

Marine Works (Environmental Impact Assessment) Regulations 2007 (Regulation 22)

Environmental Impact Assessment Consent Decision

Project Title: Modified Offshore Transmission Infrastructure (“MOFTI”)

Applicants: Moray Offshore Renewables Limited (“MORL”)

Location: Outer Moray Firth and MOFTI cable corridor to landfall at Inverboynie Bay

1. Introduction

This document constitutes an environmental impact assessment (“EIA”) consent decision under regulation 22 of The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) (“MWR”), in respect of an application submitted by MORL to Marine Scotland, the licensing authority on behalf of the Scottish Ministers, for:

1. A marine licence to be considered under the Marine (Scotland) Act 2010 (“the 2010 Act”) and Marine and Coastal Access Act 2009 (as amended) (“the 2009 Act”) to deposit any substance or object and to construct, alter or improve any works in relation to the MOFTI within the Scottish marine area and Scottish offshore region.

The works described in the application comprises a project not listed at Annex II of the Directive 85/337/EEC (“the EIA Directive”) on the assessment of the effects of certain public and private projects on the environment. MORL did however submit an environmental statement (“ES”) in support of the application, as the application forms part of an Annex II project; the Telford, Stevenson and MacColl offshore wind electrical generating stations.

The EIA Directive has been transposed into UK law for marine works (including works requiring a marine licence) by the MWR. The project in this instance, comprises the inter platform cabling, offshore substation platforms (“OSPs”) and cable to shore elements for the Telford Offshore Wind Farm, Stevenson Offshore Wind Farm and MacColl Offshore Wind Farm, in the outer Moray Firth, which were

consented under section 36 of the Electricity Act 1989 (as amended) on 19th March 2014.

The application made to Marine Scotland was supported by an ES, as required by regulation 12 of the MWR.

2. Project Description

The MOFTI, located on the Smith Bank in the outer Moray Firth and cable corridor southwards to Inverdoynie bay comprises of:

- Up to 2 AC OSPs;
- Substructure and foundations for the OSPs;
- Inter-platform cabling within the three consented Telford, Stevenson and MacColl wind farms; and
- Up to 4 triplecore submarine HVAC export cables between the OSPs and the shore.

3. The Environmental Statement

The principal potential impacts identified and discussed in the ES were:

- physical processes;
- benthic ecology;
- fish and shellfish ecology;
- marine mammals;
- marine ornithology;
- intertidal ecology;
- commercial fisheries;
- shipping and navigation;
- seascape, landscape and visual receptors;
- archaeology and cultural heritage;
- socio-economics, recreation and tourism; and
- traffic and transport.

3.1 Environmental Sensitivities

The Joint Nature Conservation Committee (“JNCC”) and Scottish Natural Heritage (“SNH”) advised that the MOFTI has the potential to impact upon protected sites. On reviewing the ES, the JNCC and SNH advised that the MOFTI would impact on qualifying interests of three Special Areas of Conservation (“SACs”). The JNCC and SNH also advised that, as the competent authority, Marine Scotland would be required to undertake an Appropriate Assessment (“AA”) in view of the conservation objectives for the European protected sites.

3.2 The Appropriate Assessment

The proposed MOFTI did require a AA under Section 48 of the Conservation (Natural Habitats, & c.) Regulations 1994 and under Section 25 of the Offshore Marine Conservation (Natural Habitats, & c.) Regulations 2007 (“the Habitats Regulations”).

As the MOfTI lies outwith 12 nautical miles (“nm”) and within 12 nm, both sets of regulations apply. The AA concluded, subject to appropriate conditions being attached to any consent, the MOfTI alone, or in-combination with other projects already consented (as detailed in the AA) would not adversely affect site integrity of the Natura sites that could be potentially impacted by the MOfTI (the Moray Firth SAC, the Dornoch Firth and Morrich More SAC and the River Spey SAC).

4. Consultation

This section summaries the consultation undertaken by Marine Scotland in 2014 on the application and the ES.

4.1 Public Consultation

In accordance with Regulation 16 (1) (b) of the MWR, Marine Scotland instructed MORL to place a public notice in newspapers for two successive weeks. The public notices contained details of:

- the applicant's names and addresses;
- that applications had been made under the MWR and Part 4 of the 2009 Act and the 2010 Act;
- a statement of the nature, size and location of the project;
- the address details of where the applications and ES could be inspected during normal office hours; and
- notice that parties could make such requests and representations within 42 days of the first notice date.

Notice of the application and ES appeared in the following publications:

Edinburgh Gazette	04.07.2014	&	11.07.2014
Press and Journal	04.07.2014	&	11.07.2014

The application and the ES were made available for public inspection at the following locations:

The Highland Council Planning Office Glenurquhart Road Inverness IV3 5NX	Moray Council Planning Office High Street Elgin IV30 1BX
Caithness Planning Office The Highland Council Market Square Wick KW1 4AB	Peterhead Planning Office Aberdeenshire Council Arbuthnot House Peterhead AB42 1DA
Banff & Buchan planning Office Town House Low Street Banff AB45 1AY	Formatine Planning Office 45 Bridge Street Ellon AB41 9AA

Helmsdale Library and Service Point Dunrobin Street Helmsdale KW8 6JX	Buckie Library Cluny Place Buckie AB56 1HB
Golspie Service Point Olsen House Main Street Golspie KW10 6RA	Brora Library Gower Street Brora Highland KW9 6PD

Marine Scotland received no public representations to the application. However, a response was received from Banff and Macduff Community Council (“BMCC”). Details of which can be found at the end of section 4.2.2.

4.2 Consultees

As part of the consideration of the application and ES, Marine Scotland conducted a consultation with advisory and regulatory bodies for comment on the validity of the ES document and the conclusions of environmental impact drawn. The consultation on the ES opened on the 4th July 2014 and closed on the 14th August 2104. Extensions to the consultation periods to provide comments were permitted to consultees if required.

4.2.1 Consultee List

The application and the ES were sent to:

Consultee	Consultee
Aberdeenshire Council	Marine Scotland Compliance
Association of Salmon Fishing Boards	Marine Scotland Science
Bond Offshore Helicopters	Maritime and Coastguard Agency
Beatrice Offshore Windfarm Limited	Moray Council
Bristows Helicopters	Moray Firth Partnership
British Telecom Network Radio Protection	Moray Firth Sea Trout Project
Chamber of Shipping	National Air Traffic Services
Civil Aviation Authority	Northern Lighthouse Board
CHC Helicopters	Royal Yachting Association (Scotland)
Cromarty Firth Port Authority	Royal Society for the Protection of Birds Scotland
The Crown Estate	Scottish Canoe Association
Defence Infrastructure Organisation (MOD)	Scottish Environment Protection Agency
Highland Council	Scottish Fisherman's Federation
Highlands and Islands Airports Limited	Scottish Fisherman's Organisation
Historic Scotland	Scottish Natural Heritage
Inshore Fisheries Group	Scottish Wildlife Trust
Ithaca Energy	Surfers Against Sewage
The Joint Nature Conservation Committee	Transport Scotland (Including Ports & Harbours Branch)
Joint Radio Company	University of Aberdeen
Marine Safety Forum	Whale and Dolphin Conservation

4.2.2 Consultee Responses

Aberdeenshire Council (“AC”) raised no objection to the MOFTI, indicating their position remains the same as that contained in the response to the previous section 36 applications. In the response issued on 5th December 2012, the AC state that they were adopting a position of neither favouring nor opposing the overall wind farm development. If the wind farms were to be given consent, AC requested their comments be taken into consideration when determining the applications and appropriate conditions to be attached to any consent.

In responding to the MOFTI application, the only comments raised by AC were in relation to the potential visual impact from more elevated positions on the Aberdeenshire coast in clear weather conditions. As the OSPs form part of the overall wind farm development, the MOFTI and the wind farms will be seen as one development on the horizon. Conditions to help mitigate any visual impact on the Aberdeenshire coast will be included in any marine licence granted by Marine Scotland.

