

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

## MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

### LICENCE TO CONSTRUCT, ALTER OR IMPROVE ANY WORKS IN THE SCOTTISH MARINE AREA EITHER IN OR OVER THE SEA OR ON OR UNDER THE SEABED

### LICENCE TO USE A VEHICLE, VESSEL, AIRCRAFT, MARINE STRUCTURE OR FLOATING CONTAINER TO REMOVE ANY SUBSTANCE OR OBJECT FROM THE SEABED WITHIN THE SCOTTISH MARINE AREA

Licence Number: **07264/20/0**

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

**Magallanes Renovables S.L.**  
**C/ Prego de Montaos 7**  
**36800 Redondela**  
**Spain**

#### **Under the Marine (Scotland) Act 2010,**

- 1) To construct, alter or improve any Works within the Scottish marine area either in or over the sea, or on or under the seabed; and
- 2) To use a vehicle, vessel, aircraft, marine structure or floating container to remove any substance or object from the seabed within the Scottish marine area, in the execution of activities as described in Part 1 of the attached Schedule

as required in the execution of the Works (including construction and removal activities) described in Part 2 of this licence. This licence is subject to the conditions detailed in Part 3 of this licence.

This licence permits the Licensee to construct works which will generate electricity in excess of 1 MW. The operation of which is covered by a consent granted by the Scottish Ministers on 17 March 2016 to the European Marine Energy Centre under section 36 of the Electricity Act 1989.

This licence remains in force from **4 August 2020** to **31 December 2021**.

Signed: \_\_\_\_\_

Jessica Wilson

For and on behalf of the licensing authority

Date: 4 August 2020

## 1. PART 1 – GENERAL

### 1.1 Interpretation

In this licence, unless otherwise stated, terms are as defined in sections 1, 64 and 157 of the Marine (Scotland) Act 2010, and,

- a) **“Commencement of the Works”** means the date on which the first vessel arrives on the Site to begin carrying on any Licensed Activities in connection with the Works;
- b) **“Completion of the Works”** means the date on which the Works have been deemed complete by the Licensing Authority;
- c) **“Decommissioning of the Works”** means the removal of the Works from the seabed, demolishing or dismantling the Works;
- d) **“Decommissioning Programme”** means the programme for decommissioning the Works, to be submitted by the Licensee to satisfy any notice issued under section 105(2) of the Energy Act 2004 (as amended);
- e) **“EMEC”** means European Marine Energy Centre;
- f) **“ERCoP”** means Emergency Response Co-operation Plan;
- g) **“F-Gas Regulation”** means Regulation No 517/2014 of the European Parliament and of the Council of 16 April 2014 on Fluorinated Greenhouse Gases or mixtures containing any of those substances;
- h) **“Fluorinated greenhouse gases”** means hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride and other greenhouse gases that contain fluorine, listed in Annex I of the F-Gas Regulation
- i) **“Licensable Marine Activity”** means the activities listed in section 21 of the 2010 Act authorised under this licence;
- j) **“Licensed Activities”** means any activity, activities or Works listed in section 21 of the 2010 Act which is, or are authorised under this licence;
- k) **“Licensee”** means Magallanes Renovables S.L.(Company Registration Number B94015963) and having its registered office at C/ Prego de Montaos 7, 36800 Redondela, Spain;
- l) **“MCA”** means Maritime and Coastguard Agency;
- m) **“MHWS”** means mean high water spring tide.
- n) **“NLB”** means Northern Lighthouse Board;
- o) **“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);
- p) **“OSPAR”** means the Convention for the Protection of the Marine Environment of the North-East Atlantic;
- q) **“TPC/V”** means Third Party Certification or Verification;
- r) **“the 2010 Act”** means the Marine (Scotland) Act 2010;
- s) **“the Application”** means the marine licence application and supporting information submitted to the Licensing Authority, by the Licensee on 10 March 2020;
- t) **“the Site”** means the three areas outlined in figures 1, 2 and 3 contained in Part 4 of this licence; and
- u) **“the Works”** means the construction, alteration, improvement and removal of the Magallanes ATIR Tidal Energy Device as described in Part 2 of this licence or any part thereof;

All geographical co-ordinates contained within this licence are in latitude and longitude format World Geodetic System 84.

