

MARINE SCOTLAND ACT 2010, PART 4 MARINE LICENSING

LICENCE TO CONSTRUCT, ALTER OR IMPROVE WORKS AND DEPOSIT ANY SUBSTANCE OR OBJECT IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00009466**

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

**Neart na Gaoithe Offshore Wind Limited
Atria One, Level Six
144 Morrison Street
Edinburgh
EH3 8EX**

to construct, alter or improve works and deposit any substance or object 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 **16 October, 2021** until **31 December, 2021** or until the Licensed Activity has been decommissioned in accordance with an approved Decommissioning Programme prior to this date.

Signed:
Stephanie Sweeting

For and on behalf of the Licensing Authority

Date of issue **15 October 2021**

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

- a) "**the 2010 Act**" means the Marine (Scotland) Act 2010;
- b) "**Licensed Activity**" means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under the licence;
- c) "**Licensee**" means Neart na Gaoithe Offshore Wind Limited having its registered office at Atria One, 144 Morrison Street, Edinburgh, EH3 8EX and registered in Scotland having its registered company number as SC356223;
- d) "**Mean high water springs**" means any area submerged at mean high water spring tide;
- e) "**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;
- f) "**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;
- g) "**the Application**" means the application letter, marine licence applications, the Environmental Impact Assessment report and the Habitats Regulations Appraisal report submitted to the Licensing Authority by the Licensee on 16 March 2018, the addendum of additional information relating to ornithology subsequently submitted on 26 July 2019, the section 36 variation application and supporting documentation submitted to the Licensing Authority by the Licensee on 8 January 2019, the marine licence variation Supporting Environmental Report submitted to the Licensing Authority on 23 July 2020 and the marine licence variation note dated 30 June 2021.
- h) "**Noise Registry**" means the marine noise registry developed by the Department for Environment, Food and Rural Affairs ("DEFRA") and the Joint Nature Conservation Committee ("JNCC") to record human activities in UK seas that produce loud low to medium frequency (10Hz-10kHz) impulsive noise;
- i) "**OCNS list**" means the definitive ranked list of registered products held by the Offshore Chemical Notification Scheme, as assessed for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002 (as amended);
- j) "**the Site**" means the area delineated in blue, red and pink in Annex One of this licence;
- k) "**Transit Plan**" means a plan which sets out measures to be taken to avoid or reduce the impact of vessel movement on the local fishing industry and to promote a sustainable coexistence. It will include indicative transit routes for vessel operating in and around the Licensed Activity and transiting from relevant ports; and
- l) "**Vessel Reports**" means reports detailing the operators, vessels and vehicles engaging in the Licensed Activity.

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.

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1.2 Contacts

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

Marine Scotland
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.

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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.

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2. PART 2 – PARTICULARS

2.1 Agent

As per Licensee.

2.2 Location of the Licensed Activity

NEART NA GAOITHE OFFSHORE WIND FARM,

The offshore export cable corridor part of the Licensed Activity is located within the area of the Site bounded by joining the following points:

55° 57.734' N 002° 22.472' W
55° 57.541' N 002° 23.539' W
55° 57.584' N 002° 23.802' W
55° 57.609' N 002° 23.820' W
55° 57.693' N 002° 23.636' W
55° 57.866' N 002° 22.729' W
55° 00.990' N 002° 21.938' W
55° 01.007' N 002° 21.951' W
55° 01.449' N 002° 22.005' W
55° 01.552' N 002° 22.004' W
55° 01.795' N 002° 21.932' W
55° 02.468' N 002° 21.563' W
55° 14.546' N 002° 18.479' W
55° 14.349' N 002° 18.237' W

The Offshore Substation Platform part of the Licensed Activity is located within the area of the Site bounded by joining the following points:

56° 15.271' N 002° 09.898' W
56° 12.752' N 002° 13.998' W
56° 15.479' N 002° 19.628' W
56° 17.430' N 002° 20.232' W
56° 20.312' N 002° 16.518' W
56° 12.721' N 002° 09.255' W

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56° 12.766' N 002° 16.293' W
56° 15.827' N 002° 20.055' W
56° 19.752' N 002° 17.826' W
56° 20.171' N 002° 14.910' W

As shown in Annex One.

2.3 Description of the Licensed Activity

Offshore transmission infrastructure located at the Site in the outer Firth of Forth, approximately 15.5km from east of Fife Ness as shown in Annex One comprised of:

1. No more than two Offshore Substation Platform ("OSP") topsides (housing electrical infrastructure and potential welfare facilities for operation and maintenance staff) with no more than two jacket foundations plus ancillary equipment, such as J-tubes and access facilities.
2. No more than two subsea offshore export cables, each cable measuring no more than 43km in length with no more than three temporary 1km subsea export cables to be deployed and removed for the purposes of the trenching trials.
3. No more than four interconnector cables between the two OSPs.
4. Scour and cable protection.

As described in the Application.

2.4 Descriptions of the materials to be used during Licensed Activity and substances or objects to be deposited

This licence authorises the deposit of the undernoted substances and objects and the use of the undernoted construction materials required in connection with the Licensed Activity, subject to the indicative maximum amounts as specified below:

Steel/Iron: 7500 tonnes

Silt: 2,880 m³

Sand: 2,880 m³

Stone/Rock/Gravel: 110,000 m³ (quantity includes the total scour protection for the export and interconnector cables and jacket legs, made up of stone or rock or concrete)

Export Cables: 86km (inclusive of the cables for the trenching trials)

Interconnector Cables: 10km

Grout: 650 m³

Cable ducts: 1.8km (240 tonnes of high-density polyethylene or 500 tonnes of steel)

Less any substances and objects already deposited and less any materials already used under the authority of marine licence numbers 06678/18/0, 06678/19/0, 06678/19/1 and MS-00008954.