The **Association of Salmon Fishery Boards (“ASFB”)** responded to the MOFTI consultation indicating that their position remains the same as that set out in the response to the consultation on the section 36 applications. In which, the ASFB raised an objection to the section 36 applications due to there being insufficient information to make an adequate assessment of the potential negative effects on salmonids. The concerns raised included the impacts from noise during construction, electro-magnetic fields (“EMF”) from cabling, impacts on prey species, and aggregation effects of the wind turbine generators, resulting in aggregations of predators. The ASFB recognises that these information gaps can only reasonably be filled by large scale strategic research and requested the inclusion of a formal mitigation agreement on any section 36 consent granted by Scottish Ministers under Section 36 of the Electricity Act 1989.

In responding to the consultation on the MOFTI, the ASFB emphasise that they have no wish to prevent or delay any proposed development unnecessarily and remain keen to work constructively with the developers and Marine Scotland. This is to identify appropriate monitoring programmes which will allow the ASFB to be able to assess the acknowledged risks of the MORL development, and other proposed developments more appropriately. The ASFB highlighted that the export cable for the MOFTI will now make landfall at Inverboyndie Bay, close geographical proximity to the mouth of the River Deveron, a significant river for Atlantic salmon and sea trout.

The JNCC and SNH have concluded that the MOFTI would not result in any adverse effect on site integrity of any freshwater SACs considered having connectivity with the MOFTI and the overall wind farm development. The JNCC and SNH state in their advice that they considered other SACs, but only gave their assessment on the qualifying interests from the River Spey SAC. Marine Scotland also concludes, after carrying out an AA, that the MOFTI will not adversely affect site integrity of the River Spey SAC designated for Atlantic salmon, freshwater pearl mussel and sea lamprey.

During the consultation on the section 36 applications, Marine Scotland recognised that current scientific knowledge needed to be improved to better understand the

migratory movements and behaviour of salmonids at sea and any interaction they have with renewable energy devices. In anticipation of this, Marine Scotland Science (“MSS”) prepared a report “The Scope of Research Requirements for Atlantic Salmon, Sea Trout and European Eel in the Context of Offshore Renewables” (Malcolm et al, 2013). From this scoping report MSS has identified the need for and commenced the preparation of a national strategy to address the research and monitoring requirements for diadromous fish in the context of possible interaction with the emerging marine renewable energy industry.

The ASFB suggest that renewable developments be conditioned to provide that such developers participate in a national strategy at a local level, or by agreement, part fund larger projects. The ASFB state that there is a clear and urgent need to fund and start strategic research on the movement, abundance, swimming depth, feeding behaviour etc. of salmon and sea trout. The requirement for MORL to contribute at a local level (the Moray Firth) to a monitoring strategy being developed from “The Scope of Research Requirements for Atlantic Salmon, Sea Trout and European Eel in the Context of Offshore Renewables” will be included in any marine licence granted by Marine Scotland. The ASFB express the importance of developing a finalised, agreed research plan, with a clear time schedule for delivery, at the earliest possible date.

The ASFB requests that conditions on any marine licence granted by Marine Scotland will remain flexible to take account of new information when it becomes available, thus allowing appropriate additional mitigation to be put in place should negative interactions be found.

Beatrice Offshore Windfarm Limited (“BOWL”), who have been granted consent under section 36 of the Electricity Act 1989 (as amended) by the Scottish Ministers in March 2014 for a separate offshore wind farm in the Moray Firth, immediately adjacent to the MOFTI, did not raise any objections to the MOFTI. BOWL recognise the reduced environmental impact the MOFTI will have and their commitment to collaborative working with MORL as both projects progress to construction.

Highlands & Islands Airports Ltd (“HIAL”) raised no objection to the MOFTI and confirmed that the MOFTI would not infringe the safeguarding surfaces for Inverness Airport.

Historic Scotland (“HS”) raised no objection to the MOFTI and is content in principal with the proposals, and considers that there shall be no adverse impacts on marine or terrestrial assets within their remit which would raise significant concerns. HS is content that there are no assets within the MOFTI area Archaeological Study Area (“ASA”) that are subject to statutory protection.

HS note that a full geophysical and geotechnical assessment of the offshore cable route has still to be completed. HS is content that the mitigation proposed in sections 5.4.2.76 and 5.4.2.77 of the ES is appropriate and suggested the production of an amended written scheme of investigation (“WSI”) and adoption of a suitable protocol for archaeological discoveries (“PAD”) be applied as a condition of any marine licence granted, with both documents to be approved by HS and Marine Scotland

prior to the commencement of works on site. Conditions relating to the WSI and PAD will be included in any marine licence granted by Marine Scotland.

The Joint Nature Conservation Committee and Scottish Natural Heritage (“the SNCBs”) provided advice on 14th August 2014 on the following natural heritage interests and the impacts to consider in respect of the MOFTI:

1. Hydrodynamic Processes & Coastal Geomorphology;
2. Benthic Ecology;
3. Fish and Shellfish of conservation concern;
4. Marine Mammals;
5. Ornithology; and
6. Landscape, Seascape and Visual Impact Assessment.

1.) Hydrodynamic Processes & Coastal Geomorphology – the SNCBs agree for the OSPs that;

- the potential impacts from installation of the OSPs are “negligible” in respect of offshore coastal processes and of “minor significance” in respect of suspended sediment concentrations;
- there is no significant risk of longer-term changes to tidal and wave regimes or to sediment transport regimes arising over the lifespan of these OSPs;
- possible scour effects are of “minor significance”; and
- advise that impacts arising from installation and operation of the proposed OSPs do not significantly add to the predicted levels of cumulative impact from the consented MORL and BOWL wind farm schemes.

The SNCBs agree for the cable laying that;

- the potential impacts from installation of the export cables are “negligible” in respect of offshore coastal processes and of “minor significance” in respect of suspended sediment concentrations;
- there is negligible risk of any longer-term changes to tidal and wave regimes arising from the export cable;
- possible scour effects are of “minor significance”; and
- as there are only negligible or minor impacts on hydrodynamic processes and coastal geomorphology from the MORL export cables, no significant cumulative impacts with other proposed cables in the Moray Firth are anticipated.

The SNCBs agree for the cable landfall point at Boyndie beach that;

- there is no risk to the geological interest of Whitehills to Melrose Coast Site of Special Scientific Interest (“SSSI”);
- detailed mapping of the actual landfall point, once confirmed, as well as the confirmed method of installation would be required; and
- that the cable will be suitably buried between landfall and closure depth to prevent exposure.

2.) Benthic Ecology – The SNCBs provided advice on the benthic surveys presented in the ES, which were only carried out along the centre line of the proposed export cable route. If full geophysical surveys are to be carried out over the full cable corridor, the SNCBs expressed the need to consult them for further advice.

A number of priority marine features (“PMFs”) were identified in the benthic survey; burrowed mud, ocean quahog, European spiny lobster, sandeels and potentially *Arachnanthus sarsi*. The SNCBs agree with the ES conclusions that there is no risk of significant impact to the national or regional status of any of these PMFs. Conditions relating to details of cable locations and installation methods will be included in any marine licence granted by Marine Scotland.

The SNCBs included an assessment of the proposed Southern Trench Marine Protected Area (“MPA”) proposal (presented to the Scottish Government for recommendation on 24th July 2014), suggested for the conservation features of burrowed mud, minke whale and shelf deeps and fronts. The MOFTI is not capable of affecting shelf deeps or fronts, therefore not of consideration here. With respect to burrowed mud, the SNCBs advise that while there could be impacts from the MOFTI on burrowed mud located within the area of this MPA proposal, however, this biotope will recover in the long-term once the cables are laid.

The SNCBs indicate that there is potential for disturbance of minke whales arising from cable-laying and associated activity within the coastal waters covered by this MPA proposal. The SNCBs recommend that this matter is addressed via the licensing requirements for European protected species (“EPS”). A EPS licence will be required due to the potential for disturbance to cetacean species. An EPS licence(s) will be applied for when the final layout, design and foundation options have been confirmed for the overall wind farm development.

3.) Fish and Shellfish of conservation concern – The SNCBs referred back to their response to the consultation on the section 36 applications for advice on fish and shellfish of conservation concern including Habitats Regulations Appraisal (“HRA”) in respect of the qualifying interests of freshwater SACs.

