

E: MS.MarineRenewables@gov.scot



Scottish Government
Riaghaltas na h-Alba
gov.scot

[Redacted]

Highland Wind Limited
4th Floor,
George Street,
Edinburgh,
EH2 4JN

Our ref: MS-00009991 & MS-00009992

28 June 2023

Dear [Redacted]

MARINE (SCOTLAND) ACT 2010

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017

DECISION NOTICE FOR A MARINE LICENCE TO CONSTRUCT, ALTER OR IMPROVE ANY WORKS FOR THE PENTLAND FLOATING OFFSHORE WIND FARM, APPROXIMATELY 7.5 KILOMETRES FROM THE COAST OF DOUNREAY, CAITHNESS

1. Application and description of the Works

On 11 August 2022, Highland Wind Limited (Company Number: SC675148) having its registered office at 4th Floor 115 George Street, Edinburgh, Midlothian, Scotland, EH2 4JN (“HWL” or “the Company”), submitted to the Scottish Ministers an application under Part 4 of the Marine (Scotland) Act 2010 (“the 2010 Act”) for a marine licence (“the Marine Licence”) to construct, alter or improve the marine renewable energy works and offshore transmission infrastructure (“the Works”) associated with the Pentland Floating Offshore Wind Farm (“the Project”).

- 1.1 The Application was accompanied by an Environmental Impact Assessment report (“EIA Report”) as required under the Marine Works (Environmental Impact Assessment) Regulations 2017 (“the 2017 MW Regulations”) (as well as under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 EW Regulations”) concerning the separate application for section 36 consent) and information to inform the Habitats Regulations Appraisal (“HRA”) as required under the Conservation (Natural Habitats, & c.) Regulations 1994 and the Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”).

- 1.2 In addition to the Application, the Company has also applied for consent under section 36 of the Electricity Act 1989 (“the s.36 consent”) to construct and operate an offshore generating station, as well as a declaration under section 36A (“s.36A”) of the Electricity Act 1989 to extinguish public rights of navigation so far as they pass through those places within the Scottish marine area where structures forming part of the Project are to be located. A separate decision notice will be issued in respect of any consent granted.
- 1.3 The Application is for the construction and operation of an offshore energy generating station, with a generating capacity of around 100 megawatts (“MW”). The offshore generating station shall comprise up to:
1. Seven floating offshore wind turbine generators (“WTGs”) with:
 - 1.1 A maximum hub height of 190 metres (“m”) above highest astronomical tide (“HAT”);
 - 1.2 A maximum height to blade tip of 300m above HAT;
 - 1.3 A maximum rotor diameter of 260m;
 - 1.4 A minimum blade tip clearance of sea level of 35m;
 2. Seven associated floating substructures;
 3. Nine mooring lines for each floating substructure, 63 in total;
 4. Nine anchors or piles for each floating substructure, 63 in total;
 5. Seven inter-array cables (dynamic and static); and
 6. Associated scour and cable protections.

All as described in the application.

- 1.4 The total area within the Works site boundary is 10 square kilometre (“km²”). The location and boundary of the Works are shown in Figure 1 of Annex 1.

This decision notice contains the Scottish Ministers’ decision to grant regulatory approval for the Works detailed above, in accordance with regulation 23 of the 2017 MW Regulations.

2. Summary of environmental information

- 2.1 The environmental information provided was an [EIA Report](#) which assessed impacts on a range of receptors, as well as information to inform the HRA Report.
- 2.2 On 16 December 2020, the Company submitted a [scoping report](#) and a request for a scoping opinion in respect of the Works to the Scottish Ministers, followed on 17 December 2021 by a [scoping “addendum” report](#) and request for a scoping “addendum” opinion. Following consultation with statutory and other consultees, a [scoping opinion](#) was issued by Scottish Ministers on 28 September 2021 and a [scoping “addendum” opinion](#) was issued by Scottish Ministers on 16 May 2022, advising on the scope of the impacts to be addressed and the methods of assessment to be used within the EIA Report. The EIA Report assessed the impact pathways identified in the scoping opinion and scoping “addendum” opinion and was prepared in accordance with the terms of the 2017 MW Regulations (and the 2017 EW Regulations in relation to the s.36 consent).

2.3 On 10 January 2022, the Company submitted a method statement clarifying the proposed analytical approach to inform the EIA. Agreement to the points and approaches discussed within the method statement was received from Marine Scotland Science (“MSS”) and NatureScot on 7 April 2022.

2.4 A summary of the environmental information provided in the EIA Report is given below.

2.5 Marine Physical Processes

2.5.1 The EIA Report considered the potential effects on Marine Physical Processes (including coastal processes) during the construction, operation and maintenance, and decommissioning phases of the Works. The receptors assessed included increases to suspended sediment, the loss/alteration of seabed type, changes to wave, tide, and sediment transport regime, the introduction of scour, and changes to stratification and fronts.

2.5.2 The EIA Report considered any potential impacts from increased suspended sediment during construction activities to be short term and localised. A sediment plume lasting up to six hours (but less than a full tidal cycle) could develop during the construction activities and travel a total distance of about 5.5km. Construction activities were not considered to result in a permanent loss/alteration of seabed properties as the Works infrastructure would largely be removed at the end of the operational phase. Therefore, operational impacts were assessed as not significant in terms of changes to the wave, tide, or sediment transport regime.

2.5.3 Further to the proposed management plans, the EIA Report confirms mitigation measures, such as the use of horizontal directional drilling as the landfall installation methodology for cable installation to be employed. This option negates the need to pin the export cable to the disused water intake. Additionally, scour protection around anchors has been incorporated into the project design which negates the introduction of scour during the operational phase.

2.5.4 Cumulative effects were considered where projects had the potential to interact with the Works throughout the same timeline. Due to the relatively limited spatial extent of effects from the Works, all cumulative effects were assessed as not significant.

2.6 Water Sediment Quality

2.6.1 The EIA Report considered disturbance and release of contaminated sediments or radioactive particles in sediment, and changes in water and sediment quality due to accidental release of contaminants to result in cumulative effects during the construction and decommissioning phases of the Works. Despite the detection of radioactive particles, the levels are low and considered negligible. Therefore, contamination of equipment used during construction activities does not present concerns.

2.6.2 Given the overlap with the SHE Transmission Orkney-Caithness Project there is potential during the operational phase for cumulative impacts concerning risks to the water environment from operational cleaning and

painting to occur. However, given the short duration and localisation of each structure, the EIA Report has assessed the effect as negligible.

2.6.3 The Works have no designated bathing waters or shellfish waters that intersect the Works. The nearest identified are beyond the tidal excursion distance. As a result of the distance from bathing waters (Dunnet and Thurso) and shellfish waters (Kyle of Tongue), it is unlikely that any localised changes to water properties from the Works would negatively impact the water quality of the designated shellfish waters.

2.6.4 The EIA Report considered the potential effects of the Works during the construction, operation, and decommissioning phases on water and sediment quality. Mitigations to reduce potential impacts on Water and Sediment Quality receptors include, designing the nacelle, tower, and rotor to contain leaks (thereby reducing the risk of spillage into the marine environment), managing ballast water discharges from vessels under the Ballast Water management (“BWM”) Convention to prevent the spread of harmful aquatic organisms, and inspecting substructures regularly to monitor marine growth and using water jetting tools if substantial accumulation is evidenced.

2.7 Benthic Ecology

2.7.1 The EIA Report considered that the Works have the potential to impact benthic ecological receptors at all phases. An assessment of the impact of the Works was undertaken using a realistic worst-case scenario.

2.7.2 The EIA Report assessed the effects of the Works and identifies cumulative effects that may occur from the installation of seabed infrastructure and the deposition of drill cuttings.

2.7.3 Further to this, the operational effects of the Works include hydrodynamic changes leading to scour around subsea infrastructure (including mooring lines as a result of movement with drill waves and tides), the introduction of marine invasive non-native species (“mINNS”), colonisation of subsea infrastructure, scour protection and support structures, colonisation of cutting mounds and impacts to benthic communities from any electromagnetic fields (“EMFs”) or thermal load arising from the cable.

2.7.4 The EIA Report considered the disturbance of contaminated sediment; however, sediment sampling and chemical analysis demonstrate a low occurrence of contaminants and radioactive particles. Therefore, in EIA terms, it is unlikely that any significant chemical contamination or radioactive particles would be encountered by the Works.

2.7.5 The Company has committed to the implementation of a Cable Plan (“CaP”), a Development Specification and Layout Plan (“DSLIP”), a Cable Burial Risk Assessment (“CBRA”), a Marine Pollution Contingency Plan, a Construction Method Statement (“CMS”) and an Operational Management Plan (“OMP”) to guide activities as a mitigation measure to reduce environmental effects.

2.7.6 In addition, the Company has several design mitigation measures including the nacelle, tower, and rotor will be designed and constructed to contain

leaks to reduce the risk of spillage into the marine environment, the DSLP will include any micro-siting of infrastructure to avoid sensitive habitats or features (including kelp beds), where possible static cables will be trenched and buried to a target depth of 0.6m to reduce effects of EMF, substructures will be designed to accommodate marine growth, substructures will be regularly inspected and should evidence of marine growth be visible removal will be undertaken, and scour protection will be installed around the anchor installations. The EIA Report concluded that the residual impact of the Works will not be significant, and no additional mitigation measures are required.

2.7.7 There are no Marine Protected Areas ("MPAs"), Special Areas of Conservation ("SACs"), or Potential Annex I habitats within the Works area. However, the EIA Report addresses the potential impacts on the nature conservation interests of all the designated sites in the vicinity of the Works. Best practices will be followed, ensuring potential habitat loss is minimal.

2.8 Fish and Shellfish Ecology

2.8.1 Although the Works have no MPAs or SACs for fish or shellfish within the immediate vicinity, several protected species are known to use the area, including but limited to: monkfish, blue whiting, cod, common skate, European hake, haddock, herring, ling, mackerel, plaice, saithe, sandeel, spotted ray, spurdog, thornback ray, tope shark, and whiting.

2.8.2 The EIA Report assessed the impacts of the Works on the above species, specifically, the impact of disturbance as a result of underwater noise generated during the construction phase, the impact of disturbance throughout several construction activities (cable installation, anchor placement, and mooring lines), effects of increased sedimentation / smothering on fish and shellfish during construction activities, the temporary burial of seabed from drilled cuttings, potential accidental release of pollutants, habitat loss of spawning and nursery grounds due to the presence of seabed infrastructure, effects of EMFs from cables on sensitive species, and fish aggregation around structures.

2.8.3 During the construction and decommissioning phases, impacts will be temporary and localised. Additionally, during the operation phase, any impacts are unlikely to affect the long-term functioning of the wider available spawning and nursery ground or migratory routes for fish. Therefore, The effects of all impacts assessed within the Works were deemed as not significant.

2.8.4 The Company will conduct a pre-construction survey to collect and analyse data to ascertain the presence(s) of any rare or important habitats. Should rare or important habitats be identified, the Company will consult with Marine Scotland to ensure the planned installation will not have a significant adverse effect.

2.8.5 The EIA Report considered cumulative impacts where projects had the potential to interact over the same area and/or on the same timeline as the Works; however, due to the relatively limited spatial extent of the effects of the Works and the above mitigation measures, these effects were assessed as not significant.

2.9 Marine Mammals and Other Megafauna

- 2.9.1 Potential impacts on basking sharks, and marine mammals (minke whales, bottlenose dolphins, white-beaked dolphins, Risso's dolphins, common dolphin, harbour porpoise, harbour seals, and grey seals) from the Works were assessed within the EIA Report.
- 2.9.2 The EIA Report identifies important impact pathways with the potential to contribute to cumulative effects with other projects, including: noise-related impacts on marine mammals and basking sharks; risk of injury from entanglement and collision; barrier and displacement effects; and long-term habitat change.
- 2.9.3 To mitigate the risk of entanglement between marine megafauna (including marine mammals and basking sharks) and project infrastructure, mooring lines and floating inter-array cables will be inspected using a risk-based adaptive management approach, and any inspected or detected debris on the floating lines and cables will be recovered. Additionally, the minimum spacing between each WTG will be 800m to reduce the likelihood of collision and entanglement.
- 2.9.4 To reduce the effects of EMF to basking sharks the Company will trench and bury static cables to a target depth of 0.6m, where possible.
- 2.9.5 All impacts on marine mammals, including cumulative impacts, were considered not significant in EIA terms.

2.10 Marine Ornithology

- 2.10.1 Impacts during the construction, operational, and decommissioning phases of the Works were assessed in the EIA Report. Direct impacts scoped into the EIA report include collision risk, displacement, barrier effects, entanglement, and an increase in suspended sediment which may affect visibility. Indirect impacts scoped into the EIA report include the loss or change of supporting habitat, and the disturbance of prey resulting in loss or change.
- 2.10.2 The EIA Report considered that ornithological receptors and their prey may be disturbed during the construction and decommissioning phases of the Works, given the increased presence of vessels and the generation of noise. It was concluded that the impact would be minor.
- 2.10.3 The EIA Report further considered the risk of collision, displacement, and barrier effects during the operational phase of the Works. The increase in the minimum air gap from the sea surface to the lowest sweep of the turbine blades to 35m is considered an important measure in minimising collision risks to seabird species. The reduction of the Works array area, as described in [2.14 Seascape, Landscape and Visual Amenity](#), helps minimise displacement and barrier effects by presenting a smaller WTG area for marine birds to avoid and ultimately reducing the potential for interactions between flying seabirds and the rotating WTG blades.

2.10.4 The EIA Report concluded that ornithological receptors were considered to be negligible or minor in significance; therefore, no additional mitigation is considered necessary to reduce effects.

2.10.5 Cumulative impacts with other developments were also assessed. Impacts potentially arising from the Works, including estimated collision and displacement mortalities were not predicted to add significantly to any cumulative effects with the other developments assessed.

2.11 Commercial Fisheries

2.11.1 The EIA Report considered the effect of the Works on commercial fisheries. The main impact pathways were identified as, loss of access to fishing grounds, displacement of fishing effort, snagging and gear entanglement risks (concerning subsea infrastructure and mooring lines in the water column), and the obstruction of fishing transit routes.

2.11.2 During the operational phase, it is expected that vessels operating towed gear are unlikely to resume fishing within the Works array due to the potential safety risks associated with the presence of mooring lines in the water column. However, given that the area represents a small extent of the available fishing grounds, and it is anticipated that fishing along the offshore cable route will be able to resume, the effect of loss of access to fishing grounds and displacement has been assessed as not significant. Additionally, given the compact area of the Works, any obstruction of regular fishing transit routes is not likely to result in significant re-routing of transiting vessels and therefore has been assessed as not significant.

2.11.3 The Company will appoint a Fisheries Liaison Officer ("FLO") and a Fisheries Industry Representative ("FIR") to establish effective communications surrounding the Works with local fishermen and other sea users. The FLO will distribute information on the safe operations of fishing activities at the site and will be a contact for fishermen and other sea users during the life cycle of the Works. The FIR will communicate with the wider fishing industry. The specific roles and responsibilities will be defined within the Fisheries Management and Mitigation Strategy ("FMMS").

2.11.4 The EIA Report commits to sourcing guard vessels locally and, at a minimum, sourcing Scottish vessels, where possible.

2.11.5 The EIA Report concludes that the impact of the Works is not significant; this includes the loss of access to fishing grounds and displacement of fishing efforts, in addition to all other impacts with the potential to give rise to socio-economic impacts on the sector.

2.11.6 Due to the localised extent of impacts from the Works, combined with embedded mitigation measures in place, all cumulative impacts on commercial fisheries were assessed as not significant in the EIA Report.

2.12 Shipping and Navigation

2.12.1 The impact pathways of the Works on shipping and navigation receptors during the construction, operation, and maintenance phases were considered in the EIA Report.

- 2.12.2 In 2021, the Company carried out an impact assessment across 28 days (14 days across July and August, and 14 days across November) to capture relevant passing traffic and activity close to the Works. During the summer survey, an average of 24 unique vessels per day were recorded within 10 nautical miles of the Works site, with the main vessel types being cargo (37%) and fishing (25%) vessels. During the winter survey, an average of 17 unique vessels per day were recorded, with the main vessel types being cargo (41%) and fishing (31%) vessels.
- 2.12.3 Further to the mitigation measures outlined in [2.11.13](#), following consultation with NLB, construction buoyage will be deployed to mark the Works array area. Construction buoyage will be secured through the Lighting and Marking Plan ("LMP"). All the risks/impacts were assessed to be broadly acceptable or tolerable with mitigation and were therefore assessed as not significant.
- 2.12.4 The EIA Report assessed all cumulative effects, including vessel displacement due to the presence of project vessels associated with the SHE Transmission Orkney-Caithness Project and the reduction in under keel clearance due to subsea cable(s) protection associated with the SHE Transmission Orkney-Caithness Project, as broadly acceptable and therefore assessed as not significant.
- 2.13 Aviation and Radar
- 2.13.1 The EIA Report considered the impact on aviation and radar within the Works array area (the location of the WTGs) and the Aviation and Radar cumulative study area (the area within 50km of the array area). Sensitive receptors noted during the construction and operation phase of the Works include the potential impact on Wick and Kirkwall Airport instrument flight procedures and the potential impact on military low flying and UK search and rescue ("SAR") helicopter operations.
- 2.13.2 To mitigate potential impacts, the Company will adopt measures to ensure the potential risk of aircraft collision with the offshore works infrastructure by consulting with stakeholders before the agreement of the LMP and the DSLP. Relevant stakeholders will also be notified of the potential of temporary obstacles of more than 91.4m in advance.
- 2.13.3 The EIA Report concluded that the Works would not have a significant residual effect on important sensitive receptors. Cumulative effects were not considered to occur.
- 2.14 Seascape, Landscape, and Visual Amenity
- 2.14.1 The EIA Report considered the construction and operational effects of the Works to be significant. The decommissioning phase will be no greater than the effects assessed in respect of the operational phase.
- 2.14.2 It further considered the likely visual effects of different layout scenarios in the absence of mitigation measures as part of the worst-case scenario layout. The iterative design process for the Works has led to the array area being contained in a smaller area, now accounting for 10km², rather than

20km². While the minimum number of WTGs remains at five, the maximum number of WTGs has been reduced from ten to seven. The size of the Works array area has been reduced to allow further distance from shore at its closest point: a minimum of 7.5km from the north Caithness coast, instead of (approximately) 6km.

2.14.3 The residual effects of visual impacts remain significant in EIA terms since there is limited opportunity for further mitigation measures in the iterative design process.

2.14.4 The final design and layout will consider navigation, commercial fisheries, and SAR.

2.14.5 Significant cumulative effects were also identified for several seascape, landscape and visual amenity receptors. However, such localised effects from the Works ensure that the cumulative effects with other developments are also not far-reaching, and therefore, for the majority of the seascape, landscape and visual amenity receptors, cumulative effects are not significant.

2.15 Marine Archaeology and Cultural Heritage

2.15.1 The EIA Report considered the loss of or damage to known and/or unknown marine and intertidal historic environment assets (wreckages, aircraft, and other unknown assets), and submerged prehistoric landscapes (including prehistoric sites and paleoenvironmental deposits) throughout each phase of the Works. Furthermore, the long-term changes to the settling of onshore historic environment assets that reduce their value are considered during the construction phase.

2.15.2 The Company will conduct a historic environment desk-based assessment, to avoid any seabed heritage assets and anthropogenic geophysical anomalies when carrying out seabed preparation, device locations, cable routing, and installation activities.

2.15.3 Throughout the construction phase, the Company will develop a marine heritage Written Scheme of Investigation ("WSI") and a Protocol for Archaeological Discoveries ("PAD") to mitigate accidental impacts and manage accidental discoveries of archaeological interest.

2.15.4 Cumulative impacts on the setting of onshore historic receptors were assessed as moderately significant; however, the EIA Report concludes that in no case was an effect so significant as to reduce its heritage value and therefore, such effects were considered acceptable.

2.15.5 Any settling impacts resulting during the construction phase of the Works were seen as short term as the decommissioning phase would reverse any settling impacts.

2.16 Other Users of the Marine Environment

2.16.1 The impact of the Works on other marine users was assessed through desk-based studies using publicly available data sources and literature. The receptors included in the EIA were:

- Military Activities and Unexploded Ordnance ("UXO")
- Subsea cables and utilities;
- Dredge disposal sites and aggregate extraction sites;
- Aquaculture;
- Telecommunication;
- Dounreay Nuclear Facility and the Vulcan Naval Reactor Test Establishment ("NRTE");
- Space Hub Sutherland; and
- other offshore renewable activity

2.16.2 Disturbance or disruption to the SHE Transmission Orkney-Caithness Project and the Dounreay Site Restoration Ltd remedial and monitoring activities during the construction and operational phases were assessed as not significant as any disturbance would be temporary and highly localised.

2.17 Socio-economics, Recreation, and Tourism

2.17.1 A socio-economic, recreation, and tourism assessment was conducted to identify the potential impacts of the Works in local (Caithness), regional (THC local authority area), and (where applicable) national (Scotland and the UK). The following pathways were considered: employment, economic output, recreational and tourism activities, and demand for housing and services.

2.17.2 The EIA Report concludes that throughout each phase, the Works are expected to have a significant beneficial effect in supporting supply chain growth in local and regional areas by creating direct and indirect employment. Figures associated with the worst-case scenario suggest an increase of between six and 13 FTE ("Full Time Equivalent") jobs during construction for Caithness and 401 FTE jobs across the Highland area.

2.17.3 To mitigate negative effects on tourism activity during the construction phase of the project, the Company has made early engagement with regional and local suppliers through 'Meet the buyer' events to provide would-be local suppliers to help develop competitive bids to supply content to the Works.

2.17.4 To ensure the local workforce is adequately skilled and trained the Company has taken initiatives to support education and training for students from local secondary schools (Thurso and Farr) to encourage school leavers to consider a career in the offshore renewables industry and will work with Foundation Scotland and local stakeholders to support local skills and training of the community benefits fund.

2.17.5 A memorandum of understanding has been signed with Scrabster Harbour covering the provision of support services during both construction and operational phases, ensuring that economic benefits associated with the Works are realised locally.

2.17.6 Cumulative effects were not expected to be significantly different to the effects of the Works alone.

2.18 Climate Change and Carbon

- 2.18.1 The EIA Report considered the contribution the Works would make to reducing climate emissions, how the Works would respond to climate change impacts, as well as any impacts the Works would have on the climate environment.
- 2.18.2 A climate change resilience review was carried out to assess the ability of the Works to withstand, respond to, and recover from climate changes. Additionally, an in-combination climate impact assessment was carried out to evaluate how any impacts predicted upon other topics could be exacerbated or reduced by climate change. Consideration of the predicted future environmental condition of physical, biological, and socio-economic factors informed both the review and the EIA. The climate change resilience review assessed that the climate change risk to the Works was not significant. The potential impact of the Works, in-combination with the impact of climate change, was also assessed as not significant.
- 2.18.3 A blue carbon assessment was carried out to assess the potential for direct loss of or disturbance to blue carbon habitats or sediments. The potential for blue carbon habitats at the Works was found to be low. The only blue carbon habitat likely to be present at the Offshore Export Cable Corridor are kelp beds, as outlined in [2.7.6 Benthic Ecology](#); therefore, the blue carbon assessment assessed the effect of the Works on habitat loss/disturbance to blue carbon habitats and sediments as not significant. Cumulative effects on blue carbon were also assessed as not significant.
- 2.18.4 A carbon assessment was carried out to consider the impact of the Works on the global climate, and to estimate the carbon emissions associated with the Works and the period it might take before the Works has saved more carbon emissions (through its production of less carbon-intensive forms of electricity emissions) than were produced by its construction and operation. The carbon assessment determined that over the life cycle of the Works, the emissions avoided from more carbon-intensive energy sources will exceed those of the Works.
- 2.18.5 The EIA Report concludes that the Works will make a beneficial contribution to UK carbon budgets, a proxy for the global climate.

