

Appendix 1

Consultation Responses

# Historic Environment Scotland



HISTORIC  
ENVIRONMENT  
SCOTLAND

ÀRAINNEACHD  
EACHDRAIDHEIL  
ALBA

**By email to:**

[MS.MarineRenewables@gov.scot](mailto:MS.MarineRenewables@gov.scot)

Marine Scotland (Marine Renewables)  
Marine Laboratory  
375 Victoria Road  
Aberdeen  
AB11 9DB

Longmore House  
Salisbury Place  
Edinburgh  
EH9 1SH

Enquiry Line: 0131-668-8716

[HMConsultations@hes.scot](mailto:HMConsultations@hes.scot)

Our case ID: 300030951

21 June 2022

Dear Marine Scotland

[The Electricity Works \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017 European Marine Energy Centre - Screening of Proposed Section 36 Consent Variation - Fall of Warness Tidal Test Site, Orkney](#)  
[Request for Screening Opinion for Fall of Warness Tidal Test Site, Orkney](#)

Thank you for your consultation which we received on 09 June 2022 seeking our comments on an Environmental Impact Assessment (EIA) screening opinion for the above proposed development. This letter contains our comments for our historic environment interests. That is world heritage sites, scheduled monuments and their setting, category A-listed buildings and their setting, gardens and designed landscapes and battlefields on their respective Inventories.

Your archaeological and conservation advisors will also be able to offer advice for their interests. This may include unscheduled archaeology, category B- and C-listed buildings and conservation areas.

### **Our Screening opinion**

This proposal is for the extension to the end date of the current S36 consent to operate the Fall of Warness tidal test site for another 3 years until March 2026.

The site activities lie within the project described within the 2014 Environmental Appraisal and this is not intended to change until 2026.

This means that for our interests, there is no change in the environmental impacts assessed in the original EA. For this reason, an EIA is not required for our interests.

We hope this is helpful. Please contact us if you have any questions about this response. The officer managing this case is Chloe Porter and they can be contacted by phone on 0131 668 8653 or by email on [chloe.porter@hes.scot](mailto:chloe.porter@hes.scot).

Yours faithfully

### **Historic Environment Scotland**

Historic Environment Scotland – Longmore House, Salisbury Place, Edinburgh, EH9 1SH

Scottish Charity No. **SC045925**

VAT No. **GB 221 8680 15**

Orkney Islands Council

**From:** [Shona Turnbull](#)  
**To:** [Inga Davidson](#); [MS Marine Renewables](#)  
**Subject:** RE: European Marine Energy Centre – Screening of Proposed Section 36 Consent Variation – Fall of Warness Tidal Test Site, Orkney - Response required by 30 June 2022  
**Date:** 17 June 2022 11:29:12  
**Attachments:** [image001.png](#)  
[image004.jpg](#)

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Classification: NOT PROTECTIVELY MARKED

FAO Emma Lees

Hi Emma, Thanks for the clarification; much appreciated.

As this is for an extension of time to an existing S36 with no other changes, we have no comments to add.

Our ref: 22/218/MARSCR

Regards,

Shona

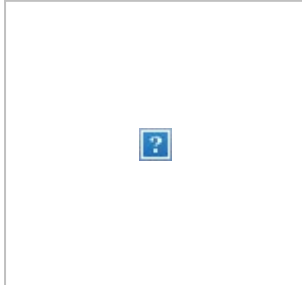
Dr Shona Turnbull

Marine Planner

Orkney Islands Council



Working from home, so email is the best contact



NatureScot

**From:** [Jenna Lane](#)  
**To:** [MS Marine Renewables](#)  
**Subject:** RE: European Marine Energy Centre – Screening of Proposed Section 36 Consent Variation – Fall of Warness Tidal Test Site, Orkney - Response required by 30 June 2022  
**Date:** 28 June 2022 11:10:03

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Dear Emma,

**SCREENING OPINION ON THE PROPOSED SECTION 36 CONSENT VARIATION APPLICATION IN RESPECT OF THE EUROPEAN MARINE ENERGY CENTRE, FALL OF WARNESS TIDAL TEST SITE, ORKNEY**

Thank you for consulting NatureScot on the request for Screening Opinion on the proposed Section 36 consent variation application for the EMEC Fall of Warness tidal site.