Of the SACs assessed previously for the wind farms, the qualifying interests from the River Spey SAC are most relevant to address for possible impacts from the MOFTI. The SNCBs advise likely significant effect (“LSE”) on Atlantic salmon and lamprey species due to construction noise and/or possible effects of EMF from the installed cables. Therefore the SNCBs advise that Freshwater pearl mussel (“FWPM”) could be indirectly affected through any impacts to Atlantic salmon, one of their host species.

As concluded in the AA, there will be no long-term impacts on the SAC population provided that conditions on any marine licence granted by Marine Scotland are complied with. Thus, the MOFTI will not adversely affect site integrity of the River Spey SAC with respect to Atlantic salmon, sea lamprey and FWPM. These conditions include the requirement for an agreed Vessel Management Plan (“VMP”), Construction Method Statement (“CMS”), Construction Programme (“CoP”) and Cable Plan (“CaP”), all of which will ensure suitable mitigation.

With regards to marine fish, the SNCBs agree with the ES conclusions that there would be only minor impacts on sandeel and herring spawning (both PMFs) arising from disruption (loss) of the seabed and associated sediment release during cable laying and/or installation of the OSPs.

4.) Marine Mammals – The SNCBs advise that the revised MOFTI could give rise to LSE for bottlenose dolphin as the cable route will cross the coastal waters on the south-side of the Moray Firth, where bottlenose dolphin is frequently recorded. Disturbance to bottlenose dolphin could arise from cable laying and/or placement of scour protection in this area, therefore the SNCBs advise that an EPS licence will be required. If this matter is addressed via EPS licensing, and good working practice is achieved through conditions included in any marine licence granted by Marine Scotland, the SNCBs are satisfied that there will not be any long term impacts on the viability of the SAC dolphin population and therefore no adverse impacts on site integrity of the Moray Firth SAC.

Due to the number of OSPs being reduced from eight in the original transmission infrastructure application, to two in the MOFTI, the SNCBs predict impacts will be no greater than the ‘worst case’ previously assessed. The SNCBs agree that all other potential impacts on bottlenose dolphin arising from the MOFTI, including vessel collision, corkscrew injury, EMF effects, contamination, and prey availability, are minor and do not give rise to any LSE in respect of this species status as an SAC interest.

With regards to harbour seal as a qualifying feature from the Dornoch Firth and Morrich More SAC, the SNCBs consider that there will be no long-term impacts on the SAC population, and thus no adverse impacts on site integrity of this SAC, provided that conditions relating to VMP, CMS, CoP and CaP be included any marine licence granted by Marine Scotland are complied with.

The SNCBs advised that the MOFTI is likely to have a significant effect on the qualifying interests of a number of SACs. The SNCBs advised Marine Scotland to carry out an AA in view of the conservation objectives for these sites.

The AA carried out by Marine Scotland concluded that the MOFTI and BOWL development will not adversely affect site integrity of the River Spey SACs, the Dornoch Firth and Morrich More SAC or the Moray Firth SAC. The SNCBs agreed with the conclusions reached in the AA.

5.) Ornithology – The SNCBs highlight that potential disturbance to waterfowl and waders is the key ornithological impact to address in respect of the MOFTI. The SNCBs advice also concerned the Moray Firth marine draft Special Protection Area (“SPA”) (presented to the Scottish Government for recommendation on 24th July 2014).

The SNCBs agree that;

- the ES assessment concludes that all potential effects on waterbirds and seabirds are not significant;
- disturbance impacts are short-term and reversible – as part of an existing commitment, vessel traffic will follow set routes in order to minimise disturbance; and
- the potential for displacement from the two OSPs is localised to a small area (0.02 km²).

The indicative programme of construction presented in the ES shows installation of the export cable outwith the peak periods for waterfowl (i.e. wintering and passage periods). Conditions relating to the submission of a CoP and CMS will be included any marine licence granted by Marine Scotland to ensure timing of the works can be used as a form of mitigation for waterfowl and waders. The SNCBs do not wish to restrict the construction of the export cable or landfall section to only a particular time of year.

6.) Landscape, Seascape and Visual Impact Assessment – The SNCBs welcome the work undertaken to assess the landscape and visual impacts of the OSPs and recommend that their location and design is considered as part of the overall design process for Telford, Stevenson and MacColl wind farms. In this regard, conditions similar to those on the section 36 consents for a Development Specification and Layout Plan (“DSLPL”) and Design Statement (“DS”) will be included in any marine licence granted by Marine Scotland.

Summary – The SNCBs requested that conditions be attached to any marine licence to mitigate their concerns regarding the six natural heritage interests listed above. Where appropriate, enforceable conditions will be included in any marine licence granted by Marine Scotland.

Marine Scotland Compliance (“MSC”), Buckie Fishery Office, raised no objection to the MOFTI, only commenting that the maintenance of dialogue with, and information to, the local fishing industry is maintained. A condition relating to the request from MSC to maintain dialogue with the fishing industry will be included in any marine licence granted by Marine Scotland.

Marine Scotland Science (“MSS”) raised no objection to the MOFTI. Responses on different receptors are detailed below:

Ornithology – MSS only comment relating to ornithology for the MOFTI is that the export cable landfall at Inverboyndie Bay is to the East of an inshore area identified within the candidate suite of marine SPAs due to seaduck. MSS is of the opinion that the route of the cable is far enough away to not be an issue, whilst appropriate timing of construction would further mitigate any potential effects.

Marine Mammals – MSS agree that the piling required for the OSPs falls within the design envelope of the original 2012 applications and is therefore covered under the assessments carried out for these, including the cumulative assessments. MSS does not consider the effect from piling would be significant for seals or cetaceans. MSS instructs that the planned piling for the OSPs will require a EPS licence.

MSS consider that although the likely risk of spiral lacerations to seals is lower around the cable route and construction site than in other areas, there remains a risk, should the vessels installing the OSPs and the cable use ducted propellers.

Conditions detailing required mitigation and monitoring for marine mammals, such as a VMP will be included in any marine licence granted by Marine Scotland.

Commercial Fisheries – A condition for MORL to continue its involvement in the Moray Firth Offshore Wind Developers Group - Commercial Fisheries Working Group (“MFOWDG-CFWG”) will be included in any marine licence granted by Marine Scotland.

Diadromous Fish – MSS is satisfied that the ES adequately covered what information is currently available as a great deal of uncertainty still remains about the detailed migration routes of Atlantic salmon, sea trout and European eels. MSS recommends that the main priorities at this stage regarding diadromous fish are to develop plans for monitoring diadromous fish in the vicinity of the MOFTI and to ensure that suitable mitigation measures can be applied proportionately to any impacts detected during monitoring. The evolution of the ‘Scottish Atlantic Salmon, Sea Trout and European Eel Monitoring Strategy’ is currently on-going with the aim of trying to address the many unknowns surrounding the life patterns of diadromous fish. A condition for MORL to commit to participation in the monitoring requirements of the strategy at a local level (the Moray Firth), and a condition for participation in the Moray Firth Regional Advisory Group (“MFRAG”) (established for the purpose of advising Marine Scotland on research, monitoring and mitigation programmes for, but not limited to, diadromous fish, marine mammals and commercial fish) will be included in any marine licence granted by Marine Scotland.

Benthic Ecology – MSS posed some queries regarding benthic ecology, to which MORL addressed by highlighting relevant sections within the ES. Upon review of the information provided by MORL, MSS confirmed MORL had adequately addressed all of the points regarding benthic ecology.

The **Maritime & Coastguard Agency (“MCA”)** raised no objection to the MOFTI, subject to all maritime safety legislation being followed, MCA recommended conditions being taken into account on any marine licence granted and that measures are also taken to ensure that details of the proposed works are promulgated to maritime users through notice to mariners and/or navigational warnings. Conditions relating to the requests from the MCA will be met and included in any marine licence granted by Marine Scotland.

Moray Council (“MC”) responded to the consultation only to say that the MC confirms it has no objection to the MOFTI.