2.19 Risk of Major Accidents and/or Disasters

- 2.19.1 The EIA Report considered a comprehensive review of impacts on the potential risks of major accidents and disasters that could result from or be associated with the construction, operational, and decommissioning phases of the Works.
- 2.19.2 The Company identified no hazards with the potential to cause a major accident or disaster that would result in significant adverse effects on the environment, human health, or material assets. No risks were identified that could result in a major accident and/or disaster or to which the Works would be vulnerable; therefore, all risks were assessed as not significant.

2.19.3 The Company has committed to implementing several management plans, including a CMS, DSLP, Piling Strategy (“PS”), and OMP, to safeguard as far as practicable against risks throughout the lifetime of the Works.

3. Consultation

3.1 In accordance with the 2017 MW Regulations and the 2017 EW Regulations, on 11 August 2022, the Company submitted an EIA Report describing the Works and providing an analysis of its environmental effects. On 19 December 2022, the Company submitted the Addendum Report to provide further information to support ornithology assessments, marine physical processes assessments, and assessments on water quality/radioactive material.

3.2 Advertisement of the Application was made in the local and national press and on the Company’s website. The notices were placed in the public domain and the opportunity was given to those wishing to make representations.

3.3 The dates of the consultation exercise are given below. The regulatory requirements regarding consultation and public engagement have been met and the responses received have been taken into consideration. Where matters have not been fully resolved, conditions have been included to ensure appropriate action is taken.

Document	Date Received	Dates of consultation	Publication
EIA Report and Application	11 August 2022	24 August 2022 to 2 October 2022 24 August 2022 to 11 December 2022 (for planning authorities)	John O’ Groats Journal (26 August and 2 September 2022) Edinburgh Gazette (25 August 2022) Fishing News (31 August 2022) The Scotsman (25 August 2022) Lloyds List (25 and 26 August 2022) Company’s Website (24 August 2022)

Addendum of Additional Information	15 December 2022	19 December 2022 to 5 February 2023	Edinburgh Gazette and John O’Groats Journal (23 December 2022) Company's Website (23 December 2022)
------------------------------------	------------------	-------------------------------------	--

4. Summary of statutory consultee consultation

4.1 Under the 2017 MW Regulations (and the 2017 EW Regulations), the statutory consultees are as follows:

- NatureScot (the operating name of Scottish Natural Heritage);
- Scottish Environment Protection Agency (“SEPA”); and
- Historic Environment Scotland (“HES”),

4.2 The planning authorities whom the Licensing Authority considered appropriate to consult in respect of the Works are The Highland Council and Orkney Islands Council.

4.3 In addition, the Maritime and Coastguard Agency (“MCA”) and Northern Lighthouse Board (“NLB”) are statutory consultees in relation to marine licence applications under the Marine Licensing (Consultees)(Scotland) Order 2011.

4.4 HES

4.4.1 HES agreed that in no case were the impacts on the onshore nationally important heritage assets so significant as to affect the asset’s understanding, experience, or appreciation to the extent that it would impact the integrity of its setting.

4.4.2 HES had no objections to the application as it did not consider the application to raise any historic environmental issues of national significance.

4.5 MCA

4.5.1 The MCA noted the requirement for third-party verification of the mooring arrangements for all floating devices before construction to assure loss of station.

4.5.2 They pointed out that any consented cable protection works must ensure existing and future safe navigation was not compromised. The MCA would accept a maximum of 5% reduction in surrounding depth referenced to Chart Datum.

- 4.5.3 The MCA also advised that the Company's contractors and subcontractors must have the required certification for all vessel operations, and early engagement with the local Marine Office should be undertaken where necessary to ensure there are no issues concerning survey and inspections, towage, and safety requirements. Furthermore, they advised that a load line exemption for the turbine platforms would be required before any towage to the site, and that the Company must ensure any ballast water requirements are addressed.
- 4.5.4 Provided all maritime safety legislation is adhered to, the MCA had no objection to the Application; however, they recommended adding several conditions to the consent to maintain navigational safety throughout the lifecycle of the Works.
- 4.5.5 The MCA responded to the Additional Information Consultation and confirmed no concerns from the safety of navigation perspective.
- 4.6 NatureScot
- 4.6.1 Ornithology
- 4.6.1.1 NatureScot welcomed the inclusion of new methods, such as SeaBORD in the displacement assessment but raised concerns regarding inconsistencies in apportioning values and subsequent screening out of certain Special Protected Areas ("SPAs"), both within the EIA Report and the HRA Report, without a clear audit trail which is confusing and could be misleading. NatureScot requested clarification on which are the correct values for all species and SPAs to ensure the apportioned impacts estimated are accurate.
- 4.6.1.2 The Company noted the inconsistencies identified by NatureScot within the EIA Report and corrected the relevant values.
- 4.6.1.3 Given the proximity to the North Caithness Cliffs puffin colony, NatureScot advised the puffin displacement assessment should be revised to include the 2km buffer as displacement can occur at a distance away from the Works footprint. Additionally, the SeaBORD outputs for puffin should be scaled using the same approach as was used for guillemot on the basis of their view that the number of individuals recorded may be overestimated.
- 4.6.1.4 NatureScot welcomed the inclusion of a summary of the ongoing Highly Pathogenic Avian Influenza ("HPAI") outbreak and a qualitative assessment of HPAI. NatureScot noted that the outbreak is an ongoing mortality event with continually emerging evidence; therefore, it was currently not possible to conclude that levels of mortality predicted from the Works would be unlikely to cause additional pressures to seabird colonies on top of the impacts caused by HPAI.
- 4.6.1.5 NatureScot disagreed that artificial lighting that potentially attracts species into the Works's array area should not increase their exposure to collision risk. NatureScot noted that storm petrels and shearwaters may be attracted to and disorientated by artificial lighting. They stated that the important lighting elements of potential concern in the operational phase are navigational and aviation lighting. The important lighting element of potential

concern in the construction phase was lighting on vessels which they said may result in birds becoming stranded on vessels. NatureScot advised that the LMP was used to minimise such impacts.

- 4.6.1.6 NatureScot requested the Population Viability Assessments (“PVAs”) for Atlantic puffin and kittiwake be amended. It advised that the population modelling outputs are provided for 25, 30, and 50 years to enable comparison of impacts with other offshore wind farms.
- 4.6.1.7 The Company has undertaken model re-runs and provided this in the Additional Information Addendum. The Company noted the maximum operational period of the Works is 30 years; therefore, the 50 years’ output does not form part of the Application and was provided separately.
- 4.6.1.8 NatureScot responded to the Additional Information Consultation and submitted a formal objection and advised that should the Works be consented, consideration of derogation measures may be required.
- 4.6.1.9 NatureScot advised that the Works alone would not cause an adverse effect on site integrity to any SPA; however, in combination with the consented Moray Firth wind farms, the Works would have an adverse effect on site integrity for Atlantic puffin (through displacement) as a qualifying interest of the North Caithness Cliffs SPA. Furthermore, NatureScot advised in combination with North Sea wind farms, there could be an adverse effect on site integrity for kittiwake (through collision risk and displacement) as a feature of the North Caithness Cliffs SPA.
- 4.6.1.10 Following the submission of a formal objection, NatureScot provided predicted population level effects to the Atlantic puffin qualifying feature of the North Caithness Cliffs SPA from the Works in-combination with the consented Moray Firth wind farms and advised:
- A consent period of 10 years is not likely to result in an adverse effect on site integrity;
 - A consent period of 15 years has an increasing likelihood that there will be an adverse effect on site integrity; and
 - A consent period of 25 years would likely have an adverse effect on site integrity.
- 4.6.1.11 The Company provided NatureScot with predicted impact figures for kittiwake at North Caithness Cliffs SPA for a 10 year operational period, taken from the Application and Additional Information Addendum. NatureScot advised that there was the potential for adverse effect on site integrity of the North Caithness Cliffs SPA with respect to kittiwake for the Works in combination with other North Sea wind farms over a 10 year operational period.
- 4.6.1.12 Should consent be granted for a period of 10 years, NatureScot advised that it would work with the Company throughout post consent monitoring, which would enable validation of PVA predictions.

4.6.2 Seascapes, Landscapes, and Visual Impacts

- 4.6.2.1 NatureScot advised that the Works would introduce significant adverse effects on coastal receptors within the 'horseshoe' of the coast broadly between Strathy Point and Scrabster Hill and encouraged the Company to consider the location of the array area within the consented Dounreay Tri area to mitigate effects with the option of moving the array area eastwards.
- 4.6.2.2 The Company acknowledged the significant adverse effects in the 'horseshoe' of the coast but considers such effects localised meaning the majority of the landscape receptors across the wider Seascape, Landscape and visual Impact Assessment ("SLVIA") study area will either undergo no significant effects or will not be affected.
- 4.6.2.3 The Company noted that depending on the final design of the project and the number of WTGs there may be scope to alter the locations of the offshore wind turbines within the array area, in which case the opportunities for reducing the effects on sensitive receptors by altering the arrangement of the turbines would be explored; however, it will not be possible to change the location of the Works.
- 4.6.2.4 NatureScot agreed with the National Scenic Areas ("NSAs") and the Wild Land Areas ("WLAs") conclusions in the EIA Report and commented that the Works was unlikely to have a significant effect individually or in-combination with existing Development.
- 4.6.2.5 NatureScot advised that the introduction of lighting would effectively increase the magnitude of change of significant effects by extending the period of effects from daytime into night-time. Should the Works be consented, it said that there were opportunities to explore different colouring of the turbines to reduce any likely effect.
- 4.6.2.6 The Company noted this suggestion and colour selection for the offshore turbines would be discussed with NatureScot and other relevant parties should consent be granted.
- 4.6.3 Marine Mammals and Other Megafauna
- 4.6.3.1 NatureScot agreed with the conclusions of the significance of effects from construction impacts, as detailed within the EIA Report for the Works alone and when considered cumulatively.
- 4.6.3.2 NatureScot reviewed the HRA Report with respect to bottlenose dolphins, harbour porpoises, harbour seals, and grey seals and agreed with the conclusions presented and confirmed there is no adverse effect on site integrity.
- 4.6.4 Marine Physical Processes
- 4.6.4.1 NatureScot agreed with the EIA Report in that there would be no significant effects in terms of physical processes given the location of the proposal area, the low sensitivity of the affected seabed, and the choice of landfall location and method.
- 4.6.4.2 NatureScot highlighted an error on the predicted reduction in near-seabed tidal flow downstream of cable protection within the EIA Report. It explained

that this error caused an underestimation of hydrodynamic change, which may result in an underestimation of effects on receptors, both for physical processes and other receptors.

4.6.4.3 The Company acknowledged this error and commented that although this results in minor deviations from the figures within the EIA Report, there was no change to the flow speeds; therefore, the impact assessment completed and presented within the EIA Report is still applicable.

4.6.5 Benthic Ecology

4.6.5.1 The EIA Report concluded that there would be minor or negligible effects upon any benthic ecology receptors. NatureScot supported this conclusion and confirmed there are no relevant designated sites for benthic features within the likely range of impacts.

4.6.5.2 NatureScot acknowledged its understanding of EMF effects around subsea and dynamic cables associated with floating wind farms is poor and encouraged the Company to engage with Marine Scotland to better understand such impacts on benthic and fish species.

4.6.5.3 The Company stated that it would continue to engage with relevant stakeholders as research in these fields develops, and is open to exploring the value and feasibility of potential monitoring opportunities.

4.6.6 Fish and Shellfish

4.6.6.1 The EIA Report concluded that there will be no significant impacts with respect to marine fish and shellfish species. NatureScot supported this conclusion based on the available evidence (in which they acknowledged there are gaps) and agreed that all relevant impacts to marine fish and shellfish species of conservation importance, including diadromous fish species, had been identified and assessed.

4.6.6.2 NatureScot reviewed the HRA Report with respect to Atlantic salmon and agreed, with the conclusions presented that there would be no adverse effect on site integrity for any SACs with respect to the Atlantic salmon qualifying feature.

4.6.7 Climate Change and Carbon

4.6.7.1 NatureScot agreed with the conclusions of the blue carbon assessment but advised the Company that released carbon may not be integrated into the sediment transport regime in the long term.

4.6.7.2 The Company considers that in time, should any peat clasts be deposited on the seabed these would be winnowed down and incorporated into the sediment transport regime across the Pentland Firth.

4.6.7.3 NatureScot noted that although the Works was unlikely to affect the carbon sequestration potential of the immediate seabed and associated habitats, there would be a loss of carbon from the disturbance of kelp beds and peat deposits which would affect the blue carbon assessment.

4.6.7.4 The Company noted that carbon lost through disturbance or loss of kelp beds would not be dispersed as part of the sediment regime but would also be re-distributed in time.

4.7 NLB

4.7.1 NLB had no objections to the Application.

4.8 Orkney Islands Council

4.8.1 The Orkney Islands Council had no comments to make on the Application.

4.9 SEPA

4.9.1 SEPA initially objected to the Application, with the request that more consideration be given to the onshore impacts of any disturbance of radioactive contamination offshore, particularly, how this would be assessed or demonstrated. SEPA raised concerns that the Works offshore may alter the current mechanism that determines the arrival rate and composition of fragments of irradiated nuclear fuel on the Dounreay foreshore and Sandside beaches.

4.9.2 SEPA requested further information surrounding the Company's testing on radioactivity and radio chemical analysis, as SEPA was not satisfied that the detail within the EIA Report was clear. Documentation and the underlying methodology of the noted Radiation Risk Assessment (NUVIA, 2021b) for the offshore site were also requested to allow SEPA to comment on the validity of the comments regarding the rise and spread of contamination.

4.9.3 Given the concerns about the clarity and validity of the Company's radiation sampling, SEPA requested the Company reconsidered scoping out changes in water and sediment quality and has suggested this receptor be scoped.

4.9.4 Further to these considerations, SEPA referred the Company to section 3 of the 'SEPA Standing Advice for the Department for Business Energy and Industrial Strategy and Marine Scotland on marine consultations.

4.9.5 SEPA requested Food Standards to be consulted specifically concerning the Food and Environment Protection Act ("FEPA") Order.

4.9.6 Given that the radioactive particles are existing contamination, SEPA has warned that if the Works is insufficiently mitigated and results in an increase in particles recovered onshore, the Company could be considered under the Radioactive Contaminated Land Regulations as a Polluter, known as an Appropriate Person with respect to [Part IIA of the Environmental Protection Act 1990 Section 78F](#).

4.9.7 SEPA responded to the Additional Information Consultation and although expressed concerns regarding the impact the Works would have on the potential re-suspension and re-distribution of irradiated fuel particles in the offshore Dounreay environment and the subsequent risk to the public, it withdrew its objections to the Application, subject to condition.

4.9.8 A condition has been attached to the marine licence(s) that a Particles Management Plan (“PMP”) shall be submitted to the Scottish Ministers for its written approval in consultation with SEPA prior to the commencement of the Works.

4.10 The Highland Council

4.10.1 The Highland Council had no objections to the Application subject to several conditions included within the consent. These conditions are in relation to noise emissions, turbine layout, archaeological works and television and radio reception.

4.10.2 The Highland Council highlighted the key issue as the seascape, landscape and visual impact of the Works. These turbines would be some of the closest offshore wind turbines to Scotland’s coastline. They would, at this time, also be some of the largest turbines deployed offshore. The Highland Council advised that given the position and scale of the turbines, there would be significant adverse impacts on recreational users of the outdoors, residential receptors and users of the local road network. There would also be some significant impacts on landscape and seascape character. The Highland Council acknowledged however that the impacts of the Works are in relative close proximity to the scheme and do not extend significant distances in shore. The applicant’s mitigation by design to push the turbine array further offshore and reduce the horizontal spread of the turbine array area has helped to reduce the effects of the Works for these receptors.

4.10.3 The Highland Council concluded that while there are significant impacts in terms of landscape and visual impacts, these can be considered acceptable in the balance given the mitigation by design and the economic and energy benefits the proposal will bring.

4.10.4 Conditions have been attached to the marine licence(s) in line with those requested by the Highland Council.

5. **Summary of non-statutory consultee responses**

5.1 Aberdeen International Airport

5.1.1 Aberdeen International Airport had no comments to make on the Application.

5.2 British Telecommunications (“BT”)

5.2.1 BT stated that the Works should not cause interference to BT’s current and presently planned radio network.

5.3 Caithness West Community Council

5.3.1 Caithness West Community Council objected to the Application as the Works would increase cumulative visual impacts due to the proximity to neighbouring projects. Caithness West Community Council raised concerns that the Works would have detrimental impacts on the natural landscape

and seascape within North Caithness Cliffs SPA and the Sandside Bay SSSI.

- 5.3.2 The Company has highlighted the decision to refine the project design (a reduction of 50%) is to minimise as far as possible the impacts of the Works on environmental and visual receptors. This refinement provides a greater generating capacity and a greater contribution to the national grid, increasing domestic energy security of supply and supporting net-zero targets.
- 5.3.3 Caithness West Community Council was concerned the Works would impact the quality of Wildland Areas, particularly WLA 39.
- 5.3.4 The Company noted these concerns, and, stated that although there would be some significant effects on the qualities of the East Halladale Flow WLA 39, it wouldn't raise issues of national interest.
- 5.3.5 Caithness West Community Council also raised concerns about the risk of collision or displacement of seabirds. The Company responded that Collision risk modelling undertaken by the Company indicated a low number of collision mortalities. However, no significant effects were found from the potential displacement impact or the potential for a barrier effect due to the physical presence of the Works.
- 5.3.6 Regarding marine mammals, the Caithness West Community Council raised concerns about the disruption to marine mammals through echolocation and the destruction of hunting and/or transit areas.
- 5.3.7 A quantitative assessment, which modelled acoustic spread from sources that are audible to marine mammals, found that none of the planned activities during any stage of the project had the potential to injure any marine mammals, nor would the conservation status or integrity of any species.
- 5.3.8 Caithness West Community Council raised concerns about the impact on migratory Salmon as the Works is within a transit route and inland spawning areas.
- 5.3.9 The HRA Report submitted by the Company assessed the effects on River SACs designated for Atlantic Salmon and found no adverse effects on site integrity or conservation objectives. This was also concluded in the Scottish Minister's AA.
- 5.3.10 Caithness West Community Council responded to the Additional Information Consultation and raised several health and safety concerns regarding increased particle finds at Sandside Bay and suggested a link between radioactive particle finds in the Dounreay area and ongoing development of the Works.
- 5.3.11 The Company advised that it was unlikely that the survey activities associated with the Works had led to an increase in particle finds within the Dounreay Foreshore or in Sandside Bay. The Company said that it was committed to developing the Works in a safe and sustainable way and has agreed to not undertake any activities in or around the FEPA Zone if pre-

work risk assessments or analysis shows there to be an increased risk to the local community or environment.

5.4 Department of Agriculture, Environment and Rural Affairs (“DAERA”)

5.4.1 DAERA had no objections to the Application.

5.5 District Salmon Fishery Board - Caithness (“Caithness DSFB”) and District Salmon Fishery Board – Northern (“Northern DSFB”)

5.5.1 Caithness and Northern DSFBs (“DSFBs”) submitted identical consultation responses and did not object to the Application, however raised several concerns. An initial concern was the potential for the Works to affect all of the rivers of the DSFB areas. This is due to the proximity and partly due to the wind farm’s location on or near the main migratory routes taken by salmon to and from their ocean feeding grounds.

5.5.2 A principal concern of DSFBs was the potential barrier effects posed by wind turbine arrays with the moving turbine blades being visible to fish over large areas around the array for epipelagic species (i.e., salmonids) along with the cumulative effects of sequential arrays being developed near the pinch point on the migration route represented by the Pentland Firth. The DSFBs were concerned such barriers would delay or displace migratory fish. The DSFBs considered the Company’s position on scoping out barrier effects because of the lack of information unreasonable as, particularly throughout the construction phase, many or most of the risks to aquatic ecology cannot be quantified based on existing knowledge.

5.5.3 The Company noted the decision to scope out such barrier effects was based on no definitive evidence with the support of the literature-based study Centre of Expertise for Waters (“CREW”). At present, the Company stated that there are no sources found to contradict this CREW review, and there is no evidence to support any change to related policy guidance. The Company noted the DSFBs’ concerns.

5.5.4 In response to the Additional Information Consultation, the DSFBs provided no further comment.

5.6 Food Standards Scotland

5.6.1 Food Standards Scotland responded to the Additional Information Consultation sharing concerns with SEPA about the risks to food safety regarding the potential for remobilisation of currently buried particles. Although Food Standards Scotland does not have the data or capability to assess this risk, they have stated it would be undesirable for a situation to arise from the Works which necessitates the extension of the current FEPA area.

5.6.2 The Company has committed to consult Food Standards Scotland post-consent on the development of the PMP and specific mitigation requirements to be adhered to in the FEPA zone.

5.7 Highlands and Islands Airports Limited (“HIAL”)

- 5.7.1 HIAL examined the Works from an aerodrome safeguarding perspective at Wick Airport. Provided that the Company has an approved Construction Strategy Plan prior to the commencement of the Works, HIAL has no objection to the Application.
- 5.7.2 The Company acknowledged the request for the inclusion of a Construction Strategy Plan to ensure aerodrome safeguarding.
- 5.7.3 A condition has been attached to the s.36 consent that a CMS shall be submitted to the Scottish Ministers for its written approval prior to the commencement of the Works.
- 5.8 Ministry of Defence (“MOD”)
- 5.8.1 The MOD assessed the location and layout of the Works and confirmed the Works would not physically impact MOD offshore Danger and Exercise Areas or adversely affect defence maritime navigational interests.
- 5.8.2 However, it said that the turbines would affect military low flying training activities that may be conducted within the Works area. To address the impact on low flying given the location and scale of the Works, the MOD requested that conditions were added to any marine licence(s) issued requiring that the Works is fitted with aviation safety lighting and that sufficient data is submitted to ensure that structures can be accurately charted to maintain air traffic safety.
- 5.8.3 As a minimum the MOD would require that the Works be fitted with MOD accredited aviation safety lighting.
- 5.8.4 Subject to the conditions detailed, which have been included on marine licence(s), the MOD had no objection to the Application.
- 5.9 Natural England
- 5.9.1 Natural England stated that the Works is not located within or in close proximity to any English SAC.
- 5.10 Nuclear Decommissioning Authority (“NDA”)
- 5.10.1 The NDA did not submit a response; therefore, a ‘nil-return’ was assumed.
- 5.11 Orkney Harbours
- 5.11.1 Orkney Harbours had no comments to make on the Application.
- 5.12 Orkney Islands Council – Marine Services
- 5.12.1 The Orkney Islands Council – Marine Services had no comments to make on the Application.
- 5.13 Royal Society for the Protection of Birds (“RSPB”) Scotland
- 5.13.1 In response to the Original Consultation, RSPB Scotland submitted a holding objection to the Application. Similar to NatureScot, RSPB Scotland

raised concerns over how the PVA model had been run and questioned the parameters used in the models.