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Materials to be used in temporary construction

Sand bags: 420 kg (maximum no. 12)

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1 Compliance with the Application and approved plans

The Licensee must at all times construct, operate and maintain the Licensed Activity in accordance with this licence, the Application and the plans and programmes approved by the Licensing Authority.

Reason: To ensure compliance with the marine licence, the Application and the approved plans and programmes.

3.1.2 Licence conditions binding other parties

All conditions attached to this licence bind any person who for the time being owns, occupies or enjoys any use of the Licensed Activity for which this licence has been granted in relation to those Licensed Activities authorised under item 5 in section 21(1) of the 2010 Act whether or not this licence has been transferred to that person.

Reason: To safeguard the obligations of the licence, in accordance with s.29(5) of the 2010 Act.

3.1.3 Vessels, vehicles agents, contractors and sub-contractors

The Licensee must ensure that at least five days prior to its engagement in the Licensed Activities, the name and function of any vessel, agent, contractor or subcontractor appointed to engage in the Licensed Activity and, where applicable, the master's name, vessel type, vessel IMO number and vessel owner or operating company are fully detailed in the Vessel Report. The Licensee must make the Vessel Reports and the Contractor Reports available on the Neart na Gaoithe Offshore Wind Limited webpage: <https://nngoffshorewind.com/>.

Any changes to the supplied details must be uploaded to the Vessel Report and the Contractor Report and the Licensing 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 Activities.

Only those vessels, agents, contractors or sub-contractors detailed in the Vessel Report are permitted to carry out any part of the Licensed Activity.

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 Activities 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

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permitted to engage in the Licensed Activity and must ensure that the licence and any such variations are read and understood by those persons.

Reason: To ensure all parties involved in the Licensed Activity are aware of the licence and its conditions to reduce the risk of a breach of the licence, in accordance with s.39(1)(b) of the 2010 Act.

3.1.4 Force Majeure

Should the Licensee or any of its agents, contractors or sub-contractors, by any reason of force majeure deposit anywhere in the marine environment any substance or object, then the Licensee must notify the Licensing Authority of the full details of the circumstances of the deposit within 48 hours of the incident occurring (failing which as soon as reasonably practicable after that period of 48 hours has elapsed).

Force majeure may be deemed to apply when, due to stress of weather or any other cause, the master of a vessel or vehicle operator determines that it is necessary to deposit the substance or object other than at the Site because the safety of human life or, as the case may be, the vessel, vehicle or marine structure is threatened. Under Annex II, Article 7 of the OSPAR Convention, the Licensing Authority is obliged to immediately report force majeure incidents to the OSPAR Commission.

Reason: To provide a defence for the Master to protect himself and his crew in bad weather conditions, in accordance with s.40 of the 2010 Act.

3.1.5 Material alterations to the licence application

If, after the granting of the licence, any information upon which the granting of this licence was based has altered in any material respect, the Licensee must notify the Licensing Authority of this fact in writing as soon as is practicable.

Reason: To ensure that the Licensed Activity are carried out in accordance with the Application documentation, in accordance with s.29(2)(a) of the 2010 Act.

3.1.6 Submission of plans and specification of studies and surveys to the Licensing Authority

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.

Reason: To ensure that the Licensing Authority is kept informed of the progress of the Licensed Activity, in accordance with s.29(3)(c) of the 2010 Act.

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3.1.7 Submission of reports and notifications to the Licensing Authority

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 it would appear to the Licensee that there may be a delay in the submission of the reports or notifications to the Licensing Authority, then 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 publically 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 Licensed Activity 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 a Transportation Audit Report ("TAR"), the Noise Registry, Marine Mammal Observer ("MMO") records and all appropriate reports as stipulated with the Project Environmental Monitoring Programme ("PEMP").

Reason: To ensure that all reports and notifications are submitted within a reasonable timescale after the licence is granted, in accordance with s.29(3)(c) of the 2010 Act.

3.1.8 Chemical usage

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 OCNS list, the approval request must include the chemical name, volume or quantity to be used, the OCNS list grouping or rank and the proposed frequency of use.

If the proposed chemical is not on the OCNS list, the approval request must include details of chemical to be used, including safety data sheet, depth and current at the Site, 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 should 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.

Reason: To minimise the environmental impact in the event of a release through the use of authorised chemicals in

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the interest of protecting the environment, in accordance with s.29(2)(b) of the 2010 Act.

3.1.9 Fluorinated greenhouse gases

The Licensee must ensure that all equipment to be utilised in the Licensed Activity which contains fluorinated greenhouse gases (hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride and other greenhouse gases that contain fluorine, listed in Annex I of Regulation No 517/2014 of the European Parliament and of the Council of 16 April 2014 on Fluorinated Greenhouse Gases ("F-Gas Regulation") or mixtures containing any of those substances) must take precautions to prevent the unintentional release ('leakage') of those gases. 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 5 tonnes of CO₂ equivalent or more 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.

Reason: To ensure compliance of the Licensed Activity with the F-Gas Regulation and the Fluorinated Greenhouse Gases Regulations 2015, in accordance with s.29(2)(b) of the 2010 Act.