Northern Lighthouse Board (“NLB”) raised no objection to the MOFTI. The NLB referred back to their response to the consultation on the section 36 applications, in which they requested that they be consulted post-consent to ensure the overall wind farm development, during construction, operation and decommissioning phases, will be suitably marked and lit and that Notices to Mariners and Radio Navigation Warnings are issued. The NLB also recommended that publication of information in other appropriate bulletins, stating the nature and timescale of the works are provided to ensure adequate notification to mariners.

Conditions requiring the correct marking and lighting of vessels engaged in the works, positioning of cable marker boards where the cable comes ashore and final installed layout positions be communicated to the UK Hydrographic Office (“UKHO”), will be included in any marine licence granted by Marine Scotland.

Royal Society for the Protection of Birds Scotland (“RSPB Scotland”) did not state an objection in their response to the MOFTI consultation, but generally concur with the assessment conclusions that potential ornithological impacts will be low for the MOFTI in isolation. RSPB Scotland identified the construction phase as being the phase which presents the greatest risk of impacts. However, due to the relatively short timescales for laying the export cable and constructing the OSPs, any potential impacts can be minimised.

RSPB Scotland still maintains its objection to the overall wind farm development.

RSPB Scotland requests that the developer adheres to best practice construction methodologies and implementation of mitigation measures, including using assigned vessel routes, to help ensure potential disturbance impacts are minimised to a negligible level. RSPB Scotland also highlighted in their response that there remains a risk of significant in-combination/cumulative effects to seabird populations in the Moray Firth from the construction and operation of consented offshore wind projects and other activities in the region.

No conditions relating to the local monitoring of seabird populations in relation to the MOFTI alone will be included in any marine licence granted by Marine Scotland. Monitoring of the OSPs that form part of the MOFTI is likely to be encapsulated by the monitoring conditions imposed on the section 36 consents, granted in March 2014, for the Telford, Stevenson and MacColl offshore wind farms.

The **Scottish Environment Protection Agency (“SEPA”)** provided a joint response that covered the onshore application under the Town and Country Planning (Scotland) Act 1997 to AC and the offshore application under the 2010 Act, the 2009 Act and the MWR to Marine Scotland. SEPA suggested conditions that must be applied to any onshore and offshore consent, otherwise their response must be considered as an objection.

SEPA did not have any detailed comments to make on the offshore elements of the MOFTI, but request that a Construction Environmental Management Plan (“CEMP”) condition be applied to any marine licence granted by Marine Scotland. As requested by SEPA, the submission of a CEMP (for this marine licence application, the CEMP is called an EMP) condition will be included in any marine licence granted by Marine Scotland. To cover the submission of the relevant construction method statements, a CMS condition will also be included in any marine licence granted by Marine Scotland.

Scottish Fisherman’s Federation (“SFF”) objects to the application for the MOFTI with regards to the protection of the fishing industry in the Moray Firth. The SFF state the objection must stand until conditions and mitigation measures are agreed and in place.

The SFF wish that conditions relating to proper notification of the works to the fishing industry, 100% burial of cables, rock dumping when burial cannot be achieved, the appointment of a Fisheries Liaison Officer (“FLO”), the production of “as built” plans for all cable positions and over trawling to remedy any new seabed hazards are placed on any marine licence granted by Marine Scotland. Marine Scotland

presented draft conditions to the SFF that covered these concerns. The SFF responded indicating they are prepared to accept that their concerns regarding the MOFTI are addressed by the proposed licence conditions. Therefore, the conditions relating to the above points will be included in any marine licence granted by Marine Scotland.

MORL met with the SFF on 26th August 2014, to discuss the points raised in the SFF response to the MOFTI consultation. MORL presented at this meeting a draft Export Cable Commercial Fisheries Mitigation Strategy (“XCFMS”) to outline their proposed commitments for engagement with the fishing industry. This is similar to the Commercial Fisheries Mitigation Strategy (“CFMS”) developed by MORL, and accepted by the SFF, for fisheries mitigation for the consented Telford, Stevenson and MacColl offshore wind farms. A condition to ensure MORL continues its membership of the MFOWDG-CFWG and its commitment to the finalised XCFMS and finalised CFMS will be included in any marine licence granted by Marine Scotland.

Transport Scotland (“TS”) raised no objection to the MOFTI in terms of environmental impacts on the trunk road network. At present, the road-based traffic and transportation logistics associated with the construction of the MOFTI is yet to be decided. TS wish to be consulted again once this information is available to allow an assessment of the impacts on the trunk road network from potential abnormal loads and any traffic management requirements. A condition requiring the submission of a Traffic and Transportation Plan (“TTP”) will be included in any marine licence granted by Marine Scotland.

Whale and Dolphin Conservation (“WDC”) raised no objection to the MOFTI but have concerns about the use of vessels with ducted propellers during construction of the transmission infrastructure, especially during dredging for laying the cables. WDC ask that ducted propellers should not be permitted unless they are guarded or potential impacts can be effectively mitigated in some other way, especially for harbour seals. If ducted propellers are to be used, WDC request that a VMP with a proposed Seal Corkscrew Injury Monitoring Scheme (“SCIMS”) be developed. A condition requiring the submission of a VMP will be included in any marine licence granted by Marine Scotland.

WDC also requested that they be involved in any steering or advisory groups related to the overall MORL wind farm project. The formation of a MFRAG, required under condition of the section 36 consents for the Telford, Stevenson and MacColl offshore wind farms, will include WDC. The MFRAG will be the most suitable forum to discuss the development and introduction of a SCIMS.

Other Responses – in relation to the Application and ES

The following organisations had **no comment** to make;

- **Highland Council (“HC”)**
- **The Crown Estate**
- **National Air Traffic Services**
- **Royal Yachting Association Scotland**

- **Ports and Harbours**

BT Network Radio Protection was consulted and a “nil return” response was received.

Moray Firth Partnership was consulted and indicated that they would not be submitting response.

Scottish Canoe Association was consulted and indicated that they would not be commenting.

The **Bond Offshore Helicopters, Bristow Helicopters, the Civil Aviation Authority, the Chamber of Shipping, CHC Helicopters, Cromarty Firth Port Authority, Defence Infrastructure Organisation (MOD), Inshore Fisheries Group (Moray Firth), Ithaca Energy, Joint Radio Company, Marine Safety Forum, Moray Firth Sea Trout Project, Scottish Fisherman’s Organisation, Scottish Wildlife Trust, Surfers Against Sewage** and **The University of Aberdeen** were consulted but no responses were received.

Banff and Macduff Community Council (“BMCC”) raised no objection to the MOFTI, and as the BMCC are the council covering a lot of the intended landfall site for the proposed cables, their comments relate to the near shore and beach landing of the cables only. The BMCC asked that the following issues are carefully considered by Marine Scotland for the granting of a licence and that appropriate safeguards are put in place in order to minimise the impact of the proposed works:

1. Timing of the works when the cable is brought ashore at Boyndie beach to minimise possible impacts on residents and tourists;
2. Impacts on the bottlenose dolphins in the Moray Firth;
3. Impacts on common dolphins in the Moray Firth;
4. Consultation with the inshore fisherman;
5. Impact on a well-used designated anchorage off Macduff;
6. Sufficient burial of cables in the beach area; and
7. Passage of the cable works through dune areas to avoid possible impacts on rare plants that grow there.

The timing, position and burial depths of the cables when they come ashore will be detailed in a CoP and CaP submitted by MORL for approval prior to commencement of the MOFTI. Any mitigation to minimise impacts of the laying of the cables will be taken account of in these plans.

Dolphins in the Moray Firth will be monitored through Marine Mammal Monitoring Programme (“MMMP”), developed by MORL, BOWL and the University of Aberdeen. The MMMP forms part of the Project Environmental Monitoring Programme (“PEMP”); a programme that will be designed to ensure that appropriate and effective monitoring of the impacts of the MOFTI is undertaken.

The MFOWDG-CFWG has been formed to facilitate commercial fisheries dialogue to define and finalise draft a commercial fisheries mitigation strategy for the MOFTI.

Any possible impact on shipping will be addressed in a VMP, required to be submitted and approved prior to commencement of the MOFTI.