- 5.13.2 RSPB Scotland raised concerns about the predicted outputs for the North Caithness Cliffs SPA kittiwake population and considered it not possible to rule out an adverse effect on the integrity of this SPA from the impacts of this project whether alone or in combination. RSPB Scotland had similar concerns for other species, including but not limited to puffin.
- 5.13.3 RSPB Scotland noted its disappointment with the deviation from the normal method of using two years' worth of site-specific data collected within the last five years to inform the EIA.
- 5.13.4 The Company noted this comment from RSPB Scotland and agreed to include historic data from the Dounreay Tri Floating Wind Demonstration Project in current data sets as all data was collected using the same method and provider. The Company provided revised data analysis to support this.
- 5.13.5 RSPB Scotland said that it was content with the Company's minimum air gap proposal and recommended the minimum air gap in the worst-case scenario be raised to 35m be secured through the consent process.
- 5.13.6 In response to the Additional Information Consultation, RSPB Scotland maintained its concerns over the validity of merging both the SeaBORD and matrix approaches on impacts on seabirds. It said that both approaches were very different and that combining them was misleading. The Company provided details of the matrix-only approach; however, with no full year in-combination with PVA output for kittiwake, RSPB Scotland used the mixed approach for conclusions on the kittiwake population. Using the information provided, RSPB Scotland considered the impacts on kittiwake and puffin (alone and in combination) to be unacceptable and, as such the Works would have an adverse impact on site integrity with regard to the North Caithness Cliffs SPA.
- 5.13.7 In response to the Additional Information Consultation, RSPB Scotland submitted a formal objection to the Works due to the unquantified in-combination barrier effect and displacement impact on seabirds. RSPB Scotland recommended a full in-combination assessment be carried out using SeaBORD for kittiwake, puffin (both of which are qualifying species of the North Caithness Cliffs SPA), and guillemot as the current assessment was found to be inadequate. RSPB Scotland would support this assessment being carried out through the emerging Cumulative Effects Framework.
- 5.13.8 RSPB Scotland advised that the Works cannot be permitted unless HRA derogation tests are met.
- 5.14 Royal Yachting Association ("RYA")
- 5.14.1 The RYA had no further comments to make on the Application.
- 5.15 Scottish Fishermen's Federation ("SFF")

- 5.15.1 The SFF raised concerns about sediment plumes and commented on the lack of evidence surrounding the effects of increased sedimentation and the associated smothering of fish and shellfish.
- 5.15.2 The SFF commented on the loss of fishing grounds and requested the Company demonstrate the mitigation measures for the loss of fishing grounds.
- 5.15.3 The Company noted the concerns and commented that it may be possible for some static fishing to resume within the Works array area. It is the Company's view that the location of the Works is not considered highly fished, and the wider region is considered of a higher value.
- 5.15.4 The SFF stressed the value of regular monitoring to ensure the least impact on fisheries. The SFF requested for post consent plans (including CaP, Vessel Management Plan ("VMP"), FMMS, and Decommissioning Plan) to be addressed within six months of consent being granted. These conditions have been attached to the relevant marine licence(s) and accompanying s.36 consent, although the plans are required to be submitted six months prior to the commencement of the Works.
- 5.15.5 Should consent be granted, the Company has agreed to consult the SFF throughout the post consent process.
- 5.15.6 The SFF raised concerns about the data gaps and uncertainties regarding EMF effects and underwater noise.
- 5.15.7 The Company has noted such concerns and should consent to be granted, has agreed to continue to engage with Marine Scotland and other relevant stakeholders as research in both fields develops.
- 5.15.8 In response to the Additional Information Consultation, the SFF supported the addition of sediment monitoring noting the importance of ensuring the benthos remains capable of sustainable fisheries.
- 5.16 Scottish Surfing Federation
- 5.16.1 The Scottish Surfing Federation strongly opposed the Application but raised no formal objection. It raised concerns about the impact the Works would have on the local community, including tourism and fitness.
- 5.16.2 The Company commented that the design of the Works minimised potential adverse impacts on the wave or tidal regimes and tourism. The Works had been considered to provide a significant beneficial effect on employment in Caithness.
- 5.16.3 Whilst specific compensation was not identified in this regard, the Company highlighted that a community benefits fund is under deployment for the Works. This will be open to any local not-for-profit individuals or organisations.
- 5.17 Scottish Water

5.17.1 Scottish Water confirmed that the Works would not lie within any designated Drinking Water Protected Areas under the Water Framework Directive and had no objection to the Application.

5.18 Sport Scotland

5.18.1 Sport Scotland had no objections to the Application.

5.19 United Kingdom Chamber of Shipping (“UKCoS”)

5.19.1 In addition to the mitigations proposed by the Company, UKCoS recommended the Company provide sufficient UKC for deep draught vessels to prevent snagging risks and to remove all sea-level and sea-bed infrastructure, again to prevent snagging risks, to allow the seabed to be returned for any potential future use. The Company noted this proposal and is committed to complying with Marine Guidance Note (“MGN”) 654 post consent.

5.19.2 In response to the Additional Information Consultation, the UKCoS provided information omitted from the Original Consultation. The Company noted the comments with no further mitigation required.

6. Representations from other organisations and members of the public

6.1 One public representation was received raising concerns on various onshore elements of the Works and questioned the Highland Councils’ consideration of the project. The objector noted several reasons to highlight their doubt about the Highland Councils’ representation and suggested the Highlands Council’s response should be set aside.

6.2 The objector considered the Works to insufficiently mitigate effects and noted that the Works is not in accordance with Scotland’s National Planning Framework 4 (“NPF4”) Policy 3(b), NPF4 Policy 11, and Policy 67 in the Highland-wide Local Development Plan on account of significant adverse landscape, visual, ornithological and amenity effects, which the objector considers not to be outweighed by the limited benefits. The objector requested that the Scottish Ministers hold a public inquiry or reject the Application.

6.3 The Company noted the comments raised in the public representation, and highlighted that they largely referred to onshore elements of the Works which is subject to a separate consent from The Highland Council, and was approved in January 2023.

7. Advice from third parties

7.1 Marine Directorate – Licensing Operations Team (“MD-LOT”), previously known as Marine Scotland – Licensing Operations Team (“MS-LOT”) sought advice from the Marine Analytical Unit (“MAU”), MSS, and Transport Scotland on the Application.

- 7.2 MD-LOT only requested general advice from MSS concerning commercial fisheries.
- 7.3 MAU
- 7.3.1 Socio-Economics
- 7.3.1.1 The MAU noted that while the economic aspects of the EIA Report are reasonable and proportionate for the scale of the Works, the assessment of social impacts could have been considered in more detail in local scale impacts within Caithness, as well as cultural and distributional impacts. The MAU noted that although impacts to 'housing and local services' has been scoped in to the EIA Report, only housing is considered.
- 7.3.1.2 The Company acknowledged the MAU's comments and highlighted that although large in geographic terms, the population density of Caithness is low. The Company considers the spatial area appropriate for consideration of potential local effects on housing and demand for services. The Company said it did not expect effects on services to be different for parts of Caithness, compared to the area as a whole, because provisions for many key services, including hospitals and secondary schools, are shared across the area.
- 7.3.1.3 The Company does not consider the scale of the Works to be sufficiently large to generate noticeable socio-cultural effects.
- 7.3.1.4 The Company disagreed with the MAU that housing is only considered in the EIA Report at a spatial level, as the EIA also considered potential effects on local services, such as education and healthcare. The Company acknowledged that the EIA Report could have explained the connection between potential increases in demand for services to the expected population changes associated with the Works clearer.
- 7.3.1.5 The MAU noted the lack of any primary data collection. The MAU acknowledged that the Pre-Application Consultation ("PAC") event involved questionnaires; however, the methods used in the PAC event were in its view not strong enough to be considered data collection.
- 7.3.1.6 The Company disputed the comment from the MAU that no primary data collection was undertaken with respect to socio-economics. It stated that it considered the level of consultation proportionate to the size of the Works. The approach to the survey involved the distribution of questionnaires at community consultation events. The Company has acknowledged that people attending such consultation events may not be entirely representative of the community as a whole; however, it stressed the opportunity such events provide to participants to ask their questions about the Works.
- 7.3.1.7 The Company highlighted that the recommended methods of primary data collection suggested by the MAU were utilised, including workshops, surveys, and interviews. The Company also stressed that restrictions associated with the COVID-19 pandemic caused limitations in engaging with the local community.

- 7.3.1.8 The MAU noted the lack of evidence to support stakeholder involvement in identifying impacts to communities and agreeing on mitigation measures. The MAU acknowledged that the Company has included a description of plans to monitor economic impacts through a data sharing agreement with Crown Estate Scotland part of the Supply Chain Development Statement, but highlighted that this is not the same as monitoring and will not capture social impacts.
- 7.3.1.9 The Company acknowledged the MAU's comments regarding mitigation and monitoring but noted that no mitigation or monitoring is proposed as the only significant impacts identified in the socio-economics impact assessment were beneficial.
- 7.3.1.10 The Company has welcomed to opportunity to engage with the MAU as the development of these governance structures progresses.
- 7.3.1.11 The MAU noted a Community Liaison Officer ("CLO") would be appointed by the Company; however said that a CLO does not normally carry out monitoring. Therefore, the MAU has requested more detail as to what the CLO role will involve.
- 7.3.1.12 The Company has confirmed that the CLO would be expected to liaise with local stakeholders and also the wider community. The CLO's role is expected to include monitoring any concerns about the progress with and effects of the Works as they arise, including the potential for effects on social, cultural, and/or distributional issues.
- 7.3.1.13 The MAU highlighted that the thresholds of significance used throughout the EIA are not explained, and has requested the Company explain what the thresholds are based on. Additionally, the MAU highlighted that some technical details throughout the EIA are not fully explained or justified. The MAU has welcomed a thorough explanation of the assumptions upon which the parameters and multipliers are based and requested these be provided in a technical annex.
- 7.3.1.14 The Company directed the MAU to Appendix 19.1 of the EIA Report which provides a detailed explanation of how the multiplier values for various spatial areas used in the EIA had been derived.
- 7.3.1.15 In reference to housing demand, the MAU expressed the value of speaking to local communities to understand views on various impacts and whether they are considered positive or negative rather than making a judgment call.
- 7.3.1.16 The Company acknowledged the MAU's advice and has explained that the EIA has utilised the precautionary principle; therefore, in terms of assessing the 'worst case scenario', the Company had assumed that an increase in demand for housing could have the potential to generate negative effects on local communities.

7.4 MSS

7.4.1 Commercial Fisheries

7.4.1.1 MSS advised that all potential impacts to commercial fisheries had been identified within the EIA Report and the worst-case scenario had been considered for the parameters of the project.

7.4.1.2 MSS commented on the Company's estimation that 80% of the cable would be buried to a minimum depth of 0.6m. MSS advised that information should be provided on where the 20% of the cable with cable protection measures would be, as this information would be useful in deciding if an over trawl survey would be required if the area of cable protection overlaps with the area(s) of trawling/dredging activity.

7.4.2 Ornithology

7.4.2.1 MD-LOT requested specific ornithology advice following the RSPB Scotland and NatureScot Initial Consultation representations.

7.4.2.2 MSS agreed with the NatureScot representation that a 25 year population estimate for the Works, along with 30 year and 50 year estimates should be presented. MSS also agreed with the NatureScot representation that review and correction of apportioning should be undertaken by the Company to correctly estimate the potential impacts.

7.4.2.3 MSS agreed with RSPB Scotland that the use of the matrix approach to describe impacts on juvenile birds is against the SNCB advice provided in the [Joint SNCB Interim Displacement Advice Note](#). MSS advised that the approach described in the SNCB advice note is adhered to as the assessment of impacts on juvenile birds is not an appropriate use of the matrix approach.

7.4.2.4 MSS advised that a 2km buffer should be utilised to bring the results for puffin in line with SNCB guidance and to allow for comparison with projects scoped in for cumulative assessment. This advice is supported by NatureScot.

7.4.2.5 MSS agreed with NatureScot that the two survey datasets used (January – December 2015, and September 2020 – August 2021) are acceptable.

7.5 Transport Scotland

7.5.1 Transport Scotland did not submit a response; therefore, a 'nil-return' was assumed.

7.6 Summary

7.6.1 The Scottish Ministers have considered the advice provided in reaching their decision.

8. **Public Inquiry (“PI”)**

8.1 The Scottish Ministers did not require a PI to be held.

9. **The Scottish Ministers Considerations**

9.1 Environmental Matters

9.1.1 The Scottish Ministers are satisfied that an EIA has been carried out. Environmental information including the EIA Report has been produced and the applicable procedures regarding publicity and consultation laid down in regulations have been followed. The environmental impacts of the Works have been assessed and the Scottish Ministers have taken the environmental information into account when reaching their decision.

9.1.2 In accordance with their obligations under paragraph 3(2) of Schedule 9 of the Electricity Act 1989, the Scottish Ministers have considered and are satisfied that (a) the Company, when formulating its proposal to construct the generating station, has had sufficient regard to the desirability of preserving natural beauty, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest and; (b) the Company, in having regard to these matters, have reasonably sought to mitigate any effect which their proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

9.1.3 The Scottish Ministers have considered fully and carefully the Application, EIA Report, Non-Technical Summary, the Addendum of Additional Information and all relevant representations from consultees, and advice from MAU, MSS and TS.

9.2 Main Determinative Issues

9.2.1 The Scottish Ministers, having taken account of all relevant information, consider that the main determining issues are:

- The extent to which the Works accords with and is supported by Scottish Government policy and the terms of the National Marine Plan (“NMP”) and relevant local development plans;
- Renewable energy generation and associated policy benefits;
- Economic impacts; and
- The main effects of the Works on the environment, which are in summary impacts on:
 - Marine mammals, seabirds, diadromous fish and shellfish, and European sites and European offshore marine sites.
 - Commercial fisheries;
 - Disturbance of radioactive contamination offshore; and
 - Seascape, landscape and visual amenity

9.3 Scottish Government Policy Context

9.3.1 The NMP, formally adopted in 2015, and reviewed in Spring 2018, provides a comprehensive statutory planning framework for all activities out to 200nm. The Scottish Ministers must take authorisation and enforcement decisions, which affect the marine environment, in accordance with the NMP.

9.3.2 Of particular relevance to this proposal are:

- Chapter 4 policies 'GEN 1-21', which guide all development proposals;
- Chapter 6 Sea Fisheries, policies 'FISHERIES 1-3' and 5;
- Chapter 8 Wild Salmon and Diadromous fish, policy 'WILD FISH 1';
- Chapter 11 Offshore Wind and Marine Renewable Energy, policies 'RENEWABLES 1, 3-10';
- Chapter 12 Recreation and Tourism, policies 'REC & TOURISM 2 and 6';
- Chapter 13 Shipping, Ports, Harbours and Ferries, policies 'TRANSPORT 1 and 6';
- Chapter 14 Submarine Cables, policies 'CABLES 1 – 4'; and
- Chapter 15 Defence, policy 'DEFENCE 1'

9.3.3 The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 commits us to reach net zero emissions of all GHGs by 2045, ahead of the UK target of 2050. It includes bold interim targets to reduce emissions by 75% by 2030, against a 1990 baseline, and to reduce emissions by 90% by 2040. These targets are in line with what is required to meet Scotland's commitments under the 2015 Paris Agreement, to limit global average temperature increases to 1.5 degrees Celsius or less. The Glasgow Climate Pact keeps alive this target of limiting global warming to 1.5 degrees.

9.3.4 The Works will provide wider benefits to the offshore wind industry which are reflected within Scotland's Offshore Wind Policy Statement. Offshore wind is seen as an integral element in Scotland's contribution towards action on climate change. Our Offshore Wind Policy Statement sets out the Scottish Government's ambitions for offshore wind in Scotland, including an ambition to achieve 8-11 gigawatt of offshore wind in Scotland by 2030. Officials recognise that this ambition needs to be reviewed in light of the market ambition expressed in response to the ScotWind leasing round and are currently consulting on setting a further offshore wind deployment ambition, including establishing a 2045 ambition for offshore wind in Scotland, through the draft Energy Strategy and Just Transition Plan.

9.3.5 NPF4 was adopted on 13 February 2023. It sets out a long-term spatial plan including regional priorities and 18 national developments, as well as a full suite of 33 national planning policies. NPF4 replaces NPF3 and Scottish Planning Policy.

9.3.6 On adoption of NPF4, the provisions in the Planning (Scotland) Act 2019 commenced making NPF4 part of the statutory development plan. NPF4 sets out our proposals for future consideration of planning matters and as such it may be taken into account by planning authorities on a case-by-case basis.

9.3.7 NPF4 signals a turning point for planning, placing climate and nature at the centre of the planning system and making clear Scottish Government support for all forms of renewable, low-carbon and zero emission technologies, including transmission and distribution infrastructure. This includes onshore infrastructure that supports offshore renewable development. Potential impacts on communities, nature and other receptors remain important considerations in the decision-making process. All

applications are already, and will continue to be, subject to full site-specific assessments.

- 9.3.8 MD-LOT has had regard to NPF4 when assessing the Application. MD-LOT considers that the Works accords with NPF4 as it supports the delivery of renewable electricity generation and transmission, providing employment and helping to reduce emissions and improve security of supply through the testing of a more efficient wind WTG that could be used in future offshore wind developments in Scotland. Furthermore, the Works supports Policy 11 by contributing to the expansion of renewable energy generation.
- 9.3.9 There are no site-specific policies covering the Works; therefore, the application requires to be assessed against the general policies of the Highland-wide Local Development Plan. The Onshore Wind Energy Supplementary Guidance provides additional guidance on the principles set out in Policy 67 of the Highland-wide Local Development Plan for Renewable Energy Developments. Policy 67 sets out that renewable energy developments should be well related to the source of the primary renewable resource needed for its operation. The Highland-wide Local Development Plan is currently under review and is at Main Issues Report stage. It is anticipated the Proposed Plan will be published following publication of secondary legislation.
- 9.3.10 The Caithness and Sutherland Local Development Plan 2018 ("CaSPlan") does not contain any specific land allocations related to the Works. However, the Scottish Ministers highlight that the CaSPlan identifies Special Landscape Areas ("SLA") within the Works. Paragraph 74 of the CaSPlan sets out that the SLA boundaries have been revised to ensure 'key designated landscape features are not severed and that distinct landscapes are preserved'. The CaSPlan recognised the potential for marine renewable energy generation.

10. **Impacts of the Works on the environment**

- 10.1 *Impacts on marine mammals, seabirds, diadromous fish and shellfish, and European sites and European offshore marine sites.*
- 10.1.1 The Habitats Regulations require the Scottish Ministers to consider whether the Works would be likely to have a significant effect on a European site or European offshore marine site (either alone or in combination with other plans or projects), as defined in the Habitats Regulations.
- 10.1.2 NatureScot was of the view that the Works would have a Likely Significant Effect ("LSE") on the qualifying interests of a number of SPAs and SACs. Therefore, MD-LOT, on behalf of the Scottish Ministers as the "Competent Authority", was required to carry out an Appropriate Assessment ("AA"). Full details of the European sites and qualifying features considered is provided in the AA.
- 10.1.3 NatureScot advised that there could be LSE on the qualifying interests of the SPAs due to displacement and collision as a result of the Works. Further to this, the risk of entanglement and exposure to increased EMFs and noise could also cause LSE on SAC marine mammal and Atlantic salmon qualifying interests.

- 10.1.4 Natural England and DAERA were consulted on European sites within their respective jurisdictions where the Company had identified the potential for LSE. Natural England and DAERA both advised no LSE for any of the European sites for which they are responsible for providing advice. Authorities within the Republic of Ireland were consulted on European sites within the Republic of Ireland but were unable to provide advice. Due to the significant distances and limited connectivity, the Scottish Ministers consider there to be no LSE on European sites within the Republic of Ireland. Therefore only Scottish European sites are considered in the AA.
- 10.1.5 The AA considered the conservation objectives, the predicted levels of effect and population consequences and the advice from NatureScot and RSPB Scotland. For a 30 year operational period, the AA concluded that the Works would not adversely affect the integrity of any of the SPAs considered apart from the North Caithness Cliffs SPA with respect to the puffin and kittiwake qualifying interests when the Works was considered in combination with other offshore wind farm developments.
- 10.1.6 For a 30 year operational period, the AA concluded that the Works in combination with other offshore wind farms could adversely affect the integrity of the North Caithness Cliffs SPA with respect to the puffin and kittiwake qualifying features based on the NatureScot advice and the AA completed.
- 10.1.7 For a 10 year operational period NatureScot advised that there would be no adverse effect on the puffin qualifying interest of the North Caithness cliffs SPA from the Works in combination with other offshore wind farms. For kittiwake, NatureScot advised that there was the potential for an adverse effect on the integrity of the North Caithness Cliffs SPA from the Works in combination with other North Sea wind farms. The AA concluded that the Works alone or in combination with other offshore wind farms would not adversely affect the integrity of the North Caithness Cliffs SPA, with respect to the puffin and kittiwake qualifying features. The AA considered the advice from NatureScot and the precaution in the assessment as fully detailed in the AA.
- 10.1.8 NatureScot recommended that, should the Scottish Ministers be minded to grant consent for a 10 year period, appropriate operational monitoring at the Works site would be helpful to enable validation of the predictions within the EIA and HRA given the lack of empirical evidence.
- 10.1.9 Concerning Atlantic salmon and freshwater pearl mussels, NatureScot advised that these qualifying interests could suffer disturbance to, and possible alteration of, migration routes due to underwater noise generated from construction activities and further effects on migration from EMFs. These effects would indirectly impact freshwater pearl mussels as the Atlantic salmon plays a vital role in its life cycle. However, these effects would directly impact Atlantic salmon; however, as the Atlantic salmon can readily move out of or avoid the Works the Scottish Ministers conclude that the Atlantic salmon would have adequate range to move to avoid potentially damaging underwater noise. The Atlantic salmon's magnetic sensors make them sensitive to EMFs. Studies on EMF effects on Atlantic salmon are inconclusive but modelling results indicate that only low levels of EMF are

anticipated to be released by the Works, particularly if proposed burial depths are achieved. As a result, the Scottish Ministers concluded that there would be no adverse effects on site integrity of the River Thurso SAC, Berriedale and Langwell Waters SAC, Little Gruinard River SAC, Langavat SAC, River Tay SAC, River Tweed SAC, River Teith SAC, Endrick Water SAC, River Bladnoch SAC, River Naver SAC, River Borgie SAC, River Spey SAC, River Oykel SAC, North Harris SAC, River Dee SAC, River Moriston SAC or River South Esk SAC.

10.1.10 Concerning marine mammal species, NatureScot advised that harbour porpoise, bottlenose dolphin, grey seal, and harbour seal could be disturbed as a result of underwater noise, suffer permanent threshold shift (“PTS”) auditory injuries, and be impacted by other impact pathways associated with the operational phase of the Works. However, the ultra-short baseline equipment used will be operated at a level below that of PTS and a Marine Mammal Management Plan is to be implemented. The Company’s research also shows that <1 harbour seal is predicted to experience PTS-onset per piling day. The Company plans to monitor and remove debris from the mooring lines and cables to decrease the likelihood of secondary entanglement. Additionally, it is believed that the scale of the floating infrastructure used within the Works should discourage the aforementioned qualifying interest species from collisions. The mooring infrastructure associated with the Works has been designed to limit movement of the WTGs and there are no moving substructures so the position of the infrastructure should not change dramatically. Animals are expected to be able to swim around these structures readily. As a result, the Scottish Ministers concluded that there would be no adverse effect on site integrity of the Faray and Holm of Faray SAC, Inner Hebrides and the Minches SAC, Sanday SAC, or the Moray Firth SAC.

