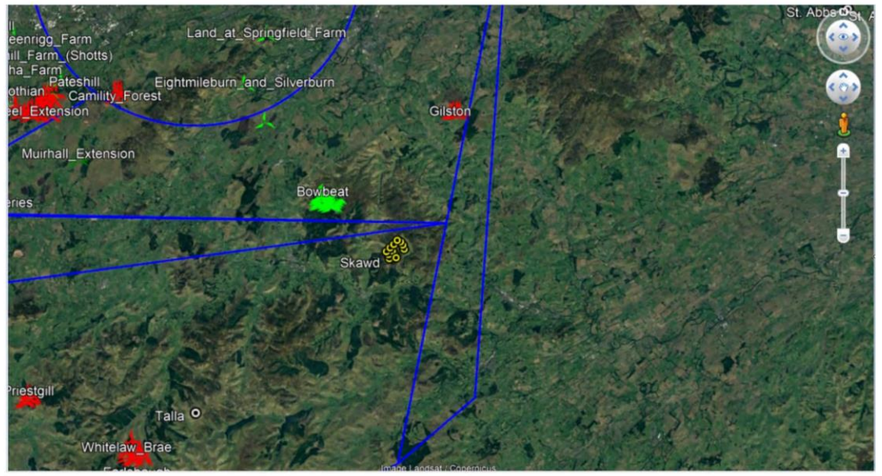


Figure 1: Proposed development location shown on an airways chart



Figures 2: Proposed development shown alongside other recently assessed applications

consented/built | impact –accepted | impact –objection | mitigated
mitigation –proposed | no impact | refused/withdrawn

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A1.2.15 NATURESCOT SCOPING OPINION

A15

NatureScot
Scotland's Nature Agency
Buidheann Nàdair na h-Alba

Mr Magnus Hughson
The Scottish Government Energy Consents Unit
Atlantic Quay
150 Broomielaw
Glasgow
G2 8LU

Econsents_Admin@gov.scot

Our ref: CNS/REN/WF/SL
Your ref: ECU00002111

27 August 2020

Dear Magnus

ELECTRICITY ACT 1989 SECTION 36
THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017
SCOPING OPINION REQUEST FOR SCAWD LAW WIND FARM, SCOTTISH BORDERS

Thank you for consulting us on the scope of the environmental impact assessment (EIA) in relation to our interests for this proposed wind farm, near Walkerburn.

NatureScot supports the development of renewable energy as an integral part of the Government's climate change programme, where the impacts on the natural heritage and enjoyment of it are acceptable.

Please note we would like to receive a paper copy of the landscape and visual impact assessment figures of the EIA Report when we are consulted on the application and our offices are open to receive mail again.

Our advice is based on the Scawd Law Wind Farm Scoping Report prepared by Natural Power on behalf of Fred Olsen Renewables Ltd. dated July 2020

The Proposal

This wind farm would comprise up to 12 wind turbines of up to 180m high to blade tip, plus associated infrastructure. The application would be for an operational period of up to 35 years.

NatureScot Key Concerns

Our key concern about this development is the landscape and visual impacts, including cumulative impacts with other proposed, consented and operational wind farms in the wider area. This includes from the aviation lighting that will be required due to turbine height.

Potential impacts on the qualifying interests of the River Tweed Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) and the Moorfoot Hills SAC/SSSI can be addressed by appropriate mitigation measures.

NatureScot Advice

The Scoping Report appears comprehensive in its approach to EIA.

Our guidance for onshore wind farms should be referred to by the developer: www.nature.scot/professional-advice/planning-and-development/advice-planners-and-developers/renewable-energy-development/onshore-wind-energy/advice-wind-farm.

Where the guidance is not followed in the EIA process we would expect explanations to be given in the EIA Report accompanying the application.

Landscape and visual impacts

We note the proposed approach to the assessment of impacts and that this will include those arising from the aviation lighting that will be required for these turbines.

We offer no comment at this time on the proposed viewpoints, and would be pleased to offer advice on this once there is more certainty about the turbine layout.

Protected areas

Further information on the designated sites below is available on our website. Sufficient information must be provided in the EIA Report to enable an appraisal of the likely impact of the proposed development on the qualifying interests of these sites.