3.1.10 Environmental protection

The Licensee must ensure that all reasonable, appropriate and practicable steps are taken at all times to avoid or minimise any damage to the Scottish marine area caused as a result of the undertaking of the Licensed Activities.

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

The Licensee must ensure that any debris or waste material placed below Mean high water springs ("MHWS") level during the construction of the Licensed Activity is removed from the Site, unless agreed otherwise by the Licensing Authority, as soon as is reasonably practicable, for disposal at a location above the MHWS level, approved by Scottish Environment Protection Agency ("SEPA") or such other relevant authority if disposal is to take place outwith Scotland.

The Licensee must ensure that, where practicable, all substances and objects deposited during the Licensed Activity

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are inert (or appropriately coated or protected so as to be rendered inert) and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.

The Licensee must ensure that the risk of transferring marine non-native species to and from the Site is kept to a minimum by ensuring appropriate bio-fouling management practices are implemented during the construction, operation and maintenance of the Licensed Activity.

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 situated within the Site need not be removed from the seabed.

Reason: To ensure environmental impacts are minimised, in accordance with s.29(2)(b) of the 2010 Act.

3.1.11 Availability of the licence for inspection

The Licensee must ensure that copies of this licence and any subsequent amendments or variations are available for inspection at any reasonable time by any person authorised by the Licensing Authority at:

- a. the premises of the Licensee;
- b. the premises of any agent, contractor or sub-contractor acting on behalf of the Licensee;
- c. any onshore premises directly associated with the Licensed Activity; and
- d. aboard any vessels permitted to engage in the Licensed Activity.

Reason: To ensure the licence is available for the purpose of inspection, in accordance with s.29(2)(b) of the 2010 Act.

3.1.12 Inspection of the Licensed Activity

Any persons authorised by the Licensing Authority must be permitted to inspect the Licensed Activity. The Licensee must, as far as reasonably practicable, 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 Licensed Activity.

Reason: To ensure access to the Site for the purpose of inspection, in accordance with s.29(2)(b) of the 2010 Act.

3.1.13 Emergencies

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 Licensed Activity as required by this licence;
- b. the maintenance of the Licensed Activity; or
- c. the drifting or wreck of the Licensed Activity,

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to include the broadcast of navigational warnings, then the Licensee is liable for any expenses incurred in securing such assistance.

Reason: To ensure licensee is aware of financial liabilities, in accordance with s.29(2)(b) of the 2010 Act.

3.1.14 Earlier marine licence

Should the Licensee proceed to undertake the Licensed Activity under the authority of this licence, all Licensed Activities authorised under the previous marine licence in favour of Neart na Gaoithe Offshore Wind Limited, dated 12 October 2020 (licence number MS-00008954) are not permitted.

Reason: To ensure the Licensed Activity is in accordance with the environmental assessments and Application, in accordance with s.29(2)(b) of the 2010 Act.

3.2 Conditions specific to the Licensed Activity

3.2.1 Conditions applicable to all phases of the Licensed Activity

3.2.1.1 Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Licensed Activity during the period of this Licence, the Licensee must provide written notification of the nature and timing of the incident to the Licensing Authority within 24 hours of the incident occurring. Confirmation of remedial measures taken and/or to be taken to rectify the breach must be provided, in writing, to the Licensing Authority within a period of time to be agreed by the Licensing Authority.

Reason: To keep the Licensing Authority informed of any such incidents which may be in the public interest, in accordance with s.29(3)(c) of 2010 Act.

3.2.1.2 Bunding and storage facilities

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

Reason: To ensure pollution prevention is undertaken, in accordance with s.29(2)(b) of the 2010 Act.

3.2.1.3 Decommissioning

There must be no Commencement of the Licensed Activity unless a Decommissioning Programme ("DP") has been

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submitted to and approved in writing by the Licensing Authority. The DP must outline measures for the decommissioning of the Licensed Activity, restoration of the sea bed and will include without limitation, proposals for the removal of the Licensed Activity, the management and timing of the Licensed Activity and, environmental management provisions.

The Licensed Activity must be decommissioned in accordance with the approved DP, unless otherwise agreed in writing in advance with the Licensing Authority.

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

Reason: To ensure that decommissioning is carried out according to the approved Decommissioning Programme under an appropriate licence, in accordance with s.29(3)(d) of the 2010 Act.

3.2.1.4 Regional Advisory Group

The Licensee must participate in any FTRAG or any successor group, established by the Licensing Authority for the purpose of advising the Licensing Authority on research, monitoring and mitigation programmes for, but not limited to, ornithology, marine mammals, diadromous and commercial fish. The extent and nature of the Licensee's participation in the Regional Advisory Group is to be agreed by the Licensing Authority.

Reason: To ensure effective environmental monitoring and mitigation is undertaken at a regional scale and environmental impacts are minimised, in accordance with s.29(3)(c) of the 2010 Act.

3.2.1.5 Rock protection

The Licensee must ensure that rock protection is installed in line with the Application. If rock protection is required in a location not identified in the Application, the location should be notified to the Licensing Authority prior to installation.

The Licensee must ensure that rock protection in areas not identified in the Application is kept to a minimum.

The Licensee must provide co-ordinates and details of all laid rock to the fishing industry, including the Scottish Fishermen's Federation and FMA Pittenweem, and the Licensing Authority within 14 days of the completion of the rock protection works.

The Licensee must provide the type, origin and grade of rock to the Licensing Authority on completion of the rock protection works.