We have reviewed EMEC's Screening Request document and our advice is outlined below.

**Proposal**

EMEC currently holds a Section 36 consent for Fall of Warness which is valid until March 2023. EMEC is seeking to extend this by three years, to March 2026.

EMEC considers that a further EIA for the extension of Section 36 consent duration is not required. This is based on the proposal having no change to the site activities or project envelope, meaning there is no change to the environmental impacts assessed in the original EA. EMEC has submitted a separate Scoping report for a new Section 36 consent for Fall of Warness, looking to increase the generating capacity to 50 MW and extend the timeline to 2040. This proposed Section 36 consent variation will allow continued use of the site in the interim period.

**Ornithology Advice**

In the original Appropriate Assessment for the EMEC Fall of Warness tidal site, prepared by MS-LOT, the then draft North Orkney and Scapa Flow SPAs were not included. This is because they were not subject to policy protection prior to commencement (in 2016) of the public consultation on marine SPAs, when they became proposed SPAs (pSPAs). Both sites were subsequently classified, but with amended boundary and reduced qualifying features lists, on 16<sup>th</sup> February 2022.

Neither the Scapa Flow nor the North Orkney SPAs overlap the boundary of the Fall of Warness test site. Unlike the breeding seabird features of seabird colony SPAs, wintering waterfowl features (various divers, grebes, seaducks and shags) of marine SPAs are presumed to be resident within the site boundary. Hence, these features of marine SPAs do not generally have connectivity to developments/activities operating outwith the SPA boundary, unless there is some impact pathway arising from the development that could affect the conservation objectives within the SPA. The most common example is the transit of associated vessels through a marine SPA and in some instances such movements have potential to cause significant disturbance to or displacement of sensitive bird features. In this instance there is connectivity between the Fall of Warness test site and the North Orkney SPA associated with passage of vessels operating at the site through the SPA from Kirkwall/Hatston.

There could additionally be indirect connectivity for breeding red-throated divers, which are a feature of both Scapa Flow and North Orkney SPAs. These birds nest at freshwater lochs or lochans, but feed at sea, generally within a 10km radius of their nest site. The majority of red-throated divers foraging within the two Orkney marine SPAs will be features of either the Hoy or Orkney Mainland Moors terrestrial SPAs, with the latter being of relevance to the Fall of Warness site (given the distance). Any potential impacts on red-throated divers foraging in the North Orkney SPA should hence have been covered by the original Appropriate Assessment.

Irrespective of potential impact pathways, the key point in this particular instance is that the Fall of Warness test site was already consented when the North Orkney pSPA was consulted on and

granted policy protection. Consequently, the consented activities associated with the test site are considered to form part of the baseline conditions of the pSPA, such that no additional management was deemed to be required. Please see the [2016 Advice to Support Management](#) document, which formed part of the consultation on the North Orkney pSPA, for details.

There are no other SPAs classified since the original consent that require consideration.

From the above, we conclude no Likely Significant Effect (LSE) with respect to either the Scapa Flow or North Orkney SPAs arising from the proposed variation to the Section 36 consent for operation of the Fall of Warness test site. This conclusion is based on the variation not representing any proposed change to site location, extent, activities or overall project envelope from the original consent, which predated the application of policy protection to these sites.

Please note however that this is fundamentally different to the considerations that may be required for the parallel Scoping of a new Section 36 consent for expansion of activity in the site.

#### **General advice**

There are no other changes to designated sites, natural heritage interests or development projects in the vicinity of Fall of Warness which could affect the predicted potential impacts. Taking this into account alongside the proposal having no change to the site activities or project envelope, NatureScot therefore agree that a further EIA for the extension of Section 36 consent duration is not required.

Please contact me if you require any further advice.

Best wishes,

**Jenna Lane | Marine Sustainability Adviser | Sustainable Coasts & Seas**

**NatureScot** | Home Worker | **t:** 01463 725149 | **m:**

[nature.scot](https://www.nature.scot) | [@nature\\_scot](https://twitter.com/nature_scot) | *Scotland's Nature Agency* | *Buidheann Nàdair na h-Alba*

**I work compressed hours, 06:30 – 16:15, Monday-Thursday. I don't work Fridays.**