Moorfoot Hills SAC/SSSI

The northern boundary of the wind farm site marches with that of the Moorfoot Hills SAC/SSSI. The SAC qualifying interests are blanket bog and European dry heath with blanket bog as one of the interests of the SSSI. Our concern is that the topography of this area may mean that there is hydrological connectivity between the blanket bog on the wind farm site and that of the SAC/SSSI.

River Tweed SAC and Site of Special Scientific Interest (SSSI)

This wind farm development could have connectivity with the River Tweed SAC/SSSI due to drainage and water flow off the site through several watercourses reaching the River Tweed.

Consideration needs to be given to the potential effects of construction, operation and decommissioning of the proposed development in relation to the qualifying interests of the SAC, including proposed access tracks. The SAC interests are sensitive to disturbance to the river habitat, including silt and sediment entering the watercourse and smothering gravel beds, suspended solids in the water column, pollution events, and changes in water quality and in water chemistry. Further information on this is given in the SNH publication 'Guidance for Competent Authorities when dealing with proposals affecting SAC freshwater sites'.

Potential impacts can be addressed by good wind farm design and by commitment to the employment of good construction methods. Reference should be made to our guidance 'Good practice during windfarm construction', available on our website. Addressing potential impacts on the SAC interests will also address those of the SSSI.

Fala Flow Special Protection Area (SPA) and SSSI

We do not consider that the development is likely to have a significant effect on the wintering pink footed geese interests for which the nearby Fala Flow SPA/SSSI is designated, despite the proximity of the site. There is sufficient information already available about how the geese move between their roost at Fala Flow and their feeding areas to the north and north-west of the SPA/SSSI to enable us to make that judgement. Impacts of the wind farm on this SPA/SSSI can be scoped out of any assessment.

Gladhouse Reservoir SPA/SSSI

This SPA/SSSI is mentioned in the scoping report. However, for many years it has held insufficient numbers of wintering pink-footed geese to be of any concern to wind farm proposals and can be scoped out of any assessment.

Moorfoot Hills SSSI

Potential impacts on the blanket bog interests of the SSSI will be addressed when considering impacts on this SAC feature. Potential impacts on the breeding bird assemblage and breeding golden plover are being addressed in the ornithology section of the EIA Report.

Ecology

The habitat and species surveys carried out seem comprehensive. I have not looked at their summaries in any detail. The proposed approach to the assessment of impacts appears appropriate.

Birds

We note the approach proposed in the Scoping Report and the results of surveys carried out. I have not looked in detail at the information presented, although can agree with Table 13.10: Features and impacts to be assessed within the EIA Report. Note advice above regarding Fala Flow and Gladhouse Reservoir SPAs.

Please note that the local records centre is The Wildlife Information Centre (TWIC) rather than Lothian and Borders Wildlife Information Centre (13.2.1).

Habitat Management Plan

We note in sections 12.4.2 and 12.5.2 that a Habitat Management Plan (HMP) will be presented in the EIA Report where significant impacts on habitats are predicted. Please note that we consider the purpose of an HMP for a wind farm site is to provide for positive management and enhancement of habitats within the development site to benefit biodiversity and not just mitigate impacts.

The EIA Report should offer an outline HMP that sets out broad measures to achieve this. The outline HMP would then be worked up in detail and implemented should the development be granted permission and be constructed. Reference can usefully be made to Scottish Borders Council's Supplementary Planning Guidance for Biodiversity on their website.

Peat

We note the consideration to be given to impacts on peat, and the proposal for a Peatland Management Plan and Peatland Restoration Plan to be included in the EIA Report should they be required (sections 12.4.2 and 12.5.2). I have not looked in detail at the results of the peat

depth survey, other than to note the statement in the Scoping Report that areas of deepest peat have been avoided in the siting of the infrastructure for the proposed development and that turbines are not located on peat (section 14.5.4 - paragraph below table 14.7). However, this is at odds with the peat depths shown in Figure 14.2 Interpolated Peat Depth. For example, lengths of track are indicated on peat depths shown as 0.5 – 1.0 m deep (yellow) and 1 – 1.5 m deep (orange). This would indicate that impacts on peat ought not to be scoped out of the EIA Report (section 14.6, Table 14.8: Summary of Impacts on Baseline Receptors).