Reason: To reduce navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act and to inform the Licensing Authority of the location of rock cable protection, in accordance with s.29(2)(c) of the 2010 Act.

3.2.2 Prior to the commencement of the Licensed Activity

3.2.2.1 Commencement date of the Licensed Activity

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 Commencement of the Licensed Activity authorised under this licence.

Reason: To inform the Licensing Authority of the commencement date of the Licensed Activity, in accordance with s.29(3)(c) of the 2010 Act.

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3.2.2.2 Monitoring of Marine Mammals

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 provide the Licensing Authority with the MMO records no later than six months following Commencement of the Licensed Activity, and thenceforth at such other periods as agreed with the Licensing Authority.

Reason: To ensure environmental impacts are minimised, in accordance with s.29(2)(b) of the 2010 Act.

3.2.2.3 Noise Registry

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

Reason: To ensure compliance with reporting requirements on marine noise, in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.4 Navigation and Charting

The Licensee must, no later than one calendar month prior to Commencement of the Licensed Activity, notify the United Kingdom Hydrographic Office ("UKHO") of the proposed Licensed Activity 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, and following confirmation of the approved DSLP by the Licensing Authority (refer to condition 3.2.2.17), provide the positions and maximum heights of the OSPs and construction equipment to the UKHO and Defence Geographic Centre ("DGC") for aviation and nautical charting purposes.

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 Licensed Activity through local Notice to Mariners or by any other appropriate means.

The Licensee must ensure that details of the Licensed Activity 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 Northern Lighthouse Board ("NLB") for the necessary sanction to be granted.

Reason: To reduce the navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act.

3.2.2.5 Third Party Certification or Verification

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The Licensee must no later than three calendar months (or such other period as agreed with the Licensing Authority) prior to the Commencement of the Licensed Activity, provide the Licensing Authority with Third Party Certification or Verification (or a suitable alternative as agreed in writing with the Licensing Authority) for the lifespan of the Licensed Activity.

Reason: To provide independent certification or verification of the technology, materials or equipment, in accordance with s.29(2)(b) of the 2010 Act.

3.2.2.6 Emergency Response Co-operation Plans

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an Emergency Response Co-operation Plan (“ERCoP”) for the construction, operation, maintenance and decommissioning phases of the Licensed Activity in writing, to the Licensing Authority for its written approval.

Such approval may only be granted following consultation by the Licensing Authority with the Maritime and Coastguard Agency (“MCA”) and the NLB and any other navigational advisors or organisations as may be required at the discretion of the Licensing Authority. Commencement of the Licensed Activity may not take place until such approval is granted.

The ERCoP should follow the template and guidance as found on the MCA website. The ERCoP must be developed in discussion with the MCA.

Reason: For emergency response planning for the Licensed Activity and requirements for search and rescue helicopter operations in and around the Licensed Activity in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.7 Construction Method Statement

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 its written approval. Such approval may only be granted following consultation by the Licensing Authority with Scottish Natural Heritage (“SNH”), SEPA, MCA, NLB, Royal Society for the Protection of Birds (“RSPB”) Scotland, Forth Ports, Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders Council and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. Commencement of the Licensed Activity may not take place until such approval is granted.

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 Licensed Activity.
- 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 Licensed Activity.
- c. Details of how the construction related mitigation steps proposed in the Application are to be delivered.

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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 a Design Statement (“DS”), the Environmental Management Plan (“EMP”), Vessel Management Plan (“VMP”), a Navigational Safety Plan (“NSP”), the Piling Strategy (“PS”), the Cable Plan (“CaP”) and the Lighting and Marking Plan (“LMP”).

Reason: To ensure the appropriate construction management of the Licensed Activity, taking into account mitigation measures to protect the environment and other users of the marine area in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.8 Cable Plan

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

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

- a. The vessel types, location, duration and cable laying techniques for the interconnector and export 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 interconnector and export cables, including a desk based assessment of attenuation of electromagnetic field strengths and shielding;
- d. A burial risk assessment to ascertain burial depths and where necessary alternative protection measures;
- e. Methodologies for surveys of the interconnector and export cables through the operational life of the wind farm where mechanical protection of cables laid on the sea bed is deployed; and
- f. Methodologies for interconnector and export cable inspection with measures to address and report to the Licensing Authority any exposure of interconnector or export cables.

Any licensed cable protection 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.

Reason: To ensure all environmental and navigational issues are considered for the location and construction of the export cables in accordance with s.29(3)(c) of the 2010 Act.

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3.2.2.9 Piling Strategy

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 SNH, the River Tweed Commission (“RTC”), Whale and Dolphin Conservation (“WDC”), Scottish Borders Council and any such other advisors as may be required at the discretion of the Licensing Authority. Commencement of the Licensed Activity may not 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, MMO, use of Acoustic Deterrent Devices 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 monitoring or data collection 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 to harbour porpoise, minke whale, bottlenose dolphin, harbour seal, grey seal, Atlantic salmon and sea trout.

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

Reason: To mitigate the underwater noise impacts arising from piling activity in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.10 Environmental Management Plan

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an EMP, in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority with SNH, SEPA, RSPB Scotland, WDC, RTC, Tay District Salmon Fishery Board (“DSFB”), Esk DSFB, Forth DSFB, Fisheries Management Scotland (“FMS”) and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. Commencement of the Licensed Activity may not take place until such approval is granted.