10.1.11 The Scottish Ministers consider that, having taken into account the information provided by the Company and the responses of the consultative bodies, there are no concerns in relation to the impact of the Works (for a 10-year operational period) alone or in combination with other plans or projects on seabirds, marine mammals, diadromous fish, European sites or European offshore marine sites which would require consent to be withheld.

10.2 *Impacts on commercial fisheries.*

10.2.1 Effects on commercial fisheries were identified as being not significant by the Company during the operational phase of the Works as the location of the Works is not considered highly fished, and the wider region is considered of higher value.

10.2.2 The SFF raised several concerns about certain aspects of the EIA Report but did not submit a formal objection. The SFF supported the addition of sediment monitoring. Conditions requiring the Company to prepare, consult on and adhere to a CaP, VMP, and FMMS have been attached to the relevant marine licence(s) and accompanying s.36 consent to mitigate the concerns raised.

10.2.3 Scottish Ministers consider that, having taken into account the information provided by the Company, the responses of the consultative bodies and

public representation, and having regard to the conditions attached to the marine licence(s), there are no outstanding concerns in relation to the impact of the Works which would require consent to be withheld.

10.3 *Disturbance of radioactive contamination offshore*

10.3.1 Effects on the disturbance of contaminated sediment were identified as being not significant by the Company during the construction and decommissioning phase of the Works as sediment sampling and chemical analysis demonstrated a low occurrence of contaminants and radioactive particles.

10.3.2 Caithness West Community Council raised several health and safety concerns regarding increased particle finds at Sandside Bay and suggested a link between radioactive particle finds in the Dounreay area and ongoing development. The Company has committed to constructing the Works in a safe and sustainable way and has agreed to not undertake any activities in or around the FEPA Zone if pre-work risk assessments or analysis shows there to be an increased risk to the local community or environment.

10.3.3 SEPA initially objected to the Application and requested the Company give more consideration to the impact onshore of any disturbance of radioactive contamination offshore, particularly, how this will be assessed or demonstrated.

10.3.4 Although SEPA had raised concerns about the impact the Works will have on the potential re-suspension and re-distribution of irradiated fuel particles in the offshore Dounreay environment and the subsequent risk to the public, it withdrew its objection to the Application, subject to conditions being included within the marine licence(s) and accompanying consent.

10.3.5 The Scottish Ministers consider that, having taken into account the information provided by the Company, the responses of the consultative bodies, and having regard to the conditions attached to the marine licence(s) and the accompanying s.36 consent, there are no outstanding concerns in relation to the impact of the Works on disturbance of radioactive contamination offshore which would require consent to be withheld.

10.4 *Impacts on seascape, landscape, and visual amenity.*

10.4.1 A SLVIA was undertaken which identified that there would be significant effects from the Works on coastal and landscape character and visual receptors.

10.4.2 NatureScot advised that, whilst the Works would introduce significant adverse effects on coastal receptors within the 'horseshoe' of the coast broadly between Strathy Point and Scrabster Hill. The Company has noted the scope to alter the locations of the offshore wind turbines within the array area by altering the arrangement of turbines to potentially reduce the effects on sensitive receptors.

10.4.3 Caithness West Community Council objected to the Application as the Works would increase cumulative visual impacts due to the proximity to neighbouring sites. The Company considers the effects to be localised

therefore only affecting a limited part of the coast and hinterland that currently has some development characteristics in the form of energy developments and onshore windfarms.

10.4.4 The Highland Council advised that given the position and scale of the turbines, there would be significant adverse impacts on recreational users of the outdoors, residential receptors and users. There would also be some significant impacts on landscape and seascape character. The Highland Council acknowledged however that the impacts of the Works are in relative close proximity to the scheme and do not extend significant distances in shore. The applicant's mitigation by design to push the turbine array further offshore and reduce the horizontal spread of the turbine array area has helped to reduce the effects of the Works for these receptors.

10.4.5 A condition requiring the Company to prepare, consult on and adhere to a DSLP and a LMP has been attached to the marine licence(s). NatureScot and the Highland Council will be consulted.

10.4.6 The Scottish Ministers consider that, having taken into account the information provided by the Company, the responses of the consultative bodies, the public representation, and having regard to the conditions attached to the marine licence(s), there are no outstanding concerns in relation to the impact of the Works on seascape, landscape and visual amenity which would require consent to be withheld.

10.5 *Economic benefits*

10.5.1 National policy and strategies, such as NPF4, the draft Energy Strategy, Just Transition Plan, and The Scottish Energy Strategy: The Future of Energy in Scotland (Scottish Government, 2017), support the role of renewable energy development in achieving socio-economic benefits and supporting the growth of the low carbon economy. The EIA Report reported that the Works would support the Scottish Governments commitments to reaching net zero emissions of all greenhouse gases by 2045.

10.5.2 The Company assessed the impact on tourism as a result of the Works within the Socio-economics, Recreation, and Tourism chapter of the EIA Report. In response to this chapter, the MAU highlighted the value of speaking to local communities to understand views on various impacts and whether they are considered positive or negative rather than making a judgment call. Additionally, the MAU advised that the economic aspects of the EIA Report were reasonable and proportionate for the scale of the Works; however, highlighted some issues with the assessment regarding local scale social impacts within Caithness.

10.5.3 The Company has estimated that net additional employment from the Works is estimated between six and 13 construction jobs for Caithness and 401 FTE jobs across the Highland area.

10.5.4 During the construction phase, the Works is expected to deliver a Gross Added Value ("GVA") impact of between £36.6 million, under the low scenario, and up to £51 million under the highest impact scenario at a Scotland-wide level.

10.5.5 The Scottish Ministers consider that there is sufficient information regarding the socio-economic impacts of the Works to inform their decision.

10.6 *Renewable energy generation and associated policy benefits*

10.6.1 The innovative floating technology trailed in the Works will enable technological advances in the energy generation capabilities of future offshore wind farms contributing to the security of the UK's domestic energy supply and ultimately contributing towards the ambitious Scottish, UK and European Union ("EU") renewable energy targets.

11. **The Scottish Ministers' Determination**

11.1 The Scottish Ministers are satisfied that an EIA has been carried out, and that the applicable procedures regarding publicity and consultation in respect of the Application have been followed.

11.2 The Scottish Ministers have weighed the impacts of the Works, and the degree to which these can be mitigated, against the economic and renewable energy benefits which would be realised. The Scottish Ministers have undertaken this exercise in the context of national and local policies.

11.3 The Scottish Ministers have considered the extent to which the Works accords with and is supported by Scottish Government policy, the terms of the NPF4, the NMP, local development plans and the environmental impacts of the Works, in particular: impacts on marine mammals, seabirds, diadromous fish and shellfish (including impacts on European sites and European offshore marine sites), impacts on commercial fisheries, disturbance of radioactive contamination offshore and impacts on seascape, landscape and visual amenity. The Scottish Ministers have also considered the socio-economic and the renewable energy benefits of the Works.

11.4 The Scottish Ministers are satisfied that the environmental issues have been appropriately addressed by way of the design of the Works and through mitigation measures, and that the issues which remain are, on balance, outweighed by the benefits of the Works. In particular, the Scottish Ministers are convinced that the a 10 year consent will not adversely affect the integrity of any SPA or SAC as detailed in the AA.

11.5 In their consideration of the environmental impacts of the Works, the Scottish Ministers have identified conditions to be attached to the marine licence(s) to reduce and monitor environmental impacts (these conditions are outlined in Annex 2). These includes a requirement for post-consent monitoring of birds, a CMS, an Environmental Management Plan ("EMP"), OMP, a PMP, , a LMP, and a VMP.

11.6 A condition requiring the appointment of an Environmental Clerk of Works ("ECoW") and defining the terms of the ECoWs appointment has been attached to the marine licence(s). The ECoW will be required to monitor and report on compliance with all consent conditions, monitor that the Works is being constructed in accordance with plans and the terms of the Application, the marine licence(s) and all relevant regulations and

legislation. The ECoW will also be required to provide quality assurance on the final draft versions of any plans and programmes required under the marine licence(s).

- 11.7 The Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that this reasoned conclusion, as required under the 2017 MW Regulations, is valid.
- 11.8 The Scottish Ministers grant a marine licence under Part 4 of the Marine (Scotland) Act 2010, to construct, alter or improve the Works in the Scottish marine area (as described in Annex 1). The marine licence and associated conditions is available in Annex 2.
- 11.9 The embedded mitigation and any additional mitigation identified in the EIA Report has been incorporated into the conditions of this marine licence. The conditions also capture monitoring measures required under Regulation 24 of the 2017 MW Regulations.
- 11.10 In accordance with the 2017 MW Regulations, the Company must publicise notice of this determination and provide that a copy of this decision letter may be inspected: (a) on the Application website; (b) in the Edinburgh Gazette; and (c) in a newspaper circulating in the locality to which the Application relates is situated or such newspaper as is likely to come to the attention of those likely to be affected by the Works. The Company must provide copies of the public notices to the Scottish Ministers.
- 11.11 Copies of this letter have been sent to the public bodies consulted on the Application, including the relevant planning authorities, NatureScot, SEPA and HES. This letter has also been published on the [Marine Scotland Information](#) website.
- 11.12 The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for regulatory approval. The rules relating to the judicial review process can be found on the [Scottish Courts and Tribunals](#) website.
- 11.13 Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely,

Gayle Holland

Section Head (Consenting), Marine Scotland Licensing Operations Team

A member of staff of the Scottish Ministers

28 June 2023

DEFINITIONS AND GLOSSARY OF TERMS

“the Application” means the Application letter, marine licence applications and EIA Report including appendices submitted to the Scottish Ministers by Highland Wind Limited on 11 August 2022;

“AA” means Appropriate Assessment;

“Commencement of the Works” means the date on which the first construction activity occurs in accordance with the EIA Report submitted by the Company on 11 August;

“HWL” or “the Company” means Highland Wind Limited, 4th Floor 115 George Street, Edinburgh, Midlothian, Scotland, EH2 4JN, Company Number: SC675148;

“the Works” means the Highland Wind Floating Offshore Wind Farm, approximately 7.5 kilometres (“km”) off the coast of Dounreay, Caithness as described in Annex 1;

“ADD” means Acoustic Deterrent Devices;

“BWM” means Ballast Water Management;

“CaSPlan” means The Caithness and Sutherland Local Development Plan 2018’

“CLO” means Community Liaison Officer;

“CREW” means Centre of Expertise for Waters;

“ECoW” means Ecological Clerk of Works;

“EIA” means Environmental Impact Assessment;

“EIA Report” means Environmental Impact Assessment Report;

“EMF” means Electromagnetic Field;

“FIR” means Fisheries Industry Representative;

“FLO” means Fisheries Liaison Officer;

“FTE” means Full Time Equivalent;

“GVA” means Gross Added Value;

“HRA” means Habitats Regulations Appraisal;

“HAT” means Highest Astronomical Tide;

“HPAI” means Highly Pathogenic Avian Influenza;

“km” means kilometres;

“km²” means squared kilometres;

“LSE” means Likely Significant Effect;

“m” means metres;

“MGN 654” means Marine Guidance Note 654;

“MMO” means Marine Mammals Observers;

“mINNS” means Marine Invasive Non-Native Species;

“MPA” means Marine Protected Area;

“MW” means megawatt;

“NSA” means National Scenic Areas;

“NRTE” means Naval Reactor Test Establishment;

“PAC” means Pre-Application Consultation;

“PAM” means Passive Acoustic Monitoring;

“PI” means Public Inquiry;

“PTS” means Permanent Threshold Shift;

“PVA” means Population Viability Assessment;

“s.36” means Section 36 of the Electricity Act 1989;

“s.36A” means Section 36A of the Electricity Act 1989;

“SAC” means Special Area of Conservation;

“SAR” means Search and Rescue;

“ScotMER” means Scottish Marine Energy Research;

“SLA” means Special Landscape Areas;

“SLVIA” means Seascape, Landscape and Visual Impact Assessment;

“SPA” means Special Protected Area;

“UXO” means Unexploded Ordnance;

“WLA” means Wild Land Areas;

“WTG” means Wind Turbine Generator.

Organisations and Companies

“BT” means British Telecommunications;

“CAA” means Civil Aviation Authority;

“DAERA” means Department of Agriculture, Environment and Rural Affairs;

“DSFB” means District Salmon Fishery Board;

“HIAL” means Highlands and Islands Airports Limited;

“HES” means Historic Environment Scotland;

“EU” means European Union;

“MAU” means Marine Analytical Unit;

“MCA” means Maritime and Coastguard Agency;

“MOD” means Ministry of Defence;

“MD-LOT” means Marine Directorate – Licensing Operations Team (previously known as “MS-LOT”, Marine Scotland – Licensing Operations Team);

“MSS” means Marine Scotland Science;

“NDA” means Nuclear Decommissioning Authority;

“NLB” means Northern Lighthouse Board;

“RSPB” means Royal Society for the Protection of Birds;

“RYA” means Royal Yachting Association;

“SEPA” means Scottish Environmental Protection Agency;

“SFF” means Scottish Fishermen’s Federation;

“UKCoS” means United Kingdom Chamber of Shipping;

Plans, Programmes and Statements

“CaP” means Cable Plan;

“CBRA” means Cable Burial Risk Assessment;

“CMS” means Construction Method Statement;

“CoP” means Construction Programme;

“DS” means Design Statement;

“DSL P” means Design Specification and Layout Plan;

“ERCoP” means Emergency Response Cooperation Plan;

“EMP” means Environmental Management Plan;

“FMMS” means Fisheries Management and Mitigation Strategy;

“LMP” means Lighting and Marking Plan;

“NMP” means National Marine Plan;

“NPF3” means Scotland’s National Planning Framework 3;

“NPF4” means Scotland’s National Planning Framework 4;

“NSP” means Navigational Safety Plan;

“OMP” means Operation and Maintenance Programme;

“PAD” means Protocol for Archaeological Discoveries;

“PEMP” means Project Environmental Management Plan;

“PMP” means Particles Management Plan;

“PS” means Piling Strategy;

“VMP” means Vessel Management Plan;

“WSI” means Written Scheme of Investigation.

Legislation

“the Electricity Act” means the Electricity Act 1989;

“the Habitats Regulations” means the Conservation (Natural Habitats, & c.) Regulations 1994 and the Conservation of Habitats and Species Regulations 2017;

“the 2017 EW Regulations” means the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017;

“the 2017 MW Regulations” means the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017.

ANNEX 1 – DESCRIPTION OF THE WORKS

The Application is for the construction and operation of an offshore energy generating station, with a maximum generating capacity of 100 megawatts (“MW”). The offshore generating station shall be comprised of up to:

1. Seven floating offshore wind turbine generators (“WTGs”) with:
 - a. A maximum hub height of 190 metres (“m”) above highest astronomical tide (“HAT”);
 - b. A maximum height to blade tip of 300m above HAT;
 - c. A maximum rotor diameter of 260m;
 - d. A minimum blade tip clearance of sea level of 35m;
2. Seven associated floating substructures;
3. Nine mooring lines for each floating substructure, 63 in total;
4. Nine anchors or piles for each floating substructure, 63 in total;
5. Seven inter-array cables (dynamic and static); and
6. Associated scour and cable protections.

All as described in the application.

The total area within the Works site boundary is 10km². The location and boundary of the Works site is shown in Figure 1 of Annex 1.

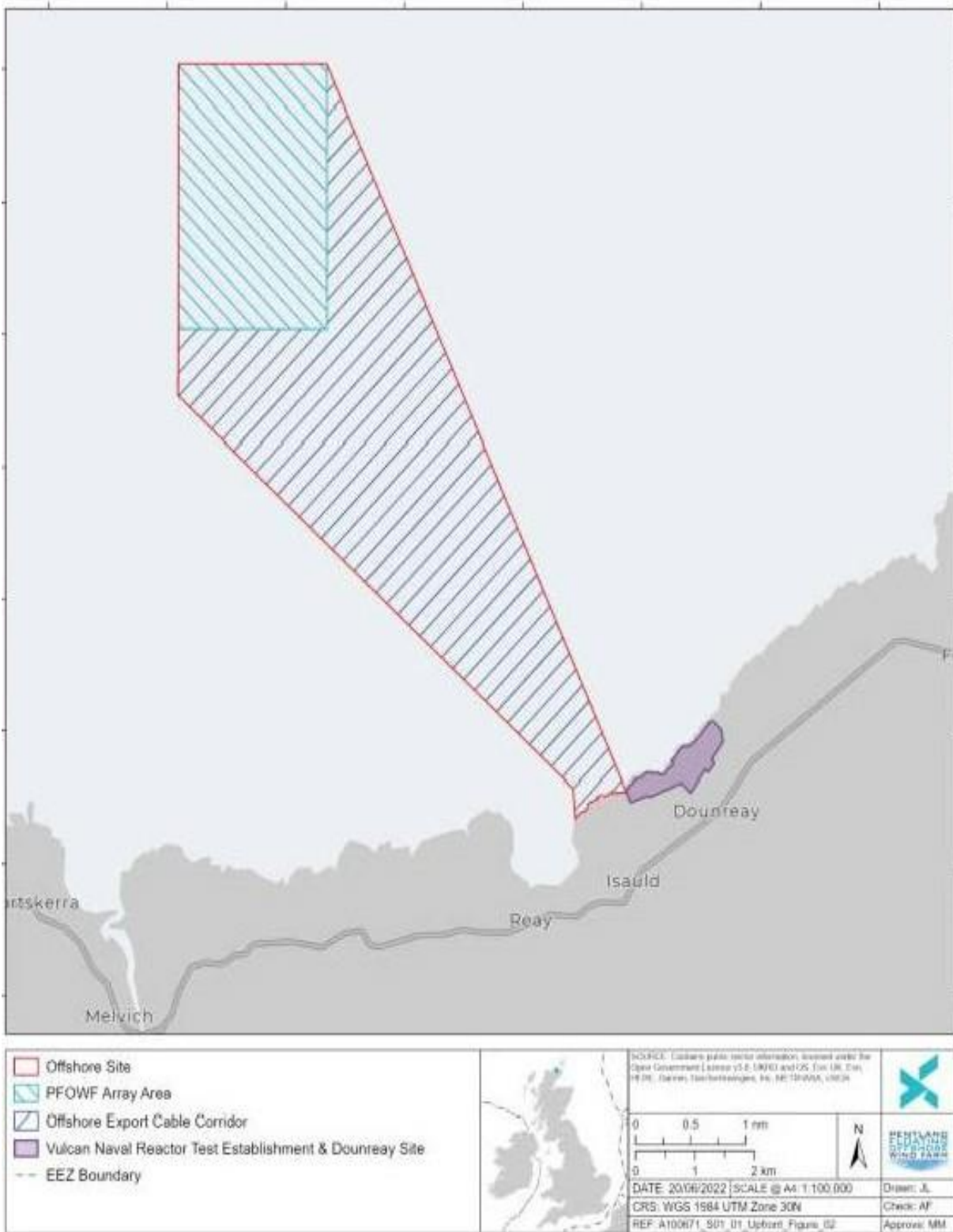


Figure 1: Works Location

ANNEX 2 - MARINE LICENCES

marinescotland



Scottish Government
Riaghaltas na h-Alba
gov.scot

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CONSTRUCT, ALTER OR IMPROVE WORKS IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00009991**

The Scottish Ministers (hereinafter referred to as "the Licensing Authority") hereby grant a marine licence authorising:

Highland Wind Limited
4th Floor,
115 George Street,
Edinburgh
EH2 4JN

to construct, alter or improve works as described in Part 2. The licence is subject to the conditions set out, or referred to, in Part 3.

The licence is valid from **28 June, 2023** until **31 May, 2035** or until the Works have been decommissioned in accordance with an approved Decommissioning Programme prior to this date and for which a separate marine licence is required.

[Redacted]

Signed

For and on behalf of the Licensing Authority

Date of issue: 28 June, 2023

1. PART 1 - GENERAL

1.1 Interpretation

In the licence, terms are as defined in Section 1, 64 and 157 of the Marine Scotland Act 2010, and

“ADD” means Acoustic Deterrent Devices;
“CAA” means Civil Aviation Authority;
“CoP” means Construction Programme;
“CaP” means Cable Plan;
“CMS” means Construction Method Statement;
“Commencement of the Licensed Activity” means the date on which the first vehicle or vessel arrives on the site to begin carrying on any activities in connection with the Licensed Activity;
“Completion of the Licensed Activity” means the date on which the Licensed Activity has been installed in full, or the Licensed Activity has been deemed complete by the Licensing Authority, whichever occurs first;
“DS” means Design Statement;
“DSL” means Development Specification and Layout Plan;
“DP” means Decommissioning Programme;
“ECoW” means Environmental Clerk of Works;
“EIAR” means Environmental Impact Assessment Report;
“EMF” means Electromagnetic Field;
“EMP” means Environmental Management Plan;
“Final Commissioning of the Works” means the date on which the last wind turbine generator constructed forming the Works has supplied electricity on a commercial basis to the National Grid, or such earlier date as the Licensing Authority deems the Works to be complete;
“FLO” means Fisheries Liaison Officer;
“FMMS” means Fisheries Management and Mitigation Strategy;
“GIS” means Geographic Information System;
“HAT” means Highest Astronomical Tide;
“HES” means Historic Environment Scotland;
“IALA” means International Association of Marine Aids to Navigation and Lighthouse Authorities;
“LAT” means Lowest Astronomical Tide;
“Licensed Activity” means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under the licence;
“Licensee” means Highland Wind Limited (Company Number: SC675148) having its registered office at 4th Floor 115 George Street, Edinburgh, Midlothian, Scotland, EH2 4JN;
“LMP” means Lighting and Marking Plan;
“MCA” means Maritime and Coastguard Agency;
“Mean High Water Springs” means any area submerged at mean high water spring tide;
“MGN” means Marine Guidance Note;
“MMO” means Marine Mammal Observers;
“MOD” means Ministry of Defence;
“NLB” means Northern Lighthouse Board;
“Noise Registry” means the marine noise registry developed by the Department for Environment, Food and Rural Affairs and the Joint Nature Conservation Committee to record human activities in UK seas that produce loud low to medium frequency (10 Hz-10 kHz) impulsive noise;
“NSP” means Navigational Safety Plan;
“OMP” means Operational and Maintenance Programme;
“PAD” means Protocol for Archaeological Discoveries;
“PAM” means Passive Acoustic Monitoring;
“PEMP” means Project Environmental Management Programme;
“PMP” means Particles Management Plan;
“PS” means Piling Strategy;
“RSPB Scotland” means Royal Society for the Protection of Birds Scotland;
“RYA” means Royal Yachting Association;
“ScotMER” means Scottish Marine Energy Research;
“SEPA” means Scottish Environment Protection Agency;
“SFF” means Scottish Fishermen’s Federation;

"the 2010 Act" means the Marine (Scotland) Act 2010;

"the Works" Construction and operation of offshore generating system consisting of up to 7 floating Wind Turbine Generators;

"the Application" means the Application letter, marine licence applications and EIA Report including appendices submitted to the Scottish Ministers by Highland Wind Limited on 11 August 2022;

"TPC" or **"TPV"** means Third Party Certification or Verification;

"UKHO" means UK Hydrographic Office;

"VMP" means Vessel Management Plan;

"WSI" means Written Scheme of Investigation;

"WTG" means Wind Turbine Generator.

All geographical co-ordinates contained within the licence are in WGS84 format (latitude and longitude degrees and minutes to three decimal places) unless otherwise stated.