Consideration of the potential for hydrological connectivity of peatlands on the site with the peatland interests of the Moorfoot Hills SAC/SSSI must be included in the EIA Report, even if the conclusion is that there is no connectivity. This is to give clarity to consultees on this issue, given the SAC/SSSI status of the adjacent land.

Please note, these comments are given without prejudice to any comments we may wish to make in future regarding this development proposal.

Please contact me should you wish to discuss our response.

The advice in this letter is provided by Scottish Natural Heritage, acting under its operating name NatureScot

Yours sincerely

By e-mail

Anne Brown
Area Officer
Scottish Borders

Copy: Craig Miller, Scottish Borders Council

A1.2.16 ONR SCOPING OPINION

A16

Melrose J (Joyce)

From: Vicki.Enston@onr.gov.uk on behalf of ONR-Land.Use-Planning@onr.gov.uk
Sent: 18 August 2020 14:45
To: Melrose J (Joyce); Econsents Admin
Subject: RE: HPE CM: Scoping - Skawd Law Wind Farm

Good afternoon,

ONR makes no comment on this proposed development as it does not lie within a consultation zone around a GB nuclear site.

Kind regard

Vicki

Vicki Enston
Regulatory Officer
Land Use Planning
Emergency Preparedness & Response

Office for Nuclear Regulation

E: ONR-Land.Use-Planning@onr.gov.uk

The Office for Nuclear Regulation's mission is to provide efficient and effective regulation of the nuclear industry, holding it to account on behalf of the public.

Website: www.onr.org.uk **Twitter:** @ONRpressoffice

Click on - **ECU00002111**

This will take you into the file

1

A1.2.17 RIVER TWEED SCOPING OPINION

A17

Melrose J (Joyce)

From: (Redacted)
Sent: 27 August 2020 20:06
To: Econsents Admin
Cc: Hughson M (Magnus)
Subject: Scoping-Scawd Law Wind Farm
Attachments: Scoping-Scawd Law Wind Farm.pdf

To whom it may concern,

Please find attached comments from the River Tweed Commission regarding Scawd Law Wind Farm.

Kind Regards

Karl Ferguson
Head Fishery Officer
River Tweed Commission
The North Court
Drygrange Steading
Melrose, Roxburghshire
TD6 9DJ

(Redacted)

This email has been scanned by the Symantec Email Security.cloud service.

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Thank you for your consultation on: Scoping- Scawd Law Wind Farm.

Having looked at the proposal the River Tweed Commission can only suggest that as part of the EIA a fish survey is carried out for neighbouring tributaries to help inform the assessment. If you require any further information regarding this suggestion, please feel free to contact the Tweed Foundation on 01896848294 for further discussion.

A1.2.18 RSPB SCOPING OPINION

A18

giving nature a home
rspb Scotland

RSPB Scotland

Magnus Hughson
The Scottish Government
Energy Consents Unit
5 Atlantic Quay, 150 Broomielaw,
Glasgow, G2 8LU.

28 August 2020

Dear Magnus,

ELECTRICITY ACT 1989
THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017
REQUEST FOR SCOPING OPINION FOR PROPOSED SECTION 36 APPLICATION FOR SKAWD LAW WIND FARM

Thank you for consulting RSPB Scotland on the scoping opinion for this project. Our comments on the information provided in the Scoping report relating to ornithology and habitats is outlined in the accompanying Appendix.

Yours sincerely,

Julia Gallagher
Senior Conservation Officer – Scottish Lowlands and Southern Uplands

Dumfries & Galloway Office
The Old School
Crossmichael
Castle Douglas
Kirkcudbrightshire
DG7 3AP

Tel 01556 670 464
Facebook: RSPBDumfriesandGalloway
Twitter: @RSPBDandG

rspb.org.uk

BirdLife INTERNATIONAL

Patron: Her Majesty the Queen Chairman of Council: Kevin Cox President: Miranda Krestovnikoff
Chairman, Committee for Scotland: Professor Colin Galbraith Director, RSPB Scotland: Anne McCall Regional Director: Dr Dave Beaumont
The Royal Society for the Protection of Birds (RSPB) is a registered Charity: England & Wales no 207076, Scotland no SC037654

APPENDIX 1 – RSPB Scotland's comments on Scawd wind farm Scoping Opinion

Ornithology

Question 16: Do consultees agree with the EcIA only concentrating on those receptors which may
be subject to significant effects from the proposed development (either directly or indirectly)?