Conditions asking for the submission of a PEMP, CoP, CaP, Navigational Safety Plan (“NSP”) and continued membership in the MFOWDG-CFWG, will be included in any marine licence granted by Marine Scotland.

Any potential onshore impacts, e.g. passage of the cable through dune areas (i.e. above mean high water spring tide (“MHWS”)) will be dealt with by conditions applied to any onshore consent granted under the Town and Country Planning (Scotland) Act 1997 (as amended), by AC.

5. Conditions

Following consideration of all relevant information, including the ES, supporting documents and consultation responses, Marine Scotland consider that the following conditions must be included in the marine licence.

In the conditions, the term “the Application” means the marine licence application form and environmental report submitted to the Licensing Authority by MORL on the 4th April 2014 and the ES submitted to the Licensing Authority by MORL on the 30th June 2014; and the application letters, marine licence application forms and ES submitted to the Licensing Authority by MORL, on behalf of Telford Offshore Windfarm Limited, Stevenson Offshore Windfarm Limited and MacColl Offshore Windfarm Limited, on 2nd August 2012, and the Additional Ornithology Information submitted to the Licensing Authority by MORL on the 17th June 2013.

5.1 Conditions applicable to all phases of the works

5.1.1 Project Environmental Monitoring Programme (“PEMP”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a PEMP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with the JNCC, SNH, WDC, the ASFB and any other ecological advisors 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 and specifically, monitoring for cable exposure as specified in condition 5.2.10 parts f and g. Lifespan in this context includes pre-construction, construction, operational and decommissioning phases.

Monitoring should be done in such a way as to ensure that the data which is collected allows useful and valid comparisons as between different phases of the Works. Monitoring may also serve the purpose of verifying key predictions in the Application. Additional monitoring may be required in the event that further potential

adverse environmental effects are identified for which no predictions were made in the Application.

The Licensing Authority may agree that monitoring may cease before the end of the lifespan of the Works.

The PEMP must cover, but not be limited to the following matters:

- a) Pre-construction, construction (if considered appropriate by the Licensing Authority) and post-construction monitoring surveys as relevant in terms of the Application and any subsequent surveys for:
 1. Diadromous fish;
 2. Benthic communities; and
 3. Seabed scour and local sediment deposition.

- b) The participation by the Licensee in surveys to be carried out in relation to marine mammals as set out in the MMMP.

All the initial methodologies for the above monitoring must be approved, in writing, by the Licensing Authority and, where appropriate, in consultation with the MFRAG, referred to in conditions 5.2.18 and 5.3.10. Any pre-consent surveys carried out by Licensee to address any of the above species may be used in part to discharge this condition.

The PEMP is a live document and must be regularly reviewed by the Licensing Authority, at timescales to be determined by the Licensing Authority, in consultation with the MFRAG to identify the appropriateness of on-going monitoring. Following such reviews, the Licensing Authority may, in consultation with the MFRAG, 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 MFRAG and any other ecological, or such other advisors as may be required at the discretion of the Licensing Authority. The PEMP, as amended from time to time, must be fully implemented by the Licensee at all times.

The Licensee must submit written reports of such monitoring surveys to the Licensing Authority at timescales to be determined by the Licensing Authority in consultation with the MFRAG. Subject to any legal restrictions regarding the treatment of the information, the results are to be made publicly available by the Licensing Authority, or by such other party appointed at their discretion.

5.1.2 Environmental Management Plan (“EMP”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit an EMP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with the JNCC, SNH, SEPA, AC and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. The Works must, at all times, be constructed and operated in accordance with the approved EMP (as updated and amended from time to time by the Licensee). Any

updates or amendments made to the EMP by the Licensee must be submitted, in writing, by the Licensee to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with AC.

The EMP must set out a mechanism for the approval process for all proposed updates to the EMP. This must include, but not be limited to, a programme for the consideration of the consultation on, and any subsequent grant of approval of the proposed updated EMP, to be agreed in writing between the Licensee and the Licensing Authority.

The EMP must provide the over-arching framework for on-site environmental management during the phases of 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 transmission (environmental management during decommissioning is addressed by condition 5.2.2).

The EMP must be in accordance with the Application as it relates to environmental management measures. The EMP must set out the roles, responsibilities and chain of command of any Licensee personnel, 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:

- a) Mitigation measures to prevent significant adverse impacts to environmental interests, as identified in the Application and pre-consent and pre-construction surveys, and include the relevant parts of the CMS;
- b) A completed WSI approved by HS;
- c) Pollution prevention measures and contingency plans;
- d) Management measures to prevent the introduction of marine non-native marine species;
- e) Measures to minimise, recycle, reuse and dispose of waste streams; and
- f) The methods for responding to environmental incidents and the reporting mechanisms that will be used to provide the Licensing Authority and relevant stakeholders (including, but not limited to, the JNCC, SNH, SEPA, MCA and the NLB) with regular updates on construction activity, including any environmental issues that have been encountered and how these have been addressed.

The Licensee must, no later than 3 months prior to the Final Commissioning of the Works, submit an updated EMP, in writing, to cover the operation and maintenance activities for the Works to the Licensing Authority for their written approval. Such approval may be given only following consultation with the JNCC, SNH, SEPA and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. The EMP must be regularly reviewed by the Licensee and the MFRAG (refer to conditions 5.2.18 and 5.3.10) over the lifespan of the Works, and be kept up to date (in relation to the likes of construction methods and operations of

the Works in terms of up to date working practices) by the Licensee in consultation with the MFRAG.

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

5.1.3 Atlantic salmon, sea trout and European eel Monitoring Strategy

The Licensee must, to the satisfaction of the Licensing Authority, participate in the monitoring requirements as laid out in the 'Scottish Atlantic Salmon, Sea Trout and European Eel Monitoring Strategy' so far as they apply at a local level (the Moray Firth). The extent and nature of the Licensee's participation is to be agreed by the Licensing Authority in consultation with the MFRAG.

5.1.4 Moray Firth Offshore Wind Developers Group - Commercial Fisheries Working Group ("MFOWDG-CFWG")

The Licensee must continue its membership in the MFOWDG-CFWG, or any successor group formed to facilitate commercial fisheries dialogue to define and finalise the draft CFMS (dated 1st July 2013 (Revision C)) and define and finalise the draft XCFMS (dated 27th August 2014 (Revision B)). As part of the finalised CFMS and XCFMS, the Licensee must produce and implement a mitigation strategy for each commercial fishery that can prove to the Licensing Authority that they will be adversely affected by the Works. Should it be deemed necessary by the MFOWDG-CFWG, investigations into alternative gear for the scallop fishing industry in the Moray Firth must form part of the CFMS and XCFMS. The CFMS and XCFMS to be implemented must be approved in writing by the Licensing Authority. The Licensee must implement all mitigation measures committed to be carried out by the Licensee within the CFMS and XCFMS, so far as is applicable to the Works. Any agents or their contractors or sub-contractors working for the Licensee, must co-operate with the fishing industry to ensure the effective implementation of said CFMS and XCFMS.

5.1.5 Health and safety incident

If any serious health and safety incident occurs on the Site requiring the Licensee to report it to the Health and Safety Executive, then the Licensee must also notify the Licensing Authority of the incident within 24 hours of the incident occurring.

5.1.6 Bunding and storage facilities

The Licensee must ensure suitable bunding and storage facilities are employed to prevent the release of fuel oils, lubricating fluids associated with the plant and equipment into the marine environment.

5.1.7 Restoration of the Site to its original condition

The Licensee must take all reasonable, appropriate and practicable steps to restore the Site to its original condition before the Licensable Marine Activity was undertaken, or to as close to its original condition as is reasonably practicable, in

accordance with the PEMP and the Decommissioning Programme (“DP”) to the satisfaction of the Licensing Authority. Should the Licensed Marine Activity be discontinued prior to Completion of the Works, the Licensee must inform the Licensing Authority in writing of the discontinuation of the Works. This licence will be varied under section 30(3) of the 2010 Act following procedures laid out under section 31 of the 2010 Act, and under section 72(3) of the 2009 Act to allow the removal of Works already installed.