1.2 Contacts

All correspondence or communications relating to the licence should be addressed to:

The Marine Directorate
Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB
Email: MS.MarineRenewables@gov.scot

1.3 Other authorisations and consents

The Licensee is deemed to have satisfied itself that there are no barriers or restrictions, legal or otherwise, to the carrying on of the Licensed Activities in connection with the licensed activity. The issuing of the licence does not absolve the Licensee from obtaining such other authorisations and consents, which may be required under statute.

1.4 Variation, suspension, revocation and transfer

Under section 30 (1) of the 2010 Act the Licensing Authority may by notice vary, suspend or revoke the licence granted by them if it appears to the Licensing Authority that there has been a breach of any of its provisions. For any such other reason that appears to be relevant to the Licensing Authority under section 30(2) or (3) of the 2010 Act. Under the 2010 Act variations, suspensions, revocations and transfers of licences are subject to the procedures set out in section 31 of the Act.

Under section 30 (7) of the 2010 Act, on an application made by a licensee, the Licensing Authority may vary a licence if satisfied that the variation being applied for is not material.

Under section 30 (8) of the 2010 Act, on an application made by the licensee, the Licensing Authority may transfer the licence from the Licensee to another person.

1.5 Breach of requirement for, or conditions of, licence

Under section 39 of the 2010 Act it is an offence to carry on a Licensable Marine Activity without a marine licence and it is also an offence to fail to comply with any condition of a marine licence.

1.6 Defences: actions taken in an emergency

Under section 40 of the 2010 Act it is a defence for a person charged with an offence under section 39(1) of the 2010 Act in relation to any activity to prove that –
the activity was carried out for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure ('force majeure'), and
that the person took steps within a reasonable time to inform the Licensing Authority as set out in section 40(2) of the 2010 Act.

1.7 Offences relating to information

Under section 42 of the 2010 Act it is an offence for a person to make a statement which is false or misleading in a material way, knowing the statement to be false or misleading or being reckless as to whether the statement is false or misleading, or to intentionally fail to disclose any material information for the purpose of procuring the issue, variation or transfer of a marine licence or for the purpose of complying with, or purporting to comply with, any obligation imposed by either Part 4 of the 2010 Act or the provisions of this licence.

1.8 Appeals

Under Regulation 3(1) of the Marine Licensing Appeals (Scotland) Regulations 2011 a person who has applied for a marine licence may by summary application appeal to against a decision taken by the Licensing Authority under section 71(1)(b) or (c) or (5) of the Act.

2. PART 2 – PARTICULARS

2.1 Agent

Highland Wind Limited
4th Floor,
115 George Street,
Edinburgh
EH2 4JN

2.2 Location of the Licensed Activity

Pentland Floating Offshore Wind Farm (Offshore Array Area),

58° 40.445' N 03° 51.014' W
58° 40.427' N 03° 53.600' W
58° 38.290' N 03° 50.962' W
58° 38.272' N 03° 53.545' W

As shown in Annex One.

2.3 Description of the Works

The Application is for the construction and operation of an offshore energy generating station, with a generating capacity of around 100 megawatts ("MW"). The offshore generating station shall be comprised of up to:

1. Seven floating offshore wind turbine generators ("WTGs") with:
 - a. A maximum hub height of 190 metres ("m") above highest astronomical tide ("HAT");
 - b. A maximum height to blade tip of 300m above HAT;
 - c. A maximum rotor diameter of 260m;
 - d. A minimum blade tip clearance from mean sea level of 35m;
2. Seven associated floating substructures;
3. Nine mooring lines for each floating substructure, 63 in total;
4. Nine anchors or piles for each floating substructure, 63 in total;
5. Seven inter-array cables (dynamic and static); and
6. Associated scour and cable protections.

All as described in the Application.

The total area within the Development site boundary is 10km². The location and boundary of the Development site is shown in Annex One.

As described in the application dated 11 August, 2022 and correspondence submitted in support of the application.

2.4 Descriptions of the materials to be used during the Licensed Activity

The licence authorises the use of the undernoted construction materials required in connection with the licensed activity, subject to the indicative amounts as specified below:

Steel/Iron - 167,466 Tonnes

Plastic/Synthetic - Trace amounts of synthetics embedded in scour protection solutions

Concrete - 259,305 m³

Sand - 117,880 m³

Stone/Rock/Gravel - 117,880 m³

Concrete Bags/Mattresses - 117,880 m³

Cable - 20,000 m

Composite Plastic - 315 Tonnes

2.5 Contractor and Vessel Details

To be confirmed.

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must only construct the Works in accordance with this licence, the Application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.2 The Licensee must maintain the Works in accordance with this licence, the Application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.3 All conditions attached to the licence bind any person who for the time being owns, occupies or enjoys any use of the Works, whether or not the licence has been transferred to that person.

3.1.4 Only the materials listed in Part 2 of the licence may be used during the execution of the Licensed Activity.

3.1.5 All materials, substances and objects used during the execution of the Licensed Activity must be inert and must not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

3.1.6 The Licensee must ensure that the Licensed Activity does not encroach on any recognised anchorage, either charted or noted in nautical publications, within the licensed area as described in Part 2 of the Licence.

3.1.7 Where any damage, destruction or decay is caused to the Works, the Licensee must notify the Licensing Authority, Maritime and Coastguard Agency (“MCA”), Northern Lighthouse Board (“NLB”), Kingfisher Information Services of Seafish and the UK Hydrographic Officer, in writing, of such damage, destruction or decay as soon as reasonably practicable but no later than 24 hours after becoming aware of any such damage, destruction or decay. The Licensee must carry out any remedial action as required by the Licensing Authority, following consultation with the MCA, NLB or any such advisors as required by the Licensing Authority.

The Licensee must remove the materials, from below the level of Mean High Water Springs, or make such alterations as advised by the Licensing Authority, at timescales to be determined by the Licensing Authority at any time it is considered necessary or advisable for the safety of navigation, and not replace those materials without further approval by the Licensing Authority. The Licensee shall be liable for any expense incurred.

3.1.8 If governmental assistance is required (including UK governmental assistance or the assistance of any UK devolved government) to deal with any emergency arising from:

- a) the failure to mark and light the Works as required by the licence;
- b) the maintenance of the Works; or
- c) the drifting or wreck of the Works, to include the broadcast of navigational warnings

then the Licensee is liable for any expenses incurred in securing such assistance.

3.1.9 The Licensee must take all measures which are technically and economically feasible to minimise leakage of fluorinated greenhouse gases. Where leakage of fluorinated greenhouse gases is detected, the Licensee must ensure that the equipment is repaired without undue delay.

The Licensee must ensure that all equipment to be utilised in the Licensed Activity that contains fluorinated greenhouse gases in quantities of five tonnes or more of CO₂ equivalent and not contained in foams is checked for leakage in accordance with Article 4 of the F-Gas Regulation. Records of these checks must be kept in accordance with Article 6 of the F-Gas Regulation. These records must be submitted to the Licensing Authority annually and immediately in the event of discovery of leakage.

Where the equipment is subject to checks for leakage under Article 4(1) of the F-Gas Regulation and leakage in the equipment has been repaired, the Licensee must ensure that the equipment is checked by a suitably certified person within one calendar month after the repair to verify that the repair has been effective. In such event, the Licensing Authority must be informed of the date of discovery, date of repair and date of inspection.

3.1.10 The Licensee must seek prior written approval from the Licensing Authority for any chemicals in an open system which are to be utilised in the construction, operation and maintenance of the Licensed Activity. Requests for approval must be submitted in writing to the Licensing Authority no later than one month prior to its intended use or such other period as agreed by the Licensing Authority. The Licensee must ensure that no chemicals are used in an open system without the prior written approval of the Licensing Authority.

If the proposed chemical is on the Offshore Chemical Notification Scheme list, the approval request must include the chemical name, volume or quantity to be used, the Offshore Chemical Notification Scheme list grouping or rank and the proposed frequency of use.

If the proposed chemical is not on the Offshore Chemical Notification Scheme list, the approval request must include details of chemicals to be used, including safety data sheet, depth and current at the site of the Works, quantities or volumes and the proposed frequency of use.

The Licensee must notify the Licensing Authority of the types of chemicals to be used in a closed containment system prior to use.

The Licensee must take all practicable steps to avoid leakages from a closed containment system into the Scottish marine area. Any such leakages must be reported to the Licensing Authority as soon as practicable.

3.1.11 The Licensee must submit all reports and notifications to the Licensing Authority, in writing, as are required under this licence within the time periods specified in this licence. Where there may be a delay in the submission of the reports or notifications to the Licensing Authority, the Licensee must advise the Licensing Authority of this fact as soon as is practicable and no later than the time by which those reports or notifications ought to have been submitted to the Licensing Authority under the terms of this licence.

The reports must include executive summaries, assessments and conclusions and any data will, subject to any rules permitting non-disclosure, be made publicly available by the Licensing Authority or by any such party appointed at its discretion.

Reports prepared pursuant to another consent or licence relating to the Works by the Licensee or by a third party may also be used to satisfy the requirements of this licence.

Such reports will include, but not be limited to Marine Mammal Observer ("MMO") records and all appropriate reports stipulated within the Project Environment Monitoring Plan ("PEMP").

3.1.12 The Licensee must operate and maintain the Works in accordance with the approved Operation and

Maintenance Programme ("OMP") (see condition 3.2.16). The Licensing Authority must be notified at least three calendar months, or such other period as agreed by the Licensing Authority in advance, of any maintenance of the Licensed Activity not included in the OMP and involving licensable marine activities not covered under this licence.

3.1.13 In the event of the Licensed Activity being discontinued the materials used under the authority of this licence must be removed to the satisfaction of the Licensing Authority.

3.1.14 The Licensee must ensure that the Works are maintained at all times in good repair.

3.1.15 The Licensee must ensure that the Licensed Activity is only carried out at the location of the Licensed Activity specified in Part 2 of this licence. The WTGs must be constructed only at the locations specified in Part 2 of this licence.

3.1.16 There must be no Commencement of the Licensed Activity until a Decommissioning Programme ("DP"), as defined in any section 105 notice served by the appropriate Minister, has been approved under section 106 of the Energy Act 2004 by the Licensing Authority.

3.1.17 The Licensee must submit plans and the details and specifications of all studies and surveys that are required to be undertaken under this licence in relation to the Licensed Activity, in writing, to the Licensing Authority for its written approval. Commencement of the studies or surveys and implementation of plans must not occur until the Licensing Authority has given its written approval to the Licensee.

Plans or the specification of studies and surveys prepared pursuant to another consent or licence relating to the Licensed Activity by the Licensee or by a third party may also be used to satisfy the requirements of this licence.

Any updates or amendments made to the approved plans must be submitted, in writing, to the Licensing Authority for its prior written approval. The Works must, at all times, be constructed and operated in accordance with the approved plans.

3.1.18 The Licensee must ensure that any debris or waste materials arising during the course of the Licensed Activity are removed for disposal at an approved location above the tidal level of Mean High Water Springs.

3.1.19 The Licensee must ensure that copies of this licence are available for inspection by any authorised marine enforcement officer at:

- a) the premises of the Licensee;
- b) the premises of any agent acting on behalf of the Licensee; and
- c) the site of the Licensed Activity.

3.1.20 Any person authorised by the Licensing Authority must be permitted to inspect the Works at any reasonable time. The Licensee must, on being given reasonable notice by the Licensing Authority (of at least 72 hours), provide transportation to and from the site for any persons authorised by the Licensing Authority to inspect the site of the Works. The Licensee shall be liable for any expense incurred.

3.1.21 The Licensee must inform the local Fishery Office(s) in writing at least five days prior to the Commencement of the Licensed Activity, or any part thereof, and within five days of Completion of the Licensed Activity.

The Kingfisher Information Service of Seafish, must be informed of details of the vessel routes, timings and locations

relating to the construction of the authorised project or any part thereof by email to kingfisher@seafish.co.uk:

- a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data, and;
- b) as soon as reasonably practicable and no later than 24 hours of completion of all offshore activities.

Confirmation of notification must be provided to the Licensing Authority within five days.

The Licensee must ensure that a local notification to mariners is issued at least 14 days prior to the Commencement of the Licensed Activity, or any part thereof, advising of the start date and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the Licensing Authority, MCA and UKHO within five days.

The Licensee must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations (or otherwise agreed) and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under deemed marine licence condition 3.2.12.

Copies of all notices must be provided to the Licensing Authority and UKHO within five days.

The Licensee must notify the UKHO of the completion (within 14 days) of the Licensed Activity, or any part thereof, in order that all necessary amendments are made to nautical charts.

Copies of all notices must be provided to the Licensing Authority and MCA within five days.

In case of damage to, or destruction or decay of, the the Licensed Activity seaward of Mean High Water Springs, or any part thereof, excluding the exposure of cables, the Licensee shall as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the Licensing Authority, MCA, NLB, the Kingfisher Information Service of Seafish and the UKHO.

In case of exposure of cables on or above the seabed, the Licensee must within three days following identification of a potential cable exposure, notify mariners and inform Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the Licensing Authority, MCA, NLB, and the UKHO within five days.

3.1.22 The Licensed Activity shall be undertaken in accordance with the Schedule of Mitigation contained within Chapter 22 of the Environmental Impact Assessment Report unless otherwise agreed in advance in writing with the Licensing Authority.

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The Licensee must, prior to and no less than one calendar month before the Commencement of the Licensed Activity, notify the Licensing Authority, in writing, of the proposed date of the Commencement of the Licensed Activity authorised under this licence.

3.2.2 The Licensee must ensure that at least five days prior to its engagement in the Licensed Activity, the name and function of any vessel (including the master's name, vessel type, vessel international maritime organisation number and vessel owner or operating company), agent, contractor or subcontractor appointed to engage in the

Licensed Activity are fully detailed in contractor and vessel reports ("the Reports") which the Licensee must make available on its website: <https://pentlandfloatingwind.com/> . Any changes to the supplied detailed must be uploaded to the Reports and the Licensing Authority and relevant statutory harbour authority must be notified, in writing, prior to any vessel, agent, contractor or sub-contractor which has not yet been notified to the Licensing Authority engaging in the Licensed Activity. Only those vessels, agents, contractors or sub-contractors detailed in the Reports are permitted to carry out any part of the Licensed Activity. Any vessels involved in drilling and deposit of drilling arisings must be notified to the Licensing Authority. The Licensee must satisfy itself that any masters of vessels or vehicle operators, agents, contractors or sub-contractors are aware of the extent of the Licensed Activity and the conditions of this licence.

All masters of vessels or vehicle operators, agents, contractors and sub-contractors permitted to engage in the Licensed Activity must abide by the conditions of this licence.

The Licensee must give a copy of this licence, and any subsequent variations made to this licence in accordance with section 30 of the 2010 Act, to the masters of any vessels, vehicle operators, agents, contractors or sub-contractors permitted to engage in the Licensed Activity and must ensure that the licence and any such variations are read and understood by those persons.

3.2.3 The Licensee must complete and send a Marine Emergency Action Card for the Licensed Activity to oelo@mcga.gov.uk at least 10 working days prior to Commencement of the Licensed Activity.

3.2.4 The Licensee must contact the relevant statutory harbour authority, prior to Commencement of the Licensed Activity to discuss the requirements for navigational warnings and a works licence.

The Licensee must ensure that a communications procedure is established and agreed with the relevant statutory harbour authority prior to the Commencement of the Licensed Activity.

3.2.5 The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code where appropriate during the Licensed Activity.

3.2.6 There must be no Commencement of the Licensed Activity until the Licensee has satisfied the Licensing Authority, by consultation with the MCA, that it has taken into account and adequately addressed all of the recommendations of the MCA in the current Marine Guidance Note ("MGN") 654, and its annexes, or any other relevant document which may supersede this guidance.

3.2.7 Prior to the Commencement of the Licensed Activity, the Licensee must appoint a Marine Mammal Observer ("MMO"). When appointed, the MMO must, as a minimum, maintain a record of any sightings of marine mammals and maintain a record of the action taken to avoid any disturbance being caused to marine mammals during noisy activities.

The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code where appropriate during all alteration and improvement activities authorised under this licence.

3.2.8 The Licensee must, no later than one calendar month prior to Commencement of the Licensed Activity, notify the UKHO of the proposed works to facilitate the promulgation of maritime safety information and updating of admiralty charts and publications through the national Notice to Mariners system.

The Licensee must, no later than one calendar month prior to Commencement of the Licensed Activity, ensure that

local mariner's organisations and local fishermen's organisations and HM Coastguard are made fully aware of the Works through local Notice to Mariners or by any other appropriate means.

The Licensee must ensure that details of the Licensed Activities are promulgated in the Kingfisher Fortnightly Bulletin, no later than one calendar month prior to the Commencement of the Licensed Activity to inform the commercial fishing industry of the vessel routes and the timing and location of the construction activities.

The Licensee must, no later than eight weeks prior to the Commencement of the Licensed Activity, complete an "Application for Statutory Sanction to Alter/Exhibit" form and submit this to the NLB for the necessary sanction to be granted for the deployment of the Construction Buoyage.

3.2.9 The Licensee must, no later than 10 days prior to Commencement of the Licensed Activity, notify the UK Hydrographic Office ("UKHO") at sdr@ukho.gov.uk, of the proposed Licensed Activity. The notification must include the start and end date of the Licensed Activity, a description of the Works, positions of the area of the Works (WGS84), and details of any marking arrangements. A copy of the notification must be sent to the Licensing Authority within five working days of the notification being sent.

The Licensee must ensure that local mariners and fishermen's organisations are made fully aware of the Works through a local notification. This must be issued at least five days before the Commencement of the Licensed Activity. The Licensing Authority must be sent a copy of this notification within 24 hours of issue.

The Licensee must, no later than seven days prior to the Commencement of the Licensed Activity, notify Zone4@hmcg.gov.uk and renewables@hmcg.gov.uk of the proposed Licensed Activity. A copy of the notification must be sent to the Licensing Authority within five working days of the notification being sent.

The Licensee must ensure that details of the Licensed Activity are promulgated in the Kingfisher Fortnightly Bulletin, no later than seven days prior to the Commencement of the Licensed Activity to inform the Sea Fish Industry of the vessel routes, the timings and the location of the Licensed Activity and of the relevant operations.

3.2.10 The Licensee must notify the Ministry of Defence ("MOD"), at least 14 days prior to the Commencement of the Licensed Activity, in writing of the following information:

- a) the date of the commencement of the erection of WTG;
- b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
- c) the date any WTG are brought into use;
- d) the latitude and longitude and maximum heights of each WTG, and any anemometer mast(s).

3.2.11 The Licensee must, no later than three calendar months prior to the Commencement of the Licensed Activity, provide the Licensing Authority with Third Party Certification or Verification ("TPC" or "TPV") (or a suitable alternative as agreed in writing with the Licensing Authority) that covers the entirety of the Works for the lifespan of the Works.

In this condition, the term "lifespan" means the entire period that this licence remains in force.

The TPC or TPV must follow the guidance provided in the Offshore wind, wave and tidal energy applications: consenting and licensing manual <https://www.gov.scot/publications/marine-licensing-applications-and-guidance/> or any other relevant document which may supersede this. There must be no Commencement of the Licensed Activity unless the TPC or TPV is provided as described above unless otherwise agreed with the Licensing Authority.

3.2.12 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a Construction Programme (“CoP”), in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, Civil Aviation Authority (“CAA”), MOD, and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The CoP must set out:

- a. The proposed date for Commencement of the Licensed Activity;
- b. The proposed timings for mobilisation of plant and delivery of materials, including details of onshore lay-down areas;
- c. The proposed timings and sequencing of construction work for all elements of the Works infrastructure;
- d. Contingency planning for poor weather or other unforeseen delays; and
- e. The scheduled date for Final Commissioning of the Works.

The Licensee must send the approved CoP to The Highland Council, MCA and NLB for information only.

3.2.13 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity submit a Construction Method Statement (“CMS”), in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, MCA, NLB and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The CMS must include, but not be limited to:

- a. Details of the commencement dates, duration and phasing for the key elements of construction, the working areas, the construction procedures and good working practices for installing the Works;
- b. Details of the roles and responsibilities, chain of command and contact details of company personnel, any contractors or sub-contractors involved during the construction of the Works; and
- c. Details of how the construction related mitigation steps proposed in the Application are to be delivered.

The CMS must adhere to the construction methods assessed in the Application. The CMS also must, so far as is reasonably practicable, be consistent with the Design Statement (“DS”), the Environmental Management Plan (“EMP”), the Vessel Management Plan (“VMP”), the Navigational Safety Plan (“NSP”), the Piling Strategy (“PS”), the Cable Plan (“CaP”) and the Lighting and Marking Plan (“LMP”).

The final CMS must be sent to the Highland Council for information only.

3.2.14 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an Environmental Management Plan (“EMP”), in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, Royal Society for the Protection of Birds Scotland (“RSPB Scotland”), and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The EMP must provide the over-arching framework for on-site environmental management during the phases of the Works as follows:

- a. All construction as required to be undertaken before the Final Commissioning of the Works; and

b. The operational lifespan of the Works from the Final Commissioning of the Works until the cessation of electricity generation (environmental management during decommissioning is addressed by the DP provided for by condition 3.1.16).

The EMP must be in accordance with the Application insofar as it relates to environmental management measures. The EMP must set out the roles, responsibilities and chain of command for the company personnel, any contractors or sub-contractors in respect of environmental management for the protection of environmental interests during the construction and operation of the Works. It must address, but not be limited to, the following over-arching requirements for environmental management during construction:

- a. Mitigation measures to prevent significant adverse impacts to environmental interests, as identified in the Application and pre-consent and pre-construction monitoring or data collection, and include reference to relevant parts of the CMS (refer to condition 3.2.13);
- b. A pollution prevention and control method statement, including contingency plans;
- c. Management measures to prevent the introduction of invasive non-native marine species;
- d. A site waste management plan (dealing with all aspects of waste produced during the construction period), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment. Wherever possible the waste hierarchy of reduce, reuse and recycle should be encouraged; and
- e. The reporting mechanisms that will be used to provide the Licensing Authority and relevant stakeholders with regular updates on construction activity, including any environmental issues that have been encountered and how these have been addressed.

The EMP must be regularly reviewed by the Licensee at intervals agreed by the Licensing Authority. Reviews must include, but not be limited to, the reviews of updated information on construction methods and operations of the Works and updated working practices.

The EMP must be informed, so far as is reasonably practicable, by the baseline monitoring or data collection undertaken as part of the Application and the PEMP.

3.2.15 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a VMP, in writing, to the Licensing Authority for their written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, MCA, Scottish Fishermen's Federation ("SFF") and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The VMP must include, but not be limited to, the following details:

- a. The number, types and specification of vessels required;
- b. How vessel management will be coordinated, particularly during construction, but also during operation;
- c. Location of working port(s), the routes of passage, the frequency with which vessels will be required to transit between port(s) and the site and indicative vessel transit corridors proposed to be used during construction and operation of the Works.

The confirmed individual vessel details must be notified to the Licensing Authority in writing no later than 14 days prior to the Commencement of the Licensed Activity, and thereafter, any changes to the details supplied must be notified to the Licensing Authority, as soon as practicable, prior to any such change being implemented in the construction or operation of the Works.

The VMP must refer to the Scottish Marine Wildlife Watching Code and Guide to Best Practice for Watching Marine Wildlife for guidance on how vessels should behave around aggregations of birds on the water.

The VMP must, so far as is reasonably practicable, be consistent with the CMS and EMP, the Fisheries Management and Mitigation Strategy (“FMMS”), the PEMP, the NSP, and the LMP.