Yes providing this is based on results of thorough assessment of impact to all scoped-in receptors in the EIAR.

Question 17: Table 13.10 above notes the receptors and potential impact proposed to be included within the EcIA. Do consultees agree that this sufficiently covers the potential impacts on features from the proposed development and what is proposed to be scoped out?

No. We do not agree that black grouse should be scoped-out of assessment in the EIA (13.4.2)[1]. This is based on both results from survey work to inform this site and from our records which confirms lekking males within 3km (closet 500m and furthest 2.2km due east, north-east and north-west) of 1 to 3 lekking males (2018). The records of birds north-west do not match the locations described in the Scoping report (13.3.5) and as such are likely to be additional birds to those confirmed through survey effort for this project.[2] Our information is based on data held by the Southern Uplands Partnership and we advise that a data request is made to SUP to inform the sites relation to the wider area and southern Scotland black grouse population.

Given the continued decline of the Southern Scotland black grouse population and the location of the site to local populations we therefore, **strongly advise that black grouse is included for assessment in the EIA and that a data search is made with SUP to further inform this assessment.**

We also question the scoping out of pink footed geese based on the fact that they have been recorded through survey work and are a designated feature of the Gladhouse Reservoir SPA, and the Scoping report has not ruled out potential connectivity to this site. Therefore, we advise that pink-footed geese remains scoped into the EIA in context of its status as designated feature of this SPA.[3]

We agree with all other ornithological receptors proposed to be scoped into the EIA.

Habitats

Question 14: Do consultees agree with the EcIA only concentrating on those receptors which may be subject to significant effects from the proposed development (either directly or indirectly)?

Yes providing this is based on results of thorough assessment of impact to all scoped-in receptors in the EIAR.

Question 15: Table 12.7 above notes the receptors and potential impact proposed to be included within the EcIA. Do consultees agree that this sufficiently covers the potential impacts on features from the proposed development and what is proposed to be scoped out?

Yes, although we advise that impacts to Habitat receptors (12.7) should include indirect impacts from changes to hydrology in the wider site as well as direct impact through loss of habitat.

We note that impacts to deep peat habitat will be addressed through the production of a Habitat Management Plan (12.5.2). However, we advise that impacts to deep peat habitat should be addressed primarily through avoiding impact through design and that the purpose of a HMP should be to compensate for impact to habitat that cannot be addressed. The Scoping report confirms that turbines 4,5 and 12 are to be located on Annex1 blanket bog habitat (12.4.2) which we would advise should be avoided through micro-siting thereby fulfilling the above mitigation through design.

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[1] We note that black grouse is included in the list of receptor species to be assessed for impacts from displacement and disturbance (13.5.1) which we assume is an error since it does not agree with text summary of receptors to be scoped out of assessment.

[2] We were unable to locate the Appendix referred to in the Scoping report as Fig 13.8 showing black grouse lek locations and so our understanding of lek location is based on text description.

[3] We note that Gladhouse reservoir is to be scoped into assessment in the EIA (13.4.1) which we fully support.

A1.2.19 SCOTTISH WATER SCOPING OPINION

A19

Monday, 17 August 2020

Local Planner
Energy Consents Unit
5 Atlantic Quay
Glasgow
G2 8LU

Development Operations
The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Stepps
Glasgow
G33 6FB

Development Operations
Freephone Number - 0800 3890379
E-Mail - DevelopmentOperations@scottishwater.co.uk
www.scottishwater.co.uk

Dear Sir/Madam

SITE: Scawd Law Wind Farm, , Near Walkerburn, TD1 1TP
PLANNING REF: ECU00002111
OUR REF: DSCAS-0019770-X5S
PROPOSAL: Wind Farm (Generating station of >50 < 100 MW Capacity)

Please quote our reference in all future correspondence

Audit of Proposal

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

Drinking Water Protected Areas

A review of our records indicates that the proposed activity falls partly within a drinking water catchment where a Scottish Water abstraction is located. Scottish Water abstractions are designated as Drinking Water Protected Areas (DWPA) under Article 7 of the Water Framework Directive. Stantling Craigs Reservoir and Caddon Water supplies Galashiels (Manse Street) Water Treatment Works (WTW) and it is essential that water quality and water quantity in the area are protected. In the event of an incident occurring that could affect Scottish Water we should be notified without delay using the Customer Helpline number 0800 0778 778.