## 1.2 Contacts

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

Marine Scotland  
Licensing Operations Team  
Marine Laboratory  
375 Victoria Road  
Aberdeen  
AB11 9DB  
Email: [MS.MarineRenewables@gov.scot](mailto:MS.MarineRenewables@gov.scot)

## 1.3 Other authorisations and consents

The Licensee is deemed to have satisfied themselves that there are no barriers or restrictions, legal or otherwise, to the carrying on of the licensed activities in connection with Works. The issuing of this 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 this 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 this 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 –

- (a) 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
- (b) that the person took steps within a reasonable time to inform the Licensing Authority as set out in section 40(2) of the 2010 Act.

### **1.7 Offences relating to information**

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

### **1.8 Appeals**

Under Regulation 3(1) of the Marine Licensing Appeals (Scotland) Regulations 2011 a person who has applied for a marine licence may by summary application appeal to the sheriff of any sheriffdom against a decision taken by the Licensing Authority under section 29(1) of the 2010 Act.

## 2. PART 2 – THE WORKS

### 2.1 Title of the Works

The title of the Works to which this licence relates, is 'The construction, alteration or improvement and removal of the Magallanes ATIR Tidal Energy Device'.

### 2.2 Description of the Works

This licence authorises the construction of the Magallanes ATIR Tidal Energy Device at berth 1 of the EMEC test facility centre, its removal from berth 1 for alteration or improvement at one of two alternative moorings, located at either of the two areas described at point 2.3 and for its full and complete removal from the Scottish Marine Area.

The Magallanes ATIR Energy Device is an offshore floating tidal energy platform, able to generate a maximum of up to 2 MW of electricity, which is fixed to the seabed with four anchor points, two located at the bow of the platform and two at the stern, as described at Annex 1.

Once moored, tidal currents turn the blades of the two counter-rotating rotors, which are operational at the same time. The movement of those blades produces the spinning of a shaft and by means of a generator mechanical energy is converted into electricity. The electricity generated by the platform is transmitted through an umbilical cable connected to subsea cables to a shore-based substation for onward transmission to the National Grid.

The Magallanes ATIR Energy Device is comprised of:

<b>Tidal energy device</b>	<b>Specification</b>
Overall length	45 m
Extreme moulded breadth	6 m
Operational draught	23.4 m
Maximum output power	Up to 2 MW
Number of rotors	2
Type of rotor	Open-bladed rotor
Rotor diameter	19 m
Rotor depth	More than 2.5 m clearance from sea surface (4.4 m approx.)
Blade/rotor design	Blades with counter-rotating mechanism
Mooring system	gravity-based anchors with four mooring lines attached (ca. 300 m, each)
Relative position of the device on the water's surface	Not more than 300 m from the berth cable end

### 2.3 Location of the Works

To be located at berth 1 within the EMEC tidal test facility at the Fall of Warness, Firth, approximately 16 km from the Orkney Mainland, as shown within the area bounded by joining the following points detailed by the red line boundary in figure 1, at Part 4 of this marine licence:

59° 08.441'N 002° 49.477'W  
59° 08.593'N 002° 49.185'W  
59° 08.337'N 002° 48.692'W  
59° 08.195'N 002° 49.054'W

In the event alteration or improvement for maintenance activities are required to be undertaken, the Magallanes ATIR Tidal Energy Device will be relocated to the mooring constructed at Deerness Sound, as shown within the area bounded by joining the following points detailed by the red line boundary in figure 2, at Part 4 of this marine licence:

58° 58.813'N 02° 45.388'W  
58° 58.564'N 02° 45.388'W  
58° 58.564'N 02° 44.829'W  
58° 58.813'N 02° 44.829'W

In the event relocation to Deerness Sound fails to be achieved, then the Magallanes ATIR Tidal Energy Device will be relocated to the EMEC tidal nursery site of Shapinsay Sound, as shown within the area bounded by joining the following points detailed by the red line boundary in figure 3, at Part 4 of this marine licence:

59° 00.191'N 002° 53.201'W  
59° 00.308'N 002° 52.999'W  
59° 00.231'N 002° 52.756'W  
59° 00.109'N 002° 52.956'W

## 2.4 Description of the construction materials used

This licence authorises the use of the undernoted construction materials required in connection with the Works, subject to the maximum amounts as specified below:

### CONSTRUCTION MATERIALS

#### FALL OF WARNESSE

##### Permanent mooring

Each mooring leg is identical, but only up to the gravity anchors themselves. The anchor sizes vary due to the statistically derived environmental loading and the larger environmental forces from the North. The elements comprising the mooring system together with their approximate size are indicated below:

##### Hull Attachment

A single padeye, one at the bow and one at the stern, in which a single shackle is connected and from which two mooring lines are attached.