5.2 Prior to the Commencement of the Works

5.2.1 Commencement date of the Works

The Licensee must, prior to and no less than 1 month before the Commencement of the Works, notify the Licensing Authority, in writing, of the date of Commencement of the Works.

5.2.2 Decommissioning Programme (“DP”)

Where the Secretary of State has, following consultation with the Licensing Authority, given notice requiring the Licensee to submit to the Secretary of State a DP, pursuant to section 105(2) and (5) of the Energy Act 2004, then construction may not begin on the Site of the Works until after the Licensee has submitted to the Secretary of State a DP in compliance with that notice.

5.2.3 Construction Programme (“CoP”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a CoP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with the JNCC, SNH, SEPA, MCA, NLB, AC and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. The CoP must be in accordance with the Application.

The CoP must set out:

- a) The proposed date for Commencement of the Works;
- 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.

5.2.4 Construction Method Statement (“CMS”)

The Licensee must, no later than 6 months prior to the Commencement of the Works submit a CMS, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with the JNCC, SNH, SEPA, MCA, NLB, AC and any such other advisors or

organisations as may be required at the discretion of the Licensing Authority. The CMS must set out the construction procedures and good working practices for constructing the Works. The CMS must be in accordance with the construction methods assessed in the Application and must include details of how the construction related mitigation steps proposed in the Application are to be delivered.

The CMS must, so far as is reasonably practicable, be consistent with the DS, the EMP, the VMP, the NSP, the Piling Strategy (“PS”), the CaP and the Lighting and Marking Plan (“LMP”).

5.2.5 Piling Strategy (“PS”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, 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 the JNCC, SNH and any such other advisors as may be required at the discretion of the Licensing Authority.

The PS must include:

- a) Full details of the proposed method and anticipated duration of pile-driving at all locations;
- b) Details of soft-start piling procedures and anticipated maximum piling energy required at each pile location; and
- c) Details of mitigation and monitoring to be employed during pile-driving, as agreed by the Licensing Authority.

The PS must be in accordance with the Application and reflect any surveys carried out after submission of the Application. The PS must demonstrate how the exposure to and/or the effects of underwater noise have been mitigated in respect of the following species: bottlenose dolphin; harbour seal; Atlantic salmon; cod; and herring.

The PS must, so far as is reasonably practicable, be consistent with the EMP, the PEMP and the CMS.

5.2.6 Development Specification and Layout Plan (“DSLPL”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a 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, the Chamber of Shipping (“CoS”), the JNCC, SNH, the SFF 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 proposed location of each individual OSP, seabed conditions, bathymetry, confirmed foundation type for each OSP 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 OSP, this should also be provided as a geographic information system (“GIS”) shape file using World Geodetic System 84 (“WGS84”) format;
- c) A table or diagram of each OSP, showing dimensions;
- d) The finishes for each OSP; and
- e) The length and proposed arrangements on the seabed of all cables.

5.2.7 Design Statement (“DS”)

The Licensee must, prior to the Commencement of the Works, submit a DS, in writing, to the Licensing Authority that includes representative visualisations from key viewpoints agreed with the Licensing Authority, based upon the DSLP, as approved by the Licensing Authority (as updated and amended from time to time by the Licensee). The DS must be provided, for information only, to the HC, MC, AC, the JNCC, SNH and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. The DS must be prepared and signed off by at least one qualified landscape architect, instructed by the Licensee prior to submission to the Licensing Authority.

5.2.8 Vessel Management Plan (“VMP”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a VMP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with the JNCC, SNH, 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) Working practices to minimise the unnecessary use of ducted propellers;
- c) How vessel management will be co-ordinated, particularly during construction but also during operation; and
- d) Location of working port(s), how often vessels will be required to transit between port(s) and the Site and indicative vessel transit corridors proposed to be used.

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

5.2.9 Navigational Safety Plan (“NSP”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a NSP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with MCA, NLB 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) Emergency response and co-ordination arrangements for the construction, operation and decommissioning phases of the Works; and
- g) Buoyage.

The Licensee must confirm within the NSP that they have taken into account and adequately addressed all of the recommendations of the MCA in the current Marine Guidance Note 371, and its annexes, that may be appropriate to the Works, or any other relevant document which may supersede said guidance.

5.2.10 Cable Plan (“CaP”)

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit CaP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with the JNCC, SNH, MCA, and the 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 the following:

- a) Details of the location and cable laying techniques for the cables;
- b) The results of survey work (including geophysical, geotechnical and benthic surveys) which will help inform cable routing;
- c) A pre-construction survey for Annex 1 habitat and priority marine features to inform cable micro-siting and installation methods in consultation with the Licensing Authority and their advisors;
- d) Technical specification of all cables, including a desk based assessment of attenuation of electro-magnetic field strengths and shielding;
- e) A burial risk assessment to ascertain if burial depths can be achieved. In locations where this is not possible then suitable protection measures must be provided;
- f) Methodologies for over trawl surveys of the cables through the operational life of the Works where mechanical protection of cables laid on the sea bed is deployed; and
- g) Measures to address exposure of any cables.

5.2.11 Traffic and Transportation Plan (“TTP”)

The Licensee must, no later than 6 months prior to the Commencement of the Works submit a TTP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with Transport Scotland, the HC, MC, AC, and any such other advisors as may be required at the discretion of the Licensing Authority. The TTP must set out a mitigation strategy for the impact of road based traffic and transportation associated with the Works.

5.2.12 Ecological Clerk of Works (“ECoW”)

Prior to the Commencement of the Works, the Licensee must at its own expense, and with the approval of the Licensing Authority in consultation with the JNCC and SNH, appoint an ECoW. The term of appointment for the ECoW shall be from a start date to be agreed, in writing, with the Licensing Authority, until the Final Commissioning of the Works.

The responsibilities of the ECoW must include, but not be limited to:

- a) Quality assurance of final draft version of all plans and programmes required under this licence;
- b) Provide advice to the Licensee on compliance with licence conditions, including the conditions relating to the CMS, the EMP, the PEMP, the PS, the CaP and the VMP;
- c) Monitor compliance with the CMS, the EMP, the PEMP, the PS, the CaP and the VMP;
- d) Provide reports on point c) above to the Licensing Authority at timescales to be determined by the Licensing Authority; and
- e) Inducting site personnel on the Site / the Works environmental policy and procedures.

The ECoW role may be carried out by a party appointed by the Licensee or a third party to carry out an equivalent role pursuant to other consents or licences granted in relation to the Works and subject to the written approval of the Licensing Authority.

5.2.13 Fisheries Liaison Officer (“FLO”)

Prior to the Commencement of the Works, a FLO, approved by Licensing Authority, must be appointed by the Licensee for the period from Commencement of the Works until the Final Commissioning of the Works. The Licensee must notify the Licensing Authority of the identity and credentials of the FLO before Commencement of the Works by including such details in the EMP (refer to condition 5.1.2). 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 include, but not limited to:

- a) Establishing and maintaining effective communications between the Licensee, any contractors or sub-contractors, fishermen and other users of the sea concerning the Works and any amendments to the CMS and site environmental procedures;
- b) 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.

The FLO role may be carried out by a party appointed by the Licensee or a third party to carry out an equivalent role pursuant to other consents or licences granted in respect of the Works and subject to the written approval of the Licensing Authority.

5.2.14 Navigation and Aviation Safety and Charting

The Licensee must, as soon as reasonably practicable prior to Commencement of the Works, notify the UKHO of the proposed works to facilitate the promulgation of maritime safety information and updating of nautical charts and publications through the national Notice to Mariners system.

The Licensee must, as soon as reasonably practicable prior to the Commencement of the Works, ensure that local mariners, fishermen's organisations and HM Coastguard, in this case Maritime Rescue Coordination Centre Shetland and Aberdeen, are made fully aware of the Licensable Marine Activity through local Notice to Mariners or any other appropriate means. The Licensee must consult with the Buckie Harbour Master where appropriate, who may wish to issue local warnings to alert those navigating in the vicinity to the presence of the Works during construction.

The Licensee must ensure that details of the Works are promulgated in the Kingfisher Fortnightly Bulletin, as soon as reasonably practicable prior to the Commencement of the Works to inform the Sea Fish Industry of the vessel routes, the timings and the location of the Works and of the relevant operations.