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

- a. All construction as required to be undertaken before the Completion of the Licensed Activity; and
- b. The operational lifespan of the Licensed Activity from the Completion of the Licensed Activity until the cessation of electricity generation.

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 Licensed Activity. It must address, but not be limited to, the following over-arching requirements for environmental management during construction:

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- 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 the relevant parts of the CMS (refer to condition 3.2.2.7);
- 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 and the Licensing Authority or FTRAG, 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 Licensed Activity 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.

Reason: To ensure that all construction and operation activities are carried out in a manner that minimises their impact on the environment, and that mitigation measures contained in the Application, or as otherwise agreed, are fully implemented in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.11 Vessel Management Plan

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. Such approval may only be granted following consultation by the Licensing Authority with SNH, WDC, FP, MCA, NLB, SFF and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. Commencement of the Licensed Activity may not take place until such approval is granted.

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

- a. The number, types and specification of vessels required;
- b. The manner in which vessel management will be coordinated, particularly during construction but also during operation; and
- 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 Licensed Activity.

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

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construction or operation of the Licensed Activity.

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

Reason: To mitigate the navigational risk to other legitimate users of the sea in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.12 Navigational Safety Plan

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit an NSP, in writing, to the Licensing Authority for its 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. Commencement of the Licensed Activity may not take place until such approval is granted.

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; and
- f. 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 ("MGN") 543, and its annexes that may be appropriate to the Licensed Activity, or any other relevant document which may supersede this guidance prior to approval of the NSP.

Reason: To mitigate the navigational risk to other legitimate users of the sea in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.13 Construction Programme

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. Such approval may only be granted following consultation by the Licensing Authority with SNH, SEPA, MCA, NLB, RSPB Scotland, Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders Council and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. Commencement of the Licensed Activity may not take place until such approval is granted.

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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 Licensed Activity infrastructure;
- d. Contingency planning for poor weather or other unforeseen delays; and
- e. The scheduled date for Completion of the Licensed Activity.

Reason: To confirm the timing and programming of construction in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.14 Project Environmental Monitoring Programme

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. Such approval may only be granted following consultation by the Licensing Authority with SNH, RSPB Scotland, WDC, SFF, FMS, RTC, Tay DSFB, Esk DSFB, Forth DSFB, and any other environmental advisors or organisations as required at the discretion of the Licensing Authority. Commencement of the Licensed Activity may not take place until such approval is granted. 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 Licensed Activity. Monitoring is required throughout the lifespan of the Licensed Activity 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 FTRAG.

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 Licensed Activity. 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.

Unless agreed otherwise with Licensing Authority, 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 or data collection as relevant in terms of the Application, and any subsequent monitoring or data collection for:

1. Birds;
2. Marine Mammals

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3. Commercial Fisheries;
4. Marine fish;
5. Diadromous fish;
6. Benthic communities; and
7. Seabed scour and local sediment deposition.

b. The participation by the Licensee to contribute to data collection or monitoring of wider strategic relevance, identified and agreed by the Licensing Authority.

Due consideration must be given to the Scottish Marine Energy Research Programme.

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

The PEMP is a live document and must be regularly reviewed by the Licensing Authority, at timescales to be determined by the Licensing Authority to identify the appropriateness of on-going monitoring. Following such reviews, the Licensing Authority may, in consultation with the FTRAG, 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 the FTRAG, 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 the Licensing Authority. Consideration should be given to data storage, analysis and reporting and be to Marine Environmental Data and Information Network data standards, or suitable equivalent to be agreed with the Licensing Authority.

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 its discretion.

Upon a request from the Licensee, the Licensing Authority may agree, in writing, that monitoring may be reduced or ceased before the end of the lifespan of the Licensed Activity.

Reason: To ensure that appropriate and effective monitoring of the impacts of the Licensed Activity is undertaken, in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.15 Environmental Clerk of Works

Prior to the Commencement of the Development, the Licensee must, at its own expense, and with the approval of the Licensing Authority in consultation with SNH, 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 licence to the Licensing Authority, in sufficient time for any pre-construction monitoring requirements, and remain in post until agreed by the Licensing Authority. The terms of appointment must also be approved by the

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Licensing Authority in consultation with SNH.

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 licence;
- b. Responsibility for the monitoring and compliance of the licence conditions and the environmental mitigation measures for the Licensed Activity authorised by this licence;
- c. Provision of on-going advice and guidance to the Licensee in relation to achieving compliance with licence conditions, including but not limited to the conditions relating to and the implementation of the CMS, the EMP, the PEMP, the PS, 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 Licensed Activity are being constructed in accordance with the plans and this 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; and
- h. Agreement of a communication strategy with the Licensing Authority.

Reason: To ensure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Licensed Activity in accordance with s.29(2)(b)-(c) of the 2010 Act.

3.2.2.16 Operation and Maintenance Programme

The Licensee must, no later than six months prior to the Final Commissioning of the first of the OSP or at such a time as agreed with the Licensing Authority, submit an Operation and Maintenance Programme ("OMP"), in writing, to the Licensing Authority for its written approval. Such approval may only be granted following consultation by the Licensing Authority with SNH, SEPA, MCA, NLB, RSPB Scotland, SFF, Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders 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 OSP, substructures and offshore export cables of the Licensed Activity. Environmental sensitivities which may affect the timing of the operation and maintenance activities must be considered in the OMP.

Reason: To safeguard environmental interests during operation and maintenance of the offshore generating station, in accordance with s.29(2)(b) of the 2010 Act.