It is a relatively large catchment and the activity is sufficient distance from the intake that it is likely to be low risk.

Scottish Water have produced a list of precautions for a range of activities. This details protection measures to be taken within a DWPA, the wider drinking water catchment and if there are assets in the area. Please note that site specific risks and mitigation measures will require to be assessed and implemented. These documents and other supporting information can be found on the activities within our catchments page of our website at www.scottishwater.co.uk/slm.

The fact that this area is located within a drinking water catchment should be noted in future documentation. Also anyone working on site should be made aware of this during site inductions.

Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

General notes:

- Scottish Water asset plans can be obtained from our appointed asset plan providers:
  - Site Investigation Services (UK) Ltd
  - Tel: 0333 123 1223
  - Email: sw@sisplan.co.uk
  - www.sisplan.co.uk
- Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.
- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.

- Please find information on how to submit application to Scottish Water at our Customer Portal.

Next Steps:

- **All Proposed Developments**

  All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via our Customer Portal prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

  Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

- **Non Domestic/Commercial Property:**

  Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

- **Trade Effluent Discharge from Non Dom Property:**

  - Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and launderettes. Activities not covered include hotels, caravan sites or restaurants.
  - If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found here.
  - Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
  - For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.
  - The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at planningconsultations@scottishwater.co.uk.

Yours sincerely,

Pamela Strachan
Development Operations Analyst
developmentoperations@scottishwater.co.uk

Scottish Water Disclaimer:

"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."

A1.2.20 SEPA SCOPING OPINION

A20

SEPA
Scottish Environment Protection Agency
Buidheann Dìon Àrainneachd na h-Alba

Our ref: PCS/172520
Your ref: ECU00002111
If telephoning ask for:
Alex Candlish

Magnus Hughson
Scottish Government

15 September 2020

By email only to: Econsents_Admin@gov.scot

Dear Mr Hughson

Request for Scoping Opinion for Proposed Section 36 Application Skawd Law Wind Farm
Skawd Law Wind Farm, Scottish Borders Council

Thank you for consulting SEPA on the scoping opinion for the above development proposal by your email received on 10 August 2020. Please accept our apologies regarding the delay in our response.

Advice to the planning authority

We consider that the following key issues must also be addressed in the Environmental Impact Assessment process. To **avoid delay and potential objection,** the information outlined below and in the attached appendix must be submitted in support of the application.

a) Peat depth survey and table detailing re-use proposals (further details in paragraph 1.1 below).

b) Map and assessment of all engineering activities in or impacting on the water environment including proposed buffers, details of any flood risk assessment and details of any related CAR applications.

c) Map and assessment of impacts upon Groundwater Dependent Terrestrial Ecosystems and buffers.

d) Map and assessment of impacts upon groundwater abstractions and buffers (further details in paragraph 1.2 below).

e) Map and table detailing forest removal.

f) Map and site layout of borrow pits.

Scottish Living Wage Accreditation
UKAS MANAGEMENT SYSTEMS 001
Chairman Bob Downes
Chief Executive Terry A'Hearn
SEPA Edinburgh Office
Silvan House, 3rd Floor, 231 Corstorphine Road, Edinburgh EH12 7AT.
www.sepa.org.uk • customer enquiries 03000 99 66 99

g) Schedule of mitigation including pollution prevention measures.

h) Quarry or Borrow Pit Site Management Plan of pollution prevention measures.

i) Map of proposed waste water drainage layout.

j) Map of proposed surface water drainage layout.

k) Map of proposed water abstractions including details of the proposed operating regime.

l) Decommissioning statement.

Further details on these information requirements and the form in which they must be submitted can be found in the attached appendix. We also provide site specific comments in the following section which can help the developer focus the scope of the assessment.

1. Site specific comments

1.1 After review of the Scoping Report we disagree with the scoping out of the requirement for a peat management plan (PMP). Whilst we agree that there is probably limited peat on site there is the potential to encounter peat to the NW of Glebe Knowe and we would usually compare the NVC maps to see that the habitats matched up. It is stated elsewhere in the Scoping Report that there is blanket bog on site and without seeing the maps we can't be certain that a PMP is not required at this stage, especially as there is currently only an indicative layout for the site. We are happy to review this position further once detailed maps have been produced. Further information can be found in Section 3 of the attached appendix.