##### Upper catenary chain

5 m	76mm chain
40 m	80mm Bridon Superline Polyester
5 m	76mm chain

##### Excursion Limiter

30 m	111mm chain or similar arranged in 4 lengths of 30m connected at each end by a triplate.
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##### Ground Chain/Lower Catenary

225 m	76mm chain
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##### Chain Clump Anchor (dry-weights)

The device is connected to the seabed using four chain clump weights with a total capacity (wet weight) as follows:

North West corner	90 Tonne ("t")
North East corner	161 t
South East corner	163 t
South West	137 t

Steel/Iron	1,200 t
Composite	10 t
Cable	420m

#### DEERNESS SOUND

##### Temporary single point mooring comprising:

1	7t stockless Anchor
1	85t shackle
90 metres	76 mm chain
10 metres	76 mm chain
1	55t shackle
20 metres	58 mm chain
Steel/Iron	470 tonnes
Composite	10 tonnes

**SHAPINSAY SOUND**

**Temporary single point mooring**

1	7t stockless Anchor
1	85t shackle
90 metres	76 mm chain
10 metres	76 mm chain
1	55t shackle
20 metres	58 mm chain
Steel/Iron	470 tonnes
Composite	10 tonnes



### 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, alter, improve, operate and remove the Works in accordance with this licence, the Application and the supporting information submitted by the Licensee on 10 March 2020.

**Reason:** *To ensure compliance with the marine licence, the application for the marine licence and the supporting information*

##### 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 Works, 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 a copy of this licence is given to each contractor appointed to carry out part or all of the licensed activities in order that they are clear about the extent of the activities for which the licence has been given and the conditions that are attached to the licence.

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

The Licensee must give a copy of this licence, and any subsequent variations made to this licence in accordance with section 30 of the 2010 Act, to the masters of any vessels, vehicle operators, agents, contractors or sub-contractors permitted to engage in the Works 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 Works 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, the Licensing Authority is obliged to immediately report force majeure incidents to the OSPAR Commission.

**Reason:** *To provide the Licensing Authority with detail to enable it to report force majeure incidents to the OSPAR Commission.*

### **3.1.5 Material alterations to the licence application**

The Licensee must notify the Licensing Authority of any alteration in any material respect to the information upon which the granting of the licence was based as soon as is practicable following such alteration.

**Reason:** *To inform the Licensing Authority of any material changes to the licensed activities and allow consideration of any requirement for variation in accordance with s.30 (3) 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 Works, in writing, to the Licensing Authority.

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

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

### **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 Works by the Licensee or by a third party may also be used to satisfy the requirements of this licence.

Such reports will include, but not be limited to, Transport Audit Reports, deposits sheets.

**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 Works. 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 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 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 Works that contains fluorinated greenhouse gases in quantities of five tonnes or more of CO<sub>2</sub> equivalent and not contained in foams is checked for leakage in accordance with Article 4 of the F-Gas Regulation. Records of these checks must be kept in accordance with Article 6 of the F-Gas Regulation. These records must be submitted to the Licensing Authority annually and immediately in the event of discovery of leakage.

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

**Reason:** *to ensure compliance of the Works 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 installation, operation and maintenance activities authorised under this licence.

The Licensee must ensure that any debris or waste material placed below MHWS level during the construction of the Works 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 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 and all construction materials used during the Works 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 Works.

**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 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 Works; and
- d) aboard any vessels permitted to engage in the Works.

**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 Works

Any persons authorised by the Licensing Authority must be permitted to inspect the Works. 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 Works.

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

**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 the assistance of a Government Department (to include departments of Administrations other than the Scottish Government) is required to deal with any emergency arising from:

- a) the failure to mark and light the Works as required by this licence;
- b) the maintenance of the Works; or
- c) the drifting or wreck of the Works

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

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

### **3.2 Conditions specific to the Works**

#### **3.2.1 Conditions applicable to all phases of the Works**

##### **3.2.1.1 Bunding and storage facilities**

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

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

##### **3.2.1.2 Incident Reporting, damage, destruction or decay and failure of the Works**

In the event of any breach of health and safety or environmental obligations relating to the Works 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.

The Licensee must, within 24 hours of becoming aware of any danger to the environment or navigation or risk to any legitimate user of the sea arising from any failure of any part of the licensed Works or ancillary equipment, notify the Licensing Authority.

In the event of any failure of the Works or ancillary equipment forming part of the Works, or of notice being given by the Licensing Authority at any time it is considered necessary or advisable, the Licensee must submit a plan for removal of the substances and objects below MHWS. The plan must be agreed by the Licensing Authority and must be in accordance with any Decommissioning Programme as approved by the Licensing Authority. The plan must contain a method statement to remove all substances and objects from the site within a timeframe agreed with the Licensing Authority. The Licensee will be responsible for all costs associated with this.