3.2.2.17 Development Specification and Layout Plan

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a DSLP, 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, SNH, Ministry of Defence ("MOD"), Civil Aviation Authority ("CAA"),

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Chamber of Shipping, SNH, SFF, Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders Council, and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. Commencement of the Licensed Activity may not take place until such approval is granted.

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

- a. A plan showing the location of each individual OSP (subject to any required micro-siting), including information on OSP spacing and identification/numbering of the OSPs, 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 shape file using WGS84 format;
- c. A table or diagram of each OSP, including - height (measured above lowest astronomical tide to the highest point);
- d. The finishes for each OSP (see condition 3.2.2.19 on lighting and marking); and
- e. The length and proposed arrangements on the seabed of all interconnector and export cables.

Reason: To confirm the final Licensed Activity specification and layout in accordance with the Application, and with s.29(3)(c) of the 2010 Act.

3.2.2.18 Design Statement

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, including OSPs, 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 Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders Council, SNH, MCA and any such other advisors or organisations as may be required at the discretion of the Licensing Authority.

Reason: To ensure that the Licensed Activity are carried out in accordance with the Application and in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.19 Lighting and Marking Plan

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a Lighting and Marking Plan ("LMP"), in writing, to the Licensing Authority for their written approval. Such approval may only be granted following consultation by the Licensing Authority with SNH, MCA, NLB, CAA, MOD, SFF, Angus Council, Dundee City Council, East Lothian Council, Fife Council, Scottish Borders Council and any such other advisors or organisations as may be required at the discretion of the Licensing Authority. Commencement of the Licensed

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Activity may not take place until such approval is granted.

The LMP must provide that the Licensed Activity 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.

The LMP must also detail the navigational lighting requirements detailed in the International Association of Marine Aids to Navigation and Lighthouse Authorities ("IALA") Recommendation O-139 or any other documents that may supersede this guidance prior to approval of the LMP.

Reason: To ensure safe appropriate marking and lighting of the Licensed Activity, in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.20 Fisheries Management and Mitigation Strategy

The Licensee must no later than six months prior to the Commencement of the Licensed Activity, submit a Fisheries Management and Mitigation Strategy ("FMMS"), in writing, to the Licensing Authority for their written approval in consultation with SFF and any such other fisheries representatives as may be required at the discretion of the Licensing Authority. Commencement of the Licensed Activity may not take place until such approval is granted. The FMMS must be defined and finalised in consultation with the Forth and Tay Commercial Fisheries Working Group ("FTCFWG").

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

The FMMS must include a fishing gear Transit Plan. The Transit Plan must lay out guidelines for vessels operating in and around the site and transiting into the site from relevant ports.

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 Licensed Activity. The Licensee must implement all mitigation measures committed to be carried out by the Licensee within the FMMS. Any contractors, or sub-contractors working for the Licensee, must co-operate with the fishing industry to ensure the effective implementation of the FMMS. The Company must also remain a member of the FTCFWG, or any successor group formed to facilitate commercial fisheries dialogue, to define and finalise the FMMS.

Reason: To mitigate the impact on commercial fishermen in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.21 Fisheries Liaison Officer

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 and the Forth and Tay Commercial Fisheries Working Group. The FLO must be appointed by the Licensee for the period from Commencement of the Licensed Activity until the Completion of the Licensed Activity. The identity and credentials of

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the FLO must be included in the EMP (referred to in condition 3.2.2.10). 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 Licensed Activity, and ensure compliance with best practice guidelines whilst doing so.

The responsibilities of the FLO must include, but not be 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 overall Licensed Activity and any amendments to the CMS and site environmental procedures;
- b. The provision of information relating to the safe operation of fishing activity on the site of the Licensed Activity; 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.

Reason: To mitigate the impact on commercial fishermen in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.22 Marine Archaeology Reporting Protocol

The Licensee must, no later than six months prior to the Commencement of the Licensed Activity, submit a Marine Archaeology Reporting Protocol ("MARP") which sets out what the Licensee must do on discovering any marine archaeology during the construction, operation, maintenance and monitoring of the Licensed Activity, in writing, to the Licensing Authority for their written approval. Such approval may be given only following consultation by the Licensing Authority with Historic Environment Scotland and any such advisors as may be required at the discretion of the Licensing Authority. Commencement of the Licensed Activity may not take place until such approval is granted. The MARP must be implemented in full, at all times, by the Licensee.

Reason: To mitigate the effects of the activity on the Site, in accordance with s.29(3)(c) of the 2010 Act.

3.2.2.23 Construction Traffic Management Plan

In the event that major offshore components require onshore abnormal load transport, the Licensee must, no later than six months prior to the Commencement of the Licensed Activity submit a Construction Traffic Management Plan ("CTMP") 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 and any such other advisors as may be required at the discretion of the Licensing Authority. Commencement of the Licensed Activity may not take place until such approval is granted.

The CTMP must include but not be limited to:

- a. A mitigation strategy for the abnormal loads on the trunk road network including any accommodation measures required, incorporating the removal of street furniture, junction widening, or traffic management of road based traffic and transportation associated with the construction of the Licensed Activity. All construction traffic associated with the Licensed Activity must conform to the approved CTMP.

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b. Any additional signing or temporary traffic control measures deemed necessary due to the size or length of loads being delivered as a result of the Licensed Activity.