3.2.16 The Licensee must, no later than three months prior to the Final Commissioning of the Works, submit an OMP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, MCA, NLB, The Highland Council and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The OMP must set out the procedures and good working practices for operations and the maintenance of the WTGs and substructure of the Works. Environmental sensitivities which may affect the timing of the operation and maintenance activities must be considered in the OMP.

The OMP must, so far as is reasonably practicable, be consistent with the CMS, the EMP, the PEMP, the VMP, the NSP and the LMP.

The Licensee must send the approved OMP to The Highland Council for information only.

3.2.17 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a NSP, in writing, to the Licensing Authority for their written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with MCA, NLB, Royal Yachting Association (“RYA”), SFF and any other navigational advisors or organisations as may be required at the discretion of the Licensing Authority.

The NSP must include, but not be limited to, the following issues:

- a. Navigational safety measures;
- b. Construction exclusion zones;
- c. Notice(s) to mariners and radio navigation warnings;
- d. Anchoring areas;
- e. Temporary construction lighting and marking;
- f. Buoyage.

3.2.18 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an LMP, in writing, to the Licensing Authority for their written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, MCA, NLB, CAA, MOD, RYA, the Highland Council, and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The LMP must provide that the Works be lit and marked in accordance with the current CAA and MOD aviation lighting policy and guidance that is in place as at the date of the Licensing Authority approval of the LMP, or any such other documents that may supersede this guidance prior to the approval of the LMP. Consideration must be given in the LMP to reducing the luminous intensity of aviation lighting in certain visibility conditions but only where this is in accordance with the current CAA and MOD aviation lighting policy and guidance that is in place. The LMP must define how the Works will be lit throughout its life to maintain civil and military aviation safety requirements as determined necessary for aviation safety by the MOD and, accordingly, must set out:

- a) details of any construction equipment and temporal structures with a total height of 50m or greater (above mean sea level) that will be deployed during the construction of the Works and details of any aviation warning lighting that they will be fitted with; and
- b) the locations and heights of the WTGs featured in the Works identifying those that will be fitted with aviation warning lighting identifying the position of the lights on the WTGs, the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used.

The LMP must also detail the navigational lighting requirements detailed in the International Association of Marine Aids to Navigation and Lighthouse Authorities (“IALA”) Guideline G-1162 or any other documents that may supersede this guidance prior to approval of the LMP.

3.2.19 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a PEMP, in writing, to the Licensing Authority for their written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, RSPB Scotland and any other environmental advisors or organisations as required at the discretion of the Licensing Authority. The PEMP must be in accordance with the Application as it relates to environmental monitoring.

The PEMP must set out measures by which the Licensee must monitor the environmental impacts of the Works. Monitoring is required throughout the lifespan of the Works where this is deemed necessary by the Licensing Authority. Lifespan in this context includes pre-construction, construction, operational and decommissioning phases.

The Licensing Authority must approve all initial methodologies for the above monitoring, in writing and, where appropriate, in consultation with NatureScot and any other environmental advisors or organisations as required at the discretion of the Licensing Authority.

Monitoring must be done in such a way so as to ensure that the data which is collected allows useful and valid comparisons between different phases of the Works. Monitoring may also serve the purpose of verifying key predictions in the Application. In the event that further potential adverse environmental effects are identified, for which no predictions were made in the Application, the Licensing Authority may require the Licensee to undertake additional monitoring.

The PEMP must cover the following matters:

- a) monitoring or data collection for impact on seabirds;
- b) monitoring for impacts on marine mammals;
- c) monitoring for impacts on benthic ecology;
- d) Post-construction monitoring on Electromagnetic Fields (“EMF”) produced by the constructed cables; and
- e) The Licensee’s contribution to data collection or monitoring of wider strategic relevance, including in relation to diadromous fish, as identified and agreed by the Licensing Authority.

In relation to EMF, the Licensee must monitor and provide a report on the EMF produced by the works to the Licensing Authority. The Licensee must agree the methodologies and timescales for monitoring with the Licensing Authority prior to the Commencement of the Licensed Activity as part of wider strategic monitoring on EMF. Any agreement must be adhered to unless otherwise agreed and approved by the Licensing Authority.

The requirement for monitoring pre-construction, during construction and post-construction in relation to the above

receptors must be agreed by the Licensing Authority.

Due consideration must be given to the Scottish Marine Energy Research (“ScotMER”) programme, or any successor programme formed to facilitate these research interests.

Any pre-consent monitoring or data collection carried out by the Licensee to address any of the above issues may be used in part to discharge this condition subject to the written approval of the Licensing Authority.

The PEMP is a live document which will be regularly reviewed by the Licensing Authority, at timescales to be determined by them to identify the appropriateness of on-going monitoring. Following such reviews, the Licensing Authority may require the Licensee to amend the PEMP and submit such an amended PEMP, in writing, to the Licensing Authority, for their written approval. Such approval may only be granted following consultation with NatureScot and any other environmental, or such other advisors as may be required at the discretion of the Licensing Authority.

The Licensee must submit written reports and associated raw and processed data of such monitoring or data collection to the Licensing Authority at timescales to be determined by them. Consideration must be given to data storage, analysis and reporting and be to Marine Environmental Data and Information Network standards.

Subject to any legal restrictions regarding the treatment of the information, the Licensing Authority, or any such other party appointed at the Licensing Authority’ discretion, may make the results publicly available.

The Licensing Authority may agree, in writing, that monitoring may be reduced or ceased before the end of the lifespan of the Works.

3.2.20 The Licensee must no later than six months prior to the Commencement of the Licensed Activity, submit a FMMS, in writing, to the Licensing Authority for their written approval, in consultation with SFF. Commencement of the Licensed Activity cannot take place until such approval is granted.

In order to inform the production of the FMMS, the Licensee must monitor or collect data as relevant and agreed with the Licensing Authority.

As part of any finalised FMMS, the Licensee must produce and implement a mitigation strategy for each commercial fishery that can prove to the Licensing Authority that they would be adversely affected by the Works. The Licensee and any contractors or sub-contractors working for the Licensee must implement the mitigation measures committed to be carried out by the Licensee within the FMMS.

3.2.21 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an updated Protocol for Archaeological Discoveries (“PAD”) and Written Scheme of Investigation (“WSI”) which sets out what the Licensee must do on discovering any marine archaeology during the construction, operation, maintenance and monitoring of the Works, in writing, to the Licensing Authority for their written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may be given only following consultation by the Licensing Authority with Historic Environment Scotland (“HES”) and any such advisors as may be required at the discretion of the Licensing Authority. The Reporting Protocol must be implemented in full, at all times, by the Licensee.

The Licensee must send the approved PAD and WSI to the Highland Council for information only.

3.2.22 Not later than six months prior to the Commencement of the Licensed Activity, a Particles Management Plan (“PMP”) shall be submitted to the Licensing Authority for their written approval in consultation with the Scottish Environment Protection Agency (“SEPA”).

The PMP shall be consistent with the Application and supporting documents and shall include, but not be limited to, the following:

- a. A programme of scheduled monitoring for radioactive particles;
- b. The measures to be taken to reduce the likelihood of irradiated fuel particles in sediment being suspended or disturbed; and
- c. A waste management plan for the construction phase of the Works.

There shall be no Commencement of the Licensed Activity unless and until the PMP is approved in writing by the Licensing Authority, in consultation with SEPA.

Any proposed amendment to the approved PMP shall be submitted, in writing, to the Licensing Authority for its written approval, in consultation with SEPA. The proposed amendment shall be submitted to the Licensing Authority no later than six months prior to the anticipated implementation of the proposed amendment (or such shorter period as may be agreed with the Licensing Authority in writing). No amendment to the PMP shall take effect unless and until approved in writing by the Licensing Authority in consultation with SEPA.

The PMP and any amended PMP shall thereafter be implemented in full.

3.2.23 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a Radio and Television Reception Mitigation Plan to the Licensing Authority for approval, in consultation with the Highland Council. The Radio and Television Reception Mitigation Plan shall provide for a baseline radio and television reception survey to be carried out prior to the installation of any turbine forming part of the Licensed Activity. The results of the baseline radio and television reception survey shall be submitted to the Highland Council prior to the installation of any turbine forming part of the Licensed Activity.

The approved Radio and Television Reception Mitigation Plan shall be implemented in full.

Any claim by any person regarding radio or television interference at their house, business premises or other building, made during the period from installation of any turbine forming part of the Works to the date falling twelve months after the Completion of the Licensed Activity shall be investigated by a qualified engineer and the results of the investigation shall be submitted to the Highland Council.

Should any impairment to the radio or television signal be attributable to the Works, the impairment shall be remedied so that the standard of reception at the affected property is equivalent to the baseline radio or television reception.

3.2.24 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a Development Specification and Layout Plan (“DSLPL”), in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with the MCA, NLB, NatureScot, MOD, CAA, SFF, the UKHO, the Highland Council, and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The DSLPL must include, but not be limited to the following:

- a. A plan showing the location of each individual WTG (subject to any required micro-siting), including information on WTG spacing, WTG identification/numbering, seabed conditions, bathymetry, confirmed foundation type for each WTG and any key constraints recorded on the site;
- b. A list of latitude and longitude co-ordinates accurate to three decimal places of minutes of arc for each WTG. This must also be provided as a Geographic Information System (“GIS”) shape file using WGS84 format;
- c. The grid coordinates of the centre point of the proposed location for each WTG;
- d. A table or diagram of each WTG dimensions including - height to blade tip (measured above Lowest Astronomical Tide (“LAT”)) to the highest point, height to hub (measured above LAT to the centreline of the generator shaft), rotor diameter and maximum rotation speed;
- e. The generating output of each WTG used on the site (Annex 1) and a confirmed generating output for the site overall;
- f. The finishes for each WTG (see condition 3.2.18 on WTG lighting and marking); and
- g. The length and proposed arrangements on the seabed of all inter-array cables.

3.2.25 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a DS, in writing, to the Licensing Authority. The DS, which must be signed off by at least one qualified landscape architect, as instructed by the Licensee prior to submission to the Licensing Authority, must include representative wind farm visualisations from key viewpoints as agreed with the Licensing Authority, based upon the final DSLP as approved by the Licensing Authority as updated or amended. The Licensee must provide the DS, for information only, to the Highland Council, NatureScot, MCA and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

3.2.26 If piling is to be undertaken, the Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a PS, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with NatureScot and any such other advisors as may be required at the discretion of the Licensing Authority. Commencement of the Licensed Activity cannot take place until such approval is granted.

The PS must include, but not be limited to:

- a) Details of expected noise levels from pile-drilling/driving in order to inform point d) below;
- b) Full details of the proposed method and anticipated duration of piling to be carried out at all locations;
- c) Details of soft-start piling procedures and anticipated maximum piling energy required at each pile location; and
- d) Details of any mitigation such as Passive Acoustic Monitoring (“PAM”), Marine Mammal Observers (“MMO”), use of Acoustic Deterrent Devices (“ADD”) and monitoring to be employed during pile-driving, as agreed by the Licensing Authority.

The PS must be in accordance with the Application and must also reflect any relevant monitoring or data collection carried out after submission of the Application. The PS must demonstrate the means by which the exposure to and/or the effects of underwater noise have been mitigated in respect to cetaceans, harbour seal, grey seal and Atlantic salmon. The PS must, so far as is reasonably practicable, be consistent with the EMP, the PEMP, and the CMS.

3.2.27 Prior to the Commencement of the Licensed Activity, the Licensee must at its own expense, and with the approval of the Licensing Authority in consultation with NatureScot, appoint an independent Environmental Clerk of Works (“ECOW”). The ECoW must be appointed in time to review and approve the draft version of the first plan or programme submitted under this consent to the Licensing Authority, in sufficient time for any pre-construction monitoring requirements, and remain in post until a date agreed by the Licensing Authority. The terms of appointment must also be approved by the Licensing Authority in consultation with NatureScot.

The terms of the appointment must include, but not be limited to:

- a. Quality assurance of final draft versions of all plans and programmes required under this marine licence;
- b. Responsible for the monitoring and reporting of compliance with the marine licence conditions and the environmental mitigation measures for all wind farm infrastructure;
- c. Provision of on-going advice and guidance to the Licensee in relation to achieving compliance with conditions, including but not limited to the conditions relating to and the implementation of the CMS, the EMP, the PEMP, the CaP and the VMP;
- d. Provision of reports on point b & c above to the Licensing Authority at timescales to be determined by the Licensing Authority;
- e. Induction and toolbox talks to onsite construction teams on environmental policy and procedures, including temporary stops and keeping a record of these;
- f. Monitoring that the Works is being constructed in accordance with the plans and this consent, the Application and in compliance with all relevant regulations and legislation;
- g. Reviewing and reporting incidents/near misses and reporting any changes in procedures as a result to the Licensing Authority; and
- h. Agreement of a communication strategy with the Licensing Authority.

3.2.28 Prior to the Commencement of the Licensed Activity, a Fisheries Liaison Officer ("FLO"), must be appointed by the Licensee and approved, in writing, by the Licensing Authority, following consultation with SFF. The FLO must be appointed by the Licensee for the period from Commencement of the Licensed Activity until the Final Commissioning of the Works. The identity and credentials of the FLO must be included in the EMP (referred to in condition 3.2.14). The FLO must establish and maintain effective communications between the Licensee, any contractors or sub-contractors, fishermen and other users of the sea during the construction of the Works, and ensure compliance with best practice guidelines whilst doing so.

The responsibilities of the FLO must include:

- a. Establishing and maintaining effective communications between the Licensee, any contractors or sub-contractors, fishermen and other users of the sea concerning the overall Works and any amendments to the EMP and site environmental procedures;
- b. The provision of information relating to the safe operation of fishing activity on the site of the Works; and
- c. Ensuring that information is made available and circulated in a timely manner to minimise interference with fishing operations and other users of the sea.

3.2.29 The Licensee must complete and submit a proposed activity form in the online Noise Registry for all aspects of the Works that will produce loud, low to medium frequency (10 Hz-10 kHz) impulsive noise no later than seven days prior to Commencement of the Works. If any aspects of the Works differ from the proposed activity form in the online Noise Registry, the Licensee must complete and submit a new proposed activity form no later than seven days prior to Commencement of the Works.

3.3 During the Licensed Activity

3.3.1 Only those persons acting on behalf of, and authorised by, the agent or the Licensee shall undertake the Licensed Activity.

3.3.2 The Licensee must ensure that a copy of the licence is given to each contractor and sub-contractor employed

to undertake the Licensed Activity.

3.3.3 The Licensee must notify the UKHO of the progress of the construction of the Works to facilitate the promulgation of maritime safety information and updating of admiralty charts and publications through the national Notice to Mariners system. The Licensee must ensure that progress of the Licensed Activity is promulgated regularly in the Kingfisher Fortnightly Bulletin.

3.3.4 The Licensee must ensure the best method of practice is used to minimise re-suspension of sediment during the Licensed Activity.

3.3.5 The Licensee must ensure appropriate steps are taken to minimise damage to the seabed by the Licensed Activity.

3.3.6 If the Licensee becomes aware that an accidental deposit has occurred, the Licensee must notify the Licensing Authority as soon as practicable. The Licensee must undertake such survey as directed by the Licensing Authority to locate the materials. If the Licensing Authority is of the view that any accidental deposits have occurred and should be removed, then the substances, objects and/or materials must be removed by the Licensee as soon as is practicable and at the Licensee's expense.

3.3.7 The Licensee must ensure that if oil based drilling muds are utilised they must be contained within a zero discharge system. Any drill cuttings associated with the use of water-based drilling muds need not be removed from the seabed.

3.3.8 Except as otherwise required by the NLB, the undertaker must paint all structures forming part of the authorised project yellow (colour code RAL 1023) from at least Highest Astronomical Tide ("HAT") to a height as directed by the NLB. Unless the Licensing Authority otherwise directs, the undertaker must paint the remainder of the structures grey (colour code RAL 7035).

3.3.9 Construction monitoring must include vessel traffic monitoring by automatic identification system for the duration of the construction period. An appropriate report must be submitted to the Licensing Authority, NLB and the MCA at the end of each year of the construction period.

3.3.10 Prior to the commissioning of the operational phase aids to navigation, including AIS AtoN, an 'Application for Statutory Sanction to Exhibit' must be submitted to NLB. This must be in accordance with the AtoN specified within the LMP. The Licensee must ensure that no AtoN, radio beacons or radar beacons operating in the marine frequency bands are installed or used on the Works without the prior consent of the appropriate body.

3.3.11 The rating level of noise immissions from the combined effects of the wind turbines forming part of the Development (including the Application of any tonal penalty) when determined in accordance with the Highland Council guidance notes for this condition shall not exceed a value of 34 dB LA90,10 minute at any dwelling which is lawfully existing or has planning permission at the date of this consent.

The Licensee shall continuously log power production, wind speed and wind direction. These data shall be retained for a period of not less than 24 months. The Licensee shall provide this information to the Licensing Authority within 14 days of receipt in writing of a request to do so.

Prior to the Date of First Commissioning, the Licensee shall have submitted to, and received written approval of the Licensing Authority, in consultation with the Highland Council, to an updated predictive noise assessment based on

the final turbine model(s) to be installed, based on noise emission data from the turbine manufacturer.

Within 21 days from receipt of a written request from the Licensing Authority following a complaint sent to them from the Highland Council, informing of an occupant of a dwelling alleging noise disturbance at that dwelling, the Licensee shall, at its expense, employ a consultant to assess the level of noise immissions from the wind farm at the complainant's property. The written request from the Licensing Authority shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Licensing Authority, in consultation with the Highland Council, the noise giving rise to the complaint contains or is likely to contain a tonal component.

The assessment of the rating level of noise immissions in terms of paragraph (4) above shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Licensing Authority, in consultation with the Highland Council. The protocol shall include at least the proposed measurement location(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Licensing Authority under paragraph (4) above.

The Licensee shall provide to the Licensing Authority the independent consultant's assessment of the rating level of noise immissions within two months of the date of the written request of the Licensing Authority for compliance measurements to be made under paragraph (4), unless the time limit is extended in writing by the Licensing Authority. Certificates of calibration of the instrumentation used to undertake the measurements shall be submitted to the Licensing Authority with the independent consultant's assessment of the rating level of noise immissions.

Where a further assessment of the rating level of noise immissions from the wind farm is required, the Licensee shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (4) above unless the time limit has been extended in writing by the Licensing Authority.

3.4 Upon Completion of the Licensed Activity

3.4.1 The Licensee must send notification to the Source Data Receipt team, UKHO, (email: sdr@ukho.gov.uk) no later than 10 working days after the Completion of the Licensed Activity. The information provided must include: latitude and longitude coordinates in WGS84 (ETRS89) datum of the Works, as installed, on and/or above the seabed, any changes to engineering drawings, post dredge surveys, and details of new or changed aids to navigation where applicable. A copy of the notification must be sent to the Licensing Authority within five working days of the notification being sent.

The Licensee must ensure the seabed is returned to the original profile, or as close as reasonably practicable, following the Completion of the Licensed Activity. The Licensee must complete post-installation hydrographic surveys of the site of the Works or subsections thereof, and periodic hydrographic surveys thereafter, to the IHO Order 1a survey standard as per the MCA's MGN 654 and supplementary updates. The data and a corresponding report of the survey findings must be supplied to the UKHO on completion of these surveys, with notification to the MCA hydrography manager and the Licensing Authority.

The Licensee must ensure that local mariners, fishermen's organisations and HM Coastguard, in this case the National Maritime Coastguard Centre, are made fully aware of the Completion of the Licensed Activity.

The Licensee must ensure that the Completion of the Licensed Activity is promulgated in the soonest Kingfisher Fortnightly Bulletin following Completion of the Licensed Activity to inform the commercial fishing industry.

The Licensee must ensure that the WTGs are actively monitored throughout the lifetime of the Works. The Licensee must ensure that a contingency plan is in place to respond to any reported catastrophic failures which may result in the WTGs, or part(s) thereof, breaking loose and becoming a buoyant hazard. This contingency plan must include the transmission of local radio navigation warnings.

The Licensee must not exhibit, alter or discontinue navigational lighting of the Licensed Activity without the statutory sanction of the Commissioners of Northern Lighthouses.

3.4.2 The Licensee must take all reasonable, appropriate and practicable steps at the end of the operational life of the Licensed Activity to restore the site of the Works to its original pre-construction condition, or to as close to its original condition as is reasonably practicable, in accordance with the PEMP and the DP and to the satisfaction of the Licensing Authority.

Should the Licensed Activity be discontinued prior to expiry date of the licence, the Licensee must inform the Licensing Authority in writing of the discontinuation of the Licensed Activity. A separate marine licence will be required for the removal of the Licensed Activity.

3.4.3 The Licensee must notify the Licensing Authority, in writing, of the date of the Completion of the Licensed Activity, no more than one calendar month following the Completion of the Licensed Activity.

3.4.4 The Licensee must, within one month of the Completion of the Licensed Activity, provide the coordinates accurate to three decimal places of minutes of arc for the WTGs and position and maximum height of the WTGs to the Defence Geographic Centre, MOD, and any other such advisers or organisations as may be required for nautical charting and aviation purposes.

3.4.5 The Licensee must, no later than one calendar month following the Completion of the Licensed Activity submit a report, in writing, to the Licensing Authority stating the date of Completion of the Licensed Activity, the nature and quantity of all substances and/or objects placed below Mean High Water Springs and all materials used in construction under the authority of this licence.

3.4.6 The Licensee must, within three months after the Completion of the Licensed Activity, provide the following information to the MCA and the Licensing Authority:

- a) A list of latitude and longitude co-ordinates accurate to three decimal places of minutes of arc for the WTGs. This must also be provided as a GIS shape file using WGS84 format; and
- b) A table or diagram of the dimensions of the WTGs including - height to blade tip (measured above LAT) to the highest point, height to hub (measured above LAT to the centreline of the generator shaft), rotor diameter and maximum rotation speed.

3.4.7 The Licensee must provide the Licensing Authority with the MMO records no later than two months following Completion of the Licensed Activity.

3.4.8 The Licensee must submit a close out report to the Licensing Authority, MCA, UKHO and NatureScot within three months of the date of completion of construction. The close out report must confirm the date of completion of

construction and must include the following details:

- a) the final number of installed WTGs;
- b) as built plans;
- c) latitude and longitude coordinates of the centre point of the location for each WTG and offshore platform, substation, booster station and meteorological mast provided as Geographical Information System data referenced to WGS84 datum; and
- d) latitude and longitude coordinates of the inter array and export cable routes; provided as Geographical Information System data referenced to WGS84 datum.

3.4.9 The Licensee must notify the UKHO of the Completion of the Licensed Activity to facilitate the promulgation of maritime safety information and updating of admiralty charts and publications through the national Notice to Mariners system.

3.4.10 The Licensee must, within one month of the Completion of the Licensed Activity, provide the “as-built” positions and maximum heights of all WTG, along with any sub-sea infrastructure, to the UKHO for aviation and nautical charting purposes.

3.4.11 The Licensee must, as per the requirements of the MCA's MGN 543 and supplementary updates, complete post-installation hydrographic surveys of the Site or subsections thereof, to the IHO Order 1a survey standard. On completion of these surveys, the data and a corresponding report of survey must be supplied to the UKHO, with notification to the MCA hydrography manager and the Licensing Authority.

3.4.12 The Licensee must ensure that local mariners, fishermen's organisations and HM Coastguard, in this case the National Maritime Coastguard Centre are made fully aware of the Completion of the Licensed Activity.

3.4.13 The Licensee must ensure that the Completion of the Licensed Activity is promulgated in the Kingfisher Fortnightly Bulletin to inform the commercial fishing industry.