The Licensee must, where any damage, destruction or decay is caused to the Works, notify the Licensing Authority, in writing, of such damage, destruction or decay as soon as reasonably practicable following such damage, destruction or decay and no later than 7 days following the Licensee's notification of 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.

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

##### **3.2.1.3 Discontinuation of the Works**

Should the Works be discontinued prior to the Completion of the Works, the Licensee must inform the Licensing Authority in writing of the discontinuation of the Works.

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

### **3.2.2 Prior to the commencement of the Works**

#### **3.2.2.1 Notifications to the Licensing Authority**

The Licensee must, prior to and no less than **7** calendar days before the Commencement of the Works, notify the Licensing Authority, in writing, of the date of Commencement of the Works authorised under this Licence.

Further notifications must be made **7** calendar days prior to moving the device to either of the temporary mooring locations and redeployment of the device back on to site.

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

#### **3.2.2.2 Emergency Cooperation**

The Licensee must, no later than one calendar month prior to the Commencement of the Works, or at an alternative date as agreed with the Licensing Authority, submit an ERCoP for the Works in writing, to the Licensing Authority for its written approval.

The ERCoP must be in line with the approved EMEC overarching ERCoP for the sites and also the MCA [template and guidance](#) .

**Reason: For emergency response planning in and around the Works in accordance with s.29(3)(a) of the 2010 Act.**

#### **3.2.2.3 Navigation and Charting**

The Licensee must, no later than **7** days prior to Commencement of the Works, notify the UKHO of the proposed works to facilitate the promulgation of maritime safety information and updating of Admiralty charts BA2562 and publications through the national Notice to Mariners system.

The Licensee must, no later than **7** days prior to Commencement of the Works, ensure that local mariners, fishermen's organisations and HM Coastguard, in this case the National Maritime Operations Centre, are made fully aware of the Works through local Notice to Mariners or by any other appropriate means.

The Licensee must ensure that details of the Works are promulgated in the Kingfisher Fortnightly Bulletin, no later than **7** days 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 gain the approval/agreement of the responsible local navigation authority or the Harbour Authority/Commissioners/Council. The Harbour Authority/Commissioners/Council may wish to issue local warnings to alert those navigating in the vicinity to the presence of the works as deemed necessary.

The Licensee must, no later than **7** days prior to the 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.

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

**3.2.2.4 Third Party Certification or Verification**

The Licensee must no later than one calendar month (or such other period as agreed with the Licensing Authority) prior to the Commencement of the Works, provide the Licensing Authority with TPC/V (or a suitable alternative as agreed in writing with the Licensing Authority) for the lifespan of the Works. Commencement of the Works cannot take place until such approval is granted.

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



### **3.2.3 During the Construction of the Works**

#### **3.2.3.1 Construction Method Statement**

The Works must, at all times, be constructed, altered or improved in accordance with the Construction Method Statement and Project Information Summary document as submitted at Application. Any updates or amendments made to the approved Construction Method Statement or Project Information summary document must be submitted, in writing, to the Licensing Authority for its prior written approval.

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

#### **3.2.3.2 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 MCA and NLB at all times and such markings and/or lighting must be continued unless and until such time as the Licensing Authority, by notice, relevantly varies this licence under section 30(3)(c) of the 2010 Act.

The Licensee must not display any marks and lights additional to those required by virtue of this licence without the written approval of the Licensing Authority following consultation with the NLB and the MCA.

The Licensee must ensure that the device is predominantly yellow in colour and must be lit by 2 all-round yellow lights, flashing once every five seconds (Fl. Y. 5s) with a nominal range of 3 nautical miles, mounted a minimum of 3 metres above any other obstruction. The Licensee must also ensure that the two lights are synchronised, and positioned on the outer, lengthwise extremities of the device. The Licensee must ensure that one light shall have a yellow "St Andrews Cross" topmark installed above the light.

The Licensee must ensure that a radar reflector of such design as to increase the conspicuity of the device to marine radar is installed at a similar elevation.

The Licensee must ensure that the device is marked by automatic identification system as an Aid to Navigation, transmitting a Type 21 message. A separate automatic identification system licence application will be required for this from the NLB.

The Licensee must ensure that Notices to Mariners and Local Radio Navigation Warnings in conjunction with Orkney Marine Services (Vessel Traffic Service) are issued prior to construction, alteration, improvement and decommissioning, clearly stating the nature and duration of the works taking place.