1.2 Private water supplies (PWS) within 3km of the site have been identified based on information supplied by the local authority. These locations appear to be points of use rather than water supply sources. A conservative approach has however been used in determining which supplies warrant further investigation to characterise their source locations and likely hydraulic connection to the development. The approach proposed in the EIAR with regard to groundwater abstractions is therefore considered acceptable. Note that further information / risk assessment for GWDTEs is required and it is stated that this will be included in the EIAR.

Regulatory advice for the applicant

2. Regulatory requirements

2.1 Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs).

2.2 Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. Consider if other environmental licences may be required for any installations or processes.

2.3 A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from this potential construction site. See SEPA's Sector Specific Guidance: Construction Sites (WAT-SG-75) for details. Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.

2.4 Below these thresholds you will need to comply with CAR General Binding Rule 10 which requires, amongst other things, that all reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment. The detail of how this is achieved may be required through a planning condition.

2.5 Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website.

If you have queries relating to this letter, please contact me by e-mail at planning.se@sepa.org.uk.

Yours sincerely

Alex Candlish
Senior Planning Officer
Planning Service

Disclaimer
This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our website planning pages.

Appendix 1: Detailed scoping requirements

This appendix sets out our scoping information requirements. There may be opportunities to scope out some of the issues below depending on the site. Evidence must be provided in the submission to support why an issue is not relevant for this site in order **to avoid delay and potential objection**.

If there is a delay between scoping and the submission of the application then please refer to our website for our latest information requirements as they are regularly updated; current best practice must be followed.

We would welcome the opportunity to comment on the draft submission. As we can process files of a maximum size of only 25MB the submission must be divided into appropriately named sections of less than 25MB each.

1. Site layout

1.1 All maps must be based on an adequate scale with which to assess the information. This could range from OS 1: 10,000 to a more detailed scale in more sensitive locations. Each of the maps below must detail all proposed upgraded, temporary and permanent site infrastructure. This includes all tracks, excavations, buildings, borrow pits, pipelines, cabling, site compounds, laydown areas, storage areas and any other built elements. Existing built infrastructure must be re-used or upgraded wherever possible. The layout should be designed to minimise the extent of new works on previously undisturbed ground. For example, a layout which makes use of lots of spurs or loops is unlikely to be acceptable. Cabling must be laid in ground already disturbed such as verges. A comparison of the environmental effects of alternative locations of infrastructure elements, such as tracks, may be required.

2. Engineering activities which may have adverse effects on the water environment

2.1 The site layout must be designed to avoid impacts upon the water environment. Where activities such as watercourse crossings, watercourse diversions or other engineering activities in or impacting on the water environment cannot be avoided then the submission must include justification of this and a map showing:

a) All proposed temporary or permanent infrastructure overlain with all lochs and watercourses.

b) A minimum buffer of 50m around each loch or watercourse. If this minimum buffer cannot be achieved each breach must be numbered on a plan with an associated photograph of the location, dimensions of the loch or watercourse and drawings of what is proposed in terms of engineering works.

c) Detailed layout of all proposed mitigation including all cut off drains, location, number and size of settlement ponds.

2.2 If water abstractions or dewatering are proposed, a table of volumes and timings of groundwater abstractions and related mitigation measures must be provided.

2.3 Further advice and our best practice guidance are available within the water engineering section of our website. Guidance on the design of water crossings can be found in our Construction of River Crossings Good Practice Guide.

2.4 Refer to Appendix 2 of our Standing Advice for advice on flood risk. Watercourse crossings must be designed to accommodate the 0.5% Annual Exceedance Probability (AEP) flows, or information provided to justify smaller structures. If it is thought that the development

could result in an increased risk of flooding to a nearby receptor then a Flood Risk Assessment must be submitted in support of the planning application. Our Technical flood risk guidance for stakeholders outlines the information we require to be submitted as part of a Flood Risk Assessment. Please also refer to Controlled Activities Regulations (CAR) Flood Risk Standing Advice for Engineering, Discharge and Impoundment Activities.

3. Disturbance and re-use of excavated peat and other carbon rich soils

3.1 Scottish Planning Policy states (Paragraph 205) that "Where peat and other carbon rich soils are present, applicants must assess the likely effects of development on carbon dioxide (CO_2) emissions. Where peatland is drained or otherwise disturbed, there is liable to be a release of CO_2 to the atmosphere. Developments must aim to minimise this release."