Reason: To maintain the free flow and safety of the Trunk Road network in accordance with s.29(3)(c) of the 2010 Act

3.2.3 During the Licensed Activity

3.2.3.1 Transportation Audit Report

The Licensee must submit to the Licensing Authority a detailed TAR for each calendar month during the construction phase of the Licensed Activity. The TAR must be submitted within 14 days of the end of each calendar month.

The TAR must include the nature and quantity of all substances and objects deposited and materials used in construction (as described in Part 2 of this licence) in that calendar month. Alterations and updates can be made in the following month's TAR. Where appropriate, nil returns must be provided.

If the Licensee becomes aware of any substances, objects or materials on the TAR that are missing, or 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 substances, objects and materials. If the Licensing Authority is of the view that any accidental deposits have occurred and should be removed, then the materials must be removed by the Licensee as soon as is practicable and at the Licensee's expense.

Reason: To confirm that the deposits made were in accordance with the application documentation, in accordance with s.29(3)(c) of the 2010 Act and that any accidental deposits are recovered or charted appropriately in accordance with s.29(3)(c) of the 2010 Act.

3.2.3.2 Navigational Safety

The Licensee must notify the UKHO of the progress of the construction 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.

The Licensee must ensure that progress of the Licensed Activity is promulgated regularly in the Kingfisher Fortnightly Bulletin to inform the commercial fishing industry of the vessel routes and the timing and location of the construction activities.

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The Licensee must in the case of damage to, or destruction or decay of, the Licensed Activity, notify the Licensing Authority, in writing, as soon as reasonably practicable, following such damage, destruction or decay. The Licensee must carry out any remedial action as required by the Licensing Authority, following consultation with the MCA, the NLB or any such advisers as required by the Licensing Authority.

The Licensee must ensure that any vessels permitted to engage in the construction of the Licensed Activity 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 the vessel is secured to the seabed.

The Licensee must ensure that no radio beacon or radar beacon operating in the marine frequency bands is installed or used on the Licensed Activity without the prior written approval of the Office of Communications ("OfCom").

The Licensee must ensure that navigable depth is not altered by more than 5% referenced to Chart Datum unless otherwise agreed, in writing, with the Licensing Authority in consultation with the MCA and NLB.

Reason: To reduce the navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act.

3.2.3.3 Markings, lighting and signals of the Licensed Activity

The Licensee must ensure that the Licensed Activity is marked and lit in accordance with an approved LMP at all times. The LMP and any subsequent amendments must be approved by the Licensing Authority following consultation with the NLB, MCA, CAA and the MOD. The display of unauthorised marks or lights is prohibited.

The Licensee must ensure that the Licensed Activity is marked and lit in accordance with IALA Recommendation O-139.

Reason: To ensure safe appropriate marking and lighting of the offshore Licensed Activity, in accordance with s.29(2)(b) of the Marine (Scotland) Act 2010.

3.2.4 Upon Completion of the Licensed Activity

3.2.4.1 Date of Completion of the Licensed Activity

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

Reason: To inform the Licensing Authority of the Completion of the Licensed Activity, in accordance with s.29(3)(c) of the 2010 Act.

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3.2.4.2 Nature and quantity of substances and objects deposited and materials used in construction

The Licensee must, no later than one calendar month following the Completion of the Licensed Activity submit a final audit report, in writing, to the Licensing Authority stating the nature and quantity of all substances and objects deposited below MHWS and all materials used in construction within the Scottish marine area under the authority of this licence.

Reason: To confirm that the deposits made were in accordance with the Application, and in accordance with s.29(3)(c) of the 2010 Act.

3.2.4.3 Noise Registry Close Out

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

Reason: To ensure compliance with reporting requirements on marine noise, in accordance with s.29(3)(c) of the 2010 Act.

3.2.4.4 Navigational Safety

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.

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

The Licensee must, as per the requirements of the MCA’s MGN 543 and any appropriate updates, complete post-installation hydrographic surveys of the Site or subsections thereof, to the International Hydrographic Organization 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.

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 Kingfisher Fortnightly Bulletin to inform the commercial fishing industry.

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The Licensee must, where any damage, destruction or decay is caused to the Licensed Activity, 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.

The Licensee must ensure that the Licensed Activity 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 Licensed Activity, or part(s) of the Licensed Activity, breaking loose and becoming a buoyant hazard. This contingency plan should include the transmission of local radio navigation warnings.

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

The Licensee must not exhibit, alter or discontinue navigational lighting of the Licensed Activity without the statutory sanction of the Commissioners of Northern Lighthouses. An 'Application for Statutory Sanction to Exhibit/Discontinue' form must be completed by the Licensee as fully as possible and returned to the NLB for the necessary sanction to be granted prior to exhibiting, altering or discontinuing navigational lighting.

Reason: To reduce the navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act.

3.2.4.5 Markings, lighting and signals of the Licensed Activity

The Licensee must ensure that the Licensed Activity are marked and lit in accordance with an approved LMP at all times. The LMP and any subsequent amendments must be approved by the Licensing Authority following consultation with the NLB, MCA, CAA and the MOD. The display of unauthorised marks or lights is prohibited.

The Licensee must ensure that the Licensed Activity are marked and lit in accordance with International IALA Recommendation O-139.

Reason: To ensure safe appropriate marking and lighting of the offshore Licensed Activity, in accordance with s.29(2)(b) of the 2010 Act.

3.2.4.6 Operation and Maintenance of the Licensed Activity

The Licensee must operate and maintain the Licensed Activity in accordance with the approved OMP.

The OMP and any subsequent amendments must be approved by the Licensing Authority.

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.