The Licensee must notify the UKHO of the device installation date/position and removal date so that British Admiralty chart BA2562 can be correctly updated.

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

### **3.2.4 Conditions upon Completion of the Works**

#### **3.2.4.1 Date of Completion of the Works**

The Licensee must, no later than **7** days following the Completion of any part of the Works, notify the Licensing Authority, in writing, of the date of Completion of the Works.

**Reason:** *To inform the Licensing Authority of the completion of the works, in accordance with s.29(3)(c) of the 2010 Act.*

#### **3.2.4.2 Nature and quantity of deposited substances and objects**

The Licensee must, no later than **7** days following the 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 under the authority of this licence.

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

#### **3.2.4.3 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 Admiralty Chart BA2562 and publications through the national Notice to Mariners system.

The Licensee must ensure that local mariners, fishermen's organisations and HM coastguard, in this case the National Maritime Operations Centre ([nmcccontroller@hmcg.gov.uk](mailto:nmcccontroller@hmcg.gov.uk)), 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 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 Licensee must not exhibit, alter or discontinue navigational lighting of the Works without the Statutory Sanction of the Commissioners of Northern Lighthouses. An 'Application for Statutory Sanction to Exhibit/Discontinue' form must be completed by the Licensee as fully as possible and returned to the Northern Lighthouse Board via e-mail to [navigation@nlb.org.uk](mailto:navigation@nlb.org.uk) 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.*

#### **3.2.4.4 Operation and Maintenance of the Works**

The Licensee must operate and maintain the Works in accordance with the Project Information Summary document submitted at Application.

The Licensing Authority must be notified at least **7** days in advance of any maintenance, alteration or improvement of the Works. In the event that such activities are licensable

marine activities and are not covered by the licence, a new marine licence may be required prior to undertaking the activity.

**Reason:** *To ensure compliance to prevent decay of the Works 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.*

#### **3.2.4.5 Final Commissioning of the Works**

The Licensee must, no more than **7** days following the Final Commissioning of the Works, notify the Licensing Authority, in writing, of the date of the Final Commissioning of the Works.

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

### **3.2.5 Conditions upon Decommissioning and Final Removal of the Works**

#### **3.2.5.1 Removal of the Works**

The Licensee must ensure that all substances and objects are removed from the Site, and fully decommissioned in accordance with any Decommissioning Programme as approved by the appropriate minister, prior to the expiry of this licence.

The Licensee must take appropriate steps to minimise damage to the seabed, ensuring that any debris or waste materials arising during the course of the Works are fully removed from the Site for disposal at an approved location above MHWS.

The licensee must undertake a full survey of the Site following the removal of all substances and objects and submit a written report, detailing the substances and objects removed during the activities, to the Licensing Authority. The written report must be submitted to the Licensing Authority no later than one month after completion of the removal activities.

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

#### **3.2.5.2 Restoration of the Site to its original condition**

The Licensee must take all reasonable, appropriate and practicable steps to fully clear and restore the Site to its original condition before the Works were undertaken, or to as close to its original condition as is reasonably practicable, to the satisfaction of the Licensing Authority, by 31 December 2021 in accordance with the Project Environmental Monitoring Plan and any Decommissioning Programme, as approved by the Licensing Authority.

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

#### **3.2.5.3 Navigational Safety**

The Licensee must notify the UKHO of the Removal of the Works to facilitate the promulgation of maritime safety information and updating of Admiralty Chart BA2562 and publications through the national Notice to Mariners system and must ensure that the Removal of the Works is promulgated in the Kingfisher Fortnightly Bulletin to inform the Sea Fish Industry.

The Licensee must ensure that local mariners, fishermen's organisations and HM coastguard, in this case the National Maritime Operations Centre ([nmcccontroller@hmcg.gov.uk](mailto:nmcccontroller@hmcg.gov.uk)), are made fully aware of the Completion of the Works.