3.2 The planning submission must a) demonstrate how the layout has been designed to minimise disturbance of peat and consequential release of CO_2 and b) outline the preventative/mitigation measures to avoid significant drying or oxidation of peat through, for example, the construction of access tracks, drainage channels, cable trenches, or the storage and re-use of excavated peat. There is often less environmental impact from localised temporary storage and reuse rather than movement to large central peat storage areas.

3.3 The submission must include:

a) A detailed map of peat depths (this must be to full depth and follow the survey requirement of the Scottish Government's Guidance on Developments on Peatland - Peatland Survey (2017)) with all the built elements (including peat storage areas) overlain to demonstrate how the development avoids areas of deep peat and other sensitive receptors such as Groundwater Dependent Terrestrial Ecosystems.

b) A table which details the quantities of acrotelmic, catotelmic and amorphous peat which will be excavated for each element and where it will be re-used during reinstatement. Details of the proposed widths and depths of peat to be re-used and how it will be kept wet permanently must be included.

3.4 To avoid delay and potential objection proposals must be in accordance with Guidance on the Assessment of Peat Volumes, Reuse of Excavated Peat and Minimisation of Waste and our Developments on Peat and Off-Site uses of Waste Peat.

3.5 Dependent upon the volumes of peat likely to be encountered and the scale of the development, applicants must consider whether a full Peat Management Plan (as detailed in the above guidance) is required or whether the above information would be best submitted as part of the schedule of mitigation.

3.6 Please note we do not validate carbon balance assessments except where requested to by Scottish Government in exceptional circumstances. Our advice on the minimisation of peat disturbance and peatland restoration may need to be taken into account when you consider such assessments.

4. Disruption to Groundwater Dependent Terrestrial Ecosystems (GWDTE)

4.1 GWDTE are protected under the Water Framework Directive and therefore the layout and design of the development must avoid impact on such areas. The following information must be included in the submission:

a) A map demonstrating that all GWDTE are outwith a 100m radius of all excavations shallower than 1m and outwith 250m of all excavations deeper than 1m and proposed groundwater abstractions. If micro-siting is to be considered as a mitigation measure the distance of survey needs to be extended by the proposed maximum extent of micro-siting. The survey needs to extend beyond the site boundary where the

distances require it.

b) If the minimum buffers above cannot be achieved, a detailed site specific qualitative and/or quantitative risk assessment will be required. We are likely to seek conditions securing appropriate mitigation for all GWDTE affected.

4.2 Please refer to Guidance on Assessing the Impacts of Development Proposals on Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystems for further advice and the minimum information we require to be submitted.

5. Existing groundwater abstractions

5.1 Excavations and other construction works can disrupt groundwater flow and impact on existing groundwater abstractions. The submission must include:

a) A map demonstrating that all existing groundwater abstractions are outwith a 100m radius of all excavations shallower than 1m and outwith 250m of all excavations deeper than 1m and proposed groundwater abstractions. If micro-siting is to be considered as a mitigation measure the distance of survey needs to be extended by the proposed maximum extent of micro-siting. The survey needs to extend beyond the site boundary where the distances require it.

b) If the minimum buffers above cannot be achieved, a detailed site specific qualitative and/or quantitative risk assessment will be required. We are likely to seek conditions securing appropriate mitigation for all existing groundwater abstractions affected.

5.2 Please refer to Guidance on Assessing the Impacts of Development Proposals on Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystems for further advice on the minimum information we require to be submitted.

6. Forest removal and forest waste

6.1 Key holing must be used wherever possible as large scale felling can result in large amounts of waste material and in a peak release of nutrients which can affect local water quality. The supporting information should refer to the current Forest Plan if one exists and measures should comply with the Plan where possible.

6.2 Clear felling may be acceptable only in cases where planting took place on deep peat and it is proposed through a Habitat Management Plan to reinstate peat-forming habitats. The submission must include:

a) A map demarcating the areas to be subject to different felling techniques.

b) Photography of general timber condition in each of these areas.

c) A table of approximate volumes of timber which will be removed from site and volumes, sizes of chips or brash and depths that will be re-used on site.

d) A plan showing how and where any timber residues will be re-used for ecological benefit within that area, supported by a Habitat Management Plan. Further guidance on this can be found in Use of Trees Cleared to Facilitate Development on Afforested Land – Joint Guidance from SEPA, SNH and FCS.