The Licensee must prior to Commencement of the Works, complete an "Application for Statutory Sanction to Alter/Exhibit" form and submit this to the NLB for the necessary sanction to be granted.

The Licensee must, prior to Commencement of the Works, ensure that the location of all OSPs and cables are made available for inclusion in the Clyde Cruising Club Sailing Directions and Anchorages.

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a LMP, in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with MCA, NLB, the Civil Aviation Authority ("CAA"), the Defence Infrastructure Organisation ("DIO") and any such other advisors 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 MCA, CAA and DIO navigational and 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 said guidance prior to the approval of the LMP. The LMP must also detail the navigational lighting requirements detailed in International Association of Marine Aids to Navigation and Lighthouse Authorities ("IALA") Recommendations O-139 or any other documents that may supersede said guidance prior to approval of the LMP.

The LMP must make provision for amending the marking and lighting of the OSPs, as required by NLB and/or the CAA, in the event that any OSPs are constructed prior to the construction of wind turbine generators ("WTGs") within the Site, to ensure the

marking and lighting of any OSP suits the layout of any surrounding WTGs that form part of any wind farm development located within the Site.

The Licensee must provide the LMP to the HC, MC, the JNCC, SNH and any other bodies as may be required at the discretion of the Licensing Authority.

The Licensee must, prior to the Commencement of the Works, and following confirmation of the approved DSLP by the Licensing Authority, provide the precise location and maximum heights of all OSPs and construction equipment over 150 m above lowest astronomical tide ("LAT"), and details of any lighting fitted to all OSPs, to the UKHO for aviation and nautical charting purposes.

5.2.15 Third Party Certification or Verification ("TPC" or "TPV")

The Licensee must, no later than 3 months prior to the Commencement of the Works, provide the Licensing Authority (unless otherwise agreed, in writing, with the Licensing Authority) with TPC or TPV (or suitable alternative as agreed, in writing, with the Licensing Authority) of the basis of design for all OSPs foundations, jacket and OSP platform structures.

5.2.16 Marine Archaeology Reporting Protocol ("MARP")

The Licensee must, no later than 6 months prior to the Commencement of the Works, submit a MARP 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. Such approval may be given only following consultation by the Licensing Authority with HS and any such other advisors as may be required at the discretion of the Licensing Authority. The MARP must be implemented in full, at all times, by the Licensee.

5.2.17 Noise Registry

The Licensee must, in the event that pile foundations are to be used, submit the appropriate completed noise registry form to the Licensing Authority and the JNCC stating, the proposed date(s), location(s) and nature of the piling activities under authority of this licence.

5.2.18 Moray Firth Regional Advisory Group ("MFRAG")

The Licensee must participate in any MFRAG established by the Licensing Authority for the purpose of advising the Licensing Authority on research, monitoring and mitigation programmes for, but not limited to, diadromous fish, marine mammals and commercial fish. Should a Scottish Strategic Marine Environment Group ("SSMEG") be established (refer to conditions 5.2.19 and 5.3.11), the responsibilities and obligations being delivered by the MFRAG will be subsumed by the SSMEG at a timescale to be determined by the Licensing Authority.

5.2.19 Scottish Strategic Marine Environment Group (“SSMEG”)

The Licensee must participate in any SSMEG established by the Licensing Authority for the purpose of advising the Licensing Authority on research, monitoring and mitigation programmes for, but not limited to, diadromous fish, marine mammals and commercial fish.

5.3 During the construction of the Works

5.3.1 Compliance with and amendments to approved plans

The Licensee must, at all times, construct the Works in accordance with the approved EMP, CoP, CMS, PS, DSLP, VMP, NSP, CaP, TTP and LMP (as updated and amended from time to time by the Licensee).

Any updates or amendments made to the EMP, CoP, CMS, PS, DSLP, VMP, NSP, CaP, TTP, and LMP by the Licensee, must be submitted, in writing, by the Licensee to the Licensing Authority for their written approval.

5.3.2 Operation and Maintenance Programme (“OMP”)

The Licensee must, no later than 3 months prior to the commissioning of the first OSP, 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 the JNCC, SNH, SEPA, MCA, NLB, AC 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 the operations and maintenance of the OSPs, substructures, and cable network 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 EMP, the PEMP, the VMP, the NSP, the CaP and the LMP.

5.3.3 Transportation audit sheet

The Licensee must create, complete and submit to the Licensing Authority on the first working day of the month, a detailed transportation audit sheet for each month during the period when Construction of the Works is undertaken, for all aspects of the Construction of the Works. The transportation audit sheet must include information on the loading facility, vessels, equipment, shipment routes, schedules and all materials to be deposited (as described in Part 2 of the licence) in that month. Where, following the submission of a transportation audit sheet to the Licensing Authority, any alteration is made to the component parts of the transportation audit sheet, the Licensee must notify the Licensing Authority of the alteration in the following month’s transportation audit sheet.

If the Licensee becomes aware of any substances or objects on the transportation audit sheet that are missing, or an accidental deposit occurs, the Licensee must

contact the Licensing Authority as soon as practicable after becoming aware, for advice on the appropriate remedial action. Should the Licencing Authority deem it necessary, the Licensee must undertake a side scan sonar survey in grid lines (within operational and safety constraints) across the area of the Works, to include cable routes and vessel access routes from local service port(s) to the Site to locate the substances or objects. If the Licensing Authority is of the view that any accidental deposits associated with the Construction of the Works are present, then the deposits must be removed by the Licensee as soon as is practicable and at the Licensee's expense.

5.3.4 Nature and quantity of deposited substances and objects

The Licensee must, in addition to the transportation audit sheets required to be submitted to the Licensing Authority under condition 5.3.3, following the Commencement of the Works, submit audit reports, in writing, to the Licensing Authority, stating the nature and quantity of all substances and objects deposited below MHWS under the authority of this licence. Such audit reports must be submitted in writing, to the Licensing Authority by the Licensee at 6 monthly intervals, with the first such report being required to be submitted on a date no later than 6 months following the Commencement of the Works. Where appropriate, nil returns must be provided.

5.3.5 Navigational safety

The Licensee must notify the UKHO of the progress of the Works to facilitate the promulgation of maritime safety information and updating of nautical charts and publications through the national Notice to Mariners system.

The Licensee must notify, from Kirkwall to Peterhead, local mariners, fishermen's organisations and HM Coastguard, in this case Maritime Rescue Coordination Centre Shetland and Aberdeen, of the progress of Construction of the Works through local Notice to Mariners or any other appropriate means.

The Licensee must ensure that the progress of Construction of Works is promulgated in the Kingfisher Fortnightly Bulletin to inform the Sea Fish Industry of the vessel routes, the timings and the location of the Works and of the relevant operations.

The Licensee must, notify the Licensing Authority, in writing, as soon as reasonably practicable, of any case of damage to or destruction or decay of the Works. The Licensing Authority will advise, in writing, of any remedial action to be taken and any requirement to display aids to navigation, following consultation with the MCA, the NLB or any such advisers as required.

The Licensee must ensure that any Emergency Response and Rescue Vehicle ("ERRV") and/or cable-laying vessel permitted to engage in the Works is equipped with an automatic identification system ("AIS") and automatic radar plotting aids ("ARPA").

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 Office of Communications (“OfCom”).

The Works shall be marked and/or lighted as required by the NLB and the marking to be continued unless and until the Licensing Authority rescind this direction.

If it is desired to display any marks or lights not required by this licence then details must be submitted to the NLB and their ruling complied with. The display of unauthorised marks or lights is prohibited.

The Licensee must ensure the safety of navigation is not compromised by the Works. The navigable depth must not be reduced by more than 5% of stated chart datum unless otherwise agreed, in writing, with the Licensing Authority in consultation with the MCA and NLB.

5.3.6 Markings, lighting and signals of the Works

The Licensee must ensure that the Works are marked and lit in accordance with the requirements of the NLB and the CAA at all times and such marking and/or lighting must be continued unless and until such time as the Licensing Authority, by notice, relevantly varies this licence under section 30 of the 2010 Act and under section 72 of the 2009 Act.