The Licensee must not discontinue navigational lighting of the Works without the Statutory Sanction of the Commissioners of Northern Lighthouses, no later than 7 days prior to the removal of the Works, the Licensee must complete an "Application for Statutory Sanction to Alter / Exhibit" form and submit this to the 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.*

**4. PART 4 – PROJECT LOCATION:**

Figure 1: The Magallanes ATIR Tidal Energy Device to be located at berth 1 within the EMEC tidal test facility at the Fall of Warness, approximately 16 km from the Orkney Mainland:

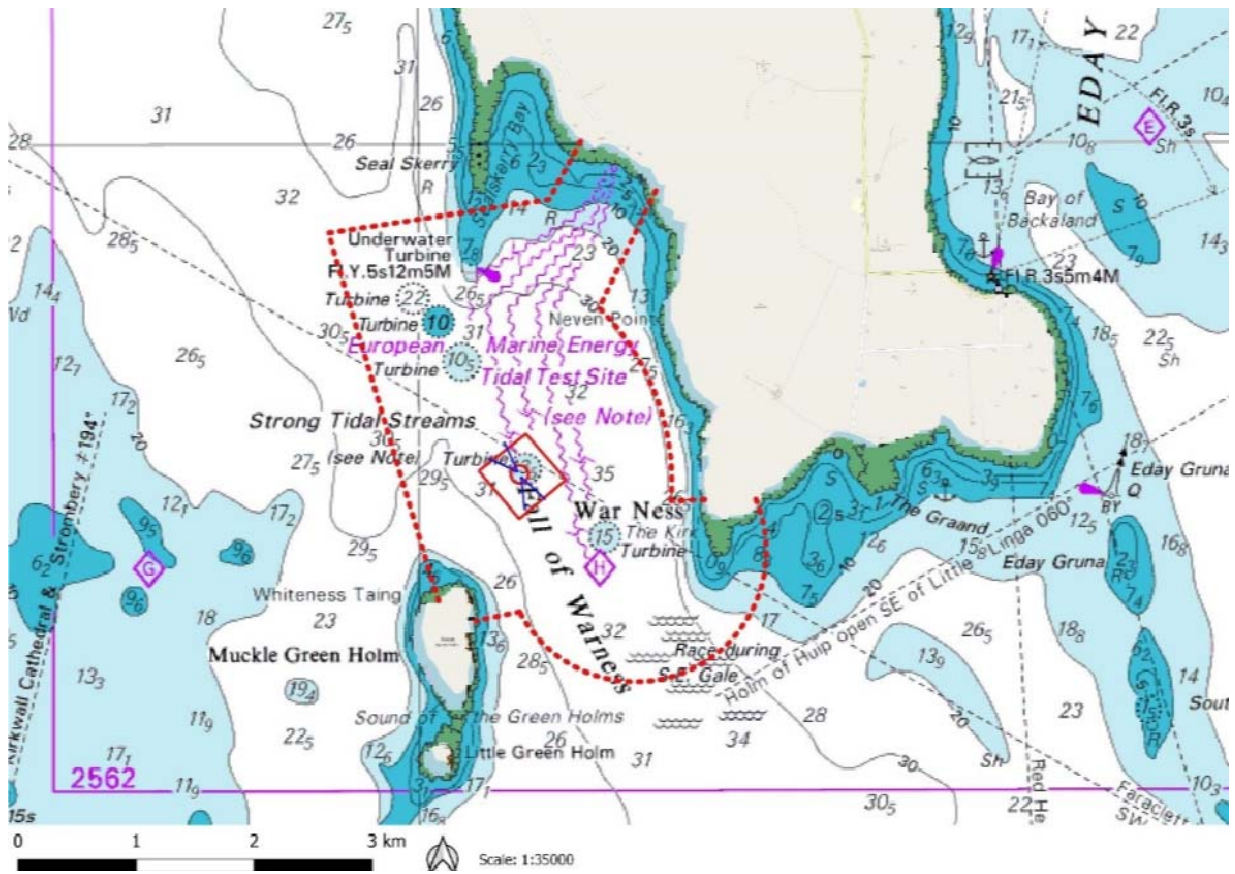


Figure 2: Relocation of the Magallanes ATIR Tidal Energy Device to be located at Deerness anchorage within Deerness Sound for the undertaking of maintenance activities.