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Reason: To ensure compliance with the approved OMP to prevent decay of the Licensed Activity and to ensure that any maintenance work is carried out under an appropriate licence in accordance with s.29(3)(b) of the 2010 Act.

3.2.4.7 Restoration of the Site to its original condition

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 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.

The Licensee must ensure that the temporary construction materials, as detailed in Part 2 of this licence, used in relation to the horizontal directional drilling ("HDD")/cable installation are removed from the Site once the HDD cable ducts have been pushed through the exit pit.

Should the Licensed Activity be discontinued prior to expiry date of this marine 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, except for the temporary construction materials mentioned above and the three temporary 1km subsea export cables which are covered under this licence.

Reason: To mitigate the effects of the activity on the Site, in accordance with s.29(3)(e) of the 2010 Act.

3.2.4.8 Charting requirements

The Licensee must, within one month of the final Completion of the Licensed Activity, provide the coordinates accurate to three decimal places of minutes of arc for each OSP, position and maximum heights of the OSP to UKHO and the DGC for nautical charting and aviation purposes.

Reason: To reduce the navigational risk to other legitimate users of the sea, in accordance with s.29(2)(b) of the 2010 Act.

3.2.4.9 Final Commissioning of the Licensed Activity

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

Reason: To inform the Licensing Authority of the Final Commissioning of the Licensed Activity, in accordance with s.29(3)(c) of the 2010 Act.

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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.

Annex One – Site Location

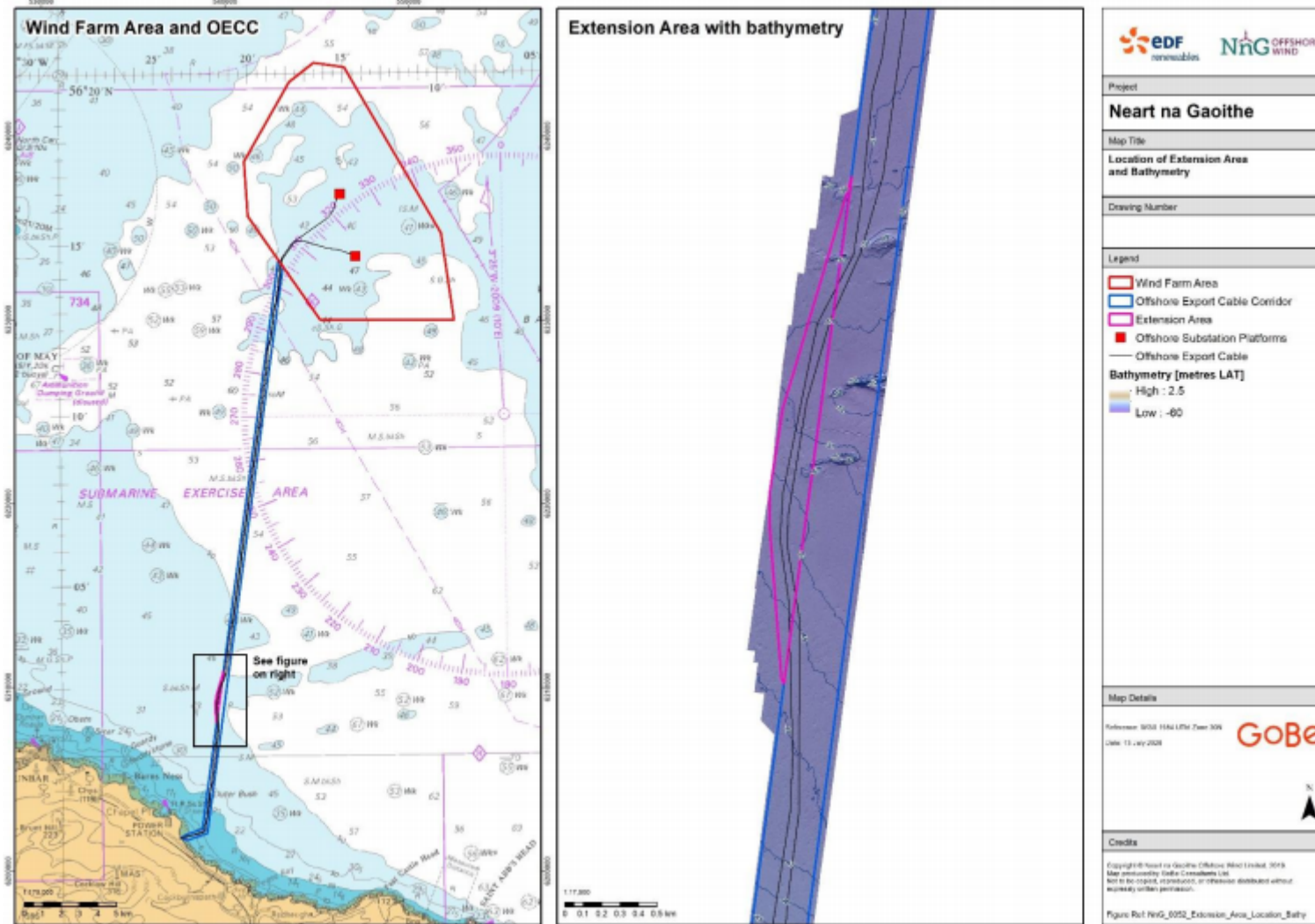


Figure 1 – Neart na Gaoithe Offshore Wind Farm Site and Cable Corridor to shore near Thorntonloch, East Lothian