3.4.14 The Licensee must, where any damage, destruction or decay is caused to the Works, notify the Licensing Authority, in writing, of such damage, destruction or decay as soon as reasonably practicable following such damage, destruction or decay. The Licensee must carry out any remedial action which the Licensing Authority advises the Licensee, in writing, as requiring to be taken, which may include a requirement to display aids to navigation, following consultation by the Licensing Authority with the MCA, the NLB or any such advisers as required.

3.4.15 The Licensee must ensure that the WTG are actively monitored during the operation and maintenance phases. The Licensee must ensure that a contingency plan is in place to respond to any reported catastrophic failures which may result in the WTG, or part(s) thereof, breaking loose and becoming a buoyant hazard. This contingency plan must include the transmission of local radio navigation warnings.

3.4.16 The Licensee must ensure that no radio beacon or radar beacon operating in the marine frequency bands is installed or used on the Works without the prior written approval of the OfCom.

3.4.17 The Licensee must not exhibit, alter or discontinue navigational lighting of the Works without the statutory sanction of the Commissioners of Northern Lighthouses. An 'Application for Statutory Sanction to Discontinue' form must be submitted to NLB for the removal of the construction buoyage. Only upon successful inspection of the operational phase aids to navigation by NLB will the Sanction for the removal of the construction buoyage be granted.

3.4.18 The Licensee must complete and submit a close-out report for all aspects of the Works that produced loud, low to medium frequency (10 Hz-10 kHz) impulsive noise in the online Noise Registry no later than 12 weeks from the Completion of the Works.

NOTES

1. You are deemed to have satisfied yourself that there are no barriers, legal or otherwise, to the carrying out of the licensed activity. The issue of the licence does not absolve the licensee from obtaining such authorisations, consents etc which may be required under any other legislation.
2. In the event that the licensee wishes any of the particulars set down in the Schedule to be altered, the licensing authority must be immediately notified of the alterations. It should be noted that changes can invalidate a licence, and that an application for a new licence may be necessary.

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CONSTRUCT, ALTER OR IMPROVE WORKS IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00009992**

The Scottish Ministers (hereinafter referred to as "the Licensing Authority") hereby grant a marine licence authorising:

Highland Wind Limited
4th Floor,
115 George Street,
Edinburgh
EH2 4JN

to construct, alter or improve works as described in Part 2. The licence is subject to the conditions set out, or referred to, in Part 3.

The licence is valid from **28 June, 2023** until **31 May, 2035** or until the Works have been decommissioned in accordance with an approved Decommissioning Programme prior to this date and for which a separate marine licence is required.

[Redacted]

Signed:

For and on behalf of the Licensing Authority

Date of issue: 28 June, 2023

1. PART 1 - GENERAL

1.1 Interpretation

In the licence, terms are as defined in Section 1, 64 and 157 of the Marine Scotland Act 2010, and

“**CAA**” means Civil Aviation Authority;
 “**CoP**” means Construction Programme;
 “**CaP**” means Cable Plan;
 “**CMS**” means Construction Method Statement;
 “**Commencement of the Licensed Activity**” means the date on which the first vehicle or vessel arrives on the site to begin carrying on any activities in connection with the Licensed Activity;
 “**Completion of the Licensed Activity**” means the date on which the Licensed Activity has been installed in full, or the Licensed Activity has been deemed complete by the Licensing Authority, whichever occurs first;
 “**DS**” means Design Statement;
 “**DP**” means Decommissioning Programme;
 “**ECoW**” means Environmental Clerk of Works;
 “**EIAR**” means Environmental Impact Assessment Report;
 “**EMF**” means Electromagnetic Field;
 “**EMP**” means Environmental Management Plan;
 “**FLO**” means Fisheries Liaison Officer;
 “**FMMS**” means Fisheries Management and Mitigation Strategy;
 “**GIS**” means Geographic Information System;
 “**HAT**” means Highest Astronomical Tide;
 “**HES**” means Historic Environment Scotland;
 “**IALA**” means International Association of Marine Aids to Navigation and Lighthouse Authorities;
 “**LAT**” means Lowest Astronomical Tide;
 “**Licensed Activity**” means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under the licence;
 “**Licensee**” means Highland Wind Limited (Company Number: SC675148) having its registered office at 4th Floor 115 George Street, Edinburgh, Midlothian, Scotland, EH2 4JN;
 “**LMP**” means Lighting and Marking Plan;
 “**MCA**” means Maritime and Coastguard Agency;
 “**Mean High Water Springs**” means any area submerged at mean high water spring tide;
 “**MGN**” means Marine Guidance Note;
 “**MMO**” means Marine Mammal Observers;
 “**MOD**” means Ministry of Defence;
 “**NLB**” means Northern Lighthouse Board;
 “**NSP**” means Navigational Safety Plan;
 “**OMP**” means Operational and Maintenance Programme;
 “**PAD**” means Protocol for Archaeological Discoveries;
 “**PEMP**” means Project Environmental Management Programme;
 “**PMP**” means Particles Management Plan;
 “**RSPB Scotland**” means Royal Society for the Protection of Birds Scotland;
 “**RYA**” means Royal Yachting Association;
 “**ScotMER**” means Scottish Marine Energy Research;
 “**SEPA**” means Scottish Environment Protection Agency;
 “**SFF**” means Scottish Fishermen’s Federation;
 “**the 2010 Act**” means the Marine (Scotland) Act 2010;
 “**the Application**” means the Application letter, marine licence applications and EIA Report including appendices submitted to the Scottish Ministers by Highland Wind Limited on 11 August 2022;

“**the Works**” means offshore wind farm transmission infrastructure comprising offshore export cables and associated cable protection.;

”**UKHO**” means UK Hydrographic Office;

“**VMP**” means Vessel Management Plan;

“**WSI**” means Written Scheme of Investigation;

All geographical co-ordinates contained within the licence are in WGS84 format (latitude and longitude degrees and minutes to three decimal places) unless otherwise stated.

1.2 Contacts

All correspondence or communications relating to the licence should be addressed to:

The Marine Directorate
Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB
Email: MS.MarineRenewables@gov.scot

1.3 Other authorisations and consents

The Licensee is deemed to have satisfied itself that there are no barriers or restrictions, legal or otherwise, to the carrying on of the Licensed Activities in connection with the licensed activity. The issuing of the licence does not absolve the Licensee from obtaining such other authorisations and consents, which may be required under statute.

1.4 Variation, suspension, revocation and transfer

Under section 30 (1) of the 2010 Act the Licensing Authority may by notice vary, suspend or revoke the licence granted by them if it appears to the Licensing Authority that there has been a breach of any of its provisions. For any such other reason that appears to be relevant to the Licensing Authority under section 30(2) or (3) of the 2010 Act. Under the 2010 Act variations, suspensions, revocations and transfers of licences are subject to the procedures set out in section 31 of the Act.

Under section 30 (7) of the 2010 Act, on an application made by a licensee, the Licensing Authority may vary a licence if satisfied that the variation being applied for is not material.

Under section 30 (8) of the 2010 Act, on an application made by the licensee, the Licensing Authority may transfer the licence from the Licensee to another person.

1.5 Breach of requirement for, or conditions of, licence

Under section 39 of the 2010 Act it is an offence to carry on a Licensable Marine Activity without a marine licence and it is also an offence to fail to comply with any condition of a marine licence.

1.6 Defences: actions taken in an emergency

Under section 40 of the 2010 Act it is a defence for a person charged with an offence under section 39(1) of the 2010 Act in relation to any activity to prove that –
the activity was carried out for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure ('force majeure'), and
that the person took steps within a reasonable time to inform the Licensing Authority as set out in section 40(2) of the 2010 Act.

1.7 Offences relating to information

Under section 42 of the 2010 Act it is an offence for a person to make a statement which is false or misleading in a material way, knowing the statement to be false or misleading or being reckless as to whether the statement is false or misleading, or to intentionally fail to disclose any material information for the purpose of procuring the issue, variation or transfer of a marine licence or for the purpose of complying with, or purporting to comply with, any obligation imposed by either Part 4 of the 2010 Act or the provisions of this licence.

1.8 Appeals

Under Regulation 3(1) of the Marine Licensing Appeals (Scotland) Regulations 2011 a person who has applied for a marine licence may by summary application appeal to against a decision taken by the Licensing Authority under section 71(1)(b) or (c) or (5) of the Act.

2. PART 2 – PARTICULARS

2.1 Agent

Highland Wind Limited
4th Floor,
115 George Street,
Edinburgh
EH2 4JN

2.2 Location of the Licensed Activity

Pentland Floating Offshore Wind Farm (Offshore Transmission Infrastructure Area),

58° 34.605' N 03° 45.709' W
58° 34.603' N 03° 45.748' W
58° 34.571' N 03° 45.797' W
58° 34.570' N 03° 45.873' W
58° 34.562' N 03° 45.928' W
58° 34.525' N 03° 46.007' W
58° 34.537' N 03° 46.101' W
58° 34.513' N 03° 46.167' W
58° 34.516' N 03° 46.119' W
58° 34.490' N 03° 46.188' W
58° 34.484' N 03° 46.286' W
58° 34.453' N 03° 46.339' W
58° 34.420' N 03° 46.370' W
58° 34.399' N 03° 46.451' W
58° 34.341' N 03° 46.550' W
58° 34.533' N 03° 46.583' W
58° 34.547' N 03° 46.586' W
58° 34.579' N 03° 46.591' W
58° 37.730' N 03° 53.540' W
58° 40.427' N 03° 53.600' W
58° 40.445' N 03° 51.014' W
58° 34.605' N 03° 45.709' W

As shown in Annex One.

2.3 Description of the Works

Offshore wind farm transmission infrastructure comprising offshore export cables and associated cable protection.

As described in the application dated 11 August, 2022 and correspondence submitted in support of the application.

2.4 Descriptions of the materials to be used during the Licensed Activity

The licence authorises the use of the undernoted construction materials required in connection with the licensed activity, subject to the indicative amounts as specified below:

Steel/Iron - 10 Tonnes

Plastic/Synthetic - Trace amounts of synthetics embedded in scour protection solutions

Sand - 87,500 m³

Stone/Rock/Gravel - 87,500 m³

Concrete Bags/Mattresses - 87,500 m³

Cable - 25,000 m

Composite Plastic - 25 Tonnes

2.5 Contractor and Vessel Details

To be confirmed.

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 The Licensee must only construct the Works in accordance with this licence, the Application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.2 The Licensee must maintain the Works in accordance with this licence, the Application and any plans or programmes approved by the Licensing Authority unless otherwise authorised by the Licensing Authority.

3.1.3 All conditions attached to the licence bind any person who for the time being owns, occupies or enjoys any use of the Works, whether or not the licence has been transferred to that person.

3.1.4 Only the materials listed in Part 2 of the licence may be used during the execution of the Licensed Activity.

3.1.5 All materials, substances and objects used during the execution of the Licensed Activity must be inert and must not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

3.1.6 The Licensee must ensure that the Licensed Activity does not encroach on any recognised anchorage, either charted or noted in nautical publications, within the licensed area as described in Part 2 of the Licence.

3.1.7 Where any damage, destruction or decay is caused to the Works, the Licensee must notify the Licensing Authority, Maritime and Coastguard Agency (“MCA”), Northern Lighthouse Board (“NLB”), Kingfisher Information Services of Seafish and the UK Hydrographic Officer, in writing, of such damage, destruction or decay as soon as reasonably practicable but no later than 24 hours after becoming aware of any such damage, destruction or decay. The Licensee must carry out any remedial action as required by the Licensing Authority, following consultation with the MCA, NLB or any such advisors as required by the Licensing Authority.

The Licensee must remove the materials, from below the level of Mean High Water Springs, or make such alterations as advised by the Licensing Authority, at timescales to be determined by the Licensing Authority at any time it is considered necessary or advisable for the safety of navigation, and not replace those materials without further approval by the Licensing Authority. The Licensee shall be liable for any expense incurred.

3.1.8 If governmental assistance is required (including UK governmental assistance or the assistance of any UK devolved government) to deal with any emergency arising from:

- a) the failure to mark and light the Works as required by the licence;
- b) the maintenance of the Works; or
- c) the drifting or wreck of the Works, to include the broadcast of navigational warnings

then the Licensee is liable for any expenses incurred in securing such assistance.

3.1.9 The Licensee must take all measures which are technically and economically feasible to minimise leakage of fluorinated greenhouse gases. Where leakage of fluorinated greenhouse gases is detected, the Licensee must ensure that the equipment is repaired without undue delay.

The Licensee must ensure that all equipment to be utilised in the Licensed Activity that contains fluorinated greenhouse gases in quantities of five tonnes or more of CO₂ equivalent and not contained in foams is checked for leakage in accordance with Article 4 of the F-Gas Regulation. Records of these checks must be kept in accordance with Article 6 of the F-Gas Regulation. These records must be submitted to the Licensing Authority annually and immediately in the event of discovery of leakage.

Where the equipment is subject to checks for leakage under Article 4(1) of the F-Gas Regulation and leakage in the equipment has been repaired, the Licensee must ensure that the equipment is checked by a suitably certified person within one calendar month after the repair to verify that the repair has been effective. In such event, the Licensing Authority must be informed of the date of discovery, date of repair and date of inspection.

3.1.10 The Licensee must seek prior written approval from the Licensing Authority for any chemicals in an open system which are to be utilised in the construction, operation and maintenance of the Licensed Activity. Requests for approval must be submitted in writing to the Licensing Authority no later than one month prior to its intended use or such other period as agreed by the Licensing Authority. The Licensee must ensure that no chemicals are used in an open system without the prior written approval of the Licensing Authority.

If the proposed chemical is on the Offshore Chemical Notification Scheme list, the approval request must include the chemical name, volume or quantity to be used, the Offshore Chemical Notification Scheme list grouping or rank and the proposed frequency of use.

If the proposed chemical is not on the Offshore Chemical Notification Scheme list, the approval request must include details of chemicals to be used, including safety data sheet, depth and current at the site of the Works, quantities or volumes and the proposed frequency of use.

The Licensee must notify the Licensing Authority of the types of chemicals to be used in a closed containment system prior to use.

The Licensee must take all practicable steps to avoid leakages from a closed containment system into the Scottish marine area. Any such leakages must be reported to the Licensing Authority as soon as practicable.

3.1.11 The Licensee must submit all reports and notifications to the Licensing Authority, in writing, as are required under this licence within the time periods specified in this licence. Where there may be a delay in the submission of the reports or notifications to the Licensing Authority, the Licensee must advise the Licensing Authority of this fact as soon as is practicable and no later than the time by which those reports or notifications ought to have been submitted to the Licensing Authority under the terms of this licence.

The reports must include executive summaries, assessments and conclusions and any data will, subject to any rules permitting non-disclosure, be made publicly available by the Licensing Authority or by any such party appointed at its discretion.

Reports prepared pursuant to another consent or licence relating to the Works by the Licensee or by a third party may also be used to satisfy the requirements of this licence.

Such reports will include, but not be limited to Marine Mammal Observer ("MMO") records and all appropriate reports stipulated within the Project Environment Monitoring Plan ("PEMP").

3.1.12 The Licensee must operate and maintain the Works in accordance with the approved Operation and

Maintenance Programme ("OMP") (see condition 3.2.14). The Licensing Authority must be notified at least three calendar months, or such other period as agreed by the Licensing Authority in advance, of any maintenance of the Licensed Activity not included in the OMP and involving licensable marine activities not covered under this licence.

3.1.13 In the event of the Licensed Activity being discontinued the materials used under the authority of this licence must be removed to the satisfaction of the Licensing Authority.

3.1.14 The Licensee must ensure that the Works are maintained at all times in good repair.

3.1.15 The Licensee must ensure that the Licensed Activity is only carried out at the location of the Licensed Activity specified in Part 2 of this licence. The cables must be constructed only at the locations specified in Part 2 of this licence.

3.1.16 There must be no Commencement of the Licensed Activity until a Decommissioning Programme ("DP"), as defined in any section 105 notice served by the appropriate Minister, has been approved under section 106 of the Energy Act 2004 by the Licensing Authority.

3.1.17 The Licensee must submit plans and the details and specifications of all studies and surveys that are required to be undertaken under this licence in relation to the Licensed Activity, in writing, to the Licensing Authority for its written approval. Commencement of the studies or surveys and implementation of plans must not occur until the Licensing Authority has given its written approval to the Licensee.

Plans or the specification of studies and surveys prepared pursuant to another consent or licence relating to the Licensed Activity by the Licensee or by a third party may also be used to satisfy the requirements of this licence.

Any updates or amendments made to the approved plans must be submitted, in writing, to the Licensing Authority for its prior written approval. The Works must, at all times, be constructed and operated in accordance with the approved plans.

3.1.18 The Licensee must ensure that any debris or waste materials arising during the course of the Licensed Activity are removed for disposal at an approved location above the tidal level of Mean High Water Springs.

3.1.19 The Licensee must ensure that copies of this licence are available for inspection by any authorised marine enforcement officer at:

- a) the premises of the Licensee;
- b) the premises of any agent acting on behalf of the Licensee; and
- c) the site of the Licensed Activity.

3.1.20 Any person authorised by the Licensing Authority must be permitted to inspect the Works at any reasonable time. The Licensee must, on being given reasonable notice by the Licensing Authority (of at least 72 hours), provide transportation to and from the site for any persons authorised by the Licensing Authority to inspect the site of the Works. The Licensee shall be liable for any expense incurred.

3.1.21 The Licensee must inform the local Fishery Office(s) in writing at least five days prior to the Commencement of the Licensed Activity, or any part thereof, and within five days of Completion of the Licensed Activity.

The Kingfisher Information Service of Seafish, must be informed of details of the vessel routes, timings and locations

relating to the construction of the authorised project or any part thereof by email to kingfisher@seafish.co.uk:

- a) at least 14 days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data, and;
- b) as soon as reasonably practicable and no later than 24 hours of completion of all offshore activities.

Confirmation of notification must be provided to the Licensing Authority within five days.

The Licensee must ensure that a local notification to mariners is issued at least 14 days prior to the Commencement of the Licensed Activity, or any part thereof, advising of the start date and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the Licensing Authority, MCA and the UK Hydrographic Office (“UKHO”) within five days.

The Licensee must ensure that local notifications to mariners are updated and reissued at weekly intervals during construction activities and at least five days before any planned operations (or otherwise agreed) and maintenance works and supplemented with Very High Frequency (“VHF”) radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under deemed marine licence condition 3.2.12.

Copies of all notices must be provided to the Licensing Authority and UKHO within five days.

The Licensee must notify the UKHO within 14 days of the Completion of the Licensed Activity, or any part thereof, in order that all necessary amendments are made to nautical charts.

Copies of all notices must be provided to the Licensing Authority and MCA within five days.

In case of damage to, or destruction or decay of, the Licensed Activity seaward of Mean High Water Springs, or any part thereof, excluding the exposure of cables, the Licensee shall as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the Licensing Authority, MCA, NLB, the Kingfisher Information Service of Seafish and the UKHO.

In case of exposure of cables on or above the seabed, the Licensee must within three days following identification of a potential cable exposure, notify mariners and inform Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the Licensing Authority, MCA, NLB, and the UKHO within five days.

3.1.22 The Licensed Activity shall be undertaken in accordance with the Schedule of Mitigation contained within Chapter 22 of the Environmental Impact Assessment Report unless otherwise agreed in advance in writing with the Licensing Authority.

3.2 Prior to the commencement of the Licensed Activity

3.2.1 The Licensee must, prior to and no less than one calendar month before the Commencement of the Licensed Activity, notify the Licensing Authority, in writing, of the proposed date of the Commencement of the Licensed Activity authorised under this licence.

3.2.2 The Licensee must ensure that at least five days prior to its engagement in the Licensed Activity, the name and function of any vessel (including the master's name, vessel type, vessel international maritime organisation number and vessel owner or operating company), agent, contractor or subcontractor appointed to engage in the

Licensed Activity are fully detailed in contractor and vessel reports ("the Reports") which the Licensee must make available on its website: <https://pentlandfloatingwind.com/>. Any changes to the supplied detailed must be uploaded to the Reports and the Licensing Authority and the relevant statutory harbour authority must be notified, in writing, prior to any vessel, agent, contractor or sub-contractor which has not yet been notified to the Licensing Authority engaging in the Licensed Activity. Only those vessels, agents, contractors or sub-contractors detailed in the Reports are permitted to carry out any part of the Licensed Activity. Any vessels involved in drilling and deposit of drilling arisings must be notified to the Licensing Authority. The Licensee must satisfy itself that any masters of vessels or vehicle operators, agents, contractors or sub-contractors are aware of the extent of the Licensed Activity and the conditions of this licence.

All masters of vessels or vehicle operators, agents, contractors and sub-contractors permitted to engage in the Licensed Activity must abide by the conditions of this licence.

The Licensee must give a copy of this licence, and any subsequent variations made to this licence in accordance with section 30 of the 2010 Act, to the masters of any vessels, vehicle operators, agents, contractors or sub-contractors permitted to engage in the Licensed Activity and must ensure that the licence and any such variations are read and understood by those persons.

3.2.3 The Licensee must complete and send a Marine Emergency Action Card for the Licensed Activity to oelo@mcga.gov.uk at least 10 working days prior to Commencement of the Licensed Activity.

3.2.4 The Licensee must contact the relevant statutory harbour authority, prior to Commencement of the Licensed Activity to discuss the requirements for navigational warnings and a Works licence.

The Licensee must ensure that a communications procedure is established and agreed with the relevant statutory harbour authority prior to the Commencement of the Licensed Activity.

3.2.5 The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code where appropriate during the Licensed Activity.

3.2.6 There must be no Commencement of the Licensed Activity until the Licensee has satisfied the Licensing Authority, by consultation with the MCA, that it has taken into account and adequately addressed all of the recommendations of the MCA in the current Marine Guidance Note ("MGN") 654, and its annexes, or any other relevant document which may supersede this guidance.

3.2.7 Prior to the Commencement of the Licensed Activity, the Licensee must appoint an MMO. When appointed, the MMO must, as a minimum, maintain a record of any sightings of marine mammals and maintain a record of the action taken to avoid any disturbance being caused to marine mammals during noisy activities.

The Licensee must ensure that all personnel adhere to the Scottish Marine Wildlife Watching Code where appropriate during all alteration and improvement activities authorised under this licence.

3.2.8 The Licensee must, no later than 10 days prior to Commencement of the Licensed Activity, notify the UKHO at sdr@ukho.gov.uk, of the proposed Licensed Activity. The notification must include the start and end date of the Licensed Activity, a description of the Works, positions of the area of the Works (WGS84), and details of any marking arrangements. A copy of the notification must be sent to the Licensing Authority within five working days of the notification being sent.

The Licensee must ensure that local mariners and fishermen's organisations are made fully aware of the Works through a local notification. This must be issued at least five days before the Commencement of the Licensed Activity. The Licensing Authority must be sent a copy of this notification within 24 hours of issue.

The Licensee must, no later than seven days prior to the Commencement of the Licensed Activity, notify Zone4@hmcg.gov.uk and renewables@hmcg.gov.uk of the proposed Licensed Activity. A copy of the notification must be sent to the Licensing Authority within five working days of the notification being sent.

The Licensee must ensure that details of the Licensed Activity are promulgated in the Kingfisher Fortnightly Bulletin, no later than seven days prior to the Commencement of the Licensed Activity to inform the Sea Fish Industry of the vessel routes, the timings and the location of the Licensed Activity and of the relevant operations.