The Licensee must ensure that no marks or lights, other than those required by virtue of this licence, are displayed unless they have been approved, in writing, by the Licensing Authority following consultation with the NLB and the CAA.

The Licensee must, as construction of the Works and the WTGs progresses, ensure that any OSP constructed within the Site prior to the construction of any WTGs, will have its marking and lighting amended, in accordance in the LMP, to suit the layout of any surrounding WTGs that form part of any wind farm development located within the Site.

5.3.7 Markings, lighting and signals of jack up barges and vessels

The Licensee must ensure that any vessels permitted to engage in the Works are marked in accordance with the International Rules for the Prevention of Collisions at Sea whilst under way, and in accordance with the UK Standard Marking Schedule for Offshore Installations if secured to the seabed.

5.3.8 Horizontal Directional Drilling (“HDD”)

The Licensee must ensure the seaward exit point of the HDD, if used, will be located as far offshore as reasonably practicable towards the depth of closure; the landward exit point of the HDD will be located onshore of the high-water mark, which may move landward due to coastal retreat; and the cables will be suitably buried between the seaward exit of the HDD and the depth of closure (the depth of water beyond which annually significant wave events will cease to contribute to beach sediment supply and morphological processes).

5.3.9 Noise registry

The Licensee must, in the event that pile foundations are to be used, and piling is to be carried out for more than 10 consecutive days, submit at quarterly intervals, the appropriate completed noise registry form to the Licensing Authority and the JNCC, stating the date(s), location(s) and nature of such activities under authority of this licence.

5.3.10 Moray Firth Regional Advisory Group (“MFRAG”)

The Licensee must participate in any MFRAG established by the Licensing Authority for the purpose of advising the Licensing Authority on research, monitoring and mitigation programmes for, but not limited to, diadromous fish, marine mammals and commercial fish. Should a SSMEG be established (refer to conditions 5.2.19 and 5.3.11), the responsibilities and obligations being delivered by the MFRAG will be subsumed by the SSMEG at a timescale to be determined by the Licensing Authority.

5.3.11 Scottish Strategic Marine Environment Group (“SSMEG”)

The Licensee must participate in any SSMEG established by the Licensing Authority for the purpose of advising the Licensing Authority on research, monitoring and mitigation programmes for, but not limited to, diadromous fish, marine mammals and commercial fish.

5.4 Conditions upon Completion of the Works

5.4.1 Date of Completion of the Works

The Licensee must, no more than 1 month following the Completion of the Works, notify the Licensing Authority, in writing, of the date of Completion of the Works.

5.4.2 Nature and quantity of deposited substances and objects

The Licensee must, no later than 1 month following Completion of the Works, submit a final audit report, in writing, to the Licensing Authority stating the nature and quantity of all substances and objects deposited below MHWS within the Scottish marine area and the UK marine licensing area under the authority of this licence. Where appropriate, nil returns must be provided.

5.4.3 Final Commissioning of the Works

The Licensee must, no more than 1 month following the Final Commissioning of the Works, notify the Licensing Authority, in writing, of the date of the Final Commissioning of the Works.

5.4.4 Compliance with and amendments to approved plans

The Licensee must, at all times, operate the Works in accordance with the approved VMP, OMP, NSP, CaP, TTP and LMP (as updated and amended from time to time by the Licensee).

The license must, at all times, maintain the Works in accordance with the approved OMP (as updated and amended from time to time by the Licensee).

Any updates or amendments made to the VMP, OMP, NSP, CaP, TTP, and LMP by the Licensee, must be submitted, in writing, by the Licensee to the Licensing Authority for their written approval.

5.4.5 Navigational safety

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

The Licensee must, within 1 month of Completion of the Works, provide the “as-built” positions and maximum heights of all OSPs, along with any sub-sea infrastructure, cable landing points and changes to navigable depths, to the UKHO for aviation and nautical charting purposes.

The Licensee must ensure that local mariners, fishermen's organisations and HM Coastguard, in this case Maritime Rescue Coordination Centre Shetland and Aberdeen, are made fully aware of the Completion of the Works.

The Licensee must ensure that the Completion of the Works is promulgated in the Kingfisher Fortnightly Bulletin to inform the Sea Fish Industry.

The Licensee must, notify the Licensing Authority, in writing, as soon as reasonably practicable, of any case of damage to or destruction or decay of the Works. The Licensing Authority will advise, in writing, of any remedial action to be taken and any requirement to display aids to navigation, following consultation with the MCA, the NLB or any such advisers as required.

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.

5.4.6 Markings, lighting and signals of the Works

The Licensee must ensure that the Works are marked and lit in accordance with the requirements of the NLB and the CAA at all times and such marking and/or lighting must be continued unless and until such time as the Licensing Authority, by notice, relevantly varies this licence under section 30 of the 2010 Act and section 72 of the 2009 Act.

The Licensee must ensure that the required IALA availability target for Category 1 Aids to Navigation (“AtoN”) is achieved through redundancy, monitoring and repair, must be in place and arrangements made to warn the mariner promptly of any AtoN fault and its subsequent return to fully operational service.

The Licensee must ensure that lit Cable Marker Boards (“CMBs”) are positioned as near as possible to the shoreline so as to mark the points at which the cables come ashore. The CMBs shall be diamond shaped, with dimensions 2.5 metres long and 1.5 metres wide, background painted yellow with the inscription ‘Cables’ painted horizontally in black. The structures shall be mounted at least 4 metres above ground level, with a navigation light flashing yellow once every five seconds (“Fl Y 5s”) mounted on the upward apex of the board. The nominal range of these lights should be 3 nautical miles, and they should have an availability of not less than 97% (IALA Category 3) over a rolling three year period.

The Licensee must ensure that the marking and lighting of any OSP within the Site is amended, in accordance in the LMP, to suit the final layout of the WTGs that form part of any wind farm development located within the Site.

5.4.7 Noise registry

The Licensee must, in the event that pile foundations were used, submit the appropriate completed noise registry form to the Licensing Authority and the JNCC, within 12 weeks of Completion of the Works, stating the actual date(s), location(s) and nature of piling activities carried out under authority of this licence.

5.4.8 Environmental protection

The Licensee shall ensure the beach and foreshore is returned to the original profile, or as close as reasonably practicable, following Completion of the Works.

5.4.9 Operation and Maintenance

The Licensee must, within 3 months of the Completion of the Works, provide an updated OMP, in writing, to the Licencing Authority for their written approval. Notification must be provided at least 3 months in advance of any subsequent maintenance works where any additional deposits are required. In the event that these works are not assessed in the Application and are considered by the Licencing Authority as being material they will require further marine licences.

5.4.10 Decommissioning

This licence does not permit the Decommissioning of the Works, for which a separate marine licence is required.

6. Regulatory Evaluation

6.1 Conclusions

In considering the application, in particular the ES and the relevant provisions of the 2010 Act and the 2009 Act, a full and detailed assessment has been made of the potential direct and indirect effects of the MOFTI on human beings, fauna and flora, soils, water, air climate, the landscape, material assets, the cultural heritage and the interaction between any two or more of these factors.

Marine Scotland, as the regulator, is satisfied with the findings of the ES, and subject to the inclusion of the conditions referred to above in the marine licence, that they may grant in due course, is of the opinion that the marine elements of the MOFTI will not have a significant adverse effect on the environment.

6.2 Recommendations

Having carried out assessments of the potential environmental impacts of the proposed MOFTI, the reviewer acting on behalf of Marine Scotland makes the recommendations below:

Marine Scotland is satisfied that the ES adequately address all environmental issues in relation to the MOFTI, subject to the conditions referred to above being included in the relevant marine licence subsequently issued by Marine Scotland.

The reviewer acting on behalf of Marine Scotland recommends that a favourable EIA consent decision is given in respect of the MOFTI, subject to the inclusion of the above conditions being attached to any relevant marine licence.

Reviewed by:	Alexander Ford
Date:	08 September 2014
Approved by:	Gayle Holland
Date:	17 September 2014
The Licensing Authority:	Marine Scotland