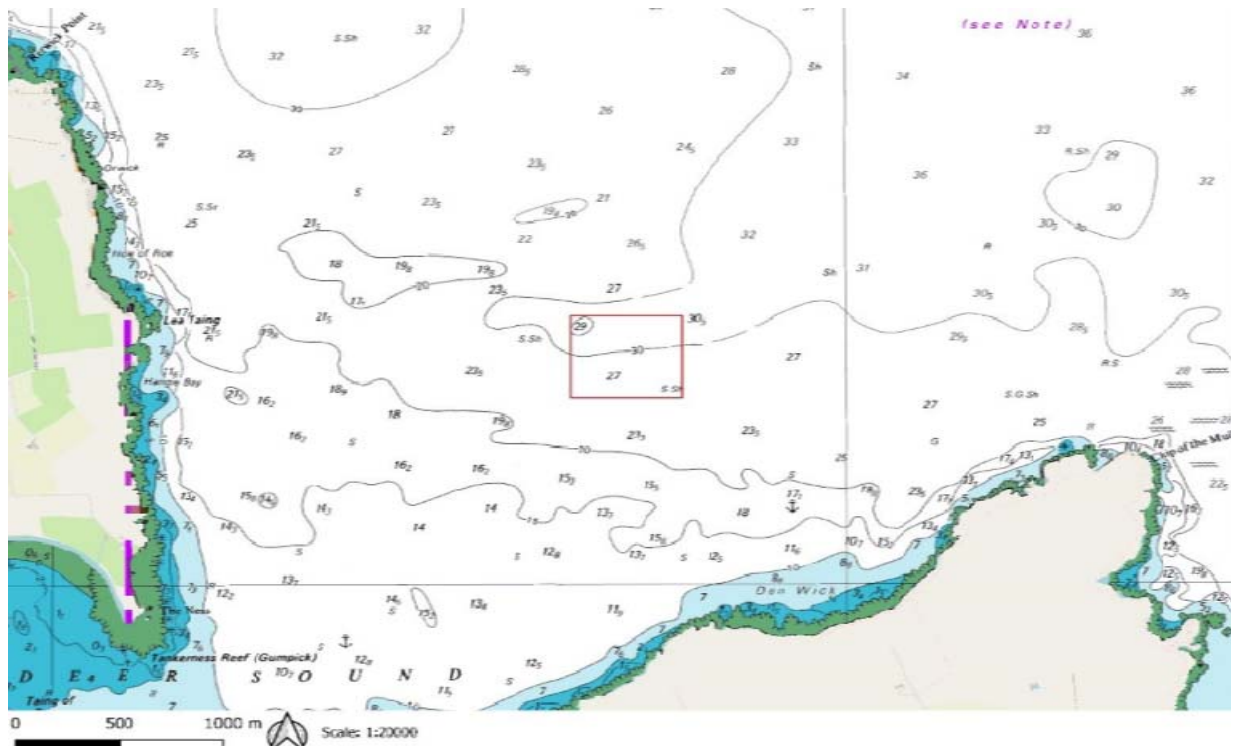
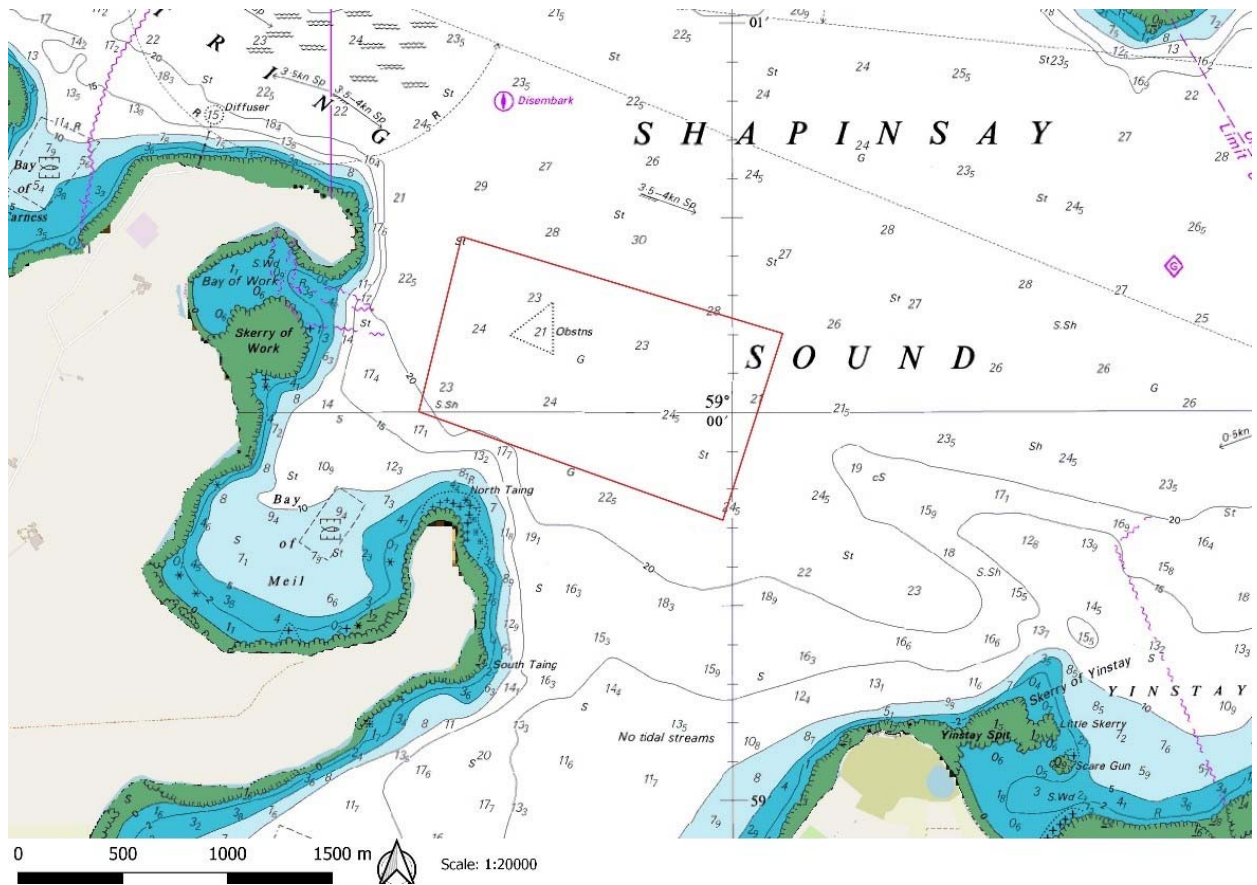
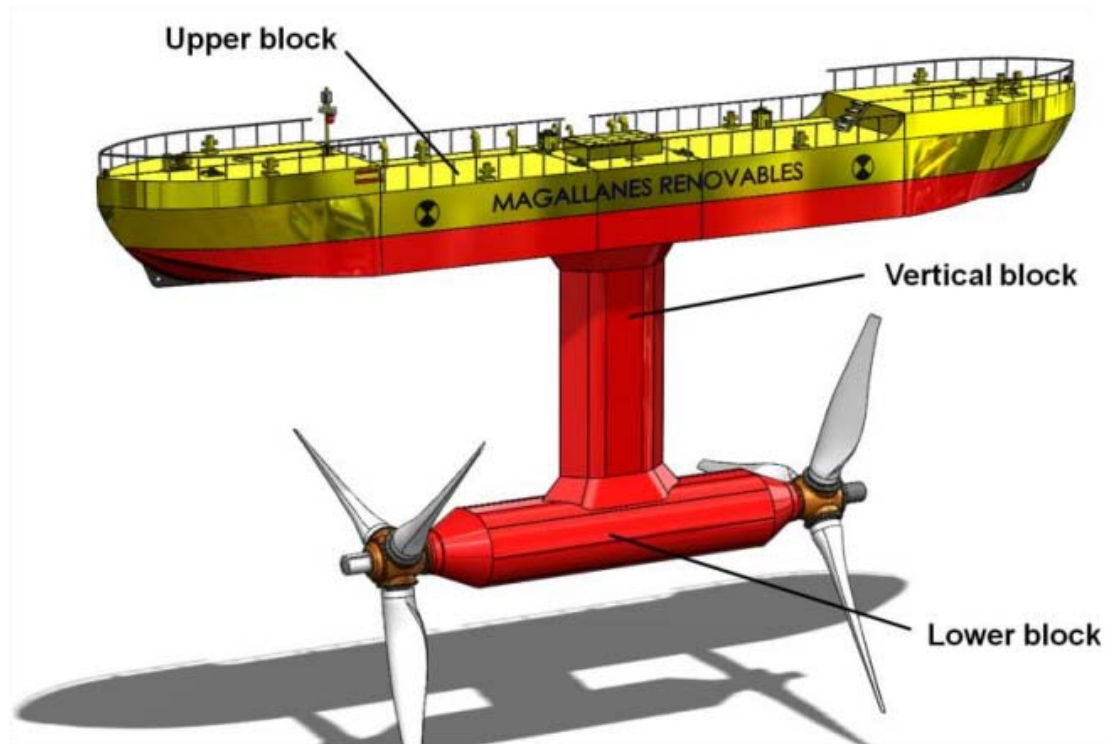


Figure 3: Relocation of the Magallanes ATIR Tidal Energy Device to be located within the EMEC Shapinsay Sound test site, should the relocation to Deerness Sound anchorage for maintenance activities fail:



## ANNEX 1

### Device



Upper Block – part of the platform visible above the waterline  
Vertical Block – fixed upper block to lower block  
Lower Block – mechanical systems

### Mooring line and anchor lay out

