

ANNEX D Validation of Appropriate Assessment

marinescotland



Scottish Government
Riaghaltas na h-Alba
gov.scot

E: ms.marinerenewables@gov.scot

LICENCE/CONSENT VARIATION – VALIDATION OF APPROPRIATE ASSESSMENT

1 Licence Details

<u>Licensee/Developer Name:</u>	European Marine Energy Centre Ltd (Company Number SC249331)
<u>Site Details:</u>	Fall of Warness tidal test site located in Orkney (“the Development”)
<u>Date Existing Licence/Consent Issued:</u>	Section 36 consents issued on 22 March 2016 (“the Existing Consent”);
<u>Date of Existing Appropriate Assessment (“AA”):</u>	01 December 2015 (“the 2015 AA”)

2 Summary of proposed variation application:

Variation application to extend the duration of the Existing Consent by a period of 3 years (“the Variation Application”).

3 Summary of consultation responses – in relation to European protected sites:

NatureScot (operational name of Scottish Natural Heritage) noted that in the 2015 AA, the then draft North Orkney and Scapa Flow Special Protection Areas (“SPAs”) were not assessed as they were not subject to policy protection at that time. Both sites were subsequently classified, but with amended boundary and reduced qualifying features lists on 16 February 2022. NatureScot noted that, as the Development was already consented when the North Orkney proposed SPA (“pSPA”) was consulted on and granted policy

protection, the consented activities associated with the Development are considered to form part of the baseline conditions of the pSPA, such that no additional management was deemed to be required. Furthermore, the North Orkney and Scapa Flow SPA boundaries do not overlap the Development and their designated features are not generally considered to have connectivity to developments operating outwith the SPA boundaries, with the exception of breeding red-throated divers which NatureScot advised would have been appropriately assessed in the 2015 AA as protected features of previously assessed SPAs. NatureScot therefore concluded no Likely Significant Effect (“LSE”) with respect to the Scapa Flow and North Orkney SPAs as a result of the Variation Application.

NatureScot also confirmed that there are no other changes to designated sites, natural heritage interests or development projects in the vicinity of the Development which could affect the predicted potential impacts, and the Variation Application comprises no change to the site activities or project envelope.

4 Summary of other information in relation to European protected sites (MSS responses, external reports).

No specific advice was sought from MSS.

5 Conclusion - Consideration of whether AA completed for the original decision is still valid:

No consultation responses, advice, external reports or representations have been received which would invalidate the conclusions or alter the outcome of the 2015 AA in respect of the Existing Consent.

The AA completed for the original decision is still valid in its conclusion that the proposal is not likely to have an adverse impact on the site integrity of any SPAs or Special Areas of Conservation detailed in section 1a of the 2015 AA either alone or in combination with other projects providing the mitigation measures previously secured remain in place.

There is no LSE with respect to either the Scapa Flow or North Orkney SPAs arising from the Variation Application.

Name	Assessor or Approver	Date
Rebecca Bamlett	Assessor	20/01/2023
Gayle Holland	Approver	26/01/2023