3.2.9 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a Construction Programme ("CoP"), in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, Civil Aviation Authority ("CAA"), Ministry of Defence ("MOD"), and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The CoP must set out:

- a. The proposed date for Commencement of the Licensed Activity;
- b. The proposed timings for mobilisation of plant and delivery of materials, including details of onshore lay-down areas;
- c. The proposed timings and sequencing of construction work for all elements of the Works infrastructure;
- d. Contingency planning for poor weather or other unforeseen delays; and
- e. The scheduled date for the Completion of the Licensed Activity.

The Licensee must send the approved CoP to The Highland Council, MCA, and NLB for information only.

3.2.10 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an Environmental Management Plan ("EMP"), in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority. NatureScot, Royal Society for the Protection of Birds Scotland ("RSPB Scotland"), and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The EMP must provide the over-arching framework for on-site environmental management during the phases of the Works as follows:

- a. All construction as required to be undertaken before the Completion of the Licensed Activity; and
- b. The operational lifespan of the Works from the Completion of the Licensed Activity until the cessation of electricity generation (environmental management during decommissioning is addressed by the DP provided for by condition 3.1.16).

The EMP must be in accordance with the Application insofar as it relates to environmental management measures. The EMP must set out the roles, responsibilities and chain of command for the Licensees personnel, any contractors or sub-contractors in respect of environmental management for the protection of environmental interests during the construction and operation of the Works. It must address, but not be limited to, the following over-arching requirements for environmental management during construction:

- a. Mitigation measures to prevent significant adverse impacts to environmental interests, as identified in the Application and pre-consent and pre-construction monitoring or data collection, and include reference to relevant parts of the Construction Method Statement (“CMS”) (refer to condition 3.1.16);
- b. A pollution prevention and control method statement, including contingency plans;
- c. Management measures to prevent the introduction of invasive non-native marine species;
- d. A site waste management plan (dealing with all aspects of waste produced during the construction period), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment. Wherever possible the waste hierarchy of reduce, reuse and recycle should be encouraged; and
- e. The reporting mechanisms that will be used to provide the Licensing Authority and relevant stakeholders with regular updates on construction activity, including any environmental issues that have been encountered and how these have been addressed.

The EMP must be regularly reviewed by the Licensee at intervals agreed by the Licensing Authority. Reviews must include, but not be limited to, the reviews of updated information on construction methods and operations of the Works and updated working practices.

The EMP must be informed, so far as is reasonably practicable, by the baseline monitoring or data collection undertaken as part of the Application and the PEMP.

3.2.11 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity submit a CMS, in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, MCA, NLB and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The CMS must include, but not be limited to:

- a. Details of the commencement dates, duration and phasing for the key elements of construction, the working areas, the construction procedures and good working practices for installing the Works;
- b. Details of the roles and responsibilities, chain of command and contact details of Licensees personnel, any contractors or sub-contractors involved during the construction of the Works; and
- c. Details of how the construction related mitigation steps proposed in the Application are to be delivered.

The CMS must adhere to the construction methods assessed in the Application. The CMS also must, so far as is reasonably practicable, be consistent with the Design Statement (“DS”), the EMP, the Vessel Management Plan (“VMP”), the Navigational Safety Plan (“NSP”), the Cable Plan (“CaP”) and the Lighting and Marking Plan (“LMP”).

The final CMS must be sent to the Highland Council for information only.

3.2.12 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a VMP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority, NatureScot, MCA, Scottish Fishermen’s Federation (“SFF”) and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

The VMP must include, but not be limited to, the following details:

- a. The number, types and specification of vessels required;
- b. How vessel management will be coordinated, particularly during construction, but also during operation;
- c. Location of working port(s), the routes of passage, the frequency with which vessels will be required to transit

between port(s) and the site and indicative vessel transit corridors proposed to be used during construction and operation of the Works.

The confirmed individual vessel details must be notified to the Licensing Authority in writing no later than 14 days prior to the Commencement of the Licensed Activity, and thereafter, any changes to the details supplied must be notified to the Licensed Authority, as soon as practicable, prior to any such change being implemented in the construction or operation of the Licensed Activity.

The VMP must refer to the Scottish Marine Wildlife Watching Code and Guide to Best Practice for Watching Marine Wildlife for guidance on how vessels should behave around aggregations of birds on the water.

The VMP must, so far as is reasonably practicable, be consistent with the CMS and EMP, the Fisheries Management and Mitigation Strategy ("FMMS"), the PEMP, the NSP, and the LMP.

3.2.13 The Licensee must, no later than three months prior to the Completion of the Licensed Activity, submit an OMP, in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensed Authority with NatureScot, MCA, NLB, The Highland Council and any such other advisors or organisations as may be required at the discretion of the Licensed Authority.

The OMP must set out the procedures and good working practices for operations and the maintenance of the Works and substructure of the Works. Environmental sensitivities which may affect the timing of the operation and maintenance activities must be considered in the OMP.

The OMP must, so far as is reasonably practicable, be consistent with the CMS, the EMP, the PEMP, the VMP, the NSP and the LMP.

The Licensee must send the approved OMP to The Highland Council for information only.

3.2.14 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a NSP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with MCA, NLB, Royal Yachting Association ("RYA"), SFF and any other navigational advisors or organisations as may be required at the discretion of the Licensing Authority.

The NSP must include, but not be limited to, the following issues:

- a. Navigational safety measures;
- b. Construction exclusion zones;
- c. Notice(s) to mariners and radio navigation warnings;
- d. Anchoring areas;
- e. Temporary construction lighting and marking;
- f. Buoyage.

3.2.15 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an updated CaP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, MCA, SFF, and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. The CaP must be in accordance with the Application.

The CaP must include, but not be limited to, the following:

- a) The location, duration and cable laying techniques for cables;
- b) The results of monitoring or data collection work (including geophysical, geotechnical and benthic surveys) which will help inform cable routing;
- c) Technical specification of the cables, including a desk based assessment of attenuation of electromagnetic field strengths and shielding;
- d) A Cable Burial Risk Assessment (“CBRA”) to ascertain burial depths and where necessary alternative protection measures;
- e) Methodologies for post construction and operational surveys (e.g., over trawl) of the cables where mechanical protection of cables laid on the sea bed is deployed; and
- f) Methodologies for cable inspection with measures to address and report to the Licensing Authority any exposure of cables; and
- g) The anticipated areas of cable protection.

Any consented cable protection works must ensure existing and future safe navigation is not compromised. The Licensing Authority will accept a maximum of 5% reduction in surrounding depth referenced to Chart Datum. Any greater reduction in depth must be agreed in writing by the Licensing Authority.

3.2.16 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a PEMP, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may only be granted following consultation by the Licensing Authority with NatureScot, RSPB Scotland, and any other environmental advisors or organisations as required at the discretion of the Licensing Authority. The PEMP must be in accordance with the Application as it relates to environmental monitoring.

The PEMP must set out measures by which the Licensee must monitor the environmental impacts of the Works. Monitoring is required throughout the lifespan of the Works where this is deemed necessary by the Licensing Authority. Lifespan in this context includes pre-construction, construction, operational and decommissioning phases.

The Licensing Authority must approve all initial methodologies for the above monitoring, in writing and, where appropriate, in consultation with NatureScot and any other environmental advisors or organisations as required at the discretion of the Licensing Authority.

Monitoring must be done in such a way so as to ensure that the data which is collected allows useful and valid comparisons between different phases of the Works. Monitoring may also serve the purpose of verifying key predictions in the Application. In the event that further potential adverse environmental effects are identified, for which no predictions were made in the Application, the Licensing Authority may require the Licensee to undertake additional monitoring.

The PEMP must cover the following matters:

- a) monitoring or data collection for impact on seabirds;
- b) monitoring for impacts on marine mammals;
- c) monitoring for impacts on benthic ecology;
- d) Post-construction monitoring on Electromagnetic Fields (“EMF”) produced by the constructed cables; and
- e) The Licensee’s contribution to data collection or monitoring of wider strategic relevance, including in relation to

diadromous fish, as identified and agreed by the Licensing Authority.

In relation to EMF, the Licensee must monitor and provide a report on the EMF produced by the Works to the Licensing Authority. The Licensee must agree the methodologies and timescales for monitoring with the Licensing Authority prior to the Commencement of the Licensed Activity as part of wider strategic monitoring on EMF. Any agreement must be adhered to unless otherwise agreed and approved by the Licensing Authority.

The requirement for monitoring pre-construction, during construction and post-construction in relation to the above receptors must be agreed by the Licensing Authority.

Due consideration must be given to the Scottish Marine Energy Research (“ScotMER”) programme, or any successor programme formed to facilitate these research interests.

Any pre-consent monitoring or data collection carried out by the Licensee to address any of the above issues may be used in part to discharge this condition subject to the written approval of the Licensing Authority.

The PEMP is a live document which will be regularly reviewed by the Licensing Authority, at timescales to be determined by them to identify the appropriateness of on-going monitoring. Following such reviews, the Licensing Authority may require the Licensee to amend the PEMP and submit such an amended PEMP, in writing, to the Licensing Authority, for its written approval. Such approval may only be granted following consultation with NatureScot and any other environmental, or such other advisors as may be required at the discretion of the Licensing Authority.

The Licensee must submit written reports and associated raw and processed data of such monitoring or data collection to the Licensing Authority at timescales to be determined by them. Consideration should be given to data storage, analysis and reporting and be to Marine Environmental Data and Information Network standards.

Subject to any legal restrictions regarding the treatment of the information, the Licensing Authority, or any such other party appointed at the Licensing Authority’s discretion, may make the results publicly available.

The Licensing Authority may agree, in writing, that monitoring may be reduced or ceased before the end of the lifespan of the Works.

3.2.17 The Licensee must no later than six months prior to the Commencement of the Licensed Activity, submit a FMMS, in writing, to the Licensing Authority for its written approval, in consultation with SFF. Commencement of the Licensed Activity cannot take place until such approval is granted.

In order to inform the production of the FMMS, the Licensee must monitor or collect data as relevant and agreed with the Licensing Authority.

As part of any finalised FMMS, the Licensee must produce and implement a mitigation strategy for each commercial fishery that can prove to the Licensing Authority that they would be adversely affected by the Works. The Licensee and any contractors or sub-contractors working for the Licensee must implement the mitigation measures committed to be carried out by the Licensee within the FMMS.

3.2.18 The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an updated Protocol for Archaeological Discoveries (“PAD”) and Written Scheme of Investigation (“WSI”) which sets out what the Licensee must do on discovering any marine archaeology during the construction, operation, maintenance

and monitoring of the Works, in writing, to the Licensing Authority for its written approval. Commencement of the Licensed Activity cannot take place until such approval is granted. Such approval may be given only following consultation by the Licensing Authority with Historic Environment Scotland (“HES”) and any such advisors as may be required at the discretion of the Licensing Authority. The reporting protocol must be implemented in full, at all times, by the Licensee.

3.2.19 Not later than six months prior to the Commencement of the Licensed Activity, a Particles Management Plan (“PMP”) shall be submitted to the Licensing Authority for its written approval in consultation with the Scottish Environmental Protection Agency (“SEPA”).

The PMP shall be consistent with the Application and supporting documents and shall include, but not be limited to, the following:

- a. A programme of scheduled monitoring for radioactive particles;
- b. The measures to be taken to reduce the likelihood of irradiated fuel particles in sediment being suspended or disturbed; and
- c. A waste management plan for the construction phase of the Works.

There shall be no Commencement of the Licensed Activity unless and until the PMP is approved in writing by the Licensing Authority, in consultation with SEPA.

Any proposed amendment to the approved PMP shall be submitted, in writing, to the Licensing Authority for its written approval, in consultation with SEPA. The proposed amendment shall be submitted to the Licensing Authority no later than six months prior to the anticipated implementation of the proposed amendment (or such shorter period as may be agreed with the Licensing Authority in writing). No amendment to the PMP shall take effect unless and until approved in writing by the Licensing Authority in consultation with SEPA.

The PMP and any amended PMP shall thereafter be implemented in full.

3.2.20 Prior to the Commencement of the Licensed Activity, the Licensee must at its own expense, and with the approval of the Licensing Authority in consultation with NatureScot, appoint an independent Environmental Clerk of Works (“ECoW”). The ECoW must be appointed in time to review and approve the draft version of the first plan or programme submitted under this consent to the Licensing Authority, in sufficient time for any pre-construction monitoring requirements, and remain in post until a date agreed by the Licensing Authority. The terms of appointment must also be approved by the Licensing Authority in consultation with NatureScot.

The terms of the appointment must include, but not be limited to:

- a. Quality assurance of final draft versions of all plans and programmes required under this marine licence;
- b. Responsible for the monitoring and reporting of compliance with the marine licence conditions and the environmental mitigation measures for all wind farm infrastructure;
- c. Provision of on-going advice and guidance to the Licensee in relation to achieving compliance with conditions, including but not limited to the conditions relating to and the implementation of the CMS, the EMP, the PEMP, the CaP and the VMP;
- d. Provision of reports on point b & c above to the Licensing Authority at timescales to be determined by the Licensing Authority;
- e. Induction and toolbox talks to onsite construction teams on environmental policy and procedures, including temporary stops and keeping a record of these;

- f. Monitoring that the Works is being constructed in accordance with the plans and this marine licence, the Application and in compliance with all relevant regulations and legislation;
- g. Reviewing and reporting incidents/near misses and reporting any changes in procedures as a result to the Licensing Authority; and
- h. Agreement of a communication strategy with the Licensing Authority.

3.2.21 Prior to the Commencement of the Licensed Activity, a Fisheries Liaison Officer ("FLO"), must be appointed by the Licensee and approved, in writing, by the Licensing Authority, following consultation with SFF. The FLO must be appointed by the Licensee for the period from Commencement of the Licensed Activity until the Final Commissioning of the Works. The identity and credentials of the FLO must be included in the EMP (referred to in condition 3.2.11). The FLO must establish and maintain effective communications between the Licensee, any contractors or sub-contractors, fishermen and other users of the sea during the construction of the Works and ensure compliance with best practice guidelines whilst doing so.

The responsibilities of the FLO must include:

- a. Establishing and maintaining effective communications between the Licensee, any contractors or sub-contractors, fishermen and other users of the sea concerning the overall Works and any amendments to the EMP and site environmental procedures;
- b. The provision of information relating to the safe operation of fishing activity on the site of the Works; and
- c. Ensuring that information is made available and circulated in a timely manner to minimise interference with fishing operations and other users of the sea.

3.2.22 A swath bathymetric survey to IHO Order 1a of the area within the Offshore Order Limits extending to an appropriate buffer around the site, must be undertaken by the Licensee. The survey shall include all proposed cable routes.

This should fulfil the requirements of MGN654 and its supporting 'Hydrographic Guidelines for Offshore Renewable Energy Developers', which includes the requirement for the full density data and reports to be delivered to the MCA and the UKHO for the update of nautical charts and publications. This must be submitted as soon as possible, and no later than three months prior to the Commencement of the Licensed Activity. The Order Limit shapefiles must be submitted to MCA. The Report of Survey must also be sent to the Licensing Authority.

3.2.23 The Licensee must, no later than one calendar month prior to Commencement of the Licensed Activity, notify the UKHO of the proposed Works to facilitate the promulgation of maritime safety information and updating of admiralty charts and publications through the national Notice to Mariners system.

3.2.24 The Licensee must, no later than one calendar month prior to Commencement of the Licensed Activity, ensure that local mariner's organisations and local fishermen's organisations and HM Coastguard are made fully aware of the Works through local Notice to Mariners or by any other appropriate means.

3.2.25 The Licensee must ensure that details of the Licensed Activities are promulgated in the Kingfisher Fortnightly Bulletin, no later than one calendar month prior to the Commencement of the Licensed Activity to inform the commercial fishing industry of the vessel routes and the timing and location of the construction activities.

3.2.26 The Licensee must, no later than eight weeks prior to the Commencement of the Licensed Activity, complete an "Application for Statutory Sanction to Alter/Exhibit" form and submit this to the NLB for the necessary sanction to be granted for the deployment of the Construction Buoyage.

3.3 During the Licensed Activity

3.3.1 Only those persons acting on behalf of, and authorised by, the agent or the Licensee shall undertake the Licensed Activity.

3.3.2 The Licensee must ensure that a copy of the licence is given to each contractor and sub-contractor employed to undertake the Licensed Activity.

3.3.3 The Licensee must notify the UKHO of the progress of the construction of the Works to facilitate the promulgation of maritime safety information and updating of admiralty charts and publications through the national Notice to Mariners system. The Licensee must ensure that progress of the Licensed Activity is promulgated regularly in the Kingfisher Fortnightly Bulletin.

3.3.4 The Licensee must ensure the best method of practice is used to minimise re-suspension of sediment during the Licensed Activity.

3.3.5 The Licensee must ensure appropriate steps are taken to minimise damage to the seabed by the Licensed Activity.

3.3.6 If the Licensee becomes aware that an accidental deposit has occurred, the Licensee must notify the Licensing Authority as soon as practicable. The Licensee must undertake such survey as directed by the Licensing Authority to locate the materials. If the Licensing Authority is of the view that any accidental deposits have occurred and should be removed, then the substances, objects and/or materials must be removed by the Licensee as soon as is practicable and at the Licensee's expense.

3.3.7 The Licensee must ensure that if oil based drilling muds are utilised, they must be contained within a zero discharge system. Any drill cuttings associated with the use of water-based drilling muds need not be removed from the seabed.

3.3.8 Construction monitoring must include vessel traffic monitoring by automatic identification system for the duration of the construction period. An appropriate report must be submitted to the Licensing Authority, NLB and the MCA at the end of each year of the construction period.

3.4 Upon Completion of the Licensed Activity

3.4.1 The Licensee must send notification to the Source Data Receipt team, UKHO, (email: sdr@ukho.gov.uk) no later than 10 working days after the Completion of the Licensed Activity. The information provided must include latitude and longitude coordinates in WGS84 (ETRS89) datum of the Works, as installed, on and/or above the seabed, any changes to engineering drawings, post dredge surveys, and details of new or changed aids to navigation where applicable. A copy of the notification must be sent to the Licensing Authority within five working days of the notification being sent.

The Licensee must, following installation, notify the Kingfisher Information Service Offshore Renewables and Cable Awareness and the International Cable Protection Committee of the 'as laid' cable corridor and a 500m zone either side of it as a hazardous area for anchoring.

The Licensee must ensure the seabed is returned to the original profile, or as close as reasonably practicable,

following the Completion of the Licensed Activity. The Licensee must complete post-installation hydrographic surveys of the site of the Works or subsections thereof, and periodic hydrographic surveys thereafter, to the IHO Order 1a survey standard as per the MCA's MGN 654 and supplementary updates. The data and a corresponding report of the survey findings must be supplied to the UKHO on completion of these surveys, with notification to the MCA hydrography manager and the Licensing Authority.

The Licensee must ensure that local mariners, fishermen's organisations and HM Coastguard, in this case the National Maritime Coastguard Centre, are made fully aware of the Completion of the Licensed Activity.

The Licensee must ensure that the Completion of the Licensed Activity is promulgated in the soonest Kingfisher Fortnightly Bulletin following Completion of the Licensed Activity to inform the commercial fishing industry.

The Licensee must ensure that the cables are actively monitored throughout the lifetime of the Works. The Licensee must ensure that a contingency plan is in place to respond to any reported catastrophic failures which may result in the cables, or part(s) thereof, breaking loose and becoming a buoyant hazard. This contingency plan must include the transmission of local radio navigation warnings.

The Licensee must not exhibit, alter or discontinue navigational lighting of the Licensed Activity without the statutory sanction of the Commissioners of Northern Lighthouses.

3.4.2 The Licensee must take all reasonable, appropriate and practicable steps at the end of the operational life of the Licensed Activity to restore the site of the Works to its original pre-construction condition, or to as close to its original condition as is reasonably practicable, in accordance with the PEMP and the DP and to the satisfaction of the Licensing Authority.

Should the Licensed Activity be discontinued prior to expiry date of the licence, the Licensee must inform the Licensing Authority in writing of the discontinuation of the Licensed Activity. A separate marine licence will be required for the removal of the Licensed Activity.

3.4.3 The Licensee must notify the Licensing Authority, in writing, of the date of the Completion of the Licensed Activity, no more than one calendar month following the Completion of the Licensed Activity.

3.4.4 The Licensee must, no later than one calendar month following the Completion of the Licensed Activity submit a report, in writing, to the Licensing Authority stating the date of Completion of the Licensed Activity, the nature and quantity of all substances and/or objects placed below Mean High Water Springs, and all materials used in construction under the authority of this licence.

3.4.5 The Licensee must undertake and submit to the Licensing Authority, within eight weeks of the Completion of the Licensed Activity, an assessment of any risks posed by the final sub-sea cable route, burial depths and un-trenched areas where mechanical and any other protection measures were used within the cable route, to the satisfaction of the Licensing Authority, the purpose of which is to ensure that the safety of navigation and other legitimate users of the sea is not compromised. Where the assessment identifies risks, the Licensee must submit a plan for addressing these to the Licensing Authority and ensure that the plan is fully implemented, subject to the approval of the Licensing Authority.

3.4.6 The Licensee must provide the Licensing Authority with the MMO records no later than two months following Completion of the Licensed Activity.

3.4.7 The Licensee must submit a close out report to the Licensing Authority, MCA, UKHO and NatureScot within three months of the date of the Completion of the Licensed Activity. The close out report must confirm the date of the Completion of the Licensed Activity and must include the following details:

- a) as built plans; and
- b) latitude and longitude coordinates of the export cable routes; provided as GIS data referenced to WGS84 datum.

3.4.8 The Licensee must notify the UKHO of the Completion of the Licensed Activity to facilitate the promulgation of maritime safety information and updating of admiralty charts and publications through the national Notice to Mariners system.

3.4.9 The Licensee must, within one month of the Completion of the Licensed Activity, provide the “as-built” routes of the export cables to the UKHO for nautical charting purposes.

3.4.10 The Licensee must, as per the requirements of the MCA’s MGN 543 and supplementary updates, complete post-installation hydrographic surveys of the Site or subsections thereof, to the IHO Order 1a survey standard. On completion of these surveys, the data and a corresponding report of survey must be supplied to the UKHO, with notification to the MCA hydrography manager and the Licensing Authority.

3.4.11 The Licensee must ensure that local mariners, fishermen’s organisations and HM Coastguard, in this case the National Maritime Coastguard Centre are made fully aware of the Completion of the Licensed Activity.

3.4.12 The Licensee must ensure that the Completion of the Licensed Activity is promulgated in the Kingfisher Fortnightly Bulletin to inform the commercial fishing industry.

3.4.13 The Licensee must, where any damage, destruction or decay is caused to the Works, notify the Licensing Authority, in writing, of such damage, destruction or decay as soon as reasonably practicable following such damage, destruction or decay. The Licensee must carry out any remedial action which the Licensing Authority advises the Licensee, in writing, as requiring to be taken, which may include a requirement to display aids to navigation, following consultation by the Licensing Authority with the MCA, the NLB or any such advisers as required.

3.4.14 The Licensee must, as soon as reasonably practicable following the completion of cable protection works, provide information confirming the location of cable protection measures and the type of cable protection used to the Licensing Authority, the SFF and, on request, to other fisheries representatives.

NOTES

1. You are deemed to have satisfied yourself that there are no barriers, legal or otherwise, to the carrying out of the licensed activity. The issue of the licence does not absolve the licensee from obtaining such authorisations, consents etc which may be required under any other legislation.
2. In the event that the licensee wishes any of the particulars set down in the Schedule to be altered, the licensing authority must be immediately notified of the alterations. It should be noted that changes can invalidate a licence, and that an application for a new licence may be necessary.