7. Borrow pits

7.1 Scottish Planning Policy states (Paragraph 243) that "Borrow pits should only be permitted if there are significant environmental or economic benefits compared to obtaining material from local quarries, they are time-limited; tied to a particular project and appropriate reclamation measures are in place." The submission must provide sufficient information to

address this policy statement.

7.2 In accordance with Paragraphs 52 to 57 of Planning Advice Note 50 Controlling the Environmental Effects of Surface Mineral Workings (PAN 50) a Site Management Plan should be submitted in support of any application. The following information should also be submitted for each borrow pit:

a) A map showing the location, size, depths and dimensions.

b) A map showing any stocks of rock, overburden, soils and temporary and permanent infrastructure including tracks, buildings, oil storage, pipes and drainage, overlain with all lochs and watercourses to a distance of 250 metres. You need to demonstrate that a site specific proportionate buffer can be achieved. On this map, a site-specific buffer must be drawn around each loch or watercourse proportionate to the depth of excavations and at least 10m from access tracks. If this minimum buffer cannot be achieved each breach must be numbered on a plan with an associated photograph of the location, dimensions of the loch or watercourse, drawings of what is proposed in terms of engineering works.

c) You need to provide a justification for the proposed location of borrow pits and evidence of the suitability of the material to be excavated for the proposed use, including any risk of pollution caused by degradation of the rock.

d) A ground investigation report giving existing seasonally highest water table including sections showing the maximum area, depth and profile of working in relation to the water table.

e) A site map showing cut-off drains, silt management devices and settlement lagoons to manage surface water and dewatering discharge. Cut-off drains must be installed to maximise diversion of water from entering quarry works.

f) A site map showing proposed water abstractions with details of the volumes and timings of abstractions.

g) A site map showing the location of pollution prevention measures such as spill kits, oil interceptors, drainage associated with welfare facilities, recycling and bin storage and vehicle washing areas. The drawing notes should include a commitment to check these daily.

h) A site map showing where soils and overburden will be stored including details of the heights and dimensions of each store, how long the material will be stored for and how soils will be kept fit for restoration purposes. Where the development will result in the disturbance of peat or other carbon rich soils then the submission must also include a detailed map of peat depths (this must be to full depth and follow the survey requirement of the Scottish Government's Guidance on Developments on Peatland - Peatland Survey (2017)) with all the built elements and excavation areas overlain so it can clearly be seen how the development minimises disturbance of peat and the consequential release of CO_2.

i) Sections and plans detailing how restoration will be progressed including the phasing, profiles, depths and types of material to be used.

j) Details of how the rock will be processed in order to produce a grade of rock that will not cause siltation problems during its end use on tracks, trenches and other hardstanding.

8. Pollution prevention and environmental management

8.1 One of our key interests in relation to developments is pollution prevention measures during the periods of construction, operation, maintenance, demolition and restoration. A schedule of mitigation supported by the above site specific maps and plans must be submitted. These must include reference to best practice pollution prevention and construction techniques (for example, limiting the maximum area to be stripped of soils at any one time) and regulatory requirements. They should set out the daily responsibilities of ECOWs, how site inspections will be recorded and acted upon and proposals for a planning monitoring enforcement officer. Please refer to Guidance for Pollution Prevention (GPPs).

9. Life extension, repowering and decommissioning

9.1 Proposals for life extension, repowering and/or decommissioning must demonstrate accordance with SEPA Guidance on the life extension and decommissioning of onshore wind farms. Table 1 of the guidance provides a hierarchical framework of environmental impact based upon the principles of sustainable resource use, effective mitigation of environmental risk (including climate change) and optimisation of long term ecological restoration. The submission must demonstrate how the hierarchy of environmental impact has been applied, within the context of latest knowledge and best practice, including justification for not selecting lower impact options when life extension is not proposed.

9.2 The submission needs to demonstrate that there will be no discarding of materials that are likely to be classified as waste as any such proposals would be unacceptable under waste management licensing. Further guidance on this may be found in the document Is it waste - Understanding the definition of waste.